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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 394.453, Florida Statutes, is amended to  
read:

394.453 Legislative intent.—

(1) It is the intent of the Legislature:

(a) To authorize and direct the Department of Children and  
Families to evaluate, research, plan, and recommend to the  
Governor and the Legislature programs designed to reduce the



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11 occurrence, severity, duration, and disabling aspects of mental,  
12 emotional, and behavioral disorders and substance abuse  
13 impairment.

14 (b) That treatment programs for such disorders include, ~~but~~  
15 ~~not be limited to~~, comprehensive health, social, educational,  
16 and rehabilitative services for individuals ~~to persons~~ requiring  
17 intensive short-term and continued treatment in order to  
18 encourage them to assume responsibility for their treatment and  
19 recovery. It is intended that:

20 1. Such individuals ~~persons~~ be provided with emergency  
21 service and temporary detention for evaluation if ~~when~~ required;

22 2. Such individuals ~~persons~~ be admitted to treatment  
23 facilities if ~~on a voluntary basis when~~ extended or continuing  
24 care is needed and unavailable in the community;

25 3. Involuntary placement be provided only if ~~when~~ expert  
26 evaluation determines it is necessary;

27 4. Any involuntary treatment or examination be accomplished  
28 in a setting that is clinically appropriate and most likely to  
29 facilitate the individual's discharge ~~person's return to the~~  
30 ~~community~~ as soon as possible; and

31 5. ~~Individual~~ Dignity and human rights be guaranteed to all  
32 individuals ~~persons~~ who are admitted to mental health facilities  
33 ~~or who are being held under s. 394.463~~.

34 (c) That services provided to individuals ~~persons~~ in this  
35 state use the coordination-of-care principles characteristic of  
36 recovery-oriented services and include social support services,  
37 such as housing support, life skills and vocational training,  
38 and employment assistance, necessary for individuals ~~persons~~  
39 with mental health disorders and co-occurring mental health and



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40 substance use disorders to live successfully in their  
41 communities.

42 (d) That licensed, qualified health professionals be  
43 authorized to practice to the fullest extent of their education  
44 and training in the performance of professional functions  
45 necessary to carry out the intent of this part.

46 (2) It is the policy of this state that the use of  
47 restraint and seclusion ~~on clients~~ is justified only as an  
48 emergency safety measure to be used in response to imminent  
49 danger to the individual ~~client~~ or others. It is, therefore, the  
50 intent of the Legislature to achieve an ongoing reduction in the  
51 use of restraint and seclusion in programs and facilities  
52 serving individuals experiencing ~~persons with~~ mental illness.

53 (3) The Legislature further finds the need for additional  
54 psychiatrists to be of critical state concern and recommends the  
55 establishment of an additional psychiatry program to be offered  
56 by one of Florida's schools of medicine currently not offering  
57 psychiatry. The program shall seek to integrate primary care and  
58 psychiatry and other evolving models of care for individuals  
59 ~~persons~~ with mental health and substance use disorders.  
60 Additionally, the Legislature finds that the use of telemedicine  
61 for patient evaluation, case management, and ongoing care will  
62 improve management of patient care and reduce costs of  
63 transportation.

64 Section 2. Section 394.455, Florida Statutes, is amended to  
65 read:

66 394.455 Definitions.—As used in this part, the term:

67 (1) "Access center" means a facility that has medical,  
68 mental health, and substance abuse professionals to provide



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69 emergency screening and evaluation for mental health or  
70 substance abuse disorders and may provide transportation to an  
71 appropriate facility if an individual is in need of more  
72 intensive services.

73 (2) "Addictions receiving facility" is a secure, acute care  
74 facility that, at a minimum, provides emergency screening,  
75 evaluation, detoxification, and stabilization services; is  
76 operated 24 hours per day, 7 days per week; and is designated by  
77 the department to serve individuals found to have substance  
78 abuse impairment who qualify for services under this part.

79 (3) "Administrator" means the chief administrative officer  
80 of a receiving or treatment facility or his or her designee.

81 (4) "Adult" means an individual who is 18 years of age or  
82 older or who has had the disability of nonage removed under  
83 chapter 743.

84 (5) "Advance directive" has the same meaning as in s.  
85 765.101.

86 ~~(5) "Clinical psychologist" means a psychologist as defined~~  
87 ~~in s. 490.003(7) with 3 years of postdoctoral experience in the~~  
88 ~~practice of clinical psychology, inclusive of the experience~~  
89 ~~required for licensure, or a psychologist employed by a facility~~  
90 ~~operated by the United States Department of Veterans Affairs~~  
91 ~~that qualifies as a receiving or treatment facility under this~~  
92 ~~part.~~

93 (6) "Clinical record" means all parts of the record  
94 required to be maintained and includes all medical records,  
95 progress notes, charts, and admission and discharge data, and  
96 all other information recorded by facility staff which pertains  
97 to an individual's admission, retention ~~the patient's~~



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98 hospitalization, or treatment.

99 (7) "Clinical social worker" means a person licensed to  
100 practice social work under s. 491.005 or s. 491.006 or a person  
101 employed as a clinical social worker by the United States  
102 Department of Veterans Affairs or the United States Department  
103 of Defense as a clinical social worker under s. 491.005 or s.  
104 491.006.

105 (8) "Community facility" means a community service provider  
106 that contracts with the department to furnish substance abuse or  
107 mental health services under part IV of this chapter.

108 (9) "Community mental health center or clinic" means a  
109 publicly funded, not-for-profit center that contracts with the  
110 department for the provision of inpatient, outpatient, day  
111 treatment, or emergency services.

112 (10) "Court," unless otherwise specified, means the circuit  
113 court.

114 (11) "Department" means the Department of Children and  
115 Families.

116 (12) "Designated receiving facility" means a facility  
117 approved by the department which may be a public or private  
118 hospital, crisis stabilization unit, or addictions receiving  
119 facility; which provides, at a minimum, emergency screening,  
120 evaluation, and short-term stabilization for mental health or  
121 substance abuse disorders; and which may have an agreement with  
122 a corresponding facility for transportation and services.

123 (13) "Detoxification facility" means a facility licensed to  
124 provide detoxification services under chapter 397.

125 (14) "Electronic means" means a form of telecommunication  
126 which requires all parties to maintain visual as well as audio



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127 communication when being used to conduct an examination by a  
128 qualified professional.

129 (15) "Express and informed consent" means consent  
130 voluntarily given ~~in writing, by a competent person,~~ after  
131 sufficient explanation and disclosure of the subject matter  
132 involved, as documented in the clinical record, to enable the  
133 individual or his or her guardian, guardian advocate, or health  
134 care surrogate or proxy person to make a knowing and willful  
135 decision without any element of force, fraud, deceit, duress, or  
136 other form of constraint or coercion. Such consent must be in  
137 writing when provided by the individual, but may be provided  
138 verbally and documented in the clinical record when the  
139 individual's substitute decisionmaker is unable to reasonably  
140 provide it in writing.

141 (16) "Facility" means any hospital, community facility,  
142 public or private facility, or receiving or treatment facility  
143 providing for the evaluation, diagnosis, care, treatment,  
144 training, or hospitalization of individuals ~~persons who appear~~  
145 ~~to have or~~ who have been diagnosed as having a mental illness or  
146 substance abuse impairment. The term does not include a program  
147 or an entity licensed under chapter 400 or chapter 429.

148 (17) "Government facility" means a facility owned,  
149 operated, or administered by the Department of Corrections or  
150 the United States Department of Veterans Affairs.

151 (18) ~~(17)~~ "Guardian" means the natural guardian of a minor,  
152 or a person appointed by a court to act on behalf of a ward's  
153 person if the ward is a minor or has been adjudicated  
154 incapacitated.

155 (19) ~~(18)~~ "Guardian advocate" means a person appointed by a



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156 court to make decisions regarding mental health treatment on  
157 behalf of an individual ~~a patient~~ who has been found incompetent  
158 to consent to treatment pursuant to this part.

159 ~~(20)~~ ~~(19)~~ "Hospital" means a hospital licensed under chapter  
160 395 and part II of chapter 408.

161 ~~(21)~~ ~~(20)~~ "Incapacitated" means that an individual ~~a person~~  
162 has been adjudicated incapacitated pursuant to part V of chapter  
163 744 and a guardian of the individual ~~person~~ has been appointed.

164 ~~(22)~~ ~~(21)~~ "Incompetent to consent to treatment" means that  
165 an individual's ~~a state in which a person's~~ judgment is so  
166 affected by a mental illness or a substance abuse impairment  
167 that he or she lacks the capacity to make a well-reasoned,  
168 willful, and knowing decision concerning his or her medical,  
169 mental health, or substance abuse treatment.

170 ~~(23)~~ "Individual" means any person who is held or accepted  
171 for a mental health examination or treatment.

172 ~~(24)~~ ~~(22)~~ "Involuntary examination" means an examination  
173 performed under s. 394.463, ~~s. 397.6772, s. 397.679, s.~~  
174 ~~397.6798, or s. 397.6811~~ to determine if an individual ~~whether a~~  
175 ~~person~~ qualifies for involuntary services.

176 ~~(25)~~ ~~(23)~~ "Involuntary services" means court-ordered  
177 outpatient services or inpatient placement for mental health  
178 treatment pursuant to s. 394.4655 or s. 394.467.

179 ~~(26)~~ ~~(24)~~ "Law enforcement officer" has the same meaning as  
180 provided in s. 943.10 or a federal or tribal law enforcement  
181 officer as defined by federal law.

182 ~~(27)~~ ~~(25)~~ "Marriage and family therapist" means a person  
183 licensed to practice marriage and family therapy under s.  
184 491.005 or s. 491.006 or a person employed as a marriage and



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185 family therapist by the United States Department of Veterans  
186 Affairs or the United States Department of Defense.

187 (28)(26) "Mental health counselor" means a person licensed  
188 to practice mental health counseling under s. 491.005 or s.  
189 491.006 or a person employed as a mental health counselor by the  
190 United States Department of Veterans Affairs or the United  
191 States Department of Defense.

192 (29)(27) "Mental health overlay program" means a mobile  
193 service that provides an independent examination for voluntary  
194 admission and a range of supplemental onsite services to an  
195 individual who has ~~persons with~~ a mental illness in a  
196 residential setting such as a nursing home, an assisted living  
197 facility, or an adult family-care home or a nonresidential  
198 setting such as an adult day care center. Independent  
199 examinations provided through a mental health overlay program  
200 must ~~only~~ be provided only under contract with the department  
201 for this service or be attached to a public receiving facility  
202 that is also a community mental health center.

203 (30)(28) "Mental illness" means an impairment of the mental  
204 or emotional processes that exercise conscious control of one's  
205 actions or of the ability to perceive or understand reality,  
206 which impairment substantially interferes with the individual's  
207 ~~person's~~ ability to meet the ordinary demands of living. As used  
208 in ~~For the purposes of~~ this part, the term does not include a  
209 developmental disability as defined in chapter 393,  
210 intoxication, or conditions manifested only by antisocial  
211 behavior or substance abuse impairment.

212 (31)(29) "Minor" means an individual who is 17 years of age  
213 or younger and who has not had the disability of nonage removed





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214 pursuant to s. 743.01 or s. 743.015.

215 (32)~~(30)~~ "Mobile crisis response service" means a  
216 nonresidential crisis service available 24 hours per day, 7 days  
217 per week which provides immediate intensive assessments and  
218 interventions, including screening for admission into a mental  
219 health receiving facility, an addictions receiving facility, or  
220 a detoxification facility, for the purpose of identifying  
221 appropriate treatment services.

222 ~~(31) "Patient" means any person, with or without a co-~~  
223 ~~occurring substance abuse disorder, who is held or accepted for~~  
224 ~~mental health treatment.~~

225 (33)~~(32)~~ "Physician" means a medical practitioner licensed  
226 under chapter 458 or chapter 459 ~~who has experience in the~~  
227 ~~diagnosis and treatment of mental illness~~ or a physician  
228 employed by a ~~facility operated by~~ the United States Department  
229 of Veterans Affairs or the United States Department of Defense.

230 (34)~~(33)~~ "Physician assistant" means a person fully  
231 licensed as a physician assistant under chapter 458 or chapter  
232 459 or a person employed as a physician assistant by the United  
233 States Department of Veterans Affairs or the United States  
234 Department of Defense ~~who has experience in the diagnosis and~~  
235 ~~treatment of mental disorders.~~

236 (35)~~(34)~~ "Private facility" means a hospital or facility  
237 operated by a for-profit or not-for-profit corporation or  
238 association which provides mental health or substance abuse  
239 services and is not a public facility.

240 (36)~~(35)~~ "Psychiatric nurse" means an advanced registered  
241 nurse practitioner certified under s. 464.012 who has a master's  
242 or doctoral degree in psychiatric nursing, holds a national



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243 advanced practice certification as a psychiatric mental health  
244 advanced practice nurse, and has 2 years of post-master's  
245 clinical experience under the supervision of a physician or a  
246 person employed as a psychiatric nurse by the United States  
247 Department of Veterans Affairs or the United States Department  
248 of Defense.

249 ~~(37)~~ ~~(36)~~ "Psychiatrist" means a medical practitioner  
250 licensed under chapter 458 or chapter 459 for at least 3 years,  
251 inclusive of psychiatric residency or a person employed as a  
252 psychiatrist by the United States Department of Veterans Affairs  
253 or the United States Department of Defense.

254 ~~(38)~~ "Psychologist" means a person defined as a  
255 psychologist under s. 490.003 or a person employed as a  
256 psychologist by the United States Department of Veterans Affairs  
257 or the United States Department of Defense.

258 ~~(39)~~ ~~(37)~~ "Public facility" means a facility that has  
259 contracted with the department to provide mental health services  
260 to all individuals ~~persons~~, regardless of ability to pay, and is  
261 receiving state funds for such purpose.

262 ~~(40)~~ ~~(38)~~ "Qualified professional" means a physician or a  
263 physician assistant licensed under chapter 458 or chapter 459; a  
264 psychiatrist licensed under chapter 458 or chapter 459; a  
265 psychologist as defined in s. 490.003(7); an advanced registered  
266 nurse practitioner licensed under part I of chapter 464; or a  
267 psychiatric nurse as defined in this section.

268 ~~(41)~~ ~~(39)~~ "Receiving facility" means a public or private  
269 facility or hospital designated by the department to receive and  
270 hold individuals on involuntary status or refer, as appropriate,  
271 involuntary patients under emergency conditions for mental



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272 health or substance abuse evaluation and to provide treatment or  
273 transportation to the appropriate service provider. The term  
274 does not include a county jail.

275 ~~(42)(40)~~ "Representative" means a person selected pursuant  
276 to s. 394.4597(2) ~~to receive notice of proceedings during the~~  
277 ~~time a patient is held in or admitted to a receiving or~~  
278 ~~treatment facility.~~

279 ~~(43)(41)~~ "Restraint" means:

280 (a) A physical restraint, including any manual method or  
281 physical or mechanical device, material, or equipment attached  
282 or adjacent to an individual's body so that he or she cannot  
283 easily remove the restraint and which restricts freedom of  
284 movement or normal access to one's body. "Physical restraint"  
285 includes the physical holding of an individual ~~a person~~ during a  
286 procedure to forcibly administer psychotropic medication.  
287 "Physical restraint" does not include physical devices such as  
288 orthopedically prescribed appliances, surgical dressings and  
289 bandages, supportive body bands, or other physical holding when  
290 necessary for routine physical examinations and tests or for  
291 purposes of orthopedic, surgical, or other similar medical  
292 ~~treatment when used to provide~~ support for the achievement of  
293 functional body position or proper balance for protecting an  
294 individual ~~or when used to protect a person from falling out of~~  
295 ~~bed.~~

296 (b) A drug or medication used to control an individual's ~~a~~  
297 ~~person's~~ behavior or to restrict his or her freedom of movement  
298 which is not part of the standard treatment regimen for an  
299 individual having ~~of a person with~~ a diagnosed mental illness.

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301        ~~(44)-(42)~~ "Seclusion" means the physical segregation or  
302 involuntary isolation of an individual ~~a person~~ in a room or  
303 area from which the individual ~~person~~ is prevented from leaving.  
304 The prevention may be by physical barrier or by a staff member  
305 who is acting in a manner, or who is physically situated, so as  
306 to prevent the individual ~~person~~ from leaving the room or area.  
307 As used in ~~For purposes of~~ this part, the term does not mean  
308 isolation due to the individual's ~~a person's~~ medical condition  
309 or symptoms.

310        ~~(45)-(43)~~ "Secretary" means the Secretary of Children and  
311 Families.

312        ~~(46)-(44)~~ "Service provider" means a public or private  
313 receiving facility, a facility licensed under chapter 397, a  
314 treatment facility, an entity under contract with the department  
315 to provide mental health or substance abuse services, a  
316 community mental health center or clinic, a psychologist, a  
317 clinical social worker, a marriage and family therapist, a  
318 mental health counselor, a physician, a psychiatrist, an  
319 advanced registered nurse practitioner, a psychiatric nurse, or  
320 a substance abuse qualified professional ~~as defined in s. 39.01~~.

321        ~~(47)-(45)~~ "Substance abuse impaired ~~impairment~~" means a  
322 condition involving the use of alcoholic beverages or any  
323 psychoactive or mood-altering substance in such a manner that a  
324 person has lost the power of self-control and has inflicted or  
325 is likely to inflict physical harm on himself, herself, or  
326 another.

327        ~~(48)~~ "Substance abuse qualified professional" has the same  
328 meaning as in s. 397.311(33).

329        ~~(49)-(46)~~ "Transfer evaluation" means the process, as



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330 approved by the department, in which the individual by which a  
331 person who is being considered for placement in a state  
332 treatment facility is evaluated for appropriateness of admission  
333 to a treatment such facility. The transfer evaluation shall be  
334 conducted by the department, a public receiving facility, or a  
335 community mental health center or clinic.

336 (50)-(47) "Treatment facility" means a state-owned, state-  
337 operated, or state-supported hospital, center, or clinic  
338 designated by the department for extended treatment and  
339 hospitalization of individuals who have a mental illness,  
340 that provided for by a receiving facility or a, of persons who  
341 have a mental illness, including facilities of the United States  
342 Government, and any private facility designated by the  
343 department when rendering such services to a person pursuant to  
344 the provisions of this part. Patients treated in facilities of  
345 the United States Government shall be solely those whose care is  
346 the responsibility of the United States Department of Veterans  
347 Affairs.

348 (51)-(48) "Triage center" means a facility that has medical,  
349 mental health, and substance abuse professionals present or on  
350 call to provide emergency screening and evaluation for mental  
351 health or substance abuse disorders for individuals transported  
352 to the center by a law enforcement officer.

353 Section 3. Section 394.457, Florida Statutes, is amended to  
354 read:

355 394.457 Operation and administration.—

356 (1) ADMINISTRATION.—The Department of Children and Families  
357 is designated the "Mental Health Authority" of Florida. The  
358 department and the Agency for Health Care Administration shall



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359 exercise executive and administrative supervision over all  
360 ~~mental health~~ facilities, programs, and services.

361 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is  
362 responsible for:

363 (a) The planning, evaluation, and implementation of a  
364 complete and comprehensive statewide program of mental health  
365 and substance abuse, including community services, receiving and  
366 treatment facilities, child services, research, and training as  
367 authorized and approved by the Legislature, based on the annual  
368 program budget of the department. The department is also  
369 responsible for the coordination of efforts with other  
370 departments and divisions of the state government, county and  
371 municipal governments, and private agencies concerned with and  
372 providing mental health or substance abuse services. It is  
373 responsible for establishing standards, providing technical  
374 assistance, supervising ~~and exercising supervision of~~ mental  
375 health and substance abuse programs, ~~and of, and the treatment~~  
376 ~~of individuals patients~~ at, community facilities, other  
377 facilities serving individuals ~~for persons~~ who have a mental  
378 illness or substance abuse impairment, and any agency or  
379 facility providing services under ~~to patients pursuant to~~ this  
380 part.

381 (b) The publication and distribution of an information  
382 handbook to facilitate the understanding of ~~this part~~, the  
383 policies and procedures involved in the implementation of this  
384 part, and the responsibilities of the various service providers  
385 ~~of services~~ under this part. Distribution of this handbook may  
386 be limited to online electronic distribution. The department may  
387 ~~It shall~~ stimulate research by public and private agencies,



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388 institutions of higher learning, and hospitals in the interest  
389 of the elimination and amelioration of mental illnesses or  
390 substance abuse impairments illness.

391 (3) POWER TO CONTRACT.—The department may contract to  
392 provide, and be provided with, services and facilities in order  
393 to carry out its responsibilities under this part with respect  
394 to the following agencies: public and private hospitals;  
395 receiving and treatment facilities; clinics; laboratories;  
396 departments, divisions, and other units of state government; ~~the~~  
397 state colleges and universities; ~~the~~ community colleges; private  
398 colleges and universities; counties, municipalities, and ~~any~~  
399 other political subdivisions governmental unit, including  
400 facilities of the United States Government; and any other public  
401 or private entity that ~~which~~ provides or needs facilities or  
402 services. Baker Act funds for community inpatient, crisis  
403 stabilization, short-term residential treatment, and screening  
404 services under this part must be allocated to each county  
405 pursuant to the department's funding allocation methodology.  
406 Notwithstanding s. 287.057(3)(e), contracts for community-based  
407 Baker Act services for inpatient, crisis stabilization, short-  
408 term residential treatment, and screening ~~provided~~ under this  
409 part, other than those with other units of government, ~~to be~~  
410 ~~provided for the department~~ must be awarded using competitive  
411 solicitation sealed bids if the county commission of the county  
412 receiving the services makes a request to the department  
413 ~~department's district office~~ by January 15 of the contracting  
414 year. The department district may not enter into a competitively  
415 bid contract ~~under this provision~~ if such action will result in  
416 increases of state or local expenditures for Baker Act services



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417 ~~within the district.~~ Contracts for ~~these~~ Baker Act services  
418 using competitive solicitation ~~sealed bids~~ are effective for 3  
419 years. The department shall adopt rules establishing minimum  
420 standards for such contracted services and facilities and shall  
421 make periodic audits and inspections to assure that the  
422 contracted services are provided and meet the standards of the  
423 department.

424 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The  
425 department may apply for and accept any funds, grants, gifts, or  
426 services made available to it by any agency or department of the  
427 Federal Government or any other public or private agency or  
428 person ~~individual~~ in aid of mental health and substance abuse  
429 programs. All such moneys must ~~shall~~ be deposited in the State  
430 Treasury and ~~shall be~~ disbursed as provided by law.

431 (5) RULES.—The department shall adopt rules:

432 (a) ~~The department shall adopt rules~~ Establishing forms and  
433 procedures relating to the rights and privileges of individuals  
434 receiving examination or ~~patients seeking mental health~~  
435 treatment from facilities under this part.

436 (b) Implementing and administering ~~The department shall~~  
437 ~~adopt rules necessary for the implementation and administration~~  
438 ~~of the provisions of this part.,~~ and A program subject to the  
439 ~~provisions of this part~~ may ~~shall not be permitted to~~ operate  
440 unless rules designed to ensure the protection of the health,  
441 safety, and welfare of the individuals examined and ~~patients~~  
442 treated under ~~through~~ such program have been adopted. Such rules  
443 ~~adopted under this subsection~~ must include provisions governing  
444 the use of restraint and seclusion which are consistent with  
445 recognized best practices and professional judgment; prohibit





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446 inherently dangerous restraint or seclusion procedures;  
447 establish limitations on the use and duration of restraint and  
448 seclusion; establish measures to ensure the safety of program  
449 participants and staff during an incident of restraint or  
450 seclusion; establish procedures for staff to follow before,  
451 during, and after incidents of restraint or seclusion; establish  
452 professional qualifications of and training for staff who may  
453 order or be engaged in the use of restraint or seclusion; and  
454 establish mandatory reporting, data collection, and data  
455 dissemination procedures and requirements. Such rules ~~adopted~~  
456 ~~under this subsection~~ must require that each instance of the use  
457 of restraint or seclusion be documented in the clinical record  
458 of the individual who has been restrained or secluded patient.

