

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; amending s. 394.459, F.S.; revising review
5 requirements for specified restrictions relating to a
6 patient's right to communicate or to receive visitors;
7 requiring facilities to inform respondents with a
8 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. 394.461, F.S.; authorizing the state to
13 establish that a transfer evaluation was performed by
14 providing the court with a copy of the evaluation
15 before the close of the state's case in chief;
16 prohibiting the court from considering substantive
17 information in the transfer evaluation unless the
18 evaluator testifies at the hearing; amending s.
19 394.462, F.S.; conforming cross-references; amending
20 s. 394.4625, F.S.; revising provisions relating to the
21 voluntary admission of minors to a facility for
22 examination and treatment; requiring that a minor's
23 assent to voluntary care be verified and the minor's
24 attorney be consulted before a transfer to voluntary
25 status may occur; amending s. 394.463, F.S.; revising

26 | the requirements for when a person may be taken to a
27 | receiving facility for involuntary examination;
28 | requiring law enforcement officers transporting
29 | individuals for involuntary treatment to take certain
30 | actions; revising requirements for annual reports
31 | relating to involuntary treatment; revising when a
32 | patient may be released by a receiving facility;
33 | requiring a facility to inform the department of
34 | certain persons who have been examined or committed
35 | under certain circumstances; amending s. 394.467,
36 | F.S.; revising the requirements for when a person may
37 | be ordered for involuntary inpatient placement;
38 | revising requirements for continuances of hearings;
39 | revising the conditions under which a court may waive
40 | the requirement for a patient to be present at an
41 | involuntary inpatient placement hearing; authorizing
42 | the court to permit all witnesses to attend and
43 | testify remotely at the hearing through certain means;
44 | requiring facilities to make certain clinical records
45 | available to a state attorney within a specified
46 | timeframe; specifying that such records remain
47 | confidential and may not be used for certain purposes;
48 | revising when the court may appoint a magistrate;
49 | requiring the court to allow certain testimony from
50 | individuals; revising the amount of time a court may

51 require a patient to receive services; requiring
52 facilities to discharge patients after the patient no
53 longer meets the criteria for involuntary treatment;
54 prohibiting courts from ordering that individuals with
55 developmental disabilities be involuntarily placed in
56 a state treatment facility; requiring such individuals
57 to be referred to certain agencies for evaluation and
58 services; authorizing facilities to hold such
59 individuals under certain circumstances; amending ss.
60 394.495 and 394.496, F.S.; conforming provisions to
61 changes made by the act; amending s. 394.499, F.S.;
62 making a technical change; conforming a provision to
63 changes made by the act; amending s. 397.305, F.S.;
64 revising the purpose of ch. 397, F.S.; amending s.
65 397.311, F.S.; revising definitions; creating s.
66 397.341, F.S.; requiring law enforcement officers
67 transporting individuals for treatment to take certain
68 actions; amending s. 397.501, F.S.; requiring that
69 respondents with serious substance use disorders be
70 informed of the essential elements of recovery and
71 provided with assistance accessing a continuum of care
72 regimen; authorizing the department to adopt certain
73 rules; amending s. 397.675, F.S.; revising the
74 criteria for involuntary admissions; amending s.
75 397.6751, F.S.; revising the responsibilities of a

76 service provider; amending s. 397.681, F.S.; revising
77 where involuntary treatment petitions for substance
78 abuse impaired persons may be filed; revising what
79 part of such proceedings a general or special
80 magistrate may preside over; requiring that the state
81 attorney represent the state as the real party of
82 interest in an involuntary proceeding, subject to
83 legislative appropriation; providing that the
84 petitioner has the right to be heard; specifying that
85 certain records obtained by a state attorney must
86 remain confidential and may not be used for certain
87 purposes; conforming provisions to changes made by the
88 act; repealing s. 397.6811, F.S., relating to
89 involuntary assessment and stabilization; repealing s.
90 397.6814, F.S., relating to petitions for involuntary
91 assessment and stabilization; repealing s. 397.6815,
92 F.S., relating to involuntary assessment and
93 stabilization procedures; repealing s. 397.6818, F.S.,
94 relating to court determinations for petitions for
95 involuntary assessment and stabilization; repealing s.
96 397.6819, F.S., relating to the responsibilities of
97 licensed service providers with regard to involuntary
98 assessment and stabilization; repealing s. 397.6821,
99 F.S., relating to extensions of time for completion of
100 involuntary assessment and stabilization; repealing s.

101 397.6822, F.S., relating to the disposition of
102 individuals after involuntary assessment; amending s.
103 397.693, F.S.; revising the circumstances under which
104 a person is eligible for court-ordered involuntary
105 treatment; amending s. 397.695, F.S.; authorizing the
106 court or clerk of the court to waive or prohibit any
107 service of process fees for an indigent petitioner;
108 amending s. 397.6951, F.S.; revising the requirements
109 for the contents of a petition for involuntary
110 treatment services; authorizing a petitioner to
111 include with the petition a certificate or report of a
112 qualified professional; requiring the certificate or
113 report to contain certain information; requiring that
114 certain additional information be included if an
115 emergency exists; amending s. 397.6955, F.S.;

116 requiring the clerk of the court to notify the state
117 attorney's office upon the receipt of a petition filed
118 for involuntary treatment services; revising when the
119 office of criminal conflict and civil regional counsel
120 represents a person; revising when a hearing must be
121 held on the petition; requiring law enforcement
122 agencies to effect service for initial treatment
123 hearings unless certain requirements are met;
124 providing requirements for when a petitioner asserts
125 that emergency circumstances exist or the court

126 determines that an emergency exists; conforming
127 provisions to changes made by the act; amending s.
128 397.6957, F.S.; expanding the exemption from the
129 requirement that a respondent be present at a hearing
130 on a petition for involuntary treatment services;
131 authorizing the court to order drug tests and permit
132 all witnesses to remotely attend and testify at the
133 hearing through certain means; deleting a provision
134 requiring the court to appoint a guardian advocate
135 under certain circumstances; prohibiting a respondent
136 from being involuntarily ordered into treatment unless
137 certain requirements are met; providing requirements
138 relating to involuntary assessment and stabilization
139 orders; providing requirements relating to involuntary
140 treatment hearings; requiring that the assessment of a
141 respondent occur before a specified time unless
142 certain requirements are met; requiring the service
143 provider to discharge the respondent after a specified
144 time unless certain requirements are met; requiring a
145 qualified professional to provide copies of his or her
146 report to the court and all relevant parties and
147 counsel; providing requirements for the report;
148 authorizing a court to order certain persons to take a
149 respondent into custody and transport him or her to or
150 from certain service providers and the court; revising

151 the petitioner's burden of proof in the hearing;
152 authorizing the court to initiate involuntary
153 proceedings under certain circumstances; requiring
154 that, if a treatment order is issued, it must include
155 certain findings; amending s. 397.697, F.S.; requiring
156 that an individual meet certain requirements to
157 qualify for involuntary outpatient treatment;
158 specifying that certain hearings may be set by the
159 motion of a party or under the court's own authority;
160 specifying that a service provider's authority is
161 separate and distinct from the court's jurisdiction;
162 requiring the department to receive and maintain
163 copies of certain documents and prepare annual reports
164 obtained from the documents; requiring the department
165 to provide copies of the reports to the Governor and
166 the Legislature; amending s. 397.6971, F.S.; revising
167 when an individual receiving involuntary treatment
168 services may be determined eligible for discharge;
169 conforming provisions to changes made by the act;
170 amending s. 397.6975, F.S.; authorizing certain
171 entities to file a petition for renewal of involuntary
172 treatment services; revising the timeframe during
173 which the court is required to schedule a hearing;
174 conforming provisions to changes made by the act;
175 amending s. 397.6977, F.S.; conforming provisions to

176 changes made by the act; repealing s. 397.6978, F.S.,
 177 relating to the appointment of guardian advocates;
 178 amending s. 790.065, F.S.; conforming provisions to
 179 changes made by the act; providing an effective date.
 180

181 Be It Enacted by the Legislature of the State of Florida:
 182

183 Section 1. Subsection (23) of section 394.455, Florida
 184 Statutes, is amended to read:

185 394.455 Definitions.—As used in this part, the term:

186 (23) "Involuntary examination" means an examination
 187 performed under s. 394.463, s. 397.6772, s. 397.679, s.
 188 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
 189 person qualifies for involuntary services.

190 Section 2. Paragraph (c) of subsection (5) of section
 191 394.459, Florida Statutes, is amended and subsection (13) is
 192 added to that section read:

193 394.459 Rights of patients.—

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

195 (c) Each facility must permit immediate access to any
 196 patient, subject to the patient's right to deny or withdraw
 197 consent at any time, by the patient's family members, guardian,
 198 guardian advocate, representative, Florida statewide or local
 199 advocacy council, or attorney, unless such access would be
 200 detrimental to the patient. If a patient's right to communicate

201 or to receive visitors is restricted by the facility, written
 202 notice of such restriction and the reasons for the restriction
 203 shall be served on the patient, the patient's attorney, and the
 204 patient's guardian, guardian advocate, or representative; and
 205 such restriction shall be recorded on the patient's clinical
 206 record with the reasons therefor. The restriction of a patient's
 207 right to communicate or to receive visitors shall be reviewed at
 208 least every 72 hours, or no later than the next working day if
 209 such period ends on a weekend or holiday ~~7 days~~. The right to
 210 communicate or receive visitors shall not be restricted as a
 211 means of punishment. Nothing in this paragraph shall be
 212 construed to limit the provisions of paragraph (d).

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

219 Section 3. Subsection (2) of section 394.461, Florida
 220 Statutes, is amended to read:

221 394.461 Designation of receiving and treatment facilities
 222 and receiving systems.—The department is authorized to designate
 223 and monitor receiving facilities, treatment facilities, and
 224 receiving systems and may suspend or withdraw such designation
 225 for failure to comply with this part and rules adopted under

226 | this part. Unless designated by the department, facilities are
227 | not permitted to hold or treat involuntary patients under this
228 | part.

