

By Senator Book

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1                                   A bill to be entitled  
2           An act relating to mental health and substance abuse;  
3           amending s. 394.455, F.S.; conforming a cross-  
4           reference; defining the terms "neglect or refuse to  
5           care for himself or herself" and "real and present  
6           threat of substantial harm"; amending s. 394.459,  
7           F.S.; requiring facilities to inform respondents with  
8           a serious mental illness of the essential elements of  
9           recovery and provide them assistance in accessing a  
10          continuum of care regimen; authorizing the Department  
11          of Children and Families to adopt certain rules;  
12          amending s. 394.4598, F.S.; conforming a cross-  
13          reference; amending s. 394.4599, F.S.; conforming  
14          provisions to changes made by the act; amending s.  
15          394.461, F.S.; authorizing the state to establish that  
16          a transfer evaluation was performed by providing the  
17          court with a copy of the evaluation before the close  
18          of the state's case in chief; prohibiting the court  
19          from considering substantive information in the  
20          transfer evaluation unless the evaluator testifies at  
21          the hearing; amending s. 394.4615, F.S.; conforming  
22          provisions to changes made by the act; amending s.  
23          394.462, F.S.; conforming provisions to changes made  
24          by the act; amending s. 394.4625, F.S.; providing  
25          requirements relating to the voluntariness of  
26          admissions to a facility for examination and  
27          treatment; providing requirements for verifying the  
28          assent of a minor admitted to a facility; requiring  
29          the appointment of a public defender to review the

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30 voluntariness of a minor's admission to a facility;  
31 requiring the filing of a petition for involuntary  
32 placement or release of a minor to his or her parent  
33 or legal guardian under certain circumstances;  
34 requiring minor patients' assent to voluntary care to  
35 be verified in a specified manner before a transfer to  
36 voluntary status may occur; conforming provisions to  
37 changes made by the act; amending s. 394.463, F.S.;  
38 revising the requirements for when a person may be  
39 taken to a receiving facility for involuntary  
40 examination; requiring a facility to inform the  
41 department of certain persons who have been examined  
42 or committed under certain circumstances; conforming  
43 provisions to changes made by the act; providing  
44 criminal and civil penalties; amending s. 394.4655,  
45 F.S.; revising the requirements for involuntary  
46 outpatient treatment; amending s. 394.467, F.S.;  
47 revising the requirements for when a person may be  
48 ordered for involuntary inpatient placement; revising  
49 requirements for continuances of hearings; revising  
50 the conditions under which a court may waive the  
51 requirement for a patient to be present at an  
52 involuntary inpatient placement hearing; authorizing  
53 the court to permit all witnesses to attend and  
54 testify remotely at the hearing through certain means;  
55 requiring facilities to make certain clinical records  
56 available to a state attorney within a specified  
57 timeframe; specifying that such records remain  
58 confidential and may not be used for certain purposes;

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59           revising when the court may appoint a magistrate;  
60           requiring the court to allow certain testimony from  
61           individuals; revising the amount of time a court may  
62           require a patient to receive services; requiring  
63           facilities to discharge patients after the patient no  
64           longer meets the criteria for involuntary treatment;  
65           prohibiting courts from ordering that individuals with  
66           developmental disabilities be involuntarily placed in a  
67           state treatment facility; requiring such individuals  
68           to be referred to certain agencies for evaluation and  
69           services; authorizing facilities to hold such  
70           individuals under certain circumstances; conforming  
71           provisions to changes made by the act; amending ss.  
72           394.495 and 394.496, F.S.; conforming provisions to  
73           changes made by the act; amending s. 394.499, F.S.;  
74           making technical and conforming changes; amending s.  
75           394.9085, F.S.; conforming cross-references; amending  
76           s. 397.305, F.S.; revising the purposes of ch. 397,  
77           F.S.; amending s. 397.311, F.S.; revising the  
78           definition of the terms "impaired" and "substance  
79           abuse impaired"; defining the terms "involuntary  
80           treatment services," "neglect or refuse to care for  
81           himself or herself," and "real and present threat of  
82           substantial harm"; amending s. 397.416, F.S.;  
83           conforming a cross-reference; amending s. 397.501,  
84           F.S.; requiring that respondents with serious  
85           substance use disorders be informed of the essential  
86           elements of recovery and provide them assistance with  
87           accessing a continuum of care regimen; authorizing the

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88 department to adopt certain rules; amending s.  
89 397.675, F.S.; revising the criteria for involuntary  
90 admissions; amending s. 397.6751, F.S.; revising the  
91 responsibilities of a service provider; amending s.  
92 397.681, F.S.; revising where involuntary treatment  
93 petitions for substance abuse impaired persons may be  
94 filed; revising what part of such proceedings a  
95 general or special magistrate may preside over;  
96 requiring that the state attorney represent the state  
97 as the real party of interest in an involuntary  
98 proceeding, subject to legislative appropriation;  
99 providing that the petitioner has the right to be  
100 heard; specifying that certain records obtained by a  
101 state attorney must remain confidential and may not be  
102 used for certain purposes; conforming provisions to  
103 changes made by the act; repealing s. 397.6811, F.S.,  
104 relating to involuntary assessment and stabilization;  
105 repealing s. 397.6814, F.S., relating to petitions for  
106 involuntary assessment and stabilization; repealing s.  
107 397.6815, F.S., relating to involuntary assessment and  
108 stabilization procedures; repealing s. 397.6818, F.S.,  
109 relating to court determinations for petitions for  
110 involuntary assessment and stabilization; repealing s.  
111 397.6819, F.S., relating to the responsibilities of  
112 licensed service providers with regard to involuntary  
113 assessment and stabilization; repealing s. 397.6821,  
114 F.S., relating to extensions of time for completion of  
115 involuntary assessment and stabilization; repealing s.  
116 397.6822, F.S., relating to the disposition of

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117 individuals after involuntary assessments; amending s.  
118 397.693, F.S.; revising the circumstances under which  
119 a person is eligible for court-ordered involuntary  
120 treatment; amending s. 397.695, F.S.; authorizing the  
121 court or clerk of the court to waive or prohibit any  
122 service of process fees for an indigent petitioner;  
123 amending s. 397.6951, F.S.; revising the requirements  
124 for the contents of a petition for involuntary  
125 treatment services; authorizing a petitioner to  
126 include with the petition a certificate or report of a  
127 qualified professional; requiring the certificate or  
128 report to contain certain information; requiring that  
129 certain additional information be included if an  
130 emergency exists; amending s. 397.6955, F.S.;  
131 requiring the clerk of the court to notify the state  
132 attorney's office upon the receipt of a petition filed  
133 for involuntary treatment services; revising when the  
134 office of criminal conflict and civil regional counsel  
135 represents a person; revising when a hearing must be  
136 held on the petition; requiring law enforcement  
137 agencies to effect service for initial treatment  
138 hearings unless certain requirements are met;  
139 providing requirements for when a petitioner asserts  
140 that emergency circumstances exist or the court  
141 determines that an emergency exists; conforming  
142 provisions to changes made by the act; amending s.  
143 397.6957, F.S.; expanding the exemption from the  
144 requirement that a respondent be present at a hearing  
145 on a petition for involuntary treatment services;

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146 authorizing the court to order drug tests and permit  
147 all witnesses to remotely attend and testify at the  
148 hearing through certain means; deleting a provision  
149 requiring the court to appoint a guardian advocate  
150 under certain circumstances; prohibiting a respondent  
151 from being involuntarily ordered into treatment unless  
152 certain requirements are met; providing requirements  
153 relating to involuntary assessment and stabilization  
154 orders; providing requirements relating to involuntary  
155 treatment hearings; requiring that the assessment of a  
156 respondent occur before a specified time unless  
157 certain requirements are met; requiring the service  
158 provider to discharge the respondent after a specified  
159 time unless certain requirements are met; requiring a  
160 qualified professional to provide copies of his or her  
161 report to the court and all relevant parties and  
162 counsel; providing requirements for the report;  
163 authorizing a court to order certain persons to take a  
164 respondent into custody and transport him or her to or  
165 from certain service providers and the court; revising  
166 the petitioner's burden of proof in the hearing;  
167 authorizing the court to initiate involuntary  
168 proceedings under certain circumstances; requiring  
169 that, if a treatment order is issued, it must include  
170 certain findings; amending s. 397.697, F.S.; requiring  
171 that an individual meet certain requirements to  
172 qualify for involuntary outpatient treatment;  
173 specifying that certain hearings may be set by the  
174 motion of a party or under the court's own authority;

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175 specifying that a service provider's authority is  
176 separate and distinct from the court's jurisdiction;  
177 amending s. 397.6971, F.S.; revising when an  
178 individual receiving involuntary treatment services  
179 may be determined eligible for discharge; conforming  
180 provisions to changes made by the act; amending s.  
181 397.6975, F.S.; authorizing certain entities to file a  
182 petition for renewal of involuntary treatment;  
183 revising the timeframe during which the court is  
184 required to schedule a hearing; conforming provisions  
185 to changes made by the act; amending s. 397.6977,  
186 F.S.; conforming provisions to changes made by the  
187 act; repealing s. 397.6978, F.S., relating to the  
188 appointment of guardian advocates; amending ss.  
189 409.972, 464.012, 744.2007, and 790.065, F.S.;  
190 conforming cross-references; providing an effective  
191 date.

192  
193 Be It Enacted by the Legislature of the State of Florida:

194  
195 Section 1. Present subsections (32) through (39) and (40)  
196 through (49) of section 394.455, Florida Statutes, are  
197 redesignated as subsections (33) through (40) and (42) through  
198 (51), respectively, new subsections (32) and (41) are added to  
199 that section, and subsection (23) of that section is amended, to  
200 read:

201 394.455 Definitions.—As used in this part, the term:  
202 (23) "Involuntary examination" means an examination  
203 performed under s. 394.463, s. 397.6772, s. 397.679, s.

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204 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a  
205 person qualifies for involuntary services.

206 (32) "Neglect or refuse to care for himself or herself"  
207 includes, but is not limited to, evidence that a person:

208 (a) Is unable to satisfy basic needs for nourishment,  
209 clothing, medical care, shelter, or safety in a manner that  
210 creates a substantial probability of imminent death, serious  
211 physical debilitation, or disease; or

212 (b) Is substantially unable to make an informed treatment  
213 choice and needs care or treatment to prevent deterioration.

214 (41) "Real and present threat of substantial harm"  
215 includes, but is not limited to, evidence of a substantial  
216 probability that the untreated person will:

217 (a) Lack, refuse, or not receive services for health and  
218 safety which are actually available in the community; or

219 (b) Suffer severe mental, emotional, or physical harm that  
220 will result in the loss of his or her ability to function in the  
221 community or the loss of cognitive or volitional control over  
222 thoughts or actions.

223 Section 2. Subsection (13) is added to section 394.459,  
224 Florida Statutes, to read:

225 394.459 Rights of patients.—

226 (13) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, the  
227 facility must inform a respondent with a serious mental illness  
228 of the essential elements of recovery and provide assistance  
229 with accessing a continuum of care regimen. The department may  
230 adopt rules specifying the services that may be provided to such  
231 respondents.

232 Section 3. Subsection (1) of section 394.4598, Florida



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233 Statutes, is amended to read:

234 394.4598 Guardian advocate.—

235 (1) The administrator may petition the court for the  
236 appointment of a guardian advocate based upon the opinion of a  
237 psychiatrist that the patient is incompetent to consent to  
238 treatment. If the court finds that a patient is incompetent to  
239 consent to treatment and has not been adjudicated incapacitated  
240 and a guardian with the authority to consent to mental health  
241 treatment appointed, it shall appoint a guardian advocate. The  
242 patient has the right to have an attorney represent him or her  
243 at the hearing. If the person is indigent, the court shall  
244 appoint the office of the public defender to represent him or  
245 her at the hearing. The patient has the right to testify, cross-  
246 examine witnesses, and present witnesses. The proceeding shall  
247 be recorded either electronically or stenographically, and  
248 testimony shall be provided under oath. One of the professionals  
249 authorized to give an opinion in support of a petition for  
250 involuntary placement, as described in ~~s. 394.4655~~ or s.  
251 394.467, must testify. A guardian advocate must meet the  
252 qualifications of a guardian contained in part IV of chapter  
253 744, except that a professional referred to in this part, an  
254 employee of the facility providing direct services to the  
255 patient under this part, a departmental employee, a facility  
256 administrator, or member of the Florida local advocacy council  
257 shall not be appointed. A person who is appointed as a guardian  
258 advocate must agree to the appointment.

