

By the Committee on Fiscal Policy; and Senator Grall

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1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.455, F.S.; conforming a cross-
4 reference to changes made by the act; amending s.
5 394.4572, F.S.; providing an exception to background
6 screening requirements for certain licensed physicians
7 and nurses; amending s. 394.459, F.S.; specifying a
8 timeframe for recording restrictions in a patient's
9 clinical file; requiring that such recorded
10 restriction be immediately served on certain parties;
11 conforming a provision to changes made by the act;
12 amending s. 394.4598, F.S.; authorizing certain
13 psychiatric nurses to consult with guardian advocates
14 for purposes of obtaining consent for treatment;
15 amending s. 394.4599, F.S.; revising written notice
16 requirements relating to filing petitions for
17 involuntary services; amending s. 394.461, F.S.;
18 authorizing the state to establish that a transfer
19 evaluation was performed by providing the court with a
20 copy of the evaluation before the close of the state's
21 case-in-chief; prohibiting the court from considering
22 substantive information in the transfer evaluation;
23 providing an exception; revising reporting
24 requirements; amending s. 394.4615, F.S.; allowing a
25 patient's legal custodian to authorize release of the
26 patient's clinical records; conforming provisions to
27 changes made by the act; amending s. 394.462, F.S.;
28 authorizing a county to include alternative funding
29 arrangements for transporting individuals to

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30 designated receiving facilities in the county's
31 transportation plan; conforming provisions to changes
32 made by the act; amending s. 394.4625, F.S.; revising
33 requirements relating to voluntary admissions to a
34 facility for examination and treatment; requiring
35 certain treating psychiatric nurses to document
36 specified information in a patient's clinical record
37 within a specified timeframe of his or her voluntary
38 admission for mental health treatment; requiring
39 clinical psychologists who make determinations of
40 involuntary placement at certain mental health
41 facilities to have specified clinical experience;
42 authorizing certain psychiatric nurses to order
43 emergency treatment for certain patients; conforming
44 provisions to changes made by the act; amending s.
45 394.463, F.S.; authorizing, rather than requiring, law
46 enforcement officers to take certain persons into
47 custody for involuntary examinations; requiring a law
48 enforcement officer to provide a parent or legal
49 guardian of a minor being transported to certain
50 facilities with specified facility information;
51 providing an exception; requiring that written reports
52 by law enforcement officers contain certain
53 information; requiring a certain institute to collect
54 and analyze certain documents and use them to prepare
55 annual reports; providing requirements for such
56 reports; requiring the institute to post such reports
57 on its website; providing a due date for the annual
58 reports; requiring the Department of Children and

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59 Families to post a specified report on its website;
60 revising requirements for patient examinations at
61 receiving facilities; revising requirements for
62 petitions for involuntary services; revising
63 requirements for releasing a patient from a receiving
64 facility; requiring the department and the Agency for
65 Health Care Administration to provide certain
66 collected data to a specified institute; requiring the
67 institute to analyze the collected data, identify
68 patterns and trends, and make recommendations to
69 decrease avoidable admissions; authorizing
70 recommendations to be addressed in a specified manner;
71 requiring the institute to publish a specified report
72 on its website and submit the report to the Governor,
73 Legislature, department, and agency by a certain date;
74 amending s. 394.4655, F.S.; defining the term
75 "involuntary outpatient placement"; authorizing a
76 specified court to order an individual to involuntary
77 outpatient placement; deleting provisions relating to
78 criteria, retention of a patient, and petition for
79 involuntary outpatient services and court proceedings
80 relating to involuntary outpatient services; amending
81 s. 394.467, F.S.; defining terms; revising
82 requirements for ordering a person for involuntary
83 services and treatment, petitions for involuntary
84 service, appointment of counsel, and continuances of
85 hearings, respectively; requiring clinical
86 psychologists to have specified clinical experience in
87 order to recommend involuntary services; authorizing

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88 certain psychiatric nurses to recommend involuntary
89 services for mental health treatment; revising the
90 conditions under which a court may waive the
91 requirement for a patient to be present at an
92 involuntary inpatient placement hearing; authorizing
93 the court to permit witnesses to attend and testify
94 remotely at the hearing through specified means;
95 providing requirements for a witness to attend and
96 testify remotely; requiring facilities to make certain
97 clinical records available to a state attorney within
98 a specified timeframe; specifying that such records
99 remain confidential and may not be used for certain
100 purposes; requiring the court to allow certain
101 testimony from specified persons; providing
102 requirements for certain parties and limitations on
103 the court's order if specified services or funding is
104 not available; revising the length of time a court may
105 require a patient to receive services; prohibiting
106 courts from ordering individuals with developmental
107 disabilities to be involuntarily placed in a state
108 treatment facility; requiring courts to refer such
109 individuals, and authorizing courts to refer certain
110 other individuals, to specified agencies for
111 evaluation and services; providing requirements for
112 service plan modifications, noncompliance with
113 involuntary outpatient services, and discharge,
114 respectively; revising requirements for the procedure
115 for continued involuntary services and return to
116 facilities, respectively; amending s. 394.468, F.S.;