229 | (2) TREATMENT FACILITY.—The department may designate any
230 | state-owned, state-operated, or state-supported facility as a
231 | state treatment facility. A civil patient may ~~shall~~ not be
232 | admitted to a state treatment facility without previously
233 | undergoing a transfer evaluation. Before the close of the
234 | state's case in chief in a court hearing for involuntary
235 | placement in a state treatment facility, the state may establish
236 | that the transfer evaluation was performed and the document
237 | properly executed by providing the court with a copy of the
238 | transfer evaluation. The court may not ~~court shall receive and~~
239 | consider the substantive information ~~documented~~ in the transfer
240 | evaluation unless the evaluator testifies at the hearing. Any
241 | other facility, including a private facility or a federal
242 | facility, may be designated as a treatment facility by the
243 | department, provided that such designation is agreed to by the
244 | appropriate governing body or authority of the facility.

245 | Section 4. Section 394.462, Florida Statutes, is amended
246 | to read:

247 | 394.462 Transportation.—A transportation plan shall be
248 | developed and implemented by each county in collaboration with
249 | the managing entity in accordance with this section. A county
250 | may enter into a memorandum of understanding with the governing

251 boards of nearby counties to establish a shared transportation
 252 plan. When multiple counties enter into a memorandum of
 253 understanding for this purpose, the counties shall notify the
 254 managing entity and provide it with a copy of the agreement. The
 255 transportation plan shall describe methods of transport to a
 256 facility within the designated receiving system for individuals
 257 subject to involuntary examination under s. 394.463 or
 258 involuntary admission under s. 397.6772, s. 397.679, s.
 259 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
 260 responsibility for other transportation to a participating
 261 facility when necessary and agreed to by the facility. The plan
 262 may rely on emergency medical transport services or private
 263 transport companies, as appropriate. The plan shall comply with
 264 the transportation provisions of this section and ss. 397.6772,
 265 397.6795, ~~397.6822~~, and 397.697.

266 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

267 (a) Each county shall designate a single law enforcement
 268 agency within the county, or portions thereof, to take a person
 269 into custody upon the entry of an ex parte order or the
 270 execution of a certificate for involuntary examination by an
 271 authorized professional and to transport that person to the
 272 appropriate facility within the designated receiving system
 273 pursuant to a transportation plan.

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

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276 a. The jurisdiction designated by the county has
277 contracted on an annual basis with an emergency medical
278 transport service or private transport company for
279 transportation of persons to receiving facilities pursuant to
280 this section at the sole cost of the county; and

281 b. The law enforcement agency and the emergency medical
282 transport service or private transport company agree that the
283 continued presence of law enforcement personnel is not necessary
284 for the safety of the person or others.

285 2. The entity providing transportation may seek
286 reimbursement for transportation expenses. The party responsible
287 for payment for such transportation is the person receiving the
288 transportation. The county shall seek reimbursement from the
289 following sources in the following order:

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

292 b. From the person receiving the transportation.

293 c. From a financial settlement for medical care,
294 treatment, hospitalization, or transportation payable or
295 accruing to the injured party.

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

301 (d) Any company that contracts with a governing board of a
302 county to transport patients shall comply with the applicable
303 rules of the department to ensure the safety and dignity of
304 patients.

305 (e) When a law enforcement officer takes custody of a
306 person pursuant to this part, the officer may request assistance
307 from emergency medical personnel if such assistance is needed
308 for the safety of the officer or the person in custody.

309 (f) When a member of a mental health overlay program or a
310 mobile crisis response service is a professional authorized to
311 initiate an involuntary examination pursuant to s. 394.463 or s.
312 397.675 and that professional evaluates a person and determines
313 that transportation to a receiving facility is needed, the
314 service, at its discretion, may transport the person to the
315 facility or may call on the law enforcement agency or other
316 transportation arrangement best suited to the needs of the
317 patient.

318 (g) When any law enforcement officer has custody of a
319 person based on either noncriminal or minor criminal behavior
320 that meets the statutory guidelines for involuntary examination
321 pursuant to s. 394.463, the law enforcement officer shall
322 transport the person to the appropriate facility within the
323 designated receiving system pursuant to a transportation plan.
324 Persons who meet the statutory guidelines for involuntary
325 admission pursuant to s. 397.675 may also be transported by law

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326 enforcement officers to the extent resources are available and
327 as otherwise provided by law. Such persons shall be transported
328 to an appropriate facility within the designated receiving
329 system pursuant to a transportation plan.

330 (h) When any law enforcement officer has arrested a person
331 for a felony and it appears that the person meets the statutory
332 guidelines for involuntary examination or placement under this
333 part, such person must first be processed in the same manner as
334 any other criminal suspect. The law enforcement agency shall
335 thereafter immediately notify the appropriate facility within
336 the designated receiving system pursuant to a transportation
337 plan. The receiving facility shall be responsible for promptly
338 arranging for the examination and treatment of the person. A
339 receiving facility is not required to admit a person charged
340 with a crime for whom the facility determines and documents that
341 it is unable to provide adequate security, but shall provide
342 examination and treatment to the person where he or she is held.

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

348 (j) The costs of transportation, evaluation,
349 hospitalization, and treatment incurred under this subsection by
350 persons who have been arrested for violations of any state law

351 or county or municipal ordinance may be recovered as provided in
 352 s. 901.35.

353 (k) The appropriate facility within the designated
 354 receiving system pursuant to a transportation plan must accept
 355 persons brought by law enforcement officers, or an emergency
 356 medical transport service or a private transport company
 357 authorized by the county, for involuntary examination pursuant
 358 to s. 394.463.

359 (l) The appropriate facility within the designated
 360 receiving system pursuant to a transportation plan must provide
 361 persons brought by law enforcement officers, or an emergency
 362 medical transport service or a private transport company
 363 authorized by the county, pursuant to s. 397.675, a basic
 364 screening or triage sufficient to refer the person to the
 365 appropriate services.

366 (m) Each law enforcement agency designated pursuant to
 367 paragraph (a) shall establish a policy that reflects a single
 368 set of protocols for the safe and secure transportation and
 369 transfer of custody of the person. Each law enforcement agency
 370 shall provide a copy of the protocols to the managing entity.

371 (n) When a jurisdiction has entered into a contract with
 372 an emergency medical transport service or a private transport
 373 company for transportation of persons to facilities within the
 374 designated receiving system, such service or company shall be
 375 given preference for transportation of persons from nursing

376 homes, assisted living facilities, adult day care centers, or
 377 adult family-care homes, unless the behavior of the person being
 378 transported is such that transportation by a law enforcement
 379 officer is necessary.

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

383 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

384 (a) If neither the patient nor any person legally
 385 obligated or responsible for the patient is able to pay for the
 386 expense of transporting a voluntary or involuntary patient to a
 387 treatment facility, the transportation plan established by the
 388 governing board of the county or counties must specify how the
 389 hospitalized patient will be transported to, from, and between
 390 facilities in a safe and dignified manner.

391 (b) A company that transports a patient pursuant to this
 392 subsection is considered an independent contractor and is solely
 393 liable for the safe and dignified transportation of the patient.
 394 Such company must be insured and provide no less than \$100,000
 395 in liability insurance with respect to the transport of
 396 patients.

397 (c) A company that contracts with one or more counties to
 398 transport patients in accordance with this section shall comply
 399 with the applicable rules of the department to ensure the safety
 400 and dignity of patients.

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

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

411 Section 5. Paragraph (a) of subsection (1) and subsection
 412 (4) of section 394.4625, Florida Statutes, are amended to read:
 413 394.4625 Voluntary admissions.—

414 (1) AUTHORITY TO RECEIVE PATIENTS.—

415 (a) A facility may receive for observation, diagnosis, or
 416 treatment any person 18 years of age or older who applies ~~making~~
 417 ~~application~~ by express and informed consent for admission or any
 418 person age 17 or under whose parent or legal guardian applies
 419 for admission ~~whom such application is made by his or her~~
 420 ~~guardian~~. If found to show evidence of mental illness, to be
 421 competent to provide express and informed consent, and to be
 422 suitable for treatment, such person 18 years of age or older may
 423 be admitted to the facility. A person age 17 or under may be
 424 admitted only after a clinical hearing, as defined by the
 425 department, to verify the voluntariness of the minor's assent

426 ~~consent.~~

427 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient
 428 who applies to be transferred to voluntary status shall be
 429 transferred to voluntary status immediately, unless the patient
 430 has been charged with a crime, or has been involuntarily placed
 431 for treatment by a court pursuant to s. 394.467 and continues to
 432 meet the criteria for involuntary placement. When transfer to
 433 voluntary status occurs, notice shall be given as provided in s.
 434 394.4599, and if the patient is a minor, the minor's assent to
 435 voluntary care must be verified as provided in paragraph (1) (a)
 436 and the minor's attorney must be consulted before the transfer
 437 to voluntary status may occur.

438 Section 6. Subsection (1) and paragraphs (a), (e), (f),
 439 (g), and (h) of subsection (2) of section 394.463, Florida
 440 Statutes, are amended to read:

441 394.463 Involuntary examination.—

442 (1) CRITERIA.—A person may be taken to a receiving
 443 facility for involuntary examination if there is reason to
 444 believe that the person has a mental illness and because of his
 445 or her mental illness:

446 (a)1. The person has refused voluntary examination after
 447 conscientious explanation and disclosure of the purpose of the
 448 examination; or

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

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

458 2. There is a substantial likelihood that in the near
 459 future and without care or treatment, the person will inflict
 460 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or
 461 others ~~in the near future~~, as evidenced by recent acts,
 462 omissions, or behavior causing, attempting, or threatening such
 463 harm.

