

By the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

586-03332-17

20171756c1

1 A bill to be entitled
2 An act relating to examination and treatment of
3 individuals with mental illness; amending s. 394.453,
4 F.S.; revising legislative intent; amending s.
5 394.455, F.S.; providing, revising, and deleting
6 definitions; amending s. 394.457, F.S.; providing
7 responsibilities of the Department of Children and
8 Families for a comprehensive statewide mental health
9 and substance abuse program; amending s. 394.4573,
10 F.S.; conforming terminology; amending s. 394.4574,
11 F.S.; providing for additional professionals to assess
12 a resident with a mental illness who resides in an
13 assisted living facility; amending s. 394.458, F.S.;
14 prohibiting the introduction or removal of certain
15 articles at a facility providing mental health
16 services; requiring such facilities to post a notice
17 thereof; amending s. 394.459, F.S.; revising rights of
18 individuals receiving mental health treatment and
19 services to provide for the use of health care
20 surrogates or proxies to make decisions; revising
21 requirements relating to express and informed consent
22 and liability for violations; requiring service
23 providers to provide information concerning advance
24 directives; amending s. 394.4593, F.S.; expanding the
25 definition of the term "employee" to include staff,
26 volunteers, and interns employed by a service provider
27 for purposes of reporting sexual misconduct; repealing
28 s. 394.4595, F.S., relating to the Florida statewide
29 and local advocacy councils and access to patients and

586-03332-17

20171756c1

30 records; creating s. 394.4596, F.S.; requiring
31 designated receiving facilities to permit access
32 authority to an agency designated by the Governor to
33 serve as the federally mandated protection and
34 advocacy system for individuals with disabilities;
35 amending s. 394.4597, F.S.; providing rights and
36 responsibilities of the representative of an
37 individual admitted to a facility for involuntary
38 examination or services; amending s. 394.4598, F.S.;
39 specifying certain persons who are prohibited from
40 being appointed as a guardian advocate; providing
41 duties of a guardian advocate; amending s. 394.4599,
42 F.S.; revising requirements for a certain notice
43 related to involuntary admission; repealing s.
44 394.460, F.S., relating to rights of professionals;
45 amending s. 394.461, F.S.; authorizing governmental
46 facilities to provide voluntary and involuntary mental
47 health and substance abuse examinations and treatment
48 under certain conditions; providing additional
49 facility reporting requirements; amending s. 394.4615,
50 F.S., relating to confidentiality of clinical records;
51 providing additional circumstances in which
52 information from a clinical record may be released;
53 amending s. 394.462, F.S.; revising requirements for
54 transportation to receiving facilities and treatment
55 facilities; providing for a law enforcement officer to
56 transport an individual to a United States Department
57 of Veterans Affairs facility under certain
58 circumstances; providing immunity from liability;

586-03332-17

20171756c1

59 deleting obsolete provisions; amending s. 394.4625,
60 F.S.; revising criteria for voluntary admission to,
61 and release or discharge from, a facility for
62 examination and treatment; revising criteria for a
63 determination of neglect to include mental and
64 physical harm; requiring certain individuals charged
65 with a crime to be discharged to the custody of a law
66 enforcement officer under certain circumstances;
67 amending s. 394.463, F.S.; requiring certain persons
68 initiating an involuntary examination to provide
69 notice to the individual's guardian, representative,
70 or health care surrogate or proxy; revising a holding
71 period for involuntary examination; amending s.
72 394.467, F.S.; revising provisions relating to
73 admission to a facility for involuntary services;
74 authorizing the state attorney to represent the state
75 in certain proceedings relating to a petition for
76 involuntary services; granting the state attorney
77 access to certain clinical records and witnesses;
78 providing conditions for a continuance of the hearing;
79 requiring the Division of Administrative Hearings to
80 advise certain parties representing the individual of
81 the right to an independent examination in continued
82 involuntary services proceedings; amending s.
83 394.46715, F.S.; providing purpose of department
84 rules; amending s. 394.4672, F.S.; authorizing
85 facilities of the United States Department of Veterans
86 Affairs to provide certain mental health services;
87 amending s. 394.4685, F.S.; revising provisions

586-03332-17

20171756c1

88 governing transfer of individuals between and among
89 public and private facilities; amending s. 394.469,
90 F.S.; authorizing the discharge of an individual from
91 involuntary services into the custody of a law
92 enforcement officer under certain conditions; amending
93 s. 394.473, F.S.; revising provisions relating to
94 compensation of attorneys and expert witnesses in
95 cases involving indigent individuals; amending s.
96 394.475, F.S.; conforming terminology; amending s.
97 394.4785, F.S.; defining the term "minor" for purposes
98 of admission into a mental health facility; repealing
99 s. 394.4595, F.S., relating to access to patients and
100 patients' records by members of the Florida statewide
101 and local advocacy councils; repealing s. 394.460,
102 F.S., relating to the rights of professionals;
103 repealing s. 394.4655, F.S., relating to involuntary
104 outpatient services; repealing s. 394.4786, F.S.,
105 relating to legislative intent; repealing s.
106 394.47865, F.S., relating to the privatization of
107 South Florida State Hospital; repealing s. 394.4787,
108 F.S., relating to definitions; repealing s. 394.4788,
109 F.S., relating to use of certain PMATF funds for the
110 purchase of acute care mental health services;
111 repealing s. 394.4789, F.S., relating to the
112 establishment of a referral process and eligibility
113 determination; amending ss. 20.425, 39.407, 394.4599,
114 394.492, 394.495, 394.496, 394.9082, 394.9085,
115 409.972, 744.2007, 790.065, and 945.46, F.S.;

116 conforming references and cross-references; providing

586-03332-17

20171756c1

117 an effective date.

118
119 Be It Enacted by the Legislature of the State of Florida:

120
121 Section 1. Section 394.453, Florida Statutes, is amended to
122 read:

123 394.453 Legislative intent.—

124 (1) It is the intent of the Legislature:

125 (a) To authorize and direct the Department of Children and
126 Families to evaluate, research, plan, and recommend to the
127 Governor and the Legislature programs designed to reduce the
128 occurrence, severity, duration, and disabling aspects of mental,
129 emotional, and behavioral disorders and substance abuse
130 impairment.

131 (b) That treatment programs for such disorders include, ~~but~~
132 ~~not be limited to~~, comprehensive health, social, educational,
133 and rehabilitative services for individuals ~~to persons~~ requiring
134 intensive short-term and continued treatment in order to
135 encourage them to assume responsibility for their treatment and
136 recovery. It is intended that:

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

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

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

144 4. Any involuntary treatment or examination be accomplished
145 in a setting that is clinically appropriate and most likely to

586-03332-17

20171756c1

146 facilitate the individual's discharge ~~person's return to the~~
147 ~~community~~ as soon as possible; and

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

151 (c) That services provided to individuals ~~persons~~ in this
152 state use the coordination-of-care principles characteristic of
153 recovery-oriented services and include social support services,
154 such as housing support, life skills and vocational training,
155 and employment assistance, necessary for individuals ~~persons~~
156 with mental health disorders and co-occurring mental health and
157 substance use disorders to live successfully in their
158 communities.

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

163 (2) It is the policy of this state that the use of
164 restraint and seclusion ~~on clients~~ is justified only as an
165 emergency safety measure to be used in response to imminent
166 danger to the individual ~~client~~ or others. It is, therefore, the
167 intent of the Legislature to achieve an ongoing reduction in the
168 use of restraint and seclusion in programs and facilities
169 serving individuals experiencing ~~persons with~~ mental illness.

170 (3) The Legislature further finds the need for additional
171 psychiatrists to be of critical state concern and recommends the
172 establishment of an additional psychiatry program to be offered
173 by one of Florida's schools of medicine currently not offering
174 psychiatry. The program shall seek to integrate primary care and

586-03332-17

20171756c1

175 psychiatry and other evolving models of care for individuals
176 ~~persons~~ with mental health and substance use disorders.
177 Additionally, the Legislature finds that the use of telemedicine
178 for patient evaluation, case management, and ongoing care will
179 improve management of patient care and reduce costs of
180 transportation.

181 Section 2. Section 394.455, Florida Statutes, is amended to
182 read:

183 394.455 Definitions.—As used in this part, the term:

184 (1) "Access center" means a facility that has medical,
185 mental health, and substance abuse professionals to provide
186 emergency screening and evaluation for mental health or
187 substance abuse disorders and may provide transportation to an
188 appropriate facility if an individual is in need of more
189 intensive services.

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

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

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

201 (5) "Advance directive" has the same meaning as in s.
202 765.101.

203 ~~(5) "Clinical psychologist" means a psychologist as defined~~

586-03332-17

20171756c1

204 in ~~s. 490.003(7)~~ with 3 years of postdoctoral experience in the
205 practice of clinical psychology, inclusive of the experience
206 required for licensure, or a psychologist employed by a facility
207 operated by the United States Department of Veterans Affairs
208 that qualifies as a receiving or treatment facility under this
209 part.

210 (6) "Clinical record" means all parts of the record
211 required to be maintained and includes all medical records,
212 progress notes, charts, and admission and discharge data, and
213 all other information recorded by facility staff which pertains
214 to an individual's admission, retention ~~the patient's~~
215 hospitalization, or treatment.

216 (7) "Clinical social worker" means a person licensed to
217 practice social work under s. 491.005 or s. 491.006 or a person
218 employed as a clinical social worker by the United States
219 Department of Veterans Affairs or the United States Department
220 of Defense as a clinical social worker under s. 491.005 or s.
221 491.006.

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

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

229 (10) "Court," unless otherwise specified, means the circuit
230 court.

231 (11) "Department" means the Department of Children and
232 Families.

586-03332-17

20171756c1

233 (12) "Designated receiving facility" means a facility
234 approved by the department which may be a public or private
235 hospital, crisis stabilization unit, or addictions receiving
236 facility; which provides, at a minimum, emergency screening,
237 evaluation, and short-term stabilization for mental health or
238 substance abuse disorders; and which may have an agreement with
239 a corresponding facility for transportation and services.

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

242 (14) "Electronic means" means a form of telecommunication
243 which requires all parties to maintain visual as well as audio
244 communication when being used to conduct an examination by a
245 qualified professional.

246 (15) "Express and informed consent" means consent
247 voluntarily given ~~in writing, by a competent person,~~ after
248 sufficient explanation and disclosure of the subject matter
249 involved, as documented in the clinical record, to enable the
250 individual or his or her guardian, guardian advocate, or health
251 care surrogate or proxy ~~person~~ to make a knowing and willful
252 decision without any element of force, fraud, deceit, duress, or
253 other form of constraint or coercion. Such consent must be in
254 writing when provided by the individual, but may be provided
255 verbally and documented in the clinical record when the
256 individual's substitute decisionmaker is unable to reasonably
257 provide it in writing.

258 (16) "Facility" means any hospital, community facility,
259 public or private facility, or receiving or treatment facility
260 providing for the evaluation, diagnosis, care, treatment,
261 training, or hospitalization of individuals ~~persons who appear~~

586-03332-17

20171756c1

262 ~~to have or~~ who have been diagnosed as having a mental illness or
263 substance abuse impairment. The term does not include a program
264 or an entity licensed under chapter 400 or chapter 429.

265 (17) "Government facility" means a facility owned,
266 operated, or administered by the Department of Corrections or
267 the United States Department of Veterans Affairs.

268 (18)~~(17)~~ "Guardian" means the natural guardian of a minor,
269 or a person appointed by a court to act on behalf of a ward's
270 person if the ward is a minor or has been adjudicated
271 incapacitated.

272 (19)~~(18)~~ "Guardian advocate" means a person appointed by a
273 court to make decisions regarding mental health treatment on
274 behalf of an individual ~~a patient~~ who has been found incompetent
275 to consent to treatment pursuant to this part.

276 (20)~~(19)~~ "Hospital" means a hospital licensed under chapter
277 395 and part II of chapter 408.

278 (21)~~(20)~~ "Incapacitated" means that an individual ~~a person~~
279 has been adjudicated incapacitated pursuant to part V of chapter
280 744 and a guardian of the individual ~~person~~ has been appointed.

281 (22)~~(21)~~ "Incompetent to consent to treatment" means that
282 an individual's ~~a state in which a person's~~ judgment is so
283 affected by a mental illness or a substance abuse impairment
284 that he or she lacks the capacity to make a well-reasoned,
285 willful, and knowing decision concerning his or her medical,
286 mental health, or substance abuse treatment.

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

289 (24)~~(22)~~ "Involuntary examination" means an examination
290 performed under s. 394.463, ~~s. 397.6772, s. 397.679, s.~~

586-03332-17

20171756c1

291 ~~397.6798, or s. 397.6811~~ to determine if an individual ~~whether a~~
292 ~~person~~ qualifies for involuntary services.

293 ~~(25)-(23)~~ "Involuntary services" means court-ordered
294 outpatient services or inpatient placement for mental health
295 treatment pursuant to s. 394.4655 or s. 394.467.

296 ~~(26)-(24)~~ "Law enforcement officer" has the same meaning as
297 provided in s. 943.10 or a federal or tribal law enforcement
298 officer as defined by federal law.

299 ~~(27)-(25)~~ "Marriage and family therapist" means a person
300 licensed to practice marriage and family therapy under s.
301 491.005 or s. 491.006 or a person employed as a marriage and
302 family therapist by the United States Department of Veterans
303 Affairs or the United States Department of Defense.

304 ~~(28)-(26)~~ "Mental health counselor" means a person licensed
305 to practice mental health counseling under s. 491.005 or s.
306 491.006 or a person employed as a mental health counselor by the
307 United States Department of Veterans Affairs or the United
308 States Department of Defense.

309 ~~(29)-(27)~~ "Mental health overlay program" means a mobile
310 service that provides an independent examination for voluntary
311 admission and a range of supplemental onsite services to an
312 individual who has ~~persons with~~ a mental illness in a
313 residential setting such as a nursing home, an assisted living
314 facility, or an adult family-care home or a nonresidential
315 setting such as an adult day care center. Independent
316 examinations provided through a mental health overlay program
317 must ~~only~~ be provided only under contract with the department
318 for this service or be attached to a public receiving facility
319 that is also a community mental health center.

586-03332-17

20171756c1

320 (30)~~(28)~~ "Mental illness" means an impairment of the mental
321 or emotional processes that exercise conscious control of one's
322 actions or of the ability to perceive or understand reality,
323 which impairment substantially interferes with the individual's
324 ~~person's~~ ability to meet the ordinary demands of living. As used
325 in ~~For the purposes of~~ this part, the term does not include a
326 developmental disability as defined in chapter 393,
327 intoxication, or conditions manifested only by antisocial
328 behavior or substance abuse impairment.

329 (31)~~(29)~~ "Minor" means an individual who is 17 years of age
330 or younger and who has not had the disability of nonage removed
331 pursuant to s. 743.01 or s. 743.015.

332 (32)~~(30)~~ "Mobile crisis response service" means a
333 nonresidential crisis service available 24 hours per day, 7 days
334 per week which provides immediate intensive assessments and
335 interventions, including screening for admission into a mental
336 health receiving facility, an addictions receiving facility, or
337 a detoxification facility, for the purpose of identifying
338 appropriate treatment services.

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

342 (33)~~(32)~~ "Physician" means a medical practitioner licensed
343 under chapter 458 or chapter 459 ~~who has experience in the~~
344 ~~diagnosis and treatment of mental illness~~ or a physician
345 employed by a ~~facility operated by~~ the United States Department
346 of Veterans Affairs or the United States Department of Defense.

347 (34)~~(33)~~ "Physician assistant" means a person fully
348 licensed as a physician assistant under chapter 458 or chapter

586-03332-17

20171756c1

349 459 or a person employed as a physician assistant by the United
350 States Department of Veterans Affairs or the United States
351 Department of Defense ~~who has experience in the diagnosis and~~
352 ~~treatment of mental disorders.~~

353 (35) ~~(34)~~ "Private facility" means a hospital or facility
354 operated by a for-profit or not-for-profit corporation or
355 association which provides mental health or substance abuse
356 services and is not a public facility.

357 (36) ~~(35)~~ "Psychiatric nurse" means an advanced registered
358 nurse practitioner certified under s. 464.012 who has a master's
359 or doctoral degree in psychiatric nursing, holds a national
360 advanced practice certification as a psychiatric mental health
361 advanced practice nurse, and has 2 years of post-master's
362 clinical experience under the supervision of a physician or a
363 person employed as a psychiatric nurse by the United States
364 Department of Veterans Affairs or the United States Department
365 of Defense.

366 (37) ~~(36)~~ "Psychiatrist" means a medical practitioner
367 licensed under chapter 458 or chapter 459 for at least 3 years,
368 inclusive of psychiatric residency or a person employed as a
369 psychiatrist by the United States Department of Veterans Affairs
370 or the United States Department of Defense.

371 (38) "Psychologist" means a person defined as a
372 psychologist under s. 490.003 or a person employed as a
373 psychologist by the United States Department of Veterans Affairs
374 or the United States Department of Defense.

375 (39) ~~(37)~~ "Public facility" means a facility that has
376 contracted with the department to provide mental health services
377 to all individuals ~~persons~~, regardless of ability to pay, and is

586-03332-17

20171756c1

378 receiving state funds for such purpose.

379 ~~(40)-(38)~~ "Qualified professional" means a physician or a
380 physician assistant licensed under chapter 458 or chapter 459; a
381 psychiatrist licensed under chapter 458 or chapter 459; a
382 psychologist as defined in s. 490.003(7); an advanced registered
383 nurse practitioner licensed under part I of chapter 464; or a
384 psychiatric nurse as defined in this section.

385 ~~(41)-(39)~~ "Receiving facility" means a public or private
386 facility or hospital designated by the department to receive and
387 hold individuals on involuntary status or refer, as appropriate,
388 involuntary patients under emergency conditions for mental
389 health or substance abuse evaluation and to provide treatment or
390 transportation to the appropriate service provider. The term
391 does not include a county jail.

392 ~~(42)-(40)~~ "Representative" means a person selected pursuant
393 to s. 394.4597(2) ~~to receive notice of proceedings during the~~
394 ~~time a patient is held in or admitted to a receiving or~~
395 ~~treatment facility.~~

396 ~~(43)-(41)~~ "Restraint" means:

397 (a) A physical restraint, including any manual method or
398 physical or mechanical device, material, or equipment attached
399 or adjacent to an individual's body so that he or she cannot
400 easily remove the restraint and which restricts freedom of
401 movement or normal access to one's body. "Physical restraint"
402 includes the physical holding of an individual ~~a person~~ during a
403 procedure to forcibly administer psychotropic medication.
404 "Physical restraint" does not include physical devices such as
405 orthopedically prescribed appliances, surgical dressings and
406 bandages, supportive body bands, or other physical holding when

586-03332-17

20171756c1

407 necessary for routine physical examinations and tests or for
408 purposes of orthopedic, surgical, or other similar medical
409 ~~treatment when used to provide~~ support for the achievement of
410 functional body position or proper balance for protecting an
411 individual ~~or when used to protect a person from falling out of~~
412 ~~bed.~~

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

417 ~~(44)-(42)~~ "Seclusion" means the physical segregation or
418 involuntary isolation of an individual ~~a person~~ in a room or
419 area from which the individual ~~person~~ is prevented from leaving.
420 The prevention may be by physical barrier or by a staff member
421 who is acting in a manner, or who is physically situated, so as
422 to prevent the individual ~~person~~ from leaving the room or area.
423 As used in ~~For purposes of~~ this part, the term does not mean
424 isolation due to the individual's ~~a person's~~ medical condition
425 or symptoms.

426 ~~(45)-(43)~~ "Secretary" means the Secretary of Children and
427 Families.

428 ~~(46)-(44)~~ "Service provider" means a public or private
429 receiving facility, a facility licensed under chapter 397, a
430 treatment facility, an entity under contract with the department
431 to provide mental health or substance abuse services, a
432 community mental health center or clinic, a psychologist, a
433 clinical social worker, a marriage and family therapist, a
434 mental health counselor, a physician, a psychiatrist, an
435 advanced registered nurse practitioner, a psychiatric nurse, or

586-03332-17

20171756c1

436 a substance abuse qualified professional ~~as defined in s. 39.01.~~

437 ~~(47)-(45)~~ "Substance abuse impaired ~~impairment~~" means a
438 condition involving the use of alcoholic beverages or any
439 psychoactive or mood-altering substance in such a manner that a
440 person has lost the power of self-control and has inflicted or
441 is likely to inflict physical harm on himself, herself, or
442 another.

443 (48) "Substance abuse qualified professional" has the same
444 meaning as in s. 397.311(33).

445 ~~(49)-(46)~~ "Transfer evaluation" means the process, as
446 approved by the department, in which the individual ~~by which a~~
447 ~~person who is being considered for placement in a state~~
448 ~~treatment facility~~ is evaluated for appropriateness of admission
449 to a treatment ~~such~~ facility. The transfer evaluation shall be
450 conducted by the department, a public receiving facility, or a
451 community mental health center or clinic.

452 ~~(50)-(47)~~ "Treatment facility" means a state-owned, state-
453 operated, or state-supported hospital, center, or clinic
454 designated by the department for extended treatment and
455 hospitalization of individuals who have a mental illness, beyond
456 that provided ~~for~~ by a receiving facility or a, ~~of persons who~~
457 ~~have a mental illness, including facilities of the United States~~
458 ~~Government, and any private facility designated by the~~
459 department when rendering such services ~~to a person~~ pursuant to
460 the provisions of this part. ~~Patients treated in facilities of~~
461 ~~the United States Government shall be solely those whose care is~~
462 ~~the responsibility of the United States Department of Veterans~~
463 ~~Affairs.~~

464 ~~(51)-(48)~~ "Triage center" means a facility that has medical,

586-03332-17

20171756c1

465 mental health, and substance abuse professionals present or on
466 call to provide emergency screening and evaluation for mental
467 health or substance abuse disorders for individuals transported
468 to the center by a law enforcement officer.

469 Section 3. Section 394.457, Florida Statutes, is amended to
470 read:

471 394.457 Operation and administration.—

472 (1) ADMINISTRATION.—The Department of Children and Families
473 is designated the “Mental Health Authority” of Florida. The
474 department and the Agency for Health Care Administration shall
475 exercise executive and administrative supervision over all
476 ~~mental health~~ facilities, programs, and services.

477 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
478 responsible for:

479 (a) The planning, evaluation, and implementation of a
480 complete and comprehensive statewide program of mental health
481 and substance abuse, including community services, receiving and
482 treatment facilities, child services, research, and training as
483 authorized and approved by the Legislature, based on the annual
484 program budget of the department. The department is also
485 responsible for the coordination of efforts with other
486 departments and divisions of the state government, county and
487 municipal governments, and private agencies concerned with and
488 providing mental health or substance abuse services. It is
489 responsible for establishing standards, providing technical
490 assistance, supervising ~~and exercising supervision of~~ mental
491 health and substance abuse programs, ~~and of, and the~~ treatment
492 of individuals ~~patients~~ at, community facilities, other
493 facilities serving individuals ~~for persons~~ who have a mental

586-03332-17

20171756c1

494 illness or substance abuse impairment, and any agency or
495 facility providing services under ~~to patients pursuant to~~ this
496 part.