259 Section 4. Paragraph (d) of subsection (2) of section  
260 394.4599, Florida Statutes, is amended to read:

261 394.4599 Notice.—

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262 (2) INVOLUNTARY ADMISSION.—

263 (d) The written notice of the filing of the petition for  
264 involuntary services for an individual being held must contain  
265 the following:

266 1. Notice that the petition for:

267 a. Involuntary inpatient treatment pursuant to s. 394.467  
268 has been filed with the circuit court in the county in which the  
269 individual is hospitalized and the address of such court; or

270 b. Involuntary outpatient services pursuant to s. 394.4655  
271 has been filed with the criminal county court, ~~as defined in s.~~  
272 ~~394.4655(1)~~, or the circuit court, as applicable, in the county  
273 in which the individual is hospitalized and the address of such  
274 court.

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

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

281 4. Notice that the individual, the individual's guardian,  
282 guardian advocate, health care surrogate or proxy, or  
283 representative, or the administrator may apply for a change of  
284 venue for the convenience of the parties or witnesses or because  
285 of the condition of the individual.

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

289 Section 5. Subsection (2) of section 394.461, Florida  
290 Statutes, is amended to read:

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291 394.461 Designation of receiving and treatment facilities  
292 and receiving systems.—The department is authorized to designate  
293 and monitor receiving facilities, treatment facilities, and  
294 receiving systems and may suspend or withdraw such designation  
295 for failure to comply with this part and rules adopted under  
296 this part. Unless designated by the department, facilities are  
297 not permitted to hold or treat involuntary patients under this  
298 part.

299 (2) TREATMENT FACILITY.—The department may designate any  
300 state-owned, state-operated, or state-supported facility as a  
301 state treatment facility. A civil patient shall not be admitted  
302 to a state treatment facility without previously undergoing a  
303 transfer evaluation. Before the close of the state's case in  
304 chief in a court hearing for involuntary placement in a state  
305 treatment facility, the state may establish that the transfer  
306 evaluation was performed and the document properly executed by  
307 providing the court with a copy of the transfer evaluation. The  
308 court may not shall receive and consider the substantive  
309 information documented in the transfer evaluation unless the  
310 evaluator testifies at the hearing. Any other facility,  
311 including a private facility or a federal facility, may be  
312 designated as a treatment facility by the department, provided  
313 that such designation is agreed to by the appropriate governing  
314 body or authority of the facility.

315 Section 6. Subsection (3) of section 394.4615, Florida  
316 Statutes, is amended to read:

317 394.4615 Clinical records; confidentiality.—

318 (3) Information from the clinical record may be released in  
319 the following circumstances:

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320 (a) When a patient has communicated to a service provider a  
321 specific threat to cause serious bodily injury or death to an  
322 identified or a readily available person, if the service  
323 provider reasonably believes, or should reasonably believe  
324 according to the standards of his or her profession, that the  
325 patient has the apparent intent and ability to imminently or  
326 immediately carry out such threat. When such communication has  
327 been made, the administrator may authorize the release of  
328 sufficient information to provide adequate warning to the person  
329 threatened with harm by the patient.

330 (b) When the administrator of the facility or secretary of  
331 the department deems release to a qualified researcher as  
332 defined in administrative rule, an aftercare treatment provider,  
333 or an employee or agent of the department is necessary for  
334 treatment of the patient, maintenance of adequate records,  
335 compilation of treatment data, aftercare planning, or evaluation  
336 of programs.

337  
338 For the purpose of determining whether a person meets the  
339 criteria for involuntary outpatient placement ~~or for preparing~~  
340 ~~the proposed treatment plan~~ pursuant to s. 394.4655, the  
341 clinical record may be released to the state attorney, the  
342 public defender or the patient's private legal counsel, the  
343 court, and to the appropriate mental health professionals,  
344 ~~including the service provider identified in s.~~  
345 ~~394.4655(7)(b)2.,~~ in accordance with state and federal law.

346 Section 7. Section 394.462, Florida Statutes, is amended to  
347 read:

348 394.462 Transportation.—A transportation plan shall be

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349 developed and implemented by each county in collaboration with  
350 the managing entity in accordance with this section. A county  
351 may enter into a memorandum of understanding with the governing  
352 boards of nearby counties to establish a shared transportation  
353 plan. When multiple counties enter into a memorandum of  
354 understanding for this purpose, the counties shall notify the  
355 managing entity and provide it with a copy of the agreement. The  
356 transportation plan shall describe methods of transport to a  
357 facility within the designated receiving system for individuals  
358 subject to involuntary examination under s. 394.463 or  
359 involuntary admission under s. 397.6772, s. 397.679, s.  
360 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify  
361 responsibility for other transportation to a participating  
362 facility when necessary and agreed to by the facility. The plan  
363 may rely on emergency medical transport services or private  
364 transport companies, as appropriate. The plan shall comply with  
365 the transportation provisions of this section and ss. 397.6772,  
366 397.6795, ~~397.6822~~, and 397.697.

367 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

368 (a) Each county shall designate a single law enforcement  
369 agency within the county, or portions thereof, to take a person  
370 into custody upon the entry of an ex parte order or the  
371 execution of a certificate for involuntary examination by an  
372 authorized professional and to transport that person to the  
373 appropriate facility within the designated receiving system  
374 pursuant to a transportation plan.

375 (b)1. The designated law enforcement agency may decline to  
376 transport the person to a receiving facility only if:

377 a. The jurisdiction designated by the county has contracted

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378 on an annual basis with an emergency medical transport service  
379 or private transport company for transportation of persons to  
380 receiving facilities pursuant to this section at the sole cost  
381 of the county; and

382 b. The law enforcement agency and the emergency medical  
383 transport service or private transport company agree that the  
384 continued presence of law enforcement personnel is not necessary  
385 for the safety of the person or others.

386 2. The entity providing transportation may seek  
387 reimbursement for transportation expenses. The party responsible  
388 for payment for such transportation is the person receiving the  
389 transportation. The county shall seek reimbursement from the  
390 following sources in the following order:

391 a. From a private or public third-party payor, if the  
392 person receiving the transportation has applicable coverage.

393 b. From the person receiving the transportation.

394 c. From a financial settlement for medical care, treatment,  
395 hospitalization, or transportation payable or accruing to the  
396 injured party.

397 (c) A company that transports a patient pursuant to this  
398 subsection is considered an independent contractor and is solely  
399 liable for the safe and dignified transport of the patient. Such  
400 company must be insured and provide no less than \$100,000 in  
401 liability insurance with respect to the transport of patients.

402 (d) Any company that contracts with a governing board of a  
403 county to transport patients shall comply with the applicable  
404 rules of the department to ensure the safety and dignity of  
405 patients.

406 (e) When a law enforcement officer takes custody of a

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407 person pursuant to this part, the officer may request assistance  
408 from emergency medical personnel if such assistance is needed  
409 for the safety of the officer or the person in custody.

410 (f) When a member of a mental health overlay program or a  
411 mobile crisis response service is a professional authorized to  
412 initiate an involuntary examination pursuant to s. 394.463 or s.  
413 397.675 and that professional evaluates a person and determines  
414 that transportation to a receiving facility is needed, the  
415 service, at its discretion, may transport the person to the  
416 facility or may call on the law enforcement agency or other  
417 transportation arrangement best suited to the needs of the  
418 patient.

419 (g) When any law enforcement officer has custody of a  
420 person based on either noncriminal or minor criminal behavior  
421 that meets the statutory guidelines for involuntary examination  
422 pursuant to s. 394.463, the law enforcement officer shall  
423 transport the person to the appropriate facility within the  
424 designated receiving system pursuant to a transportation plan.  
425 Persons who meet the statutory guidelines for involuntary  
426 admission pursuant to s. 397.675 may also be transported by law  
427 enforcement officers to the extent resources are available and  
428 as otherwise provided by law. Such persons shall be transported  
429 to an appropriate facility within the designated receiving  
430 system pursuant to a transportation plan.

431 (h) When any law enforcement officer has arrested a person  
432 for a felony and it appears that the person meets the statutory  
433 guidelines for involuntary examination or placement under this  
434 part, such person must first be processed in the same manner as  
435 any other criminal suspect. The law enforcement agency shall

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436 thereafter immediately notify the appropriate facility within  
437 the designated receiving system pursuant to a transportation  
438 plan. The receiving facility shall be responsible for promptly  
439 arranging for the examination and treatment of the person. A  
440 receiving facility is not required to admit a person charged  
441 with a crime for whom the facility determines and documents that  
442 it is unable to provide adequate security, but shall provide  
443 examination and treatment to the person where he or she is held.

444 (i) If the appropriate law enforcement officer believes  
445 that a person has an emergency medical condition as defined in  
446 s. 395.002, the person may be first transported to a hospital  
447 for emergency medical treatment, regardless of whether the  
448 hospital is a designated receiving facility.

449 (j) The costs of transportation, evaluation,  
450 hospitalization, and treatment incurred under this subsection by  
451 persons who have been arrested for violations of any state law  
452 or county or municipal ordinance may be recovered as provided in  
453 s. 901.35.

454 (k) The appropriate facility within the designated  
455 receiving system pursuant to a transportation plan must accept  
456 persons brought by law enforcement officers, or an emergency  
457 medical transport service or a private transport company  
458 authorized by the county, for involuntary examination pursuant  
459 to s. 394.463.

460 (l) The appropriate facility within the designated  
461 receiving system pursuant to a transportation plan must provide  
462 persons brought by law enforcement officers, or an emergency  
463 medical transport service or a private transport company  
464 authorized by the county, pursuant to s. 397.675, a basic



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465 screening or triage sufficient to refer the person to the  
466 appropriate services.

467 (m) Each law enforcement agency designated pursuant to  
468 paragraph (a) shall establish a policy that reflects a single  
469 set of protocols for the safe and secure transportation and  
470 transfer of custody of the person. Each law enforcement agency  
471 shall provide a copy of the protocols to the managing entity.

472 (n) When a jurisdiction has entered into a contract with an  
473 emergency medical transport service or a private transport  
474 company for transportation of persons to facilities within the  
475 designated receiving system, such service or company shall be  
476 given preference for transportation of persons from nursing  
477 homes, assisted living facilities, adult day care centers, or  
478 adult family-care homes, unless the behavior of the person being  
479 transported is such that transportation by a law enforcement  
480 officer is necessary.

481 (o) This section may not be construed to limit emergency  
482 examination and treatment of incapacitated persons provided in  
483 accordance with s. 401.445.

484 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

485 (a) If neither the patient nor any person legally obligated  
486 or responsible for the patient is able to pay for the expense of  
487 transporting a voluntary or involuntary patient to a treatment  
488 facility, the transportation plan established by the governing  
489 board of the county or counties must specify how the  
490 hospitalized patient will be transported to, from, and between  
491 facilities in a safe and dignified manner.

492 (b) A company that transports a patient pursuant to this  
493 subsection is considered an independent contractor and is solely

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494 liable for the safe and dignified transportation of the patient.  
495 Such company must be insured and provide no less than \$100,000  
496 in liability insurance with respect to the transport of  
497 patients.

498 (c) A company that contracts with one or more counties to  
499 transport patients in accordance with this section shall comply  
500 with the applicable rules of the department to ensure the safety  
501 and dignity of patients.

502 (d) County or municipal law enforcement and correctional  
503 personnel and equipment may not be used to transport patients  
504 adjudicated incapacitated or found by the court to meet the  
505 criteria for involuntary placement pursuant to s. 394.467,  
506 except in small rural counties where there are no cost-efficient  
507 alternatives.

508 (3) TRANSFER OF CUSTODY.—Custody of a person who is  
509 transported pursuant to this part, along with related  
510 documentation, shall be relinquished to a responsible individual  
511 at the appropriate receiving or treatment facility.

512 Section 8. Subsections (1) and (4) of section 394.4625,  
513 Florida Statutes, are amended to read:

514 394.4625 Voluntary admissions.—

515 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE  
516 PATIENTS.—

517 (a) In order to be admitted to a facility on a voluntary  
518 basis, a person must show evidence of a mental illness and be  
519 suitable for treatment by the facility.

520 1. If the person is an adult, he or she must be competent  
521 to provide his or her express and informed consent in writing to  
522 the facility.