464 (2) INVOLUNTARY EXAMINATION.—

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

467 1. A circuit or county court may enter an ex parte order
 468 stating that a person appears to meet the criteria for
 469 involuntary examination and specifying the findings on which
 470 that conclusion is based. The ex parte order for involuntary
 471 examination must be based on written or oral sworn testimony
 472 that includes specific facts that support the findings. If other
 473 less restrictive means are not available, such as voluntary
 474 appearance for outpatient evaluation, a law enforcement officer,
 475 or other designated agent of the court, shall take the person

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476 into custody and deliver him or her to an appropriate, or the
477 nearest, facility within the designated receiving system
478 pursuant to s. 394.462 for involuntary examination. The order of
479 the court shall be made a part of the patient's clinical record.
480 A fee may not be charged for the filing of an order under this
481 subsection. A facility accepting the patient based on this order
482 must send a copy of the order to the department within 5 working
483 days. The order may be submitted electronically through existing
484 data systems, if available. The order shall be valid only until
485 the person is delivered to the facility or for the period
486 specified in the order itself, whichever comes first. If a time
487 limit is not specified in the order, the order is valid for 7
488 days after the date that the order was signed.

489 2. A law enforcement officer may ~~shall~~ take a person who
490 appears to meet the criteria for involuntary examination into
491 custody and deliver the person or have him or her delivered to
492 an appropriate, or the nearest, facility within the designated
493 receiving system pursuant to s. 394.462 for examination. A law
494 enforcement officer transporting a person pursuant to this
495 subparagraph shall consider the person's mental and behavioral
496 state and restrain him or her in the least restrictive manner
497 necessary under the circumstances, especially if the person is a
498 minor. The officer shall execute a written report detailing the
499 circumstances under which the person was taken into custody,
500 which must be made a part of the patient's clinical record. Any

501 facility accepting the patient based on this report must send a
502 copy of the report to the department within 5 working days.

503 3. A physician, a physician assistant, a clinical
504 psychologist, a psychiatric nurse, an advanced practice
505 registered nurse registered under s. 464.0123, a mental health
506 counselor, a marriage and family therapist, or a clinical social
507 worker may execute a certificate stating that he or she has
508 examined a person within the preceding 48 hours and finds that
509 the person appears to meet the criteria for involuntary
510 examination and stating the observations upon which that
511 conclusion is based. If other less restrictive means, such as
512 voluntary appearance for outpatient evaluation, are not
513 available, a law enforcement officer shall take into custody the
514 person named in the certificate and deliver him or her to the
515 appropriate, or nearest, facility within the designated
516 receiving system pursuant to s. 394.462 for involuntary
517 examination. The law enforcement officer shall execute a written
518 report detailing the circumstances under which the person was
519 taken into custody. The report and certificate shall be made a
520 part of the patient's clinical record. Any facility accepting
521 the patient based on this certificate must send a copy of the
522 certificate to the department within 5 working days. The
523 document may be submitted electronically through existing data
524 systems, if applicable.

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526 | When sending the order, report, or certificate to the
527 | department, a facility shall, at a minimum, provide information
528 | about which action was taken regarding the patient under
529 | paragraph (g), which information shall also be made a part of
530 | the patient's clinical record.

531 | (e) The department shall receive and maintain ~~the~~ copies
532 | of ex parte orders, involuntary outpatient services orders
533 | issued pursuant to s. 394.4655, involuntary inpatient placement
534 | orders issued pursuant to s. 394.467, professional certificates,
535 | and law enforcement officers' reports. These documents shall be
536 | considered part of the clinical record, governed by the
537 | provisions of s. 394.4615. These documents shall be used to
538 | prepare annual reports analyzing the data obtained from these
539 | documents, without information identifying patients, and the
540 | department shall provide copies of the reports to the Governor
541 | ~~department~~, the President of the Senate, the Speaker of the
542 | House of Representatives, and the minority leaders of the Senate
543 | and the House of Representatives.

544 | (f) A patient shall be examined by a physician or a
545 | clinical psychologist, or by a psychiatric nurse performing
546 | within the framework of an established protocol with a
547 | psychiatrist at a facility without unnecessary delay to
548 | determine if the criteria for involuntary services are met.
549 | Emergency treatment may be provided upon the order of a
550 | physician if the physician determines that such treatment is

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551 necessary for the safety of the patient or others. The patient
552 may not be released by the receiving facility or its contractor
553 without the documented approval of a psychiatrist, ~~or a clinical~~
554 ~~psychologist, or, if the receiving facility is owned or operated~~
555 ~~by a hospital or health system, the release may also be approved~~
556 ~~by~~ a psychiatric nurse performing within the framework of an
557 established protocol with a psychiatrist, or an attending
558 emergency department physician with experience in the diagnosis
559 and treatment of mental illness after completion of an
560 involuntary examination pursuant to this subsection. A
561 psychiatric nurse may not approve the release of a patient if
562 the involuntary examination was initiated by a psychiatrist
563 unless the release is approved by the initiating psychiatrist.

564 (g) The examination period must be for up to 72 hours and
565 begins when a patient arrives at the receiving facility. For a
566 minor, the examination shall be initiated within 12 hours after
567 the patient's arrival at the facility. The facility must inform
568 the department of any person who has been examined or committed
569 three or more times under this chapter within a 12-month period.
570 Within the examination period or, if the examination period ends
571 on a weekend or holiday, no later than the next working day
572 thereafter, one of the following actions must be taken, based on
573 the individual needs of the patient:

574 1. The patient shall be released, unless he or she is
575 charged with a crime, in which case the patient shall be

576 returned to the custody of a law enforcement officer;

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

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

583 4. A petition for involuntary services shall be filed in
584 the circuit court ~~if inpatient treatment is deemed necessary~~ or
585 with the criminal county court, as defined in s. 394.4655(1), as
586 applicable. When inpatient treatment is deemed necessary, the
587 least restrictive treatment consistent with the optimum
588 improvement of the patient's condition shall be made available.
589 When a petition is to be filed for involuntary outpatient
590 placement, it shall be filed by one of the petitioners specified
591 in s. 394.4655(4) (a). A petition for involuntary inpatient
592 placement shall be filed by the facility administrator.

593 (h) A person for whom an involuntary examination has been
594 initiated who is being evaluated or treated at a hospital for an
595 emergency medical condition specified in s. 395.002 must be
596 examined by a facility within the examination period specified
597 in paragraph (g). The examination period begins when the patient
598 arrives at the hospital and ceases when the attending physician
599 documents that the patient has an emergency medical condition.
600 If the patient is examined at a hospital providing emergency

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601 medical services by a professional qualified to perform an
602 involuntary examination and is found as a result of that
603 examination not to meet the criteria for involuntary outpatient
604 services pursuant to s. 394.4655(2) or involuntary inpatient
605 placement pursuant to s. 394.467(1), the patient may be offered
606 voluntary services or placement, if appropriate, or released
607 directly from the hospital providing emergency medical services.
608 The finding by the professional that the patient has been
609 examined and does not meet the criteria for involuntary
610 inpatient services or involuntary outpatient placement must be
611 entered into the patient's clinical record. This paragraph is
612 not intended to prevent a hospital providing emergency medical
613 services from appropriately transferring a patient to another
614 hospital before stabilization if the requirements of s.
615 395.1041(3)(c) have been met.

616 Section 7. Subsections (1) and (5), paragraphs (a), (b),
617 and (c) of subsection (6), and paragraph (d) of subsection (7)
618 of section 394.467, Florida Statutes, are amended to read:

619 394.467 Involuntary inpatient placement.—

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

623 (a) He or she has a mental illness and because of his or
624 her mental illness:

625 1.a. He or she has refused voluntary inpatient placement

626 for treatment after sufficient and conscientious explanation and
 627 disclosure of the purpose of inpatient placement for treatment;
 628 or

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

631 2.a. He or she is incapable of surviving alone or with the
 632 help of willing, able, and responsible family or friends,
 633 including available alternative services, and, without
 634 treatment, is likely to suffer from neglect or refuse to care
 635 for himself or herself, and such neglect or refusal poses a real
 636 and present threat of substantial harm to his or her well-being;
 637 or

638 b. There is substantial likelihood that in the near future
 639 and without services, he or she will inflict serious ~~bodily~~ harm
 640 to ~~en~~ self or others, as evidenced by recent acts, omissions, or
 641 behavior causing, attempting, or threatening such harm; and

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

645 (5) CONTINUANCE OF HEARING.—The patient and the state are
 646 independently entitled ~~is entitled, with the concurrence of the~~
 647 ~~patient's counsel,~~ to at least one continuance of the hearing.
 648 The patient's continuance may be for a period of ~~for~~ up to 4
 649 weeks and requires the concurrence of his or her counsel. The
 650 state's continuance may be for a period of up to 5 court working

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651 days and requires a showing of good cause and due diligence by
652 the state before requesting the continuance. The state's failure
653 to timely review any readily available document or failure to
654 attempt to contact a known witness does not warrant a
655 continuance.

656 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

657 (a)1. The court shall hold the hearing on involuntary
658 inpatient placement within 5 court working days, unless a
659 continuance is granted.

660 2. Except for good cause documented in the court file, the
661 hearing must be held in the county or the facility, as
662 appropriate, where the patient is located, must be as convenient
663 to the patient as is consistent with orderly procedure, and
664 shall be conducted in physical settings not likely to be
665 injurious to the patient's condition. If the court finds that
666 the patient's attendance at the hearing is not consistent with
667 the best interests of, or is likely to be injurious to, the
668 patient, or the patient knowingly, intelligently, and
669 voluntarily waives his or her right to be present, and the
670 patient's counsel does not object, the court may waive the
671 presence of the patient from all or any portion of the hearing.
672 Absent a showing of good cause, such as specific symptoms of the
673 respondent's condition, the court may permit all witnesses,
674 including, but not limited to, any medical professionals or
675 personnel who are or have been involved with the patient's

676 treatment, to remotely attend and testify at the hearing under
677 oath via audio-video teleconference. Any witness intending to
678 remotely attend and testify at the hearing must provide the
679 parties with all relevant documents by the close of business on
680 the day before the hearing. The state attorney for the circuit
681 in which the patient is located shall represent the state,
682 rather than the petitioning facility administrator, as the real
683 party in interest in the proceeding. The facility shall make the
684 respondent's clinical records available to the state attorney
685 within 24 hours of the involuntary placement petition's filing
686 so that the state can evaluate and prepare its case before the
687 hearing. However, these records shall remain confidential, and
688 the state attorney may not use any record obtained under this
689 part for criminal investigation or prosecution purposes, or for
690 any purpose other than the patient's civil commitment under this
691 chapter.