497 (b) The publication and distribution of an information
498 handbook to facilitate the understanding of ~~this part~~, the
499 policies and procedures involved in the implementation of this
500 part, and the responsibilities of the various service providers
501 ~~of services~~ under this part. Distribution of this handbook may
502 be limited to online electronic distribution. The department may
503 ~~It shall~~ stimulate research by public and private agencies,
504 institutions of higher learning, and hospitals in the interest
505 of the elimination and amelioration of mental illnesses or
506 substance abuse impairments ~~illness~~.

507 (3) POWER TO CONTRACT.—The department may contract to
508 provide, and be provided with, services and facilities in order
509 to carry out its responsibilities under this part with respect
510 to the following agencies: public and private hospitals;
511 receiving and treatment facilities; clinics; laboratories;
512 departments, divisions, and other units of state government; ~~the~~
513 state colleges and universities; ~~the~~ community colleges; private
514 colleges and universities; counties, municipalities, and ~~any~~
515 other political subdivisions ~~governmental unit~~, including
516 facilities of the United States Government; and any other public
517 or private entity that ~~which~~ provides or needs facilities or
518 services. Baker Act funds for community inpatient, crisis
519 stabilization, short-term residential treatment, and screening
520 services under this part must be allocated to each county
521 pursuant to the department's funding allocation methodology.
522 Notwithstanding s. 287.057(3)(e), contracts for community-based

586-03332-17

20171756c1

523 Baker Act services for inpatient, crisis stabilization, short-
524 term residential treatment, and screening ~~provided~~ under this
525 part, other than those with other units of government, ~~to be~~
526 ~~provided for the department~~ must be awarded using competitive
527 solicitation sealed bids if the county commission of the county
528 receiving the services makes a request to the department
529 ~~department's district office~~ by January 15 of the contracting
530 year. The department ~~district~~ may not enter into a competitively
531 bid contract ~~under this provision~~ if such action will result in
532 increases of state or local expenditures for Baker Act services
533 ~~within the district~~. Contracts for ~~these~~ Baker Act services
534 using competitive solicitation sealed bids are effective for 3
535 years. The department shall adopt rules establishing minimum
536 standards for such contracted services and facilities and shall
537 make periodic audits and inspections to assure that the
538 contracted services are provided and meet the standards of the
539 department.

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

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

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

586-03332-17

20171756c1

552 (b) Implementing and administering ~~The department shall~~
553 ~~adopt rules necessary for the implementation and administration~~
554 ~~of the provisions of this part.~~, and A program subject to the
555 ~~provisions of this part~~ may ~~shall not be permitted to~~ operate
556 unless rules designed to ensure the protection of the health,
557 safety, and welfare of the individuals examined and ~~patients~~
558 ~~treated under~~ through such program have been adopted. Such rules
559 ~~adopted under this subsection~~ must include provisions governing
560 the use of restraint and seclusion which are consistent with
561 recognized best practices and professional judgment; prohibit
562 inherently dangerous restraint or seclusion procedures;
563 establish limitations on the use and duration of restraint and
564 seclusion; establish measures to ensure the safety of program
565 participants and staff during an incident of restraint or
566 seclusion; establish procedures for staff to follow before,
567 during, and after incidents of restraint or seclusion; establish
568 professional qualifications of and training for staff who may
569 order or be engaged in the use of restraint or seclusion; and
570 establish mandatory reporting, data collection, and data
571 dissemination procedures and requirements. Such rules ~~adopted~~
572 ~~under this subsection~~ must require that each instance of the use
573 of restraint or seclusion be documented in the clinical record
574 of the individual who has been restrained or secluded ~~patient~~.

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

578 (6) PERSONNEL.—

579 (a) The department shall, by rule, establish minimum
580 standards of education and experience for professional and

586-03332-17

20171756c1

581 technical personnel employed in mental health programs,
582 including members of a mobile crisis response service.

583 (b) The department may ~~shall~~ design and distribute
584 appropriate materials for the orientation and training of
585 persons actively engaged in administering ~~implementing~~ the
586 provisions of this part relating to the involuntary examination
587 and treatment placement ~~placement~~ of individuals ~~persons~~ who are believed
588 to have a mental illness or substance abuse impairment.

589 (7) PAYMENT FOR CARE ~~OF PATIENTS~~.—Fees and fee collections
590 for individuals ~~patients~~ in state-owned, state-operated, or
591 state-supported treatment facilities must be in accordance with
592 ~~shall be according to~~ s. 402.33.

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

595 394.4573 Coordinated system of care; annual assessment;
596 essential elements; measures of performance; system improvement
597 grants; reports.—On or before December 1 of each year, the
598 department shall submit to the Governor, the President of the
599 Senate, and the Speaker of the House of Representatives an
600 assessment of the behavioral health services in this state. The
601 assessment shall consider, at a minimum, the extent to which
602 designated receiving systems function as no-wrong-door models,
603 the availability of treatment and recovery services that use
604 recovery-oriented and peer-involved approaches, the availability
605 of less-restrictive services, and the use of evidence-informed
606 practices. The department's assessment shall consider, at a
607 minimum, the needs assessments conducted by the managing
608 entities pursuant to s. 394.9082(5). Beginning in 2017, the
609 department shall compile and include in the report all plans

586-03332-17

20171756c1

610 submitted by managing entities pursuant to s. 394.9082(8) and
611 the department's evaluation of each plan.

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

613 (a) "Care coordination" means the implementation of
614 deliberate and planned organizational relationships and service
615 procedures that improve the effectiveness and efficiency of the
616 behavioral health system by engaging in purposeful interactions
617 with individuals who are not yet effectively connected with
618 services to ensure service linkage. Examples of care
619 coordination activities include development of referral
620 agreements, shared protocols, and information exchange
621 procedures. The purpose of care coordination is to enhance the
622 delivery of treatment services and recovery supports and to
623 improve outcomes among priority populations.

624 (b) "Case management" means those direct services provided
625 to a client in order to assess his or her needs, plan or arrange
626 services, coordinate service providers, link the service system
627 to a client, monitor service delivery, and evaluate patient
628 outcomes to ensure the client is receiving the appropriate
629 services.

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

635 (d) "No-wrong-door model" means a model for the delivery of
636 acute care services to individuals ~~persons~~ who have mental
637 health or substance use disorders, or both, which optimizes
638 access to care, regardless of the entry point to the behavioral

586-03332-17

20171756c1

639 health care system.

640 (2) The essential elements of a coordinated system of care
641 include:

642 (b) A designated receiving system that consists of one or
643 more facilities serving a defined geographic area and
644 responsible for assessment and evaluation, both voluntary and
645 involuntary, and treatment or triage of patients who have a
646 mental health or substance use disorder, or co-occurring
647 disorders.

648 1. A county or several counties shall plan the designated
649 receiving system using a process that includes the managing
650 entity and is open to participation by individuals with
651 behavioral health needs and their families, service providers,
652 law enforcement agencies, and other parties. The county or
653 counties, in collaboration with the managing entity, shall
654 document the designated receiving system through written
655 memoranda of agreement or other binding arrangements. The county
656 or counties and the managing entity shall complete the plan and
657 implement the designated receiving system by July 1, 2017, and
658 the county or counties and the managing entity shall review and
659 update, as necessary, the designated receiving system at least
660 once every 3 years.

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

667 a. A central receiving system that consists of a designated

586-03332-17

20171756c1

668 central receiving facility that serves as a single entry point
669 for individuals ~~persons~~ with mental health or substance use
670 disorders, or co-occurring disorders. The central receiving
671 facility shall be capable of assessment, evaluation, and triage
672 or treatment or stabilization of individuals ~~persons~~ with mental
673 health or substance use disorders, or co-occurring disorders.

674 b. A coordinated receiving system that consists of multiple
675 entry points that are linked by shared data systems, formal
676 referral agreements, and cooperative arrangements for care
677 coordination and case management. Each entry point shall be a
678 designated receiving facility and shall, within existing
679 resources, provide or arrange for necessary services following
680 an initial assessment and evaluation.

681 c. A tiered receiving system that consists of multiple
682 entry points, some of which offer only specialized or limited
683 services. Each service provider shall be classified according to
684 its capabilities as either a designated receiving facility or
685 another type of service provider, such as a triage center, a
686 licensed detoxification facility, or an access center. All
687 participating service providers shall, within existing
688 resources, be linked by methods to share data, formal referral
689 agreements, and cooperative arrangements for care coordination
690 and case management.

691
692 An accurate inventory of the participating service providers
693 which specifies the capabilities and limitations of each
694 provider and its ability to accept patients under the designated
695 receiving system agreements and the transportation plan
696 developed pursuant to this section shall be maintained and made

586-03332-17

20171756c1

697 available at all times to all first responders in the service
698 area.

699 Section 5. Section 394.4574, Florida Statutes, is amended
700 to read:

701 394.4574 Responsibilities for coordination of services for
702 a ~~mental health~~ resident with a mental illness who resides in an
703 assisted living facility that holds a limited mental health
704 license.-

705 (1) As used in this section, the term "mental health
706 resident" means an individual who receives social security
707 disability income due to a mental disorder as determined by the
708 Social Security Administration or receives supplemental security
709 income due to a mental disorder as determined by the Social
710 Security Administration and receives optional state
711 supplementation.

712 (2) Medicaid managed care plans are responsible for
713 Medicaid enrolled mental health residents, and managing entities
714 under contract with the department are responsible for mental
715 health residents who are not enrolled in a Medicaid health plan.
716 A Medicaid managed care plan or a managing entity shall ensure
717 that:

718 (a) A ~~mental health~~ resident has been assessed by a
719 psychiatrist, ~~clinical~~ psychologist, clinical social worker, ~~or~~
720 psychiatric nurse, mental health counselor, marriage and family
721 therapist, or a qualified professional as defined in s.
722 394.455(40) ~~an individual~~ who is supervised by one of these
723 professionals, and determined to be appropriate to reside in an
724 assisted living facility. The documentation must be provided to
725 the administrator of the facility within 30 days after the

586-03332-17

20171756c1

726 ~~mental health~~ resident has been admitted to the facility. An
727 evaluation completed upon discharge from a state mental health
728 treatment facility ~~hospital~~ meets the requirements of this
729 subsection related to appropriateness for services ~~placement~~ as
730 a ~~mental health~~ resident if it was completed within 90 days
731 before admission to the facility.

732 (b) A cooperative agreement, as required in s. 429.075, is
733 developed by the mental health or substance abuse ~~care~~ services
734 provider that serves a ~~mental health~~ resident and the
735 administrator of the assisted living facility with a limited
736 mental health license in which the ~~mental health~~ resident is
737 living.

738 (c) The community living support plan, as defined in s.
739 429.02, has been prepared by a ~~mental health~~ resident and his or
740 her mental health case manager in consultation with the
741 administrator of the facility or the administrator's designee.
742 The plan must be completed and provided to the administrator of
743 the assisted living facility with a limited mental health
744 license in which the ~~mental health~~ resident lives within 30 days
745 after the resident's admission. The support plan and the
746 agreement may be in one document.

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

750 (e) The ~~mental health~~ services provider assigns a case
751 manager to each ~~mental health~~ resident for whom the entity is
752 responsible. The case manager shall coordinate the development
753 and implementation of the community living support plan defined
754 in s. 429.02. The plan must be updated at least annually, or

586-03332-17

20171756c1

755 when there is a significant change in the resident's behavioral
756 health status. Each case manager shall keep a record of the date
757 and time of any face-to-face interaction with the resident and
758 make the record available to the responsible entity for
759 inspection. The record must be retained for at least 2 years
760 after the date of the most recent interaction.

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

764 (g) Concerns are reported to the appropriate regulatory
765 oversight organization if a regulated provider fails to deliver
766 appropriate services or otherwise acts in a manner that has the
767 potential to result in harm to the resident.

768 (3) The secretary ~~of Children and Families~~, in consultation
769 with the Agency for Health Care Administration, shall require
770 each regional ~~district~~ administrator to develop, with community
771 input, a detailed annual plan that demonstrates how the regional
772 office, in cooperation with service providers, ~~district~~ will
773 ensure the provision of state-funded mental health and substance
774 abuse treatment services to residents of assisted living
775 facilities that hold a limited mental health license. This plan
776 must ~~be consistent with the substance abuse and mental health~~
777 ~~district plan developed pursuant to s. 394.75 and must~~ address
778 case management services; access to consumer-operated drop-in
779 centers; access to services during evenings, weekends, and
780 holidays; supervision of the clinical needs of the residents;
781 and access to emergency psychiatric care.

782 Section 6. Section 394.458, Florida Statutes, is amended to
783 read:

586-03332-17

20171756c1

784 394.458 Introduction or removal of certain articles
785 unlawful; penalty.-

786 (1)~~(a)~~ Except as authorized by the facility administrator
787 for a lawful purpose ~~law or as specifically authorized by the~~
788 ~~person in charge of each hospital providing mental health~~
789 ~~services under this part,~~ it is unlawful to knowingly and
790 intentionally bring into any facility providing services under
791 this part, or to take or attempt to take or send therefrom, any
792 of the following articles ~~introduce into or upon the grounds of~~
793 ~~such hospital, or to take or attempt to take or send therefrom,~~
794 ~~any of the following articles, which are hereby declared to be~~
795 ~~contraband for the purposes of this section:~~

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

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

799 (c) Any imitation controlled substance as defined in s.
800 817.564; or

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

803 ~~(b) It is unlawful to transmit to, or attempt to transmit~~
804 ~~to, or cause or attempt to cause to be transmitted to, or~~
805 ~~received by, any patient of any hospital providing mental health~~
806 ~~services under this part any article or thing declared by this~~
807 ~~section to be contraband, at any place which is outside of the~~
808 ~~grounds of such hospital, except as authorized by law or as~~
809 ~~specifically authorized by the person in charge of such~~
810 ~~hospital.~~

811 (2) A person who violates any provision of this section
812 commits a felony of the third degree, punishable as provided in

586-03332-17

20171756c1

813 s. 775.082, s. 775.083, or s. 775.084.

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

817 Section 7. Section 394.459, Florida Statutes, is amended to
818 read:

819 394.459 Rights of individuals receiving mental health
820 treatment and services patients.-

821 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.-It is the policy of this
822 state that the ~~individual~~ dignity of all individuals held for
823 examination or admitted for mental health treatment ~~the patient~~
824 ~~shall~~ be respected at all times and upon all occasions,
825 including ~~any occasion~~ when the individual patient is taken into
826 custody, held, or transported. Procedures, facilities, vehicles,
827 and restraining devices used ~~utilized~~ for criminals or those
828 accused of a crime ~~may~~ ~~shall~~ not be used in connection with
829 individuals ~~persons~~ who have a mental illness, except for the
830 protection of the individual patient or others. Individuals
831 ~~Persons~~ who have a mental illness but who are not charged with a
832 criminal offense may ~~shall~~ not be detained or incarcerated in
833 the jails of this state. An individual ~~A person~~ who is receiving
834 treatment for mental illness may ~~shall~~ not be deprived of any
835 constitutional rights. However, if such an individual ~~a person~~
836 is adjudicated incapacitated, his or her rights may be limited
837 to the same extent the rights of any incapacitated individual
838 ~~person~~ are limited by law.

839 (2) RIGHT TO TREATMENT.-An individual held for examination
840 or admitted for mental health treatment:

841 (a) Shall ~~A person shall~~ not be denied treatment for mental

586-03332-17

20171756c1

842 illness and services shall not be delayed at a receiving or
843 treatment facility because of inability to pay. However, every
844 reasonable effort to collect appropriate reimbursement for the
845 cost of providing mental health services from individuals ~~to~~
846 ~~persons~~ able to pay for services, including insurance or third-
847 party payers ~~payments~~, shall be made by facilities providing
848 services under ~~pursuant to~~ this part.

849 (b) Shall be provided ~~It is further the policy of the state~~
850 ~~that~~ the least restrictive appropriate available treatment ~~be~~
851 ~~utilized~~ based on the individual's ~~individual~~ needs and best
852 interests, ~~of the patient and~~ consistent with the optimum
853 improvement of the individual's ~~patient's~~ condition.

854 (c) ~~Each person who remains at a receiving or treatment~~
855 ~~facility for more than 12 hours~~ Shall be given a physical
856 examination by a health practitioner authorized by law to give
857 such examinations and a mental health evaluation by a
858 psychiatrist, psychologist, or psychiatric nurse, in a mental
859 health receiving facility, within 24 hours after arrival at the
860 facility if the individual has not been released or discharged
861 pursuant to s. 394.463(2) (h) or s. 394.469. The physical
862 examination and mental health evaluation must be documented in
863 the clinical record. The physical and mental health examinations
864 shall include efforts to identify indicators and symptoms of
865 substance abuse impairment, substance abuse intoxication, and
866 substance abuse withdrawal, ~~within 24 hours after arrival at~~
867 ~~such facility.~~

868 (d) ~~Every patient in a facility~~ Shall be afforded the
869 opportunity to participate in activities designed to enhance
870 self-image and the beneficial effects of other treatments, as

586-03332-17

20171756c1

871 determined by the facility.

872 (e) Not more than 5 days after admission to a facility,
873 each patient shall have and receive an individualized treatment
874 plan in writing which the individual patient has had an
875 opportunity to assist in preparing and to review before ~~prior to~~
876 ~~its~~ implementation. The plan must ~~shall~~ include a space for the
877 individual's patient's comments and signature.

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

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

882 (a) If the individual patient has been adjudicated
883 incapacitated or found to be incompetent to consent to
884 treatment, express and informed consent must ~~to treatment shall~~
885 be sought instead from his or her the patient's guardian or
886 guardian advocate or health care surrogate or proxy. If the
887 individual patient is a minor, express and informed consent for
888 admission or treatment must be obtained from the minor's ~~shall~~
889 ~~also be requested from the patient's guardian. Express and~~
890 ~~informed consent for admission or treatment of a patient under~~
891 ~~18 years of age shall be required from the patient's guardian,~~
892 unless the minor is seeking outpatient crisis intervention
893 services under s. 394.4784. ~~Express and informed consent for~~
894 ~~admission or treatment given by a patient who is under 18 years~~
895 ~~of age shall not be a condition of admission when the patient's~~
896 ~~guardian gives express and informed consent for the patient's~~
897 ~~admission pursuant to s. 394.463 or s. 394.467.~~

898 (b)2. Before giving express and informed consent, the
899 following information shall be provided and explained in plain

586-03332-17

20171756c1

900 language to the individual and to his or her ~~patient,~~ or to the
901 ~~patient's~~ guardian if the individual is an adult ~~patient is 18~~
902 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~
903 to his or her ~~the patient's~~ guardian advocate if the individual
904 ~~patient~~ has been found to be incompetent to consent to
905 treatment, to the health care surrogate or proxy, or to both the
906 individual ~~patient~~ and the guardian if the individual ~~patient~~ is
907 a minor;± the reason for admission or treatment; the proposed
908 treatment; the purpose of the treatment to be provided; the
909 common risks, benefits, and side effects ~~thereof;~~ the specific
910 dosage range for the medication, if ~~when~~ applicable; alternative
911 treatment modalities; the approximate length of care; the
912 potential effects of stopping treatment; how treatment will be
913 monitored; and that any consent given for treatment may be
914 revoked orally or in writing before or during the treatment
915 period by the individual receiving treatment ~~patient~~ or by a
916 person who is legally authorized to make health care decisions
917 on the individual's behalf ~~of the patient.~~

918 ~~(b) In the case of medical procedures requiring the use of~~
919 ~~a general anesthetic or electroconvulsive treatment, and prior~~
920 ~~to performing the procedure, express and informed consent shall~~
921 ~~be obtained from the patient if the patient is legally~~
922 ~~competent, from the guardian of a minor patient, from the~~
923 ~~guardian of a patient who has been adjudicated incapacitated, or~~
924 ~~from the guardian advocate of the patient if the guardian~~
925 ~~advocate has been given express court authority to consent to~~
926 ~~medical procedures or electroconvulsive treatment as provided~~
927 ~~under s. 394.4598.~~

928 ~~(c) When the department is the legal guardian of a patient,~~

586-03332-17

20171756c1

929 ~~or is the custodian of a patient whose physician is unwilling to~~
930 ~~perform a medical procedure, including an electroconvulsive~~
931 ~~treatment, based solely on the patient's consent and whose~~
932 ~~guardian or guardian advocate is unknown or unlocatable, the~~
933 ~~court shall hold a hearing to determine the medical necessity of~~
934 ~~the medical procedure. The patient shall be physically present,~~
935 ~~unless the patient's medical condition precludes such presence,~~
936 ~~represented by counsel, and provided the right and opportunity~~
937 ~~to be confronted with, and to cross-examine, all witnesses~~
938 ~~alleging the medical necessity of such procedure. In such~~
939 ~~proceedings, the burden of proof by clear and convincing~~
940 ~~evidence shall be on the party alleging the medical necessity of~~
941 ~~the procedure.~~

942 ~~(d) The administrator of a receiving or treatment facility~~
943 ~~may, upon the recommendation of the patient's attending~~
944 ~~physician, authorize emergency medical treatment, including a~~
945 ~~surgical procedure, if such treatment is deemed lifesaving, or~~
946 ~~if the situation threatens serious bodily harm to the patient,~~
947 ~~and permission of the patient or the patient's guardian or~~
948 ~~guardian advocate cannot be obtained.~~

949 (4) QUALITY OF TREATMENT.—

950 (a) Each individual held for examination, admitted for
951 mental health treatment, or receiving involuntary treatment
952 patient shall receive services that are, including, for a
953 patient placed under s. 394.4655, those services included in the
954 court order which are suited to his or her needs, and which
955 shall be administered skillfully, safely, and humanely with full
956 respect for the individual's patient's dignity and personal
957 integrity. Each individual patient shall receive such medical,

586-03332-17

20171756c1

958 vocational, social, educational, and rehabilitative services as
959 his or her condition requires in order to live successfully in
960 the community. In order to achieve this goal, the department
961 shall ~~is directed to~~ coordinate its mental health programs with
962 all other programs of the department and other state agencies.

963 (b) Facilities shall develop and maintain, in a form
964 accessible to and readily understandable by individuals held for
965 examination, admitted for mental health treatment, or receiving
966 involuntary treatment ~~patients~~ and consistent with rules adopted
967 by the department, ~~the following~~:

968 1. Criteria, procedures, and required staff training for
969 the any use of close or elevated levels of supervision; ~~of~~
970 restraint, seclusion, or isolation; ~~or of~~ emergency treatment
971 orders; ~~and for the use of~~ bodily control and physical
972 management techniques.