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523       2. A minor may be admitted to a facility only on the basis  
524 of the express and informed consent of the minor's parent or  
525 legal guardian in conjunction with the minor's assent.

526       a. The minor's assent is an affirmative agreement by the  
527 minor to remain at the facility for examination and treatment.  
528 The minor's failure to object is not assent for purposes of this  
529 subparagraph.

530       b. The minor's assent must be verified through a clinical  
531 assessment that is documented in the minor's clinical record and  
532 conducted within 12 hours after arrival at the facility by a  
533 licensed professional authorized to initiate an involuntary  
534 examination under s. 394.463.

535       c. In verifying the minor's assent, the examining  
536 professional must first provide the minor with an explanation as  
537 to why the minor will be examined and treated, what the minor  
538 can expect while in the facility, and when the minor may expect  
539 to be released, using language that is appropriate to the  
540 minor's age, experience, maturity, and condition. The examining  
541 professional must determine and document that the minor is able  
542 to understand this information.

543       d. The facility must advise the minor of his or her right  
544 to request and have access to legal counsel.

545       e. The facility administrator must file with the court a  
546 notice of a minor's voluntary placement within 1 court working  
547 day after the minor's admission to the facility.

548       f. The court shall appoint a public defender who may review  
549 the voluntariness of the minor's admission to the facility and  
550 further verify his or her assent. The public defender may  
551 interview and represent the minor and shall have access to all

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552 relevant witnesses and records. If the public defender does not  
553 review the voluntariness of the admission, the clinical  
554 assessment of the minor's assent shall serve as verification of  
555 assent.

556 g. Unless the minor's assent is verified pursuant to this  
557 subparagraph, a petition for involuntary placement must be filed  
558 with the court or the minor must be released to his or her  
559 parent or legal guardian within 24 hours after arriving at the  
560 facility ~~A facility may receive for observation, diagnosis, or~~  
561 ~~treatment any person 18 years of age or older making application~~  
562 ~~by express and informed consent for admission or any person age~~  
563 ~~17 or under for whom such application is made by his or her~~  
564 ~~guardian. If found to show evidence of mental illness, to be~~  
565 ~~competent to provide express and informed consent, and to be~~  
566 ~~suitable for treatment, such person 18 years of age or older may~~  
567 ~~be admitted to the facility. A person age 17 or under may be~~  
568 ~~admitted only after a hearing to verify the voluntariness of the~~  
569 ~~consent.~~

570 (b) A mental health overlay program or a mobile crisis  
571 response service or a licensed professional who is authorized to  
572 initiate an involuntary examination pursuant to s. 394.463 and  
573 is employed by a community mental health center or clinic must,  
574 pursuant to district procedure approved by the respective  
575 district administrator, conduct an initial assessment of the  
576 ability of the following persons to give express and informed  
577 consent to treatment before such persons may be admitted  
578 voluntarily:

579 1. A person 60 years of age or older for whom transfer is  
580 being sought from a nursing home, assisted living facility,

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581 adult day care center, or adult family-care home, when such  
582 person has been diagnosed as suffering from dementia.

583 2. A person 60 years of age or older for whom transfer is  
584 being sought from a nursing home pursuant to s. 400.0255(12).

585 3. A person for whom all decisions concerning medical  
586 treatment are currently being lawfully made by the health care  
587 surrogate or proxy designated under chapter 765.

588 (c) When an initial assessment of the ability of a person  
589 to give express and informed consent to treatment is required  
590 under this section, and a mobile crisis response service does  
591 not respond to the request for an assessment within 2 hours  
592 after the request is made or informs the requesting facility  
593 that it will not be able to respond within 2 hours after the  
594 request is made, the requesting facility may arrange for  
595 assessment by any licensed professional authorized to initiate  
596 an involuntary examination pursuant to s. 394.463 who is not  
597 employed by or under contract with, and does not have a  
598 financial interest in, either the facility initiating the  
599 transfer or the receiving facility to which the transfer may be  
600 made.

601 (d) A facility may not admit as a voluntary patient a  
602 person who has been adjudicated incapacitated, unless the  
603 condition of incapacity has been judicially removed. If a  
604 facility admits as a voluntary patient a person who is later  
605 determined to have been adjudicated incapacitated, and the  
606 condition of incapacity had not been removed by the time of the  
607 admission, the facility must either discharge the patient or  
608 transfer the patient to involuntary status.

609 (e) The health care surrogate or proxy of a voluntary

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610 patient may not consent to the provision of mental health  
611 treatment for the patient. A voluntary patient who is unwilling  
612 or unable to provide express and informed consent to mental  
613 health treatment must either be discharged or transferred to  
614 involuntary status.

615 (f) Within 24 hours after admission of a voluntary patient,  
616 the admitting physician shall document in the patient's clinical  
617 record that the patient is able to give express and informed  
618 consent for admission. If the patient is not able to give  
619 express and informed consent for admission, the facility shall  
620 either discharge the patient or transfer the patient to  
621 involuntary status pursuant to subsection (5).

622 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient  
623 who applies to be transferred to voluntary status shall be  
624 transferred to voluntary status immediately, unless the patient  
625 has been charged with a crime, or has been involuntarily placed  
626 for treatment by a court pursuant to s. 394.467 and continues to  
627 meet the criteria for involuntary placement. When transfer to  
628 voluntary status occurs, notice shall be given as provided in s.  
629 394.4599, and if the patient is a minor, the minor's assent to  
630 voluntary care must be verified through the procedures under  
631 subparagraph (1)(a)2. before the transfer to voluntary status  
632 may occur.

633 Section 9. Subsection (1) and paragraphs (a), (g), and (h)  
634 of subsection (2) of section 394.463, Florida Statutes, are  
635 amended, and subsection (5) is added to that section, to read:

636 394.463 Involuntary examination.—

637 (1) CRITERIA.—A person may be taken to a receiving facility  
638 for involuntary examination if there is reason to believe that

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639 the person has a mental illness and because of his or her mental  
640 illness:

641 (a)1. The person has refused voluntary examination after  
642 conscientious explanation and disclosure of the purpose of the  
643 examination; or

644 2. The person is unable to determine for himself or herself  
645 whether examination is necessary; and

646 (b)1. Without care or treatment, the person is likely to  
647 suffer from neglect or refuse to care for himself or herself;  
648 such neglect or refusal poses a real and present threat of  
649 substantial harm to his or her well-being; and it is not  
650 apparent that such harm may be avoided through the help of  
651 willing, able, and responsible family members or friends or the  
652 provision of other services; or

653 2. There is a substantial likelihood that in the near  
654 future and without care or treatment, the person will inflict  
655 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or  
656 others ~~in the near future~~, as evidenced by recent acts,  
657 omissions, or behavior causing, attempting, or threatening such  
658 harm, which includes, but is not limited to, significant  
659 property damage.

660 (2) INVOLUNTARY EXAMINATION.—

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

663 1. A circuit or county court may enter an ex parte order  
664 stating that a person appears to meet the criteria for  
665 involuntary examination and specifying the findings on which  
666 that conclusion is based. The ex parte order for involuntary  
667 examination must be based on written or oral sworn testimony

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668 that includes specific facts that support the findings. If other  
669 less restrictive means are not available, such as voluntary  
670 appearance for outpatient evaluation, a law enforcement officer,  
671 or other designated agent of the court, shall take the person  
672 into custody and deliver him or her to an appropriate, or the  
673 nearest, facility within the designated receiving system  
674 pursuant to s. 394.462 for involuntary examination. The order of  
675 the court shall be made a part of the patient's clinical record.  
676 A fee may not be charged for the filing of an order under this  
677 subsection. A facility accepting the patient based on this order  
678 must send a copy of the order to the department within 5 working  
679 days. The order may be submitted electronically through existing  
680 data systems, if available. The order shall be valid only until  
681 the person is delivered to the facility or for the period  
682 specified in the order itself, whichever comes first. If a time  
683 limit is not specified in the order, the order is valid for 7  
684 days after the date that the order was signed.

685       2. A law enforcement officer may ~~shall~~ take a person who  
686 appears to meet the criteria for involuntary examination into  
687 custody and deliver the person or have him or her delivered to  
688 an appropriate, or the nearest, facility within the designated  
689 receiving system pursuant to s. 394.462 for examination. The  
690 officer shall execute a written report detailing the  
691 circumstances under which the person was taken into custody,  
692 which must be made a part of the patient's clinical record. Any  
693 facility accepting the patient based on this report must send a  
694 copy of the report to the department within 5 working days.

695       3. A physician, a clinical psychologist, a psychiatric  
696 nurse, an advanced practice registered nurse registered under s.



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697 464.0123, a mental health counselor, a marriage and family  
698 therapist, or a clinical social worker may execute a certificate  
699 stating that he or she has examined a person within the  
700 preceding 48 hours and finds that the person appears to meet the  
701 criteria for involuntary examination and stating the  
702 observations upon which that conclusion is based. If other less  
703 restrictive means, such as voluntary appearance for outpatient  
704 evaluation, are not available, a law enforcement officer shall  
705 take into custody the person named in the certificate and  
706 deliver him or her to the appropriate, or nearest, facility  
707 within the designated receiving system pursuant to s. 394.462  
708 for involuntary examination. The law enforcement officer shall  
709 execute a written report detailing the circumstances under which  
710 the person was taken into custody. The report and certificate  
711 shall be made a part of the patient's clinical record. Any  
712 facility accepting the patient based on this certificate must  
713 send a copy of the certificate to the department within 5  
714 working days. The document may be submitted electronically  
715 through existing data systems, if applicable.

716

717 When sending the order, report, or certificate to the  
718 department, a facility shall, at a minimum, provide information  
719 about which action was taken regarding the patient under  
720 paragraph (g), which information shall also be made a part of  
721 the patient's clinical record.

722 (g) The examination period must be for up to 72 hours. For  
723 a minor, the examination shall be initiated within 12 hours  
724 after the patient's arrival at the facility. The facility must  
725 inform the department of any person who has been examined or

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726 committed three or more times under this chapter within a 12-  
727 month period. Within the examination period or, if the  
728 examination period ends on a weekend or holiday, no later than  
729 the next working day thereafter, one of the following actions  
730 must be taken, based on the individual needs of the patient:

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

734 2. The patient shall be released, subject to subparagraph  
735 1., for voluntary outpatient treatment;

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

740 4. A petition for involuntary services shall be filed in  
741 the circuit court ~~if inpatient treatment is deemed necessary~~ or  
742 with the criminal county court, as described in s. 394.4655  
743 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient  
744 treatment is deemed necessary, the least restrictive treatment  
745 consistent with the optimum improvement of the patient's  
746 condition shall be made available. The petition ~~When a petition~~  
747 ~~is to be filed for involuntary outpatient placement, it shall be~~  
748 ~~filed by one of the petitioners specified in s. 394.4655(4)(a).~~  
749 ~~A petition for involuntary inpatient placement shall be filed by~~  
750 the facility administrator.

751 (h) A person for whom an involuntary examination has been  
752 initiated who is being evaluated or treated at a hospital for an  
753 emergency medical condition specified in s. 395.002 must be  
754 examined by a facility within the examination period specified

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755 in paragraph (g). The examination period begins when the patient  
756 arrives at the hospital and ceases when the attending physician  
757 documents that the patient has an emergency medical condition.  
758 If the patient is examined at a hospital providing emergency  
759 medical services by a professional qualified to perform an  
760 involuntary examination and is found as a result of that  
761 examination not to meet the criteria for involuntary outpatient  
762 services pursuant to s. 394.4655 ~~s. 394.4655(2)~~ or involuntary  
763 inpatient placement pursuant to s. 394.467(1), the patient may  
764 be offered voluntary services or placement, if appropriate, or  
765 released directly from the hospital providing emergency medical  
766 services. The finding by the professional that the patient has  
767 been examined and does not meet the criteria for involuntary  
768 inpatient services or involuntary outpatient placement must be  
769 entered into the patient's clinical record. This paragraph is  
770 not intended to prevent a hospital providing emergency medical  
771 services from appropriately transferring a patient to another  
772 hospital before stabilization if the requirements of s.  
773 395.1041(3) (c) have been met.

774 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND  
775 TREATMENT; PENALTIES.-

776 (a) Knowingly furnishing false information for the purpose  
777 of obtaining emergency or other involuntary admission for any  
778 person is a misdemeanor of the first degree, punishable as  
779 provided in s. 775.082 and by a fine not exceeding \$5,000.