692 3. The court may appoint a magistrate to preside at the
693 hearing on the petition and any ancillary proceedings thereto,
694 which include, but are not limited to, writs of habeas corpus
695 issued pursuant to s. 394.459(8). One of the professionals who
696 executed the petition for involuntary inpatient placement
697 certificate shall be a witness. The court shall allow testimony
698 deemed relevant by the court under state law from individuals,
699 including family members, regarding the person's prior history
700 and how that history relates to the person's current condition.

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701 The patient and the patient's guardian or representative shall
702 be informed by the court of the right to an independent expert
703 examination. If the patient cannot afford such an examination,
704 the court shall ensure that one is provided, as otherwise
705 provided for by law. The independent expert's report is
706 confidential and not discoverable, unless the expert is to be
707 called as a witness for the patient at the hearing. The
708 testimony in the hearing must be given under oath, and the
709 proceedings must be recorded. The patient may refuse to testify
710 at the hearing.

711 (b) If the court concludes that the patient meets the
712 criteria for involuntary inpatient placement, it may order that
713 the patient be transferred to a treatment facility or, if the
714 patient is at a treatment facility, that the patient be retained
715 there or be treated at any other appropriate facility, or that
716 the patient receive services, on an involuntary basis, for up to
717 ~~90 days. However, any order for involuntary mental health~~
718 ~~services in a treatment facility may be for up to 6 months.~~ The
719 order shall specify the nature and extent of the patient's
720 mental illness, and, unless the patient has transferred to a
721 voluntary status, the facility must discharge the patient at any
722 time he or she no longer meets the criteria for involuntary
723 inpatient treatment. The court may not order an individual with
724 a developmental disability as defined in s. 393.063, traumatic
725 brain injury, or dementia who lacks a co-occurring mental

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726 illness to be involuntarily placed in a state treatment
727 facility. These individuals must be referred to the Agency for
728 Persons with Disabilities or the Department of Elderly Affairs
729 for further evaluation and the provision of appropriate services
730 for their individual needs ~~The facility shall discharge a~~
731 ~~patient any time the patient no longer meets the criteria for~~
732 ~~involuntary inpatient placement, unless the patient has~~
733 ~~transferred to voluntary status.~~

734 (c) If at any time before the conclusion of the
735 involuntary placement hearing ~~on involuntary inpatient placement~~
736 it appears to the court that the person does not meet the
737 criteria of ~~for involuntary inpatient placement under this~~
738 section, but instead meets the criteria for involuntary
739 outpatient services, the court may order the person evaluated
740 for involuntary outpatient services pursuant to s. 394.4655. The
741 petition and hearing procedures set forth in s. 394.4655 shall
742 apply. If the person instead meets the criteria for involuntary
743 assessment, protective custody, or involuntary admission or
744 treatment pursuant to s. 397.675, ~~then~~ the court may order the
745 person to be admitted for involuntary assessment ~~for a period of~~
746 ~~5 days~~ pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all
747 proceedings are governed by chapter 397.

748 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
749 PLACEMENT.—

750 (d) If at a hearing it is shown that the patient continues

751 to meet the criteria for involuntary inpatient placement, the
 752 administrative law judge shall sign the order for continued
 753 involuntary inpatient placement for up to ~~90 days. However, any~~
 754 ~~order for involuntary mental health services in a treatment~~
 755 ~~facility may be for up to~~ 6 months. The same procedure shall be
 756 repeated before the expiration of each additional period the
 757 patient is retained.

758
 759 The procedure required in this subsection must be followed
 760 before the expiration of each additional period the patient is
 761 involuntarily receiving services.

762 Section 8. Subsection (3) of section 394.495, Florida
 763 Statutes, is amended to read:

764 394.495 Child and adolescent mental health system of care;
 765 programs and services.—

766 (3) Assessments must be performed by:

767 (a) A clinical psychologist, clinical social worker,
 768 physician, psychiatric nurse, or psychiatrist, as those terms
 769 are defined in s. 394.455 ~~professional as defined in s.~~
 770 ~~394.455(5), (7), (33), (36), or (37);~~

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

772 (c) A person who is under the direct supervision of a
 773 clinical psychologist, clinical social worker, physician,
 774 psychiatric nurse, or psychiatrist, as those terms are defined
 775 in s. 394.455, ~~qualified professional as defined in s.~~

776 | ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 777 | under chapter 491.

778 | Section 9. Subsection (5) of section 394.496, Florida
 779 | Statutes, is amended to read:

780 | 394.496 Service planning.—

781 | (5) A clinical psychologist, clinical social worker,
 782 | physician, psychiatric nurse, or psychiatrist, as those terms
 783 | are defined in s. 394.455, professional as defined in s.

784 | ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 785 | under chapter 491 must be included among those persons
 786 | developing the services plan.

787 | Section 10. Paragraph (a) of subsection (2) of section
 788 | 394.499, Florida Statutes, is amended to read:

789 | 394.499 Integrated children's crisis stabilization
 790 | unit/juvenile addictions receiving facility services.—

791 | (2) Children eligible to receive integrated children's
 792 | crisis stabilization unit/juvenile addictions receiving facility
 793 | services include:

794 | (a) A person under 18 years of age for whom voluntary
 795 | application is made by his or her parent or legal guardian, if
 796 | such person is found to show evidence of mental illness and to
 797 | be suitable for treatment pursuant to s. 394.4625. A person
 798 | under 18 years of age may be admitted for integrated facility
 799 | services only after a hearing to verify that the consent to
 800 | admission is voluntary is conducted pursuant to s. 394.4625.

801 Section 11. Subsection (3) of section 397.305, Florida
 802 Statutes, is amended to read:

803 397.305 Legislative findings, intent, and purpose.—

804 (3) It is the purpose of this chapter to provide for a
 805 comprehensive continuum of accessible and quality substance
 806 abuse prevention, intervention, clinical treatment, and recovery
 807 support services in the most appropriate and least restrictive
 808 environment which promotes long-term recovery while protecting
 809 and respecting the rights of individuals, primarily through
 810 community-based private not-for-profit providers working with
 811 local governmental programs involving a wide range of agencies
 812 from both the public and private sectors.

813 Section 12. Subsections (19) and (23) of section 397.311,
 814 Florida Statutes, are amended to read:

815 397.311 Definitions.—As used in this chapter, except part
 816 VIII, the term:

817 (19) "Impaired" or "substance abuse impaired" means having
 818 a substance use disorder or a condition involving the use of
 819 alcoholic beverages, illicit or prescription drugs, or any
 820 psychoactive or mood-altering substance in such a manner as to
 821 induce mental, emotional, or physical problems or ~~and~~ cause
 822 socially dysfunctional behavior.

823 (23) "Involuntary treatment services" means an array of
 824 behavioral health services that may be ordered by the court for
 825 persons with substance abuse impairment or co-occurring

826 substance abuse impairment and mental health disorders.

827 Section 13. Section 397.341, Florida Statutes, is created
828 to read:

829 397.341 Transportation of individuals by law enforcement
830 officers.—A law enforcement officer transporting an individual
831 pursuant to this chapter shall consider the person's mental and
832 behavioral state and restrain him or her in the least
833 restrictive manner necessary under the circumstances, especially
834 if the individual is a minor.

835 Section 14. Subsection (11) is added to section 397.501,
836 Florida Statutes, to read:

837 397.501 Rights of individuals.—Individuals receiving
838 substance abuse services from any service provider are
839 guaranteed protection of the rights specified in this section,
840 unless otherwise expressly provided, and service providers must
841 ensure the protection of such rights.

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

848 Section 15. Section 397.675, Florida Statutes, is amended
849 to read:

850 397.675 Criteria for involuntary admissions, including

851 protective custody, emergency admission, and other involuntary
 852 assessment, involuntary treatment, and alternative involuntary
 853 assessment for minors, for purposes of assessment and
 854 stabilization, and for involuntary treatment.—A person meets the
 855 criteria for involuntary admission if there is good faith reason
 856 to believe that the person is substance abuse impaired or has a
 857 substance use disorder and a co-occurring mental health disorder
 858 and, because of such impairment or disorder:

859 (1) Has lost the power of self-control with respect to
 860 substance abuse, or has a history of noncompliance with
 861 substance abuse treatment with continued substance use; and

862 (2) ~~(a)~~ Is in need of substance abuse services and, by
 863 reason of substance abuse impairment, his or her judgment has
 864 been so impaired that he or she is refusing voluntary care after
 865 a sufficient and conscientious explanation and disclosure of the
 866 purpose for such services, or is incapable of appreciating his
 867 or her need for such services and of making a rational decision
 868 in that regard, although mere refusal to receive such services
 869 does not constitute evidence of lack of judgment with respect to
 870 his or her need for such services; and ~~or~~

871 (3) ~~(a) (b)~~ Without care or treatment, is likely to suffer
 872 from neglect or refuse to care for himself or herself; that such
 873 neglect or refusal poses a real and present threat of
 874 substantial harm to his or her well-being; and that it is not
 875 apparent that such harm may be avoided through the help of

876 willing, able, and responsible family members or friends or the
 877 provision of other services;~~7~~ or

878 (b) There is substantial likelihood that in the near
 879 future and without services, the person will inflict serious
 880 harm to self or others, as evidenced by recent acts, omissions,
 881 or behavior causing, attempting, or threatening such harm ~~has~~
 882 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
 883 ~~admitted, is likely to inflict, physical harm on himself,~~
 884 ~~herself, or another.~~

885 Section 16. Subsection (1) of section 397.6751, Florida
 886 Statutes, is amended to read:

887 397.6751 Service provider responsibilities regarding
 888 involuntary admissions.—

889 (1) It is the responsibility of the service provider to:

890 (a) Ensure that a person who is admitted to a licensed
 891 service component meets the admission criteria specified in s.
 892 397.675;

893 (b) Ascertain whether the medical and behavioral
 894 conditions of the person, as presented, are beyond the safe
 895 management capabilities of the service provider;

896 (c) Provide for the admission of the person to the service
 897 component that represents the most appropriate and least
 898 restrictive available setting that is responsive to the person's
 899 treatment needs;

900 (d) Verify that the admission of the person to the service

901 component does not result in a census in excess of its licensed
 902 service capacity;

903 (e) Determine whether the cost of services is within the
 904 financial means of the person or those who are financially
 905 responsible for the person's care; and

906 (f) Take all necessary measures to ensure that each
 907 individual in treatment is provided with a safe environment, and
 908 to ensure that each individual whose medical condition or
 909 behavioral problem becomes such that he or she cannot be safely
 910 managed by the service component is discharged and referred to a
 911 more appropriate setting for care.