459 (c) ~~The department shall adopt rules~~ Establishing minimum  
460 standards for services provided by a mental health overlay  
461 program or a mobile crisis response service.

462 (6) PERSONNEL.—

463 (a) The department shall, by rule, establish minimum  
464 standards of education and experience for professional and  
465 technical personnel employed in mental health programs,  
466 including members of a mobile crisis response service.

467 (b) The department may ~~shall~~ design and distribute  
468 appropriate materials for the orientation and training of  
469 persons actively engaged in administering ~~implementing~~ the  
470 provisions of this part relating to the involuntary examination  
471 and treatment placement of individuals ~~persons~~ who are believed  
472 to have a mental illness or substance abuse impairment.

473 (7) PAYMENT FOR CARE ~~OF PATIENTS~~.—Fees and fee collections  
474 for individuals ~~patients~~ in state-owned, state-operated, or



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475 state-supported treatment facilities must be in accordance with  
476 ~~shall be according to~~ s. 402.33.

477 Section 4. Subsection (1) and paragraph (b) of subsection  
478 (2) of section 394.4573, Florida Statutes, are amended to read:

479 394.4573 Coordinated system of care; annual assessment;  
480 essential elements; measures of performance; system improvement  
481 grants; reports.—On or before December 1 of each year, the  
482 department shall submit to the Governor, the President of the  
483 Senate, and the Speaker of the House of Representatives an  
484 assessment of the behavioral health services in this state. The  
485 assessment shall consider, at a minimum, the extent to which  
486 designated receiving systems function as no-wrong-door models,  
487 the availability of treatment and recovery services that use  
488 recovery-oriented and peer-involved approaches, the availability  
489 of less-restrictive services, and the use of evidence-informed  
490 practices. The department's assessment shall consider, at a  
491 minimum, the needs assessments conducted by the managing  
492 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
493 department shall compile and include in the report all plans  
494 submitted by managing entities pursuant to s. 394.9082(8) and  
495 the department's evaluation of each plan.

496 (1) As used in this section, the term:

497 (a) "Care coordination" means the implementation of  
498 deliberate and planned organizational relationships and service  
499 procedures that improve the effectiveness and efficiency of the  
500 behavioral health system by engaging in purposeful interactions  
501 with individuals who are not yet effectively connected with  
502 services to ensure service linkage. Examples of care  
503 coordination activities include development of referral



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504 agreements, shared protocols, and information exchange  
505 procedures. The purpose of care coordination is to enhance the  
506 delivery of treatment services and recovery supports and to  
507 improve outcomes among priority populations.

508 (b) "Case management" means those direct services provided  
509 to a client in order to assess his or her needs, plan or arrange  
510 services, coordinate service providers, link the service system  
511 to a client, monitor service delivery, and evaluate patient  
512 outcomes to ensure the client is receiving the appropriate  
513 services.

514 (c) "Coordinated system of care" means the full array of  
515 behavioral and related services in a region or community offered  
516 by all service providers, whether participating under contract  
517 with the managing entity or by another method of community  
518 partnership or mutual agreement.

519 (d) "No-wrong-door model" means a model for the delivery of  
520 acute care services to individuals ~~persons~~ who have mental  
521 health or substance use disorders, or both, which optimizes  
522 access to care, regardless of the entry point to the behavioral  
523 health care system.

524 (2) The essential elements of a coordinated system of care  
525 include:

526 (b) A designated receiving system that consists of one or  
527 more facilities serving a defined geographic area and  
528 responsible for assessment and evaluation, both voluntary and  
529 involuntary, and treatment or triage of patients who have a  
530 mental health or substance use disorder, or co-occurring  
531 disorders.

532 1. A county or several counties shall plan the designated



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533 receiving system using a process that includes the managing  
534 entity and is open to participation by individuals with  
535 behavioral health needs and their families, service providers,  
536 law enforcement agencies, and other parties. The county or  
537 counties, in collaboration with the managing entity, shall  
538 document the designated receiving system through written  
539 memoranda of agreement or other binding arrangements. The county  
540 or counties and the managing entity shall complete the plan and  
541 implement the designated receiving system by July 1, 2017, and  
542 the county or counties and the managing entity shall review and  
543 update, as necessary, the designated receiving system at least  
544 once every 3 years.

545 2. To the extent permitted by available resources, the  
546 designated receiving system shall function as a no-wrong-door  
547 model. The designated receiving system may be organized in any  
548 manner which functions as a no-wrong-door model that responds to  
549 individual needs and integrates services among various  
550 providers. Such models include, but are not limited to:

551 a. A central receiving system that consists of a designated  
552 central receiving facility that serves as a single entry point  
553 for individuals ~~persons~~ with mental health or substance use  
554 disorders, or co-occurring disorders. The central receiving  
555 facility shall be capable of assessment, evaluation, and triage  
556 or treatment or stabilization of individuals ~~persons~~ with mental  
557 health or substance use disorders, or co-occurring disorders.

558 b. A coordinated receiving system that consists of multiple  
559 entry points that are linked by shared data systems, formal  
560 referral agreements, and cooperative arrangements for care  
561 coordination and case management. Each entry point shall be a



562 designated receiving facility and shall, within existing  
563 resources, provide or arrange for necessary services following  
564 an initial assessment and evaluation.

565 c. A tiered receiving system that consists of multiple  
566 entry points, some of which offer only specialized or limited  
567 services. Each service provider shall be classified according to  
568 its capabilities as either a designated receiving facility or  
569 another type of service provider, such as a triage center, a  
570 licensed detoxification facility, or an access center. All  
571 participating service providers shall, within existing  
572 resources, be linked by methods to share data, formal referral  
573 agreements, and cooperative arrangements for care coordination  
574 and case management.

575  
576 An accurate inventory of the participating service providers  
577 which specifies the capabilities and limitations of each  
578 provider and its ability to accept patients under the designated  
579 receiving system agreements and the transportation plan  
580 developed pursuant to this section shall be maintained and made  
581 available at all times to all first responders in the service  
582 area.

583 Section 5. Section 394.4574, Florida Statutes, is amended  
584 to read:

585 394.4574 Responsibilities for coordination of services for  
586 a ~~mental health~~ resident with a mental illness who resides in an  
587 assisted living facility that holds a limited mental health  
588 license.—

589 (1) As used in this section, the term "mental health  
590 resident" means an individual who receives social security



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591 disability income due to a mental disorder as determined by the  
592 Social Security Administration or receives supplemental security  
593 income due to a mental disorder as determined by the Social  
594 Security Administration and receives optional state  
595 supplementation.

596 (2) Medicaid managed care plans are responsible for  
597 Medicaid enrolled mental health residents, and managing entities  
598 under contract with the department are responsible for mental  
599 health residents who are not enrolled in a Medicaid health plan.  
600 A Medicaid managed care plan or a managing entity shall ensure  
601 that:

602 (a) A ~~mental health~~ resident has been assessed by a  
603 psychiatrist, ~~clinical~~ psychologist, clinical social worker, ~~or~~  
604 psychiatric nurse, mental health counselor, marriage and family  
605 therapist, or a qualified professional as defined in s.  
606 394.455(40) ~~an individual~~ who is supervised by one of these  
607 professionals, and determined to be appropriate to reside in an  
608 assisted living facility. The documentation must be provided to  
609 the administrator of the facility within 30 days after the  
610 ~~mental health~~ resident has been admitted to the facility. An  
611 evaluation completed upon discharge from a state mental health  
612 treatment facility ~~hospital~~ meets the requirements of this  
613 subsection related to appropriateness for services ~~placement~~ as  
614 a ~~mental health~~ resident if it was completed within 90 days  
615 before admission to the facility.

616 (b) A cooperative agreement, as required in s. 429.075, is  
617 developed by the mental health or substance abuse ~~care~~ services  
618 provider that serves a ~~mental health~~ resident and the  
619 administrator of the assisted living facility with a limited



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620 mental health license in which the ~~mental health~~ resident is  
621 living.

622 (c) The community living support plan, as defined in s.  
623 429.02, has been prepared by a ~~mental health~~ resident and his or  
624 her mental health case manager in consultation with the  
625 administrator of the facility or the administrator's designee.  
626 The plan must be completed and provided to the administrator of  
627 the assisted living facility with a limited mental health  
628 license in which the ~~mental health~~ resident lives within 30 days  
629 after the resident's admission. The support plan and the  
630 agreement may be in one document.

631 (d) The assisted living facility with a limited mental  
632 health license is provided with documentation that the  
633 individual meets the definition of a mental health resident.

634 (e) The ~~mental health~~ services provider assigns a case  
635 manager to each ~~mental health~~ resident for whom the entity is  
636 responsible. The case manager shall coordinate the development  
637 and implementation of the community living support plan defined  
638 in s. 429.02. The plan must be updated at least annually, or  
639 when there is a significant change in the resident's behavioral  
640 health status. Each case manager shall keep a record of the date  
641 and time of any face-to-face interaction with the resident and  
642 make the record available to the responsible entity for  
643 inspection. The record must be retained for at least 2 years  
644 after the date of the most recent interaction.

645 (f) Consistent monitoring and implementation of community  
646 living support plans and cooperative agreements are conducted by  
647 the resident's case manager.

648 (g) Concerns are reported to the appropriate regulatory



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649 oversight organization if a regulated provider fails to deliver  
650 appropriate services or otherwise acts in a manner that has the  
651 potential to result in harm to the resident.

652 (3) The secretary ~~of Children and Families~~, in consultation  
653 with the Agency for Health Care Administration, shall require  
654 each regional ~~district~~ administrator to develop, with community  
655 input, a detailed annual plan that demonstrates how the regional  
656 office, in cooperation with service providers, district will  
657 ensure the provision of state-funded mental health and substance  
658 abuse treatment services to residents of assisted living  
659 facilities that hold a limited mental health license. This plan  
660 must ~~be consistent with the substance abuse and mental health~~  
661 ~~district plan developed pursuant to s. 394.75 and must~~ address  
662 case management services; access to consumer-operated drop-in  
663 centers; access to services during evenings, weekends, and  
664 holidays; supervision of the clinical needs of the residents;  
665 and access to emergency psychiatric care.

666 Section 6. Section 394.458, Florida Statutes, is amended to  
667 read:

668 394.458 Introduction or removal of certain articles  
669 unlawful; penalty.-

670 (1)~~(a)~~ Except as authorized by the facility administrator  
671 for a lawful purpose ~~law or as specifically authorized by the~~  
672 ~~person in charge of each hospital providing mental health~~  
673 ~~services under this part, it is unlawful to knowingly and~~  
674 intentionally bring into any facility providing services under  
675 this part, or to take or attempt to take or send therefrom, any  
676 of the following articles ~~introduce into or upon the grounds of~~  
677 ~~such hospital, or to take or attempt to take or send therefrom,~~





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678 ~~any of the following articles, which are hereby declared to be~~  
679 ~~contraband for the purposes of this section:~~

680 (a)1. Any intoxicating beverage or beverage which causes or  
681 may cause an intoxicating effect;

682 (b)2. Any controlled substance as defined in chapter 893;

683 (c) Any imitation controlled substance as defined in s.  
684 817.564; or

685 (d)3. Any firearms or deadly weapon, except for certified  
686 law enforcement officers acting in their official capacity.

687 ~~(b) It is unlawful to transmit to, or attempt to transmit~~  
688 ~~to, or cause or attempt to cause to be transmitted to, or~~  
689 ~~received by, any patient of any hospital providing mental health~~  
690 ~~services under this part any article or thing declared by this~~  
691 ~~section to be contraband, at any place which is outside of the~~  
692 ~~grounds of such hospital, except as authorized by law or as~~  
693 ~~specifically authorized by the person in charge of such~~  
694 ~~hospital.~~

695 (2) A person who violates any provision of this section  
696 commits a felony of the third degree, punishable as provided in  
697 s. 775.082, s. 775.083, or s. 775.084.

698 (3) A facility providing services under this part shall  
699 post at each entry point of the facility a conspicuous notice  
700 that includes the text of this section.

701 Section 7. Section 394.459, Florida Statutes, is amended to  
702 read:

703 394.459 Rights of individuals receiving mental health  
704 treatment and services patients.—

705 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.—It is the policy of this  
706 state that the ~~individual~~ dignity of all individuals held for



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707 examination or admitted for mental health treatment ~~the patient~~  
708 ~~shall~~ be respected at all times and upon all occasions,  
709 including ~~any occasion~~ when the individual patient is taken into  
710 custody, held, or transported. Procedures, facilities, vehicles,  
711 and restraining devices used ~~utilized~~ for criminals or those  
712 accused of a crime ~~may~~ ~~shall~~ not be used in connection with  
713 individuals ~~persons~~ who have a mental illness, except for the  
714 protection of the individual patient or others. Individuals  
715 ~~Persons~~ who have a mental illness but who are not charged with a  
716 criminal offense may ~~shall~~ not be detained or incarcerated in  
717 the jails of this state. An individual ~~A person~~ who is receiving  
718 treatment for mental illness may ~~shall~~ not be deprived of any  
719 constitutional rights. However, if such an individual ~~a person~~  
720 is adjudicated incapacitated, his or her rights may be limited  
721 to the same extent the rights of any incapacitated individual  
722 ~~person~~ are limited by law.

723 (2) RIGHT TO TREATMENT.—An individual held for examination  
724 or admitted for mental health treatment:

725 (a) Shall ~~A person shall~~ not be denied treatment for mental  
726 illness and services shall not be delayed at a receiving or  
727 treatment facility because of inability to pay. However, every  
728 reasonable effort to collect appropriate reimbursement for the  
729 cost of providing mental health services from individuals ~~to~~  
730 ~~persons~~ able to pay for services, including insurance or third-  
731 party payers ~~payments~~, shall be made by facilities providing  
732 services under ~~pursuant to~~ this part.

733 (b) Shall be provided ~~It is further the policy of the state~~  
734 ~~that~~ the least restrictive appropriate available treatment ~~be~~  
735 ~~utilized~~ based on the individual's ~~individual~~ needs and best



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736 interests, ~~of the patient and~~ consistent with the optimum  
737 improvement of the individual's ~~patient's~~ condition.

738 (c) ~~Each person who remains at a receiving or treatment~~  
739 ~~facility for more than 12 hours~~ Shall be given a physical  
740 examination by a health practitioner authorized by law to give  
741 such examinations and a mental health evaluation by a  
742 psychiatrist, psychologist, or psychiatric nurse, in a mental  
743 health receiving facility, within 24 hours after arrival at the  
744 facility if the individual has not been released or discharged  
745 pursuant to s. 394.463(2) (h) or s. 394.469. The physical  
746 examination and mental health evaluation must be documented in  
747 the clinical record. The physical and mental health examinations  
748 shall include efforts to identify indicators and symptoms of  
749 substance abuse impairment, substance abuse intoxication, and  
750 substance abuse withdrawal, ~~within 24 hours after arrival at~~  
751 ~~such facility.~~

752 (d) ~~Every patient in a facility~~ Shall be afforded the  
753 opportunity to participate in activities designed to enhance  
754 self-image and the beneficial effects of other treatments, as  
755 determined by the facility.

756 (e) Not more than 5 days after admission to a facility,  
757 each patient Shall have and receive an individualized treatment  
758 plan in writing which the individual ~~patient~~ has had an  
759 opportunity to assist in preparing and to review before ~~prior to~~  
760 ~~its~~ implementation. The plan must ~~shall~~ include a space for the  
761 individual's ~~patient's~~ comments and signature.

762 (3) RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

763 ~~(a)1.~~ Each individual ~~patient~~ entering treatment shall be  
764 asked to give express and informed consent for admission or



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765 treatment.

766       (a) If the individual patient has been adjudicated  
767 incapacitated or found to be incompetent to consent to  
768 treatment, express and informed consent must ~~to treatment shall~~  
769 be sought instead from his or her the patient's guardian or  
770 guardian advocate or health care surrogate or proxy. If the  
771 individual patient is a minor, express and informed consent for  
772 admission or treatment must be obtained from the minor's ~~shall~~  
773 ~~also be requested from the patient's guardian. Express and~~  
774 ~~informed consent for admission or treatment of a patient under~~  
775 ~~18 years of age shall be required from the patient's guardian,~~  
776 unless the minor is seeking outpatient crisis intervention  
777 services under s. 394.4784. ~~Express and informed consent for~~  
778 ~~admission or treatment given by a patient who is under 18 years~~  
779 ~~of age shall not be a condition of admission when the patient's~~  
780 ~~guardian gives express and informed consent for the patient's~~  
781 ~~admission pursuant to s. 394.463 or s. 394.467.~~

782       (b)~~2~~. Before giving express and informed consent, the  
783 following information shall be provided and explained in plain  
784 language to the individual and to his or her patient, ~~or to the~~  
785 ~~patient's~~ guardian if the individual is an adult patient is 18  
786 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~  
787 to his or her the patient's guardian advocate if the individual  
788 ~~patient~~ has been found to be incompetent to consent to  
789 treatment, to the health care surrogate or proxy, or to both the  
790 individual patient and the guardian if the individual patient is  
791 a minor;~~÷~~ the reason for admission or treatment; the proposed  
792 treatment; the purpose of the treatment to be provided; the  
793 common risks, benefits, and side effects ~~thereof~~; the specific



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794 dosage range for the medication, ~~if when~~ applicable; alternative  
795 treatment modalities; the approximate length of care; the  
796 potential effects of stopping treatment; how treatment will be  
797 monitored; and that any consent given for treatment may be  
798 revoked orally or in writing before or during the treatment  
799 period by the individual receiving treatment ~~patient~~ or by a  
800 person who is legally authorized to make health care decisions  
801 on the individual's behalf ~~of the patient~~.

802 ~~(b) In the case of medical procedures requiring the use of~~  
803 ~~a general anesthetic or electroconvulsive treatment, and prior~~  
804 ~~to performing the procedure, express and informed consent shall~~  
805 ~~be obtained from the patient if the patient is legally~~  
806 ~~competent, from the guardian of a minor patient, from the~~  
807 ~~guardian of a patient who has been adjudicated incapacitated, or~~  
808 ~~from the guardian advocate of the patient if the guardian~~  
809 ~~advocate has been given express court authority to consent to~~  
810 ~~medical procedures or electroconvulsive treatment as provided~~  
811 ~~under s. 394.4598.~~

812 ~~(c) When the department is the legal guardian of a patient,~~  
813 ~~or is the custodian of a patient whose physician is unwilling to~~  
814 ~~perform a medical procedure, including an electroconvulsive~~  
815 ~~treatment, based solely on the patient's consent and whose~~  
816 ~~guardian or guardian advocate is unknown or unlocatable, the~~  
817 ~~court shall hold a hearing to determine the medical necessity of~~  
818 ~~the medical procedure. The patient shall be physically present,~~  
819 ~~unless the patient's medical condition precludes such presence,~~  
820 ~~represented by counsel, and provided the right and opportunity~~  
821 ~~to be confronted with, and to cross-examine, all witnesses~~  
822 ~~alleging the medical necessity of such procedure. In such~~



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823 ~~proceedings, the burden of proof by clear and convincing~~  
824 ~~evidence shall be on the party alleging the medical necessity of~~  
825 ~~the procedure.~~

826 ~~(d) The administrator of a receiving or treatment facility~~  
827 ~~may, upon the recommendation of the patient's attending~~  
828 ~~physician, authorize emergency medical treatment, including a~~  
829 ~~surgical procedure, if such treatment is deemed lifesaving, or~~  
830 ~~if the situation threatens serious bodily harm to the patient,~~  
831 ~~and permission of the patient or the patient's guardian or~~  
832 ~~guardian advocate cannot be obtained.~~

833 (4) QUALITY OF TREATMENT.—

834 (a) Each individual held for examination, admitted for  
835 mental health treatment, or receiving involuntary treatment  
836 ~~patient~~ shall receive services that are, including, for a  
837 ~~patient placed under s. 394.4655, those services included in the~~  
838 ~~court order which are suited to his or her needs, and which~~  
839 ~~shall be~~ administered skillfully, safely, and humanely with full  
840 respect for the individual's ~~patient's~~ dignity and personal  
841 integrity. Each individual ~~patient~~ shall receive such medical,  
842 vocational, social, educational, and rehabilitative services as  
843 his or her condition requires in order to live successfully in  
844 the community. In order to achieve this goal, the department  
845 shall ~~is directed to~~ coordinate its mental health programs with  
846 all other programs of the department and other state agencies.

847 (b) Facilities shall develop and maintain, in a form  
848 accessible to and readily understandable by individuals held for  
849 examination, admitted for mental health treatment, or receiving  
850 involuntary treatment ~~patients~~ and consistent with rules adopted  
851 by the department, ~~the following:~~



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852 1. Criteria, procedures, and required staff training for  
853 the any use of close or elevated levels of supervision; ~~of~~  
854 restraint, seclusion, or isolation; ~~or of~~ emergency treatment  
855 orders; ~~and for the use of~~ bodily control and physical  
856 management techniques.

857 2. Procedures for documenting, monitoring, and requiring  
858 clinical review of all uses of the procedures described in  
859 subparagraph 1. and for documenting and requiring review of any  
860 incidents resulting in injury to individuals receiving services  
861 patients.

862 3. A system for investigating, tracking, managing, and  
863 responding to complaints by individuals ~~persons~~ receiving  
864 services or persons ~~individuals~~ acting on their behalf.

865 (c) Receiving and treatment facilities shall have written  
866 procedures for reporting events that place individuals receiving  
867 services at risk of harm. Such events must be reported to the  
868 department as soon as reasonably possible after discovery and  
869 include, but are not limited to:

870 1. The death, regardless of cause or manner, of an  
871 individual examined or treated at a facility that occurs while  
872 the individual is at the facility or that occurs within 72 hours  
873 after release, if the death is known to the facility  
874 administrator.

875 2. An injury sustained, or allegedly sustained, at a  
876 facility, by an individual examined or treated at the facility  
877 and caused by an accident, self-injury, assault, act of abuse,  
878 neglect, or suicide attempt, if the injury requires medical  
879 treatment by a licensed health care practitioner in an acute  
880 care medical facility.



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881           3. The unauthorized departure or absence of an individual  
882 from a facility in which he or she has been held for involuntary  
883 examination or involuntary treatment.

884           4. A disaster or crisis situation such as a tornado,  
885 hurricane, kidnapping, riot, or hostage situation that  
886 jeopardizes the health, safety, or welfare of individuals  
887 examined or treated in a facility.

888           5. An allegation of sexual battery upon an individual  
889 examined or treated in a facility.

890           (d)(e) A facility may not use seclusion or restraint for  
891 punishment, in compensation to compensate for inadequate  
892 staffing, or for the convenience of staff. Facilities shall  
893 ensure that all staff, contractors, and volunteers are made  
894 aware of these restrictions ~~on the use of seclusion and~~  
895 ~~restraint and shall make~~ and maintain records which demonstrate  
896 that this information has been conveyed to each staff member,  
897 contractor, and volunteer individual staff members.