780 (b) Causing or otherwise securing, or conspiring with or  
781 assisting another to cause or secure, without reason for  
782 believing a person to be impaired, any emergency or other  
783 involuntary procedure for the person is a misdemeanor of the

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784 first degree, punishable as provided in s. 775.082 and by a fine  
785 not exceeding \$5,000.

786 (c) Causing, or conspiring with or assisting another to  
787 cause, the denial to any person of any right accorded pursuant  
788 to this chapter is a misdemeanor of the first degree, punishable  
789 as provided in s. 775.082 and by a fine not exceeding \$5,000.

790 Section 10. Section 394.4655, Florida Statutes, is amended  
791 to read:

792 (Substantial rewording of section. See  
793 s. 394.4655, F.S., for present text.)

794 394.4655 Involuntary outpatient services.-

795 (1) (a) The court may order a respondent into outpatient  
796 treatment for up to 6 months if, during a hearing under s.  
797 394.467, it is established that the respondent meets involuntary  
798 placement criteria and:

799 1. Has been jailed or incarcerated, has been involuntarily  
800 admitted to a receiving or treatment facility as defined in s.  
801 394.455, or has received mental health services in a forensic or  
802 correctional facility at least twice during the last 36 months;

803 2. The outpatient treatment is provided in the county in  
804 which the respondent resides or, if being placed from a state  
805 treatment facility, will reside; and

806 3. The respondent's treating physician certifies, within a  
807 reasonable degree of medical probability, that the respondent:

808 a. Can be appropriately treated on an outpatient basis; and

809 b. Can follow a prescribed treatment plan.

810 (b) For the duration of his or her treatment, the  
811 respondent must be supported by a social worker or case manager  
812 of the outpatient provider, or a willing, able, and responsible

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813 individual appointed by the court who must inform the court,  
814 state attorney, and public defender of any failure by the  
815 respondent to comply with his or her outpatient program.

816 (2) The court shall retain jurisdiction over the case and  
817 parties for the entry of such further orders after a hearing as  
818 the circumstances may require. Such jurisdiction includes, but  
819 is not limited to, ordering inpatient treatment to stabilize a  
820 respondent who decompensates during his or her up to 6-month  
821 period of court-ordered treatment and meets the commitment  
822 criteria of s. 394.467.

823 (3) A criminal county court exercising its original  
824 jurisdiction in a misdemeanor case under s. 34.01 may order a  
825 person who meets the commitment criteria into involuntary  
826 outpatient services.

827 Section 11. Subsections (1) and (5) and paragraphs (a),  
828 (b), and (c) of subsection (6) of section 394.467, Florida  
829 Statutes, are amended to read:

830 394.467 Involuntary inpatient placement.—

831 (1) CRITERIA.—A person may be ordered for involuntary  
832 inpatient placement for treatment upon a finding of the court by  
833 clear and convincing evidence that:

834 (a) He or she has a mental illness and because of his or  
835 her mental illness:

836 1.a. He or she has refused voluntary inpatient placement  
837 for treatment after sufficient and conscientious explanation and  
838 disclosure of the purpose of inpatient placement for treatment;  
839 or

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

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842 2.a. He or she is incapable of surviving alone or with the  
843 help of willing, able, and responsible family or friends,  
844 including available alternative services, and, without  
845 treatment, is likely to suffer from neglect or refuse to care  
846 for himself or herself, and such neglect or refusal poses a real  
847 and present threat of substantial harm to his or her well-being;  
848 or

849 b. There is substantial likelihood that in the near future  
850 and without services he or she will inflict serious ~~bodily~~ harm  
851 to ~~en~~ self or others, as evidenced by recent acts, omissions, or  
852 behavior causing, attempting, or threatening such harm, which  
853 includes, but is not limited to, significant property damage;  
854 and

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

858 (5) CONTINUANCE OF HEARING.—The patient and the state are  
859 independently entitled ~~is entitled, with the concurrence of the~~  
860 ~~patient's counsel~~, to at least one continuance of the hearing.  
861 The patient's continuance may be for a period of ~~for~~ up to 4  
862 weeks and requires the concurrence of his or her counsel. The  
863 state's continuance may be for a period of up to 5 court working  
864 days and requires a showing of good cause and due diligence by  
865 the state before requesting the continuance. The state's failure  
866 to timely review any readily available document or failure to  
867 attempt to contact a known witness does not warrant a  
868 continuance.

869 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

870 (a)1. The court shall hold the hearing on involuntary

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871 inpatient placement within 5 court working days, unless a  
872 continuance is granted.

873       2. Except for good cause documented in the court file, the  
874 hearing must be held in the county or the facility, as  
875 appropriate, where the patient is located, must be as convenient  
876 to the patient as is consistent with orderly procedure, and  
877 shall be conducted in physical settings not likely to be  
878 injurious to the patient's condition. If the court finds that  
879 the patient's attendance at the hearing is not consistent with  
880 the best interests of, or is likely to be injurious to, the  
881 patient, or the patient knowingly, intelligently, and  
882 voluntarily waives his or her right to be present, and the  
883 patient's counsel does not object, the court may waive the  
884 presence of the patient from all or any portion of the hearing.  
885 Absent a showing of good cause, such as specific symptoms of the  
886 respondent's condition, the court may permit all witnesses,  
887 including, but not limited to, any medical professionals or  
888 personnel who are or have been involved with the patient's  
889 treatment, to remotely attend and testify at the hearing under  
890 oath via the most appropriate and convenient technological  
891 method of communication available to the court, including, but  
892 not limited to, teleconference. Any witness intending to  
893 remotely attend and testify at the hearing must provide the  
894 parties with all relevant documents by the close of business on  
895 the day before the hearing. The state attorney for the circuit  
896 in which the patient is located shall represent the state,  
897 rather than the petitioning facility administrator, as the real  
898 party in interest in the proceeding. The facility shall make the  
899 respondent's clinical records available to the state attorney

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900 within 24 hours of the involuntary placement petition's filing  
901 so that the state can evaluate and prepare its case before the  
902 hearing. However, these records shall remain confidential, and  
903 the state attorney may not use any record obtained under this  
904 part for criminal investigation or prosecution purposes, or for  
905 any purpose other than the patient's civil commitment under this  
906 chapter.

907 3. The court may appoint a magistrate to preside at the  
908 hearing on the petition and any ancillary proceedings thereto,  
909 which include, but are not limited to, writs of habeas corpus  
910 issued pursuant to s. 394.459(8). One of the professionals who  
911 executed the petition for involuntary inpatient placement  
912 certificate shall be a witness. The court shall allow testimony  
913 deemed relevant by the court under state law from individuals,  
914 including family members, regarding the person's prior history  
915 and how that history relates to the person's current condition.  
916 The patient and the patient's guardian or representative shall  
917 be informed by the court of the right to an independent expert  
918 examination. If the patient cannot afford such an examination,  
919 the court shall ensure that one is provided, as otherwise  
920 provided for by law. The independent expert's report is  
921 confidential and not discoverable, unless the expert is to be  
922 called as a witness for the patient at the hearing. The  
923 testimony in the hearing must be given under oath, and the  
924 proceedings must be recorded. The patient may refuse to testify  
925 at the hearing.

926 (b) If the court concludes that the patient meets the  
927 criteria for involuntary inpatient placement, it may order that  
928 the patient be transferred to a treatment facility or, if the



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929 patient is at a treatment facility, that the patient be retained  
930 there or be treated at any other appropriate facility, or that  
931 the patient receive services, on an involuntary basis, for up to  
932 ~~90 days. However, any order for involuntary mental health~~  
933 ~~services in a treatment facility may be for up to 6 months.~~ The  
934 order shall specify the nature and extent of the patient's  
935 mental illness, and, unless the patient has transferred to a  
936 voluntary status, the facility must discharge the patient at any  
937 time he or she no longer meets the criteria for involuntary  
938 inpatient treatment. The court may not order an individual with  
939 a developmental disability as defined in s. 393.063, traumatic  
940 brain injury, or dementia who lacks a co-occurring mental  
941 illness to be involuntarily placed in a state treatment  
942 facility. These individuals must be referred to the Agency for  
943 Persons with Disabilities or the Department of Elderly Affairs  
944 for further evaluation and the provision of appropriate services  
945 for their individual needs. In addition, if it reasonably  
946 appears that the individual with developmental disabilities,  
947 traumatic brain injury, or dementia would be found incapacitated  
948 under chapter 744 and the individual does not already have a  
949 legal guardian, the facility must inform the department and any  
950 known next of kin and initiate guardianship proceedings.  
951 Provided that the facility is attempting to locate appropriate  
952 placement while the guardianship hearing is pending, the  
953 facility may hold the individual until the petition to appoint a  
954 guardian is adjudicated by the court and placement is secured.  
955 ~~The facility shall discharge a patient any time the patient no~~  
956 ~~longer meets the criteria for involuntary inpatient placement,~~  
957 ~~unless the patient has transferred to voluntary status.~~

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958 (c) If at any time before the conclusion of the involuntary  
 959 placement hearing ~~on involuntary inpatient placement~~ it appears  
 960 to the court that the person does not meet the criteria of ~~for~~  
 961 ~~involuntary inpatient placement~~ under this section, but instead  
 962 meets the criteria for involuntary ~~outpatient services~~, the  
 963 court may order the person evaluated for involuntary outpatient  
 964 services pursuant to s. 394.4655. The petition and hearing  
 965 procedures set forth in s. 394.4655 shall apply. If the person  
 966 instead meets the criteria for involuntary assessment,  
 967 ~~protective custody, or involuntary admission or treatment~~  
 968 pursuant to s. 397.675, ~~then~~ the court may order the person to  
 969 be admitted for involuntary assessment ~~for a period of 5 days~~  
 970 pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all proceedings  
 971 are governed by chapter 397.

972 Section 12. Subsection (3) of section 394.495, Florida  
 973 Statutes, is amended to read:

974 394.495 Child and adolescent mental health system of care;  
 975 programs and services.—

976 (3) Assessments must be performed by:

977 (a) A clinical psychologist, clinical social worker,  
 978 physician, psychiatric nurse, or psychiatrist as those terms are  
 979 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~  
 980 ~~(7), (33), (36), or (37);~~

981 (b) A professional licensed under chapter 491; or

982 (c) A person who is under the direct supervision of a  
 983 clinical psychologist, clinical social worker, physician,  
 984 psychiatric nurse, or psychiatrist as those terms are defined in  
 985 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~  
 986 ~~(7), (33), (36), or (37)~~ or a professional licensed under

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987 chapter 491.

988 Section 13. Subsection (5) of section 394.496, Florida  
989 Statutes, is amended to read:

990 394.496 Service planning.—

991 (5) A clinical psychologist, clinical social worker,  
992 physician, psychiatric nurse, or psychiatrist as those terms are  
993 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~  
994 ~~(7), (33), (36), or (37)~~ or a professional licensed under  
995 chapter 491 must be included among those persons developing the  
996 services plan.

997 Section 14. Paragraph (a) of subsection (2) of section  
998 394.499, Florida Statutes, is amended to read:

999 394.499 Integrated children's crisis stabilization  
1000 unit/juvenile addictions receiving facility services.—

1001 (2) Children eligible to receive integrated children's  
1002 crisis stabilization unit/juvenile addictions receiving facility  
1003 services include:

1004 (a) A person under 18 years of age for whom voluntary  
1005 application is made by his or her parent or legal guardian, if  
1006 such person is found to show evidence of mental illness and to  
1007 be suitable for treatment pursuant to s. 394.4625. A person  
1008 under 18 years of age may be admitted for integrated facility  
1009 services only after a hearing to verify that the consent to  
1010 admission is voluntary is conducted pursuant to s. 394.4625.

1011 Section 15. Subsection (6) of section 394.9085, Florida  
1012 Statutes, is amended to read:

1013 394.9085 Behavioral provider liability.—

1014 (6) For purposes of this section, the terms "detoxification  
1015 services," "addictions receiving facility," and "receiving

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1016 facility" have the same meanings as those provided in ss.  
1017 397.311(26)(a)4. ~~397.311(26)(a)3.~~, 397.311(26)(a)1., and 394.455  
1018 ~~394.455(40)~~, respectively.