912 Section 17. Section 397.681, Florida Statutes, is amended
 913 to read:

914 397.681 Involuntary petitions; general provisions; court
 915 jurisdiction and right to counsel.—

916 (1) JURISDICTION.—The courts have jurisdiction of
 917 ~~involuntary assessment and stabilization petitions and~~
 918 involuntary treatment petitions for substance abuse impaired
 919 persons, and such petitions must be filed with the clerk of the
 920 court in the county where the person is located or resides. The
 921 clerk of the court may not charge a fee for the filing of a
 922 petition under this section. The chief judge may appoint a
 923 general or special magistrate to preside over all or part of the
 924 proceedings related to the petition or any ancillary matters
 925 thereto, which include, but are not limited to, writs of habeas

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926 corpus issued pursuant to s. 397.501(9). The alleged impaired
927 person is named as the respondent.

928 (2) RIGHT TO COUNSEL.—A respondent has the right to
929 counsel at every stage of a proceeding relating to a petition
930 for his or her ~~involuntary assessment and a petition for his or~~
931 ~~her~~ involuntary treatment for substance abuse impairment. A
932 respondent who desires counsel and is unable to afford private
933 counsel has the right to court-appointed counsel and to the
934 benefits of s. 57.081. If the court believes that the respondent
935 needs the assistance of counsel, the court shall appoint such
936 counsel for the respondent without regard to the respondent's
937 wishes. If the respondent is a minor not otherwise represented
938 in the proceeding, the court shall immediately appoint a
939 guardian ad litem to act on the minor's behalf.

940 (3) STATE REPRESENTATIVE.—Subject to legislative
941 appropriation, for all court-involved involuntary proceedings
942 under this chapter in which the petitioner has not retained
943 private counsel, the state attorney for the circuit in which the
944 respondent is located shall represent the state rather than the
945 petitioner as the real party of interest in the proceeding, but
946 the petitioner has the right to be heard. Furthermore, the state
947 attorney may not use any record obtained under this part for
948 criminal investigation or prosecution purposes or for any
949 purpose other than the respondent's civil commitment under this
950 chapter. Any record obtained under this subsection must remain

951 confidential.

952 Section 18. Section 397.6811, Florida Statutes, is
 953 repealed.

954 Section 19. Section 397.6814, Florida Statutes, is
 955 repealed.

956 Section 20. Section 397.6815, Florida Statutes, is
 957 repealed.

958 Section 21. Section 397.6818, Florida Statutes, is
 959 repealed.

960 Section 22. Section 397.6819, Florida Statutes, is
 961 repealed.

962 Section 23. Section 397.6821, Florida Statutes, is
 963 repealed.

964 Section 24. Section 397.6822, Florida Statutes, is
 965 repealed.

966 Section 25. Section 397.693, Florida Statutes, is amended
 967 to read:

968 397.693 Involuntary treatment.—A person may be the subject
 969 of a petition for court-ordered involuntary treatment pursuant
 970 to this part, if that person:

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

973 (2) ~~(1)~~ Has been placed under protective custody pursuant
 974 to s. 397.677 within the previous 10 days;

975 (3) ~~(2)~~ Has been subject to an emergency admission pursuant

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976 to s. 397.679 within the previous 10 days; or

977 (4)~~(3)~~ Has been assessed by a qualified professional
 978 within 30 ~~5~~ days;

979 ~~(4) Has been subject to involuntary assessment and~~
 980 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
 981 ~~days; or~~

982 ~~(5) Has been subject to alternative involuntary admission~~
 983 ~~pursuant to s. 397.6822 within the previous 12 days.~~

984 Section 26. Section 397.695, Florida Statutes, is amended
 985 to read:

986 397.695 Involuntary treatment services; persons who may
 987 petition.—

988 (1) If the respondent is an adult, a petition for
 989 involuntary treatment services may be filed by the respondent's
 990 spouse or legal guardian, any relative, a service provider, or
 991 an adult who has direct personal knowledge of the respondent's
 992 substance abuse impairment and his or her prior course of
 993 assessment and treatment.

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

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

1000 Section 27. Section 397.6951, Florida Statutes, is amended

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1001 to read:

1002 397.6951 Contents of petition for involuntary treatment
 1003 services.—

1004 (1) A petition for involuntary treatment services must
 1005 contain the name of the respondent; the name of the petitioner
 1006 ~~or petitioners~~; the relationship between the respondent and the
 1007 petitioner; the name of the respondent's attorney, if known; ~~the~~
 1008 ~~findings and recommendations of the assessment performed by the~~
 1009 ~~qualified professional~~; and the factual allegations presented by
 1010 the petitioner establishing the need for involuntary ~~outpatient~~
 1011 services for substance abuse impairment. The factual allegations
 1012 must demonstrate the reason for the petitioner's belief that the
 1013 respondent:

1014 ~~(1) The reason for the petitioner's belief that the~~
 1015 ~~respondent is substance abuse impaired;~~

1016 (a)(2) ~~The reason for the petitioner's belief that because~~
 1017 ~~of such impairment the respondent~~ Has lost the power of self-
 1018 control with respect to substance abuse, or has a history of
 1019 noncompliance with substance abuse treatment with continued
 1020 substance use; ~~and~~

1021 (b) Needs substance abuse services, but his or her
 1022 judgment is so impaired by substance abuse that he or she either
 1023 is refusing voluntary care after a sufficient and conscientious
 1024 explanation and disclosure of the purpose of such services, or
 1025 is incapable of appreciating his or her need for such services

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1026 and of making a rational decision in that regard; and

1027 (c)1. Without services, is likely to suffer from neglect
1028 or refuse to care for himself or herself; that the neglect or
1029 refusal poses a real and present threat of substantial harm to
1030 his or her well-being; and that it is not apparent that the harm
1031 may be avoided through the help of willing, able, and
1032 responsible family members or friends or the provision of other
1033 services; or

1034 2. There is a substantial likelihood that in the near
1035 future and without services, the respondent will inflict serious
1036 harm to self or others, as evidenced by recent acts, omissions,
1037 or behavior causing, attempting, or threatening such harm

1038 ~~(3)(a) The reason the petitioner believes that the~~
1039 ~~respondent has inflicted or is likely to inflict physical harm~~
1040 ~~on himself or herself or others unless the court orders the~~
1041 ~~involuntary services; or~~

1042 ~~(b) The reason the petitioner believes that the~~
1043 ~~respondent's refusal to voluntarily receive care is based on~~
1044 ~~judgment so impaired by reason of substance abuse that the~~
1045 ~~respondent is incapable of appreciating his or her need for care~~
1046 ~~and of making a rational decision regarding that need for care.~~

1047 (2) The petition may be accompanied by a certificate or
1048 report of a qualified professional or a licensed physician who
1049 examined the respondent within 30 days before the petition was
1050 filed. This certificate or report must include the qualified

1051 professional's or physician's findings relating to his or her
 1052 assessment of the patient and his or her treatment
 1053 recommendations. If the respondent was not assessed before the
 1054 filing of a treatment petition or refused to submit to an
 1055 evaluation, the lack of assessment or refusal must be noted in
 1056 the petition.

1057 (3) If there is an emergency, the petition must also
 1058 describe the respondent's exigent circumstances and include a
 1059 request for an ex parte assessment and stabilization order that
 1060 must be executed pursuant to s. 397.6955(4).

1061 Section 28. Section 397.6955, Florida Statutes, is amended
 1062 to read:

1063 397.6955 Duties of court upon filing of petition for
 1064 involuntary treatment services.-

1065 (1) Upon the filing of a petition for involuntary
 1066 treatment services for a substance abuse impaired person with
 1067 the clerk of the court which does not indicate that the
 1068 petitioner has retained private counsel, the clerk must notify
 1069 the state attorney's office. In addition, the court shall
 1070 immediately determine whether the respondent is represented by
 1071 an attorney or whether the appointment of counsel for the
 1072 respondent is appropriate. If, based on the contents of the
 1073 petition, the court appoints counsel for the person, the clerk
 1074 of the court shall immediately notify the office of criminal
 1075 conflict and civil regional counsel, created pursuant to s.

1076 27.511, of the appointment. The office of criminal conflict and
 1077 civil regional counsel shall represent the person until the
 1078 petition is dismissed, the court order expires, ~~or~~ the person is
 1079 discharged from involuntary treatment services, or the office is
 1080 otherwise discharged by the court. An attorney that represents
 1081 the person named in the petition shall have access to the
 1082 person, witnesses, and records relevant to the presentation of
 1083 the person's case and shall represent the interests of the
 1084 person, regardless of the source of payment to the attorney.

1085 (2) The court shall schedule a hearing to be held on the
 1086 petition within 10 court working ~~5~~ days unless a continuance is
 1087 granted. ~~The court may appoint a magistrate to preside at the~~
 1088 ~~hearing.~~

1089 (3) A copy of the petition and notice of the hearing must
 1090 be provided to the respondent; the respondent's parent,
 1091 guardian, or legal custodian, in the case of a minor; the
 1092 respondent's attorney, if known; the petitioner; the
 1093 respondent's spouse or guardian, if applicable; and such other
 1094 persons as the court may direct. If the respondent is a minor, a
 1095 copy of the petition and notice of the hearing must be
 1096 personally delivered to the respondent. The clerk court shall
 1097 also issue a summons to the person whose admission is sought,
 1098 and unless a circuit court's chief judge authorizes
 1099 disinterested private process servers to serve parties under
 1100 this chapter, a law enforcement agency must effect service for

1101 the initial treatment hearing.

