

1 A bill to be entitled
2 An act relating to mental health treatment; amending
3 s. 394.461, F.S.; authorizing the Department of
4 Children and Families to issue a conditional
5 designation to certain facilities for a limited period
6 to allow such facilities to implement corrective
7 measures; amending s. 916.107, F.S.; providing that
8 forensic clients must receive psychiatric medication
9 therapy before admission to a state mental health
10 treatment facility in certain circumstances;
11 authorizing the sheriff to administer such medication
12 within a county jail; amending s. 916.12, F.S.;
13 specifying some possible treatment alternatives
14 appropriate for the mental illness of a criminal
15 defendant who is incompetent to proceed; requiring an
16 examining expert to report why alternative treatment
17 options are inappropriate in certain circumstances;
18 amending s. 916.13, F.S.; providing that a court order
19 committing a defendant to the department may include
20 certain information; requiring a court to determine
21 that alternative treatment options have been fully
22 considered and found insufficient; revising the
23 deadline for a report on certain persons committed for
24 treatment; revising provisions relating to competency
25 hearings; providing an effective date.

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

Section 1. Section 394.461, Florida Statutes, is amended to read:

394.461 Designation of receiving and treatment facilities and receiving systems.—The department is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designation for failure to comply with this part and rules adopted under this part. The department may issue a conditional designation for up to 60 days to allow the implementation of corrective measures. Unless designated by the department, facilities are not permitted to hold or treat involuntary patients under this part.

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

(2) TREATMENT FACILITY.—The department may designate any state-owned, state-operated, or state-supported facility as a state treatment facility. A civil patient shall not be admitted to a state treatment facility without previously undergoing a

51 transfer evaluation. Before a court hearing for involuntary
52 placement in a state treatment facility, the court shall receive
53 and consider the information documented in the transfer
54 evaluation. Any other facility, including a private facility or
55 a federal facility, may be designated as a treatment facility by
56 the department, provided that such designation is agreed to by
57 the appropriate governing body or authority of the facility.

58 (3) PRIVATE FACILITIES.—Private facilities designated as
59 receiving and treatment facilities by the department may provide
60 examination and treatment of involuntary patients, as well as
61 voluntary patients, and are subject to all the provisions of
62 this part.

63 (4) REPORTING REQUIREMENTS.—

64 (a) A facility designated as a public receiving or
65 treatment facility under this section shall report to the
66 department on an annual basis the following data, unless these
67 data are currently being submitted to the Agency for Health Care
68 Administration:

- 69 1. Number of licensed beds.
 - 70 2. Number of contract days.
 - 71 3. Number of admissions by payor class and diagnoses.
 - 72 4. Number of bed days by payor class.
 - 73 5. Average length of stay by payor class.
 - 74 6. Total revenues by payor class.
- 75 (b) For the purposes of this subsection, "payor class"

76 means Medicare, Medicare HMO, Medicaid, Medicaid HMO, private-
 77 pay health insurance, private-pay health maintenance
 78 organization, private preferred provider organization, the
 79 Department of Children and Families, other government programs,
 80 self-pay patients, and charity care.

81 (c) The data required under this subsection shall be
 82 submitted to the department no later than 90 days following the
 83 end of the facility's fiscal year.

84 (d) The department shall issue an annual report based on
 85 the data required pursuant to this subsection. The report shall
 86 include individual facilities' data, as well as statewide
 87 totals. The report shall be submitted to the Governor, the
 88 President of the Senate, and the Speaker of the House of
 89 Representatives.

90 (5) RECEIVING SYSTEM.—The department shall designate as a
 91 receiving system one or more facilities serving a defined
 92 geographic area developed pursuant to s. 394.4573 which is
 93 responsible for assessment and evaluation, both voluntary and
 94 involuntary, and treatment, stabilization, or triage for
 95 patients who have a mental illness, a substance use disorder, or
 96 co-occurring disorders. Any transportation plans developed
 97 pursuant to s. 394.462 must support the operation of the
 98 receiving system.