1019 Section 16. Subsection (3) of section 397.305, Florida  
1020 Statutes, is amended to read:

1021 397.305 Legislative findings, intent, and purpose.—

1022 (3) It is the purpose of this chapter to provide for a  
1023 comprehensive continuum of accessible and quality substance  
1024 abuse prevention, intervention, clinical treatment, and recovery  
1025 support services in the most appropriate and least restrictive  
1026 environment which promotes long-term recovery while protecting  
1027 and respecting the rights of individuals, primarily through  
1028 community-based private not-for-profit providers working with  
1029 local governmental programs involving a wide range of agencies  
1030 from both the public and private sectors.

1031 Section 17. Present subsections (29) through (36) and (37)  
1032 through (50) of section 397.311, Florida Statutes, are  
1033 redesignated as subsections (30) through (37) and (39) through  
1034 (52), respectively, new subsections (29) and (38) are added to  
1035 that section, and subsections (19) and (23) of that section are  
1036 amended, to read:

1037 397.311 Definitions.—As used in this chapter, except part  
1038 VIII, the term:

1039 (19) "Impaired" or "substance abuse impaired" means having  
1040 a substance use disorder or a condition involving the use of  
1041 alcoholic beverages, illicit or prescription drugs, or any  
1042 psychoactive or mood-altering substance in such a manner as to  
1043 induce mental, emotional, or physical problems or ~~and~~ cause  
1044 socially dysfunctional behavior.

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1045 (23) "Involuntary treatment services" means an array of  
1046 behavioral health services that may be ordered by the court for  
1047 persons with substance abuse impairment or co-occurring  
1048 substance abuse impairment and mental health disorders.

1049 (29) "Neglect or refuse to care for himself or herself"  
1050 includes, but is not limited to, evidence that a person:

1051 (a) Is unable to satisfy basic needs for nourishment,  
1052 clothing, medical care, shelter, or safety, in a manner that  
1053 creates a substantial probability of imminent death, serious  
1054 physical debilitation, or disease; or

1055 (b) Is substantially unable to make an informed treatment  
1056 choice and needs care or treatment to prevent deterioration.

1057 (38) "Real and present threat of substantial harm"  
1058 includes, but is not limited to, evidence of a substantial  
1059 probability that the untreated person will:

1060 (a) Lack, refuse, or not receive services for health and  
1061 safety which are actually available in the community; or

1062 (b) Suffer severe mental, emotional, or physical harm that  
1063 will result in the loss of his or her ability to function in the  
1064 community or the loss of cognitive or volitional control over  
1065 thoughts or actions.

1066 Section 18. Section 397.416, Florida Statutes, is amended  
1067 to read:

1068 397.416 Substance abuse treatment services; qualified  
1069 professional.—Notwithstanding any other provision of law, a  
1070 person who was certified through a certification process  
1071 recognized by the former Department of Health and Rehabilitative  
1072 Services before January 1, 1995, may perform the duties of a  
1073 qualified professional with respect to substance abuse treatment

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1074 services as defined in this chapter, and need not meet the  
1075 certification requirements contained in s. 397.311(36) ~~s.~~  
1076 ~~397.311(35)~~.

1077 Section 19. Subsection (11) is added to section 397.501,  
1078 Florida Statutes, to read:

1079 397.501 Rights of individuals.—Individuals receiving  
1080 substance abuse services from any service provider are  
1081 guaranteed protection of the rights specified in this section,  
1082 unless otherwise expressly provided, and service providers must  
1083 ensure the protection of such rights.

1084 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, the  
1085 facility must inform a respondent with a serious substance use  
1086 disorder of the essential elements of recovery and provide  
1087 assistance with accessing a continuum of care regimen. The  
1088 department may adopt rules specifying the services that may be  
1089 provided to such respondents.

1090 Section 20. Section 397.675, Florida Statutes, is amended  
1091 to read:

1092 397.675 Criteria for involuntary admissions, including  
1093 protective custody, emergency admission, and other involuntary  
1094 assessment, involuntary treatment, and alternative involuntary  
1095 assessment for minors, for purposes of assessment and  
1096 stabilization, and for involuntary treatment.—A person meets the  
1097 criteria for involuntary admission if there is good faith reason  
1098 to believe that the person is substance abuse impaired or has a  
1099 substance use disorder and a co-occurring mental health disorder  
1100 and, because of such impairment or disorder:

1101 (1) Has lost the power of self-control with respect to  
1102 substance abuse, or has a history of noncompliance with

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1103 substance abuse treatment with continued substance use; and

1104 (2)~~(a)~~ Is in need of substance abuse services and, by  
 1105 reason of substance abuse impairment, his or her judgment has  
 1106 been so impaired that he or she is refusing voluntary care after  
 1107 a sufficient and conscientious explanation and disclosure of the  
 1108 purpose for such services, or is incapable of appreciating his  
 1109 or her need for such services and of making a rational decision  
 1110 in that regard, although mere refusal to receive such services  
 1111 does not constitute evidence of lack of judgment with respect to  
 1112 his or her need for such services; and ~~or~~

1113 (3) (a)~~(b)~~ Without care or treatment, is likely to suffer  
 1114 from neglect or refuse to care for himself or herself; that such  
 1115 neglect or refusal poses a real and present threat of  
 1116 substantial harm to his or her well-being; and that it is not  
 1117 apparent that such harm may be avoided through the help of  
 1118 willing, able, and responsible family members or friends or the  
 1119 provision of other services; or

1120 (b) There is substantial likelihood that in the near future  
 1121 and without services, the person will inflict serious harm to  
 1122 self or others, as evidenced by recent acts, omissions, or  
 1123 behavior causing, attempting, or threatening such harm, which  
 1124 includes, but is not limited to, significant property damage ~~has~~  
 1125 ~~inflicted, or threatened to or attempted to inflict, or, unless~~  
 1126 ~~admitted, is likely to inflict, physical harm on himself,~~  
 1127 ~~herself, or another.~~

1128 Section 21. Subsection (1) of section 397.6751, Florida  
 1129 Statutes, is amended to read:

1130 397.6751 Service provider responsibilities regarding  
 1131 involuntary admissions.-

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- 1132 (1) It is the responsibility of the service provider to:
- 1133 (a) Ensure that a person who is admitted to a licensed
- 1134 service component meets the admission criteria specified in s.
- 1135 397.675;
- 1136 (b) Ascertain whether the medical and behavioral conditions
- 1137 of the person, as presented, are beyond the safe management
- 1138 capabilities of the service provider;
- 1139 (c) Provide for the admission of the person to the service
- 1140 component that represents the most appropriate and least
- 1141 restrictive available setting that is responsive to the person's
- 1142 treatment needs;
- 1143 (d) Verify that the admission of the person to the service
- 1144 component does not result in a census in excess of its licensed
- 1145 service capacity;
- 1146 (e) Determine whether the cost of services is within the
- 1147 financial means of the person or those who are financially
- 1148 responsible for the person's care; and
- 1149 (f) Take all necessary measures to ensure that each
- 1150 individual in treatment is provided with a safe environment, and
- 1151 to ensure that each individual whose medical condition or
- 1152 behavioral problem becomes such that he or she cannot be safely
- 1153 managed by the service component is discharged and referred to a
- 1154 more appropriate setting for care.

1155 Section 22. Section 397.681, Florida Statutes, is amended

1156 to read:

1157 397.681 Involuntary petitions; general provisions; court

1158 jurisdiction and right to counsel.—

1159 (1) JURISDICTION.—The courts have jurisdiction of

1160 ~~involuntary assessment and stabilization petitions and~~



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1161 involuntary treatment petitions for substance abuse impaired  
1162 persons, and such petitions must be filed with the clerk of the  
1163 court in the county where the person is located or resides. The  
1164 clerk of the court may not charge a fee for the filing of a  
1165 petition under this section. The chief judge may appoint a  
1166 general or special magistrate to preside over all or part of the  
1167 proceedings related to the petition or any ancillary matters  
1168 thereto, which include, but are not limited to, writs of habeas  
1169 corpus issued pursuant to s. 397.501(9). The alleged impaired  
1170 person is named as the respondent.

1171 (2) RIGHT TO COUNSEL.—A respondent has the right to counsel  
1172 at every stage of a proceeding relating to a petition for his or  
1173 her ~~involuntary assessment and a petition for his or her~~  
1174 involuntary treatment for substance abuse impairment. A  
1175 respondent who desires counsel and is unable to afford private  
1176 counsel has the right to court-appointed counsel and to the  
1177 benefits of s. 57.081. If the court believes that the respondent  
1178 needs the assistance of counsel, the court shall appoint such  
1179 counsel for the respondent without regard to the respondent's  
1180 wishes. If the respondent is a minor not otherwise represented  
1181 in the proceeding, the court shall immediately appoint a  
1182 guardian ad litem to act on the minor's behalf.

1183 (3) STATE REPRESENTATIVE.—Subject to legislative  
1184 appropriation, for all court-involved involuntary proceedings  
1185 under this chapter in which the petitioner has not retained  
1186 private counsel, the state attorney for the circuit in which the  
1187 respondent is located shall represent the state rather than the  
1188 petitioner as the real party of interest in the proceeding, but  
1189 the petitioner has the right to be heard. Furthermore, the state

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1190 attorney may not use any record obtained under this part for  
1191 criminal investigation or prosecution purposes, or for any  
1192 purpose other than the respondent's civil commitment under this  
1193 chapter. Any record obtained under this subsection must remain  
1194 confidential.

1195 Section 23. Section 397.6811, Florida Statutes, is  
1196 repealed.

1197 Section 24. Section 397.6814, Florida Statutes, is  
1198 repealed.

1199 Section 25. Section 397.6815, Florida Statutes, is  
1200 repealed.

1201 Section 26. Section 397.6818, Florida Statutes, is  
1202 repealed.

1203 Section 27. Section 397.6819, Florida Statutes, is  
1204 repealed.

1205 Section 28. Section 397.6821, Florida Statutes, is  
1206 repealed.

1207 Section 29. Section 397.6822, Florida Statutes, is  
1208 repealed.

1209 Section 30. Section 397.693, Florida Statutes, is amended  
1210 to read:

1211 397.693 Involuntary treatment.—A person may be the subject  
1212 of a petition for court-ordered involuntary treatment pursuant  
1213 to this part, if that person:

1214 (1) Reasonably appears to meet ~~meets~~ the criteria for  
1215 involuntary admission provided in s. 397.675; ~~and:~~

1216 (2) ~~(1)~~ Has been placed under protective custody pursuant to  
1217 s. 397.677 within the previous 10 days;

1218 (3) ~~(2)~~ Has been subject to an emergency admission pursuant

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1219 to s. 397.679 within the previous 10 days; or  
 1220 ~~(4)(3)~~ Has been assessed by a qualified professional within  
 1221 30 ~~5~~ days;  
 1222 ~~(4) Has been subject to involuntary assessment and~~  
 1223 ~~stabilization pursuant to s. 397.6818 within the previous 12~~  
 1224 ~~days; or~~  
 1225 ~~(5) Has been subject to alternative involuntary admission~~  
 1226 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1227 Section 31. Section 397.695, Florida Statutes, is amended  
 1228 to read:

1229 397.695 Involuntary treatment services; persons who may  
 1230 petition.—

1231 (1) If the respondent is an adult, a petition for  
 1232 involuntary treatment services may be filed by the respondent's  
 1233 spouse or legal guardian, any relative, a service provider, or  
 1234 an adult who has direct personal knowledge of the respondent's  
 1235 substance abuse impairment and his or her prior course of  
 1236 assessment and treatment.

1237 (2) If the respondent is a minor, a petition for  
 1238 involuntary treatment may be filed by a parent, legal guardian,  
 1239 or service provider.

1240 (3) The court or the clerk of the court may waive or  
 1241 prohibit any service of process fees if a petitioner is  
 1242 determined to be indigent under s. 57.082.