1102 (4) (a) When the petitioner asserts that emergency
 1103 circumstances exist, or when upon review of the petition the
 1104 court determines that an emergency exists, the court may rely
 1105 solely on the contents of the petition and, without the
 1106 appointment of an attorney, enter an ex parte order for the
 1107 respondent's involuntary assessment and stabilization which must
 1108 be executed during the period when the hearing on the petition
 1109 for treatment is pending. The court may further order a law
 1110 enforcement officer or other designated agent of the court to:

1111 1. Take the respondent into custody and deliver him or her
 1112 to either the nearest appropriate licensed service provider or a
 1113 licensed service provider designated by the court to be
 1114 evaluated; and

1115 2. Serve the respondent with the notice of hearing and a
 1116 copy of the petition.

1117 (b) The service provider must promptly inform the court
 1118 and parties of the respondent's arrival and may not hold the
 1119 respondent for longer than 72 hours of observation thereafter,
 1120 unless:

1121 1. The service provider seeks additional time under s.
 1122 397.6957(1)(c) and the court, after a hearing, grants that
 1123 motion;

1124 2. The respondent shows signs of withdrawal, or a need to
 1125 be either detoxified or treated for a medical condition, which

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1126 shall extend the amount of time the respondent may be held for
1127 observation until the issue is resolved; or

1128 3. The original or extended observation period ends on a
1129 weekend or holiday, in which case the provider may hold the
1130 respondent until the next court working day.

1131 (c) If the ex parte order was not executed by the initial
1132 hearing date, it shall be deemed void. However, should the
1133 respondent not appear at the hearing for any reason, including
1134 lack of service, and upon reviewing the petition, testimony, and
1135 evidence presented, the court reasonably believes the respondent
1136 meets this chapter's commitment criteria and that a substance
1137 abuse emergency exists, the court may issue or reissue an ex
1138 parte assessment and stabilization order that is valid for 90
1139 days. If the respondent's location is known at the time of the
1140 hearing, the court:

1141 1. Shall continue the case for no more than 10 court
1142 working days; and

1143 2. May order a law enforcement officer or other designated
1144 agent of the court to:

1145 a. Take the respondent into custody and deliver him or her
1146 to be evaluated either by the nearest appropriate licensed
1147 service provider or by a licensed service provider designated by
1148 the court; and

1149 b. If a hearing date is set, serve the respondent with
1150 notice of the rescheduled hearing and a copy of the involuntary

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1151 treatment petition if the respondent has not already been
 1152 served.

1153
 1154 Otherwise, the petitioner and the service provider must promptly
 1155 inform the court that the respondent has been assessed so that
 1156 the court may schedule a hearing as soon as practicable. The
 1157 service provider must serve the respondent, before his or her
 1158 discharge, with the notice of hearing and a copy of the
 1159 petition. However, if the respondent has not been assessed
 1160 within 90 days, the court must dismiss the case.

1161 Section 29. Section 397.6957, Florida Statutes, is amended
 1162 to read:

1163 397.6957 Hearing on petition for involuntary treatment
 1164 services.—

1165 (1) (a) The respondent must be present at a hearing on a
 1166 petition for involuntary treatment services unless he or she
 1167 knowingly, intelligently, and voluntarily waives his or her
 1168 right to be present or, upon receiving proof of service and
 1169 evaluating the circumstances of the case, the court finds that
 1170 his or her presence is inconsistent with his or her best
 1171 interests or is likely to be injurious to himself or herself or
 1172 others. The court shall hear and review all relevant evidence,
 1173 including testimony from individuals such as family members
 1174 familiar with the respondent's prior history and how it relates
 1175 to his or her current condition, and the ~~review of~~ results of

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1176 the assessment completed by the qualified professional in
1177 connection with this chapter. The court may also order drug
1178 tests. Absent a showing of good cause, such as specific symptoms
1179 of the respondent's condition, the court may permit all
1180 witnesses, such as any medical professionals or personnel who
1181 are or have been involved with the respondent's treatment, to
1182 remotely attend and testify at the hearing under oath via audio-
1183 video teleconference. Any witness intending to remotely attend
1184 and testify at the hearing must provide the parties with all
1185 relevant documents by the close of business on the day before
1186 the hearing ~~the respondent's protective custody, emergency~~
1187 ~~admission, involuntary assessment, or alternative involuntary~~
1188 ~~admission. The respondent must be present unless the court finds~~
1189 ~~that his or her presence is likely to be injurious to himself or~~
1190 ~~herself or others, in which event the court must appoint a~~
1191 ~~guardian advocate to act in behalf of the respondent throughout~~
1192 ~~the proceedings.~~

1193 (b) A respondent cannot be involuntarily ordered into
1194 treatment under this chapter without a clinical assessment being
1195 performed, unless he or she is present in court and expressly
1196 waives the assessment. In nonemergency situations, if the
1197 respondent was not, or had previously refused to be, assessed by
1198 a qualified professional and, based on the petition, testimony,
1199 and evidence presented, it reasonably appears that the
1200 respondent qualifies for involuntary treatment services, the

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1201 court shall issue an involuntary assessment and stabilization
1202 order to determine the appropriate level of treatment the
1203 respondent requires. Additionally, in cases where an assessment
1204 was attached to the petition, the respondent may request, or the
1205 court on its own motion may order, an independent assessment by
1206 a court-appointed physician or an otherwise agreed-upon
1207 physician. If an assessment order is issued, it is valid for 90
1208 days, and if the respondent is present or there is either proof
1209 of service or his or her location is known, the involuntary
1210 treatment hearing shall be continued for no more than 10 court
1211 working days. Otherwise, the petitioner and the service provider
1212 must promptly inform the court that the respondent has been
1213 assessed so that the court may schedule a hearing as soon as
1214 practicable. The service provider shall then serve the
1215 respondent, before his or her discharge, with the notice of
1216 hearing and a copy of the petition. The assessment must occur
1217 before the new hearing date, and if there is evidence indicating
1218 that the respondent will not voluntarily appear at the
1219 forthcoming hearing, or is a danger to self or others, the court
1220 may enter a preliminary order committing the respondent to an
1221 appropriate treatment facility for further evaluation until the
1222 date of the rescheduled hearing. However, if after 90 days the
1223 respondent remains unassessed, the court shall dismiss the case.
1224 (c)1. The respondent's assessment by a qualified
1225 professional must occur within 72 hours after his or her arrival

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1226 at a licensed service provider unless he or she shows signs of
1227 withdrawal or a need to be either detoxified or treated for a
1228 medical condition, which shall extend the amount of time the
1229 respondent may be held for observation until that issue is
1230 resolved. If the person conducting the assessment is not a
1231 licensed physician, the assessment must be reviewed by a
1232 licensed physician within the 72-hour period. If the respondent
1233 is a minor, such assessment must be initiated within the first
1234 12 hours after the minor's admission to the facility. The
1235 service provider may also move to extend the 72 hours of
1236 observation by petitioning the court in writing for additional
1237 time. The service provider must furnish copies of such motion to
1238 all parties in accordance with applicable confidentiality
1239 requirements, and, after a hearing, the court may grant
1240 additional time or expedite the respondent's involuntary
1241 treatment hearing. The involuntary treatment hearing, however,
1242 may be expedited only by agreement of the parties on the hearing
1243 date or if there is notice and proof of service as provided in
1244 s. 397.6955(1) and (3). If the court grants the service
1245 provider's petition, the service provider may hold the
1246 respondent until its extended assessment period expires or until
1247 the expedited hearing date. However, if the original or extended
1248 observation period ends on a weekend or holiday, the provider
1249 may hold the respondent until the next court working day.
1250 2. Upon the completion of his or her report, the qualified

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1251 professional, in accordance with applicable confidentiality
1252 requirements, shall provide copies to the court and all relevant
1253 parties and counsel. This report must contain a recommendation
1254 on the level, if any, of substance abuse and, if applicable, co-
1255 occurring mental health treatment the respondent requires. The
1256 qualified professional's failure to include a treatment
1257 recommendation, much like a recommendation of no treatment,
1258 shall result in the petition's dismissal.

1259 (d) The court may order a law enforcement officer or other
1260 designated agent of the court to take the respondent into
1261 custody and transport him or her to or from the treating or
1262 assessing service provider and the court for his or her hearing.

1263 (2) The petitioner has the burden of proving by clear and
1264 convincing evidence that:

1265 (a) The respondent is substance abuse impaired, has lost
1266 the power of self-control with respect to substance abuse, or
1267 ~~and~~ has a history of lack of compliance with treatment for
1268 substance abuse with continued substance use; and

1269 (b) Because of such impairment, the respondent is unlikely
1270 to voluntarily participate in the recommended services after
1271 sufficient and conscientious explanation and disclosure of their
1272 purpose, or is unable to determine for himself or herself
1273 whether services are necessary and make a rational decision in
1274 that regard; and

1275 (c)1. Without services, the respondent is likely to suffer

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1276 from neglect or refuse to care for himself or herself; that such
1277 neglect or refusal poses a real and present threat of
1278 substantial harm to his or her well-being; and that it is not
1279 apparent that such harm may be avoided through the help of
1280 willing, able, and responsible family members or friends or the
1281 provision of other services; or

1282 2. There is a substantial likelihood that in the near
1283 future and without services, the respondent will inflict serious
1284 harm to self or others, as evidenced by recent acts, omissions,
1285 or behavior causing, attempting, or threatening such harm cause
1286 serious bodily harm to himself, herself, or another in the near
1287 future, as evidenced by recent behavior; or

1288 ~~2. The respondent's refusal to voluntarily receive care is~~
1289 ~~based on judgment so impaired by reason of substance abuse that~~
1290 ~~the respondent is incapable of appreciating his or her need for~~
1291 ~~care and of making a rational decision regarding that need for~~
1292 ~~care.~~

1293 ~~(3) One of the qualified professionals who executed the~~
1294 ~~involuntary services certificate must be a witness. The court~~
1295 ~~shall allow testimony from individuals, including family~~
1296 ~~members, deemed by the court to be relevant under state law,~~
1297 ~~regarding the respondent's prior history and how that prior~~
1298 ~~history relates to the person's current condition. The Testimony~~
1299 ~~in the hearing must be taken under oath, and the proceedings~~
1300 ~~must be recorded. The respondent ~~patient~~ may refuse to testify~~

1301 at the hearing.