99 (6) RULES.—The department may adopt rules relating to:

100 (a) Procedures and criteria for receiving and evaluating

101 facility applications for designation, which may include onsite
 102 facility inspection and evaluation of an applicant's licensing
 103 status and performance history, as well as consideration of
 104 local service needs.

105 (b) Minimum standards consistent with this part that a
 106 facility must meet and maintain in order to be designated as a
 107 receiving or treatment facility and procedures for monitoring
 108 continued adherence to such standards.

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

113 (d) Procedures for receiving complaints against a
 114 designated facility or designated receiving system and for
 115 initiating inspections and investigations of facilities or
 116 receiving systems alleged to have violated the provisions of
 117 this part or rules adopted under this part.

118 (e) Procedures and criteria for the suspension or
 119 withdrawal of designation as a receiving facility or receiving
 120 system.

121 Section 2. Subsection (1) of section 916.107, Florida
 122 Statutes, is amended to read:

123 916.107 Rights of forensic clients.—

124 (1) RIGHT TO INDIVIDUAL DIGNITY.—

125 (a) The policy of the state is that the individual dignity

126 of the client shall be respected at all times and upon all
127 occasions, including any occasion when the forensic client is
128 detained, transported, or treated. Clients with mental illness,
129 intellectual disability, or autism and who are charged with
130 committing felonies shall receive appropriate treatment or
131 training. In a criminal case involving a client who has been
132 adjudicated incompetent to proceed or not guilty by reason of
133 insanity, a jail may be used as an emergency facility for up to
134 15 days following the date the department or agency receives a
135 completed copy of the court commitment order containing all
136 documentation required by the applicable Florida Rules of
137 Criminal Procedure. For a forensic client who is held in a jail
138 awaiting admission to a facility of the department or agency,
139 evaluation and treatment or training may be provided in the jail
140 by the local community mental health provider for mental health
141 services, by the developmental disabilities program for persons
142 with intellectual disability or autism, the client's physician
143 or psychologist, or any other appropriate program until the
144 client is transferred to a civil or forensic facility. The
145 sheriff shall administer or permit the department to administer
146 the appropriate psychotropic medication to forensic clients
147 before admission to a state mental health treatment facility.

148 (b) Forensic clients who are initially placed in, or
149 subsequently transferred to, a civil facility as described in
150 part I of chapter 394 or to a residential facility as described

151 in chapter 393 shall have the same rights as other persons
 152 committed to these facilities for as long as they remain there.

153 Section 3. Subsection (4) of section 916.12, Florida
 154 Statutes, is amended to read:

155 916.12 Mental competence to proceed.—

156 (4) If an expert finds that the defendant is incompetent
 157 to proceed, the expert shall report on any recommended treatment
 158 for the defendant to attain competence to proceed. In
 159 considering the issues relating to treatment, the examining
 160 expert shall specifically report on:

161 (a) The mental illness causing the incompetence.†

162 (b) The completion of a clinical assessment by approved
 163 mental health experts trained by the department to ensure safety
 164 of the patient and the community.

165 (c)† The treatment or treatments appropriate for the
 166 mental illness of the defendant and an explanation of each of
 167 the possible treatment alternatives, including, at a minimum,
 168 mental health services, treatment services, rehabilitative
 169 services, support services, and case management services as
 170 described in s. 394.67, which may be provided by or within
 171 multi-disciplinary community treatment teams, such as Florida
 172 Assertive Community Treatment, conditional release programs,
 173 outpatient services or intensive outpatient treatment programs,
 174 and supportive employment and supportive housing opportunities
 175 in treating and supporting the recovery of the patient. in order

176 ~~of choices;~~

177 (d)~~(e)~~ The availability of acceptable treatment and, if
 178 treatment is available in the community, the expert shall so
 179 state in the report. ~~;~~ and

180 (e)~~(d)~~ The likelihood of the defendant's attaining
 181 competence under the treatment recommended, an assessment of the
 182 probable duration of the treatment required to restore
 183 competence, and the probability that the defendant will attain
 184 competence to proceed in the foreseeable future.

185
 186 The examining expert's report to the court shall include a full
 187 and detailed explanation regarding why the alternative treatment
 188 options referenced in the evaluation are insufficient to meet
 189 the needs of the defendant.