898           (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

899           (a) Each individual held for examination or admitted for  
900 mental health treatment person receiving services in a facility  
901 providing ~~mental health~~ services under this part has the right  
902 to communicate freely and privately with persons outside the  
903 facility unless it is determined that such communication is  
904 likely to be harmful to the individual person or others. Each  
905 facility shall make ~~available as soon as reasonably possible to~~  
906 ~~persons receiving services~~ a telephone that allows for free  
907 local calls and access to a long-distance service available to  
908 the individual as soon as reasonably possible. A facility is not  
909 required to pay the costs of an individual's a patient's long-





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910 distance calls. The telephone must ~~shall~~ be readily accessible  
911 ~~to the patient~~ and ~~shall be~~ placed so that the individual  
912 ~~patient~~ may use it to communicate privately and confidentially.  
913 The facility may establish reasonable rules for the use of this  
914 telephone ~~which, provided that the rules~~ do not interfere with  
915 an individual's ~~a patient's~~ access to a telephone to report  
916 abuse pursuant to paragraph (e).

917 (b) Each individual ~~patient~~ admitted to a facility under  
918 ~~the provisions of this part~~ is ~~shall be~~ allowed to receive,  
919 send, and mail sealed, unopened correspondence; and the  
920 individual's ~~no patient's~~ incoming or outgoing correspondence  
921 may not ~~shall~~ be opened, delayed, held, or censored by the  
922 facility unless there is reason to believe that it contains  
923 items or substances that ~~which~~ may be harmful to the individual  
924 ~~patient~~ or others, in which case the administrator may direct  
925 reasonable examination of such mail and may regulate the  
926 disposition of such items or substances.

927 (c) Each facility shall allow ~~must permit~~ immediate access  
928 to an individual held for examination or admitted for mental  
929 health treatment ~~any patient~~, subject to the ~~patient's~~ right to  
930 deny or withdraw consent at any time, by the individual, or by  
931 the individual's ~~patient's~~ family members, guardian, guardian  
932 advocate, health care surrogate or proxy, representative,  
933 ~~Florida statewide or local advocacy council~~, or attorney, unless  
934 such access would be detrimental to the individual ~~patient~~. If  
935 the ~~a patient's~~ right to communicate or to receive visitors is  
936 restricted by the facility, written notice of such restriction  
937 and the reasons for the restriction shall be served on the  
938 individual and the individual's attorney, ~~patient, the patient's~~



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939 ~~attorney, and the patient's~~ guardian, guardian advocate, health  
940 care surrogate or proxy, or representative; and such restriction  
941 and the reason for the restriction, shall be recorded ~~in~~ on the  
942 ~~patient's~~ clinical record ~~with the reasons therefor.~~ The  
943 restriction must ~~of a patient's right to communicate or to~~  
944 ~~receive visitors shall~~ be reviewed at least every 7 days. The  
945 right to communicate or receive visitors may ~~shall~~ not be  
946 restricted as a means of punishment. ~~Nothing in~~ This paragraph  
947 does not shall be construed to limit the establishment of rules  
948 under provisions of paragraph (d).

949 (d) Each facility shall establish reasonable rules  
950 governing visitors, visiting hours, and the use of telephones by  
951 individuals held for examination or admitted for mental health  
952 treatment patients in the least restrictive possible manner. An  
953 individual has ~~Patients shall have~~ the right to contact and to  
954 receive communication from his or her ~~their~~ attorneys at any  
955 reasonable time.

956 (e) Each individual held for examination or admitted for  
957 mental health treatment patient ~~receiving mental health~~  
958 ~~treatment in any facility~~ shall have ready access to a telephone  
959 in order to report an alleged abuse. The facility staff shall  
960 orally and in writing inform each individual ~~patient~~ of the  
961 procedure for reporting abuse and shall make every reasonable  
962 effort to present the information in a language that the  
963 individual ~~patient~~ understands. A written copy of that  
964 procedure, including the telephone number of the central abuse  
965 hotline and reporting forms, shall be posted in plain view.

966 (f) The department must ~~shall~~ adopt rules providing a  
967 procedure for reporting alleged abuse. Facility staff ~~shall be~~



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968 ~~required~~, as a condition of employment, must ~~to~~ become familiar  
969 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

970 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS~~. The  
971 rights of an individual held for examination or admitted for  
972 mental health treatment ~~A patient's right~~ to the possession of  
973 his or her clothing and personal effects shall be respected. The  
974 facility may take temporary custody of such effects if when  
975 required for medical and safety reasons. The ~~A patient's~~  
976 clothing and personal effects shall be inventoried upon their  
977 removal into temporary custody. Copies of this inventory shall  
978 be given to the individual and his or her ~~patient and to the~~  
979 ~~patient's~~ guardian, guardian advocate, health care surrogate or  
980 proxy, or representative and shall be recorded in the ~~patient's~~  
981 clinical record. This inventory may be amended upon the request  
982 of the individual and his or her ~~patient or the patient's~~  
983 guardian, guardian advocate, health care surrogate or proxy, or  
984 representative. The inventory and any amendments to it must be  
985 witnessed by two members of the facility staff and by the  
986 individual patient, if able. All of the ~~a patient's~~ clothing and  
987 personal effects held by the facility must ~~shall~~ be returned to  
988 the individual patient immediately upon his or her ~~the~~ discharge  
989 or transfer ~~of the patient~~ from the facility, unless such return  
990 would be detrimental to the individual patient. If personal  
991 effects are not returned ~~to the patient~~, the reason must be  
992 documented in the clinical record along with the disposition of  
993 the clothing and personal effects, which may be given instead to  
994 the individual's ~~patient's~~ guardian, guardian advocate, health  
995 care surrogate or proxy, or representative. As soon as  
996 practicable after an emergency transfer ~~of a patient~~, the



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997 individual's ~~patient's~~ clothing and personal effects shall be  
998 transferred to the individual's ~~patient's~~ new location, together  
999 with a copy of the inventory and any amendments, unless an  
1000 alternate plan is approved by the individual ~~patient~~, if he or  
1001 she is able, and by his or her ~~the patient's~~ guardian, guardian  
1002 advocate, health care surrogate or proxy, or representative.

1003 (7) VOTING IN PUBLIC ELECTIONS.—An individual held for  
1004 examination or admitted for mental health treatment ~~A patient~~  
1005 who is eligible to vote according to the laws of the state has  
1006 the right to vote in ~~the~~ primary, and general, and special  
1007 elections. The department shall establish rules to enable such  
1008 individuals ~~patients~~ to obtain voter registration forms,  
1009 applications for vote-by-mail ballots, and vote-by-mail ballots.

1010 (8) HABEAS CORPUS.—

1011 (a) At any time, and without notice, an individual held for  
1012 mental health examination or admitted for inpatient treatment in  
1013 ~~a person held in a receiving or treatment~~ facility, or a  
1014 relative, friend, guardian, guardian advocate, health care  
1015 surrogate or proxy, representative, or attorney, or the  
1016 department, on behalf of such individual ~~person~~, may petition  
1017 for a writ of habeas corpus to question the cause and legality  
1018 of such detention and request that the court order a return to  
1019 the writ in accordance with chapter 79. Each individual ~~patient~~  
1020 held in a facility shall receive a written notice of the right  
1021 to petition for a writ of habeas corpus.

1022 (b) At any time, and without notice, an individual held for  
1023 mental health examination or admitted for inpatient treatment ~~a~~  
1024 ~~person who is a patient~~ in a ~~receiving or treatment~~ facility, or  
1025 a relative, friend, guardian, guardian advocate, health care



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1026 surrogate or proxy, representative, or attorney, or the  
1027 department, on behalf of such individual person, may file a  
1028 petition in the circuit court in the county where the individual  
1029 ~~patient~~ is being held alleging that he or she ~~the patient~~ is  
1030 being unjustly denied a right or privilege granted under this  
1031 part herein or that a procedure authorized under this part  
1032 ~~herein~~ is being abused. Upon the filing of such a petition, the  
1033 court may ~~shall have the authority~~ to conduct a judicial inquiry  
1034 and ~~to~~ issue any order ~~needed~~ to correct an abuse of the  
1035 provisions of this part.

1036 (c) The administrator of any ~~receiving or treatment~~  
1037 facility receiving a petition under this subsection shall file  
1038 the petition with the clerk of the court no later than on the  
1039 next court working day.

1040 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a  
1041 petition under this subsection.

1042 (9) VIOLATIONS.—The department shall report to the Agency  
1043 for Health Care Administration any violation of the rights or  
1044 privileges of individuals patients, or of any procedures  
1045 provided under this part, by any facility or professional  
1046 licensed or regulated under state law ~~by the agency~~. ~~The agency~~  
1047 ~~is authorized to impose~~ Any sanction authorized for violation of  
1048 this part may be imposed, based solely on the investigation and  
1049 findings of the department.

1050 (10) LIABILITY FOR VIOLATIONS.—A ~~Any~~ person who violates or  
1051 abuses the any rights or privileges of individuals held or  
1052 admitted for mental health treatment patients provided under ~~by~~  
1053 this part is liable for damages as determined by law. A ~~Any~~  
1054 person who acts reasonably, in good faith, and without



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1055 negligence in compliance with ~~the provisions of~~ this part is  
1056 immune from civil or criminal liability for his or her actions  
1057 in connection with the preparation or execution of petitions,  
1058 applications, certificates, reports, or other documents  
1059 initiating admission to a facility or the apprehension,  
1060 detention, transportation, examination, admission, diagnosis,  
1061 treatment, or discharge of an individual ~~a patient~~ to or from a  
1062 facility. ~~However, this section does not relieve any person from~~  
1063 ~~liability if such person commits negligence.~~

1064 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE  
1065 PLANNING.—An individual held for examination or admitted for  
1066 mental health treatment ~~The patient~~ shall have the opportunity  
1067 to participate in treatment and discharge planning and shall be  
1068 notified in writing of his or her right, upon discharge from the  
1069 facility, to seek treatment from the professional or agency of  
1070 the individual's ~~patient's~~ choice.

1071 (12) POSTING OF NOTICE OF RIGHTS ~~OF PATIENTS~~.—Each facility  
1072 shall post a notice that lists and describes ~~listing and~~  
1073 ~~describing,~~ in the language and terminology that the individual  
1074 ~~persons to whom the notice is addressed~~ can understand, the  
1075 rights provided under ~~in~~ this section. This notice must ~~shall~~  
1076 include a statement that ~~provisions of~~ the federal Americans  
1077 with Disabilities Act apply and the name and telephone number of  
1078 a person to contact for further information. The ~~This~~ notice  
1079 must ~~shall~~ be posted in a place readily accessible to  
1080 individuals ~~patients~~ and in a format easily seen by the  
1081 individuals served ~~patients~~. The ~~This~~ notice must ~~shall~~ include  
1082 the telephone numbers of Disability Rights Florida, Inc ~~the~~  
1083 ~~Florida local advocacy council and Advocacy Center for Persons~~



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1084 ~~with Disabilities, Inc.~~

1085 Section 8. Section 394.4593, Florida Statutes, is amended  
1086 to read:

1087 394.4593 Sexual misconduct prohibited; reporting required;  
1088 penalties.—

1089 (1) As used in this section, the term:

1090 (a) "Employee" means ~~includes any~~ paid staff member,  
1091 volunteer, or intern of the department or a service provider  
1092 providing services pursuant to this part; any person under  
1093 contract with the department or a service provider providing  
1094 services pursuant to this part; and any person providing care or  
1095 support to an individual ~~a client~~ on behalf of the department or  
1096 its service providers.

1097 (b) "Sexual activity" means:

1098 1. Fondling the genital area, groin, inner thighs,  
1099 buttocks, or breasts of an individual ~~a person~~.

1100 2. The oral, anal, or vaginal penetration by or union with  
1101 the sexual organ of another or the anal or vaginal penetration  
1102 of another by any other object.

1103 3. Intentionally touching in a lewd or lascivious manner  
1104 the breasts, genitals, the genital area, or buttocks, or the  
1105 clothing covering them, of an individual ~~a person~~, or forcing or  
1106 enticing an individual ~~a person~~ to touch the perpetrator.

1107 4. Intentionally masturbating in the presence of another  
1108 individual person.

1109 5. Intentionally exposing the genitals in a lewd or  
1110 lascivious manner in the presence of another individual ~~person~~.

1111 6. Intentionally committing any other sexual act that does  
1112 not involve actual physical or sexual contact with another



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1113 individual ~~the victim~~, including, but not limited to,  
1114 sadomasochistic abuse, sexual bestiality, or the simulation of  
1115 any act involving sexual activity in the presence of the  
1116 individual ~~a victim~~.

1117 (c) "Sexual misconduct" means any sexual activity between  
1118 an employee and an individual held or admitted for examination  
1119 or treatment pursuant to this part ~~a patient~~, regardless of the  
1120 consent of that individual ~~the patient~~. The term does not  
1121 include an act done for a bona fide medical purpose or an  
1122 internal search conducted in the lawful performance of duty by  
1123 an employee.

1124 (2) An employee who engages in sexual misconduct with an  
1125 individual ~~a patient~~ who:

1126 ~~(a) Is in the custody of the department; or~~

1127 ~~(b) Resides in a receiving facility or a treatment~~  
1128 ~~facility, as those terms are defined in s. 394.455,~~

1129  
1130 commits a felony of the second degree, punishable as provided in  
1131 s. 775.082, s. 775.083, or s. 775.084. An employee may be found  
1132 guilty of violating this subsection without having committed the  
1133 crime of sexual battery.

1134 (3) The consent of an individual held or admitted for  
1135 examination or treatment ~~the patient~~ to sexual activity is not a  
1136 defense to prosecution under this section.

1137 (4) This section does not apply to an employee who, at the  
1138 time of the sexual activity:

1139 (a) Is legally married to the individual involved in the  
1140 sexual activity ~~patient~~; or

1141 (b) Has no reason to believe that the individual involved





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1142 in the sexual activity is held or admitted for examination or  
1143 treatment pursuant to this part ~~person with whom the employee~~  
1144 ~~engaged in sexual misconduct is a patient receiving services as~~  
1145 ~~described in subsection (2).~~

1146 (5) An employee who witnesses sexual misconduct, or who  
1147 otherwise knows or has reasonable cause to suspect that a person  
1148 has engaged in sexual misconduct, shall immediately report the  
1149 incident to the department's central abuse hotline and to the  
1150 appropriate local law enforcement agency. Such employee shall  
1151 also prepare, date, and sign an independent report that  
1152 specifically describes the nature of the sexual misconduct, the  
1153 location and time of the incident, and the persons involved. The  
1154 employee shall deliver the report to the supervisor or program  
1155 director, who is responsible for providing copies to the  
1156 department's inspector general. The inspector general shall  
1157 immediately conduct an appropriate administrative investigation,  
1158 and, if there is probable cause to believe that sexual  
1159 misconduct has occurred, the inspector general shall notify the  
1160 state attorney in the circuit in which the incident occurred.

1161 (6) (a) Any person who is required to make a report under  
1162 this section and who knowingly or willfully fails to do so, or  
1163 who knowingly or willfully prevents another person from doing  
1164 so, commits a misdemeanor of the first degree, punishable as  
1165 provided in s. 775.082 or s. 775.083.

1166 (b) Any person who knowingly or willfully submits  
1167 inaccurate, incomplete, or untruthful information with respect  
1168 to a report required under this section commits a misdemeanor of  
1169 the first degree, punishable as provided in s. 775.082 or s.  
1170 775.083.



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1171 (c) Any person who knowingly or willfully coerces or  
1172 threatens any other person with the intent to alter testimony or  
1173 a written report regarding an incident of sexual misconduct  
1174 commits a felony of the third degree, punishable as provided in  
1175 s. 775.082, s. 775.083, or s. 775.084.

1176 (7) The provisions and penalties set forth in this section  
1177 are in addition to any other civil, administrative, or criminal  
1178 action provided by law which may be applied against an employee.

1179 Section 9. Section 394.4595, Florida Statutes, is repealed.

1180 Section 10. Section 394.4596, Florida Statutes, is created  
1181 to read:

1182 394.4596 Federally mandated protection and advocacy system  
1183 for individuals with disabilities.—The agency designated by the  
1184 governor as the federally mandated protection and advocacy  
1185 system for individuals with disabilities has specific access  
1186 authority under federal law to facilities, individuals,  
1187 information, and records. Any facility defined in s. 394.455(12)  
1188 shall allow this agency to exercise access authority provided to  
1189 it by state and federal law.

1190 Section 11. Section 394.4597, Florida Statutes, is amended  
1191 to read:

1192 394.4597 Persons to be notified; individual's ~~patient's~~  
1193 representative.—

1194 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual  
1195 ~~a patient~~ is voluntarily admitted to a receiving or treatment  
1196 facility, the individual shall be asked to identify a person to  
1197 be notified in case of an emergency, and the identity and  
1198 contact information of that a person to be notified in case of  
1199 ~~an emergency~~ shall be entered in the ~~patient's~~ clinical record.



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1200 (2) INVOLUNTARY ADMISSION PATIENTS.—

1201 (a) At the time an individual ~~a patient~~ is admitted to a  
1202 facility for involuntary examination or services placement, or  
1203 when a petition for involuntary services placement is filed, the  
1204 name, address, and telephone number ~~names, addresses, and~~  
1205 ~~telephone numbers~~ of the individual's ~~patient's~~ guardian or  
1206 guardian advocate, health care surrogate or proxy, or  
1207 representative if he or she ~~the patient~~ has no guardian, and the  
1208 individual's ~~patient's~~ attorney shall be entered in the  
1209 ~~patient's~~ clinical record.

1210 (b) If the individual ~~patient~~ has no guardian, guardian  
1211 advocate, health care surrogate, or proxy, ~~he or she the patient~~  
1212 shall be asked to designate a representative. If the individual  
1213 ~~patient~~ is unable or unwilling to designate a representative,  
1214 the facility shall select a representative.

1215 (c) The individual ~~patient~~ shall be consulted with regard  
1216 to the selection of a representative by the receiving or  
1217 treatment facility and may ~~shall have authority to~~ request that  
1218 the any such representative be replaced.

1219 (d) ~~If~~ When the receiving or treatment facility selects a  
1220 representative, first preference shall be given to a health care  
1221 surrogate, if one has been previously selected ~~by the patient~~.  
1222 If the individual ~~patient~~ has not previously selected a health  
1223 care surrogate, the selection, except for good cause documented  
1224 in the ~~patient's~~ clinical record, shall be made from the  
1225 following list in the order of listing:

- 1226 1. The individual's ~~patient's~~ spouse.
- 1227 2. An adult child of the individual ~~patient~~.
- 1228 3. A parent of the individual ~~patient~~.



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- 1229 4. The adult next of kin of the individual patient.
- 1230 5. An adult friend of the individual patient.
- 1231 (e) The following persons are prohibited from selection as
- 1232 an individual's a patient's representative:
- 1233 1. A professional providing clinical services to the
- 1234 individual patient under this part.
- 1235 2. The licensed professional who initiated the involuntary
- 1236 examination of the individual patient, if the examination was
- 1237 initiated by professional certificate.
- 1238 3. An employee, a volunteer, a contractor, an
- 1239 administrator, or a board member of the facility providing the
- 1240 examination of the individual patient.
- 1241 4. An employee, a volunteer, a contractor, an
- 1242 administrator, or a board member of a treatment facility
- 1243 providing treatment for the individual patient.
- 1244 5. A person providing any substantial professional services
- 1245 to the individual patient, including clinical services.
- 1246 6. A creditor of the individual patient.
- 1247 7. A person who is a party subject to an injunction for
- 1248 protection against domestic violence under s. 741.30, whether
- 1249 the order of injunction is temporary or final, and for which the
- 1250 individual patient was the petitioner.
- 1251 8. A person who is a party subject to an injunction for
- 1252 protection against repeat violence, stalking, sexual violence,
- 1253 or dating violence under s. 784.046, whether the order of
- 1254 injunction is temporary or final, and for which the individual
- 1255 patient was the petitioner.
- 1256 (f) The representative selected by the individual or
- 1257 designated by the facility has the right, authority, and



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- 1258 responsibility to:
- 1259 1. Receive notice of the individual's admission;
- 1260 2. Receive notice of proceedings affecting the individual;
- 1261 3. Have immediate access to the individual unless such
- 1262 access is documented to be detrimental to the individual;
- 1263 4. Receive notice of any restriction of the individual's
- 1264 right to communicate or receive visitors;
- 1265 5. Receive a copy of the inventory of clothing and personal
- 1266 effects upon the individual's admission and to request an
- 1267 amendment to the inventory at any time;
- 1268 6. Receive disposition of the individual's clothing and
- 1269 personal effects if not returned to the individual, or to
- 1270 approve an alternate plan;
- 1271 7. Petition on behalf of the individual for a writ of
- 1272 habeas corpus to question the cause and legality of the
- 1273 individual's detention or to allege that the individual is being
- 1274 unjustly denied a right or privilege granted under this part, or
- 1275 that a procedure authorized under this part is being abused;
- 1276 8. Apply for a change of venue for the individual's
- 1277 involuntary services placement hearing for the convenience of
- 1278 the parties or witnesses or because of the individual's
- 1279 condition;
- 1280 9. Receive written notice of any restriction of the
- 1281 individual's right to inspect his or her clinical record;
- 1282 10. Receive notice of the release of the individual from a
- 1283 receiving facility where an involuntary examination was
- 1284 performed;
- 1285 11. Receive a copy of any petition for the individual's
- 1286 involuntary services filed with the court; and



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1287           12. Be informed by the court of the individual's right to  
1288 an independent expert evaluation pursuant to involuntary  
1289 services procedures.

1290           Section 12. Section 394.4598, Florida Statutes, is amended  
1291 to read:

1292           394.4598 Guardian advocate.—

1293           (1) The administrator may petition the court for the  
1294 appointment of a guardian advocate based upon the opinion of a  
1295 psychiatrist that an individual held for examination or admitted  
1296 for mental health treatment ~~the patient~~ is incompetent to  
1297 consent to treatment. If the court finds that the individual a  
1298 ~~patient~~ is incompetent to consent to treatment and has not been  
1299 adjudicated incapacitated and a guardian having with the  
1300 authority to consent to mental health or substance abuse  
1301 treatment has not been appointed, it shall appoint a guardian  
1302 advocate. The individual patient has the right to have an  
1303 attorney represent him or her at the hearing. If the individual  
1304 is not otherwise represented by counsel and person is indigent,  
1305 the court shall appoint the office of the public defender to  
1306 represent him or her at the hearing. The individual patient has  
1307 the right to testify, cross-examine witnesses, and present  
1308 witnesses. The proceeding must shall be recorded ~~either~~  
1309 electronically or stenographically, and testimony shall be  
1310 ~~provided~~ under oath. One of the professionals authorized to give  
1311 an opinion in support of a petition for involuntary services  
1312 placement, as described in ~~s. 394.4655 or s. 394.467~~, shall must  
1313 testify. The A guardian advocate shall must meet the  
1314 qualifications of a guardian pursuant to contained in part IV of  
1315 chapter 744. A person may not be appointed as a guardian



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1316 advocate unless he or she agrees, ~~except that a professional~~  
1317 ~~referred to in this part, an employee of the facility providing~~  
1318 ~~direct services to the patient under this part, a departmental~~  
1319 ~~employee, a facility administrator, or member of the Florida~~  
1320 ~~local advocacy council shall not be appointed. A person who is~~  
1321 ~~appointed as a guardian advocate must agree to the appointment.~~

1322 (2) The following persons are prohibited from being  
1323 appointed as an individual's ~~appointment as a patient's~~ guardian  
1324 advocate:

1325 (a) A professional providing clinical services to the  
1326 individual ~~patient~~ under this part.

1327 (b) The licensed professional who initiated the involuntary  
1328 examination of the individual ~~patient~~, if the examination was  
1329 initiated by professional certificate.

1330 (c) An employee, a contractor, a volunteer, an  
1331 administrator, or a board member of the facility providing the  
1332 examination of the individual ~~patient~~.