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117 revising requirements for discharge planning and
118 procedures; providing requirements for the discharge
119 transition process; creating s. 394.4915, F.S.;
120 establishing the Office of Children's Behavioral
121 Health Ombudsman within the Department of Children and
122 Families for a specified purpose; providing
123 responsibilities of the office; requiring the
124 department and managing entities to include specified
125 information in a specified manner on their websites;
126 amending ss. 394.495 and 394.496, F.S.; conforming
127 provisions to changes made by the act; amending s.
128 394.499, F.S.; revising eligibility requirements for
129 children's crisis stabilization unit/juvenile
130 addictions receiving facility services; amending s.
131 394.875, F.S.; deleting a limitation on the size of a
132 crisis stabilization unit; deleting a requirement for
133 the department to implement a certain demonstration
134 project; creating s. 394.90826, F.S.; requiring the
135 Department of Children and Families and the Agency for
136 Health Care Administration to jointly establish
137 regional behavioral health interagency collaboratives
138 for certain purposes; providing objectives the
139 collaboratives are to meet; specifying collaborative
140 membership; requiring each collaborative to define
141 objectives based on the needs of its region; requiring
142 the department to define the regions served and to
143 facilitate meetings; requiring the entities
144 represented in a collaborative to provide certain
145 assistance; amending s. 394.9085, F.S.; conforming a

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146 cross-reference to changes made by the act; amending
147 s. 397.305, F.S.; revising the purpose of ch. 397,
148 F.S., to include the most appropriate environment for
149 substance abuse services; amending s. 397.311, F.S.;
150 revising definitions; amending s. 397.401, F.S.;
151 prohibiting certain service providers from exceeding
152 their licensed capacity by more than a specified
153 percentage or for more than a specified number of
154 days; amending s. 397.4073, F.S.; providing an
155 exception to background screening requirements for
156 certain licensed physicians and nurses; amending s.
157 397.501, F.S.; revising notice requirements for the
158 right to counsel for certain individuals; amending s.
159 397.581, F.S.; revising actions that constitute
160 unlawful activities relating to assessment and
161 treatment; providing penalties; amending s. 397.675,
162 F.S.; revising the criteria for involuntary admissions
163 for purposes of assessment and stabilization and for
164 involuntary treatment; amending s. 397.6751, F.S.;
165 revising service provider responsibilities relating to
166 involuntary admissions; amending s. 397.681, F.S.;
167 revising the jurisdiction of the courts with regard to
168 certain petitions; specifying requirements for the
169 court to allow a waiver of the respondent's right to
170 counsel relating to petitions for involuntary
171 treatment; revising the circumstances under which
172 courts are required to appoint counsel for respondents
173 without regard to respondents' wishes; renumbering and
174 amending s. 397.693, F.S.; revising the circumstances

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175 under which a person may be the subject of a petition
176 for court-ordered involuntary treatment; renumbering
177 and amending s. 397.695, F.S.; authorizing the court
178 to prohibit or a law enforcement agency to waive any
179 service of process fees for petitioners determined to
180 be indigent; renumbering and amending s. 397.6951,
181 F.S.; revising the information required to be included
182 in a petition for involuntary treatment services;
183 authorizing a petitioner to include a certificate or
184 report of a qualified professional with such petition;
185 requiring such certificate or report to contain
186 certain information; requiring that certain additional
187 information be included if an emergency exists;
188 renumbering and amending s. 397.6955, F.S.; revising
189 when the office of criminal conflict and civil
190 regional counsel represents a person in the filing of
191 a petition for involuntary services and when a hearing
192 must be held on such petition; requiring a law
193 enforcement agency to effect service for initial
194 treatment hearings; providing an exception; amending
195 s. 397.6818, F.S.; authorizing the court to take
196 certain actions and issue certain orders regarding a
197 respondent's involuntary assessment if emergency
198 circumstances exist; providing a specified timeframe
199 for taking such actions; prohibiting the service
200 provider from holding the respondent for observation
201 longer than a certain amount of time; providing
202 exceptions; authorizing the court to issue or reissue
203 a specified order under certain circumstances; ,