973 2. Procedures for documenting, monitoring, and requiring
974 clinical review of all uses of the procedures described in
975 subparagraph 1. and for documenting and requiring review of any
976 incidents resulting in injury to individuals receiving services
977 ~~patients~~.

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

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

986 1. The death, regardless of cause or manner, of an

586-03332-17

20171756c1

987 individual examined or treated at a facility that occurs while
988 the individual is at the facility or that occurs within 72 hours
989 after release, if the death is known to the facility
990 administrator.

991 2. An injury sustained, or allegedly sustained, at a
992 facility, by an individual examined or treated at the facility
993 and caused by an accident, self-injury, assault, act of abuse,
994 neglect, or suicide attempt, if the injury requires medical
995 treatment by a licensed health care practitioner in an acute
996 care medical facility.

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

1000 4. A disaster or crisis situation such as a tornado,
1001 hurricane, kidnapping, riot, or hostage situation that
1002 jeopardizes the health, safety, or welfare of individuals
1003 examined or treated in a facility.

1004 5. An allegation of sexual battery upon an individual
1005 examined or treated in a facility.

1006 (d)(e) A facility may not use seclusion or restraint for
1007 punishment, ~~in compensation to compensate~~ for inadequate
1008 staffing, or for the convenience of staff. Facilities shall
1009 ensure that all staff, contractors, and volunteers are made
1010 aware of these restrictions ~~on the use of seclusion and~~
1011 ~~restraint and shall make and maintain records which demonstrate~~
1012 that this information has been conveyed to each staff member,
1013 contractor, and volunteer ~~individual staff members.~~

1014 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

1015 (a) Each individual held for examination or admitted for

586-03332-17

20171756c1

1016 ~~mental health treatment person receiving services~~ in a facility
1017 providing ~~mental health~~ services under this part has the right
1018 to communicate freely and privately with persons outside the
1019 facility unless it is determined that such communication is
1020 likely to be harmful to the individual ~~person~~ or others. Each
1021 facility shall make ~~available as soon as reasonably possible to~~
1022 ~~persons receiving services~~ a telephone that allows for free
1023 local calls and access to a long-distance service available to
1024 the individual as soon as reasonably possible. A facility is not
1025 required to pay the costs of an individual's ~~a patient's~~ long-
1026 distance calls. The telephone must ~~shall~~ be readily accessible
1027 ~~to the patient~~ and ~~shall be~~ placed so that the individual
1028 ~~patient~~ may use it to communicate privately and confidentially.
1029 The facility may establish reasonable rules for the use of this
1030 telephone which, ~~provided that the rules~~ do not interfere with
1031 an individual's ~~a patient's~~ access to a telephone to report
1032 abuse pursuant to paragraph (e).

1033 (b) Each individual ~~patient~~ admitted to a facility under
1034 ~~the provisions of~~ this part is ~~shall be~~ allowed to receive,
1035 send, and mail sealed, unopened correspondence; and the
1036 individual's ~~no patient's~~ incoming or outgoing correspondence
1037 may not ~~shall~~ be opened, delayed, held, or censored by the
1038 facility unless there is reason to believe that it contains
1039 items or substances that ~~which~~ may be harmful to the individual
1040 ~~patient~~ or others, in which case the administrator may direct
1041 reasonable examination of such mail and may regulate the
1042 disposition of such items or substances.

1043 (c) Each facility shall allow ~~must permit~~ immediate access
1044 to an individual held for examination or admitted for mental

586-03332-17

20171756c1

1045 health treatment ~~any patient~~, subject to the ~~patient's~~ right to
1046 deny or withdraw consent at any time, by the individual, or by
1047 the individual's ~~patient's~~ family members, guardian, guardian
1048 advocate, health care surrogate or proxy, representative,
1049 ~~Florida statewide or local advocacy council~~, or attorney, unless
1050 such access would be detrimental to the individual ~~patient~~. If
1051 ~~the a patient's~~ right to communicate or to receive visitors is
1052 restricted by the facility, written notice of such restriction
1053 and the reasons for the restriction shall be served on the
1054 individual and the individual's attorney, ~~patient, the patient's~~
1055 ~~attorney, and the patient's~~ guardian, guardian advocate, health
1056 care surrogate or proxy, or representative; and such restriction
1057 and the reason for the restriction, shall be recorded in ~~on~~ the
1058 ~~patient's~~ clinical record ~~with the reasons therefor~~. The
1059 restriction must ~~of a patient's right to communicate or to~~
1060 ~~receive visitors shall~~ be reviewed at least every 7 days. The
1061 right to communicate or receive visitors may ~~shall~~ not be
1062 restricted as a means of punishment. ~~Nothing in~~ This paragraph
1063 does not ~~shall be construed to~~ limit the establishment of rules
1064 under ~~provisions of~~ paragraph (d).

1065 (d) Each facility shall establish reasonable rules
1066 governing visitors, visiting hours, and the use of telephones by
1067 individuals held for examination or admitted for mental health
1068 treatment ~~patients~~ in the least restrictive possible manner. An
1069 individual has ~~Patients shall have~~ the right to contact and to
1070 receive communication from his or her ~~their~~ attorneys at any
1071 reasonable time.

1072 (e) Each individual held for examination or admitted for
1073 mental health treatment ~~patient receiving mental health~~

586-03332-17

20171756c1

1074 ~~treatment in any facility~~ shall have ready access to a telephone
1075 in order to report an alleged abuse. The facility staff shall
1076 orally and in writing inform each individual patient of the
1077 procedure for reporting abuse and shall make every reasonable
1078 effort to present the information in a language that the
1079 individual patient understands. A written copy of that
1080 procedure, including the telephone number of the central abuse
1081 hotline and reporting forms, shall be posted in plain view.

1082 (f) The department must ~~shall~~ adopt rules providing a
1083 procedure for reporting alleged abuse. Facility staff ~~shall be~~
1084 ~~required~~, as a condition of employment, must ~~to~~ become familiar
1085 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

1086 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ The
1087 rights of an individual held for examination or admitted for
1088 mental health treatment ~~A patient's right~~ to the possession of
1089 his or her clothing and personal effects shall be respected. The
1090 facility may take temporary custody of such effects if when
1091 required for medical and safety reasons. The ~~A patient's~~
1092 clothing and personal effects shall be inventoried upon their
1093 removal into temporary custody. Copies of this inventory shall
1094 be given to the individual and his or her patient ~~and to the~~
1095 ~~patient's~~ guardian, guardian advocate, health care surrogate or
1096 proxy, or representative and shall be recorded in the ~~patient's~~
1097 clinical record. This inventory may be amended upon the request
1098 of the individual and his or her patient ~~or the patient's~~
1099 guardian, guardian advocate, health care surrogate or proxy, or
1100 representative. The inventory and any amendments to it must be
1101 witnessed by two members of the facility staff and by the
1102 individual patient, if able. All of the ~~a patient's~~ clothing and

586-03332-17

20171756c1

1103 personal effects held by the facility must ~~shall~~ be returned to
1104 the individual patient immediately upon his or her ~~the~~ discharge
1105 or transfer ~~of the patient~~ from the facility, unless such return
1106 would be detrimental to the individual patient. If personal
1107 effects are not returned ~~to the patient~~, the reason must be
1108 documented in the clinical record along with the disposition of
1109 the clothing and personal effects, which may be given instead to
1110 the individual's patient's guardian, guardian advocate, health
1111 care surrogate or proxy, or representative. As soon as
1112 practicable after an emergency transfer ~~of a patient~~, the
1113 individual's patient's clothing and personal effects shall be
1114 transferred to the individual's patient's new location, together
1115 with a copy of the inventory and any amendments, unless an
1116 alternate plan is approved by the individual patient, if he or
1117 she is able, and by his or her ~~the patient's~~ guardian, guardian
1118 advocate, health care surrogate or proxy, or representative.

1119 (7) VOTING IN PUBLIC ELECTIONS.—An individual held for
1120 examination or admitted for mental health treatment ~~A patient~~
1121 who is eligible to vote according to the laws of the state has
1122 the right to vote in ~~the~~ primary, and general, and special
1123 elections. The department shall establish rules to enable such
1124 individuals patients to obtain voter registration forms,
1125 applications for vote-by-mail ballots, and vote-by-mail ballots.

1126 (8) HABEAS CORPUS.—

1127 (a) At any time, and without notice, an individual held for
1128 mental health examination or admitted for inpatient treatment in
1129 ~~a person held in a receiving or treatment~~ facility, or a
1130 relative, friend, guardian, guardian advocate, health care
1131 surrogate or proxy, representative, or attorney, or the

586-03332-17

20171756c1

1132 department, on behalf of such individual ~~person~~, may petition
1133 for a writ of habeas corpus to question the cause and legality
1134 of such detention and request that the court order a return to
1135 the writ in accordance with chapter 79. Each individual ~~patient~~
1136 held in a facility shall receive a written notice of the right
1137 to petition for a writ of habeas corpus.

1138 (b) At any time, and without notice, an individual held for
1139 mental health examination or admitted for inpatient treatment ~~a~~
1140 ~~person who is a patient~~ in a ~~receiving or treatment~~ facility, or
1141 a relative, friend, guardian, guardian advocate, health care
1142 surrogate or proxy, representative, or attorney, or the
1143 department, on behalf of such individual ~~person~~, may file a
1144 petition in the circuit court in the county where the individual
1145 ~~patient~~ is being held alleging that he or she ~~the patient~~ is
1146 being unjustly denied a right or privilege granted under this
1147 part herein or that a procedure authorized under this part
1148 ~~herein~~ is being abused. Upon the filing of such a petition, the
1149 court may ~~shall have the authority~~ to conduct a judicial inquiry
1150 and ~~to~~ issue any order ~~needed~~ to correct an abuse of the
1151 provisions of this part.

1152 (c) The administrator of any ~~receiving or treatment~~
1153 facility receiving a petition under this subsection shall file
1154 the petition with the clerk of the court no later than on the
1155 next court working day.

1156 (d) A No fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a
1157 petition under this subsection.

1158 (9) VIOLATIONS.—The department shall report to the Agency
1159 for Health Care Administration any violation of the rights or
1160 privileges of individuals ~~patients~~, or of any procedures

586-03332-17

20171756c1

1161 provided under this part, by any facility or professional
1162 licensed or regulated under state law ~~by the agency~~. ~~The agency~~
1163 ~~is authorized to impose~~ Any sanction authorized for violation of
1164 this part may be imposed, based solely on the investigation and
1165 findings of the department.

1166 (10) LIABILITY FOR VIOLATIONS.—~~A~~ Any person who violates or
1167 abuses the any rights or privileges of individuals held or
1168 admitted for mental health treatment ~~patients~~ provided under ~~by~~
1169 this part is liable for damages as determined by law. A ~~Any~~
1170 person who acts reasonably, in good faith, and without
1171 negligence in compliance with ~~the provisions of~~ this part is
1172 immune from civil or criminal liability for his or her actions
1173 in connection with the preparation or execution of petitions,
1174 applications, certificates, reports, or other documents
1175 initiating admission to a facility or the apprehension,
1176 detention, transportation, examination, admission, diagnosis,
1177 treatment, or discharge of an individual ~~a patient~~ to or from a
1178 facility. ~~However, this section does not relieve any person from~~
1179 ~~liability if such person commits negligence.~~

1180 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE
1181 PLANNING.—An individual held for examination or admitted for
1182 mental health treatment ~~The patient~~ shall have the opportunity
1183 to participate in treatment and discharge planning and shall be
1184 notified in writing of his or her right, upon discharge from the
1185 facility, to seek treatment from the professional or agency of
1186 the individual's ~~patient's~~ choice.

1187 (12) POSTING OF NOTICE OF RIGHTS ~~OF PATIENTS~~.—Each facility
1188 shall post a notice that lists and describes ~~listing and~~
1189 ~~describing~~, in the language and terminology that the individual

586-03332-17

20171756c1

1190 ~~persons to whom the notice is addressed~~ can understand, the
1191 rights provided under ~~in~~ this section. This notice must ~~shall~~
1192 include a statement that ~~provisions of~~ the federal Americans
1193 with Disabilities Act apply and the name and telephone number of
1194 a person to contact for further information. The ~~This~~ notice
1195 must ~~shall~~ be posted in a place readily accessible to
1196 individuals ~~patients~~ and in a format easily seen by the
1197 individuals served ~~patients~~. The ~~This~~ notice must ~~shall~~ include
1198 the telephone numbers of Disability Rights Florida, Inc ~~the~~
1199 ~~Florida local advocacy council and Advocacy Center for Persons~~
1200 ~~with Disabilities, Inc.~~

1201 Section 8. Section 394.4593, Florida Statutes, is amended
1202 to read:

1203 394.4593 Sexual misconduct prohibited; reporting required;
1204 penalties.—

1205 (1) As used in this section, the term:

1206 (a) "Employee" means ~~includes any~~ paid staff member,
1207 volunteer, or intern of the department or a service provider
1208 providing services pursuant to this part; any person under
1209 contract with the department or a service provider providing
1210 services pursuant to this part; and any person providing care or
1211 support to an individual ~~a client~~ on behalf of the department or
1212 its service providers.

1213 (b) "Sexual activity" means:

1214 1. Fondling the genital area, groin, inner thighs,
1215 buttocks, or breasts of an individual ~~a person~~.

1216 2. The oral, anal, or vaginal penetration by or union with
1217 the sexual organ of another or the anal or vaginal penetration
1218 of another by any other object.

586-03332-17

20171756c1

1219 3. Intentionally touching in a lewd or lascivious manner
 1220 the breasts, genitals, the genital area, or buttocks, or the
 1221 clothing covering them, of an individual ~~a person~~, or forcing or
 1222 enticing an individual ~~a person~~ to touch the perpetrator.

1223 4. Intentionally masturbating in the presence of another
 1224 individual person.

1225 5. Intentionally exposing the genitals in a lewd or
 1226 lascivious manner in the presence of another individual ~~person~~.

1227 6. Intentionally committing any other sexual act that does
 1228 not involve actual physical or sexual contact with another
 1229 individual ~~the victim~~, including, but not limited to,
 1230 sadomasochistic abuse, sexual bestiality, or the simulation of
 1231 any act involving sexual activity in the presence of the
 1232 individual ~~a victim~~.

1233 (c) "Sexual misconduct" means any sexual activity between
 1234 an employee and an individual held or admitted for examination
 1235 or treatment pursuant to this part ~~a patient~~, regardless of the
 1236 consent of that individual ~~the patient~~. The term does not
 1237 include an act done for a bona fide medical purpose or an
 1238 internal search conducted in the lawful performance of duty by
 1239 an employee.

1240 (2) An employee who engages in sexual misconduct with an
 1241 individual ~~a patient who:~~

1242 ~~(a) Is in the custody of the department; or~~

1243 ~~(b) Resides in a receiving facility or a treatment~~
 1244 ~~facility, as those terms are defined in s. 394.455,~~

1245
 1246 commits a felony of the second degree, punishable as provided in
 1247 s. 775.082, s. 775.083, or s. 775.084. An employee may be found

586-03332-17

20171756c1

1248 guilty of violating this subsection without having committed the
1249 crime of sexual battery.

1250 (3) The consent of an individual held or admitted for
1251 examination or treatment ~~the patient~~ to sexual activity is not a
1252 defense to prosecution under this section.

1253 (4) This section does not apply to an employee who, at the
1254 time of the sexual activity:

1255 (a) Is legally married to the individual involved in the
1256 sexual activity ~~patient~~; or

1257 (b) Has no reason to believe that the individual involved
1258 in the sexual activity is held or admitted for examination or
1259 treatment pursuant to this part ~~person with whom the employee~~
1260 ~~engaged in sexual misconduct is a patient receiving services as~~
1261 ~~described in subsection (2).~~

1262 (5) An employee who witnesses sexual misconduct, or who
1263 otherwise knows or has reasonable cause to suspect that a person
1264 has engaged in sexual misconduct, shall immediately report the
1265 incident to the department's central abuse hotline and to the
1266 appropriate local law enforcement agency. Such employee shall
1267 also prepare, date, and sign an independent report that
1268 specifically describes the nature of the sexual misconduct, the
1269 location and time of the incident, and the persons involved. The
1270 employee shall deliver the report to the supervisor or program
1271 director, who is responsible for providing copies to the
1272 department's inspector general. The inspector general shall
1273 immediately conduct an appropriate administrative investigation,
1274 and, if there is probable cause to believe that sexual
1275 misconduct has occurred, the inspector general shall notify the
1276 state attorney in the circuit in which the incident occurred.

586-03332-17

20171756c1

1277 (6) (a) Any person who is required to make a report under
1278 this section and who knowingly or willfully fails to do so, or
1279 who knowingly or willfully prevents another person from doing
1280 so, commits a misdemeanor of the first degree, punishable as
1281 provided in s. 775.082 or s. 775.083.

1282 (b) Any person who knowingly or willfully submits
1283 inaccurate, incomplete, or untruthful information with respect
1284 to a report required under this section commits a misdemeanor of
1285 the first degree, punishable as provided in s. 775.082 or s.
1286 775.083.

1287 (c) Any person who knowingly or willfully coerces or
1288 threatens any other person with the intent to alter testimony or
1289 a written report regarding an incident of sexual misconduct
1290 commits a felony of the third degree, punishable as provided in
1291 s. 775.082, s. 775.083, or s. 775.084.

1292 (7) The provisions and penalties set forth in this section
1293 are in addition to any other civil, administrative, or criminal
1294 action provided by law which may be applied against an employee.

1295 Section 9. Section 394.4595, Florida Statutes, is repealed.

1296 Section 10. Section 394.4596, Florida Statutes, is created
1297 to read:

1298 394.4596 Federally mandated protection and advocacy system
1299 for individuals with disabilities.—The agency designated by the
1300 governor as the federally mandated protection and advocacy
1301 system for individuals with disabilities has specific access
1302 authority under federal law to facilities, individuals,
1303 information, and records. Any facility defined in s. 394.455(12)
1304 shall allow this agency to exercise access authority provided to
1305 it by state and federal law.

586-03332-17

20171756c1

1306 Section 11. Section 394.4597, Florida Statutes, is amended
1307 to read:

1308 394.4597 Persons to be notified; individual's ~~patient's~~
1309 representative.—

1310 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual
1311 ~~a patient~~ is voluntarily admitted to a receiving or treatment
1312 facility, the individual shall be asked to identify a person to
1313 be notified in case of an emergency, and the identity and
1314 contact information of that a person ~~to be notified in case of~~
1315 ~~an emergency~~ shall be entered in the ~~patient's~~ clinical record.

1316 (2) INVOLUNTARY ADMISSION PATIENTS.—

1317 (a) At the time an individual ~~a patient~~ is admitted to a
1318 facility for involuntary examination or services placement, or
1319 when a petition for involuntary services placement is filed, the
1320 name, address, and telephone number ~~names, addresses, and~~
1321 ~~telephone numbers~~ of the individual's ~~patient's~~ guardian or
1322 guardian advocate, health care surrogate or proxy, or
1323 representative if he or she ~~the patient~~ has no guardian, and the
1324 individual's ~~patient's~~ attorney shall be entered in the
1325 ~~patient's~~ clinical record.

1326 (b) If the individual ~~patient~~ has no guardian, guardian
1327 advocate, health care surrogate, or proxy, ~~he or she~~ ~~the patient~~
1328 shall be asked to designate a representative. If the individual
1329 ~~patient~~ is unable or unwilling to designate a representative,
1330 the facility shall select a representative.

1331 (c) The individual ~~patient~~ shall be consulted with regard
1332 to the selection of a representative by the receiving or
1333 treatment facility and may ~~shall have authority to~~ request that
1334 the ~~any such~~ representative be replaced.

586-03332-17

20171756c1

1335 (d) ~~If~~ ~~When~~ the receiving or treatment facility selects a
1336 representative, first preference shall be given to a health care
1337 surrogate, if one has been previously selected ~~by the patient~~.
1338 If the individual patient has not previously selected a health
1339 care surrogate, the selection, except for good cause documented
1340 in the ~~patient's~~ clinical record, shall be made from the
1341 following list in the order of listing:

- 1342 1. The individual's ~~patient's~~ spouse.
- 1343 2. An adult child of the individual patient.
- 1344 3. A parent of the individual patient.
- 1345 4. The adult next of kin of the individual patient.
- 1346 5. An adult friend of the individual patient.

1347 (e) The following persons are prohibited from selection as
1348 an individual's ~~a patient's~~ representative:

- 1349 1. A professional providing clinical services to the
1350 individual patient under this part.
- 1351 2. The licensed professional who initiated the involuntary
1352 examination of the individual patient, if the examination was
1353 initiated by professional certificate.
- 1354 3. An employee, a volunteer, a contractor, an
1355 administrator, or a board member of the facility providing the
1356 examination of the individual patient.
- 1357 4. An employee, a volunteer, a contractor, an
1358 administrator, or a board member of a treatment facility
1359 providing treatment for the individual patient.
- 1360 5. A person providing any substantial professional services
1361 to the individual patient, including clinical services.
- 1362 6. A creditor of the individual patient.
- 1363 7. A person who is a party ~~subject~~ to an injunction for

586-03332-17

20171756c1

1364 protection against domestic violence under s. 741.30, whether
1365 the order of injunction is temporary or final, and for which the
1366 individual ~~patient~~ was the petitioner.

1367 8. A person who is a party ~~subject~~ to an injunction for
1368 protection against repeat violence, stalking, sexual violence,
1369 or dating violence under s. 784.046, whether the order of
1370 injunction is temporary or final, and for which the individual
1371 ~~patient~~ was the petitioner.

1372 (f) The representative selected by the individual or
1373 designated by the facility has the right, authority, and
1374 responsibility to:

- 1375 1. Receive notice of the individual's admission;
- 1376 2. Receive notice of proceedings affecting the individual;
- 1377 3. Have immediate access to the individual unless such
1378 access is documented to be detrimental to the individual;
- 1379 4. Receive notice of any restriction of the individual's
1380 right to communicate or receive visitors;
- 1381 5. Receive a copy of the inventory of clothing and personal
1382 effects upon the individual's admission and to request an
1383 amendment to the inventory at any time;
- 1384 6. Receive disposition of the individual's clothing and
1385 personal effects if not returned to the individual, or to
1386 approve an alternate plan;
- 1387 7. Petition on behalf of the individual for a writ of
1388 habeas corpus to question the cause and legality of the
1389 individual's detention or to allege that the individual is being
1390 unjustly denied a right or privilege granted under this part, or
1391 that a procedure authorized under this part is being abused;
- 1392 8. Apply for a change of venue for the individual's

586-03332-17

20171756c1

1393 involuntary services placement hearing for the convenience of
1394 the parties or witnesses or because of the individual's
1395 condition;

1396 9. Receive written notice of any restriction of the
1397 individual's right to inspect his or her clinical record;

1398 10. Receive notice of the release of the individual from a
1399 receiving facility where an involuntary examination was
1400 performed;

1401 11. Receive a copy of any petition for the individual's
1402 involuntary services filed with the court; and

1403 12. Be informed by the court of the individual's right to
1404 an independent expert evaluation pursuant to involuntary
1405 services procedures.