1333 (d) An employee, a contractor, a volunteer, an  
1334 administrator, or a board member of a treatment facility  
1335 providing treatment of the individual ~~patient~~.

1336 (e) A person providing any substantial professional  
1337 services, excluding public and professional guardians, to the  
1338 individual ~~patient~~, including clinical services.

1339 (f) A creditor of the individual ~~patient~~.

1340 (g) A party ~~person~~ ~~subject~~ to an injunction for protection  
1341 against domestic violence under s. 741.30, whether the order of  
1342 injunction is temporary or final, and for which the individual  
1343 ~~patient~~ was the petitioner.

1344 (h) A party ~~person~~ ~~subject~~ to an injunction for protection



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1345 against repeat violence, stalking, sexual violence, or dating  
1346 violence under s. 784.046, whether the order of injunction is  
1347 temporary or final, and for which the individual patient was the  
1348 petitioner.

1349 (3) A facility requesting appointment of a guardian  
1350 advocate shall, before ~~must, prior to~~ the appointment, provide  
1351 the prospective guardian advocate with information concerning  
1352 ~~about~~ the duties and responsibilities of guardian advocates,  
1353 including the information about the ethics of medical  
1354 decisionmaking. Before asking a guardian advocate to give  
1355 consent to treatment for an individual held for examination or  
1356 admitted for mental health treatment a patient, the facility  
1357 shall provide all disclosures required under s. 394.459(3)(a)2  
1358 ~~to the guardian advocate sufficient information so that the~~  
1359 ~~guardian advocate can decide whether to give express and~~  
1360 ~~informed consent to the treatment, including information that~~  
1361 ~~the treatment is essential to the care of the patient, and that~~  
1362 ~~the treatment does not present an unreasonable risk of serious,~~  
1363 ~~hazardous, or irreversible side effects.~~ Before giving consent  
1364 to treatment, the guardian advocate shall ~~must~~ meet and talk  
1365 with the individual patient and the individual's patient's  
1366 physician face-to-face in person, if ~~at all~~ possible, and by  
1367 telephone, if not. The guardian advocate shall make every effort  
1368 to make decisions regarding treatment that he or she believes  
1369 the individual would have made under the circumstances if the  
1370 individual were capable of making such decision. The decision of  
1371 the guardian advocate may be reviewed by the court, upon  
1372 petition of the individual's patient's attorney, the  
1373 individual's patient's family, or the facility administrator.





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1374           (4) In lieu of the training required of guardians appointed  
1375 under pursuant to chapter 744, a guardian advocate must, at a  
1376 minimum, complete participate in a 4-hour training course  
1377 approved by the court before exercising his or her authority. At  
1378 a minimum, this training course must include information  
1379 concerning rights of the individual about patient rights,  
1380 psychotropic medications, the diagnosis of mental illness, the  
1381 ethics of medical decisionmaking, and duties of guardian  
1382 advocates.

1383           (5) The required training course and the information  
1384 provided to be supplied to prospective guardian advocates before  
1385 their appointment must be developed by the department and  
1386 approved by the chief judge of the circuit court, and taught by  
1387 a court-approved organization, which may include, but is not  
1388 limited to, a community college, a guardianship organization, a  
1389 local bar association, or The Florida Bar. The training course  
1390 may be web-based, provided in video format, or other electronic  
1391 means but must be capable of ensuring the identity and  
1392 participation of the prospective guardian advocate. The court  
1393 may waive some or all of the training requirements for guardian  
1394 advocates or impose additional requirements. The court shall  
1395 make its decision on a case-by-case basis and, in making its  
1396 decision, shall consider the experience and education of the  
1397 guardian advocate, the duties assigned to the guardian advocate,  
1398 and the needs of the individual subject to involuntary services  
1399 patient.

1400           (6) In selecting a guardian advocate, the court shall give  
1401 preference to a health care surrogate, if one has already been  
1402 designated by the individual held for examination or admitted



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1403 for mental health treatment patient. If the individual patient  
1404 has not previously selected a health care surrogate, except for  
1405 good cause documented in the court record, the selection shall  
1406 be made from the following list in the order of listing:

- 1407 (a) The individual's patient's spouse.  
1408 (b) An adult child of the individual patient.  
1409 (c) A parent of the individual patient.  
1410 (d) The adult next of kin of the individual patient.  
1411 (e) An adult friend of the individual patient.  
1412 (f) An adult trained and willing to serve as guardian  
1413 advocate for the individual patient.

1414 (7) If a guardian having ~~with the~~ authority to consent to  
1415 medical treatment has not already been appointed or if the  
1416 individual held for examination or admitted for mental health  
1417 treatment patient has not already designated a health care  
1418 surrogate, the court may authorize the guardian advocate to  
1419 consent to medical treatment, as well as mental health and  
1420 substance abuse treatment. Unless otherwise limited by the  
1421 court, a guardian advocate who has ~~with~~ authority to consent to  
1422 medical treatment has ~~shall have~~ the same authority to make  
1423 health care decisions and is ~~be~~ subject to the same restrictions  
1424 as a proxy appointed under part IV of chapter 765.

1425 (a) Unless the guardian advocate has sought and received  
1426 express court approval in proceeding separate from the  
1427 proceeding to determine the competence of the individual patient  
1428 to consent to medical treatment, the guardian advocate may not  
1429 consent to:

- 1430 1.~~(a)~~ Abortion.  
1431 2.~~(b)~~ Sterilization.



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1432           ~~3.(e)~~ Electroconvulsive treatment.  
1433           ~~4.(d)~~ Psychosurgery.  
1434           ~~5.(e)~~ Experimental treatments that have not been approved  
1435 by a federally approved institutional review board in accordance  
1436 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1437           **(b)** The court must base its decision on evidence that the  
1438 treatment or procedure is essential to the care of the patient  
1439 and that the treatment does not present an unreasonable risk of  
1440 serious, hazardous, or irreversible side effects. The court  
1441 shall follow the procedures set forth in subsection (1) of this  
1442 section.

1443           (8) The guardian advocate shall be discharged when the  
1444 individual for whom he or she is appointed ~~patient~~ is discharged  
1445 from an order for involuntary services ~~outpatient placement or~~  
1446 ~~involuntary inpatient placement~~ or when the individual ~~patient~~  
1447 is transferred from involuntary to voluntary status. The court  
1448 ~~or a hearing officer~~ shall consider the competence of the  
1449 individual ~~patient~~ pursuant to subsection (1) and may consider  
1450 the competence to consent to treatment of an individual on  
1451 involuntary status ~~an involuntarily placed patient's competence~~  
1452 ~~to consent to treatment~~ at any hearing. Upon sufficient  
1453 evidence, the court may restore the individual's, ~~or the hearing~~  
1454 ~~officer may recommend that the court restore, the patient's~~  
1455 competence. A copy of the order restoring competence or the  
1456 certificate of discharge containing the restoration of  
1457 competence shall be provided to the individual ~~patient~~ and the  
1458 guardian advocate.

1459           Section 13. Paragraphs (c) and (d) of subsection (2) of  
1460 section 394.4599, Florida Statutes, are amended to read:



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1461 394.4599 Notice.—

1462 (2) INVOLUNTARY ADMISSION.—

1463 (c)1. A receiving facility shall give notice of the  
1464 whereabouts of a minor who is being involuntarily held for  
1465 examination pursuant to s. 394.463 to the minor's parent,  
1466 guardian, caregiver, or guardian advocate, in person or by  
1467 telephone or other form of electronic communication, immediately  
1468 after the minor's arrival at the facility. The facility may  
1469 delay notification for no more than 24 hours after the minor's  
1470 arrival if the facility has submitted a report to the central  
1471 abuse hotline, pursuant to s. 39.201, based upon knowledge or  
1472 suspicion of abuse, abandonment, or neglect and if the facility  
1473 deems a delay in notification to be in the minor's best  
1474 interest.

1475 2. The receiving facility shall attempt to notify the  
1476 minor's parent, guardian, caregiver, or guardian advocate until  
1477 the receiving facility receives confirmation from the parent,  
1478 guardian, caregiver, or guardian advocate, verbally, by  
1479 telephone or other form of electronic communication, or by  
1480 recorded message, that notification has been received. Attempts  
1481 to notify the parent, guardian, caregiver, or guardian advocate  
1482 must be repeated at least once every hour during the first 12  
1483 hours after the minor's arrival and once every 24 hours  
1484 thereafter and must continue until such confirmation is  
1485 received, unless the minor is released at the end of the 72-hour  
1486 examination period, or until a petition for involuntary services  
1487 is filed with the court pursuant to s. 394.463(2)(f)  
1488 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a  
1489 law enforcement agency to notify the minor's parent, guardian,



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1490 caregiver, or guardian advocate if the facility has not received  
1491 within the first 24 hours after the minor's arrival a  
1492 confirmation by the parent, guardian, caregiver, or guardian  
1493 advocate that notification has been received. The receiving  
1494 facility must document notification attempts in the minor's  
1495 clinical record.

1496 (d) The written notice of the filing of the petition for  
1497 involuntary services for an individual being held must contain  
1498 the following:

1499 1. Notice that the petition for:

1500 ~~a. involuntary services inpatient treatment~~ pursuant to s.  
1501 394.467 has been filed with the circuit court in the county in  
1502 which the individual is hospitalized and the address of such  
1503 court; or

1504 b. Involuntary outpatient services pursuant to s. 394.4655  
1505 has been filed with the criminal county court, as defined in s.  
1506 394.4655(1), or the circuit court, as applicable, in the county  
1507 in which the individual is hospitalized and the address of such  
1508 court.

1509 2. Notice that the office of the public defender has been  
1510 appointed to represent the individual in the proceeding, if the  
1511 individual is not otherwise represented by counsel.

1512 3. The date, time, and place of the hearing and the name of  
1513 each examining expert and every other person expected to testify  
1514 in support of continued detention.

1515 4. Notice that the individual, the individual's guardian,  
1516 guardian advocate, health care surrogate or proxy, or  
1517 representative, or the administrator may apply for a change of  
1518 venue for the convenience of the parties or witnesses or because



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1519 of the condition of the individual.

1520 5. Notice that the individual is entitled to an independent  
1521 expert examination and, if the individual cannot afford such an  
1522 examination, that the court will provide for one.

1523 Section 14. Section 394.460, Florida Statutes, is repealed.

1524 Section 15. Section 394.461, Florida Statutes, is amended  
1525 to read:

1526 394.461 Designation of receiving and treatment facilities  
1527 and receiving systems.—The department may ~~is authorized to~~  
1528 designate and monitor receiving facilities, treatment  
1529 facilities, and receiving systems and may suspend or withdraw  
1530 such designation for failure to comply with this part and rules  
1531 adopted under this part. Only governmental facilities and  
1532 facilities ~~Unless~~ designated by the department may, ~~facilities~~  
1533 ~~are not permitted to~~ hold or treat individuals on an involuntary  
1534 basis ~~patients under this part.~~

1535 (1) RECEIVING FACILITY.—The department may designate any  
1536 ~~community facility as a receiving facility. Any other facility~~  
1537 within the state, including a private facility, as a receiving  
1538 facility if ~~or a federal facility, may be so designated by the~~  
1539 ~~department, provided that~~ such designation is agreed to by the  
1540 governing body or authority of the facility.

1541 (2) TREATMENT FACILITY.—The department may designate any  
1542 state-owned, state-operated, or state-supported facility as a  
1543 state treatment facility. An individual may ~~A civil patient~~  
1544 ~~shall~~ not be admitted to a civil state treatment facility  
1545 without previously undergoing a transfer evaluation. Before a  
1546 court hearing for involuntary services ~~placement~~ in a state  
1547 treatment facility, the court shall receive and consider the



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1548 information documented in the transfer evaluation. Any other  
1549 facility, including a private facility or a governmental ~~federal~~  
1550 facility, may be designated as a treatment facility by the  
1551 department, if the ~~provided that such~~ designation is agreed to  
1552 by the appropriate governing body or authority of the facility.

1553 (3) GOVERNMENTAL FACILITIES.—Governmental facilities may  
1554 provide voluntary and involuntary mental health or substance  
1555 abuse examination and treatment for individuals in their care  
1556 and custody using the procedures provided in this part and shall  
1557 protect the rights of these individuals.

1558 (4) ~~(3)~~ PRIVATE FACILITIES.—Private facilities designated as  
1559 receiving and treatment facilities by the department may provide  
1560 examination and treatment of individuals on an involuntary or  
1561 voluntary basis are subject to involuntary patients, ~~as well as~~  
1562 ~~voluntary patients, and are subject to all the provisions of~~  
1563 this part.

1564 (5) ~~(4)~~ REPORTING REQUIREMENTS.—

1565 (a) A facility designated as a public receiving or  
1566 treatment facility under this section shall report to the  
1567 department on an annual basis the following data, unless these  
1568 data are currently being submitted to the Agency for Health Care  
1569 Administration:

- 1570 1. Number of licensed beds.
  - 1571 2. Number of contract days.
  - 1572 3. Number of admissions by payor class and diagnoses.
  - 1573 4. Number of bed days by payor class.
  - 1574 5. Average length of stay by payor class.
  - 1575 6. Total revenues by payor class.
- 1576 (b) For the purposes of this subsection, "payor class"



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1577 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-  
1578 pay health insurance, private-pay health maintenance  
1579 organization, private preferred provider organization, the  
1580 Department of Children and Families, other government programs,  
1581 self-pay individuals ~~patients~~, and charity care.

1582 (c) The data required under this subsection shall be  
1583 submitted to the department within no later than 90 days after  
1584 ~~following~~ the end of the facility's fiscal year. A facility  
1585 designated as a public receiving or treatment facility shall  
1586 submit its initial report for the 6-month period ending June 30,  
1587 2008.

1588 (d) The department shall issue an annual report based on  
1589 the data collected ~~required~~ pursuant to this subsection, which  
1590 must include data by facility. ~~The report shall include~~  
1591 ~~individual facilities' data,~~ as well as statewide totals. The  
1592 report shall be submitted to the Governor, the President of the  
1593 Senate, and the Speaker of the House of Representatives.

1594 (6) ~~(5)~~ RECEIVING SYSTEM.—The department shall designate as  
1595 a receiving system one or more facilities serving a defined  
1596 geographic area developed pursuant to s. 394.4573 which is  
1597 responsible for assessment and evaluation, both voluntary and  
1598 involuntary, and treatment, stabilization, or triage for  
1599 patients who have a mental illness, a substance use disorder, or  
1600 co-occurring disorders. Any transportation plans developed  
1601 pursuant to s. 394.462 must support the operation of the  
1602 receiving system.

1603 (7) ~~(6)~~ RULES.—The department may adopt rules relating to:

1604 (a) Procedures and criteria for receiving and evaluating  
1605 ~~facility~~ applications for designation as a receiving or





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1606 treatment facility, which may include an onsite facility  
1607 inspection and evaluation of an applicant's licensing status and  
1608 performance history, as well as consideration of local service  
1609 needs.

1610 (b) Minimum standards consistent with this part which ~~that~~  
1611 a facility must meet and maintain in order to be designated as a  
1612 receiving or treatment facility and procedures for monitoring  
1613 continued adherence to such standards.

1614 (c) Procedures and criteria for designating receiving  
1615 systems which may include consideration of the adequacy of  
1616 services provided by facilities within the receiving system to  
1617 meet the needs of the geographic area using available resources.

1618 (d) Procedures for receiving complaints against a  
1619 designated facility or designated receiving system and for  
1620 initiating inspections and investigations of facilities or  
1621 receiving systems alleged to have violated the provisions of  
1622 this part or rules adopted under this part.

1623 (e) Procedures and criteria for the suspension or  
1624 withdrawal of designation as a receiving or treatment facility  
1625 or receiving system.

1626 Section 16. Section 394.4615, Florida Statutes, is amended  
1627 to read:

1628 394.4615 Clinical records; confidentiality.-

1629 (1) A clinical record shall be maintained for each  
1630 individual held for examination or admitted for treatment under  
1631 this part ~~patient~~. The record must ~~shall~~ include data pertaining  
1632 to admission and such other information as may be required under  
1633 rules of the department. A clinical record is confidential and  
1634 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by the



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1635 express and informed consent of the individual, his or her, ~~by~~  
1636 ~~the patient or the patient's~~ guardian or guardian advocate, his  
1637 or her health care surrogate or proxy, or, if ~~the patient is~~  
1638 deceased, by his or her ~~the patient's~~ personal representative or  
1639 the family member who stands next in line of intestate  
1640 succession, the confidential status of the clinical record is  
1641 ~~shall not be~~ lost by ~~either~~ authorized or unauthorized  
1642 disclosure to any person, organization, or agency.

1643 (2) The clinical record of an individual held for  
1644 examination or admitted for treatment under this part shall be  
1645 released if when:

1646 (a) The individual ~~patient~~ or the individual's ~~patient's~~  
1647 guardian, guardian advocate, or health care surrogate or proxy  
1648 authorizes the release. The guardian, ~~or~~ guardian advocate, or  
1649 health care surrogate or proxy, shall be provided access to the  
1650 appropriate clinical records ~~of the patient.~~ The individual  
1651 ~~patient~~ or the individual's ~~patient's~~ guardian, ~~or~~ guardian  
1652 advocate, health care surrogate or proxy may authorize the  
1653 release of information and clinical records to appropriate  
1654 persons to ensure the continuity of the individual's ~~patient's~~  
1655 health ~~care~~ or mental health care.

1656 (b) The individual ~~patient~~ is represented by counsel and  
1657 the records are needed by such ~~the patient's~~ counsel for  
1658 adequate representation.

1659 (c) The court orders such release. In determining whether  
1660 there is good cause for disclosure, the court shall weigh the  
1661 need for the information to be disclosed against the possible  
1662 harm of disclosure to the individual ~~person~~ to whom such  
1663 information pertains.



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1664 (d) The individual patient is committed to, or ~~is to be~~  
1665 returned to, the Department of Corrections ~~from the Department~~  
1666 ~~of Children and Families,~~ and the Department of Corrections  
1667 requests the ~~such~~ records. The ~~These~~ records shall be furnished  
1668 without charge to the Department of Corrections.

1669 (3) Information from the clinical record may be released if  
1670 ~~in the following circumstances:~~

1671 (a) The individual ~~When a patient~~ has declared an intention  
1672 to harm self or others ~~other persons~~. If the ~~When such~~  
1673 declaration has been made, the administrator may authorize the  
1674 release of sufficient information to prevent harm ~~provide~~  
1675 ~~adequate warning to the person threatened with harm by the~~  
1676 ~~patient.~~

1677 (b) ~~When~~ The administrator of the facility or secretary of  
1678 the department deems that release to a qualified researcher as  
1679 defined in administrative rule, an aftercare treatment provider,  
1680 or an employee or agent of the department is necessary for  
1681 treatment of the individual patient, maintenance of adequate  
1682 records, compilation of treatment data, aftercare planning, or  
1683 evaluation of programs.

1684 (c) The information is necessary for ~~the purpose of~~  
1685 determining whether an individual ~~a person~~ meets the criteria  
1686 for involuntary services. In such circumstances ~~outpatient~~  
1687 ~~placement or for preparing the proposed treatment plan pursuant~~  
1688 ~~to s. 394.4655,~~ the clinical record may be released to the state  
1689 attorney, the public defender or the individual's ~~patient's~~  
1690 private legal counsel, the court, and to the appropriate mental  
1691 health professionals, ~~including the service provider identified~~  
1692 ~~in s. 394.4655(7)(b)2., in accordance with state and federal~~



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1693 ~~law.~~

1694 (4) Information from clinical records may be used for  
1695 statistical and research purposes if the information is  
1696 abstracted in such a way as to protect the identity of  
1697 individuals served and meets the requirements of department  
1698 rules.

1699 (5) Information from clinical records may be used by the  
1700 Agency for Health Care Administration and the department, ~~and~~  
1701 ~~the Florida advocacy councils~~ for the purpose of monitoring  
1702 facility activity and investigating complaints concerning  
1703 facilities.

1704 (6) Clinical records relating to a Medicaid recipient shall  
1705 be furnished to the Medicaid Fraud Control Unit in the  
1706 Department of Legal Affairs, upon request.

1707 (7) Any person, agency, or entity receiving information  
1708 pursuant to this section shall maintain such information as  
1709 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

1710 (8) Any facility or private mental health practitioner who  
1711 acts in good faith in releasing information pursuant to this  
1712 section is not subject to civil or criminal liability for such  
1713 release.

1714 (9) ~~Nothing in~~ This section does not ~~is intended to~~  
1715 prohibit the parent or next of kin of an individual who is held  
1716 for examination or admitted for treatment under this part ~~a~~  
1717 ~~person who is held in or treated under a mental health facility~~  
1718 ~~or program~~ from requesting and receiving information limited to  
1719 a summary of that individual's ~~person's~~ treatment plan and  
1720 current physical and mental condition. Release of such  
1721 information must ~~shall~~ be in accordance with the code of ethics



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1722 of the profession involved.

1723       (10) An individual held for examination or admitted for  
1724 treatment ~~Patients~~ shall have reasonable access to his or her  
1725 ~~their~~ clinical records, unless such access is determined by the  
1726 individual's ~~patient's~~ physician to be harmful to the individual  
1727 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or  
1728 her clinical record is restricted by the facility, written  
1729 notice of the ~~such~~ restriction must ~~shall~~ be given to the  
1730 individual and his or her ~~patient and the patient's~~ guardian,  
1731 guardian advocate, attorney, health care surrogate or proxy, or  
1732 ~~and~~ representative. In addition, the restriction must ~~shall~~ be  
1733 recorded in the clinical record, together with the reasons for  
1734 it. The restriction expires ~~of a patient's right to inspect his~~  
1735 ~~or her clinical record shall expire~~ after 7 days but may be  
1736 renewed, after review, for subsequent 7-day periods.

1737       (11) Any person who fraudulently alters, defaces, or  
1738 falsifies the clinical record of an individual ~~any person~~  
1739 receiving ~~mental health~~ services in a facility subject to this  
1740 part, or causes or procures any of these offenses to be  
1741 committed, commits a misdemeanor of the second degree,  
1742 punishable as provided in s. 775.082 or s. 775.083.

1743       Section 17. Section 394.462, Florida Statutes, is amended  
1744 to read:

1745       394.462 Transportation.—A transportation plan shall be  
1746 developed and implemented by each county by July 1, 2017, in  
1747 collaboration with the managing entity in accordance with this  
1748 section. A county may enter into a memorandum of understanding  
1749 with the governing boards of nearby counties to establish a  
1750 shared transportation plan. When multiple counties enter into a



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1751 memorandum of understanding for this purpose, the counties shall  
1752 notify the managing entity and provide it with a copy of the  
1753 agreement. The transportation plan shall describe methods of  
1754 transport to a facility within the designated receiving system  
1755 for individuals subject to involuntary examination under s.  
1756 394.463 or involuntary admission under s. 397.6772, s. 397.679,  
1757 s. 397.6798, or s. 397.6811, and may identify responsibility for  
1758 other transportation to a participating facility when necessary  
1759 and agreed to by the facility. The plan may rely on emergency  
1760 medical transport services or private transport companies, as  
1761 appropriate. The plan shall comply with the transportation  
1762 provisions of this section and ss. 397.6772, 397.6795, 397.6822,  
1763 and 397.697.