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204 continue the case, and order a law enforcement officer
205 or other agent to take the respondent into custody and
206 deliver him or her to the service provider; providing
207 that a case be dismissed under certain circumstances;
208 amending s. 397.6957, F.S.; expanding the exemption
209 from the requirement that a respondent be present at a
210 hearing on a petition for involuntary treatment
211 services; authorizing the court to order drug tests
212 and to permit witnesses to attend and testify remotely
213 at the hearing through certain means; deleting a
214 provision requiring the court to appoint a guardian
215 advocate under certain circumstances; prohibiting a
216 respondent from being involuntarily ordered into
217 treatment unless certain requirements are met;
218 providing requirements relating to involuntary
219 assessment and stabilization orders; providing
220 requirements relating to involuntary treatment
221 hearings; requiring that the assessment of a
222 respondent occur before a specified time unless
223 certain requirements are met; authorizing service
224 providers to petition the court in writing for an
225 extension of the observation period; providing service
226 requirements for such petitions; authorizing the
227 service provider to continue to hold the respondent if
228 the court grants the petition; requiring a qualified
229 professional to transmit his or her report to the
230 clerk of the court within a specified timeframe;
231 requiring the clerk of the court to enter the report
232 into the court file; providing requirements for the

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233 report; providing that the report's filing satisfies
234 the requirements for release of certain individuals if
235 it contains admission and discharge information;
236 providing for the petition's dismissal under certain
237 circumstances; authorizing the court to initiate
238 involuntary proceedings; requiring that, if a
239 treatment order is issued, it must include certain
240 findings; amending s. 397.697, F.S.; requiring that an
241 individual meet certain requirements to qualify for
242 involuntary outpatient treatment; revising the
243 jurisdiction of the court with respect to certain
244 orders entered in a case; specifying that certain
245 hearings may be set by either the motion of a party or
246 under the court's own authority; requiring a certain
247 institute to receive and maintain copies of certain
248 documents and use them to prepare annual reports;
249 providing requirements for such reports; requiring the
250 institute to post such reports on its website and
251 provide copies to the department and the Legislature;
252 amending s. 397.6971, F.S.; conforming provisions to
253 changes made by the act; amending s. 397.6975, F.S.;
254 authorizing certain entities to file a petition for
255 renewal of an involuntary treatment services order;
256 revising the timeframe during which the court is
257 required to schedule a hearing; deleting obsolete
258 provisions; amending s. 397.6977, F.S.; providing
259 requirements for discharge planning and procedures for
260 a respondent's release from involuntary treatment
261 services; repealing ss. 397.6811, 397.6814, 397.6815,

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262 397.6819, 397.6821, 397.6822, and 397.6978, F.S.,
263 relating to involuntary assessment and stabilization,
264 contents of petitions, procedure, licensed service
265 provider responsibilities, extension of time for
266 completion of involuntary assessment and
267 stabilization, disposition of the individual after
268 involuntary assessment, and the appointment of
269 guardian advocates, respectively; amending s. 916.13,
270 F.S.; requiring the Department of Children and
271 Families to complete and submit a competency
272 evaluation report to the circuit court to determine
273 whether a defendant adjudicated incompetent to proceed
274 meets the criteria for involuntary civil commitment if
275 it is determined that the defendant will not or is
276 unlikely to regain competency; defining the term
277 "competency evaluation report to the circuit court";
278 requiring a qualified professional to sign such report
279 under penalty of perjury; providing requirements for
280 such report; requiring a defendant who meets the
281 criteria for involuntary examination to appear
282 remotely for a hearing; authorizing court witnesses to
283 appear remotely for the hearing; amending ss. 40.29,
284 394.492, 409.972, 744.2007, and 916.107, F.S.;
285 conforming cross-references and provisions to changes
286 made by the act; providing an appropriation; providing
287 an effective date.

288

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

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

293 394.455 Definitions.—As used in this part, the term:

294 (23) "Involuntary examination" means an examination
295 performed under s. 394.463, s. 397.6772, s. 397.679, s.
296 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
297 person qualifies for involuntary services.

298 Section 2. Paragraph (e) is added to subsection (1) of
299 section 394.4572, Florida Statutes, to read:

300 394.4572 Screening of mental health personnel.—

301 (1)

302 (e) A physician licensed under chapter 458 or chapter 459
303 or a nurse licensed under chapter 464 who was required to
304 undergo background screening by the Department of Health as part
305 of his or her initial licensure or the renewal of licensure, and
306 who has an active and unencumbered license, is not subject to
307 background screening pursuant to this section.

308 Section 3. Paragraph (d) of subsection (3) and paragraph
309 (d) of subsection (5) of section 394.459, Florida Statutes, are
310 amended to read:

311 394.459 Rights of patients.—

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

313 (d) The administrator of a receiving or treatment facility
314 may, upon the recommendation of the patient's attending
315 physician, authorize emergency medical treatment, including a
316 surgical procedure, if such treatment is deemed lifesaving, or
317 if the situation threatens serious bodily harm to the patient,
318 and permission of the patient or the patient's guardian or
319 guardian advocate cannot be obtained.