1243 Section 32. Section 397.6951, Florida Statutes, is amended  
 1244 to read:

1245 397.6951 Contents of petition for involuntary treatment  
 1246 services.—

1247 (1) A petition for involuntary treatment services must

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1248 contain the name of the respondent; the name of the petitioner  
1249 ~~or petitioners~~; the relationship between the respondent and the  
1250 petitioner; the name of the respondent's attorney, if known; ~~the~~  
1251 ~~findings and recommendations of the assessment performed by the~~  
1252 ~~qualified professional~~; and the factual allegations presented by  
1253 the petitioner establishing the need for involuntary ~~outpatient~~  
1254 services for substance abuse impairment. The factual allegations  
1255 must demonstrate the reason for the petitioner's belief that the  
1256 respondent:

1257 ~~(1) The reason for the petitioner's belief that the~~  
1258 ~~respondent is substance abuse impaired;~~

1259 ~~(a) (2) The reason for the petitioner's belief that because~~  
1260 ~~of such impairment the respondent~~ Has lost the power of self-  
1261 control with respect to substance abuse, or has a history of  
1262 noncompliance with substance abuse treatment with continued  
1263 substance use; and

1264 (b) Needs substance abuse services, but his or her judgment  
1265 is so impaired by substance abuse that he or she either is  
1266 refusing voluntary care after a sufficient and conscientious  
1267 explanation and disclosure of the purpose of such services, or  
1268 is incapable of appreciating his or her need for such services  
1269 and of making a rational decision in that regard; and

1270 (c)1. Without services, is likely to suffer from neglect or  
1271 refuse to care for himself or herself; that the neglect or  
1272 refusal poses a real and present threat of substantial harm to  
1273 his or her well-being; and that it is not apparent that the harm  
1274 may be avoided through the help of willing, able, and  
1275 responsible family members or friends or the provision of other  
1276 services; or

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1277 2. There is a substantial likelihood that in the near  
1278 future and without services, the respondent will inflict serious  
1279 harm to self or others, as evidenced by recent acts, omissions,  
1280 or behavior causing, attempting, or threatening such harm, which  
1281 includes, but is not limited to, significant property damage

1282 ~~(3) (a) The reason the petitioner believes that the~~  
1283 ~~respondent has inflicted or is likely to inflict physical harm~~  
1284 ~~on himself or herself or others unless the court orders the~~  
1285 ~~involuntary services; or~~

1286 ~~(b) The reason the petitioner believes that the~~  
1287 ~~respondent's refusal to voluntarily receive care is based on~~  
1288 ~~judgment so impaired by reason of substance abuse that the~~  
1289 ~~respondent is incapable of appreciating his or her need for care~~  
1290 ~~and of making a rational decision regarding that need for care.~~

1291 (2) The petition may be accompanied by a certificate or  
1292 report of a qualified professional or a licensed physician who  
1293 examined the respondent within 30 days before the petition was  
1294 filed. This certificate or report must include the qualified  
1295 professional or physician's findings relating to his or her  
1296 assessment of the patient and his or her treatment  
1297 recommendations. If the respondent was not assessed before the  
1298 filing of a treatment petition or refused to submit to an  
1299 evaluation, the lack of assessment or refusal must be noted in  
1300 the petition.

1301 (3) If there is an emergency, the petition must also  
1302 describe the respondent's exigent circumstances and include a  
1303 request for an ex parte assessment and stabilization order that  
1304 must be executed pursuant to s. 397.6955(4).

1305 Section 33. Section 397.6955, Florida Statutes, is amended

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1306 to read:

1307 397.6955 Duties of court upon filing of petition for  
1308 involuntary treatment services.-

1309 (1) Upon the filing of a petition for involuntary treatment  
1310 services for a substance abuse impaired person with the clerk of  
1311 the court which does not indicate that the petitioner has  
1312 retained private counsel, the clerk must notify the state  
1313 attorney's office. In addition, the court shall immediately  
1314 determine whether the respondent is represented by an attorney  
1315 or whether the appointment of counsel for the respondent is  
1316 appropriate. If, based on the contents of the petition, the  
1317 court appoints counsel for the person, the clerk of the court  
1318 shall immediately notify the office of criminal conflict and  
1319 civil regional counsel, created pursuant to s. 27.511, of the  
1320 appointment. The office of criminal conflict and civil regional  
1321 counsel shall represent the person until the petition is  
1322 dismissed, the court order expires, ~~or~~ the person is discharged  
1323 from involuntary treatment services, or the office is otherwise  
1324 discharged by the court. An attorney that represents the person  
1325 named in the petition shall have access to the person,  
1326 witnesses, and records relevant to the presentation of the  
1327 person's case and shall represent the interests of the person,  
1328 regardless of the source of payment to the attorney.

1329 (2) The court shall schedule a hearing to be held on the  
1330 petition within 10 court working ~~5~~ days unless a continuance is  
1331 granted. ~~The court may appoint a magistrate to preside at the~~  
1332 ~~hearing.~~

1333 (3) A copy of the petition and notice of the hearing must  
1334 be provided to the respondent; the respondent's parent,

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1335 guardian, or legal custodian, in the case of a minor; the  
1336 respondent's attorney, if known; the petitioner; the  
1337 respondent's spouse or guardian, if applicable; and such other  
1338 persons as the court may direct. If the respondent is a minor, a  
1339 copy of the petition and notice of the hearing must be  
1340 personally delivered to the respondent. The clerk court shall  
1341 also issue a summons to the person whose admission is sought,  
1342 and unless a circuit court's chief judge authorizes  
1343 disinterested private process servers to serve parties under  
1344 this chapter, a law enforcement agency must effect service for  
1345 the initial treatment hearing.

1346 (4) (a) When the petitioner asserts that emergency  
1347 circumstances exist, or when upon review of the petition the  
1348 court determines that an emergency exists, the court may rely  
1349 solely on the contents of the petition and, without the  
1350 appointment of an attorney, enter an ex parte order for the  
1351 respondent's involuntary assessment and stabilization which must  
1352 be executed during the period when the hearing on the petition  
1353 for treatment is pending. The court may further order a law  
1354 enforcement officer or other designated agent of the court to:

1355 1. Take the respondent into custody and deliver him or her  
1356 to either the nearest appropriate licensed service provider or a  
1357 licensed service provider designated by the court to be  
1358 evaluated; and

1359 2. Serve the respondent with the notice of hearing and a  
1360 copy of the petition.

1361 (b) The service provider must promptly inform the court and  
1362 parties of the respondent's arrival and may not hold the  
1363 respondent for longer than 72 hours of observation thereafter,

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1364 unless:

1365 1. The service provider seeks additional time under s.  
1366 397.6957(1)(c) and the court, after a hearing, grants that  
1367 motion;

1368 2. The respondent shows signs of withdrawal, or a need to  
1369 be either detoxified or treated for a medical condition, which  
1370 shall extend the amount of time the respondent may be held for  
1371 observation until the issue is resolved; or

1372 3. The original or extended observation period ends on a  
1373 weekend or holiday, in which case the provider may hold the  
1374 respondent until the next court working day.

1375 (c) If the ex parte order was not executed by the initial  
1376 hearing date, it shall be deemed void. However, should the  
1377 respondent not appear at the hearing for any reason, including  
1378 lack of service, and upon reviewing the petition, testimony, and  
1379 evidence presented, the court reasonably believes the respondent  
1380 meets this chapter's commitment criteria and that a substance  
1381 abuse emergency exists, the court may issue or reissue an ex  
1382 parte assessment and stabilization order that is valid for 90  
1383 days. If the respondent's location is known at the time of the  
1384 hearing, the court:

1385 1. Shall continue the case for no more than 10 court  
1386 working days; and

1387 2. May order a law enforcement officer or other designated  
1388 agent of the court to:

1389 a. Take the respondent into custody and deliver him or her  
1390 to be evaluated either by the nearest appropriate licensed  
1391 service provider or by a licensed service provider designated by  
1392 the court; and



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1393 b. If a hearing date is set, serve the respondent with  
1394 notice of the rescheduled hearing and a copy of the involuntary  
1395 treatment petition if the respondent has not already been  
1396 served.

1397  
1398 Otherwise, the petitioner and the service provider must promptly  
1399 inform the court that the respondent has been assessed so that  
1400 the court may schedule a hearing as soon as practicable. The  
1401 service provider must serve the respondent, before his or her  
1402 discharge, with the notice of hearing and a copy of the  
1403 petition. However, if the respondent has not been assessed  
1404 within 90 days, the court must dismiss the case.

1405 Section 34. Section 397.6957, Florida Statutes, is amended  
1406 to read:

1407 397.6957 Hearing on petition for involuntary treatment  
1408 services.—

1409 (1) (a) The respondent must be present at a hearing on a  
1410 petition for involuntary treatment services unless he or she  
1411 knowingly, intelligently, and voluntarily waives his or her  
1412 right to be present or, upon receiving proof of service and  
1413 evaluating the circumstances of the case, the court finds that  
1414 his or her presence is inconsistent with his or her best  
1415 interests or is likely to be injurious to himself or herself or  
1416 others. The court shall hear and review all relevant evidence,  
1417 including testimony from individuals such as family members  
1418 familiar with the respondent's prior history and how it relates  
1419 to his or her current condition, and the ~~review of~~ results of  
1420 the assessment completed by the qualified professional in  
1421 connection with this chapter. The court may also order drug

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1422 tests. Absent a showing of good cause, such as specific symptoms  
1423 of the respondent's condition, the court may permit all  
1424 witnesses, such as any medical professionals or personnel who  
1425 are or have been involved with the respondent's treatment, to  
1426 remotely attend and testify at the hearing under oath via the  
1427 most appropriate and convenient technological method of  
1428 communication available to the court, including, but not limited  
1429 to, teleconference. Any witness intending to remotely attend and  
1430 testify at the hearing must provide the parties with all  
1431 relevant documents by the close of business on the day before  
1432 the hearing ~~the respondent's protective custody, emergency~~  
1433 ~~admission, involuntary assessment, or alternative involuntary~~  
1434 ~~admission. The respondent must be present unless the court finds~~  
1435 ~~that his or her presence is likely to be injurious to himself or~~  
1436 ~~herself or others, in which event the court must appoint a~~  
1437 ~~guardian advocate to act in behalf of the respondent throughout~~  
1438 ~~the proceedings.~~

1439 (b) A respondent cannot be involuntarily ordered into  
1440 treatment under this chapter without a clinical assessment being  
1441 performed, unless he or she is present in court and expressly  
1442 waives the assessment. In nonemergency situations, if the  
1443 respondent was not, or had previously refused to be, assessed by  
1444 a qualified professional and, based on the petition, testimony,  
1445 and evidence presented, it reasonably appears that the  
1446 respondent qualifies for involuntary treatment services, the  
1447 court shall issue an involuntary assessment and stabilization  
1448 order to determine the appropriate level of treatment the  
1449 respondent requires. Additionally, in cases where an assessment  
1450 was attached to the petition, the respondent may request, or the

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1451 court on its own motion may order, an independent assessment by  
1452 a court-appointed physician or an otherwise agreed-upon  
1453 physician. If an assessment order is issued, it is valid for 90  
1454 days, and if the respondent is present or there is either proof  
1455 of service or his or her location is known, the involuntary  
1456 treatment hearing shall be continued for no more than 10 court  
1457 working days. Otherwise, the petitioner and the service provider  
1458 must promptly inform the court that the respondent has been  
1459 assessed so that the court may schedule a hearing as soon as  
1460 practicable. The service provider shall then serve the  
1461 respondent, before his or her discharge, with the notice of  
1462 hearing and a copy of the petition. The assessment must occur  
1463 before the new hearing date, and if there is evidence indicating  
1464 that the respondent will not voluntarily appear at the  
1465 forthcoming hearing, or is a danger to self or others, the court  
1466 may enter a preliminary order committing the respondent to an  
1467 appropriate treatment facility for further evaluation until the  
1468 date of the rescheduled hearing. However, if after 90 days the  
1469 respondent remains unassessed, the court shall dismiss the case.

1470 (c)1. The respondent's assessment by a qualified  
1471 professional must occur within 72 hours after his or her arrival  
1472 at a licensed service provider unless he or she shows signs of  
1473 withdrawal or a need to be either detoxified or treated for a  
1474 medical condition, which shall extend the amount of time the  
1475 respondent may be held for observation until that issue is  
1476 resolved. If the person conducting the assessment is not a  
1477 licensed physician, the assessment must be reviewed by a  
1478 licensed physician within the 72-hour period. If the respondent  
1479 is a minor, such assessment must be initiated within the first

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1480 12 hours after the minor's admission to the facility. The  
1481 service provider may also move to extend the 72 hours of  
1482 observation by petitioning the court in writing for additional  
1483 time. The service provider must furnish copies of such motion to  
1484 all parties in accordance with applicable confidentiality  
1485 requirements, and, after a hearing, the court may grant  
1486 additional time or expedite the respondent's involuntary  
1487 treatment hearing. The involuntary treatment hearing, however,  
1488 may be expedited only by agreement of the parties on the hearing  
1489 date or if there is notice and proof of service as provided in  
1490 s. 397.6955 (1) and (3). If the court grants the service  
1491 provider's petition, the service provider may hold the  
1492 respondent until its extended assessment period expires or until  
1493 the expedited hearing date. However, if the original or extended  
1494 observation period ends on a weekend or holiday, the provider  
1495 may hold the respondent until the next court working day.