1406 Section 12. Section 394.4598, Florida Statutes, is amended
1407 to read:

1408 394.4598 Guardian advocate.—

1409 (1) The administrator may petition the court for the
1410 appointment of a guardian advocate based upon the opinion of a
1411 psychiatrist that an individual held for examination or admitted
1412 for mental health treatment ~~the patient~~ is incompetent to
1413 consent to treatment. If the court finds that the individual ~~a~~
1414 ~~patient~~ is incompetent to consent to treatment and has not been
1415 adjudicated incapacitated and a guardian having ~~with the~~
1416 authority to consent to mental health or substance abuse
1417 treatment has not been appointed, it shall appoint a guardian
1418 advocate. The individual ~~patient~~ has the right to have an
1419 attorney represent him or her at the hearing. If the individual
1420 is not otherwise represented by counsel and ~~person~~ is indigent,
1421 the court shall appoint the office of the public defender to

586-03332-17

20171756c1

1422 represent him or her at the hearing. The individual patient has
1423 the right to testify, cross-examine witnesses, and present
1424 witnesses. The proceeding must ~~shall~~ be recorded either
1425 electronically or stenographically, and testimony shall be
1426 ~~provided~~ under oath. One of the professionals authorized to give
1427 an opinion in support of a petition for involuntary services
1428 ~~placement~~, as described in ~~s. 394.4655~~ or s. 394.467, shall ~~must~~
1429 testify. The ~~A~~ guardian advocate shall ~~must~~ meet the
1430 qualifications of a guardian pursuant to ~~contained in~~ part IV of
1431 chapter 744. A person may not be appointed as a guardian
1432 advocate unless he or she agrees, ~~except that a professional~~
1433 ~~referred to in this part, an employee of the facility providing~~
1434 ~~direct services to the patient under this part, a departmental~~
1435 ~~employee, a facility administrator, or member of the Florida~~
1436 ~~local advocacy council shall not be appointed. A person who is~~
1437 ~~appointed as a guardian advocate must agree to the appointment.~~

1438 (2) The following persons are prohibited from being
1439 appointed as an individual's ~~appointment as a patient's~~ guardian
1440 advocate:

1441 (a) A professional providing clinical services to the
1442 individual patient under this part.

1443 (b) The licensed professional who initiated the involuntary
1444 examination of the individual patient, if the examination was
1445 initiated by professional certificate.

1446 (c) An employee, a contractor, a volunteer, an
1447 administrator, or a board member of the facility providing the
1448 examination of the individual patient.

1449 (d) An employee, a contractor, a volunteer, an
1450 administrator, or a board member of a treatment facility

586-03332-17

20171756c1

1451 providing treatment of the individual patient.

1452 (e) A person providing any substantial professional
1453 services, excluding public and professional guardians, to the
1454 individual patient, including clinical services.

1455 (f) A creditor of the individual patient.

1456 (g) A party person ~~subject~~ to an injunction for protection
1457 against domestic violence under s. 741.30, whether the order of
1458 injunction is temporary or final, and for which the individual
1459 ~~patient~~ was the petitioner.

1460 (h) A party person ~~subject~~ to an injunction for protection
1461 against repeat violence, stalking, sexual violence, or dating
1462 violence under s. 784.046, whether the order of injunction is
1463 temporary or final, and for which the individual patient was the
1464 petitioner.

1465 (3) A facility requesting appointment of a guardian
1466 advocate shall, before ~~must, prior to~~ the appointment, provide
1467 the prospective guardian advocate with information concerning
1468 ~~about~~ the duties and responsibilities of guardian advocates,
1469 including the information about the ethics of medical
1470 decisionmaking. Before asking a guardian advocate to give
1471 consent to treatment for an individual held for examination or
1472 admitted for mental health treatment ~~a patient~~, the facility
1473 shall provide all disclosures required under s. 394.459(3)(a)2
1474 ~~to the guardian advocate sufficient information so that the~~
1475 ~~guardian advocate can decide whether to give express and~~
1476 ~~informed consent to the treatment, including information that~~
1477 ~~the treatment is essential to the care of the patient, and that~~
1478 ~~the treatment does not present an unreasonable risk of serious,~~
1479 ~~hazardous, or irreversible side effects.~~ Before giving consent

586-03332-17

20171756c1

1480 to treatment, the guardian advocate shall ~~must~~ meet and talk
1481 with the individual ~~patient~~ and the individual's ~~patient's~~
1482 physician face-to-face in person, if ~~at all~~ possible, and by
1483 telephone, if not. The guardian advocate shall make every effort
1484 to make decisions regarding treatment that he or she believes
1485 the individual would have made under the circumstances if the
1486 individual were capable of making such decision. The decision of
1487 the guardian advocate may be reviewed by the court, upon
1488 petition of the individual's ~~patient's~~ attorney, the
1489 individual's ~~patient's~~ family, or the facility administrator.

1490 (4) In lieu of the training required of guardians appointed
1491 under ~~pursuant to~~ chapter 744, a guardian advocate must, at a
1492 minimum, complete ~~participate~~ in a 4-hour training course
1493 approved by the court before exercising his or her authority. At
1494 a minimum, this training course must include information
1495 concerning rights of the individual ~~about patient rights~~,
1496 psychotropic medications, the diagnosis of mental illness, the
1497 ethics of medical decisionmaking, and duties of guardian
1498 advocates.

1499 (5) The required training course and the information
1500 provided ~~to be supplied~~ to prospective guardian advocates before
1501 their appointment must be developed by the department and~~r~~
1502 approved by the chief judge of the circuit court, and taught by
1503 a court-approved organization, which may include, but is not
1504 limited to, a community college, a guardianship organization, a
1505 local bar association, or The Florida Bar. The training course
1506 may be web-based, provided in video format, or other electronic
1507 means but must be capable of ensuring the identity and
1508 participation of the prospective guardian advocate. The court

586-03332-17

20171756c1

1509 may waive some or all of the training requirements for guardian
1510 advocates or impose additional requirements. The court shall
1511 make its decision on a case-by-case basis and, in making its
1512 decision, shall consider the experience and education of the
1513 guardian advocate, the duties assigned to the guardian advocate,
1514 and the needs of the individual subject to involuntary services
1515 patient.

1516 (6) In selecting a guardian advocate, the court shall give
1517 preference to a health care surrogate, if one has already been
1518 designated by the individual held for examination or admitted
1519 for mental health treatment patient. If the individual patient
1520 has not previously selected a health care surrogate, except for
1521 good cause documented in the court record, the selection shall
1522 be made from the following list in the order of listing:

- 1523 (a) The individual's patient's spouse.
1524 (b) An adult child of the individual patient.
1525 (c) A parent of the individual patient.
1526 (d) The adult next of kin of the individual patient.
1527 (e) An adult friend of the individual patient.
1528 (f) An adult trained and willing to serve as guardian
1529 advocate for the individual patient.

1530 (7) If a guardian having ~~with the~~ authority to consent to
1531 medical treatment has not already been appointed or if the
1532 individual held for examination or admitted for mental health
1533 treatment patient has not already designated a health care
1534 surrogate, the court may authorize the guardian advocate to
1535 consent to medical treatment, as well as mental health and
1536 substance abuse treatment. Unless otherwise limited by the
1537 court, a guardian advocate who has ~~with~~ authority to consent to

586-03332-17

20171756c1

1538 medical treatment has ~~shall have~~ the same authority to make
1539 health care decisions and is ~~be~~ subject to the same restrictions
1540 as a proxy appointed under part IV of chapter 765.

1541 (a) Unless the guardian advocate has sought and received
1542 express court approval in proceeding separate from the
1543 proceeding to determine the competence of the individual patient
1544 to consent to medical treatment, the guardian advocate may not
1545 consent to:

1546 1.(a) Abortion.

1547 2.(b) Sterilization.

1548 3.(c) Electroconvulsive treatment.

1549 4.(d) Psychosurgery.

1550 5.(e) Experimental treatments that have not been approved
1551 by a federally approved institutional review board in accordance
1552 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1553 (b) The court must base its decision on evidence that the
1554 treatment or procedure is essential to the care of the patient
1555 and that the treatment does not present an unreasonable risk of
1556 serious, hazardous, or irreversible side effects. The court
1557 shall follow the procedures set forth in subsection (1) of this
1558 section.

1559 (8) The guardian advocate shall be discharged when the
1560 individual for whom he or she is appointed patient is discharged
1561 from an order for involuntary services ~~outpatient placement or~~
1562 ~~involuntary inpatient placement~~ or when the individual patient
1563 is transferred from involuntary to voluntary status. The court
1564 ~~or a hearing officer~~ shall consider the competence of the
1565 individual patient pursuant to subsection (1) and may consider
1566 the competence to consent to treatment of an individual on

586-03332-17

20171756c1

1567 ~~involuntary status an involuntarily placed patient's competence~~
1568 ~~to consent to treatment~~ at any hearing. Upon sufficient
1569 evidence, the court may restore the individual's, ~~or the hearing~~
1570 ~~officer may recommend that the court restore, the patient's~~
1571 competence. A copy of the order restoring competence or the
1572 certificate of discharge containing the restoration of
1573 competence shall be provided to the individual ~~patient~~ and the
1574 guardian advocate.

1575 Section 13. Paragraphs (c) and (d) of subsection (2) of
1576 section 394.4599, Florida Statutes, are amended to read:

1577 394.4599 Notice.—

1578 (2) INVOLUNTARY ADMISSION.—

1579 (c)1. A receiving facility shall give notice of the
1580 whereabouts of a minor who is being involuntarily held for
1581 examination pursuant to s. 394.463 to the minor's parent,
1582 guardian, caregiver, or guardian advocate, in person or by
1583 telephone or other form of electronic communication, immediately
1584 after the minor's arrival at the facility. The facility may
1585 delay notification for no more than 24 hours after the minor's
1586 arrival if the facility has submitted a report to the central
1587 abuse hotline, pursuant to s. 39.201, based upon knowledge or
1588 suspicion of abuse, abandonment, or neglect and if the facility
1589 deems a delay in notification to be in the minor's best
1590 interest.

1591 2. The receiving facility shall attempt to notify the
1592 minor's parent, guardian, caregiver, or guardian advocate until
1593 the receiving facility receives confirmation from the parent,
1594 guardian, caregiver, or guardian advocate, verbally, by
1595 telephone or other form of electronic communication, or by

586-03332-17

20171756c1

1596 recorded message, that notification has been received. Attempts
1597 to notify the parent, guardian, caregiver, or guardian advocate
1598 must be repeated at least once every hour during the first 12
1599 hours after the minor's arrival and once every 24 hours
1600 thereafter and must continue until such confirmation is
1601 received, unless the minor is released at the end of the 72-hour
1602 examination period, or until a petition for involuntary services
1603 is filed with the court pursuant to s. 394.463(2)(f)
1604 ~~394.463(2)(g)~~. The receiving facility may seek assistance from a
1605 law enforcement agency to notify the minor's parent, guardian,
1606 caregiver, or guardian advocate if the facility has not received
1607 within the first 24 hours after the minor's arrival a
1608 confirmation by the parent, guardian, caregiver, or guardian
1609 advocate that notification has been received. The receiving
1610 facility must document notification attempts in the minor's
1611 clinical record.

1612 (d) The written notice of the filing of the petition for
1613 involuntary services for an individual being held must contain
1614 the following:

1615 1. Notice that the petition for:

1616 ~~a.~~ involuntary services ~~inpatient treatment~~ pursuant to s.
1617 394.467 has been filed with the circuit court in the county in
1618 which the individual is hospitalized and the address of such
1619 court; or

1620 b. Involuntary outpatient services pursuant to s. 394.4655
1621 has been filed with the criminal county court, as defined in s.
1622 394.4655(1), or the circuit court, as applicable, in the county
1623 in which the individual is hospitalized and the address of such
1624 court.

586-03332-17

20171756c1

1625 2. Notice that the office of the public defender has been
1626 appointed to represent the individual in the proceeding, if the
1627 individual is not otherwise represented by counsel.

1628 3. The date, time, and place of the hearing and the name of
1629 each examining expert and every other person expected to testify
1630 in support of continued detention.

1631 4. Notice that the individual, the individual's guardian,
1632 guardian advocate, health care surrogate or proxy, or
1633 representative, or the administrator may apply for a change of
1634 venue for the convenience of the parties or witnesses or because
1635 of the condition of the individual.

1636 5. Notice that the individual is entitled to an independent
1637 expert examination and, if the individual cannot afford such an
1638 examination, that the court will provide for one.

1639 Section 14. Section 394.460, Florida Statutes, is repealed.

1640 Section 15. Section 394.461, Florida Statutes, is amended
1641 to read:

1642 394.461 Designation of receiving and treatment facilities
1643 and receiving systems.—The department may ~~is authorized to~~
1644 designate and monitor receiving facilities, treatment
1645 facilities, and receiving systems and may suspend or withdraw
1646 such designation for failure to comply with this part and rules
1647 adopted under this part. Only governmental facilities and
1648 facilities ~~Unless~~ designated by the department may, ~~facilities~~
1649 ~~are not permitted to hold or treat~~ individuals on an involuntary
1650 basis ~~patients under this part.~~

1651 (1) RECEIVING FACILITY.—The department may designate any
1652 ~~community facility as a receiving facility. Any other facility~~
1653 within the state, including a private facility, as a receiving

586-03332-17

20171756c1

1654 ~~facility if or a federal facility, may be so designated by the~~
1655 ~~department, provided that~~ such designation is agreed to by the
1656 governing body or authority of the facility.

1657 (2) TREATMENT FACILITY.—The department may designate any
1658 state-owned, state-operated, or state-supported facility as a
1659 state treatment facility. An individual may ~~A civil patient~~
1660 ~~shall~~ not be admitted to a civil state treatment facility
1661 without previously undergoing a transfer evaluation. Before a
1662 court hearing for involuntary services placement ~~placement~~ in a state
1663 treatment facility, the court shall receive and consider the
1664 information documented in the transfer evaluation. Any other
1665 facility, including a private facility or a governmental ~~federal~~
1666 facility, may be designated as a treatment facility by the
1667 department, if the ~~provided that~~ such designation is agreed to
1668 by the appropriate governing body or authority of the facility.

1669 (3) GOVERNMENTAL FACILITIES.—Governmental facilities may
1670 provide voluntary and involuntary mental health or substance
1671 abuse examination and treatment for individuals in their care
1672 and custody using the procedures provided in this part and shall
1673 protect the rights of these individuals.

1674 (4) ~~(3)~~ PRIVATE FACILITIES.—Private facilities designated as
1675 receiving and treatment facilities by the department may provide
1676 examination and treatment of individuals on an involuntary or
1677 voluntary basis are subject to involuntary patients, ~~as well as~~
1678 ~~voluntary patients,~~ and are subject to all the provisions of
1679 this part.

1680 (5) ~~(4)~~ REPORTING REQUIREMENTS.—

1681 (a) A facility designated as a public receiving or
1682 treatment facility under this section shall report to the

586-03332-17

20171756c1

1683 department on an annual basis the following data, unless these
1684 data are currently being submitted to the Agency for Health Care
1685 Administration:

- 1686 1. Number of licensed beds.
- 1687 2. Number of contract days.
- 1688 3. Number of admissions by payor class and diagnoses.
- 1689 4. Number of bed days by payor class.
- 1690 5. Average length of stay by payor class.
- 1691 6. Total revenues by payor class.

1692 (b) For the purposes of this subsection, "payor class"
1693 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-
1694 pay health insurance, private-pay health maintenance
1695 organization, private preferred provider organization, the
1696 Department of Children and Families, other government programs,
1697 self-pay individuals ~~patients~~, and charity care.

1698 (c) The data required under this subsection shall be
1699 submitted to the department within ~~no later than~~ 90 days after
1700 ~~following~~ the end of the facility's fiscal year. A facility
1701 designated as a public receiving or treatment facility shall
1702 submit its initial report for the 6-month period ending June 30,
1703 2008.

1704 (d) The department shall issue an annual report based on
1705 the data collected ~~required~~ pursuant to this subsection, which
1706 must include data by facility. ~~The report shall include~~
1707 ~~individual facilities' data,~~ as well as statewide totals. The
1708 report shall be submitted to the Governor, the President of the
1709 Senate, and the Speaker of the House of Representatives.

1710 (6) ~~(5)~~ RECEIVING SYSTEM.—The department shall designate as
1711 a receiving system one or more facilities serving a defined

586-03332-17

20171756c1

1712 geographic area developed pursuant to s. 394.4573 which is
1713 responsible for assessment and evaluation, both voluntary and
1714 involuntary, and treatment, stabilization, or triage for
1715 patients who have a mental illness, a substance use disorder, or
1716 co-occurring disorders. Any transportation plans developed
1717 pursuant to s. 394.462 must support the operation of the
1718 receiving system.

1719 (7)~~(6)~~ RULES.—The department may adopt rules relating to:

1720 (a) Procedures and criteria for receiving and evaluating
1721 ~~facility~~ applications for designation as a receiving or
1722 treatment facility, which may include an onsite facility
1723 inspection and evaluation of an applicant's licensing status and
1724 performance history, as well as consideration of local service
1725 needs.

1726 (b) Minimum standards consistent with this part which ~~that~~
1727 a facility must meet and maintain in order to be designated as a
1728 receiving or treatment facility and procedures for monitoring
1729 continued adherence to such standards.

1730 (c) Procedures and criteria for designating receiving
1731 systems which may include consideration of the adequacy of
1732 services provided by facilities within the receiving system to
1733 meet the needs of the geographic area using available resources.

1734 (d) Procedures for receiving complaints against a
1735 designated facility or designated receiving system and for
1736 initiating inspections and investigations of facilities or
1737 receiving systems alleged to have violated the provisions of
1738 this part or rules adopted under this part.

1739 (e) Procedures and criteria for the suspension or
1740 withdrawal of designation as a receiving or treatment facility

586-03332-17

20171756c1

1741 or receiving system.

1742 Section 16. Section 394.4615, Florida Statutes, is amended
1743 to read:

1744 394.4615 Clinical records; confidentiality.—

1745 (1) A clinical record shall be maintained for each
1746 individual held for examination or admitted for treatment under
1747 this part ~~patient~~. The record must ~~shall~~ include data pertaining
1748 to admission and such other information as may be required under
1749 rules of the department. A clinical record is confidential and
1750 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by the
1751 express and informed consent of the individual, his or her, ~~by~~
1752 ~~the patient or the patient's~~ guardian or guardian advocate, his
1753 or her health care surrogate or proxy, or, if ~~the patient is~~
1754 deceased, by his or her ~~the patient's~~ personal representative or
1755 the family member who stands next in line of intestate
1756 succession, the confidential status of the clinical record is
1757 ~~shall~~ ~~be~~ lost by ~~either~~ authorized or unauthorized
1758 disclosure to any person, organization, or agency.

1759 (2) The clinical record of an individual held for
1760 examination or admitted for treatment under this part shall be
1761 released if ~~when~~:

1762 (a) The individual ~~patient~~ or the individual's ~~patient's~~
1763 guardian, guardian advocate, or health care surrogate or proxy
1764 authorizes the release. The guardian, or guardian advocate, or
1765 health care surrogate or proxy, shall be provided access to the
1766 appropriate clinical records ~~of the patient~~. The individual
1767 ~~patient~~ or the individual's ~~patient's~~ guardian, or guardian
1768 advocate, health care surrogate or proxy may authorize the
1769 release of information and clinical records to appropriate

586-03332-17

20171756c1

1770 persons to ensure the continuity of the individual's ~~patient's~~
1771 health ~~care~~ or mental health care.

1772 (b) The individual ~~patient~~ is represented by counsel and
1773 the records are needed by such ~~the patient's~~ counsel for
1774 adequate representation.

1775 (c) The court orders such release. In determining whether
1776 there is good cause for disclosure, the court shall weigh the
1777 need for the information to be disclosed against the possible
1778 harm of disclosure to the individual ~~person~~ to whom such
1779 information pertains.

1780 (d) The individual ~~patient~~ is committed to, or ~~is to be~~
1781 returned to, the Department of Corrections ~~from the Department~~
1782 ~~of Children and Families,~~ and the Department of Corrections
1783 requests the ~~such~~ records. The ~~These~~ records shall be furnished
1784 without charge to the Department of Corrections.

1785 (3) Information from the clinical record may be released if
1786 ~~in the following circumstances:~~

1787 (a) The individual ~~When a patient~~ has declared an intention
1788 to harm self or others ~~other persons~~. If the ~~When such~~
1789 declaration has been made, the administrator may authorize the
1790 release of sufficient information to prevent harm ~~provide~~
1791 ~~adequate warning to the person threatened with harm by the~~
1792 ~~patient.~~

1793 (b) ~~When~~ The administrator of the facility or secretary of
1794 the department deems that release to a qualified researcher as
1795 defined in administrative rule, an aftercare treatment provider,
1796 or an employee or agent of the department is necessary for
1797 treatment of the individual ~~patient~~, maintenance of adequate
1798 records, compilation of treatment data, aftercare planning, or

586-03332-17

20171756c1

1799 evaluation of programs.

1800 (c) The information is necessary for ~~the purpose of~~
1801 determining whether an individual ~~a person~~ meets the criteria
1802 for involuntary services. In such circumstances ~~outpatient~~
1803 ~~placement or for preparing the proposed treatment plan pursuant~~
1804 ~~to s. 394.4655~~, the clinical record may be released to the state
1805 attorney, the public defender or the individual's ~~patient's~~
1806 private legal counsel, the court, and to the appropriate mental
1807 health professionals, ~~including the service provider identified~~
1808 ~~in s. 394.4655(7)(b)2., in accordance with state and federal~~
1809 ~~law~~.

1810 (4) Information from clinical records may be used for
1811 statistical and research purposes if the information is
1812 abstracted in such a way as to protect the identity of
1813 individuals served and meets the requirements of department
1814 rules.

1815 (5) Information from clinical records may be used by the
1816 Agency for Health Care Administration and, ~~the department, and~~
1817 ~~the Florida advocacy councils~~ for the purpose of monitoring
1818 facility activity and investigating complaints concerning
1819 facilities.

1820 (6) Clinical records relating to a Medicaid recipient shall
1821 be furnished to the Medicaid Fraud Control Unit in the
1822 Department of Legal Affairs, upon request.

1823 (7) Any person, agency, or entity receiving information
1824 pursuant to this section shall maintain such information as
1825 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

1826 (8) Any facility or private mental health practitioner who
1827 acts in good faith in releasing information pursuant to this

586-03332-17

20171756c1

1828 section is not subject to civil or criminal liability for such
1829 release.