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

321 (d) If a patient's right to communicate with outside
322 persons; receive, send, or mail sealed, unopened correspondence;
323 or receive visitors is restricted by the facility, a qualified
324 professional must record the restriction and its underlying
325 reasons in the patient's clinical file within 24 hours. The
326 notice of the restriction must immediately ~~written notice of~~
327 ~~such restriction and the reasons for the restriction shall be~~
328 served on the patient, the patient's attorney, and the patient's
329 guardian, guardian advocate, or representative. ~~A qualified~~
330 ~~professional must document any restriction within 24 hours, and~~
331 ~~such restriction shall be recorded on the patient's clinical~~
332 ~~record with the reasons therefor.~~ The restriction of a patient's
333 right to communicate or to receive visitors shall be reviewed at
334 least every 3 days. The right to communicate or receive visitors
335 shall not be restricted as a means of punishment. Nothing in
336 this paragraph shall be construed to limit the provisions of
337 paragraph (e).

338 Section 4. Subsection (3) of section 394.4598, Florida
339 Statutes, is amended to read:

340 394.4598 Guardian advocate.—

341 (3) A facility requesting appointment of a guardian
342 advocate must, prior to the appointment, provide the prospective
343 guardian advocate with information about the duties and
344 responsibilities of guardian advocates, including the
345 information about the ethics of medical decisionmaking. Before
346 asking a guardian advocate to give consent to treatment for a
347 patient, the facility shall provide to the guardian advocate
348 sufficient information so that the guardian advocate can decide

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349 whether to give express and informed consent to the treatment,
350 including information that the treatment is essential to the
351 care of the patient, and that the treatment does not present an
352 unreasonable risk of serious, hazardous, or irreversible side
353 effects. Before giving consent to treatment, the guardian
354 advocate must meet and talk with the patient and the patient's
355 physician or psychiatric nurse practicing within the framework
356 of an established protocol with a psychiatrist in person, if at
357 all possible, and by telephone, if not. The decision of the
358 guardian advocate may be reviewed by the court, upon petition of
359 the patient's attorney, the patient's family, or the facility
360 administrator.

361 Section 5. Paragraph (d) of subsection (2) of section
362 394.4599, Florida Statutes, is amended to read:

363 394.4599 Notice.—

364 (2) INVOLUNTARY ADMISSION.—

365 (d) The written notice of the filing of the petition for
366 involuntary services for an individual being held must contain
367 the following:

368 1. Notice that the petition for:

369 a. Involuntary services ~~inpatient treatment~~ pursuant to s.
370 394.467 has been filed with the circuit court and the address of
371 such court ~~in the county in which the individual is hospitalized~~
372 ~~and the address of such court;~~ or

373 b. Involuntary outpatient services pursuant to s. 394.467
374 ~~s. 394.4655~~ has been filed with the criminal county court, as
375 defined in s. 394.4655(1), ~~or the circuit court, as applicable,~~
376 ~~in the county in which the individual is hospitalized~~ and the
377 address of such court.

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

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

384 4. Notice that the individual, the individual's guardian,
385 guardian advocate, health care surrogate or proxy, or
386 representative, or the administrator may apply for a change of
387 venue for the convenience of the parties or witnesses or because
388 of the condition of the individual.

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

392 Section 6. Subsection (2) and paragraph (d) of subsection
393 (4) of section 394.461, Florida Statutes, are amended to read:

394 394.461 Designation of receiving and treatment facilities
395 and receiving systems.—The department is authorized to designate
396 and monitor receiving facilities, treatment facilities, and
397 receiving systems and may suspend or withdraw such designation
398 for failure to comply with this part and rules adopted under
399 this part. The department may issue a conditional designation
400 for up to 60 days to allow the implementation of corrective
401 measures. Unless designated by the department, facilities are
402 not permitted to hold or treat involuntary patients under this
403 part.

404 (2) TREATMENT FACILITY.—The department may designate any
405 state-owned, state-operated, or state-supported facility as a
406 state treatment facility. A civil patient shall not be admitted

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407 to a state treatment facility without previously undergoing a
 408 transfer evaluation. Before the close of the state's case-in-
 409 chief in a court hearing for involuntary placement in a state
 410 treatment facility, the state may establish that the transfer
 411 evaluation was performed and the document was properly executed
 412 by providing the court with a copy of the transfer evaluation.
 413 The court may not shall receive and consider the substantive
 414 information documented in the transfer evaluation unless the
 415 evaluator testifies at the hearing. Any other facility,
 416 including a private facility or a federal facility, may be
 417 designated as a treatment facility by the department, provided
 418 that such designation is agreed to by the appropriate governing
 419 body or authority of the facility.