1496 2. Upon the completion of his or her report, the qualified  
1497 professional, in accordance with applicable confidentiality  
1498 requirements, shall provide copies to the court and all relevant  
1499 parties and counsel. This report must contain a recommendation  
1500 on the level, if any, of substance abuse and, if applicable, co-  
1501 occurring mental health treatment the respondent requires. The  
1502 qualified professional's failure to include a treatment  
1503 recommendation, much like a recommendation of no treatment,  
1504 shall result in the petition's dismissal.

1505 (d) The court may order a law enforcement officer or other  
1506 designated agent of the court to take the respondent into  
1507 custody and transport him or her to or from the treating or  
1508 assessing service provider and the court for his or her hearing.

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1509 (2) The petitioner has the burden of proving by clear and  
1510 convincing evidence that:

1511 (a) The respondent is substance abuse impaired, has lost  
1512 the power of self-control with respect to substance abuse, or  
1513 ~~and~~ has a history of lack of compliance with treatment for  
1514 substance abuse with continued substance use; and

1515 (b) Because of such impairment, the respondent is unlikely  
1516 to voluntarily participate in the recommended services after  
1517 sufficient and conscientious explanation and disclosure of their  
1518 purpose, or is unable to determine for himself or herself  
1519 whether services are necessary and make a rational decision in  
1520 that regard; and:

1521 (c)1. Without services, the respondent is likely to suffer  
1522 from neglect or refuse to care for himself or herself; that such  
1523 neglect or refusal poses a real and present threat of  
1524 substantial harm to his or her well-being; and that it is not  
1525 apparent that such harm may be avoided through the help of  
1526 willing, able, and responsible family members or friends or the  
1527 provision of other services; or

1528 2. There is a substantial likelihood that in the near  
1529 future and without services, the respondent will inflict serious  
1530 harm to self or others, as evidenced by recent acts, omissions,  
1531 or behavior causing, attempting, or threatening such harm, which  
1532 includes, but is not limited to, significant property damage  
1533 ~~cause serious bodily harm to himself, herself, or another in the~~  
1534 ~~near future, as evidenced by recent behavior; or~~

1535 ~~2. The respondent's refusal to voluntarily receive care is~~  
1536 ~~based on judgment so impaired by reason of substance abuse that~~  
1537 ~~the respondent is incapable of appreciating his or her need for~~

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1538 ~~care and of making a rational decision regarding that need for~~  
1539 ~~care.~~

1540 (3) ~~One of the qualified professionals who executed the~~  
1541 ~~involuntary services certificate must be a witness. The court~~  
1542 ~~shall allow testimony from individuals, including family~~  
1543 ~~members, deemed by the court to be relevant under state law,~~  
1544 ~~regarding the respondent's prior history and how that prior~~  
1545 ~~history relates to the person's current condition. The Testimony~~  
1546 in the hearing must be taken under oath, and the proceedings  
1547 must be recorded. The respondent patient may refuse to testify  
1548 at the hearing.

1549 (4) If at any point during the hearing the court has reason  
1550 to believe that the respondent, due to mental illness other than  
1551 or in addition to substance abuse impairment, is likely to  
1552 neglect or injure himself, herself, or another if allowed to  
1553 remain at liberty, or otherwise meets the involuntary commitment  
1554 provisions of part I of chapter 394, the court may initiate  
1555 involuntary examination proceedings under such provisions.

1556 (5)~~(4)~~ At the conclusion of the hearing, the court shall  
1557 either dismiss the petition or order the respondent to receive  
1558 involuntary treatment services from his or her chosen licensed  
1559 service provider if possible and appropriate. Any treatment  
1560 order must include findings regarding the respondent's need for  
1561 treatment and the appropriateness of other less restrictive  
1562 alternatives.

1563 Section 35. Section 397.697, Florida Statutes, is amended  
1564 to read:

1565 397.697 Court determination; effect of court order for  
1566 involuntary treatment services.-

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1567 (1) (a) When the court finds that the conditions for  
1568 involuntary treatment services have been proved by clear and  
1569 convincing evidence, it may order the respondent to receive  
1570 involuntary treatment services from a publicly funded licensed  
1571 service provider for a period not to exceed 90 days. The court  
1572 may also order a respondent to undergo treatment through a  
1573 privately funded licensed service provider if the respondent has  
1574 the ability to pay for the treatment, or if any person on the  
1575 respondent's behalf voluntarily demonstrates a willingness and  
1576 an ability to pay for the treatment. If the court finds it  
1577 necessary, it may direct the sheriff to take the respondent into  
1578 custody and deliver him or her to the licensed service provider  
1579 specified in the court order, or to the nearest appropriate  
1580 licensed service provider, for involuntary treatment services.  
1581 When the conditions justifying involuntary treatment services no  
1582 longer exist, the individual must be released as provided in s.  
1583 397.6971. When the conditions justifying involuntary treatment  
1584 services are expected to exist after 90 days of treatment  
1585 services, a renewal of the involuntary treatment services order  
1586 may be requested pursuant to s. 397.6975 before the end of the  
1587 90-day period.

1588 (b) To qualify for involuntary outpatient treatment, an  
1589 individual must be supported by a social worker or case manager  
1590 of a licensed service provider or a willing, able, and  
1591 responsible individual appointed by the court who shall inform  
1592 the court and parties if the respondent fails to comply with his  
1593 or her outpatient program. In addition, unless the respondent  
1594 has been involuntarily ordered into inpatient treatment under  
1595 this chapter at least twice during the last 36 months, or

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1596 demonstrates the ability to substantially comply with the  
1597 outpatient treatment while waiting for residential placement to  
1598 become available, he or she must receive an assessment from a  
1599 qualified professional or licensed physician expressly  
1600 recommending outpatient services, such services must be  
1601 available in the county in which the respondent is located, and  
1602 it must appear likely that the respondent will follow a  
1603 prescribed outpatient care plan.

1604 (2) In all cases resulting in an order for involuntary  
1605 treatment services, the court shall retain jurisdiction over the  
1606 case and the parties for the entry of such further orders as the  
1607 circumstances may require, including, but not limited to,  
1608 monitoring compliance with treatment, changing the treatment  
1609 modality, or initiating contempt of court proceedings for  
1610 violating any valid order issued pursuant to this chapter.

1611 Hearings under this section may be set by motion of the parties  
1612 or under the court's own authority, and the motion and notice of  
1613 hearing for these ancillary proceedings, which include, but are  
1614 not limited to, civil contempt, must be served in accordance  
1615 with relevant court procedural rules. The court's requirements  
1616 for notification of proposed release must be included in the  
1617 original order.

1618 (3) An involuntary treatment services order also authorizes  
1619 the licensed service provider to require the individual to  
1620 receive treatment services that will benefit him or her,  
1621 including treatment services at any licensable service component  
1622 of a licensed service provider. While subject to the court's  
1623 oversight, the service provider's authority under this section  
1624 is separate and distinct from the court's broad continuing



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1625 jurisdiction under subsection (2). Such oversight includes, but  
1626 is not limited to, submitting reports regarding the respondent's  
1627 progress or compliance with treatment as required by the court.

1628 (4) If the court orders involuntary treatment services, a  
1629 copy of the order must be sent to the managing entity within 1  
1630 working day after it is received from the court. Documents may  
1631 be submitted electronically through ~~though~~ existing data  
1632 systems, if applicable.

1633 Section 36. Section 397.6971, Florida Statutes, is amended  
1634 to read:

1635 397.6971 Early release from involuntary treatment  
1636 services.—

1637 (1) At any time before the end of the 90-day involuntary  
1638 treatment services period, or before the end of any extension  
1639 granted pursuant to s. 397.6975, an individual receiving  
1640 involuntary treatment services may be determined eligible for  
1641 discharge to the most appropriate referral or disposition for  
1642 the individual when any of the following apply:

1643 (a) The individual no longer meets the criteria for  
1644 involuntary admission and has given his or her informed consent  
1645 to be transferred to voluntary treatment status.

1646 (b) If the individual was admitted on the grounds of  
1647 likelihood of self-neglect or the infliction of ~~physical~~ harm  
1648 upon himself or herself or others, such likelihood no longer  
1649 exists.

1650 (c) If the individual was admitted on the grounds of need  
1651 for assessment and stabilization or treatment, accompanied by  
1652 inability to make a determination respecting such need:

1653 1. Such inability no longer exists; or

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1654           2. It is evident that further treatment will not bring  
1655 about further significant improvements in the individual's  
1656 condition.

1657           (d) The individual ~~is~~ no longer needs treatment ~~in need of~~  
1658 services.

1659           (e) The director of the service provider determines that  
1660 the individual is beyond the safe management capabilities of the  
1661 provider.

1662           (2) Whenever a qualified professional determines that an  
1663 individual admitted for involuntary treatment services qualifies  
1664 for early release under subsection (1), the service provider  
1665 shall immediately discharge the individual and must notify all  
1666 persons specified by the court in the original treatment order.

1667           Section 37. Section 397.6975, Florida Statutes, is amended  
1668 to read:

1669           397.6975 Extension of involuntary treatment services  
1670 period.-

1671           (1) Whenever a service provider believes that an individual  
1672 who is nearing the scheduled date of his or her release from  
1673 involuntary treatment services continues to meet the criteria  
1674 for involuntary treatment services in s. 397.693 or s. 397.6957,  
1675 a petition for renewal of the involuntary treatment services  
1676 order must ~~may~~ be filed with the court ~~at least 10 days~~ before  
1677 the expiration of the court-ordered services period. The  
1678 petition may be filed by the service provider or by the person  
1679 who filed the petition for the initial treatment order if the  
1680 petition is accompanied by supporting documentation from the  
1681 service provider. The court shall ~~immediately~~ schedule a hearing  
1682 within 10 court working ~~to be held not more than 15~~ days after

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1683 filing of the petition ~~and~~. ~~The court shall~~ provide the copy of  
1684 the petition for renewal and the notice of the hearing to all  
1685 parties and counsel to the proceeding. The hearing is conducted  
1686 pursuant to ss. 397.6957 and 397.697 and must be before the  
1687 circuit court unless referred to a magistrate s. 397.6957.

1688 (2) If the court finds that the petition for renewal of ~~the~~  
1689 involuntary treatment services ~~order~~ should be granted, it may  
1690 order the respondent to receive involuntary treatment services  
1691 for a period not to exceed an additional 90 days. When the  
1692 conditions justifying involuntary treatment services no longer  
1693 exist, the individual must be released as provided in s.  
1694 397.6971. When the conditions justifying involuntary treatment  
1695 services continue to exist after an additional 90 days of  
1696 treatment service, a new petition requesting renewal of the  
1697 involuntary treatment services order may be filed pursuant to  
1698 this section.