1830 (9) ~~Nothing in~~ This section does not ~~is intended to~~
1831 prohibit the parent or next of kin of an individual who is held
1832 for examination or admitted for treatment under this part ~~a~~
1833 ~~person who is held in or treated under a mental health facility~~
1834 ~~or program~~ from requesting and receiving information limited to
1835 a summary of that individual's ~~person's~~ treatment plan and
1836 current physical and mental condition. Release of such
1837 information must ~~shall~~ be in accordance with the code of ethics
1838 of the profession involved.

1839 (10) An individual held for examination or admitted for
1840 treatment ~~Patients~~ shall have reasonable access to his or her
1841 ~~their~~ clinical records, unless such access is determined by the
1842 individual's ~~patient's~~ physician to be harmful to the individual
1843 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or
1844 her clinical record is restricted by the facility, written
1845 notice of the ~~such~~ restriction must ~~shall~~ be given to the
1846 individual and his or her ~~patient and the patient's~~ guardian,
1847 guardian advocate, attorney, health care surrogate or proxy, or
1848 ~~and~~ representative. In addition, the restriction must ~~shall~~ be
1849 recorded in the clinical record, together with the reasons for
1850 it. The restriction expires ~~of a patient's right to inspect his~~
1851 ~~or her clinical record shall expire~~ after 7 days but may be
1852 renewed, after review, for subsequent 7-day periods.

1853 (11) Any person who fraudulently alters, defaces, or
1854 falsifies the clinical record of an individual ~~any person~~
1855 receiving ~~mental health~~ services in a facility subject to this
1856 part, or causes or procures any of these offenses to be

586-03332-17

20171756c1

1857 committed, commits a misdemeanor of the second degree,
1858 punishable as provided in s. 775.082 or s. 775.083.

1859 Section 17. Section 394.462, Florida Statutes, is amended
1860 to read:

1861 394.462 Transportation.—A transportation plan shall be
1862 developed and implemented by each county by July 1, 2017, in
1863 collaboration with the managing entity in accordance with this
1864 section. A county may enter into a memorandum of understanding
1865 with the governing boards of nearby counties to establish a
1866 shared transportation plan. When multiple counties enter into a
1867 memorandum of understanding for this purpose, the counties shall
1868 notify the managing entity and provide it with a copy of the
1869 agreement. The transportation plan shall describe methods of
1870 transport to a facility within the designated receiving system
1871 for individuals subject to involuntary examination under s.
1872 394.463 or involuntary admission under s. 397.6772, s. 397.679,
1873 s. 397.6798, or s. 397.6811, and may identify responsibility for
1874 other transportation to a participating facility when necessary
1875 and agreed to by the facility. The plan may rely on emergency
1876 medical transport services or private transport companies, as
1877 appropriate. The plan shall comply with the transportation
1878 provisions of this section and ss. 397.6772, 397.6795, 397.6822,
1879 and 397.697.

1880 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

1881 (a) Each county shall designate a single law enforcement
1882 agency within the county, or portions thereof, to take an
1883 individual ~~a person~~ into custody upon the entry of an ex parte
1884 order or the execution of a certificate for involuntary
1885 examination by an authorized qualified professional and to

586-03332-17

20171756c1

1886 transport that person to the appropriate facility, excluding a
1887 governmental facility, within the designated receiving system
1888 pursuant to a transportation plan or an exception under
1889 subsection (4), or to the nearest receiving facility if neither
1890 apply. However, if the law enforcement officer providing
1891 transportation believes that the individual is eligible for
1892 services provided by the United States Department of Veterans
1893 Affairs, the officer may transport the individual to a facility
1894 operated by the United States Department of Veterans Affairs.

1895 (b) A law enforcement officer acting in good faith pursuant
1896 to this part may not be held criminally or civilly liable for
1897 false imprisonment.

1898 (c) ~~(b)~~1. The designated law enforcement agency may decline
1899 to transport the individual ~~person~~ to a receiving facility only
1900 if:

1901 1.a. The county or jurisdiction designated by the county
1902 has contracted ~~on an annual basis~~ with an emergency medical
1903 transport service or private transport company for
1904 transportation of individuals ~~persons~~ to receiving facilities.
1905 ~~pursuant to this section at the sole cost of the county; and~~

1906 2.b. The law enforcement agency and the emergency medical
1907 transport service or private transport company agree that the
1908 continued presence of law enforcement personnel is not necessary
1909 for the safety of the individual being transported ~~person~~ or
1910 others.

1911 3.2. The entity providing transportation may seek
1912 reimbursement for transportation expenses. The party responsible
1913 for payment for such transportation is the person receiving the
1914 transportation. The county shall seek reimbursement from the

586-03332-17

20171756c1

1915 following sources in the following order:

1916 a. From a private or public third-party payor, if the
1917 individual being transported ~~person receiving the transportation~~
1918 has applicable coverage.

1919 b. From the individual being transported ~~person receiving~~
1920 ~~the transportation~~.

1921 c. From a financial settlement for medical care, treatment,
1922 hospitalization, or transportation payable or accruing to the
1923 injured party.

1924 ~~(d)(e)~~ A company that transports an individual ~~a patient~~
1925 pursuant to this subsection is considered an independent
1926 contractor and is solely liable for the safe and dignified
1927 transport of the individual patient. ~~The~~ Such company must be
1928 insured and maintain at least ~~provide no less than~~ \$100,000 in
1929 liability insurance with respect to such ~~the~~ transport of
1930 ~~patients~~.

1931 (d) Any company that contracts with a governing board of a
1932 county to transport patients shall comply with the applicable
1933 rules of the department to ensure the safety and dignity of
1934 patients.

1935 (e) If ~~When~~ a law enforcement officer takes custody of an
1936 individual ~~a person~~ pursuant to this part, the officer may
1937 request assistance from emergency medical personnel if the ~~such~~
1938 assistance is needed for the safety of the officer or the
1939 individual ~~person~~ in custody.

1940 (f) If ~~When~~ a member of a mental health overlay program or
1941 a mobile crisis response service who is a professional
1942 authorized to initiate an involuntary examination pursuant to s.
1943 394.463 or s. 397.675 ~~and that professional~~ evaluates an

586-03332-17

20171756c1

1944 individual ~~a person~~ and determines that transportation to a
1945 receiving facility is needed, the service, ~~at its discretion,~~
1946 may transport the individual ~~person~~ to the facility or may call
1947 on the law enforcement agency or other transportation
1948 arrangement best suited to the needs of the individual being
1949 transported ~~patient~~.

1950 (g) If a ~~When any~~ law enforcement officer has custody of an
1951 individual ~~a person~~ based on a misdemeanor or a felony, other
1952 than a forcible felony as defined in s. 776.08, who either
1953 ~~noncriminal or minor criminal behavior that~~ meets the statutory
1954 guidelines for involuntary examination pursuant to s. 394.463,
1955 the law enforcement officer shall transport the individual
1956 ~~person~~ to the appropriate facility within the designated
1957 receiving system pursuant to a transportation plan or an
1958 exception under subsection (4), or to the nearest receiving
1959 facility if neither apply. Individuals ~~Persons~~ who meet the
1960 statutory guidelines for involuntary admission pursuant to s.
1961 397.675 may also be transported by law enforcement officers to
1962 the extent resources are available and as otherwise provided by
1963 law. Such persons shall be transported to an appropriate
1964 facility within the designated receiving system pursuant to a
1965 transportation plan or an exception under subsection (4), or to
1966 the nearest facility if neither apply.

1967 (h) If a ~~When any~~ law enforcement officer has arrested an
1968 individual ~~a person~~ for a forcible felony, as defined in s.
1969 776.08, and it appears that the individual ~~person~~ meets the
1970 criteria ~~statutory guidelines~~ for involuntary examination ~~or~~
1971 ~~placement~~ under this part, the individual ~~such person~~ must first
1972 be processed in the same manner as any other criminal suspect.

586-03332-17

20171756c1

1973 The law enforcement agency shall thereafter immediately notify
1974 the appropriate facility within the designated receiving system
1975 pursuant to a transportation plan or an exception under
1976 subsection (4), or to the nearest receiving facility if neither
1977 apply. The receiving facility shall be responsible for promptly
1978 arranging for the examination and treatment of the individual
1979 ~~person~~. A receiving facility is not required to admit an
1980 individual ~~a person~~ charged with a crime for whom the facility
1981 determines and documents that it is unable to provide adequate
1982 security, but shall provide examination and treatment to the
1983 individual ~~person~~ where he or she is held.

1984 (i) If the appropriate law enforcement officer believes
1985 that an individual ~~a person~~ has an emergency medical condition
1986 as defined in s. 395.002, the individual ~~person~~ may be first
1987 transported to a hospital for emergency medical treatment,
1988 regardless of whether the hospital is a designated receiving
1989 facility.

1990 (j) The costs of transportation, evaluation,
1991 hospitalization, and treatment incurred under this subsection by
1992 an individual who was ~~persons who have been~~ arrested for a
1993 violation ~~violations~~ of any state law or county or municipal
1994 ordinance may be recovered as provided in s. 901.35.

1995 (k) The appropriate facility within the designated
1996 receiving system pursuant to a transportation plan or an
1997 exception under subsection (4), or the nearest receiving
1998 facility if neither apply, must accept an individual ~~persons~~
1999 brought by law enforcement officers, or an emergency medical
2000 transport service or a private transport company authorized by
2001 the county, for involuntary examination pursuant to s. 394.463.

586-03332-17

20171756c1

2002 The original of the form initiating the involuntary examination
2003 is not required for a receiving facility to accept such an
2004 individual or for transfers from one facility to another.

2005 (l) The appropriate facility within the designated
2006 receiving system pursuant to a transportation plan or an
2007 exception under subsection (4), or the nearest receiving
2008 facility if neither apply, must provide persons brought by law
2009 enforcement officers, or an emergency medical transport service
2010 or a private transport company authorized by the county,
2011 pursuant to s. 397.675, a basic screening or triage sufficient
2012 to refer the person to the appropriate services.

2013 (m) Each law enforcement agency designated pursuant to
2014 paragraph (a) shall establish a policy that reflects a single
2015 set of protocols for the safe and secure transportation and
2016 transfer of custody of the individual ~~person~~. Each law
2017 enforcement agency shall provide a copy of the protocols to the
2018 managing entity.

2019 (n) ~~If~~ ~~When~~ a jurisdiction has entered into a contract with
2020 an emergency medical transport service or a private transport
2021 company for transportation of individuals ~~persons~~ to facilities
2022 within the designated receiving system, such service or company
2023 shall be given preference for transportation of individuals
2024 ~~persons~~ from nursing homes, assisted living facilities, adult
2025 day care centers, or adult family-care homes, unless the
2026 behavior of the individual ~~person~~ being transported is such that
2027 transportation by a law enforcement officer is necessary.

2028 (o) This section does not ~~may not be construed to~~ limit
2029 emergency examination and treatment of incapacitated persons
2030 provided in accordance with s. 401.445.

586-03332-17

20171756c1

2031 (p) A law enforcement officer may transport an individual
2032 who appears to meet the criteria for voluntary admission under
2033 s. 394.4625(1)(a) to a receiving facility at the individual's
2034 request.

2035 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

2036 (a) If the individual held for examination or admitted for
2037 treatment under this part or ~~neither the patient nor~~ any person
2038 legally obligated or responsible for the individual patient is
2039 not able to pay for the expense of transporting an individual a
2040 ~~voluntary or involuntary patient~~ to a treatment facility, the
2041 transportation plan established by the governing board of the
2042 county or counties must specify how the hospitalized patient
2043 will be transported to, from, and between facilities in a safe
2044 and dignified manner.

2045 (b) A company that transports an individual a patient
2046 pursuant to this subsection is considered an independent
2047 contractor and is solely liable for the safe and dignified
2048 transportation of the individual patient. ~~The Such~~ company must
2049 be insured and provide at least ~~no less than~~ \$100,000 in
2050 liability insurance for such ~~with respect to the transport of~~
2051 ~~patients~~.

2052 (c) A company that contracts with one or more counties to
2053 transport patients in accordance with this section shall comply
2054 with the applicable rules of the department to ensure the safety
2055 and dignity of patients.

2056 (d) County or municipal law enforcement and correctional
2057 personnel and equipment may not be used to transport an
2058 individual patient adjudicated incapacitated or found by the
2059 court to meet the criteria for involuntary services under

586-03332-17

20171756c1

2060 ~~placement pursuant to s. 394.467, except in small rural counties~~
2061 ~~where there are no cost-efficient alternatives.~~

2062 (3) TRANSFER OF CUSTODY.—Custody of an individual ~~a person~~
2063 who is transported pursuant to this part and, ~~along with~~ related
2064 documentation, shall be relinquished to a responsible person
2065 ~~individual~~ at the appropriate receiving or treatment facility.

2066 (4) EXCEPTIONS.—An exception to the requirements of this
2067 section may be granted by the secretary ~~of the department~~ for
2068 the purposes of improving service coordination or better meeting
2069 the special needs of individuals. A proposal for an exception
2070 shall must be submitted to the department after being approved
2071 by the governing boards of any affected counties.

2072 (a) A proposal for an exception must identify the specific
2073 provision from which an exception is requested; describe how the
2074 proposal will be implemented by participating law enforcement
2075 agencies and transportation authorities; and provide a plan for
2076 the coordination of services.

2077 (b) An ~~The~~ exception may be granted only for:

2078 1. An arrangement centralizing and improving the provision
2079 of services within a county, circuit, or local area ~~district,~~
2080 which may include an exception to the requirement for
2081 transportation to the nearest receiving facility;

2082 2. An arrangement whereby ~~by which~~ a facility may provide,
2083 in addition to required psychiatric or substance use disorder
2084 services, an environment and services that ~~which~~ are uniquely
2085 tailored to the needs of an identified group of individuals who
2086 have ~~persons with~~ special needs, such as persons who have ~~with~~
2087 hearing impairments or visual impairments, or elderly persons
2088 who have ~~with~~ physical frailties; or

586-03332-17

20171756c1

2089 3. A specialized transportation system that provides an
2090 efficient and humane method of transporting individuals ~~patients~~
2091 to and among receiving facilities, ~~among receiving facilities,~~
2092 and to treatment facilities.

2093
2094 The exceptions provided in this subsection shall expire on June
2095 30, 2017, and no new exceptions shall be granted after that
2096 date. After June 30, 2017, the transport of a patient to a
2097 facility that is not the nearest facility must be made pursuant
2098 to a plan as provided in this section.

2099 Section 18. Section 394.4625, Florida Statutes, is amended
2100 to read:

2101 394.4625 Voluntary admissions.—

2102 (1) EXAMINATION AND TREATMENT ~~AUTHORITY TO RECEIVE~~
2103 ~~PATIENTS.~~—

2104 (a) In order to be admitted to a facility on a voluntary
2105 basis:

2106 1. An individual must show evidence of mental illness.

2107 2. An individual must be suitable for treatment by the
2108 facility.

2109 3. An adult must provide express and informed consent, and
2110 must be competent to do so.

2111 4. A minor may only be admitted on the basis of the express
2112 and informed consent of the minor's guardian in conjunction with
2113 the assent of the minor.

2114 a. The assent of the minor is an affirmative agreement by
2115 the minor to remain at the facility for examination or
2116 treatment. Mere failure to object is not assent.

2117 b. The minor's assent must be verified through a clinical

586-03332-17

20171756c1

2118 assessment that is documented in the clinical record and
2119 conducted within 12 hours after arrival at the facility by a
2120 licensed professional authorized to initiate an involuntary
2121 examination pursuant to s. 394.463.

2122 c. In verifying the minor's assent, the examining
2123 professional must first provide the minor with an explanation as
2124 to why the minor will be examined and treated, what the minor
2125 can expect while in the facility, and when the minor may expect
2126 to be released, using language that is appropriate to the
2127 minor's age, experience, maturity, and condition. The examining
2128 professional must determine and document that the minor is able
2129 to understand this information.

2130 d. Unless the minor's assent is verified pursuant to this
2131 section, a petition for involuntary services must be filed with
2132 the court or the minor must be released to his or her guardian
2133 within 24 hours after arrival ~~A facility may receive for~~
2134 ~~observation, diagnosis, or treatment any person 18 years of age~~
2135 ~~or older making application by express and informed consent for~~
2136 ~~admission or any person age 17 or under for whom such~~
2137 ~~application is made by his or her guardian. If found to show~~
2138 ~~evidence of mental illness, to be competent to provide express~~
2139 ~~and informed consent, and to be suitable for treatment, such~~
2140 ~~person 18 years of age or older may be admitted to the facility.~~
2141 ~~A person age 17 or under may be admitted only after a hearing to~~
2142 ~~verify the voluntariness of the consent.~~

2143 (b) A mental health overlay program or a mobile crisis
2144 response service or a licensed professional who is authorized to
2145 initiate an involuntary examination pursuant to s. 394.463 and
2146 is employed by a community mental health center or clinic shall

586-03332-17

20171756c1

2147 ~~must, pursuant to district procedure approved by the respective~~
2148 ~~district administrator,~~ conduct an initial assessment of the
2149 ability of the following individuals ~~persons~~ to give express and
2150 informed consent to treatment before such individuals ~~persons~~
2151 may be admitted voluntarily:

2152 1. An individual ~~A person~~ 60 years of age or older for whom
2153 transfer is being sought from a nursing home, assisted living
2154 facility, adult day care center, or adult family-care home, if
2155 the individual ~~when such person~~ has been diagnosed with ~~as~~
2156 ~~suffering from~~ dementia.

2157 2. An individual ~~A person~~ 60 years of age or older for whom
2158 transfer is being sought from a nursing home pursuant to s.
2159 400.0255(11) ~~400.0255(12)~~.

2160 3. An individual who resides in a facility licensed under
2161 chapter 400 or chapter 429 ~~A person~~ for whom all decisions
2162 concerning medical treatment are currently being lawfully made
2163 by a ~~the~~ health care surrogate or proxy designated under chapter
2164 765.

2165 (c) If ~~When~~ an initial assessment of the ability of an
2166 individual ~~a person~~ to give express and informed consent to
2167 treatment is required under this part ~~section~~, and a mobile
2168 crisis response service does not respond to the request for an
2169 assessment within 2 hours after the request is made or informs
2170 the requesting facility that it will not be able to respond
2171 within 2 hours after the request is made, the requesting
2172 facility may arrange for assessment by a ~~any~~ licensed
2173 professional authorized to initiate an involuntary examination
2174 under ~~pursuant to~~ s. 394.463. The professional may not be ~~who is~~
2175 ~~not~~ employed by, or ~~or~~ under contract with, or ~~and does not~~ have a

586-03332-17

20171756c1

2176 financial interest in, ~~either~~ the facility initiating the
2177 transfer or the ~~receiving~~ facility to which the transfer may be
2178 made and may not have a financial interest in the outcome of the
2179 assessment.

2180 (d) A facility may not admit an individual on voluntary
2181 status or transfer an individual to voluntary status ~~as a~~
2182 ~~voluntary patient a person~~ who has been adjudicated
2183 incapacitated, unless the condition of incapacity has been
2184 judicially removed, except when a court authorized a legal
2185 guardian in adherence to s. 744.3725. If a facility admits an
2186 individual on voluntary status who is later determined to have
2187 been adjudicated incapacitated, the facility shall discharge the
2188 individual or transfer the individual to involuntary status
2189 unless there is a court order pursuant to s. 744.3725 ~~as a~~
2190 ~~voluntary patient a person who is later determined to have been~~
2191 ~~adjudicated incapacitated, and the condition of incapacity had~~
2192 ~~not been removed by the time of the admission, the facility must~~
2193 ~~either discharge the patient or transfer the patient to~~
2194 ~~involuntary status.~~

2195 (e) The health care surrogate or proxy of an individual on
2196 voluntary status ~~a voluntary patient~~ may not consent to the
2197 provision of mental health treatment for that individual ~~the~~
2198 ~~patient.~~ An individual on voluntary status ~~A voluntary patient~~
2199 who is unwilling or unable to provide express and informed
2200 consent to mental health treatment must ~~either~~ be discharged or
2201 transferred to involuntary status.

2202 (f) Within 24 hours after an individual's voluntary
2203 admission, a physician or psychologist ~~admission of a voluntary~~
2204 ~~patient, the admitting physician~~ shall document in the ~~patient's~~

586-03332-17

20171756c1

2205 clinical record whether the individual ~~that the patient~~ is able
 2206 to give express and informed consent for admission. If the
 2207 individual patient is not able to give express and informed
 2208 consent for admission, the facility must ~~shall either~~ discharge
 2209 ~~the patient~~ or transfer the individual patient to involuntary
 2210 status pursuant to subsection (5).

2211 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

2212 (a) A facility shall discharge an individual on voluntary
 2213 status who a voluntary patient:

2214 1. ~~Who~~ Has sufficiently improved so that retention in the
 2215 facility is no longer clinically appropriate ~~desirable~~. The
 2216 individual A patient may ~~also~~ be discharged to the care of a
 2217 community facility.

2218 2. Has revoked ~~Who revokes~~ consent to admission or requests
 2219 discharge. The individual or his or her A voluntary patient or a
 2220 relative, friend, or attorney of the patient may request
 2221 discharge either orally or in writing at any time following
 2222 admission to the facility. The patient must be discharged within
 2223 24 hours after ~~of~~ the request, unless the request is rescinded
 2224 or the individual patient is transferred to involuntary status
 2225 pursuant to this section. The 24-hour time period may be
 2226 extended by a treatment facility if when necessary for adequate
 2227 discharge planning, but may shall not exceed 3 days excluding
 2228 ~~exclusive of~~ weekends and holidays. If the individual patient,
 2229 or another on the individual's patient's behalf, makes an oral
 2230 request for discharge to a staff member, the such request must
 2231 ~~shall~~ be immediately entered in the patient's clinical record.
 2232 If the request for discharge is made by a person other than the
 2233 individual patient, the discharge may be conditioned upon the

586-03332-17

20171756c1

2234 individual's express and informed consent ~~of the patient.~~

2235 (b) An individual on voluntary status ~~A voluntary patient~~
2236 who has been admitted to a facility and who refuses to consent
2237 to or revokes consent to treatment must ~~shall~~ be discharged
2238 within 24 hours after such refusal or revocation, unless he or
2239 she is transferred to involuntary status pursuant to this
2240 section or unless the refusal or revocation is freely and
2241 voluntarily rescinded by the individual ~~patient.~~

2242 (c) An individual on voluntary status who is currently
2243 charged with a crime shall be discharged to the custody of a law
2244 enforcement officer upon release or discharge from a facility,
2245 unless the individual has been released from law enforcement
2246 custody by posting of a bond, by a pretrial conditional release,
2247 or by other judicial release.