420 (4) REPORTING REQUIREMENTS.—

421 (d) The department shall issue an annual report based on
 422 the data required pursuant to this subsection. The report shall
 423 include individual facilities' data, as well as statewide
 424 totals. The report shall be posted on the department's website
 425 ~~submitted to the Governor, the President of the Senate, and the~~
 426 ~~Speaker of the House of Representatives.~~

427 Section 7. Paragraph (a) of subsection (2) and subsection
 428 (3) of section 394.4615, Florida Statutes, are amended to read:

429 394.4615 Clinical records; confidentiality.—

430 (2) The clinical record shall be released when:

431 (a) The patient or the patient's guardian or legal
 432 custodian authorizes the release. The guardian, ~~or~~ guardian
 433 advocate, or legal custodian shall be provided access to the
 434 appropriate clinical records of the patient. The patient or the
 435 patient's guardian, ~~or~~ guardian advocate, or legal custodian may

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436 authorize the release of information and clinical records to
437 appropriate persons to ensure the continuity of the patient's
438 health care or mental health care. A receiving facility must
439 document that, within 24 hours of admission, individuals
440 admitted on a voluntary basis have been provided with the option
441 to authorize the release of information from their clinical
442 record to the individual's health care surrogate or proxy,
443 attorney, representative, or other known emergency contact.

444 (3) Information from the clinical record may be released in
445 the following circumstances:

446 (a) When a patient has communicated to a service provider a
447 specific threat to cause serious bodily injury or death to an
448 identified or a readily available person, if the service
449 provider reasonably believes, or should reasonably believe
450 according to the standards of his or her profession, that the
451 patient has the apparent intent and ability to imminently or
452 immediately carry out such threat. When such communication has
453 been made, the administrator may authorize the release of
454 sufficient information to provide adequate warning to the person
455 threatened with harm by the patient.

456 (b) When the administrator of the facility or secretary of
457 the department deems release to a qualified researcher as
458 defined in administrative rule, an aftercare treatment provider,
459 or an employee or agent of the department is necessary for
460 treatment of the patient, maintenance of adequate records,
461 compilation of treatment data, aftercare planning, or evaluation
462 of programs.

463

464 For the purpose of determining whether a person meets the

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465 criteria for involuntary services ~~outpatient placement~~ or for
466 preparing the proposed services ~~treatment~~ plan pursuant to s.
467 394.4655 or s. 394.467 ~~s. 394.4655~~, the clinical record may be
468 released to the state attorney, the public defender or the
469 patient's private legal counsel, the court, and to the
470 appropriate mental health professionals, including the service
471 provider under s. 394.4655 or s. 394.467 ~~identified in s.~~
472 ~~394.4655(7)(b)2.~~, in accordance with state and federal law.

473 Section 8. Section 394.462, Florida Statutes, is amended to
474 read:

475 394.462 Transportation.—A transportation plan shall be
476 developed and implemented by each county in collaboration with
477 the managing entity in accordance with this section. A county
478 may enter into a memorandum of understanding with the governing
479 boards of nearby counties to establish a shared transportation
480 plan. When multiple counties enter into a memorandum of
481 understanding for this purpose, the counties shall notify the
482 managing entity and provide it with a copy of the agreement. The
483 transportation plan shall describe methods of transport to a
484 facility within the designated receiving system for individuals
485 subject to involuntary examination under s. 394.463 or
486 involuntary admission under s. 397.6772, s. 397.679, s.
487 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
488 responsibility for other transportation to a participating
489 facility when necessary and agreed to by the facility. The plan
490 may rely on emergency medical transport services or private
491 transport companies, as appropriate. The plan shall comply with
492 the transportation provisions of this section and ss. 397.6772,
493 397.6795, ~~397.6822~~, and 397.697.

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494 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

495 (a) Each county shall designate a single law enforcement
496 agency within the county, or portions thereof, to take a person
497 into custody upon the entry of an ex parte order or the
498 execution of a certificate for involuntary examination by an
499 authorized professional and to transport that person to the
500 appropriate facility within the designated receiving system
501 pursuant to a transportation plan.

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

504 a. The jurisdiction designated by the county has contracted
505 on an annual basis with an emergency medical transport service
506 or private transport company for transportation of persons to
507 receiving facilities pursuant to this section at the sole cost
508 of the county or as otherwise provided in the transportation
509 plan developed by the county; and

510 b. The law enforcement agency and the emergency medical
511 transport service or private transport company agree that the
512 continued presence of law enforcement personnel is not necessary
513 for the safety of the person or others.

514 2. The entity providing transportation may seek
515 reimbursement for transportation expenses. The party responsible
516 for payment for such transportation is the person receiving the
517 transportation. The county shall seek reimbursement from the
518 following sources in the following order:

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

521 b. From the person receiving the transportation.