190 Section 4. Section 916.13, Florida Statutes, is amended to
 191 read:

192 916.13 Involuntary commitment of defendant adjudicated
 193 incompetent.—

194 (1) Every defendant who is charged with a felony and who
 195 is adjudicated incompetent to proceed may be involuntarily
 196 committed for treatment upon a finding by the court of clear and
 197 convincing evidence that:

198 (a) The defendant has a mental illness and because of the
 199 mental illness:

200 1. The defendant is manifestly incapable of surviving

201 alone or with the help of willing and responsible family or
 202 friends, including available alternative services, and, without
 203 treatment, the defendant is likely to suffer from neglect or
 204 refuse to care for herself or himself and such neglect or
 205 refusal poses a real and present threat of substantial harm to
 206 the defendant's well-being; or

207 2. There is a substantial likelihood that in the near
 208 future the defendant will inflict serious bodily harm on herself
 209 or himself or another person, as evidenced by recent behavior
 210 causing, attempting, or threatening such harm;

211 (b) All available, less restrictive treatment
 212 alternatives, including treatment in community residential
 213 facilities, ~~or~~ community inpatient or outpatient settings, and
 214 any other mental health services, treatment services,
 215 rehabilitative services, support services, and case management
 216 services as described in s. 394.67, which would offer an
 217 opportunity for improvement of the defendant's condition have
 218 been judged to be inappropriate; and

219 (c) There is a substantial probability that the mental
 220 illness causing the defendant's incompetence will respond to
 221 treatment and the defendant will regain competency to proceed in
 222 the reasonably foreseeable future.

223
 224 Before issuing a commitment order, the court shall review the
 225 examining expert's report to ensure alternative treatment

226 options have been fully considered and found insufficient to
227 meet the needs of the defendant.

228 (2) A defendant who has been charged with a felony and who
229 has been adjudicated incompetent to proceed due to mental
230 illness, and who meets the criteria for involuntary commitment
231 under this chapter, may be committed to the department, and the
232 department shall retain and treat the defendant.

233 (a) Immediately after receipt of a completed copy of the
234 court commitment order containing all documentation required by
235 the applicable Florida Rules of Criminal Procedure, the
236 department shall request all medical information relating to the
237 defendant from the jail. The jail shall provide the department
238 with all medical information relating to the defendant within 3
239 business days after receipt of the department's request or at
240 the time the defendant enters the physical custody of the
241 department, whichever is earlier.

242 (b) Within 60 days ~~6 months~~ after the date of admission
243 and at the end of any period of extended commitment, or at any
244 time the administrator or his or her designee determines that
245 the defendant has regained competency to proceed or no longer
246 meets the criteria for continued commitment, the administrator
247 or designee shall file a report with the court pursuant to the
248 applicable Florida Rules of Criminal Procedure.

249 ~~(c) A competency hearing must be held within 30 days after~~
250 ~~the court receives notification that the defendant is competent.~~

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251 ~~to proceed or no longer meets the criteria for continued~~
252 ~~commitment.~~ The defendant must be transported, in accordance
253 with s. 916.107, to the committing court's jurisdiction within 7
254 days of notification that the defendant is competent to proceed
255 or no longer meets the criteria for continued commitment. A
256 determination on the issue of competency must be made at a
257 hearing within 30 days of the notification ~~for the hearing.~~ If
258 the defendant is receiving psychotropic medication at a mental
259 health facility at the time he or she is discharged and
260 transferred to the jail, the administering of such medication
261 must continue unless the jail physician documents the need to
262 change or discontinue it. To ensure continuity of care, the
263 referring mental health facility must transfer the patient with
264 up to 30 days of medications and assist in discharge planning
265 with medical teams at the receiving county jail. The jail and
266 department physicians shall collaborate to ensure that
267 medication changes do not adversely affect the defendant's
268 mental health status or his or her ability to continue with
269 court proceedings; however, the final authority regarding the
270 administering of medication to an inmate in jail rests with the
271 jail physician.

272 Section 5. This act shall take effect July 1, 2023.