



26 department shall retain and treat the defendant.

27 (c)1. If the department determines at any time that a  
28 defendant will not or is unlikely to regain competency to  
29 proceed, the department shall, within 30 days after the  
30 determination, complete and submit a competency evaluation  
31 report to the circuit court to determine if the defendant meets  
32 the criteria for involuntary civil commitment under the Baker  
33 Act. A qualified professional, as defined in s. 394.455, must  
34 sign the competency evaluation report for the circuit court  
35 under penalty of perjury. A copy of the report shall be  
36 provided, at a minimum, to the court, state attorney, and  
37 counsel for the defendant before initiating any transfer of the  
38 defendant back to the committing jurisdiction.

39 2. For purposes of this paragraph, the term "competency  
40 evaluation report to the circuit court" means a report by the  
41 department regarding a defendant's incompetence to proceed in a  
42 criminal proceeding due to mental illness as set forth in this  
43 section. The report shall include, at a minimum, the following  
44 regarding the defendant:

45 a. A description of mental, emotional, and behavioral  
46 disturbances.

47 b. An explanation to support the opinion of incompetence  
48 to proceed.

49 c. The rationale to support why the defendant is unlikely  
50 to gain competence to proceed in the foreseeable future.

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51 d. A clinical opinion regarding whether the defendant no  
52 longer meets the criteria for involuntary forensic commitment  
53 pursuant to this section.

54 e. A recommendation on whether the defendant meets the  
55 criteria for involuntary examination pursuant to s. 394.463.

56 Section 2. This act shall take effect July 1, 2023.