1764 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

1765 (a) Each county shall designate a single law enforcement  
1766 agency within the county, or portions thereof, to take an  
1767 individual ~~a person~~ into custody upon the entry of an ex parte  
1768 order or the execution of a certificate for involuntary  
1769 examination by an authorized qualified professional and to  
1770 transport that person to the appropriate facility, excluding a  
1771 governmental facility, within the designated receiving system  
1772 pursuant to a transportation plan or an exception under  
1773 subsection (4), or to the nearest receiving facility if neither  
1774 apply. However, if the law enforcement officer providing  
1775 transportation believes that the individual is eligible for  
1776 services provided by the United States Department of Veterans  
1777 Affairs, the officer may transport the individual to a facility  
1778 operated by the United States Department of Veterans Affairs.

1779 (b) A law enforcement officer acting in good faith pursuant



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1780 to this part may not be held criminally or civilly liable for  
1781 false imprisonment.

1782 ~~(c) (b) 1.~~ The designated law enforcement agency may decline  
1783 to transport the individual ~~person~~ to a receiving facility only  
1784 if:

1785 ~~1.a.~~ The county or jurisdiction designated by the county  
1786 has contracted ~~on an annual basis~~ with an emergency medical  
1787 transport service or private transport company for  
1788 transportation of individuals ~~persons~~ to receiving facilities.  
1789 ~~pursuant to this section at the sole cost of the county; and~~

1790 ~~2.b.~~ The law enforcement agency and the emergency medical  
1791 transport service or private transport company agree that the  
1792 continued presence of law enforcement personnel is not necessary  
1793 for the safety of the individual being transported ~~person~~ or  
1794 others.

1795 ~~3.2.~~ The entity providing transportation may seek  
1796 reimbursement for transportation expenses. The party responsible  
1797 for payment for such transportation is the person receiving the  
1798 transportation. The county shall seek reimbursement from the  
1799 following sources in the following order:

1800 a. From a private or public third-party payor, if the  
1801 individual being transported ~~person receiving the transportation~~  
1802 has applicable coverage.

1803 b. From the individual being transported ~~person receiving~~  
1804 ~~the transportation.~~

1805 c. From a financial settlement for medical care, treatment,  
1806 hospitalization, or transportation payable or accruing to the  
1807 injured party.

1808 ~~(d) (e)~~ A company that transports an individual ~~a patient~~



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1809 pursuant to this subsection is considered an independent  
1810 contractor and is solely liable for the safe and dignified  
1811 transport of the individual patient. ~~The Such~~ company must be  
1812 insured and maintain at least ~~provide no less than~~ \$100,000 in  
1813 liability insurance with respect to such ~~the~~ transport ~~of~~  
1814 ~~patients~~.

1815 (d) Any company that contracts with a governing board of a  
1816 county to transport patients shall comply with the applicable  
1817 rules of the department to ensure the safety and dignity of  
1818 patients.

1819 (e) ~~If When~~ a law enforcement officer takes custody of an  
1820 individual ~~a person~~ pursuant to this part, the officer may  
1821 request assistance from emergency medical personnel if the ~~such~~  
1822 assistance is needed for the safety of the officer or the  
1823 individual ~~person~~ in custody.

1824 (f) ~~If When~~ a member of a mental health overlay program or  
1825 a mobile crisis response service who is a professional  
1826 authorized to initiate an involuntary examination pursuant to s.  
1827 394.463 or s. 397.675 ~~and that professional~~ evaluates an  
1828 individual ~~a person~~ and determines that transportation to a  
1829 receiving facility is needed, the service, ~~at its discretion,~~  
1830 may transport the individual ~~person~~ to the facility or may call  
1831 on the law enforcement agency or other transportation  
1832 arrangement best suited to the needs of the individual being  
1833 transported ~~patient~~.

1834 (g) ~~If a When any~~ law enforcement officer has custody of an  
1835 individual ~~a person~~ based on a misdemeanor or a felony, other  
1836 than a forcible felony as defined in s. 776.08, who either  
1837 ~~noncriminal or minor criminal behavior that~~ meets the statutory





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1838 guidelines for involuntary examination pursuant to s. 394.463,  
1839 the law enforcement officer shall transport the individual  
1840 ~~person~~ to the appropriate facility within the designated  
1841 receiving system pursuant to a transportation plan or an  
1842 exception under subsection (4), or to the nearest receiving  
1843 facility if neither apply. Individuals ~~Persons~~ who meet the  
1844 statutory guidelines for involuntary admission pursuant to s.  
1845 397.675 may also be transported by law enforcement officers to  
1846 the extent resources are available and as otherwise provided by  
1847 law. Such persons shall be transported to an appropriate  
1848 facility within the designated receiving system pursuant to a  
1849 transportation plan or an exception under subsection (4), or to  
1850 the nearest facility if neither apply.

1851 (h) If a ~~When any~~ law enforcement officer has arrested an  
1852 individual ~~a person~~ for a forcible felony, as defined in s.  
1853 776.08, and it appears that the individual ~~person~~ meets the  
1854 criteria ~~statutory guidelines~~ for involuntary examination ~~or~~  
1855 ~~placement~~ under this part, the individual ~~such person~~ must first  
1856 be processed in the same manner as any other criminal suspect.  
1857 The law enforcement agency shall thereafter immediately notify  
1858 the appropriate facility within the designated receiving system  
1859 pursuant to a transportation plan or an exception under  
1860 subsection (4), or to the nearest receiving facility if neither  
1861 apply. The receiving facility shall be responsible for promptly  
1862 arranging for the examination and treatment of the individual  
1863 ~~person~~. A receiving facility is not required to admit an  
1864 individual ~~a person~~ charged with a crime for whom the facility  
1865 determines and documents that it is unable to provide adequate  
1866 security, but shall provide examination and treatment to the



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1867 individual ~~person~~ where he or she is held.

1868 (i) If the appropriate law enforcement officer believes  
1869 that an individual ~~a person~~ has an emergency medical condition  
1870 as defined in s. 395.002, the individual ~~person~~ may be first  
1871 transported to a hospital for emergency medical treatment,  
1872 regardless of whether the hospital is a designated receiving  
1873 facility.

1874 (j) The costs of transportation, evaluation,  
1875 hospitalization, and treatment incurred under this subsection by  
1876 an individual who was ~~persons who have been~~ arrested for a  
1877 violation ~~violations~~ of any state law or county or municipal  
1878 ordinance may be recovered as provided in s. 901.35.

1879 (k) The appropriate facility within the designated  
1880 receiving system pursuant to a transportation plan or an  
1881 exception under subsection (4), or the nearest receiving  
1882 facility if neither apply, must accept an individual ~~persons~~  
1883 brought by law enforcement officers, or an emergency medical  
1884 transport service or a private transport company authorized by  
1885 the county, for involuntary examination pursuant to s. 394.463.  
1886 The original of the form initiating the involuntary examination  
1887 is not required for a receiving facility to accept such an  
1888 individual or for transfers from one facility to another.

1889 (l) The appropriate facility within the designated  
1890 receiving system pursuant to a transportation plan or an  
1891 exception under subsection (4), or the nearest receiving  
1892 facility if neither apply, must provide persons brought by law  
1893 enforcement officers, or an emergency medical transport service  
1894 or a private transport company authorized by the county,  
1895 pursuant to s. 397.675, a basic screening or triage sufficient



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1896 to refer the person to the appropriate services.

1897 (m) Each law enforcement agency designated pursuant to  
1898 paragraph (a) shall establish a policy that reflects a single  
1899 set of protocols for the safe and secure transportation and  
1900 transfer of custody of the individual ~~person~~. Each law  
1901 enforcement agency shall provide a copy of the protocols to the  
1902 managing entity.

1903 (n) ~~If~~ ~~When~~ a jurisdiction has entered into a contract with  
1904 an emergency medical transport service or a private transport  
1905 company for transportation of individuals ~~persons~~ to facilities  
1906 within the designated receiving system, such service or company  
1907 shall be given preference for transportation of individuals  
1908 ~~persons~~ from nursing homes, assisted living facilities, adult  
1909 day care centers, or adult family-care homes, unless the  
1910 behavior of the individual ~~person~~ being transported is such that  
1911 transportation by a law enforcement officer is necessary.

1912 (o) This section does not ~~may not be construed to~~ limit  
1913 emergency examination and treatment of incapacitated persons  
1914 provided in accordance with s. 401.445.

1915 (p) A law enforcement officer may transport an individual  
1916 who appears to meet the criteria for voluntary admission under  
1917 s. 394.4625(1)(a) to a receiving facility at the individual's  
1918 request.

1919 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

1920 (a) If the individual held for examination or admitted for  
1921 treatment under this part or ~~neither the patient nor~~ any person  
1922 legally obligated or responsible for the individual ~~patient~~ is  
1923 not able to pay for the expense of transporting an individual ~~a~~  
1924 ~~voluntary or involuntary patient~~ to a treatment facility, the



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1925 transportation plan established by the governing board of the  
1926 county or counties must specify how the hospitalized patient  
1927 will be transported to, from, and between facilities in a safe  
1928 and dignified manner.

1929 (b) A company that transports an individual ~~a patient~~  
1930 pursuant to this subsection is considered an independent  
1931 contractor and is solely liable for the safe and dignified  
1932 transportation of the individual ~~patient~~. ~~The~~ ~~Such~~ company must  
1933 be insured and provide at least ~~no less than~~ \$100,000 in  
1934 liability insurance for such ~~with respect to the transport of~~  
1935 ~~patients~~.

1936 (c) A company that contracts with one or more counties to  
1937 transport patients in accordance with this section shall comply  
1938 with the applicable rules of the department to ensure the safety  
1939 and dignity of patients.

1940 (d) County or municipal law enforcement and correctional  
1941 personnel and equipment may not be used to transport an  
1942 individual ~~patients~~ adjudicated incapacitated or found by the  
1943 court to meet the criteria for involuntary services under  
1944 ~~placement pursuant to~~ s. 394.467, except in small rural counties  
1945 where there are no cost-efficient alternatives.

1946 (3) TRANSFER OF CUSTODY.—Custody of an individual ~~a person~~  
1947 who is transported pursuant to this part and, ~~along with~~ related  
1948 documentation, shall be relinquished to a responsible person  
1949 ~~individual~~ at the appropriate receiving or treatment facility.

1950 (4) EXCEPTIONS.—An exception to the requirements of this  
1951 section may be granted by the secretary ~~of the department~~ for  
1952 the purposes of improving service coordination or better meeting  
1953 the special needs of individuals. A proposal for an exception



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1954 shall ~~must~~ be submitted to the department after being approved  
1955 by the governing boards of any affected counties.

1956 (a) A proposal for an exception must identify the specific  
1957 provision from which an exception is requested; describe how the  
1958 proposal will be implemented by participating law enforcement  
1959 agencies and transportation authorities; and provide a plan for  
1960 the coordination of services.

1961 (b) An ~~The~~ exception may be granted only for:

1962 1. An arrangement centralizing and improving the provision  
1963 of services within a county, circuit, or local area ~~district~~,  
1964 which may include an exception to the requirement for  
1965 transportation to the nearest receiving facility;

1966 2. An arrangement whereby ~~by which~~ a facility may provide,  
1967 in addition to required psychiatric or substance use disorder  
1968 services, an environment and services that ~~which~~ are uniquely  
1969 tailored to the needs of an identified group of individuals who  
1970 have ~~persons with~~ special needs, such as persons who have ~~with~~  
1971 hearing impairments or visual impairments, or elderly persons  
1972 who have ~~with~~ physical frailties; or

1973 3. A specialized transportation system that provides an  
1974 efficient and humane method of transporting individuals ~~patients~~  
1975 to and among receiving facilities, ~~among receiving facilities,~~  
1976 and to treatment facilities.

1977  
1978 The exceptions provided in this subsection shall expire on June  
1979 30, 2017, and no new exceptions shall be granted after that  
1980 date. After June 30, 2017, the transport of a patient to a  
1981 facility that is not the nearest facility must be made pursuant  
1982 to a plan as provided in this section.



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1983 Section 18. Section 394.4625, Florida Statutes, is amended  
1984 to read:

1985 394.4625 Voluntary admissions.—

1986 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
1987 PATIENTS.—

1988 (a) In order to be admitted to a facility on a voluntary  
1989 basis:

1990 1. An individual must show evidence of mental illness.

1991 2. An individual must be suitable for treatment by the  
1992 facility.

1993 3. An adult must provide express and informed consent, and  
1994 must be competent to do so.

1995 4. A minor may only be admitted on the basis of the express  
1996 and informed consent of the minor's guardian in conjunction with  
1997 the assent of the minor.

1998 a. The assent of the minor is an affirmative agreement by  
1999 the minor to remain at the facility for examination or  
2000 treatment. Mere failure to object is not assent.

2001 b. The minor's assent must be verified through a clinical  
2002 assessment that is documented in the clinical record and  
2003 conducted within 12 hours after arrival at the facility by a  
2004 licensed professional authorized to initiate an involuntary  
2005 examination pursuant to s. 394.463.

2006 c. In verifying the minor's assent, the examining  
2007 professional must first provide the minor with an explanation as  
2008 to why the minor will be examined and treated, what the minor  
2009 can expect while in the facility, and when the minor may expect  
2010 to be released, using language that is appropriate to the  
2011 minor's age, experience, maturity, and condition. The examining



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2012 professional must determine and document that the minor is able  
2013 to understand this information.

2014 d. Unless the minor's assent is verified pursuant to this  
2015 section, a petition for involuntary services must be filed with  
2016 the court or the minor must be released to his or her guardian  
2017 within 24 hours after arrival ~~A facility may receive for~~  
2018 ~~observation, diagnosis, or treatment any person 18 years of age~~  
2019 ~~or older making application by express and informed consent for~~  
2020 ~~admission or any person age 17 or under for whom such~~  
2021 ~~application is made by his or her guardian. If found to show~~  
2022 ~~evidence of mental illness, to be competent to provide express~~  
2023 ~~and informed consent, and to be suitable for treatment, such~~  
2024 ~~person 18 years of age or older may be admitted to the facility.~~  
2025 ~~A person age 17 or under may be admitted only after a hearing to~~  
2026 ~~verify the voluntariness of the consent.~~

2027 (b) A mental health overlay program or a mobile crisis  
2028 response service or a licensed professional who is authorized to  
2029 initiate an involuntary examination pursuant to s. 394.463 and  
2030 is employed by a community mental health center or clinic shall  
2031 ~~must, pursuant to district procedure approved by the respective~~  
2032 ~~district administrator,~~ conduct an initial assessment of the  
2033 ability of the following individuals ~~persons~~ to give express and  
2034 informed consent to treatment before such individuals ~~persons~~  
2035 may be admitted voluntarily:

2036 1. An individual ~~A person~~ 60 years of age or older for whom  
2037 transfer is being sought from a nursing home, assisted living  
2038 facility, adult day care center, or adult family-care home, if  
2039 the individual ~~when such person~~ has been diagnosed with ~~as~~  
2040 ~~suffering from~~ dementia.



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2041           2. An individual ~~A person~~ 60 years of age or older for whom  
2042 transfer is being sought from a nursing home pursuant to s.  
2043 400.0255(11) ~~400.0255(12)~~.

2044           3. An individual who resides in a facility licensed under  
2045 chapter 400 or chapter 429 ~~A person~~ for whom all decisions  
2046 concerning medical treatment are currently being lawfully made  
2047 by a ~~the~~ health care surrogate or proxy designated under chapter  
2048 765.

2049           (c) If ~~When~~ an initial assessment of the ability of an  
2050 individual ~~a person~~ to give express and informed consent to  
2051 treatment is required under this part ~~section~~, and a mobile  
2052 crisis response service does not respond to the request for an  
2053 assessment within 2 hours after the request is made or informs  
2054 the requesting facility that it will not be able to respond  
2055 within 2 hours after the request is made, the requesting  
2056 facility may arrange for assessment by a ~~any~~ licensed  
2057 professional authorized to initiate an involuntary examination  
2058 under ~~pursuant to~~ s. 394.463. The professional may not be ~~who is~~  
2059 ~~not~~ employed by, or ~~or~~ under contract with, or ~~and does not~~ have a  
2060 financial interest in, ~~either~~ the facility initiating the  
2061 transfer or the ~~receiving~~ facility to which the transfer may be  
2062 made and may not have a financial interest in the outcome of the  
2063 assessment.

2064           (d) A facility may not admit an individual on voluntary  
2065 status or transfer an individual to voluntary status ~~as a~~  
2066 ~~voluntary patient a person~~ who has been adjudicated  
2067 incapacitated, unless the condition of incapacity has been  
2068 judicially removed, except when a court authorized a legal  
2069 guardian in adherence to s. 744.3725. If a facility admits an





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2070 individual on voluntary status who is later determined to have  
2071 been adjudicated incapacitated, the facility shall discharge the  
2072 individual or transfer the individual to involuntary status  
2073 unless there is a court order pursuant to s. 744.3725 as a  
2074 voluntary patient a person who is later determined to have been  
2075 adjudicated incapacitated, and the condition of incapacity had  
2076 not been removed by the time of the admission, the facility must  
2077 either discharge the patient or transfer the patient to  
2078 involuntary status.

2079 (e) The health care surrogate or proxy of an individual on  
2080 voluntary status ~~a voluntary patient~~ may not consent to the  
2081 provision of mental health treatment for that individual the  
2082 patient. An individual on voluntary status ~~A voluntary patient~~  
2083 who is unwilling or unable to provide express and informed  
2084 consent to mental health treatment must ~~either~~ be discharged or  
2085 transferred to involuntary status.

2086 (f) Within 24 hours after an individual's voluntary  
2087 admission, a physician or psychologist ~~admission of a voluntary~~  
2088 ~~patient, the admitting physician~~ shall document in the ~~patient's~~  
2089 clinical record whether the individual ~~that the patient~~ is able  
2090 to give express and informed consent for admission. If the  
2091 individual ~~patient~~ is not able to give express and informed  
2092 consent for admission, the facility must ~~shall either~~ discharge  
2093 ~~the patient~~ or transfer the individual ~~patient~~ to involuntary  
2094 status pursuant to subsection (5).

2095 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

2096 (a) A facility shall discharge an individual on voluntary  
2097 status who ~~a voluntary patient~~:

2098 1. ~~Who~~ Has sufficiently improved so that retention in the



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2099 facility is no longer clinically appropriate ~~desirable~~. The  
2100 individual ~~A patient~~ may ~~also~~ be discharged to the care of a  
2101 community facility.

2102 2. Has revoked ~~Who revokes~~ consent to admission or requests  
2103 discharge. The individual or his or her ~~A voluntary patient or a~~  
2104 relative, friend, or attorney ~~of the patient~~ may request  
2105 discharge either orally or in writing at any time following  
2106 admission to the facility. The patient must be discharged within  
2107 24 hours after ~~of~~ the request, unless the request is rescinded  
2108 or the individual ~~patient~~ is transferred to involuntary status  
2109 pursuant to this section. The 24-hour time period may be  
2110 extended by a treatment facility if ~~when~~ necessary for adequate  
2111 discharge planning, but may ~~shall~~ not exceed 3 days excluding  
2112 ~~exclusive of~~ weekends and holidays. If the individual ~~patient~~,  
2113 or another on the individual's ~~patient's~~ behalf, makes an oral  
2114 request for discharge to a staff member, the ~~such~~ request must  
2115 ~~shall~~ be immediately entered in the ~~patient's~~ clinical record.  
2116 If the request for discharge is made by a person other than the  
2117 individual ~~patient~~, the discharge may be conditioned upon the  
2118 individual's express and informed consent ~~of the patient~~.

2119 (b) An individual on voluntary status ~~A voluntary patient~~  
2120 who has been admitted to a facility and who refuses to consent  
2121 to or revokes consent to treatment must ~~shall~~ be discharged  
2122 within 24 hours after such refusal or revocation, unless he or  
2123 she is transferred to involuntary status pursuant to this  
2124 section or unless the refusal or revocation is freely and  
2125 voluntarily rescinded by the individual ~~patient~~.

2126 (c) An individual on voluntary status who is currently  
2127 charged with a crime shall be discharged to the custody of a law



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2128 enforcement officer upon release or discharge from a facility,  
2129 unless the individual has been released from law enforcement  
2130 custody by posting of a bond, by a pretrial conditional release,  
2131 or by other judicial release.

2132 (3) NOTICE OF RIGHT TO DISCHARGE.—At the time of admission  
2133 and at least every 6 months thereafter, an individual on  
2134 voluntary status ~~a voluntary patient~~ shall be notified in  
2135 writing of his or her right to apply for a discharge.

2136 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient  
2137 who applies to be transferred to voluntary status shall be  
2138 transferred to voluntary status immediately, unless the  
2139 individual has been ordered to involuntary services ~~patient has~~  
2140 ~~been charged with a crime, or has been involuntarily placed for~~  
2141 ~~treatment~~ by a court pursuant to s. 394.467 and continues to  
2142 meet the criteria for involuntary placement. When transfer to  
2143 voluntary status occurs, notice shall be given as provided in s.  
2144 394.4599.

2145 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on  
2146 voluntary status ~~When a voluntary patient,~~ or an authorized  
2147 person on the individual's ~~patient's~~ behalf, makes a request for  
2148 discharge, the request for discharge, unless freely and  
2149 voluntarily rescinded, must be communicated to a physician,  
2150 ~~elinical~~ psychologist, or psychiatrist as quickly as possible,  
2151 but within not later than 12 hours after the request is made. If  
2152 the individual ~~patient~~ meets the criteria for involuntary  
2153 services, the individual must be transferred to a designated  
2154 receiving facility or governmental facility and the  
2155 administrator of the receiving or governmental facility where  
2156 the individual is held ~~placement, the administrator of the~~



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2157 ~~facility~~ must file with the court a petition for involuntary  
2158 services placement, within 2 court working days after the  
2159 request ~~for discharge~~ is made. If the petition is not filed  
2160 within 2 court working days, the individual must ~~patient shall~~  
2161 be discharged. Pending the filing of the petition, the  
2162 individual patient may be held and emergency mental health  
2163 treatment rendered in the least restrictive manner, upon the  
2164 written order of a physician, if it is determined that such  
2165 treatment is necessary for the safety of the individual patient  
2166 or others.

2167 Section 19. Section 394.463, Florida Statutes, is amended  
2168 to read:

2169 394.463 Involuntary examination.-

2170 (1) CRITERIA.-An individual may be subject to ~~A person may~~  
2171 ~~be taken to a receiving facility for~~ involuntary examination if  
2172 there is reason to believe that he or she ~~the person~~ has a  
2173 mental illness and because of this ~~his or her~~ mental illness:

2174 (a)1. The individual person has refused voluntary  
2175 examination after conscientious explanation and disclosure of  
2176 the purpose of the examination; or

2177 2. The individual person is unable to determine for himself  
2178 or herself whether examination is necessary; and

2179 (b)~~1.~~ Without care or treatment:7

2180 1. The individual person is likely to suffer from neglect  
2181 or refuse to care for himself or herself; such neglect or  
2182 refusal poses a real and present threat of substantial harm to  
2183 his or her well-being; and it is not apparent that the ~~such~~ harm  
2184 may be avoided through the help of willing family members or  
2185 friends or the provision of other services; or



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2186           2. There is a substantial likelihood that individual  
2187 without care or treatment the person will cause serious bodily  
2188 harm to self ~~himself or herself~~ or others in the near future, as  
2189 evidenced by recent behavior.