1699 ~~(3) Within 1 court working day after the filing of a~~  
1700 ~~petition for continued involuntary services, the court shall~~  
1701 ~~appoint the office of criminal conflict and civil regional~~  
1702 ~~counsel to represent the respondent, unless the respondent is~~  
1703 ~~otherwise represented by counsel. The clerk of the court shall~~  
1704 ~~immediately notify the office of criminal conflict and civil~~  
1705 ~~regional counsel of such appointment. The office of criminal~~  
1706 ~~conflict and civil regional counsel shall represent the~~  
1707 ~~respondent until the petition is dismissed or the court order~~  
1708 ~~expires or the respondent is discharged from involuntary~~  
1709 ~~services. Any attorney representing the respondent shall have~~  
1710 ~~access to the respondent, witnesses, and records relevant to the~~  
1711 ~~presentation of the respondent's case and shall represent the~~

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1712 ~~interests of the respondent, regardless of the source of payment~~  
1713 ~~to the attorney.~~

1714 ~~(4) Hearings on petitions for continued involuntary~~  
1715 ~~services shall be before the circuit court. The court may~~  
1716 ~~appoint a magistrate to preside at the hearing. The procedures~~  
1717 ~~for obtaining an order pursuant to this section shall be in~~  
1718 ~~accordance with s. 397.697.~~

1719 ~~(5) Notice of hearing shall be provided to the respondent~~  
1720 ~~or his or her counsel. The respondent and the respondent's~~  
1721 ~~counsel may agree to a period of continued involuntary services~~  
1722 ~~without a court hearing.~~

1723 ~~(6) The same procedure shall be repeated before the~~  
1724 ~~expiration of each additional period of involuntary services.~~

1725 ~~(7) If the respondent has previously been found incompetent~~  
1726 ~~to consent to treatment, the court shall consider testimony and~~  
1727 ~~evidence regarding the respondent's competence.~~

1728 Section 38. Section 397.6977, Florida Statutes, is amended  
1729 to read:

1730 397.6977 Disposition of individual upon completion of  
1731 involuntary treatment services.—At the conclusion of the 90-day  
1732 period of court-ordered involuntary treatment services, the  
1733 respondent is automatically discharged unless a motion for  
1734 renewal of the involuntary treatment services order has been  
1735 filed with the court pursuant to s. 397.6975.

1736 Section 39. Section 397.6978, Florida Statutes, is  
1737 repealed.

1738 Section 40. Paragraph (b) of subsection (1) of section  
1739 409.972, Florida Statutes, is amended to read:

1740 409.972 Mandatory and voluntary enrollment.—

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1741 (1) The following Medicaid-eligible persons are exempt from  
1742 mandatory managed care enrollment required by s. 409.965, and  
1743 may voluntarily choose to participate in the managed medical  
1744 assistance program:

1745 (b) Medicaid recipients residing in residential commitment  
1746 facilities operated through the Department of Juvenile Justice  
1747 or a treatment facility as defined in s. 394.455 ~~s. 394.455(48)~~.

1748 Section 41. Paragraph (e) of subsection (4) of section  
1749 464.012, Florida Statutes, is amended to read:

1750 464.012 Licensure of advanced practice registered nurses;  
1751 fees; controlled substance prescribing.-

1752 (4) In addition to the general functions specified in  
1753 subsection (3), an advanced practice registered nurse may  
1754 perform the following acts within his or her specialty:

1755 (e) A psychiatric nurse, who meets the requirements in s.  
1756 394.455(37) ~~s. 394.455(36)~~, within the framework of an  
1757 established protocol with a psychiatrist, may prescribe  
1758 psychotropic controlled substances for the treatment of mental  
1759 disorders.

1760 Section 42. Subsection (7) of section 744.2007, Florida  
1761 Statutes, is amended to read:

1762 744.2007 Powers and duties.-

1763 (7) A public guardian may not commit a ward to a treatment  
1764 facility, as defined in s. 394.455 ~~s. 394.455(48)~~, without an  
1765 involuntary placement proceeding as provided by law.

1766 Section 43. Paragraph (a) of subsection (2) of section  
1767 790.065, Florida Statutes, is amended to read:

1768 790.065 Sale and delivery of firearms.-

1769 (2) Upon receipt of a request for a criminal history record

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1770 check, the Department of Law Enforcement shall, during the  
1771 licensee's call or by return call, forthwith:

1772 (a) Review any records available to determine if the  
1773 potential buyer or transferee:

1774 1. Has been convicted of a felony and is prohibited from  
1775 receipt or possession of a firearm pursuant to s. 790.23;

1776 2. Has been convicted of a misdemeanor crime of domestic  
1777 violence, and therefore is prohibited from purchasing a firearm;

1778 3. Has had adjudication of guilt withheld or imposition of  
1779 sentence suspended on any felony or misdemeanor crime of  
1780 domestic violence unless 3 years have elapsed since probation or  
1781 any other conditions set by the court have been fulfilled or  
1782 expunction has occurred; or

1783 4. Has been adjudicated mentally defective or has been  
1784 committed to a mental institution by a court or as provided in  
1785 sub-sub-subparagraph b.(II), and as a result is prohibited by  
1786 state or federal law from purchasing a firearm.

1787 a. As used in this subparagraph, "adjudicated mentally  
1788 defective" means a determination by a court that a person, as a  
1789 result of marked subnormal intelligence, or mental illness,  
1790 incompetency, condition, or disease, is a danger to himself or  
1791 herself or to others or lacks the mental capacity to contract or  
1792 manage his or her own affairs. The phrase includes a judicial  
1793 finding of incapacity under s. 744.331(6)(a), an acquittal by  
1794 reason of insanity of a person charged with a criminal offense,  
1795 and a judicial finding that a criminal defendant is not  
1796 competent to stand trial.

1797 b. As used in this subparagraph, "committed to a mental  
1798 institution" means:

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1799 (I) Involuntary commitment, commitment for mental  
1800 defectiveness or mental illness, and commitment for substance  
1801 abuse. The phrase includes involuntary inpatient placement under  
1802 ~~as defined in s. 394.467~~, involuntary outpatient placement as  
1803 defined in s. 394.4655, ~~involuntary assessment and stabilization~~  
1804 ~~under s. 397.6818~~, and involuntary substance abuse treatment  
1805 under s. 397.6957, but does not include a person in a mental  
1806 institution for observation or discharged from a mental  
1807 institution based upon the initial review by the physician or a  
1808 voluntary admission to a mental institution; or

1809 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
1810 admission to a mental institution for outpatient or inpatient  
1811 treatment of a person who had an involuntary examination under  
1812 s. 394.463, where each of the following conditions have been  
1813 met:

1814 (A) An examining physician found that the person is an  
1815 imminent danger to himself or herself or others.

1816 (B) The examining physician certified that if the person  
1817 did not agree to voluntary treatment, a petition for involuntary  
1818 outpatient or inpatient treatment would have been filed under s.  
1819 394.463(2)(g)4., or the examining physician certified that a  
1820 petition was filed and the person subsequently agreed to  
1821 voluntary treatment prior to a court hearing on the petition.

1822 (C) Before agreeing to voluntary treatment, the person  
1823 received written notice of that finding and certification, and  
1824 written notice that as a result of such finding, he or she may  
1825 be prohibited from purchasing a firearm, and may not be eligible  
1826 to apply for or retain a concealed weapon or firearms license  
1827 under s. 790.06 and the person acknowledged such notice in

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1828 writing, in substantially the following form:

1829

1830 "I understand that the doctor who examined me believes I am a  
1831 danger to myself or to others. I understand that if I do not  
1832 agree to voluntary treatment, a petition will be filed in court  
1833 to require me to receive involuntary treatment. I understand  
1834 that if that petition is filed, I have the right to contest it.  
1835 In the event a petition has been filed, I understand that I can  
1836 subsequently agree to voluntary treatment prior to a court  
1837 hearing. I understand that by agreeing to voluntary treatment in  
1838 either of these situations, I may be prohibited from buying  
1839 firearms and from applying for or retaining a concealed weapons  
1840 or firearms license until I apply for and receive relief from  
1841 that restriction under Florida law."

1842

1843 (D) A judge or a magistrate has, pursuant to sub-sub-  
1844 subparagraph c.(II), reviewed the record of the finding,  
1845 certification, notice, and written acknowledgment classifying  
1846 the person as an imminent danger to himself or herself or  
1847 others, and ordered that such record be submitted to the  
1848 department.

1849 c. In order to check for these conditions, the department  
1850 shall compile and maintain an automated database of persons who  
1851 are prohibited from purchasing a firearm based on court records  
1852 of adjudications of mental defectiveness or commitments to  
1853 mental institutions.

1854 (I) Except as provided in sub-sub-subparagraph (II), clerks  
1855 of court shall submit these records to the department within 1  
1856 month after the rendition of the adjudication or commitment.



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1857 Reports shall be submitted in an automated format. The reports  
1858 must, at a minimum, include the name, along with any known alias  
1859 or former name, the sex, and the date of birth of the subject.

1860 (II) For persons committed to a mental institution pursuant  
1861 to sub-sub-subparagraph b.(II), within 24 hours after the  
1862 person's agreement to voluntary admission, a record of the  
1863 finding, certification, notice, and written acknowledgment must  
1864 be filed by the administrator of the receiving or treatment  
1865 facility, as defined in s. 394.455, with the clerk of the court  
1866 for the county in which the involuntary examination under s.  
1867 394.463 occurred. No fee shall be charged for the filing under  
1868 this sub-sub-subparagraph. The clerk must present the records to  
1869 a judge or magistrate within 24 hours after receipt of the  
1870 records. A judge or magistrate is required and has the lawful  
1871 authority to review the records ex parte and, if the judge or  
1872 magistrate determines that the record supports the classifying  
1873 of the person as an imminent danger to himself or herself or  
1874 others, to order that the record be submitted to the department.  
1875 If a judge or magistrate orders the submittal of the record to  
1876 the department, the record must be submitted to the department  
1877 within 24 hours.

1878 d. A person who has been adjudicated mentally defective or  
1879 committed to a mental institution, as those terms are defined in  
1880 this paragraph, may petition the court that made the  
1881 adjudication or commitment, or the court that ordered that the  
1882 record be submitted to the department pursuant to sub-sub-  
1883 subparagraph c.(II), for relief from the firearm disabilities  
1884 imposed by such adjudication or commitment. A copy of the  
1885 petition shall be served on the state attorney for the county in

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1886 which the person was adjudicated or committed. The state  
1887 attorney may object to and present evidence relevant to the  
1888 relief sought by the petition. The hearing on the petition may  
1889 be open or closed as the petitioner may choose. The petitioner  
1890 may present evidence and subpoena witnesses to appear at the  
1891 hearing on the petition. The petitioner may confront and cross-  
1892 examine witnesses called by the state attorney. A record of the  
1893 hearing shall be made by a certified court reporter or by court-  
1894 approved electronic means. The court shall make written findings  
1895 of fact and conclusions of law on the issues before it and issue  
1896 a final order. The court shall grant the relief requested in the  
1897 petition if the court finds, based on the evidence presented  
1898 with respect to the petitioner's reputation, the petitioner's  
1899 mental health record and, if applicable, criminal history  
1900 record, the circumstances surrounding the firearm disability,  
1901 and any other evidence in the record, that the petitioner will  
1902 not be likely to act in a manner that is dangerous to public  
1903 safety and that granting the relief would not be contrary to the  
1904 public interest. If the final order denies relief, the  
1905 petitioner may not petition again for relief from firearm  
1906 disabilities until 1 year after the date of the final order. The  
1907 petitioner may seek judicial review of a final order denying  
1908 relief in the district court of appeal having jurisdiction over  
1909 the court that issued the order. The review shall be conducted  
1910 de novo. Relief from a firearm disability granted under this  
1911 sub-subparagraph has no effect on the loss of civil rights,  
1912 including firearm rights, for any reason other than the  
1913 particular adjudication of mental defectiveness or commitment to  
1914 a mental institution from which relief is granted.

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1915 e. Upon receipt of proper notice of relief from firearm  
1916 disabilities granted under sub-subparagraph d., the department  
1917 shall delete any mental health record of the person granted  
1918 relief from the automated database of persons who are prohibited  
1919 from purchasing a firearm based on court records of  
1920 adjudications of mental defectiveness or commitments to mental  
1921 institutions.

1922 f. The department is authorized to disclose data collected  
1923 pursuant to this subparagraph to agencies of the Federal  
1924 Government and other states for use exclusively in determining  
1925 the lawfulness of a firearm sale or transfer. The department is  
1926 also authorized to disclose this data to the Department of  
1927 Agriculture and Consumer Services for purposes of determining  
1928 eligibility for issuance of a concealed weapons or concealed  
1929 firearms license and for determining whether a basis exists for  
1930 revoking or suspending a previously issued license pursuant to  
1931 s. 790.06(10). When a potential buyer or transferee appeals a  
1932 nonapproval based on these records, the clerks of court and  
1933 mental institutions shall, upon request by the department,  
1934 provide information to help determine whether the potential  
1935 buyer or transferee is the same person as the subject of the  
1936 record. Photographs and any other data that could confirm or  
1937 negate identity must be made available to the department for  
1938 such purposes, notwithstanding any other provision of state law  
1939 to the contrary. Any such information that is made confidential  
1940 or exempt from disclosure by law shall retain such confidential  
1941 or exempt status when transferred to the department.

1942 Section 44. This act shall take effect July 1, 2021.