2248 (3) NOTICE OF RIGHT TO DISCHARGE.—At the time of admission
2249 and at least every 6 months thereafter, an individual on
2250 voluntary status ~~a voluntary patient~~ shall be notified in
2251 writing of his or her right to apply for a discharge.

2252 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient
2253 who applies to be transferred to voluntary status shall be
2254 transferred to voluntary status immediately, unless the
2255 individual has been ordered to involuntary services ~~patient has~~
2256 ~~been charged with a crime, or has been involuntarily placed for~~
2257 ~~treatment~~ by a court pursuant to s. 394.467 and continues to
2258 meet the criteria for involuntary placement. When transfer to
2259 voluntary status occurs, notice shall be given as provided in s.
2260 394.4599.

2261 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on
2262 voluntary status ~~When a voluntary patient,~~ or an authorized

586-03332-17

20171756c1

2263 person on the individual's ~~patient's~~ behalf, makes a request for
2264 discharge, the request for discharge, unless freely and
2265 voluntarily rescinded, must be communicated to a physician,
2266 ~~elinical~~ psychologist, or psychiatrist as quickly as possible,
2267 but within ~~not later than~~ 12 hours after the request is made. If
2268 the individual ~~patient~~ meets the criteria for involuntary
2269 services, the individual must be transferred to a designated
2270 receiving facility or governmental facility and the
2271 administrator of the receiving or governmental facility where
2272 the individual is held ~~placement, the administrator of the~~
2273 ~~facility~~ must file with the court a petition for involuntary
2274 services ~~placement,~~ within 2 court working days after the
2275 request ~~for discharge~~ is made. If the petition is not filed
2276 within 2 court working days, the individual must ~~patient shall~~
2277 be discharged. Pending the filing of the petition, the
2278 individual ~~patient~~ may be held and emergency mental health
2279 treatment rendered in the least restrictive manner, upon the
2280 written order of a physician, if it is determined that such
2281 treatment is necessary for the safety of the individual ~~patient~~
2282 or others.

2283 Section 19. Section 394.463, Florida Statutes, is amended
2284 to read:

2285 394.463 Involuntary examination.-

2286 (1) CRITERIA.-An individual may be subject to ~~A person may~~
2287 ~~be taken to a receiving facility for~~ involuntary examination if
2288 there is reason to believe that he or she ~~the person~~ has a
2289 mental illness and because of this ~~his or her~~ mental illness:

2290 (a)1. The individual ~~person~~ has refused voluntary
2291 examination after conscientious explanation and disclosure of

586-03332-17

20171756c1

2292 the purpose of the examination; or

2293 2. The individual ~~person~~ is unable to determine for himself
2294 or herself whether examination is necessary; and

2295 (b)~~1~~. Without care or treatment:7

2296 1. The individual ~~person~~ is likely to suffer from neglect
2297 or refuse to care for himself or herself; such neglect or
2298 refusal poses a real and present threat of substantial harm to
2299 his or her well-being; and it is not apparent that the ~~such~~ harm
2300 may be avoided through the help of willing family members or
2301 friends or the provision of other services; or

2302 2. There is a substantial likelihood that individual
2303 without care or treatment the person will cause serious bodily
2304 harm to self ~~himself or herself~~ or others in the near future, as
2305 evidenced by recent behavior.

2306 (2) INVOLUNTARY EXAMINATION.—

2307 (a) An involuntary examination may be initiated by any one
2308 of the following means:

2309 1. A circuit or county court may enter an ex parte order
2310 stating that an individual ~~a person~~ appears to meet the criteria
2311 for involuntary examination and specifying the findings on which
2312 that conclusion is based. The ex parte order for involuntary
2313 examination must be based on written or oral sworn testimony
2314 that includes specific facts that support the findings. If other
2315 less restrictive means are not available, such as voluntary
2316 appearance for outpatient evaluation, a law enforcement officer,
2317 or other designated agent of the court, shall take the
2318 individual ~~person~~ into custody and deliver him or her to an
2319 appropriate, or the nearest, facility within the designated
2320 receiving system pursuant to s. 394.462 for involuntary

586-03332-17

20171756c1

2321 examination. The ~~order of the court~~ order must ~~shall~~ be made a
2322 part of the ~~patient's~~ clinical record. A fee may not be charged
2323 for the filing of a petition ~~an order~~ under this subsection. A
2324 facility accepting the individual ~~patient~~ based on the ~~this~~
2325 order must send a copy of the order to the department the next
2326 working day. The order may be submitted electronically through
2327 existing data systems, if available. The order is ~~shall be~~ valid
2328 only until the individual ~~person~~ is delivered to the facility or
2329 for the period specified in the order itself, whichever comes
2330 first. If a ~~no~~ time limit is not specified in the order, the
2331 order is ~~shall be~~ valid for 7 days after the date it ~~that the~~
2332 ~~order~~ was signed.

2333 2. A law enforcement officer shall take an individual ~~a~~
2334 ~~person~~ who appears to meet the criteria for involuntary
2335 examination into custody and deliver or arrange for the delivery
2336 of the individual ~~the person or have him or her delivered~~ to an
2337 appropriate, or the nearest, facility within the designated
2338 receiving system pursuant to s. 394.462 for examination. The
2339 officer shall complete ~~execute~~ a written report detailing the
2340 circumstances under which the individual ~~person~~ was taken into
2341 custody, which must be made a part of the ~~patient's~~ clinical
2342 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on
2343 this report must send a copy of the report to the department the
2344 next working day.

2345 3. A physician, ~~clinical~~ psychologist, psychiatric nurse,
2346 mental health counselor, marriage and family therapist, ~~or~~
2347 clinical social worker, advanced registered nurse practitioner,
2348 or physician assistant may execute a certificate stating that he
2349 or she has examined the individual ~~a person~~ within the preceding

586-03332-17

20171756c1

2350 48 hours and finds that the individual ~~person~~ appears to meet
2351 the criteria for involuntary examination and stating his or her
2352 ~~the~~ observations upon which that conclusion is based. If other
2353 less restrictive means, such as voluntary appearance for
2354 outpatient evaluation, are not available, a law enforcement
2355 officer shall take into custody the individual ~~person~~ named in
2356 the certificate and deliver him or her to the appropriate, or
2357 nearest, facility within the designated receiving system
2358 pursuant to s. 394.462 for involuntary examination. A law
2359 enforcement officer may only take an individual into custody on
2360 the basis of a certificate within 7 calendar days after the
2361 certificate is signed. The law enforcement officer shall execute
2362 a written report detailing the circumstances under which the
2363 individual ~~person~~ was taken into custody. The report and
2364 certificate shall be made a part of the ~~patient's~~ clinical
2365 record. A ~~Any~~ facility accepting the individual ~~patient~~ based on
2366 the ~~this~~ certificate must send a copy of the certificate to the
2367 department the next working day. The document may be submitted
2368 electronically through existing data systems, if applicable.

2369 (b) A law enforcement officer who initiates an involuntary
2370 examination of an individual pursuant to subparagraph (a)2., or
2371 a professional who initiates an involuntary examination of an
2372 individual pursuant to subparagraph (a)3., may notify the
2373 individual's guardian, representative, or health care surrogate
2374 or proxy of such examination. A receiving facility accepting an
2375 individual for involuntary examination shall make and document
2376 immediate attempts to notify the individual's guardian,
2377 representative, or health care surrogate or proxy upon the
2378 individual's arrival.

586-03332-17

20171756c1

2379 (c) ~~(b)~~ An individual ~~A person~~ may not be removed from any
2380 program or residential services ~~placement~~ licensed under chapter
2381 400 or chapter 429 and transported to a receiving facility for
2382 involuntary examination unless an ex parte order, a professional
2383 certificate, or a law enforcement officer's report is first
2384 prepared. If the condition of the individual ~~person~~ is such that
2385 preparation of a law enforcement officer's report is not
2386 practicable before removal, the report must ~~shall~~ be completed
2387 as soon as possible after removal, but ~~in any case~~ before the
2388 individual ~~person~~ is transported to a receiving facility. A
2389 facility admitting an individual ~~a person~~ for involuntary
2390 examination who is not accompanied by the required ex parte
2391 order, professional certificate, or law enforcement officer's
2392 report must ~~shall~~ notify the department of the ~~such~~ admission by
2393 certified mail or by e-mail, if available, by the next working
2394 day. The provisions of this paragraph do not apply when
2395 transportation is provided by the patient's family or guardian.

2396 ~~(c) A law enforcement officer acting in accordance with an~~
2397 ~~ex parte order issued pursuant to this subsection may serve and~~
2398 ~~execute such order on any day of the week, at any time of the~~
2399 ~~day or night.~~

2400 ~~(d) A law enforcement officer acting in accordance with an~~
2401 ~~ex parte order issued pursuant to this subsection may use such~~
2402 ~~reasonable physical force as is necessary to gain entry to the~~
2403 ~~premises, and any dwellings, buildings, or other structures~~
2404 ~~located on the premises, and to take custody of the person who~~
2405 ~~is the subject of the ex parte order.~~

2406 (d) ~~(e)~~ The department shall receive and maintain the
2407 copies of ex parte petitions and orders for involuntary

586-03332-17

20171756c1

2408 examinations pursuant to this section, involuntary services
2409 petitions and orders, involuntary outpatient services orders
2410 issued pursuant to s. 394.4655, involuntary inpatient placement
2411 orders issued pursuant to s. 394.467, professional certificates,
2412 and law enforcement officers' reports. These documents are shall
2413 be considered part of the clinical record, governed by the
2414 provisions of s. 394.4615. These documents shall be used to
2415 prepare annual reports analyzing the data obtained from these
2416 documents, without information identifying individuals held for
2417 examination or admitted for treatment patients, and shall
2418 provide copies of reports to the department, the President of
2419 the Senate, the Speaker of the House of Representatives, and the
2420 minority leaders of the Senate and the House of Representatives.

2421 (e)-(f) An individual held for examination ~~A patient~~ shall
2422 be examined by a physician, ~~or a clinical~~ psychologist, or ~~by a~~
2423 psychiatric nurse performing within the framework of an
2424 established protocol with a psychiatrist at a facility without
2425 unnecessary delay to determine if the criteria for involuntary
2426 services are met. Emergency treatment may be provided upon the
2427 order of a physician if the physician determines that such
2428 treatment is necessary for the safety of the individual patient
2429 or others. The individual patient may not be released by the
2430 receiving facility or its contractor without the documented
2431 approval of a psychiatrist or a clinical psychologist or, if the
2432 receiving facility is owned or operated by a hospital or health
2433 system, the release may also be approved by a psychiatric nurse
2434 performing within the framework of an established protocol with
2435 a psychiatrist, or an attending emergency department physician
2436 with experience in the diagnosis and treatment of mental illness

586-03332-17

20171756c1

2437 after completion of an involuntary examination pursuant to this
2438 subsection. A psychiatric nurse may not approve the release of a
2439 patient if the involuntary examination was initiated by a
2440 psychiatrist unless the release is approved by the initiating
2441 psychiatrist.

2442 (f)~~(g)~~ Within the 72-hour examination period or, if the 72
2443 hours ends on a weekend or holiday, no later than the next
2444 working day thereafter, one of the following actions must be
2445 taken, based on the individual needs of the patient:

2446 1. The patient shall be released, unless he or she is
2447 charged with a crime, in which case the patient shall be
2448 returned to the custody of a law enforcement officer;

2449 2. The patient shall be released, subject to the provisions
2450 of subparagraph 1., for voluntary outpatient treatment;

2451 3. The patient, unless he or she is charged with a crime,
2452 shall be asked to give express and informed consent to placement
2453 as a voluntary patient and, if such consent is given, the
2454 patient shall be admitted as a voluntary patient; or

2455 4. A petition for involuntary services shall be filed in
2456 the circuit court if inpatient treatment is deemed necessary or
2457 with the criminal county court, as defined in s. 394.4655(1), as
2458 applicable. When inpatient treatment is deemed necessary, the
2459 least restrictive treatment consistent with the optimum
2460 improvement of the patient's condition shall be made available.
2461 When a petition is to be filed for involuntary outpatient
2462 placement, it shall be filed by one of the petitioners specified
2463 in s. 394.4655(4)(a). A petition for involuntary inpatient
2464 placement shall be filed by the facility administrator.

2465 (g)~~(h)~~ If an individual ~~A person~~ for whom an involuntary

586-03332-17

20171756c1

2466 examination has been initiated ~~who~~ is also being evaluated or
2467 treated at a hospital for an emergency medical condition as
2468 defined specified in s. 395.002, the involuntary examination
2469 ~~must be examined by a facility within 72 hours. The 72-hour~~
2470 period begins when the individual patient arrives at the
2471 hospital and ceases when a ~~the attending~~ physician documents
2472 that the individual patient has an emergency medical condition.
2473 The 72-hour period resumes when the physician documents that the
2474 emergency medical condition has stabilized or does not exist. If
2475 the patient is examined at a hospital providing emergency
2476 medical services by a professional qualified to perform an
2477 involuntary examination and is found as a result of that
2478 examination not to meet the criteria for involuntary outpatient
2479 services pursuant to s. 394.4655(2) or involuntary inpatient
2480 placement pursuant to s. 394.467(1), the patient may be offered
2481 voluntary services or placement, if appropriate, or released
2482 directly from the hospital providing emergency medical services.
2483 ~~The finding by the professional that the patient has been~~
2484 ~~examined and does not meet the criteria for involuntary~~
2485 ~~inpatient services or involuntary outpatient placement must be~~
2486 ~~entered into the patient's clinical record. This paragraph is~~
2487 ~~not intended to prevent~~ A hospital providing emergency medical
2488 services may transfer an individual from appropriately
2489 ~~transferring a patient~~ to another hospital before stabilization
2490 if the requirements of s. 395.1041(3)(c) are ~~have been~~ met.
2491 ~~(i)~~ One of the following must occur within 12 hours after a
2492 ~~the patient's attending~~ physician documents that the
2493 individual's patient's medical condition has stabilized or that
2494 an emergency medical condition has been stabilized or does not

586-03332-17

20171756c1

2495 exist:

2496 1. The individual shall be examined by a physician,
2497 psychiatric nurse, or psychologist and, if found not to meet the
2498 criteria for involuntary examination pursuant to this section,
2499 shall be released directly from the hospital providing the
2500 emergency medical services. The results of the examination,
2501 including the final disposition, shall be entered into the
2502 clinical record ~~patient must be examined by a facility and~~
2503 ~~released; or~~

2504 2. The individual shall be transferred to a receiving
2505 facility for examination if ~~patient must be transferred to a~~
2506 ~~designated facility in which~~ appropriate medical and mental
2507 health treatment is available. However, the receiving facility
2508 must be notified of the transfer within 2 hours after the
2509 individual's ~~patient's~~ condition has been stabilized or after
2510 determination that an emergency medical condition does not
2511 exist.

2512 (3) NOTICE OF RELEASE.—Notice of the release shall be given
2513 to the individual's ~~patient's~~ guardian, health care surrogate or
2514 proxy, or representative, ~~to any person who executed a~~
2515 ~~certificate admitting the patient to the receiving facility,~~ and
2516 to any court that ordered the individual's examination ~~which~~
2517 ~~ordered the patient's evaluation.~~

2518 Section 20. Section 394.467, Florida Statutes, is amended
2519 to read:

2520 394.467 Involuntary inpatient placement.—

2521 (1) CRITERIA.—An individual ~~A person~~ may be ordered for
2522 involuntary inpatient placement for treatment upon a finding of
2523 the court by clear and convincing evidence that:

586-03332-17

20171756c1

2524 (a) He or she has a mental illness and because of his or
2525 her mental illness:

2526 1.a. He or she has refused voluntary inpatient placement
2527 for treatment after sufficient and conscientious explanation and
2528 disclosure of the purpose of inpatient placement for treatment;
2529 or

2530 b. He or she is unable to determine for himself or herself
2531 whether inpatient placement is necessary; and

2532 2.a. He or she is incapable of surviving alone or with the
2533 help of willing and responsible family or friends, including
2534 available alternative services, and, without treatment, is
2535 likely to suffer from neglect or refuse to care for himself or
2536 herself, and such neglect or refusal poses a real and present
2537 threat of substantial harm to his or her well-being; or

2538 b. There is substantial likelihood that in the near future
2539 he or she will inflict serious bodily harm on self or others, as
2540 evidenced by recent behavior causing, attempting, or threatening
2541 such harm; and

2542 (b) All available less restrictive treatment alternatives
2543 that would offer an opportunity for improvement of his or her
2544 condition have been judged to be inappropriate.

2545 (2) ADMISSION TO A TREATMENT FACILITY.—An individual A
2546 ~~patient~~ may be retained by a facility or involuntarily ordered
2547 placed in a treatment facility upon the recommendation of the
2548 administrator of the facility where the individual ~~patient~~ has
2549 been examined and after adherence to the notice and hearing
2550 procedures provided in s. 394.4599. The recommendation must be
2551 supported by the opinion of a psychiatrist and the second
2552 opinion of a ~~clinical~~ psychologist or another psychiatrist, both

586-03332-17

20171756c1

2553 of whom have personally examined the individual ~~patient~~ within
2554 the preceding 72 hours, that the criteria for involuntary
2555 inpatient placement are met. However, if the administrator
2556 certifies that a psychiatrist or ~~clinical~~ psychologist is not
2557 available to provide the second opinion, the second opinion may
2558 be provided by a licensed physician who has postgraduate
2559 training and experience in diagnosis and treatment of mental
2560 illness or by a psychiatric nurse. Any opinion authorized in
2561 this subsection may be conducted through a face-to-face
2562 examination, in person, or by electronic means. Such
2563 recommendation shall be entered on a petition for involuntary
2564 inpatient placement certificate that authorizes the facility to
2565 retain the individual being held ~~patient~~ pending transfer to a
2566 treatment facility or completion of a hearing.

2567 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

2568 (a) The administrator of the receiving facility shall file
2569 a petition for involuntary inpatient placement in the court in
2570 the county where the individual ~~patient~~ is located. Upon filing,
2571 the clerk of the court shall provide copies to the department,
2572 the individual, his or her ~~patient, the patient's~~ guardian,
2573 guardian advocate, health care surrogate or proxy, or
2574 representative, and the state attorney and public defender of
2575 the judicial circuit in which the individual ~~patient~~ is located.
2576 A fee may not be charged for the filing of a petition under this
2577 subsection.

2578 (b) A receiving or treatment facility filing a petition for
2579 involuntary inpatient placement shall send a copy of the
2580 petition to the Department of Children and Families by the next
2581 working day.

586-03332-17

20171756c1

2582 (4) APPOINTMENT OF COUNSEL.—

2583 Within 1 court working day after the filing of a petition
2584 for involuntary inpatient placement, the court shall appoint the
2585 public defender to represent the individual ~~person~~ who is the
2586 subject of the petition, unless the person is otherwise
2587 represented by counsel. The clerk of the court shall ~~immediately~~
2588 notify the public defender of the ~~such~~ appointment. Any attorney
2589 representing the individual ~~patient~~ shall have access to the
2590 individual ~~patient~~, witnesses, and records relevant to the
2591 presentation of the individual's ~~patient's~~ case and shall
2592 represent the interests of the individual ~~patient~~, regardless of
2593 the source of payment to the attorney.

2594 (5) CONTINUANCE OF HEARING.—The individual ~~patient~~ is
2595 entitled, with the concurrence of the individual's ~~patient's~~
2596 counsel, to at least one continuance of the hearing for up to 4
2597 weeks.

2598 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2599 (a)1. The court shall hold the hearing on involuntary
2600 services ~~inpatient placement~~ within 5 court working days after
2601 the petition is filed, unless a continuance is granted.

2602 2. Except for good cause documented in the court file,
2603 which may be demonstrated by administrative order of the court,
2604 the hearing must be held in the receiving or treatment facility
2605 where the individual is located. If the hearing cannot be held
2606 in the receiving or treatment facility, it must be held in a
2607 location convenient to the individual as is consistent with
2608 orderly procedure, and which is not likely to be injurious to
2609 the individual's county or the facility, as appropriate, where
2610 ~~the patient is located, must be as convenient to the patient as~~

586-03332-17

20171756c1

2611 ~~is consistent with orderly procedure, and shall be conducted in~~
2612 ~~physical settings not likely to be injurious to the patient's~~
2613 ~~condition. If the court finds that the individual's ~~patient's~~~~
2614 ~~attendance at the hearing is not consistent with the best~~
2615 ~~interests of the individual ~~patient~~, and the individual's~~
2616 ~~patient's counsel does not object, the court may waive the~~
2617 ~~presence of the individual ~~patient~~ from all or any portion of~~
2618 ~~the hearing. Alternatively, if the individual wishes to~~
2619 ~~voluntarily waive his or her attendance at the hearing, the~~
2620 ~~court must determine that the individual's waiver is knowing,~~
2621 ~~intelligent, and voluntary before waiving the presence of the~~
2622 ~~individual from all or any portion of the hearing. The state~~
2623 ~~attorney for the circuit in which the patient is located shall~~
2624 ~~represent the state, rather than the petitioning facility~~
2625 ~~administrator, as the real party in interest in the proceeding.~~

2626 3. The court may appoint a magistrate to preside at the
2627 hearing. One of the professionals who executed the petition for
2628 involuntary inpatient placement certificate shall be a witness.
2629 The court shall ensure that the individual and his or her
2630 guardian, guardian advocate, health care surrogate or proxy, or
2631 representative are informed ~~patient and the patient's guardian~~
2632 ~~or representative shall be informed by the court~~ of the right to
2633 an independent expert examination. If the individual ~~patient~~
2634 cannot afford such an examination, the court shall ensure that
2635 one is provided, as otherwise provided for by law. The
2636 independent expert's report is confidential and not
2637 discoverable, unless the expert is ~~to be~~ called as a witness for
2638 the individual ~~patient~~ at the hearing. The testimony in the
2639 hearing must be ~~given~~ under oath, and the proceedings must be

586-03332-17

20171756c1

2640 recorded. The individual ~~patient~~ may refuse to testify at the
2641 hearing.

2642 (b) If the court concludes that the individual ~~patient~~
2643 meets the criteria for involuntary services ~~inpatient placement~~,
2644 it may order that the individual ~~patient~~ be transferred to a
2645 treatment facility or, if the individual ~~patient~~ is at a
2646 treatment facility, that the individual ~~patient~~ be retained
2647 there or be treated at any other appropriate facility, or that
2648 the individual ~~patient~~ receive services, on an involuntary
2649 basis, for up to 90 days. However, any order for involuntary
2650 mental health services in a treatment facility may be for up to
2651 6 months. The order must ~~shall~~ specify the nature and extent of
2652 the individual's ~~patient's~~ mental illness. The court may not
2653 order an individual with traumatic brain injury or dementia who
2654 lacks a co-occurring mental illness to be involuntarily placed
2655 in a state treatment facility. The facility shall discharge the
2656 individual ~~a patient~~ any time the individual ~~patient~~ no longer
2657 meets the criteria for involuntary inpatient placement, unless
2658 the individual ~~patient~~ has transferred to voluntary status.