1302 (4) If at any point during the hearing the court has
 1303 reason to believe that the respondent, due to mental illness
 1304 other than or in addition to substance abuse impairment, is
 1305 likely to neglect or injure himself, herself, or another if
 1306 allowed to remain at liberty, or otherwise meets the involuntary
 1307 commitment provisions of part I of chapter 394, the court may
 1308 initiate involuntary examination proceedings under such
 1309 provisions.

1310 (5)-(4) At the conclusion of the hearing, the court shall
 1311 either dismiss the petition or order the respondent to receive
 1312 involuntary treatment services from his or her chosen licensed
 1313 service provider if possible and appropriate. Any treatment
 1314 order must include findings regarding the respondent's need for
 1315 treatment and the appropriateness of other less restrictive
 1316 alternatives.

1317 Section 30. Section 397.697, Florida Statutes, is amended
 1318 to read:

1319 397.697 Court determination; effect of court order for
 1320 involuntary treatment services.-

1321 (1)(a) When the court finds that the conditions for
 1322 involuntary treatment services have been proved by clear and
 1323 convincing evidence, it may order the respondent to receive
 1324 involuntary treatment services from a publicly funded licensed
 1325 service provider for a period not to exceed 90 days. The court

1326 may also order a respondent to undergo treatment through a
1327 privately funded licensed service provider if the respondent has
1328 the ability to pay for the treatment, or if any person on the
1329 respondent's behalf voluntarily demonstrates a willingness and
1330 an ability to pay for the treatment. If the court finds it
1331 necessary, it may direct the sheriff to take the respondent into
1332 custody and deliver him or her to the licensed service provider
1333 specified in the court order, or to the nearest appropriate
1334 licensed service provider, for involuntary treatment services.
1335 When the conditions justifying involuntary treatment services no
1336 longer exist, the individual must be released as provided in s.
1337 397.6971. When the conditions justifying involuntary treatment
1338 services are expected to exist after 90 days of treatment
1339 services, a renewal of the involuntary treatment services order
1340 may be requested pursuant to s. 397.6975 before the end of the
1341 90-day period.

1342 (b) To qualify for involuntary outpatient treatment, an
1343 individual must be supported by a social worker or case manager
1344 of a licensed service provider or a willing, able, and
1345 responsible individual appointed by the court who shall inform
1346 the court and parties if the respondent fails to comply with his
1347 or her outpatient program. In addition, unless the respondent
1348 has been involuntarily ordered into inpatient treatment under
1349 this chapter at least twice during the last 36 months, or
1350 demonstrates the ability to substantially comply with the

1351 outpatient treatment while waiting for residential placement to
1352 become available, he or she must receive an assessment from a
1353 qualified professional or licensed physician expressly
1354 recommending outpatient services, such services must be
1355 available in the county in which the respondent is located, and
1356 it must appear likely that the respondent will follow a
1357 prescribed outpatient care plan.

1358 (2) In all cases resulting in an order for involuntary
1359 treatment services, the court shall retain jurisdiction over the
1360 case and the parties for the entry of such further orders as the
1361 circumstances may require, including, but not limited to,
1362 monitoring compliance with treatment, changing the treatment
1363 modality, or initiating contempt of court proceedings for
1364 violating any valid order issued pursuant to this chapter.
1365 Hearings under this section may be set by motion of the parties
1366 or under the court's own authority, and the motion and notice of
1367 hearing for these ancillary proceedings, which include, but are
1368 not limited to, civil contempt, must be served in accordance
1369 with relevant court procedural rules. The court's requirements
1370 for notification of proposed release must be included in the
1371 original order.

1372 (3) An involuntary treatment services order also
1373 authorizes the licensed service provider to require the
1374 individual to receive treatment services that will benefit him
1375 or her, including treatment services at any licensable service

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1376 component of a licensed service provider. While subject to the
1377 court's oversight, the service provider's authority under this
1378 section is separate and distinct from the court's broad
1379 continuing jurisdiction under subsection (2). Such oversight
1380 includes, but is not limited to, submitting reports regarding
1381 the respondent's progress or compliance with treatment as
1382 required by the court.

1383 (4) If the court orders involuntary treatment services, a
1384 copy of the order must be sent to the managing entity within 1
1385 working day after it is received from the court. Documents may
1386 be submitted electronically through ~~though~~ existing data
1387 systems, if applicable. The department shall also receive and
1388 maintain copies of involuntary assessment and treatment orders
1389 issued pursuant to ss. 397.6955 and 397.6957, professional
1390 certificates, and law enforcement officers' protective custody
1391 reports. These documents shall be used to prepare annual reports
1392 analyzing the data obtained from these documents, without
1393 information identifying patients, and the department shall
1394 provide copies of these reports to the Governor, the President
1395 of the Senate, the Speaker of the House of Representatives, and
1396 the minority leaders of the Senate and the House of
1397 Representatives.

1398 Section 31. Section 397.6971, Florida Statutes, is amended
1399 to read:

1400 397.6971 Early release from involuntary treatment

1401 services.—

1402 (1) At any time before the end of the 90-day involuntary
 1403 treatment services period, or before the end of any extension
 1404 granted pursuant to s. 397.6975, an individual receiving
 1405 involuntary treatment services may be determined eligible for
 1406 discharge to the most appropriate referral or disposition for
 1407 the individual when any of the following apply:

1408 (a) The individual no longer meets the criteria for
 1409 involuntary admission and has given his or her informed consent
 1410 to be transferred to voluntary treatment status.

1411 (b) If the individual was admitted on the grounds of
 1412 likelihood of self-neglect or the infliction of ~~physical~~ harm
 1413 upon himself or herself or others, such likelihood no longer
 1414 exists.

1415 (c) If the individual was admitted on the grounds of need
 1416 for assessment and stabilization or treatment, accompanied by
 1417 inability to make a determination respecting such need:

- 1418 1. Such inability no longer exists; or
- 1419 2. It is evident that further treatment will not bring
 1420 about further significant improvements in the individual's
 1421 condition.

1422 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
 1423 services.

1424 (e) The director of the service provider determines that
 1425 the individual is beyond the safe management capabilities of the

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1426 provider.

1427 (2) Whenever a qualified professional determines that an
1428 individual admitted for involuntary treatment services qualifies
1429 for early release under subsection (1), the service provider
1430 shall immediately discharge the individual and must notify all
1431 persons specified by the court in the original treatment order.

1432 Section 32. Section 397.6975, Florida Statutes, is amended
1433 to read:

1434 397.6975 Extension of involuntary treatment services
1435 period.—

1436 (1) Whenever a service provider believes that an
1437 individual who is nearing the scheduled date of his or her
1438 release from involuntary treatment services continues to meet
1439 the criteria for involuntary treatment services in s. 397.693 or
1440 s. 397.6957, a petition for renewal of the involuntary treatment
1441 services order must ~~may~~ be filed with the court ~~at least 10 days~~
1442 before the expiration of the court-ordered services period. The
1443 petition may be filed by the service provider or by the person
1444 who filed the petition for the initial treatment order if the
1445 petition is accompanied by supporting documentation from the
1446 service provider. The court shall ~~immediately~~ schedule a hearing
1447 within 10 court working ~~to be held not more than 15~~ days after
1448 filing of the petition and. ~~The court shall~~ provide the copy of
1449 the petition for renewal and the notice of the hearing to all
1450 parties and counsel to the proceeding. The hearing is conducted

1451 pursuant to ss. 397.6957 and 397.697 and must be before the
1452 circuit court unless referred to a magistrate s. 397.6957.

1453 (2) If the court finds that the petition for renewal of
1454 ~~the~~ involuntary treatment services ~~order~~ should be granted, it
1455 may order the respondent to receive involuntary treatment
1456 services for a period not to exceed an additional 90 days. When
1457 the conditions justifying involuntary treatment services no
1458 longer exist, the individual must be released as provided in s.
1459 397.6971. When the conditions justifying involuntary treatment
1460 services continue to exist after an additional 90 days of
1461 treatment service, a new petition requesting renewal of the
1462 involuntary treatment services order may be filed pursuant to
1463 this section.

1464 ~~(3) Within 1 court working day after the filing of a~~
1465 ~~petition for continued involuntary services, the court shall~~
1466 ~~appoint the office of criminal conflict and civil regional~~
1467 ~~counsel to represent the respondent, unless the respondent is~~
1468 ~~otherwise represented by counsel. The clerk of the court shall~~
1469 ~~immediately notify the office of criminal conflict and civil~~
1470 ~~regional counsel of such appointment. The office of criminal~~
1471 ~~conflict and civil regional counsel shall represent the~~
1472 ~~respondent until the petition is dismissed or the court order~~
1473 ~~expires or the respondent is discharged from involuntary~~
1474 ~~services. Any attorney representing the respondent shall have~~
1475 ~~access to the respondent, witnesses, and records relevant to the~~

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1476 ~~presentation of the respondent's case and shall represent the~~
1477 ~~interests of the respondent, regardless of the source of payment~~
1478 ~~to the attorney.~~

1479 ~~(4) Hearings on petitions for continued involuntary~~
1480 ~~services shall be before the circuit court. The court may~~
1481 ~~appoint a magistrate to preside at the hearing. The procedures~~
1482 ~~for obtaining an order pursuant to this section shall be in~~
1483 ~~accordance with s. 397.697.~~

1484 ~~(5) Notice of hearing shall be provided to the respondent~~
1485 ~~or his or her counsel. The respondent and the respondent's~~
1486 ~~counsel may agree to a period of continued involuntary services~~
1487 ~~without a court hearing.~~

1488 ~~(6) The same procedure shall be repeated before the~~
1489 ~~expiration of each additional period of involuntary services.~~

1490 ~~(7) If the respondent has previously been found~~
1491 ~~incompetent to consent to treatment, the court shall consider~~
1492 ~~testimony and evidence regarding the respondent's competence.~~

1493 Section 33. Section 397.6977, Florida Statutes, is amended
1494 to read:

1495 397.6977 Disposition of individual upon completion of
1496 involuntary treatment services.—At the conclusion of the 90-day
1497 period of court-ordered involuntary treatment services, the
1498 respondent is automatically discharged unless a motion for
1499 renewal of the involuntary treatment services order has been
1500 filed with the court pursuant to s. 397.6975.