2190           (2) INVOLUNTARY EXAMINATION.—

2191           (a) An involuntary examination may be initiated by any one  
2192 of the following means:

2193           1. A circuit or county court may enter an ex parte order  
2194 stating that an individual ~~a person~~ appears to meet the criteria  
2195 for involuntary examination and specifying the findings on which  
2196 that conclusion is based. The ex parte order for involuntary  
2197 examination must be based on written or oral sworn testimony  
2198 that includes specific facts that support the findings. If other  
2199 less restrictive means are not available, such as voluntary  
2200 appearance for outpatient evaluation, a law enforcement officer,  
2201 or other designated agent of the court, shall take the  
2202 individual ~~person~~ into custody and deliver him or her to an  
2203 appropriate, or the nearest, facility within the designated  
2204 receiving system pursuant to s. 394.462 for involuntary  
2205 examination. The ~~order of the court~~ order must ~~shall~~ be made a  
2206 part of the ~~patient's~~ clinical record. A fee may not be charged  
2207 for the filing of a petition ~~an order~~ under this subsection. A  
2208 facility accepting the individual ~~patient~~ based on the ~~this~~  
2209 order must send a copy of the order to the department the next  
2210 working day. The order may be submitted electronically through  
2211 existing data systems, if available. The order is ~~shall be~~ valid  
2212 only until the individual ~~person~~ is delivered to the facility or  
2213 for the period specified in the order itself, whichever comes  
2214 first. If a ~~no~~ time limit is not specified in the order, the



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2215 order is ~~shall be~~ valid for 7 days after the date it ~~that the~~  
2216 ~~order~~ was signed.

2217         2. A law enforcement officer shall take an individual a  
2218 ~~person~~ who appears to meet the criteria for involuntary  
2219 examination into custody and deliver or arrange for the delivery  
2220 of the individual ~~the person or have him or her delivered~~ to an  
2221 appropriate, or the nearest, facility within the designated  
2222 receiving system pursuant to s. 394.462 for examination. The  
2223 officer shall complete ~~execute~~ a written report detailing the  
2224 circumstances under which the individual ~~person~~ was taken into  
2225 custody, which must be made a part of the ~~patient's~~ clinical  
2226 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on  
2227 this report must send a copy of the report to the department the  
2228 next working day.

2229         3. A physician, ~~clinical~~ psychologist, psychiatric nurse,  
2230 mental health counselor, marriage and family therapist, ~~or~~  
2231 clinical social worker, advanced registered nurse practitioner,  
2232 or physician assistant may execute a certificate stating that he  
2233 or she has examined the individual ~~a person~~ within the preceding  
2234 48 hours and finds that the individual ~~person~~ appears to meet  
2235 the criteria for involuntary examination and stating his or her  
2236 ~~the~~ observations upon which that conclusion is based. If other  
2237 less restrictive means, such as voluntary appearance for  
2238 outpatient evaluation, are not available, a law enforcement  
2239 officer shall take into custody the individual ~~person~~ named in  
2240 the certificate and deliver him or her to the appropriate, or  
2241 nearest, facility within the designated receiving system  
2242 pursuant to s. 394.462 for involuntary examination. A law  
2243 enforcement officer may only take an individual into custody on



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2244 the basis of a certificate within 7 calendar days after the  
2245 certificate is signed. The law enforcement officer shall execute  
2246 a written report detailing the circumstances under which the  
2247 individual ~~person~~ was taken into custody. The report and  
2248 certificate shall be made a part of the ~~patient's~~ clinical  
2249 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on  
2250 the ~~this~~ certificate must send a copy of the certificate to the  
2251 department the next working day. The document may be submitted  
2252 electronically through existing data systems, if applicable.

2253 (b) A law enforcement officer who initiates an involuntary  
2254 examination of an individual pursuant to subparagraph (a)2., or  
2255 a professional who initiates an involuntary examination of an  
2256 individual pursuant to subparagraph (a)3., may notify the  
2257 individual's guardian, representative, or health care surrogate  
2258 or proxy of such examination. A receiving facility accepting an  
2259 individual for involuntary examination shall make and document  
2260 immediate attempts to notify the individual's guardian,  
2261 representative, or health care surrogate or proxy upon the  
2262 individual's arrival.

2263 (c) ~~(b)~~ An individual ~~A person~~ may not be removed from any  
2264 program or residential services ~~placement~~ licensed under chapter  
2265 400 or chapter 429 and transported to a receiving facility for  
2266 involuntary examination unless an ex parte order, a professional  
2267 certificate, or a law enforcement officer's report is first  
2268 prepared. If the condition of the individual ~~person~~ is such that  
2269 preparation of a law enforcement officer's report is not  
2270 practicable before removal, the report must ~~shall~~ be completed  
2271 as soon as possible after removal, but ~~in any case~~ before the  
2272 individual ~~person~~ is transported to a receiving facility. A



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2273 facility admitting an individual ~~a person~~ for involuntary  
2274 examination who is not accompanied by the required ex parte  
2275 order, professional certificate, or law enforcement officer's  
2276 report must ~~shall~~ notify the department of the ~~such~~ admission by  
2277 certified mail or by e-mail, if available, by the next working  
2278 day. The provisions of this paragraph do not apply when  
2279 transportation is provided by the patient's family or guardian.

2280 ~~(c) A law enforcement officer acting in accordance with an~~  
2281 ~~ex parte order issued pursuant to this subsection may serve and~~  
2282 ~~execute such order on any day of the week, at any time of the~~  
2283 ~~day or night.~~

2284 ~~(d) A law enforcement officer acting in accordance with an~~  
2285 ~~ex parte order issued pursuant to this subsection may use such~~  
2286 ~~reasonable physical force as is necessary to gain entry to the~~  
2287 ~~premises, and any dwellings, buildings, or other structures~~  
2288 ~~located on the premises, and to take custody of the person who~~  
2289 ~~is the subject of the ex parte order.~~

2290 ~~(d)(e)~~ The department shall receive and maintain the  
2291 copies of ex parte petitions and orders for involuntary  
2292 examinations pursuant to this section, involuntary services  
2293 petitions and orders, involuntary outpatient services orders  
2294 issued pursuant to s. 394.4655, involuntary inpatient placement  
2295 orders issued pursuant to s. 394.467, professional certificates,  
2296 and law enforcement officers' reports. These documents are ~~shall~~  
2297 ~~be considered~~ part of the clinical record, governed by the  
2298 ~~provisions of~~ s. 394.4615. These documents shall be used to  
2299 prepare annual reports analyzing the data obtained from these  
2300 documents, without information identifying individuals held for  
2301 examination or admitted for treatment patients, and shall





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2302 provide copies of reports to the department, the President of  
2303 the Senate, the Speaker of the House of Representatives, and the  
2304 minority leaders of the Senate and the House of Representatives.

2305 (e)-(f) An individual held for examination ~~A patient~~ shall  
2306 be examined by a physician, ~~or a clinical~~ psychologist, or ~~by a~~  
2307 psychiatric nurse performing within the framework of an  
2308 established protocol with a psychiatrist at a facility without  
2309 unnecessary delay to determine if the criteria for involuntary  
2310 services are met. Emergency treatment may be provided upon the  
2311 order of a physician if the physician determines that such  
2312 treatment is necessary for the safety of the individual ~~patient~~  
2313 or others. The individual ~~patient~~ may not be released by the  
2314 receiving facility or its contractor without the documented  
2315 approval of a psychiatrist or a clinical psychologist or, if the  
2316 receiving facility is owned or operated by a hospital or health  
2317 system, the release may also be approved by a psychiatric nurse  
2318 performing within the framework of an established protocol with  
2319 a psychiatrist, or an attending emergency department physician  
2320 with experience in the diagnosis and treatment of mental illness  
2321 after completion of an involuntary examination pursuant to this  
2322 subsection. A psychiatric nurse may not approve the release of a  
2323 patient if the involuntary examination was initiated by a  
2324 psychiatrist unless the release is approved by the initiating  
2325 psychiatrist.

2326 (f)-(g) Within the 72-hour examination period or, if the 72  
2327 hours ends on a weekend or holiday, no later than the next  
2328 working day thereafter, one of the following actions must be  
2329 taken, based on the individual needs of the patient:

2330 1. The patient shall be released, unless he or she is



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2331 charged with a crime, in which case the patient shall be  
2332 returned to the custody of a law enforcement officer;

2333 2. The patient shall be released, subject to the provisions  
2334 of subparagraph 1., for voluntary outpatient treatment;

2335 3. The patient, unless he or she is charged with a crime,  
2336 shall be asked to give express and informed consent to placement  
2337 as a voluntary patient and, if such consent is given, the  
2338 patient shall be admitted as a voluntary patient; or

2339 4. A petition for involuntary services shall be filed in  
2340 the circuit court if inpatient treatment is deemed necessary or  
2341 with the criminal county court, as defined in s. 394.4655(1), as  
2342 applicable. When inpatient treatment is deemed necessary, the  
2343 least restrictive treatment consistent with the optimum  
2344 improvement of the patient's condition shall be made available.  
2345 When a petition is to be filed for involuntary outpatient  
2346 placement, it shall be filed by one of the petitioners specified  
2347 in s. 394.4655(4)(a). A petition for involuntary inpatient  
2348 placement shall be filed by the facility administrator.

2349 (g) (h) If an individual ~~A person~~ for whom an involuntary  
2350 examination has been initiated ~~who~~ is also being evaluated or  
2351 treated at a hospital for an emergency medical condition as  
2352 defined specified in s. 395.002, the involuntary examination  
2353 ~~must be examined by a facility within 72 hours. The 72-hour~~  
2354 period begins when the individual patient arrives at the  
2355 hospital and ceases when a ~~the attending~~ physician documents  
2356 that the individual patient has an emergency medical condition.  
2357 The 72-hour period resumes when the physician documents that the  
2358 emergency medical condition has stabilized or does not exist. If  
2359 the patient is examined at a hospital providing emergency



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2360 medical services by a professional qualified to perform an  
2361 involuntary examination and is found as a result of that  
2362 examination not to meet the criteria for involuntary outpatient  
2363 services pursuant to s. 394.4655(2) or involuntary inpatient  
2364 placement pursuant to s. 394.467(1), the patient may be offered  
2365 voluntary services or placement, if appropriate, or released  
2366 directly from the hospital providing emergency medical services.  
2367 ~~The finding by the professional that the patient has been~~  
2368 ~~examined and does not meet the criteria for involuntary~~  
2369 ~~inpatient services or involuntary outpatient placement must be~~  
2370 ~~entered into the patient's clinical record. This paragraph is~~  
2371 ~~not intended to prevent~~ A hospital providing emergency medical  
2372 services may transfer an individual from appropriately  
2373 ~~transferring a patient~~ to another hospital before stabilization  
2374 if the requirements of s. 395.1041(3)(c) are ~~have been~~ met.

2375 ~~(i)~~ One of the following must occur within 12 hours after a  
2376 ~~the patient's attending~~ physician documents that the  
2377 individual's ~~patient's~~ medical condition has stabilized or that  
2378 an emergency medical condition has been stabilized or does not  
2379 exist:

2380 1. The individual shall be examined by a physician,  
2381 psychiatric nurse, or psychologist and, if found not to meet the  
2382 criteria for involuntary examination pursuant to this section,  
2383 shall be released directly from the hospital providing the  
2384 emergency medical services. The results of the examination,  
2385 including the final disposition, shall be entered into the  
2386 clinical record ~~patient must be examined by a facility and~~  
2387 ~~released; or~~

2388 2. The individual shall be transferred to a receiving



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2389 facility for examination if patient must be transferred to a  
2390 designated facility in which appropriate medical and mental  
2391 health treatment is available. However, the receiving facility  
2392 must be notified of the transfer within 2 hours after the  
2393 individual's ~~patient's~~ condition has been stabilized or after  
2394 determination that an emergency medical condition does not  
2395 exist.

2396 (3) NOTICE OF RELEASE.—Notice of the release shall be given  
2397 to the individual's ~~patient's~~ guardian, health care surrogate or  
2398 proxy, or representative, ~~to any person who executed a~~  
2399 ~~certificate admitting the patient to the receiving facility,~~ and  
2400 to any court that ordered the individual's examination ~~which~~  
2401 ~~ordered the patient's evaluation.~~

2402 Section 20. Section 394.467, Florida Statutes, is amended  
2403 to read:

2404 394.467 Involuntary inpatient placement.—

2405 (1) CRITERIA.—An individual ~~A person~~ may be ordered for  
2406 involuntary inpatient placement for treatment upon a finding of  
2407 the court by clear and convincing evidence that:

2408 (a) He or she has a mental illness and because of his or  
2409 her mental illness:

2410 1.a. He or she has refused voluntary inpatient placement  
2411 for treatment after sufficient and conscientious explanation and  
2412 disclosure of the purpose of inpatient placement for treatment;  
2413 or

2414 b. He or she is unable to determine for himself or herself  
2415 whether inpatient placement is necessary; and

2416 2.a. He or she is incapable of surviving alone or with the  
2417 help of willing and responsible family or friends, including



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2418 available alternative services, and, without treatment, is  
2419 likely to suffer from neglect or refuse to care for himself or  
2420 herself, and such neglect or refusal poses a real and present  
2421 threat of substantial harm to his or her well-being; or

2422       b. There is substantial likelihood that in the near future  
2423 he or she will inflict serious bodily harm on self or others, as  
2424 evidenced by recent behavior causing, attempting, or threatening  
2425 such harm; and

2426       (b) All available less restrictive treatment alternatives  
2427 that would offer an opportunity for improvement of his or her  
2428 condition have been judged to be inappropriate.

2429       (2) ADMISSION TO A TREATMENT FACILITY.—An individual A  
2430 ~~patient~~ may be retained by a facility or involuntarily ordered  
2431 placed in a treatment facility upon the recommendation of the  
2432 administrator of the facility where the individual patient has  
2433 been examined and after adherence to the notice and hearing  
2434 procedures provided in s. 394.4599. The recommendation must be  
2435 supported by the opinion of a psychiatrist and the second  
2436 opinion of a ~~clinical~~ psychologist or another psychiatrist, both  
2437 of whom have personally examined the individual patient within  
2438 the preceding 72 hours, that the criteria for involuntary  
2439 inpatient placement are met. However, if the administrator  
2440 certifies that a psychiatrist or ~~clinical~~ psychologist is not  
2441 available to provide the second opinion, the second opinion may  
2442 be provided by a licensed physician who has postgraduate  
2443 training and experience in diagnosis and treatment of mental  
2444 illness or by a psychiatric nurse. Any opinion authorized in  
2445 this subsection may be conducted through a face-to-face  
2446 examination, in person, or by electronic means. Such



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2447 recommendation shall be entered on a petition for involuntary  
2448 inpatient placement certificate that authorizes the facility to  
2449 retain the individual being held ~~patient~~ pending transfer to a  
2450 treatment facility or completion of a hearing.

2451 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

2452 (a) The administrator of the receiving facility shall file  
2453 a petition for involuntary inpatient placement in the court in  
2454 the county where the individual ~~patient~~ is located. Upon filing,  
2455 the clerk of the court shall provide copies to the department,  
2456 the individual, his or her ~~patient, the patient's~~ guardian,  
2457 guardian advocate, health care surrogate or proxy, or  
2458 representative, and the state attorney and public defender of  
2459 the judicial circuit in which the individual ~~patient~~ is located.  
2460 A fee may not be charged for the filing of a petition under this  
2461 subsection.

2462 (b) A receiving or treatment facility filing a petition for  
2463 involuntary inpatient placement shall send a copy of the  
2464 petition to the Department of Children and Families by the next  
2465 working day.

2466 (4) APPOINTMENT OF COUNSEL.—

2467 Within 1 court working day after the filing of a petition  
2468 for involuntary inpatient placement, the court shall appoint the  
2469 public defender to represent the individual ~~person~~ who is the  
2470 subject of the petition, unless the person is otherwise  
2471 represented by counsel. The clerk of the court shall ~~immediately~~  
2472 notify the public defender of the ~~such~~ appointment. Any attorney  
2473 representing the individual ~~patient~~ shall have access to the  
2474 individual ~~patient~~, witnesses, and records relevant to the  
2475 presentation of the individual's ~~patient's~~ case and shall



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2476 represent the interests of the individual patient, regardless of  
2477 the source of payment to the attorney.

2478 (5) CONTINUANCE OF HEARING.—The individual patient is  
2479 entitled, with the concurrence of the individual's patient's  
2480 counsel, to at least one continuance of the hearing for up to 4  
2481 weeks.

2482 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2483 (a)1. The court shall hold the hearing on involuntary  
2484 services inpatient placement within 5 court working days after  
2485 the petition is filed, unless a continuance is granted.

2486 2. Except for good cause documented in the court file,  
2487 which may be demonstrated by administrative order of the court,  
2488 the hearing must be held in the receiving or treatment facility  
2489 where the individual is located. If the hearing cannot be held  
2490 in the receiving or treatment facility, it must be held in a  
2491 location convenient to the individual as is consistent with  
2492 orderly procedure, and which is not likely to be injurious to  
2493 the individual's county or the facility, as appropriate, where  
2494 the patient is located, must be as convenient to the patient as  
2495 is consistent with orderly procedure, and shall be conducted in  
2496 physical settings not likely to be injurious to the patient's  
2497 condition. If the court finds that the individual's patient's  
2498 attendance at the hearing is not consistent with the best  
2499 interests of the individual patient, and the individual's  
2500 patient's counsel does not object, the court may waive the  
2501 presence of the individual patient from all or any portion of  
2502 the hearing. Alternatively, if the individual wishes to  
2503 voluntarily waive his or her attendance at the hearing, the  
2504 court must determine that the individual's waiver is knowing,



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2505 intelligent, and voluntary before waiving the presence of the  
2506 individual from all or any portion of the hearing. ~~The state~~  
2507 attorney for the circuit in which the patient is located shall  
2508 represent the state, rather than the petitioning facility  
2509 administrator, as the real party in interest in the proceeding.

2510         3. The court may appoint a magistrate to preside at the  
2511 hearing. One of the professionals who executed the petition for  
2512 involuntary inpatient placement certificate shall be a witness.  
2513 The court shall ensure that the individual and his or her  
2514 guardian, guardian advocate, health care surrogate or proxy, or  
2515 representative are informed ~~patient and the patient's guardian~~  
2516 ~~or representative shall be informed by the court~~ of the right to  
2517 an independent expert examination. If the individual patient  
2518 cannot afford such an examination, the court shall ensure that  
2519 one is provided, as otherwise provided for by law. The  
2520 independent expert's report is confidential and not  
2521 discoverable, unless the expert is ~~to be~~ called as a witness for  
2522 the individual patient at the hearing. The testimony in the  
2523 hearing must be ~~given~~ under oath, and the proceedings must be  
2524 recorded. The individual patient may refuse to testify at the  
2525 hearing.

2526         (b) If the court concludes that the individual patient  
2527 meets the criteria for involuntary services inpatient placement,  
2528 it may order that the individual patient be transferred to a  
2529 treatment facility or, if the individual patient is at a  
2530 treatment facility, that the individual patient be retained  
2531 there or be treated at any other appropriate facility, or that  
2532 the individual patient receive services, on an involuntary  
2533 basis, for up to 90 days. However, any order for involuntary





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2534 mental health services in a treatment facility may be for up to  
2535 6 months. The order must ~~shall~~ specify the nature and extent of  
2536 the individual's ~~patient's~~ mental illness. The court may not  
2537 order an individual with traumatic brain injury or dementia who  
2538 lacks a co-occurring mental illness to be involuntarily placed  
2539 in a state treatment facility. The facility shall discharge the  
2540 individual ~~a patient~~ any time the individual ~~patient~~ no longer  
2541 meets the criteria for involuntary inpatient placement, unless  
2542 the individual ~~patient~~ has transferred to voluntary status.

2543 (c) If at any time before the conclusion of the hearing on  
2544 involuntary inpatient placement it appears to the court that the  
2545 individual ~~person~~ does not meet the criteria for involuntary  
2546 inpatient placement under this section, but instead meets the  
2547 criteria for involuntary outpatient services, the court may  
2548 order the person evaluated for involuntary outpatient services  
2549 pursuant to s. 394.4655. The petition and hearing procedures set  
2550 forth in s. 394.4655 shall apply. If the person instead meets  
2551 the criteria for involuntary assessment, protective custody, or  
2552 involuntary admission pursuant to s. 397.675, then the court may  
2553 order the person to be admitted for involuntary assessment for a  
2554 period of 5 days pursuant to s. 397.6811. Thereafter, all  
2555 proceedings are governed by chapter 397.

2556 (f) ~~(d)~~ At the hearing on involuntary inpatient placement,  
2557 the court shall consider testimony and evidence regarding the  
2558 individual's ~~patient's~~ competence to consent to treatment. If  
2559 the court finds that the individual ~~patient~~ is incompetent to  
2560 consent to treatment, it shall appoint a guardian advocate as  
2561 provided in s. 394.4598.

2562 (g) ~~(e)~~ The administrator of the petitioning facility shall



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2563 provide a copy of the court order and adequate documentation of  
2564 an individual's ~~a patient's~~ mental illness to the administrator  
2565 of a treatment facility if the individual ~~patient~~ is ordered for  
2566 involuntary inpatient placement, whether by civil or criminal  
2567 court. The documentation must include any advance directives  
2568 made by the individual ~~patient~~, a psychiatric evaluation of the  
2569 individual ~~patient~~, and any evaluations of the individual  
2570 ~~patient~~ performed by a psychiatric nurse, a ~~clinical~~  
2571 psychologist, a marriage and family therapist, a mental health  
2572 counselor, or a clinical social worker. The administrator of a  
2573 treatment facility may refuse admission to an individual ~~any~~  
2574 ~~patient~~ directed to its facilities on an involuntary basis,  
2575 whether by civil or criminal court order, who is not accompanied  
2576 by adequate orders and documentation.

2577 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT  
2578 PLACEMENT.—

2579 (a) Hearings on petitions for continued involuntary  
2580 ~~inpatient~~ placement of an individual placed at any treatment  
2581 facility are administrative hearings and must be conducted in  
2582 accordance with s. 120.57(1), except that any order entered by  
2583 the administrative law judge is final and subject to judicial  
2584 review in accordance with s. 120.68. Orders concerning  
2585 individuals ~~patients~~ committed after successfully pleading not  
2586 guilty by reason of insanity are governed by s. 916.15.

2587 1. ~~(b)~~ If the individual ~~patient~~ continues to meet the  
2588 criteria for involuntary inpatient placement and is being  
2589 treated at a treatment facility, the administrator shall, before  
2590 the expiration of the period the treatment facility is  
2591 authorized to retain the individual ~~patient~~, file a petition



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2592 requesting authorization for continued involuntary inpatient  
2593 placement. The request must be accompanied by a statement from  
2594 the individual's ~~patient's~~ physician, psychiatrist, psychiatric  
2595 nurse, or ~~clinical~~ psychologist justifying the request, a brief  
2596 description of the individual's ~~patient's~~ treatment during the  
2597 time he or she was involuntarily placed, and an individualized  
2598 plan of continued treatment. Notice of the hearing must be  
2599 provided ~~as provided~~ in accordance with s. 394.4599. If an  
2600 individual's attendance at the hearing is voluntarily waived,  
2601 the administrative law judge must determine that the waiver is  
2602 knowing, intelligent, and voluntary before waiving the presence  
2603 of the individual from all or a portion of the hearing.

2604 Alternatively, if an individual's ~~a patient's~~ attendance at the  
2605 hearing is voluntarily waived, the administrative law judge must  
2606 determine that the waiver is knowing and voluntary before  
2607 waiving the presence of the individual ~~patient~~ from all or a  
2608 portion of the hearing. Alternatively, if at the hearing the  
2609 administrative law judge finds that attendance at the hearing is  
2610 not consistent with the individual's best interests ~~of the~~  
2611 ~~patient~~, the administrative law judge may waive the presence of  
2612 the individual ~~patient~~ from all or any portion of the hearing,  
2613 unless the individual ~~patient~~, through counsel, objects to the  
2614 waiver of presence. The testimony in the hearing must be under  
2615 oath, and the proceedings must be recorded.