2659 (c) If at any time before the conclusion of the hearing on
2660 involuntary inpatient placement it appears to the court that the
2661 individual ~~person~~ does not meet the criteria for involuntary
2662 inpatient placement under this section, but instead meets the
2663 criteria for involuntary outpatient services, the court may
2664 order the person evaluated for involuntary outpatient services
2665 pursuant to s. 394.4655. The petition and hearing procedures set
2666 forth in s. 394.4655 shall apply. If the person instead meets
2667 the criteria for involuntary assessment, protective custody, or
2668 involuntary admission pursuant to s. 397.675, then the court may

586-03332-17

20171756c1

2669 order the person to be admitted for involuntary assessment for a
2670 period of 5 days pursuant to s. 397.6811. Thereafter, all
2671 proceedings are governed by chapter 397.

2672 (f)~~(d)~~ At the hearing on involuntary inpatient placement,
2673 the court shall consider testimony and evidence regarding the
2674 individual's ~~patient's~~ competence to consent to treatment. If
2675 the court finds that the individual ~~patient~~ is incompetent to
2676 consent to treatment, it shall appoint a guardian advocate as
2677 provided in s. 394.4598.

2678 (g)~~(e)~~ The administrator of the petitioning facility shall
2679 provide a copy of the court order and adequate documentation of
2680 an individual's ~~a patient's~~ mental illness to the administrator
2681 of a treatment facility if the individual ~~patient~~ is ordered for
2682 involuntary inpatient placement, whether by civil or criminal
2683 court. The documentation must include any advance directives
2684 made by the individual ~~patient~~, a psychiatric evaluation of the
2685 individual ~~patient~~, and any evaluations of the individual
2686 ~~patient~~ performed by a psychiatric nurse, a ~~clinical~~
2687 psychologist, a marriage and family therapist, a mental health
2688 counselor, or a clinical social worker. The administrator of a
2689 treatment facility may refuse admission to an individual ~~any~~
2690 ~~patient~~ directed to its facilities on an involuntary basis,
2691 whether by civil or criminal court order, who is not accompanied
2692 by adequate orders and documentation.

2693 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
2694 PLACEMENT.—

2695 (a) Hearings on petitions for continued involuntary
2696 ~~inpatient~~ placement of an individual placed at any treatment
2697 facility are administrative hearings and must be conducted in

586-03332-17

20171756c1

2698 accordance with s. 120.57(1), except that any order entered by
2699 the administrative law judge is final and subject to judicial
2700 review in accordance with s. 120.68. Orders concerning
2701 individuals ~~patients~~ committed after successfully pleading not
2702 guilty by reason of insanity are governed by s. 916.15.

2703 1. ~~(b)~~ If the individual ~~patient~~ continues to meet the
2704 criteria for involuntary inpatient placement and is being
2705 treated at a treatment facility, the administrator shall, before
2706 the expiration of the period the treatment facility is
2707 authorized to retain the individual ~~patient~~, file a petition
2708 requesting authorization for continued involuntary inpatient
2709 placement. The request must be accompanied by a statement from
2710 the individual's ~~patient's~~ physician, psychiatrist, psychiatric
2711 nurse, or ~~clinical~~ psychologist justifying the request, a brief
2712 description of the individual's ~~patient's~~ treatment during the
2713 time he or she was involuntarily placed, and an individualized
2714 plan of continued treatment. Notice of the hearing must be
2715 provided ~~as provided~~ in accordance with s. 394.4599. If an
2716 individual's attendance at the hearing is voluntarily waived,
2717 the administrative law judge must determine that the waiver is
2718 knowing, intelligent, and voluntary before waiving the presence
2719 of the individual from all or a portion of the hearing.
2720 Alternatively, if an individual's ~~a patient's~~ attendance at the
2721 hearing is voluntarily waived, the administrative law judge must
2722 determine that the waiver is knowing and voluntary before
2723 waiving the presence of the individual ~~patient~~ from all or a
2724 portion of the hearing. Alternatively, if at the hearing the
2725 administrative law judge finds that attendance at the hearing is
2726 not consistent with the individual's best interests ~~of the~~

586-03332-17

20171756c1

2727 ~~patient~~, the administrative law judge may waive the presence of
2728 the individual ~~patient~~ from all or any portion of the hearing,
2729 unless the individual ~~patient~~, through counsel, objects to the
2730 waiver of presence. The testimony in the hearing must be under
2731 oath, and the proceedings must be recorded.

2732 2.-(e) Unless the individual ~~patient~~ is otherwise
2733 represented or is ineligible, he or she shall be represented at
2734 the hearing on the petition for continued involuntary inpatient
2735 placement by the public defender of the circuit in which the
2736 facility is located.

2737 3. The Division of Administrative Hearings shall ensure
2738 that the individual who is the subject of the petition and his
2739 or her guardian, guardian advocate, health care surrogate or
2740 proxy, or representative are informed of the individual's right
2741 to an independent expert examination. If the individual cannot
2742 afford such an examination, the court shall ensure that one is
2743 provided as otherwise provided for by law.

2744 4.-(d) If at a hearing it is shown that the individual
2745 ~~patient~~ continues to meet the criteria for involuntary inpatient
2746 placement, the administrative law judge shall sign the order for
2747 continued involuntary inpatient placement for up to 90 days.
2748 However, any order for involuntary mental health services in a
2749 treatment facility may be for up to 6 months. The same procedure
2750 must ~~shall~~ be repeated before the expiration of each additional
2751 period the individual ~~patient~~ is retained.

2752 5.-(e) If continued involuntary inpatient placement is
2753 necessary for an individual ~~a patient~~ admitted while serving a
2754 criminal sentence, but his or her sentence is about to expire,
2755 or for a minor involuntarily placed, but who is about to reach

586-03332-17

20171756c1

2756 the age of 18, the administrator shall petition the
2757 administrative law judge for an order authorizing continued
2758 involuntary inpatient placement.

2759 6.~~(f)~~ If the individual patient has been previously found
2760 incompetent to consent to treatment, the administrative law
2761 judge shall consider testimony and evidence regarding the
2762 individual's patient's competence. If the administrative law
2763 judge finds evidence that the individual patient is now
2764 competent to consent to treatment, the ~~administrative law~~ judge
2765 may issue a recommended order to the court that found the
2766 individual patient incompetent to consent to treatment that the
2767 individual's patient's competence be restored and that any
2768 guardian advocate previously appointed be discharged.

2769 7.~~(g)~~ If the individual patient has been ordered to undergo
2770 involuntary inpatient placement and has previously been found
2771 incompetent to consent to treatment, the court shall consider
2772 testimony and evidence regarding the individual's patient's
2773 incompetence. If the individual's patient's competency to
2774 consent to treatment is restored, the discharge of the guardian
2775 advocate shall be governed by s. 394.4598.

2776
2777 The procedure required in this paragraph subsection must be
2778 followed before the expiration of each additional period the
2779 individual is patient is involuntarily receiving involuntary
2780 services.

2781 (8) RETURN TO FACILITY.—If an individual a patient
2782 involuntarily held at a treatment facility under this part
2783 leaves the facility without the administrator's authorization,
2784 the administrator may authorize a search for the individual

586-03332-17

20171756c1

2785 ~~patient~~ and his or her return to the facility. The administrator
2786 may request the assistance of a law enforcement agency in this
2787 regard.

2788 Section 21. Section 394.46715, Florida Statutes, is amended
2789 to read:

2790 394.46715 Rulemaking authority.—The department may adopt
2791 rules to administer this part.

2792 Section 22. Section 394.4672, Florida Statutes, is amended
2793 to read:

2794 394.4672 Procedure for placement of veteran with federal
2795 agency.—

2796 (1) A facility owned, operated, or administered by the
2797 United States Department of Veterans Affairs that provides
2798 mental health services shall have authority as granted by the
2799 Department of Veterans' Affairs to:

2800 (a) Initiate and conduct involuntary examination pursuant
2801 to s. 394.463.

2802 (b) Provide voluntary admission and treatment pursuant to
2803 s. 394.4625.

2804 (c) Petition for involuntary placement pursuant to s.
2805 394.467.

2806 (2)~~(1)~~ If the court determines that an individual meets the
2807 criteria for involuntary placement and he or she ~~Whenever it is~~
2808 ~~determined by the court that a person meets the criteria for~~
2809 ~~involuntary placement and it appears that such person is~~
2810 eligible for care or treatment by the United States Department
2811 of Veterans Affairs or other agency of the United States
2812 Government, the court, upon receipt of documentation ~~a~~
2813 ~~certificate~~ from the United States Department of Veterans

586-03332-17

20171756c1

2814 Affairs or another ~~such other~~ agency showing that facilities are
2815 available and that the individual ~~person~~ is eligible for care or
2816 treatment therein, may place that individual ~~person~~ with the
2817 United States Department of Veterans Affairs or other federal
2818 agency. The individual ~~person whose placement is sought~~ shall be
2819 personally served with notice of the pending placement
2820 proceeding in the manner as provided in this part., ~~and nothing~~
2821 ~~in~~ This section does not ~~shall~~ affect the individual's ~~his or~~
2822 ~~her~~ right to appear and be heard in the proceeding. Upon being
2823 placed, the individual is ~~placement, the person shall be~~ subject
2824 to the ~~rules and~~ regulations of the United States Department of
2825 Veterans Affairs or other federal agency.

2826 (3) ~~(2)~~ The judgment or order of placement by a court of
2827 competent jurisdiction of another state or of the District of
2828 Columbia, which places an individual ~~placing a person~~ with the
2829 United States Department of Veterans Affairs or other federal
2830 agency for care or treatment, has, ~~shall have~~ the same force and
2831 effect in this state as in the jurisdiction of the court
2832 entering the judgment or making the order., ~~and~~ The courts of
2833 the placing state or of the District of Columbia shall retain ~~be~~
2834 ~~deemed to have retained~~ jurisdiction over the individual ~~of the~~
2835 ~~person~~ so placed. Consent is ~~hereby~~ given to the application of
2836 the law of the placing state or district with respect to the
2837 authority of the chief officer of any facility of the United
2838 States Department of Veterans Affairs or other federal agency
2839 operated in this state to retain custody or to transfer, parole,
2840 or discharge the individual ~~person~~.

2841 (4) ~~(3)~~ Upon receipt of documentation from a ~~certificate of~~
2842 the United States Department of Veterans Affairs or another ~~such~~

586-03332-17

20171756c1

2843 ~~other~~ federal agency that facilities are available for the care
 2844 or treatment of individuals who have mental illness and that the
 2845 individual ~~mentally ill persons and that the person~~ is eligible
 2846 for that care or treatment, the administrator of the receiving
 2847 or treatment facility may ~~cause the transfer of~~ that individual
 2848 person to the United States Department of Veterans Affairs or
 2849 other federal agency. Upon ~~effecting~~ such transfer, the
 2850 committing court shall be notified by the transferring agency.
 2851 An individual may not be transferred ~~No person shall be~~
 2852 ~~transferred to the United States Department of Veterans Affairs~~
 2853 ~~or other federal agency~~ if he or she is confined pursuant to the
 2854 conviction of any felony or misdemeanor or if he or she has been
 2855 acquitted of the charge solely on the ground of insanity, unless
 2856 before ~~prior to~~ transfer the court placing the individual ~~such~~
 2857 ~~person~~ enters an order for the transfer after appropriate motion
 2858 and hearing and without objection by the United States
 2859 Department of Veterans Affairs.

2860 ~~(5)-(4)~~ An individual ~~Any person~~ transferred as provided in
 2861 this section shall be deemed to be placed with the United States
 2862 Department of Veterans Affairs or other federal agency pursuant
 2863 to the original order ~~placement~~.

2864 Section 23. Section 394.4685, Florida Statutes, is amended
 2865 to read:

2866 394.4685 Transfer of patients among facilities.—

2867 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

2868 (a) An individual ~~A patient~~ who has been admitted to a
 2869 public receiving facility, or his or her ~~the~~ family member,
 2870 guardian, ~~or~~ guardian advocate, or health care surrogate or
 2871 proxy ~~of such patient~~, may request the transfer of the

586-03332-17

20171756c1

2872 individual patient to another public receiving facility. An
2873 individual ~~A patient~~ who has been admitted to a public treatment
2874 facility, or his or her ~~the~~ family member, guardian, ~~or~~ guardian
2875 advocate, or health care surrogate or proxy of such patient, may
2876 request the transfer of the individual patient to another public
2877 treatment facility. Depending on the medical treatment or mental
2878 health treatment needs of the individual patient and the
2879 availability of appropriate facility resources, the individual
2880 ~~patient~~ may be transferred at the discretion of the department.
2881 If the department approves the transfer of an individual on
2882 involuntary status, notice in accordance with involuntary
2883 ~~patient, notice according to the provisions of s. 394.4599 must~~
2884 be given before ~~shall be given prior to~~ the transfer by the
2885 transferring facility. The department shall respond to the
2886 request for transfer within 2 working days after receipt of the
2887 request by the facility administrator.

2888 (b) If ~~When~~ required by the medical treatment or mental
2889 health treatment needs of the individual patient or the
2890 efficient use utilization of a public receiving or public
2891 treatment facility, an individual ~~a patient~~ may be transferred
2892 from one receiving facility to another, or from one treatment
2893 facility to another, ~~at the department's discretion~~, or, with
2894 the express and informed consent of the individual or the
2895 individual's guardian, guardian advocate, or health care
2896 surrogate or proxy patient or the patient's guardian or guardian
2897 advocate, to a facility in another state. Notice in accordance
2898 with ~~according to the provisions of s. 394.4599 must~~ shall be
2899 given before ~~prior to~~ the transfer by the transferring facility.
2900 If prior notice is not possible, notice of the transfer shall be

586-03332-17

20171756c1

2901 provided as soon as practicable after the transfer.

2902 (2) TRANSFER FROM PUBLIC TO PRIVATE FACILITIES.—

2903 (a) An individual ~~A patient~~ who has been admitted to a
2904 public receiving or public treatment facility and has requested,
2905 ~~either~~ personally or through his or her guardian, ~~or~~ guardian
2906 advocate, or health care surrogate or proxy, and is able to pay
2907 for treatment in a private facility shall be transferred at the
2908 individual's ~~patient's~~ expense to a private facility upon
2909 acceptance of the individual ~~patient~~ by the private facility.

2910 (b) A public receiving facility initiating the ~~a patient~~
2911 transfer of an individual to a licensed hospital for acute care
2912 mental health services not accessible through the public
2913 receiving facility shall notify the hospital of such transfer
2914 and send the hospital all records relating to the emergency
2915 psychiatric or medical condition.

2916 (3) TRANSFER FROM PRIVATE TO PUBLIC FACILITIES.—

2917 (a) An individual or the individual's ~~A patient or the~~
2918 ~~patient's~~ guardian, ~~or~~ guardian advocate, or health care
2919 surrogate or proxy may request the transfer of the individual
2920 ~~patient~~ from a private to a public facility, and the individual
2921 ~~patient~~ may be so transferred upon acceptance of the individual
2922 ~~patient~~ by the public facility.

2923 (b) A private facility may request the transfer of an
2924 individual ~~a patient~~ from the facility to a public facility, and
2925 the individual ~~patient~~ may be so transferred upon acceptance of
2926 the individual ~~patient~~ by the public facility. The cost of such
2927 transfer ~~is shall be~~ the responsibility of the transferring
2928 facility.

2929 (c) A public facility must respond to a request for the

586-03332-17

20171756c1

2930 transfer of an individual ~~a patient~~ within 24 hours ~~2 working~~
 2931 ~~days~~ after receipt of the request.

2932 (4) TRANSFER BETWEEN PRIVATE FACILITIES.—

2933 (a) An individual being held ~~A patient~~ in a private
 2934 facility or his or her ~~the patient's~~ guardian, ~~or~~ guardian
 2935 advocate, or health care surrogate or proxy may request the
 2936 transfer of the individual ~~patient~~ to another private facility
 2937 at any time, and the individual ~~patient~~ shall be transferred
 2938 upon acceptance of the individual ~~patient~~ by the facility to
 2939 which transfer is sought.

2940 (b) A private facility may request the transfer of an
 2941 individual from the facility to another private facility, and
 2942 the individual may be transferred upon acceptance of the
 2943 individual by the facility to which the individual is being
 2944 transferred.

2945 Section 24. Section 394.469, Florida Statutes, is amended
 2946 to read:

2947 394.469 Discharge from ~~of~~ involuntary placement patients.—

2948 (1) POWER TO DISCHARGE.—At any time an individual ~~a patient~~
 2949 is found to no longer meet the criteria for involuntary
 2950 placement, the administrator shall:

2951 (a) Discharge the individual ~~patient~~, unless the patient is
 2952 under a criminal charge, in which case the patient shall be
 2953 transferred to the custody of the appropriate law enforcement
 2954 officer;

2955 (b) Transfer the individual ~~patient~~ to voluntary status on
 2956 the administrator's ~~his or her~~ own authority or at the
 2957 individual's ~~patient's~~ request, unless the individual is ~~patient~~
 2958 is under criminal charge or adjudicated incapacitated;

586-03332-17

20171756c1

2959 (c) Discharge the individual to the custody of a law
 2960 enforcement officer, if the individual is currently charged with
 2961 any crime and has not been released from law enforcement custody
 2962 by posting of a bond, or by a pretrial conditional release or by
 2963 other judicial release; or

2964 (d)~~(e)~~ Place an improved individual patient, except
 2965 individuals described in paragraph (c) a patient under a
 2966 criminal charge, on convalescent status in the care of a
 2967 community facility.

2968 (2) NOTICE.—Notice of discharge or transfer of an
 2969 individual must be provided in accordance with a patient shall
 2970 be given as provided in s. 394.4599.

2971 Section 25. Section 394.473, Florida Statutes, is amended
 2972 to read:

2973 394.473 Attorney ~~Attorney's~~ fee; expert witness fee.—

2974 (1) ~~In the case of an indigent person for whom~~ An attorney
 2975 ~~is~~ appointed to represent an individual pursuant to the
 2976 ~~provisions of this part, the attorney~~ shall be compensated by
 2977 the state pursuant to s. 27.5304. A public defender appointed to
 2978 represent an indigent individual may not ~~In the case of an~~
 2979 ~~indigent person, the court may appoint a public defender. The~~
 2980 ~~public defender shall receive no~~ additional compensation other
 2981 than that usually paid his or her office.

2982 (2) If an indigent individual's case requires ~~In the case~~
 2983 ~~of an indigent person for whom~~ expert testimony is required in a
 2984 court hearing pursuant to ~~the provisions of this part~~ act, the
 2985 expert shall be compensated by the state pursuant to s. 27.5303
 2986 or s. 27.5304, as applicable, unless the expert, ~~except one who~~
 2987 is classified as a full-time employee of the state or ~~who~~ is

586-03332-17

20171756c1

2988 receiving remuneration from the state for his or her time in
2989 attendance at the hearing, ~~shall be compensated by the state~~
2990 ~~pursuant to s. 27.5304.~~

2991 Section 26. Section 394.475, Florida Statutes, is amended
2992 to read:

2993 394.475 Acceptance, examination, and involuntary services
2994 ~~placement of Florida residents~~ from out-of-state mental health
2995 authorities.-

2996 (1) Upon the request of the state mental health authority
2997 of another state, the department may ~~is authorized to~~ accept an
2998 individual as a patient, for up to ~~a period of not more than~~ 15
2999 days, ~~a person~~ who is and has been a bona fide resident of this
3000 state for at least ~~a period of not less than~~ 1 year.

3001 (2) An individual ~~Any person~~ received pursuant to
3002 subsection (1) shall be examined by the staff of the state
3003 facility where the individual ~~such patient~~ has been admitted
3004 ~~accepted, which examination shall be completed~~ during the 15-day
3005 period.

3006 (3) If, upon examination, the individual ~~such a person~~
3007 requires continued involuntary services ~~placement~~, a petition
3008 for a hearing regarding involuntary services ~~placement~~ shall be
3009 filed with the court of the county where ~~wherein~~ the treatment
3010 facility receiving the individual ~~patient~~ is located or the
3011 county where the individual ~~patient~~ is a resident.

3012 (4) During the pendency of the examination period and the
3013 pendency of the involuntary services ~~placement~~ proceedings, an
3014 individual ~~such person~~ may continue to be held in the treatment
3015 facility unless the court having jurisdiction enters an order to
3016 the contrary.

586-03332-17

20171756c1

3017 Section 27. Section 394.4785, Florida Statutes, is amended
3018 to read:

3019 394.4785 Children and adolescents; admission and placement
3020 in mental health facilities.-

3021 (1) A child or adolescent ~~as~~ defined as a minor in s.
3022 394.455(31) ~~in s. 394.492~~ may not be admitted to a state-owned
3023 or state-operated mental health treatment facility. A minor
3024 ~~child~~ may be admitted pursuant to s. 394.4625, s. 394.463, or s.
3025 394.467 to a crisis stabilization unit or a residential
3026 treatment center licensed under this chapter or a hospital
3027 licensed under chapter 395. The treatment center, unit, or
3028 hospital must provide the least restrictive available treatment
3029 that is appropriate to the ~~individual~~ needs of the minor child
3030 ~~or adolescent~~ and must adhere to the guiding principles, system
3031 of care, and service planning provisions of ~~contained in~~ part
3032 III of this chapter.

3033 (2) A minor who is younger than 14 years of age ~~person~~
3034 ~~under the age of 14~~ who is admitted to a ~~any~~ hospital ~~licensed~~
3035 ~~pursuant to chapter 395~~ may not be admitted to a bed in a room
3036 or ward with an adult ~~patient~~ in a mental health unit or share
3037 common areas with an adult ~~patient~~ in a mental health unit.
3038 However, a minor person 14 years of age or older may be admitted
3039 to a bed in a room or ward in the mental health unit with an
3040 adult if a ~~the admitting~~ physician documents in the clinical
3041 ~~ease~~ record that the services are ~~such placement is~~ medically
3042 indicated or for reasons of safety. The ~~Such~~ placement shall be
3043 reviewed by a ~~the attending~~ physician or a designee or on-call
3044 physician each day and documented in the clinical ~~ease~~ record.

3045 Section 28. Section 394.4786, Florida Statutes, is

586-03332-17

20171756c1

3046 repealed.

3047 Section 29. Section 394.47865, Florida Statutes, is
3048 repealed.

3049 Section 30. Section 394.4787, Florida Statutes, is
3050 repealed.

3051 Section 31. Section 394.4788, Florida Statutes, is
3052 repealed.

3053 Section 32. Section 394.4789, Florida Statutes, is
3054 repealed.

3055 Section 33. Paragraph (a) of subsection (5) of section
3056 20.425, Florida Statutes, is amended to read:

3057 20.425 Agency for Health Care Administration; trust funds.—
3058 The following trust funds shall be administered by the Agency
3059 for Health Care Administration:

3060 (5) Public Medical Assistance Trust Fund.