522 c. From a financial settlement for medical care, treatment,

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523 hospitalization, or transportation payable or accruing to the
524 injured party.

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

530 (d) Any company that contracts with a governing board of a
531 county to transport patients shall comply with the applicable
532 rules of the department to ensure the safety and dignity of
533 patients.

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

538 (f) When a member of a mental health overlay program or a
539 mobile crisis response service is a professional authorized to
540 initiate an involuntary examination pursuant to s. 394.463 or s.
541 397.675 and that professional evaluates a person and determines
542 that transportation to a receiving facility is needed, the
543 service, at its discretion, may transport the person to the
544 facility or may call on the law enforcement agency or other
545 transportation arrangement best suited to the needs of the
546 patient.

547 (g) When any law enforcement officer has custody of a
548 person based on either noncriminal or minor criminal behavior
549 that meets the statutory guidelines for involuntary examination
550 pursuant to s. 394.463, the law enforcement officer shall
551 transport the person to the appropriate facility within the

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552 designated receiving system pursuant to a transportation plan.
553 Persons who meet the statutory guidelines for involuntary
554 admission pursuant to s. 397.675 may also be transported by law
555 enforcement officers to the extent resources are available and
556 as otherwise provided by law. Such persons shall be transported
557 to an appropriate facility within the designated receiving
558 system pursuant to a transportation plan.

559 (h) When any law enforcement officer has arrested a person
560 for a felony and it appears that the person meets the statutory
561 guidelines for involuntary examination or placement under this
562 part, such person must first be processed in the same manner as
563 any other criminal suspect. The law enforcement agency shall
564 thereafter immediately notify the appropriate facility within
565 the designated receiving system pursuant to a transportation
566 plan. The receiving facility shall be responsible for promptly
567 arranging for the examination and treatment of the person. A
568 receiving facility is not required to admit a person charged
569 with a crime for whom the facility determines and documents that
570 it is unable to provide adequate security, but shall provide
571 examination and treatment to the person where he or she is held
572 or by telemedicine.

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

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

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581 or county or municipal ordinance may be recovered as provided in
582 s. 901.35.

583 (k) The appropriate facility within the designated
584 receiving system pursuant to a transportation plan must accept
585 persons brought by law enforcement officers, or an emergency
586 medical transport service or a private transport company
587 authorized by the county, for involuntary examination pursuant
588 to s. 394.463.

589 (l) The appropriate facility within the designated
590 receiving system pursuant to a transportation plan must provide
591 persons brought by law enforcement officers, or an emergency
592 medical transport service or a private transport company
593 authorized by the county, pursuant to s. 397.675, a basic
594 screening or triage sufficient to refer the person to the
595 appropriate services.

596 (m) Each law enforcement agency designated pursuant to
597 paragraph (a) shall establish a policy that reflects a single
598 set of protocols for the safe and secure transportation and
599 transfer of custody of the person. Each law enforcement agency
600 shall provide a copy of the protocols to the managing entity.

601 (n) When a jurisdiction has entered into a contract with an
602 emergency medical transport service or a private transport
603 company for transportation of persons to facilities within the
604 designated receiving system, such service or company shall be
605 given preference for transportation of persons from nursing
606 homes, assisted living facilities, adult day care centers, or
607 adult family-care homes, unless the behavior of the person being
608 transported is such that transportation by a law enforcement
609 officer is necessary.

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

613 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

614 (a) If neither the patient nor any person legally obligated
615 or responsible for the patient is able to pay for the expense of
616 transporting a voluntary or involuntary patient to a treatment
617 facility, the transportation plan established by the governing
618 board of the county or counties must specify how the
619 hospitalized patient will be transported to, from, and between
620 facilities in a safe and dignified manner.

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

627 (c) A company that contracts with one or more counties to
628 transport patients in accordance with this section shall comply
629 with the applicable rules of the department to ensure the safety
630 and dignity of patients.

631 (d) County or municipal law enforcement and correctional
632 personnel and equipment may not be used to transport patients
633 adjudicated incapacitated or found by the court to meet the
634 criteria for involuntary services placement pursuant to s.
635 394.467, except in small rural counties where there are no cost-
636 efficient alternatives.

637 (3) TRANSFER OF CUSTODY.—Custody of a person who is
638 transported pursuant to this part, along with related

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639 documentation, shall be relinquished to a responsible individual
640 at the appropriate receiving or treatment facility.