1501 Section 34. Section 397.6978, Florida Statutes, is
 1502 repealed.

1503 Section 35. Paragraph (a) of subsection (2) of section
 1504 790.065, Florida Statutes, is amended to read:

1505 790.065 Sale and delivery of firearms.—

1506 (2) Upon receipt of a request for a criminal history
 1507 record check, the Department of Law Enforcement shall, during
 1508 the licensee's call or by return call, forthwith:

1509 (a) Review any records available to determine if the
 1510 potential buyer or transferee:

1511 1. Has been convicted of a felony and is prohibited from
 1512 receipt or possession of a firearm pursuant to s. 790.23;

1513 2. Has been convicted of a misdemeanor crime of domestic
 1514 violence, and therefore is prohibited from purchasing a firearm;

1515 3. Has had adjudication of guilt withheld or imposition of
 1516 sentence suspended on any felony or misdemeanor crime of
 1517 domestic violence unless 3 years have elapsed since probation or
 1518 any other conditions set by the court have been fulfilled or
 1519 expunction has occurred; or

1520 4. Has been adjudicated mentally defective or has been
 1521 committed to a mental institution by a court or as provided in
 1522 sub-sub-subparagraph b.(II), and as a result is prohibited by
 1523 state or federal law from purchasing a firearm.

1524 a. As used in this subparagraph, "adjudicated mentally
 1525 defective" means a determination by a court that a person, as a

1526 result of marked subnormal intelligence, or mental illness,
 1527 incompetency, condition, or disease, is a danger to himself or
 1528 herself or to others or lacks the mental capacity to contract or
 1529 manage his or her own affairs. The phrase includes a judicial
 1530 finding of incapacity under s. 744.331(6)(a), an acquittal by
 1531 reason of insanity of a person charged with a criminal offense,
 1532 and a judicial finding that a criminal defendant is not
 1533 competent to stand trial.

1534 b. As used in this subparagraph, "committed to a mental
 1535 institution" means:

1536 (I) Involuntary commitment, commitment for mental
 1537 defectiveness or mental illness, and commitment for substance
 1538 abuse. The phrase includes involuntary inpatient placement under
 1539 ~~as defined in~~ s. 394.467, involuntary outpatient placement as
 1540 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
 1541 ~~under s. 397.6818,~~ and involuntary substance abuse treatment
 1542 under s. 397.6957, but does not include a person in a mental
 1543 institution for observation or discharged from a mental
 1544 institution based upon the initial review by the physician or a
 1545 voluntary admission to a mental institution; or

1546 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
 1547 admission to a mental institution for outpatient or inpatient
 1548 treatment of a person who had an involuntary examination under
 1549 s. 394.463, where each of the following conditions have been
 1550 met:

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1551 (A) An examining physician found that the person is an
1552 imminent danger to himself or herself or others.

1553 (B) The examining physician certified that if the person
1554 did not agree to voluntary treatment, a petition for involuntary
1555 outpatient or inpatient treatment would have been filed under s.
1556 394.463(2)(g)4., or the examining physician certified that a
1557 petition was filed and the person subsequently agreed to
1558 voluntary treatment before ~~prior to~~ a court hearing on the
1559 petition.

1560 (C) Before agreeing to voluntary treatment, the person
1561 received written notice of that finding and certification, and
1562 written notice that as a result of such finding, he or she may
1563 be prohibited from purchasing a firearm, and may not be eligible
1564 to apply for or retain a concealed weapon or firearms license
1565 under s. 790.06 and the person acknowledged such notice in
1566 writing, in substantially the following form:

1567
1568 "I understand that the doctor who examined me believes I am a
1569 danger to myself or to others. I understand that if I do not
1570 agree to voluntary treatment, a petition will be filed in court
1571 to require me to receive involuntary treatment. I understand
1572 that if that petition is filed, I have the right to contest it.
1573 In the event a petition has been filed, I understand that I can
1574 subsequently agree to voluntary treatment before ~~prior to~~ a
1575 court hearing. I understand that by agreeing to voluntary

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1576 treatment in either of these situations, I may be prohibited
1577 from buying firearms and from applying for or retaining a
1578 concealed weapons or firearms license until I apply for and
1579 receive relief from that restriction under Florida law."
1580

1581 (D) A judge or a magistrate has, pursuant to sub-sub-
1582 subparagraph c.(II), reviewed the record of the finding,
1583 certification, notice, and written acknowledgment classifying
1584 the person as an imminent danger to himself or herself or
1585 others, and ordered that such record be submitted to the
1586 department.

1587 c. In order to check for these conditions, the department
1588 shall compile and maintain an automated database of persons who
1589 are prohibited from purchasing a firearm based on court records
1590 of adjudications of mental defectiveness or commitments to
1591 mental institutions.

1592 (I) Except as provided in sub-sub-subparagraph (II),
1593 clerks of court shall submit these records to the department
1594 within 1 month after the rendition of the adjudication or
1595 commitment. Reports shall be submitted in an automated format.
1596 The reports must, at a minimum, include the name, along with any
1597 known alias or former name, the sex, and the date of birth of
1598 the subject.

1599 (II) For persons committed to a mental institution
1600 pursuant to sub-sub-subparagraph b.(II), within 24 hours after

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1601 the person's agreement to voluntary admission, a record of the
1602 finding, certification, notice, and written acknowledgment must
1603 be filed by the administrator of the receiving or treatment
1604 facility, as defined in s. 394.455, with the clerk of the court
1605 for the county in which the involuntary examination under s.
1606 394.463 occurred. No fee shall be charged for the filing under
1607 this sub-sub-subparagraph. The clerk must present the records to
1608 a judge or magistrate within 24 hours after receipt of the
1609 records. A judge or magistrate is required and has the lawful
1610 authority to review the records ex parte and, if the judge or
1611 magistrate determines that the record supports the classifying
1612 of the person as an imminent danger to himself or herself or
1613 others, to order that the record be submitted to the department.
1614 If a judge or magistrate orders the submittal of the record to
1615 the department, the record must be submitted to the department
1616 within 24 hours.

1617 d. A person who has been adjudicated mentally defective or
1618 committed to a mental institution, as those terms are defined in
1619 this paragraph, may petition the court that made the
1620 adjudication or commitment, or the court that ordered that the
1621 record be submitted to the department pursuant to sub-sub-
1622 subparagraph c.(II), for relief from the firearm disabilities
1623 imposed by such adjudication or commitment. A copy of the
1624 petition shall be served on the state attorney for the county in
1625 which the person was adjudicated or committed. The state

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1626 attorney may object to and present evidence relevant to the
1627 relief sought by the petition. The hearing on the petition may
1628 be open or closed as the petitioner may choose. The petitioner
1629 may present evidence and subpoena witnesses to appear at the
1630 hearing on the petition. The petitioner may confront and cross-
1631 examine witnesses called by the state attorney. A record of the
1632 hearing shall be made by a certified court reporter or by court-
1633 approved electronic means. The court shall make written findings
1634 of fact and conclusions of law on the issues before it and issue
1635 a final order. The court shall grant the relief requested in the
1636 petition if the court finds, based on the evidence presented
1637 with respect to the petitioner's reputation, the petitioner's
1638 mental health record and, if applicable, criminal history
1639 record, the circumstances surrounding the firearm disability,
1640 and any other evidence in the record, that the petitioner will
1641 not be likely to act in a manner that is dangerous to public
1642 safety and that granting the relief would not be contrary to the
1643 public interest. If the final order denies relief, the
1644 petitioner may not petition again for relief from firearm
1645 disabilities until 1 year after the date of the final order. The
1646 petitioner may seek judicial review of a final order denying
1647 relief in the district court of appeal having jurisdiction over
1648 the court that issued the order. The review shall be conducted
1649 de novo. Relief from a firearm disability granted under this
1650 sub-subparagraph has no effect on the loss of civil rights,

1651 including firearm rights, for any reason other than the
1652 particular adjudication of mental defectiveness or commitment to
1653 a mental institution from which relief is granted.

1654 e. Upon receipt of proper notice of relief from firearm
1655 disabilities granted under sub-subparagraph d., the department
1656 shall delete any mental health record of the person granted
1657 relief from the automated database of persons who are prohibited
1658 from purchasing a firearm based on court records of
1659 adjudications of mental defectiveness or commitments to mental
1660 institutions.

1661 f. The department is authorized to disclose data collected
1662 pursuant to this subparagraph to agencies of the Federal
1663 Government and other states for use exclusively in determining
1664 the lawfulness of a firearm sale or transfer. The department is
1665 also authorized to disclose this data to the Department of
1666 Agriculture and Consumer Services for purposes of determining
1667 eligibility for issuance of a concealed weapons or concealed
1668 firearms license and for determining whether a basis exists for
1669 revoking or suspending a previously issued license pursuant to
1670 s. 790.06(10). When a potential buyer or transferee appeals a
1671 nonapproval based on these records, the clerks of court and
1672 mental institutions shall, upon request by the department,
1673 provide information to help determine whether the potential
1674 buyer or transferee is the same person as the subject of the
1675 record. Photographs and any other data that could confirm or

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1676 | negate identity must be made available to the department for
1677 | such purposes, notwithstanding any other provision of state law
1678 | to the contrary. Any such information ~~that is~~ made confidential
1679 | or exempt from disclosure by law shall retain such confidential
1680 | or exempt status when transferred to the department.

1681 | Section 36. This act shall take effect July 1, 2022.