3061 (a) Funds to be credited to and uses of the trust fund
3062 shall be administered in accordance with s. ~~the provisions of~~
3063 ~~ss. 394.4786 and 409.918.~~

3064 Section 34. Paragraph (a) of subsection (3) and subsection
3065 (6) of section 39.407, Florida Statutes, are amended to read:

3066 39.407 Medical, psychiatric, and psychological examination
3067 and treatment of child; physical, mental, or substance abuse
3068 examination of person with or requesting child custody.—

3069 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
3070 or paragraph (e), before the department provides psychotropic
3071 medications to a child in its custody, the prescribing physician
3072 shall attempt to obtain express and informed consent, as defined
3073 in s. 394.455(15) and as described in s. 394.459(3) ~~(a)~~, from the
3074 child's parent or legal guardian. The department must take steps

586-03332-17

20171756c1

3075 necessary to facilitate the inclusion of the parent in the
3076 child's consultation with the physician. However, if the
3077 parental rights of the parent have been terminated, the parent's
3078 location or identity is unknown or cannot reasonably be
3079 ascertained, or the parent declines to give express and informed
3080 consent, the department may, after consultation with the
3081 prescribing physician, seek court authorization to provide the
3082 psychotropic medications to the child. Unless parental rights
3083 have been terminated and if it is possible to do so, the
3084 department shall continue to involve the parent in the
3085 decisionmaking process regarding the provision of psychotropic
3086 medications. If, at any time, a parent whose parental rights
3087 have not been terminated provides express and informed consent
3088 to the provision of a psychotropic medication, the requirements
3089 of this section that the department seek court authorization do
3090 not apply to that medication until such time as the parent no
3091 longer consents.

3092 2. Any time the department seeks a medical evaluation to
3093 determine the need to initiate or continue a psychotropic
3094 medication for a child, the department must provide to the
3095 evaluating physician all pertinent medical information known to
3096 the department concerning that child.

3097 (6) Children who are in the legal custody of the department
3098 may be placed by the department, without prior approval of the
3099 court, in a residential treatment center licensed under s.
3100 394.875 or a hospital licensed under chapter 395 for residential
3101 mental health treatment only pursuant to this section or may be
3102 placed by the court in accordance with an order of involuntary
3103 examination or involuntary services placement ~~placement~~ entered pursuant

586-03332-17

20171756c1

3104 to s. 394.463 or s. 394.467. All children placed in a
3105 residential treatment program under this subsection must have a
3106 guardian ad litem appointed.

3107 (a) As used in this subsection, the term:

3108 1. "Residential treatment" means placement for observation,
3109 diagnosis, or treatment of an emotional disturbance in a
3110 residential treatment center licensed under s. 394.875 or a
3111 hospital licensed under chapter 395.

3112 2. "Least restrictive alternative" means the treatment and
3113 conditions of treatment that, separately and in combination, are
3114 no more intrusive or restrictive of freedom than reasonably
3115 necessary to achieve a substantial therapeutic benefit or to
3116 protect the child or adolescent or others from physical injury.

3117 3. "Suitable for residential treatment" or "suitability"
3118 means a determination concerning a child or adolescent with an
3119 emotional disturbance as defined in s. 394.492(5) or a serious
3120 emotional disturbance as defined in s. 394.492(6) that each of
3121 the following criteria is met:

3122 a. The child requires residential treatment.

3123 b. The child is in need of a residential treatment program
3124 and is expected to benefit from mental health treatment.

3125 c. An appropriate, less restrictive alternative to
3126 residential treatment is unavailable.

3127 (b) Whenever the department believes that a child in its
3128 legal custody is emotionally disturbed and may need residential
3129 treatment, an examination and suitability assessment must be
3130 conducted by a qualified evaluator who is appointed by the
3131 Agency for Health Care Administration. This suitability
3132 assessment must be completed before the placement of the child

586-03332-17

20171756c1

3133 in a residential treatment center for emotionally disturbed
3134 children and adolescents or a hospital. The qualified evaluator
3135 must be a psychiatrist or a psychologist licensed in Florida who
3136 has at least 3 years of experience in the diagnosis and
3137 treatment of serious emotional disturbances in children and
3138 adolescents and who has no actual or perceived conflict of
3139 interest with any inpatient facility or residential treatment
3140 center or program.

3141 (c) Before a child is admitted under this subsection, the
3142 child shall be assessed for suitability for residential
3143 treatment by a qualified evaluator who has conducted a personal
3144 examination and assessment of the child and has made written
3145 findings that:

3146 1. The child appears to have an emotional disturbance
3147 serious enough to require residential treatment and is
3148 reasonably likely to benefit from the treatment.

3149 2. The child has been provided with a clinically
3150 appropriate explanation of the nature and purpose of the
3151 treatment.

3152 3. All available modalities of treatment less restrictive
3153 than residential treatment have been considered, and a less
3154 restrictive alternative that would offer comparable benefits to
3155 the child is unavailable.

3156
3157 A copy of the written findings of the evaluation and suitability
3158 assessment must be provided to the department, to the guardian
3159 ad litem, and, if the child is a member of a Medicaid managed
3160 care plan, to the plan that is financially responsible for the
3161 child's care in residential treatment, all of whom must be

586-03332-17

20171756c1

3162 provided with the opportunity to discuss the findings with the
3163 evaluator.

3164 (d) Immediately upon placing a child in a residential
3165 treatment program under this section, the department must notify
3166 the guardian ad litem and the court having jurisdiction over the
3167 child and must provide the guardian ad litem and the court with
3168 a copy of the assessment by the qualified evaluator.

3169 (e) Within 10 days after the admission of a child to a
3170 residential treatment program, the director of the residential
3171 treatment program or the director's designee must ensure that an
3172 individualized plan of treatment has been prepared by the
3173 program and has been explained to the child, to the department,
3174 and to the guardian ad litem, and submitted to the department.
3175 The child must be involved in the preparation of the plan to the
3176 maximum feasible extent consistent with his or her ability to
3177 understand and participate, and the guardian ad litem and the
3178 child's foster parents must be involved to the maximum extent
3179 consistent with the child's treatment needs. The plan must
3180 include a preliminary plan for residential treatment and
3181 aftercare upon completion of residential treatment. The plan
3182 must include specific behavioral and emotional goals against
3183 which the success of the residential treatment may be measured.
3184 A copy of the plan must be provided to the child, to the
3185 guardian ad litem, and to the department.

3186 (f) Within 30 days after admission, the residential
3187 treatment program must review the appropriateness and
3188 suitability of the child's placement in the program. The
3189 residential treatment program must determine whether the child
3190 is receiving benefit toward the treatment goals and whether the

586-03332-17

20171756c1

3191 child could be treated in a less restrictive treatment program.
3192 The residential treatment program shall prepare a written report
3193 of its findings and submit the report to the guardian ad litem
3194 and to the department. The department must submit the report to
3195 the court. The report must include a discharge plan for the
3196 child. The residential treatment program must continue to
3197 evaluate the child's treatment progress every 30 days thereafter
3198 and must include its findings in a written report submitted to
3199 the department. The department may not reimburse a facility
3200 until the facility has submitted every written report that is
3201 due.

3202 (g)1. The department must submit, at the beginning of each
3203 month, to the court having jurisdiction over the child, a
3204 written report regarding the child's progress toward achieving
3205 the goals specified in the individualized plan of treatment.

3206 2. The court must conduct a hearing to review the status of
3207 the child's residential treatment plan no later than 3 months
3208 after the child's admission to the residential treatment
3209 program. An independent review of the child's progress toward
3210 achieving the goals and objectives of the treatment plan must be
3211 completed by a qualified evaluator and submitted to the court
3212 before its 3-month review.

3213 3. For any child in residential treatment at the time a
3214 judicial review is held pursuant to s. 39.701, the child's
3215 continued placement in residential treatment must be a subject
3216 of the judicial review.

3217 4. If at any time the court determines that the child is
3218 not suitable for continued residential treatment, the court
3219 shall order the department to place the child in the least

586-03332-17

20171756c1

3220 restrictive setting that is best suited to meet his or her
3221 needs.

3222 (h) After the initial 3-month review, the court must
3223 conduct a review of the child's residential treatment plan every
3224 90 days.

3225 (i) The department must adopt rules for implementing
3226 timeframes for the completion of suitability assessments by
3227 qualified evaluators and a procedure that includes timeframes
3228 for completing the 3-month independent review by the qualified
3229 evaluators of the child's progress toward achieving the goals
3230 and objectives of the treatment plan which review must be
3231 submitted to the court. The Agency for Health Care
3232 Administration must adopt rules for the registration of
3233 qualified evaluators, the procedure for selecting the evaluators
3234 to conduct the reviews required under this section, and a
3235 reasonable, cost-efficient fee schedule for qualified
3236 evaluators.

3237 Section 35. Subsections (5) and (6) of section 394.492,
3238 Florida Statutes, are amended to read:

3239 394.492 Definitions.—As used in ss. 394.490-394.497, the
3240 term:

3241 (5) "Child or adolescent who has an emotional disturbance"
3242 means a person under 18 years of age who is diagnosed with a
3243 mental, emotional, or behavioral disorder of sufficient duration
3244 to meet one of the diagnostic categories specified in the most
3245 recent edition of the Diagnostic and Statistical Manual of the
3246 American Psychiatric Association, but who does not exhibit
3247 behaviors that substantially interfere with or limit his or her
3248 role or ability to function in the family, school, or community.

586-03332-17

20171756c1

3249 The emotional disturbance must not be considered to be a
3250 temporary response to a stressful situation. The term does not
3251 include a child or adolescent who meets the criteria for
3252 involuntary placement under s. 394.467(1).

3253 (6) "Child or adolescent who has a serious emotional
3254 disturbance or mental illness" means a person under 18 years of
3255 age who:

3256 (a) Is diagnosed as having a mental, emotional, or
3257 behavioral disorder that meets one of the diagnostic categories
3258 specified in the most recent edition of the Diagnostic and
3259 Statistical Manual of Mental Disorders of the American
3260 Psychiatric Association; and

3261 (b) Exhibits behaviors that substantially interfere with or
3262 limit his or her role or ability to function in the family,
3263 school, or community, which behaviors are not considered to be a
3264 temporary response to a stressful situation.

3265
3266 The term includes a child or adolescent who meets the criteria
3267 for involuntary placement under s. 394.467(1).

3268 Section 36. Paragraphs (a) and (c) of subsection (3) of
3269 section 394.495, Florida Statutes, are amended to read:

3270 394.495 Child and adolescent mental health system of care;
3271 programs and services.—

3272 (3) Assessments must be performed by:

3273 (a) A professional as defined in s. 394.455(7), (33), (36),
3274 or (37) ~~394.455(5), (7), (32), (35), or (36)~~;

3275 (c) A person who is under the direct supervision of a
3276 qualified professional as defined in s. 394.455(7), (33), (36),
3277 or (37) ~~394.455(5), (7), (32), (35), or (36)~~ or a professional

586-03332-17

20171756c1

3278 licensed under chapter 491.

3279 Section 37. Subsection (5) of section 394.496, Florida
3280 Statutes, is amended to read:

3281 394.496 Service planning.—

3282 (5) A professional as defined in s. 394.455(7), (33), (36),
3283 or (37) ~~394.455(5), (7), (32), (35), or (36)~~ or a professional
3284 licensed under chapter 491 must be included among those persons
3285 developing the services plan.

3286 Section 38. Subsection (6) of section 394.9085, Florida
3287 Statutes, is amended to read:

3288 394.9085 Behavioral provider liability.—

3289 (6) For purposes of this section, the terms "detoxification
3290 services," "addictions receiving facility," and "receiving
3291 facility" have the same meanings as those provided in ss.
3292 397.311(25)(a)4., 397.311(25)(a)1., and 394.455(41) ~~394.455(39),~~
3293 respectively.

3294 Section 39. Paragraph (b) of subsection (1) of section
3295 409.972, Florida Statutes, is amended to read:

3296 409.972 Mandatory and voluntary enrollment.—

3297 (1) The following Medicaid-eligible persons are exempt from
3298 mandatory managed care enrollment required by s. 409.965, and
3299 may voluntarily choose to participate in the managed medical
3300 assistance program:

3301 (b) Medicaid recipients residing in residential commitment
3302 facilities operated through the Department of Juvenile Justice
3303 or a treatment facility as defined in s. 394.455(51)
3304 ~~394.455(47)~~.

3305 Section 40. Subsection (7) of section 744.2007, Florida
3306 Statutes, is amended to read:

586-03332-17

20171756c1

3307 744.2007 Powers and duties.—

3308 (7) A public guardian may not commit a ward to a treatment
3309 facility, as defined in s. 394.455(51) ~~394.455(47)~~, without an
3310 involuntary placement proceeding as provided by law.

3311 Section 41. Paragraph (a) of subsection (2) of section
3312 790.065, Florida Statutes, is amended to read:

3313 790.065 Sale and delivery of firearms.—

3314 (2) Upon receipt of a request for a criminal history record
3315 check, the Department of Law Enforcement shall, during the
3316 licensee's call or by return call, forthwith:

3317 (a) Review any records available to determine if the
3318 potential buyer or transferee:

3319 1. Has been convicted of a felony and is prohibited from
3320 receipt or possession of a firearm pursuant to s. 790.23;

3321 2. Has been convicted of a misdemeanor crime of domestic
3322 violence, and therefore is prohibited from purchasing a firearm;

3323 3. Has had adjudication of guilt withheld or imposition of
3324 sentence suspended on any felony or misdemeanor crime of
3325 domestic violence unless 3 years have elapsed since probation or
3326 any other conditions set by the court have been fulfilled or
3327 expunction has occurred; or

3328 4. Has been adjudicated mentally defective or has been
3329 committed to a mental institution by a court or as provided in
3330 sub-sub-subparagraph b.(II), and as a result is prohibited by
3331 state or federal law from purchasing a firearm.

3332 a. As used in this subparagraph, "adjudicated mentally
3333 defective" means a determination by a court that a person, as a
3334 result of marked subnormal intelligence, or mental illness,
3335 incompetency, condition, or disease, is a danger to himself or

586-03332-17

20171756c1

3336 herself or to others or lacks the mental capacity to contract or
3337 manage his or her own affairs. The phrase includes a judicial
3338 finding of incapacity under s. 744.331(6)(a), an acquittal by
3339 reason of insanity of a person charged with a criminal offense,
3340 and a judicial finding that a criminal defendant is not
3341 competent to stand trial.

3342 b. As used in this subparagraph, "committed to a mental
3343 institution" means:

3344 (I) Involuntary commitment, commitment for mental
3345 defectiveness or mental illness, and commitment for substance
3346 abuse. The phrase includes involuntary services ~~inpatient~~
3347 ~~placement~~ as defined in s. 394.467, ~~involuntary outpatient~~
3348 ~~placement as defined in s. 394.4655~~, involuntary assessment and
3349 stabilization under s. 397.6818, and involuntary substance abuse
3350 treatment under s. 397.6957, but does not include a person in a
3351 mental institution for observation or discharged from a mental
3352 institution based upon the initial review by the physician or a
3353 voluntary admission to a mental institution; or

3354 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3355 admission to a mental institution for outpatient or inpatient
3356 treatment of a person who had an involuntary examination under
3357 s. 394.463, where each of the following conditions have been
3358 met:

3359 (A) An examining physician found that the person is an
3360 imminent danger to himself or herself or others.

3361 (B) The examining physician certified that if the person
3362 did not agree to voluntary treatment, a petition for involuntary
3363 outpatient or inpatient treatment would have been filed under s.
3364 394.463(2)(f)3. ~~394.463(2)(i)4.~~, or the examining physician

586-03332-17

20171756c1

3365 certified that a petition was filed and the person subsequently
3366 agreed to voluntary treatment prior to a court hearing on the
3367 petition.

3368 (C) Before agreeing to voluntary treatment, the person
3369 received written notice of that finding and certification, and
3370 written notice that as a result of such finding, he or she may
3371 be prohibited from purchasing a firearm, and may not be eligible
3372 to apply for or retain a concealed weapon or firearms license
3373 under s. 790.06 and the person acknowledged such notice in
3374 writing, in substantially the following form:

3375 "I understand that the doctor who examined me believes I am a
3376 danger to myself or to others. I understand that if I do not
3377 agree to voluntary treatment, a petition will be filed in court
3378 to require me to receive involuntary treatment. I understand
3379 that if that petition is filed, I have the right to contest it.
3380 In the event a petition has been filed, I understand that I can
3381 subsequently agree to voluntary treatment prior to a court
3382 hearing. I understand that by agreeing to voluntary treatment in
3383 either of these situations, I may be prohibited from buying
3384 firearms and from applying for or retaining a concealed weapons
3385 or firearms license until I apply for and receive relief from
3386 that restriction under Florida law."

3387 (D) A judge or a magistrate has, pursuant to sub-sub-
3388 subparagraph c.(II), reviewed the record of the finding,
3389 certification, notice, and written acknowledgment classifying
3390 the person as an imminent danger to himself or herself or
3391 others, and ordered that such record be submitted to the
3392 department.

3393 c. In order to check for these conditions, the department

586-03332-17

20171756c1

3394 shall compile and maintain an automated database of persons who
3395 are prohibited from purchasing a firearm based on court records
3396 of adjudications of mental defectiveness or commitments to
3397 mental institutions.

3398 (I) Except as provided in sub-sub-subparagraph (II), clerks
3399 of court shall submit these records to the department within 1
3400 month after the rendition of the adjudication or commitment.
3401 Reports shall be submitted in an automated format. The reports
3402 must, at a minimum, include the name, along with any known alias
3403 or former name, the sex, and the date of birth of the subject.

3404 (II) For persons committed to a mental institution pursuant
3405 to sub-sub-subparagraph b.(II), within 24 hours after the
3406 person's agreement to voluntary admission, a record of the
3407 finding, certification, notice, and written acknowledgment must
3408 be filed by the administrator of the receiving or treatment
3409 facility, as defined in s. 394.455, with the clerk of the court
3410 for the county in which the involuntary examination under s.
3411 394.463 occurred. No fee shall be charged for the filing under
3412 this sub-sub-subparagraph. The clerk must present the records to
3413 a judge or magistrate within 24 hours after receipt of the
3414 records. A judge or magistrate is required and has the lawful
3415 authority to review the records ex parte and, if the judge or
3416 magistrate determines that the record supports the classifying
3417 of the person as an imminent danger to himself or herself or
3418 others, to order that the record be submitted to the department.
3419 If a judge or magistrate orders the submittal of the record to
3420 the department, the record must be submitted to the department
3421 within 24 hours.

3422 d. A person who has been adjudicated mentally defective or

586-03332-17

20171756c1

3423 committed to a mental institution, as those terms are defined in
3424 this paragraph, may petition the court that made the
3425 adjudication or commitment, or the court that ordered that the
3426 record be submitted to the department pursuant to sub-sub-
3427 subparagraph c.(II), for relief from the firearm disabilities
3428 imposed by such adjudication or commitment. A copy of the
3429 petition shall be served on the state attorney for the county in
3430 which the person was adjudicated or committed. The state
3431 attorney may object to and present evidence relevant to the
3432 relief sought by the petition. The hearing on the petition may
3433 be open or closed as the petitioner may choose. The petitioner
3434 may present evidence and subpoena witnesses to appear at the
3435 hearing on the petition. The petitioner may confront and cross-
3436 examine witnesses called by the state attorney. A record of the
3437 hearing shall be made by a certified court reporter or by court-
3438 approved electronic means. The court shall make written findings
3439 of fact and conclusions of law on the issues before it and issue
3440 a final order. The court shall grant the relief requested in the
3441 petition if the court finds, based on the evidence presented
3442 with respect to the petitioner's reputation, the petitioner's
3443 mental health record and, if applicable, criminal history
3444 record, the circumstances surrounding the firearm disability,
3445 and any other evidence in the record, that the petitioner will
3446 not be likely to act in a manner that is dangerous to public
3447 safety and that granting the relief would not be contrary to the
3448 public interest. If the final order denies relief, the
3449 petitioner may not petition again for relief from firearm
3450 disabilities until 1 year after the date of the final order. The
3451 petitioner may seek judicial review of a final order denying

586-03332-17

20171756c1

3452 relief in the district court of appeal having jurisdiction over
3453 the court that issued the order. The review shall be conducted
3454 de novo. Relief from a firearm disability granted under this
3455 sub-subparagraph has no effect on the loss of civil rights,
3456 including firearm rights, for any reason other than the
3457 particular adjudication of mental defectiveness or commitment to
3458 a mental institution from which relief is granted.

3459 e. Upon receipt of proper notice of relief from firearm
3460 disabilities granted under sub-subparagraph d., the department
3461 shall delete any mental health record of the person granted
3462 relief from the automated database of persons who are prohibited
3463 from purchasing a firearm based on court records of
3464 adjudications of mental defectiveness or commitments to mental
3465 institutions.

3466 f. The department is authorized to disclose data collected
3467 pursuant to this subparagraph to agencies of the Federal
3468 Government and other states for use exclusively in determining
3469 the lawfulness of a firearm sale or transfer. The department is
3470 also authorized to disclose this data to the Department of
3471 Agriculture and Consumer Services for purposes of determining
3472 eligibility for issuance of a concealed weapons or concealed
3473 firearms license and for determining whether a basis exists for
3474 revoking or suspending a previously issued license pursuant to
3475 s. 790.06(10). When a potential buyer or transferee appeals a
3476 nonapproval based on these records, the clerks of court and
3477 mental institutions shall, upon request by the department,
3478 provide information to help determine whether the potential
3479 buyer or transferee is the same person as the subject of the
3480 record. Photographs and any other data that could confirm or

586-03332-17

20171756c1

3481 negate identity must be made available to the department for
3482 such purposes, notwithstanding any other provision of state law
3483 to the contrary. Any such information that is made confidential
3484 or exempt from disclosure by law shall retain such confidential
3485 or exempt status when transferred to the department.

3486 Section 42. Subsection (1) of section 945.46, Florida
3487 Statutes, is amended to read:

3488 945.46 Initiation of involuntary placement proceedings with
3489 respect to a mentally ill inmate scheduled for release.—

3490 (1) If an inmate who is receiving mental health treatment
3491 in the department is scheduled for release through expiration of
3492 sentence or any other means, but continues to be mentally ill
3493 and in need of care and treatment, as defined in s. 945.42, the
3494 warden is authorized to initiate procedures for involuntary
3495 placement pursuant to s. 394.467, 60 days prior to such release.

3496 Section 43. This act shall take effect July 1, 2017.