641 Section 9. Paragraphs (a) and (f) of subsection (1) and
642 subsection (5) of section 394.4625, Florida Statutes, are
643 amended to read:

644 394.4625 Voluntary admissions.—

645 (1) AUTHORITY TO RECEIVE PATIENTS.—

646 (a) A facility may receive for observation, diagnosis, or
647 treatment any adult ~~person 18 years of age or older~~ who applies
648 by express and informed consent for admission or any minor
649 ~~person age 17 or younger~~ whose parent or legal guardian applies
650 for admission. Such person may be admitted to the facility if
651 found to show evidence of mental illness and to be suitable for
652 treatment, and:

653 1. If the person is an adult, he or she is found, to be
654 competent to provide express and informed consent; or

655 2. If the person is a minor, the parent or legal guardian
656 provides express and informed consent and the facility performs,
657 ~~and to be suitable for treatment, such person 18 years of age or~~
658 ~~older may be admitted to the facility. A person age 17 or~~
659 ~~younger may be admitted only after~~ a clinical review to verify
660 the voluntariness of the minor's assent.

661 (f) Within 24 hours after admission of a voluntary patient,
662 the treating ~~admitting~~ physician or psychiatric nurse practicing
663 within the framework of an established protocol with a
664 psychiatrist shall document in the patient's clinical record
665 that the patient is able to give express and informed consent
666 for admission. If the patient is not able to give express and
667 informed consent for admission, the facility shall either

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668 discharge the patient or transfer the patient to involuntary
669 status pursuant to subsection (5).

670 (5) TRANSFER TO INVOLUNTARY STATUS.—When a voluntary
671 patient, or an authorized person on the patient's behalf, makes
672 a request for discharge, the request for discharge, unless
673 freely and voluntarily rescinded, must be communicated to a
674 physician, clinical psychologist with at least 3 years of
675 postdoctoral experience in the practice of clinical psychology,
676 or psychiatrist as quickly as possible, but not later than 12
677 hours after the request is made. If the patient meets the
678 criteria for involuntary placement, the administrator of the
679 facility must file with the court a petition for involuntary
680 placement, within 2 court working days after the request for
681 discharge is made. If the petition is not filed within 2 court
682 working days, the patient shall be discharged. Pending the
683 filing of the petition, the patient may be held and emergency
684 treatment rendered in the least restrictive manner, upon the
685 ~~written~~ order of a physician or psychiatric nurse practicing
686 within the framework of an established protocol with a
687 psychiatrist, if it is determined that such treatment is
688 necessary for the safety of the patient or others.

689 Section 10. Subsection (1), paragraphs (a) and (e) through
690 (h) of subsection (2), and subsection (4) of section 394.463,
691 Florida Statutes, are amended to read:

692 394.463 Involuntary examination.—

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

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697 (a)1. The person has refused voluntary examination after
698 conscientious explanation and disclosure of the purpose of the
699 examination; or

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

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

709 2. There is a substantial likelihood that without care or
710 treatment the person will cause serious bodily harm to himself
711 or herself or others in the near future, as evidenced by recent
712 behavior.

713 (2) INVOLUNTARY EXAMINATION.—

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

716 1. A circuit or county court may enter an ex parte order
717 stating that a person appears to meet the criteria for
718 involuntary examination and specifying the findings on which
719 that conclusion is based. The ex parte order for involuntary
720 examination must be based on written or oral sworn testimony
721 that includes specific facts that support the findings. If other
722 less restrictive means are not available, such as voluntary
723 appearance for outpatient evaluation, a law enforcement officer,
724 or other designated agent of the court, shall take the person
725 into custody and deliver him or her to an appropriate, or the

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726 nearest, facility within the designated receiving system
727 pursuant to s. 394.462 for involuntary examination. The order of
728 the court shall be made a part of the patient's clinical record.
729 A fee may not be charged for the filing of an order under this
730 subsection. A facility accepting the patient based on this order
731 must send a copy of the order to the department within 5 working
732 days. The order may be submitted electronically through existing
733 data systems, if available. The order shall be valid only until
734 the person is delivered to the facility or for the period
735 specified in the order itself, whichever comes first. If a time
736 limit is not specified in the order, the order is valid for 7
737 days after the date that the order was signed.

738 2. A law enforcement officer may ~~shall~~ take a person who
739 appears to meet the criteria for involuntary examination into
740 custody and deliver the person or have him or her delivered to
741 an appropriate, or the nearest, facility within the designated
742 receiving system pursuant to s. 394.462 for examination. A law
743 enforcement officer transporting a person pursuant to this
744 section ~~subparagraph~~ shall restrain the person in the least
745 restrictive manner available and appropriate under the
746 circumstances. If transporting a minor and the parent or legal
747 guardian of the minor is present, before departing, the law
748 enforcement officer must provide the parent or legal guardian of
749 the minor with the name, address, and contact information for
750 the facility within the designated receiving system to which the
751 law enforcement officer is transporting the minor, subject to
752 any safety and welfare concerns for the minor. The officer shall
753 execute a written report detailing the circumstances under which
754 the person was taken into custody, which must be made a part of

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755 the patient's clinical record. The report must include all
756 emergency contact information for the person that is readily
757 accessible to the law enforcement officer, including information
758 available through electronic databases maintained by the
759 Department of Law Enforcement or by the Department of Highway
760 Safety and Motor Vehicles. Such emergency contact information
761 may be used by a receiving facility only for the purpose of
762 informing listed emergency contacts of a patient's whereabouts
763 pursuant to s. 119.0712(2)(d). Any facility accepting the
764 patient based on this report must send a copy of the report to
765 the department within 5 working days.