2616 2.(e) Unless the individual ~~patient~~ is otherwise  
2617 represented or is ineligible, he or she shall be represented at  
2618 the hearing on the petition for continued involuntary inpatient  
2619 placement by the public defender of the circuit in which the  
2620 facility is located.



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2621           3. The Division of Administrative Hearings shall ensure  
2622 that the individual who is the subject of the petition and his  
2623 or her guardian, guardian advocate, health care surrogate or  
2624 proxy, or representative are informed of the individual's right  
2625 to an independent expert examination. If the individual cannot  
2626 afford such an examination, the court shall ensure that one is  
2627 provided as otherwise provided for by law.

2628           4.-(d) If at a hearing it is shown that the individual  
2629 ~~patient~~ continues to meet the criteria for involuntary inpatient  
2630 placement, the administrative law judge shall sign the order for  
2631 continued involuntary inpatient placement for up to 90 days.  
2632 However, any order for involuntary mental health services in a  
2633 treatment facility may be for up to 6 months. The same procedure  
2634 must ~~shall~~ be repeated before the expiration of each additional  
2635 period the individual ~~patient~~ is retained.

2636           5.-(e) If continued involuntary inpatient placement is  
2637 necessary for an individual ~~a patient~~ admitted while serving a  
2638 criminal sentence, but his or her sentence is about to expire,  
2639 or for a minor involuntarily placed, but who is about to reach  
2640 the age of 18, the administrator shall petition the  
2641 administrative law judge for an order authorizing continued  
2642 involuntary inpatient placement.

2643           6.-(f) If the individual ~~patient~~ has been previously found  
2644 incompetent to consent to treatment, the administrative law  
2645 judge shall consider testimony and evidence regarding the  
2646 individual's ~~patient's~~ competence. If the administrative law  
2647 judge finds evidence that the individual ~~patient~~ is now  
2648 competent to consent to treatment, the ~~administrative law~~ judge  
2649 may issue a recommended order to the court that found the



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2650 individual patient incompetent to consent to treatment that the  
2651 individual's patient's competence be restored and that any  
2652 guardian advocate previously appointed be discharged.

2653 7.(g) If the individual patient has been ordered to undergo  
2654 involuntary inpatient placement and has previously been found  
2655 incompetent to consent to treatment, the court shall consider  
2656 testimony and evidence regarding the individual's patient's  
2657 incompetence. If the individual's patient's competency to  
2658 consent to treatment is restored, the discharge of the guardian  
2659 advocate shall be governed by s. 394.4598.

2660  
2661 The procedure required in this paragraph subsection must be  
2662 followed before the expiration of each additional period the  
2663 individual is patient is involuntarily receiving involuntary  
2664 services.

2665 (8) RETURN TO FACILITY.—If an individual a patient  
2666 involuntarily held at a treatment facility under this part  
2667 leaves the facility without the administrator's authorization,  
2668 the administrator may authorize a search for the individual  
2669 patient and his or her return to the facility. The administrator  
2670 may request the assistance of a law enforcement agency in this  
2671 regard.

2672 Section 21. Section 394.46715, Florida Statutes, is amended  
2673 to read:

2674 394.46715 Rulemaking authority.—The department may adopt  
2675 rules to administer this part.

2676 Section 22. Section 394.4672, Florida Statutes, is amended  
2677 to read:

2678 394.4672 Procedure for placement of veteran with federal



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2679 agency.-

2680 (1) A facility owned, operated, or administered by the  
2681 United States Department of Veterans Affairs that provides  
2682 mental health services shall have authority as granted by the  
2683 Department of Veterans' Affairs to:

2684 (a) Initiate and conduct involuntary examination pursuant  
2685 to s. 394.463.

2686 (b) Provide voluntary admission and treatment pursuant to  
2687 s. 394.4625.

2688 (c) Petition for involuntary placement pursuant to s.  
2689 394.467.

2690 (2) ~~(1)~~ If the court determines that an individual meets the  
2691 criteria for involuntary placement and he or she ~~Whenever it is~~  
2692 ~~determined by the court that a person meets the criteria for~~  
2693 ~~involuntary placement and it appears that such person is~~  
2694 eligible for care or treatment by the United States Department  
2695 of Veterans Affairs or other agency of the United States  
2696 Government, the court, upon receipt of documentation a  
2697 ~~certificate~~ from the United States Department of Veterans  
2698 Affairs or another such other agency showing that facilities are  
2699 available and that the individual person is eligible for care or  
2700 treatment therein, may place that individual person with the  
2701 United States Department of Veterans Affairs or other federal  
2702 agency. The individual person whose placement is sought shall be  
2703 personally served with notice of the pending placement  
2704 proceeding in the manner as provided in this part., ~~and nothing~~  
2705 ~~in~~ This section does not shall affect the individual's his or  
2706 ~~her~~ right to appear and be heard in the proceeding. Upon being  
2707 placed, the individual is placement, the person shall be subject



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2708 to the ~~rules and~~ regulations of the United States Department of  
2709 Veterans Affairs or other federal agency.

2710 (3)~~(2)~~ The judgment or order of placement by a court of  
2711 competent jurisdiction of another state or of the District of  
2712 Columbia, which places an individual ~~placing a person~~ with the  
2713 United States Department of Veterans Affairs or other federal  
2714 agency for care or treatment, has, ~~shall have~~ the same force and  
2715 effect in this state as in the jurisdiction of the court  
2716 entering the judgment or making the order. ~~and~~ The courts of  
2717 the placing state or of the District of Columbia shall retain ~~be~~  
2718 ~~deemed to have retained~~ jurisdiction over the individual ~~of the~~  
2719 ~~person~~ so placed. Consent is ~~hereby~~ given to the application of  
2720 the law of the placing state or district with respect to the  
2721 authority of the chief officer of any facility of the United  
2722 States Department of Veterans Affairs or other federal agency  
2723 operated in this state to retain custody or to transfer, parole,  
2724 or discharge the individual ~~person~~.

2725 (4)~~(3)~~ Upon receipt of documentation from a certificate of  
2726 the United States Department of Veterans Affairs or another such  
2727 ~~other~~ federal agency that facilities are available for the care  
2728 or treatment of individuals who have mental illness and that the  
2729 individual ~~mentally ill persons and that the person is eligible~~  
2730 for that care or treatment, the administrator of the receiving  
2731 or treatment facility may ~~cause the transfer of~~ that individual  
2732 person to the United States Department of Veterans Affairs or  
2733 other federal agency. Upon ~~effecting~~ such transfer, the  
2734 committing court shall be notified by the transferring agency.  
2735 An individual may not be transferred ~~No person shall be~~  
2736 ~~transferred to the United States Department of Veterans Affairs~~



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2737 ~~or other federal agency~~ if he or she is confined pursuant to the  
2738 conviction of any felony or misdemeanor or if he or she has been  
2739 acquitted of the charge solely on the ground of insanity, unless  
2740 before ~~prior to~~ transfer the court placing the individual ~~such~~  
2741 ~~person~~ enters an order for the transfer after appropriate motion  
2742 and hearing and without objection by the United States  
2743 Department of Veterans Affairs.

2744 (5) ~~(4)~~ An individual ~~Any person~~ transferred as provided in  
2745 this section shall be deemed to be placed with the United States  
2746 Department of Veterans Affairs or other federal agency pursuant  
2747 to the original order ~~placement~~.

2748 Section 23. Section 394.4685, Florida Statutes, is amended  
2749 to read:

2750 394.4685 Transfer of patients among facilities.—

2751 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

2752 (a) An individual ~~A patient~~ who has been admitted to a  
2753 public receiving facility, or his or her ~~the~~ family member,  
2754 guardian, ~~or~~ guardian advocate, or health care surrogate or  
2755 proxy of such patient, may request the transfer of the  
2756 individual patient to another public receiving facility. An  
2757 individual ~~A patient~~ who has been admitted to a public treatment  
2758 facility, or his or her ~~the~~ family member, guardian, ~~or~~ guardian  
2759 advocate, or health care surrogate or proxy of such patient, may  
2760 request the transfer of the individual patient to another public  
2761 treatment facility. Depending on the medical treatment or mental  
2762 health treatment needs of the individual patient and the  
2763 availability of appropriate facility resources, the individual  
2764 ~~patient~~ may be transferred at the discretion of the department.  
2765 If the department approves the transfer of an individual on





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2766 involuntary status, notice in accordance with involuntary  
2767 ~~patient, notice according to the provisions of s. 394.4599 must~~  
2768 be given before ~~shall be given prior to~~ the transfer by the  
2769 transferring facility. The department shall respond to the  
2770 request for transfer within 2 working days after receipt of the  
2771 request by the facility administrator.

2772 (b) ~~If~~ When required by the medical treatment or mental  
2773 health treatment needs of the individual patient or the  
2774 efficient use utilization of a public receiving or public  
2775 treatment facility, an individual a patient may be transferred  
2776 from one receiving facility to another, ~~or from~~ one treatment  
2777 facility to another, ~~at the department's discretion,~~ or, with  
2778 the express and informed consent of the individual or the  
2779 individual's guardian, guardian advocate, or health care  
2780 surrogate or proxy patient or the patient's guardian or guardian  
2781 advocate, to a facility in another state. Notice in accordance  
2782 with ~~according to the provisions of s. 394.4599 must shall~~ be  
2783 given before ~~prior to~~ the transfer by the transferring facility.  
2784 If prior notice is not possible, notice of the transfer shall be  
2785 provided as soon as practicable after the transfer.

2786 (2) TRANSFER FROM PUBLIC TO PRIVATE FACILITIES.—

2787 (a) An individual ~~A patient~~ who has been admitted to a  
2788 public receiving or public treatment facility and has requested,  
2789 ~~either~~ personally or through his or her guardian, ~~or~~ guardian  
2790 advocate, or health care surrogate or proxy, and is able to pay  
2791 for treatment in a private facility shall be transferred at the  
2792 individual's patient's expense to a private facility upon  
2793 acceptance of the individual patient by the private facility.

2794 (b) A public receiving facility initiating the a patient



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2795 transfer of an individual to a licensed hospital for acute care  
2796 mental health services not accessible through the public  
2797 receiving facility shall notify the hospital of such transfer  
2798 and send the hospital all records relating to the emergency  
2799 psychiatric or medical condition.

2800 (3) TRANSFER FROM PRIVATE TO PUBLIC FACILITIES.—

2801 (a) An individual or the individual's ~~A patient or the~~  
2802 ~~patient's~~ guardian, ~~or~~ guardian advocate, or health care  
2803 surrogate or proxy may request the transfer of the individual  
2804 ~~patient~~ from a private to a public facility, and the individual  
2805 ~~patient~~ may be so transferred upon acceptance of the individual  
2806 ~~patient~~ by the public facility.

2807 (b) A private facility may request the transfer of an  
2808 individual ~~a patient~~ from the facility to a public facility, and  
2809 the individual ~~patient~~ may be so transferred upon acceptance of  
2810 the individual ~~patient~~ by the public facility. The cost of such  
2811 transfer ~~is shall be~~ the responsibility of the transferring  
2812 facility.

2813 (c) A public facility must respond to a request for the  
2814 transfer of an individual ~~a patient~~ within 24 hours ~~2 working~~  
2815 ~~days~~ after receipt of the request.

2816 (4) TRANSFER BETWEEN PRIVATE FACILITIES.—

2817 (a) An individual being held ~~A patient~~ in a private  
2818 facility or his or her ~~the patient's~~ guardian, ~~or~~ guardian  
2819 advocate, or health care surrogate or proxy may request the  
2820 transfer of the individual ~~patient~~ to another private facility  
2821 at any time, and the individual ~~patient~~ shall be transferred  
2822 upon acceptance of the individual ~~patient~~ by the facility to  
2823 which transfer is sought.



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2824           (b) A private facility may request the transfer of an  
2825 individual from the facility to another private facility, and  
2826 the individual may be transferred upon acceptance of the  
2827 individual by the facility to which the individual is being  
2828 transferred.

2829           Section 24. Section 394.469, Florida Statutes, is amended  
2830 to read:

2831           394.469 Discharge from ~~of~~ involuntary placement patients.-

2832           (1) POWER TO DISCHARGE.-At any time an individual ~~a patient~~  
2833 is found to no longer meet the criteria for involuntary  
2834 placement, the administrator shall:

2835           (a) Discharge the individual ~~patient,~~ unless the patient is  
2836 under a criminal charge, in which case the patient shall be  
2837 transferred to the custody of the appropriate law enforcement  
2838 officer;

2839           (b) Transfer the individual ~~patient~~ to voluntary status on  
2840 the administrator's ~~his or her~~ own authority or at the  
2841 individual's ~~patient's~~ request, unless the individual is ~~patient~~  
2842 is under criminal charge or adjudicated incapacitated;

2843           (c) Discharge the individual to the custody of a law  
2844 enforcement officer, if the individual is currently charged with  
2845 any crime and has not been released from law enforcement custody  
2846 by posting of a bond, or by a pretrial conditional release or by  
2847 other judicial release; or

2848           ~~(d)-(e)~~ Place an improved individual ~~patient,~~ except  
2849 individuals described in paragraph (c) ~~a patient under a~~  
2850 ~~riminal charge,~~ on convalescent status in the care of a  
2851 community facility.

2852           (2) NOTICE.-Notice of discharge or transfer of an



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2853 individual must be provided in accordance with a patient shall  
2854 ~~be given as provided in s. 394.4599.~~

2855 Section 25. Section 394.473, Florida Statutes, is amended  
2856 to read:

2857 394.473 Attorney ~~Attorney's~~ fee; expert witness fee.—

2858 (1) ~~In the case of an indigent person for whom~~ An attorney  
2859 ~~is~~ appointed to represent an individual pursuant to the  
2860 ~~provisions of this part, the attorney~~ shall be compensated by  
2861 the state pursuant to s. 27.5304. A public defender appointed to  
2862 represent an indigent individual may not ~~In the case of an~~  
2863 ~~indigent person, the court may appoint a public defender. The~~  
2864 ~~public defender shall~~ receive no additional compensation other  
2865 than that usually paid his or her office.

2866 (2) If an indigent individual's case requires ~~In the case~~  
2867 ~~of an indigent person for whom~~ expert testimony is required in a  
2868 court hearing pursuant to ~~the provisions of this part~~ act, the  
2869 expert shall be compensated by the state pursuant to s. 27.5303  
2870 or s. 27.5304, as applicable, unless the expert, ~~except one who~~  
2871 is classified as a full-time employee of the state or ~~who~~ is  
2872 receiving remuneration from the state for his or her time in  
2873 attendance at the hearing, ~~shall be compensated by the state~~  
2874 ~~pursuant to s. 27.5304.~~

2875 Section 26. Section 394.475, Florida Statutes, is amended  
2876 to read:

2877 394.475 Acceptance, examination, and involuntary services  
2878 ~~placement of Florida residents~~ from out-of-state mental health  
2879 authorities.—

2880 (1) Upon the request of the state mental health authority  
2881 of another state, the department may ~~is authorized to~~ accept an



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2882 individual as a patient, for up to ~~a period of not more than~~ 15  
2883 days, ~~a person~~ who is and has been a bona fide resident of this  
2884 state for at least ~~a period of not less than~~ 1 year.

2885 (2) An individual ~~Any person~~ received pursuant to  
2886 subsection (1) shall be examined by the staff of the state  
2887 facility where the individual ~~such patient~~ has been admitted  
2888 ~~accepted, which examination shall be completed~~ during the 15-day  
2889 period.

2890 (3) If, upon examination, the individual ~~such a person~~  
2891 requires continued involuntary services ~~placement~~, a petition  
2892 for a hearing regarding involuntary services ~~placement~~ shall be  
2893 filed with the court of the county where ~~wherein~~ the treatment  
2894 facility receiving the individual ~~patient~~ is located or the  
2895 county where the individual ~~patient~~ is a resident.

2896 (4) During the pendency of the examination period and the  
2897 pendency of the involuntary services ~~placement~~ proceedings, an  
2898 individual ~~such person~~ may continue to be held in the treatment  
2899 facility unless the court having jurisdiction enters an order to  
2900 the contrary.

2901 Section 27. Section 394.4785, Florida Statutes, is amended  
2902 to read:

2903 394.4785 Children and adolescents; admission and placement  
2904 in mental health facilities.-

2905 (1) A child or adolescent ~~as~~ defined as a minor in s.  
2906 394.455(31) ~~in s. 394.492~~ may not be admitted to a state-owned  
2907 or state-operated mental health treatment facility. A minor  
2908 ~~child~~ may be admitted pursuant to s. 394.4625, s. 394.463, or s.  
2909 394.467 to a crisis stabilization unit or a residential  
2910 treatment center licensed under this chapter or a hospital



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2911 licensed under chapter 395. The treatment center, unit, or  
2912 hospital must provide the least restrictive available treatment  
2913 that is appropriate to the ~~individual~~ needs of the minor child  
2914 ~~or adolescent~~ and must adhere to the guiding principles, system  
2915 of care, and service planning provisions of ~~contained in~~ part  
2916 III of this chapter.

2917 (2) A minor who is younger than 14 years of age ~~person~~  
2918 ~~under the age of 14~~ who is admitted to a any hospital ~~licensed~~  
2919 ~~pursuant to chapter 395~~ may not be admitted to a bed in a room  
2920 or ward with an adult ~~patient~~ in a mental health unit or share  
2921 common areas with an adult ~~patient~~ in a mental health unit.  
2922 However, a minor ~~person~~ 14 years of age or older may be admitted  
2923 to a bed in a room or ward in the mental health unit with an  
2924 adult if a the admitting physician documents in the clinical  
2925 ~~ease~~ record that the services are ~~such placement is~~ medically  
2926 indicated or for reasons of safety. The ~~Such~~ placement shall be  
2927 reviewed by a the attending physician or a designee or on-call  
2928 physician each day and documented in the clinical ~~ease~~ record.

2929 Section 28. Section 394.4786, Florida Statutes, is  
2930 repealed.

2931 Section 29. Section 394.47865, Florida Statutes, is  
2932 repealed.

2933 Section 30. Section 394.4787, Florida Statutes, is  
2934 repealed.

2935 Section 31. Section 394.4788, Florida Statutes, is  
2936 repealed.

2937 Section 32. Section 394.4789, Florida Statutes, is  
2938 repealed.

2939 Section 33. Paragraph (a) of subsection (5) of section



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2940 20.425, Florida Statutes, is amended to read:  
2941       20.425 Agency for Health Care Administration; trust funds.—  
2942 The following trust funds shall be administered by the Agency  
2943 for Health Care Administration:  
2944       (5) Public Medical Assistance Trust Fund.  
2945       (a) Funds to be credited to and uses of the trust fund  
2946 shall be administered in accordance with s. the provisions of  
2947 ~~ss. 394.4786 and~~ 409.918.  
2948       Section 34. Paragraph (a) of subsection (3) and subsection  
2949 (6) of section 39.407, Florida Statutes, are amended to read:  
2950       39.407 Medical, psychiatric, and psychological examination  
2951 and treatment of child; physical, mental, or substance abuse  
2952 examination of person with or requesting child custody.—  
2953       (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
2954 or paragraph (e), before the department provides psychotropic  
2955 medications to a child in its custody, the prescribing physician  
2956 shall attempt to obtain express and informed consent, as defined  
2957 in s. 394.455(15) and as described in s. 394.459(3) ~~(a)~~, from the  
2958 child's parent or legal guardian. The department must take steps  
2959 necessary to facilitate the inclusion of the parent in the  
2960 child's consultation with the physician. However, if the  
2961 parental rights of the parent have been terminated, the parent's  
2962 location or identity is unknown or cannot reasonably be  
2963 ascertained, or the parent declines to give express and informed  
2964 consent, the department may, after consultation with the  
2965 prescribing physician, seek court authorization to provide the  
2966 psychotropic medications to the child. Unless parental rights  
2967 have been terminated and if it is possible to do so, the  
2968 department shall continue to involve the parent in the



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2969 decisionmaking process regarding the provision of psychotropic  
2970 medications. If, at any time, a parent whose parental rights  
2971 have not been terminated provides express and informed consent  
2972 to the provision of a psychotropic medication, the requirements  
2973 of this section that the department seek court authorization do  
2974 not apply to that medication until such time as the parent no  
2975 longer consents.

2976         2. Any time the department seeks a medical evaluation to  
2977 determine the need to initiate or continue a psychotropic  
2978 medication for a child, the department must provide to the  
2979 evaluating physician all pertinent medical information known to  
2980 the department concerning that child.

2981         (6) Children who are in the legal custody of the department  
2982 may be placed by the department, without prior approval of the  
2983 court, in a residential treatment center licensed under s.  
2984 394.875 or a hospital licensed under chapter 395 for residential  
2985 mental health treatment only pursuant to this section or may be  
2986 placed by the court in accordance with an order of involuntary  
2987 examination or involuntary services placement entered pursuant  
2988 to s. 394.463 or s. 394.467. All children placed in a  
2989 residential treatment program under this subsection must have a  
2990 guardian ad litem appointed.

2991         (a) As used in this subsection, the term:

2992         1. "Residential treatment" means placement for observation,  
2993 diagnosis, or treatment of an emotional disturbance in a  
2994 residential treatment center licensed under s. 394.875 or a  
2995 hospital licensed under chapter 395.

2996         2. "Least restrictive alternative" means the treatment and  
2997 conditions of treatment that, separately and in combination, are





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2998 no more intrusive or restrictive of freedom than reasonably  
2999 necessary to achieve a substantial therapeutic benefit or to  
3000 protect the child or adolescent or others from physical injury.

3001 3. "Suitable for residential treatment" or "suitability"  
3002 means a determination concerning a child or adolescent with an  
3003 emotional disturbance as defined in s. 394.492(5) or a serious  
3004 emotional disturbance as defined in s. 394.492(6) that each of  
3005 the following criteria is met:

3006 a. The child requires residential treatment.

3007 b. The child is in need of a residential treatment program  
3008 and is expected to benefit from mental health treatment.

3009 c. An appropriate, less restrictive alternative to  
3010 residential treatment is unavailable.

3011 (b) Whenever the department believes that a child in its  
3012 legal custody is emotionally disturbed and may need residential  
3013 treatment, an examination and suitability assessment must be  
3014 conducted by a qualified evaluator who is appointed by the  
3015 Agency for Health Care Administration. This suitability  
3016 assessment must be completed before the placement of the child  
3017 in a residential treatment center for emotionally disturbed  
3018 children and adolescents or a hospital. The qualified evaluator  
3019 must be a psychiatrist or a psychologist licensed in Florida who  
3020 has at least 3 years of experience in the diagnosis and  
3021 treatment of serious emotional disturbances in children and  
3022 adolescents and who has no actual or perceived conflict of  
3023 interest with any inpatient facility or residential treatment  
3024 center or program.

3025 (c) Before a child is admitted under this subsection, the  
3026 child shall be assessed for suitability for residential



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3027 treatment by a qualified evaluator who has conducted a personal  
3028 examination and assessment of the child and has made written  
3029 findings that:

3030 1. The child appears to have an emotional disturbance  
3031 serious enough to require residential treatment and is  
3032 reasonably likely to benefit from the treatment.

3033 2. The child has been provided with a clinically  
3034 appropriate explanation of the nature and purpose of the  
3035 treatment.

3036 3. All available modalities of treatment less restrictive  
3037 than residential treatment have been considered, and a less  
3038 restrictive alternative that would offer comparable benefits to  
3039 the child is unavailable.

3040  
3041 A copy of the written findings of the evaluation and suitability  
3042 assessment must be provided to the department, to the guardian  
3043 ad litem, and, if the child is a member of a Medicaid managed  
3044 care plan, to the plan that is financially responsible for the  
3045 child's care in residential treatment, all of whom must be  
3046 provided with the opportunity to discuss the findings with the  
3047 evaluator.

3048 (d) Immediately upon placing a child in a residential  
3049 treatment program under this section, the department must notify  
3050 the guardian ad litem and the court having jurisdiction over the  
3051 child and must provide the guardian ad litem and the court with  
3052 a copy of the assessment by the qualified evaluator.

3053 (e) Within 10 days after the admission of a child to a  
3054 residential treatment program, the director of the residential  
3055 treatment program or the director's designee must ensure that an



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3056 individualized plan of treatment has been prepared by the  
3057 program and has been explained to the child, to the department,  
3058 and to the guardian ad litem, and submitted to the department.  
3059 The child must be involved in the preparation of the plan to the  
3060 maximum feasible extent consistent with his or her ability to  
3061 understand and participate, and the guardian ad litem and the  
3062 child's foster parents must be involved to the maximum extent  
3063 consistent with the child's treatment needs. The plan must  
3064 include a preliminary plan for residential treatment and  
3065 aftercare upon completion of residential treatment. The plan  
3066 must include specific behavioral and emotional goals against  
3067 which the success of the residential treatment may be measured.  
3068 A copy of the plan must be provided to the child, to the  
3069 guardian ad litem, and to the department.

3070 (f) Within 30 days after admission, the residential  
3071 treatment program must review the appropriateness and  
3072 suitability of the child's placement in the program. The  
3073 residential treatment program must determine whether the child  
3074 is receiving benefit toward the treatment goals and whether the  
3075 child could be treated in a less restrictive treatment program.  
3076 The residential treatment program shall prepare a written report  
3077 of its findings and submit the report to the guardian ad litem  
3078 and to the department. The department must submit the report to  
3079 the court. The report must include a discharge plan for the  
3080 child. The residential treatment program must continue to  
3081 evaluate the child's treatment progress every 30 days thereafter  
3082 and must include its findings in a written report submitted to  
3083 the department. The department may not reimburse a facility  
3084 until the facility has submitted every written report that is



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3085 due.

3086 (g)1. The department must submit, at the beginning of each  
3087 month, to the court having jurisdiction over the child, a  
3088 written report regarding the child's progress toward achieving  
3089 the goals specified in the individualized plan of treatment.

3090 2. The court must conduct a hearing to review the status of  
3091 the child's residential treatment plan no later than 3 months  
3092 after the child's admission to the residential treatment  
3093 program. An independent review of the child's progress toward  
3094 achieving the goals and objectives of the treatment plan must be  
3095 completed by a qualified evaluator and submitted to the court  
3096 before its 3-month review.

3097 3. For any child in residential treatment at the time a  
3098 judicial review is held pursuant to s. 39.701, the child's  
3099 continued placement in residential treatment must be a subject  
3100 of the judicial review.

3101 4. If at any time the court determines that the child is  
3102 not suitable for continued residential treatment, the court  
3103 shall order the department to place the child in the least  
3104 restrictive setting that is best suited to meet his or her  
3105 needs.

3106 (h) After the initial 3-month review, the court must  
3107 conduct a review of the child's residential treatment plan every  
3108 90 days.

3109 (i) The department must adopt rules for implementing  
3110 timeframes for the completion of suitability assessments by  
3111 qualified evaluators and a procedure that includes timeframes  
3112 for completing the 3-month independent review by the qualified  
3113 evaluators of the child's progress toward achieving the goals



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3114 and objectives of the treatment plan which review must be  
3115 submitted to the court. The Agency for Health Care  
3116 Administration must adopt rules for the registration of  
3117 qualified evaluators, the procedure for selecting the evaluators  
3118 to conduct the reviews required under this section, and a  
3119 reasonable, cost-efficient fee schedule for qualified  
3120 evaluators.

3121 Section 35. Subsections (5) and (6) of section 394.492,  
3122 Florida Statutes, are amended to read:

3123 394.492 Definitions.—As used in ss. 394.490-394.497, the  
3124 term:

3125 (5) "Child or adolescent who has an emotional disturbance"  
3126 means a person under 18 years of age who is diagnosed with a  
3127 mental, emotional, or behavioral disorder of sufficient duration  
3128 to meet one of the diagnostic categories specified in the most  
3129 recent edition of the Diagnostic and Statistical Manual of the  
3130 American Psychiatric Association, but who does not exhibit  
3131 behaviors that substantially interfere with or limit his or her  
3132 role or ability to function in the family, school, or community.  
3133 The emotional disturbance must not be considered to be a  
3134 temporary response to a stressful situation. The term does not  
3135 include a child or adolescent who meets the criteria for  
3136 involuntary placement under s. 394.467(1).

3137 (6) "Child or adolescent who has a serious emotional  
3138 disturbance or mental illness" means a person under 18 years of  
3139 age who:

3140 (a) Is diagnosed as having a mental, emotional, or  
3141 behavioral disorder that meets one of the diagnostic categories  
3142 specified in the most recent edition of the Diagnostic and



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3143 Statistical Manual of Mental Disorders of the American  
3144 Psychiatric Association; and

3145 (b) Exhibits behaviors that substantially interfere with or  
3146 limit his or her role or ability to function in the family,  
3147 school, or community, which behaviors are not considered to be a  
3148 temporary response to a stressful situation.

3149  
3150 The term includes a child or adolescent who meets the criteria  
3151 for involuntary placement under s. 394.467(1).

3152 Section 36. Paragraphs (a) and (c) of subsection (3) of  
3153 section 394.495, Florida Statutes, are amended to read:

3154 394.495 Child and adolescent mental health system of care;  
3155 programs and services.—

3156 (3) Assessments must be performed by:

3157 (a) A professional as defined in s. 394.455(7), (33), (36),  
3158 or (37) 394.455(5), (7), (32), (35), or (36);

3159 (c) A person who is under the direct supervision of a  
3160 qualified professional as defined in s. 394.455(7), (33), (36),  
3161 or (37) 394.455(5), (7), (32), (35), or (36) or a professional  
3162 licensed under chapter 491.

3163 Section 37. Subsection (5) of section 394.496, Florida  
3164 Statutes, is amended to read:

3165 394.496 Service planning.—

3166 (5) A professional as defined in s. 394.455(7), (33), (36),  
3167 or (37) 394.455(5), (7), (32), (35), or (36) or a professional

3168 licensed under chapter 491 must be included among those persons  
3169 developing the services plan.

3170 Section 38. Subsection (6) of section 394.9085, Florida  
3171 Statutes, is amended to read:



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3172 394.9085 Behavioral provider liability.—

3173 (6) For purposes of this section, the terms "detoxification  
3174 services," "addictions receiving facility," and "receiving  
3175 facility" have the same meanings as those provided in ss.  
3176 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(41) ~~394.455(39)~~,  
3177 respectively.

3178 Section 39. Paragraph (b) of subsection (1) of section  
3179 409.972, Florida Statutes, is amended to read:

3180 409.972 Mandatory and voluntary enrollment.—

3181 (1) The following Medicaid-eligible persons are exempt from  
3182 mandatory managed care enrollment required by s. 409.965, and  
3183 may voluntarily choose to participate in the managed medical  
3184 assistance program:

3185 (b) Medicaid recipients residing in residential commitment  
3186 facilities operated through the Department of Juvenile Justice  
3187 or a treatment facility as defined in s. 394.455(51)  
3188 ~~394.455(47)~~.

3189 Section 40. Subsection (7) of section 744.2007, Florida  
3190 Statutes, is amended to read:

3191 744.2007 Powers and duties.—

3192 (7) A public guardian may not commit a ward to a treatment  
3193 facility, as defined in s. 394.455(51) ~~394.455(47)~~, without an  
3194 involuntary placement proceeding as provided by law.

3195 Section 41. Paragraph (a) of subsection (2) of section  
3196 790.065, Florida Statutes, is amended to read:

3197 790.065 Sale and delivery of firearms.—

3198 (2) Upon receipt of a request for a criminal history record  
3199 check, the Department of Law Enforcement shall, during the  
3200 licensee's call or by return call, forthwith:



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3201           (a) Review any records available to determine if the  
3202 potential buyer or transferee:  
3203           1. Has been convicted of a felony and is prohibited from  
3204 receipt or possession of a firearm pursuant to s. 790.23;  
3205           2. Has been convicted of a misdemeanor crime of domestic  
3206 violence, and therefore is prohibited from purchasing a firearm;  
3207           3. Has had adjudication of guilt withheld or imposition of  
3208 sentence suspended on any felony or misdemeanor crime of  
3209 domestic violence unless 3 years have elapsed since probation or  
3210 any other conditions set by the court have been fulfilled or  
3211 expunction has occurred; or  
3212           4. Has been adjudicated mentally defective or has been  
3213 committed to a mental institution by a court or as provided in  
3214 sub-sub-subparagraph b.(II), and as a result is prohibited by  
3215 state or federal law from purchasing a firearm.  
3216           a. As used in this subparagraph, "adjudicated mentally  
3217 defective" means a determination by a court that a person, as a  
3218 result of marked subnormal intelligence, or mental illness,  
3219 incompetency, condition, or disease, is a danger to himself or  
3220 herself or to others or lacks the mental capacity to contract or  
3221 manage his or her own affairs. The phrase includes a judicial  
3222 finding of incapacity under s. 744.331(6)(a), an acquittal by  
3223 reason of insanity of a person charged with a criminal offense,  
3224 and a judicial finding that a criminal defendant is not  
3225 competent to stand trial.  
3226           b. As used in this subparagraph, "committed to a mental  
3227 institution" means:  
3228           (I) Involuntary commitment, commitment for mental  
3229 defectiveness or mental illness, and commitment for substance





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3230 abuse. The phrase includes involuntary services ~~inpatient~~  
3231 ~~placement~~ as defined in s. 394.467, ~~involuntary outpatient~~  
3232 ~~placement as defined in s. 394.4655,~~ involuntary assessment and  
3233 stabilization under s. 397.6818, and involuntary substance abuse  
3234 treatment under s. 397.6957, but does not include a person in a  
3235 mental institution for observation or discharged from a mental  
3236 institution based upon the initial review by the physician or a  
3237 voluntary admission to a mental institution; or

3238 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
3239 admission to a mental institution for outpatient or inpatient  
3240 treatment of a person who had an involuntary examination under  
3241 s. 394.463, where each of the following conditions have been  
3242 met:

3243 (A) An examining physician found that the person is an  
3244 imminent danger to himself or herself or others.

3245 (B) The examining physician certified that if the person  
3246 did not agree to voluntary treatment, a petition for involuntary  
3247 outpatient or inpatient treatment would have been filed under s.  
3248 394.463(2)(f)3. ~~394.463(2)(i)4.~~, or the examining physician  
3249 certified that a petition was filed and the person subsequently  
3250 agreed to voluntary treatment prior to a court hearing on the  
3251 petition.

3252 (C) Before agreeing to voluntary treatment, the person  
3253 received written notice of that finding and certification, and  
3254 written notice that as a result of such finding, he or she may  
3255 be prohibited from purchasing a firearm, and may not be eligible  
3256 to apply for or retain a concealed weapon or firearms license  
3257 under s. 790.06 and the person acknowledged such notice in  
3258 writing, in substantially the following form:



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3259 "I understand that the doctor who examined me believes I am a  
3260 danger to myself or to others. I understand that if I do not  
3261 agree to voluntary treatment, a petition will be filed in court  
3262 to require me to receive involuntary treatment. I understand  
3263 that if that petition is filed, I have the right to contest it.  
3264 In the event a petition has been filed, I understand that I can  
3265 subsequently agree to voluntary treatment prior to a court  
3266 hearing. I understand that by agreeing to voluntary treatment in  
3267 either of these situations, I may be prohibited from buying  
3268 firearms and from applying for or retaining a concealed weapons  
3269 or firearms license until I apply for and receive relief from  
3270 that restriction under Florida law."

3271 (D) A judge or a magistrate has, pursuant to sub-sub-  
3272 subparagraph c.(II), reviewed the record of the finding,  
3273 certification, notice, and written acknowledgment classifying  
3274 the person as an imminent danger to himself or herself or  
3275 others, and ordered that such record be submitted to the  
3276 department.

3277 c. In order to check for these conditions, the department  
3278 shall compile and maintain an automated database of persons who  
3279 are prohibited from purchasing a firearm based on court records  
3280 of adjudications of mental defectiveness or commitments to  
3281 mental institutions.

3282 (I) Except as provided in sub-sub-subparagraph (II), clerks  
3283 of court shall submit these records to the department within 1  
3284 month after the rendition of the adjudication or commitment.  
3285 Reports shall be submitted in an automated format. The reports  
3286 must, at a minimum, include the name, along with any known alias  
3287 or former name, the sex, and the date of birth of the subject.



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3288 (II) For persons committed to a mental institution pursuant  
3289 to sub-sub-subparagraph b.(II), within 24 hours after the  
3290 person's agreement to voluntary admission, a record of the  
3291 finding, certification, notice, and written acknowledgment must  
3292 be filed by the administrator of the receiving or treatment  
3293 facility, as defined in s. 394.455, with the clerk of the court  
3294 for the county in which the involuntary examination under s.  
3295 394.463 occurred. No fee shall be charged for the filing under  
3296 this sub-sub-subparagraph. The clerk must present the records to  
3297 a judge or magistrate within 24 hours after receipt of the  
3298 records. A judge or magistrate is required and has the lawful  
3299 authority to review the records ex parte and, if the judge or  
3300 magistrate determines that the record supports the classifying  
3301 of the person as an imminent danger to himself or herself or  
3302 others, to order that the record be submitted to the department.  
3303 If a judge or magistrate orders the submittal of the record to  
3304 the department, the record must be submitted to the department  
3305 within 24 hours.

3306 d. A person who has been adjudicated mentally defective or  
3307 committed to a mental institution, as those terms are defined in  
3308 this paragraph, may petition the court that made the  
3309 adjudication or commitment, or the court that ordered that the  
3310 record be submitted to the department pursuant to sub-sub-  
3311 subparagraph c.(II), for relief from the firearm disabilities  
3312 imposed by such adjudication or commitment. A copy of the  
3313 petition shall be served on the state attorney for the county in  
3314 which the person was adjudicated or committed. The state  
3315 attorney may object to and present evidence relevant to the  
3316 relief sought by the petition. The hearing on the petition may



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3317 be open or closed as the petitioner may choose. The petitioner  
3318 may present evidence and subpoena witnesses to appear at the  
3319 hearing on the petition. The petitioner may confront and cross-  
3320 examine witnesses called by the state attorney. A record of the  
3321 hearing shall be made by a certified court reporter or by court-  
3322 approved electronic means. The court shall make written findings  
3323 of fact and conclusions of law on the issues before it and issue  
3324 a final order. The court shall grant the relief requested in the  
3325 petition if the court finds, based on the evidence presented  
3326 with respect to the petitioner's reputation, the petitioner's  
3327 mental health record and, if applicable, criminal history  
3328 record, the circumstances surrounding the firearm disability,  
3329 and any other evidence in the record, that the petitioner will  
3330 not be likely to act in a manner that is dangerous to public  
3331 safety and that granting the relief would not be contrary to the  
3332 public interest. If the final order denies relief, the  
3333 petitioner may not petition again for relief from firearm  
3334 disabilities until 1 year after the date of the final order. The  
3335 petitioner may seek judicial review of a final order denying  
3336 relief in the district court of appeal having jurisdiction over  
3337 the court that issued the order. The review shall be conducted  
3338 de novo. Relief from a firearm disability granted under this  
3339 sub-subparagraph has no effect on the loss of civil rights,  
3340 including firearm rights, for any reason other than the  
3341 particular adjudication of mental defectiveness or commitment to  
3342 a mental institution from which relief is granted.

3343 e. Upon receipt of proper notice of relief from firearm  
3344 disabilities granted under sub-subparagraph d., the department  
3345 shall delete any mental health record of the person granted



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3346 relief from the automated database of persons who are prohibited  
3347 from purchasing a firearm based on court records of  
3348 adjudications of mental defectiveness or commitments to mental  
3349 institutions.

3350 f. The department is authorized to disclose data collected  
3351 pursuant to this subparagraph to agencies of the Federal  
3352 Government and other states for use exclusively in determining  
3353 the lawfulness of a firearm sale or transfer. The department is  
3354 also authorized to disclose this data to the Department of  
3355 Agriculture and Consumer Services for purposes of determining  
3356 eligibility for issuance of a concealed weapons or concealed  
3357 firearms license and for determining whether a basis exists for  
3358 revoking or suspending a previously issued license pursuant to  
3359 s. 790.06(10). When a potential buyer or transferee appeals a  
3360 nonapproval based on these records, the clerks of court and  
3361 mental institutions shall, upon request by the department,  
3362 provide information to help determine whether the potential  
3363 buyer or transferee is the same person as the subject of the  
3364 record. Photographs and any other data that could confirm or  
3365 negate identity must be made available to the department for  
3366 such purposes, notwithstanding any other provision of state law  
3367 to the contrary. Any such information that is made confidential  
3368 or exempt from disclosure by law shall retain such confidential  
3369 or exempt status when transferred to the department.

3370 Section 42. Subsection (1) of section 945.46, Florida  
3371 Statutes, is amended to read:

3372 945.46 Initiation of involuntary placement proceedings with  
3373 respect to a mentally ill inmate scheduled for release.—

3374 (1) If an inmate who is receiving mental health treatment



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3375 in the department is scheduled for release through expiration of  
3376 sentence or any other means, but continues to be mentally ill  
3377 and in need of care and treatment, as defined in s. 945.42, the  
3378 warden is authorized to initiate procedures for involuntary  
3379 placement pursuant to s. 394.467, 60 days prior to such release.

3380 Section 43. This act shall take effect July 1, 2017.

3381

3382 ===== T I T L E A M E N D M E N T =====

3383 And the title is amended as follows:

3384 Delete everything before the enacting clause  
3385 and insert:

3386

A bill to be entitled

3387

An act relating to examination and treatment of

3388

individuals with mental illness; amending s. 394.453,

3389

F.S.; revising legislative intent; amending s.

3390

394.455, F.S.; providing, revising, and deleting

3391

definitions; amending s. 394.457, F.S.; providing

3392

responsibilities of the Department of Children and

3393

Families for a comprehensive statewide mental health

3394

and substance abuse program; amending s. 394.4573,

3395

F.S.; conforming terminology; amending s. 394.4574,

3396

F.S.; providing for additional professionals to assess

3397

a resident with a mental illness who resides in an

3398

assisted living facility; amending s. 394.458, F.S.;

3399

prohibiting the introduction or removal of certain

3400

articles at a facility providing mental health

3401

services; requiring such facilities to post a notice

3402

thereof; amending s. 394.459, F.S.; revising rights of

3403

individuals receiving mental health treatment and



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3404 services to provide for the use of health care  
3405 surrogates or proxies to make decisions; revising  
3406 requirements relating to express and informed consent  
3407 and liability for violations; requiring service  
3408 providers to provide information concerning advance  
3409 directives; amending s. 394.4593, F.S.; expanding the  
3410 definition of the term "employee" to include staff,  
3411 volunteers, and interns employed by a service provider  
3412 for purposes of reporting sexual misconduct; repealing  
3413 s. 394.4595, F.S., relating to the Florida statewide  
3414 and local advocacy councils and access to patients and  
3415 records; creating s. 394.4596, F.S.; requiring  
3416 designated receiving facilities to permit access  
3417 authority to an agency designated by the Governor to  
3418 serve as the federally mandated protection and  
3419 advocacy system for individuals with disabilities;  
3420 amending s. 394.4597, F.S.; providing rights and  
3421 responsibilities of the representative of an  
3422 individual admitted to a facility for involuntary  
3423 examination or services; amending s. 394.4598, F.S.;  
3424 specifying certain persons who are prohibited from  
3425 being appointed as a guardian advocate; providing  
3426 duties of a guardian advocate; amending s. 394.4599,  
3427 F.S.; revising requirements for a certain notice  
3428 related to involuntary admission; repealing s.  
3429 394.460, F.S., relating to rights of professionals;  
3430 amending s. 394.461, F.S.; authorizing governmental  
3431 facilities to provide voluntary and involuntary mental  
3432 health and substance abuse examinations and treatment



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3433 under certain conditions; providing additional  
3434 facility reporting requirements; amending s. 394.4615,  
3435 F.S., relating to confidentiality of clinical records;  
3436 providing additional circumstances in which  
3437 information from a clinical record may be released;  
3438 amending s. 394.462, F.S.; revising requirements for  
3439 transportation to receiving facilities and treatment  
3440 facilities; providing for a law enforcement officer to  
3441 transport an individual to a United States Department  
3442 of Veterans Affairs facility under certain  
3443 circumstances; providing immunity from liability;  
3444 deleting obsolete provisions; amending s. 394.4625,  
3445 F.S.; revising criteria for voluntary admission to,  
3446 and release or discharge from, a facility for  
3447 examination and treatment; revising criteria for a  
3448 determination of neglect to include mental and  
3449 physical harm; requiring certain individuals charged  
3450 with a crime to be discharged to the custody of a law  
3451 enforcement officer under certain circumstances;  
3452 amending s. 394.463, F.S.; requiring certain persons  
3453 initiating an involuntary examination to provide  
3454 notice to the individual's guardian, representative,  
3455 or health care surrogate or proxy; revising a holding  
3456 period for involuntary examination; amending s.  
3457 394.467, F.S.; revising provisions relating to  
3458 admission to a facility for involuntary services;  
3459 authorizing the state attorney to represent the state  
3460 in certain proceedings relating to a petition for  
3461 involuntary services; granting the state attorney





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3462 access to certain clinical records and witnesses;  
3463 providing conditions for a continuance of the hearing;  
3464 requiring the Division of Administrative Hearings to  
3465 advise certain parties representing the individual of  
3466 the right to an independent examination in continued  
3467 involuntary services proceedings; amending s.  
3468 394.46715, F.S.; providing purpose of department  
3469 rules; amending s. 394.4672, F.S.; authorizing  
3470 facilities of the United States Department of Veterans  
3471 Affairs to provide certain mental health services;  
3472 amending s. 394.4685, F.S.; revising provisions  
3473 governing transfer of individuals between and among  
3474 public and private facilities; amending s. 394.469,  
3475 F.S.; authorizing the discharge of an individual from  
3476 involuntary services into the custody of a law  
3477 enforcement officer under certain conditions; amending  
3478 s. 394.473, F.S.; revising provisions relating to  
3479 compensation of attorneys and expert witnesses in  
3480 cases involving indigent individuals; amending s.  
3481 394.475, F.S.; conforming terminology; amending s.  
3482 394.4785, F.S.; defining the term "minor" for purposes  
3483 of admission into a mental health facility; repealing  
3484 s. 394.4595, F.S., relating to access to patients and  
3485 patients' records by members of the Florida statewide  
3486 and local advocacy councils; repealing s. 394.460,  
3487 F.S., relating to the rights of professionals;  
3488 repealing s. 394.4655, F.S., relating to involuntary  
3489 outpatient services; repealing s. 394.4786, F.S.,  
3490 relating to legislative intent; repealing s.



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3491 394.47865, F.S., relating to the privatization of  
3492 South Florida State Hospital; repealing s. 394.4787,  
3493 F.S., relating to definitions; repealing s. 394.4788,  
3494 F.S., relating to use of certain PMATF funds for the  
3495 purchase of acute care mental health services;  
3496 repealing s. 394.4789, F.S., relating to the  
3497 establishment of a referral process and eligibility  
3498 determination; amending ss. 20.425, 39.407, 394.4599,  
3499 394.492, 394.495, 394.496, 394.9082, 394.9085,  
3500 409.972, 744.2007, 790.065, and 945.46, F.S.;  
3501 conforming references and cross-references; providing  
3502 an effective date.