766 3. A physician, a physician assistant, a clinical
767 psychologist, a psychiatric nurse, an advanced practice
768 registered nurse registered under s. 464.0123, a mental health
769 counselor, a marriage and family therapist, or a clinical social
770 worker may execute a certificate stating that he or she has
771 examined a person within the preceding 48 hours and finds that
772 the person appears to meet the criteria for involuntary
773 examination and stating the observations upon which that
774 conclusion is based. If other less restrictive means, such as
775 voluntary appearance for outpatient evaluation, are not
776 available, a law enforcement officer shall take into custody the
777 person named in the certificate and deliver him or her to the
778 appropriate, or nearest, facility within the designated
779 receiving system pursuant to s. 394.462 for involuntary
780 examination. The law enforcement officer shall execute a written
781 report detailing the circumstances under which the person was
782 taken into custody and include all emergency contact information
783 required under subparagraph 2. The report must include all

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784 emergency contact information for the person that is readily
785 accessible to the law enforcement officer, including information
786 available through electronic databases maintained by the
787 Department of Law Enforcement or by the Department of Highway
788 Safety and Motor Vehicles. Such emergency contact information
789 may be used by a receiving facility only for the purpose of
790 informing listed emergency contacts of a patient's whereabouts
791 pursuant to s. 119.0712(2)(d). The report and certificate shall
792 be made a part of the patient's clinical record. Any facility
793 accepting the patient based on this certificate must send a copy
794 of the certificate to the department within 5 working days. The
795 document may be submitted electronically through existing data
796 systems, if applicable.

797
798 When sending the order, report, or certificate to the
799 department, a facility shall, at a minimum, provide information
800 about which action was taken regarding the patient under
801 paragraph (g), which information shall also be made a part of
802 the patient's clinical record.

803 (e) The department shall receive and maintain the copies of
804 ex parte orders, involuntary ~~outpatient~~ services orders issued
805 pursuant to ss. 394.4655 and 394.467 ~~s. 394.4655, involuntary~~
806 ~~inpatient placement orders issued pursuant to s. 394.467,~~
807 professional certificates, law enforcement officers' reports,
808 and reports relating to the transportation of patients. These
809 documents shall be considered part of the clinical record,
810 governed by the provisions of s. 394.4615. These documents shall
811 be provided to the institute established under s. 1004.44 by the
812 department and used by the institute to prepare annual reports

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813 analyzing the data obtained from these documents, without
814 including the personal identifying information of the patient.
815 The information in the reports may include, but need not be
816 limited to, a state level analysis of involuntary examinations,
817 including a description of demographic characteristics of
818 individuals and the geographic locations of involuntary
819 examinations; counts of the number of involuntary examinations
820 at each receiving facility; and reporting and analysis of trends
821 for involuntary examinations within this state. The report must
822 also include counts of and provide demographic, geographic, and
823 other relevant information about individuals with a
824 developmental disability, as defined in s. 393.063, or a
825 traumatic brain injury or dementia who were taken to a receiving
826 facility for involuntary examination pursuant to s. 394.463 and
827 determined not to have a co-occurring mental illness. The
828 institute ~~identifying patients,~~ and shall post the reports on
829 its website and provide copies of such reports to the
830 department, the President of the Senate, the Speaker of the
831 House of Representatives, and the minority leaders of the Senate
832 and the House of Representatives by November 30 of each year.

833 (f) A patient shall be examined by a physician or a
834 clinical psychologist, or by a psychiatric nurse performing
835 within the framework of an established protocol with a
836 psychiatrist at a facility without unnecessary delay to
837 determine if the criteria for involuntary services are met. Such
838 examination must include, but not be limited to, consideration
839 of the patient's treatment history at the facility and any
840 information regarding the patient's condition and behavior
841 provided by knowledgeable individuals. Repeated admittance for

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842 involuntary examination during a short period of time despite
843 implementation of appropriate discharge plans may be evidence
844 that the criteria under subparagraph (1) (b)1. are met. An
845 individual's basic needs being served while admitted to the
846 facility may not be considered evidence that criteria under
847 subparagraph (1) (b)1. are met. Emergency treatment may be
848 provided upon the order of a physician if the physician
849 determines that such treatment is necessary for the safety of
850 the patient or others. The patient may not be released by the
851 receiving facility or its contractor without the documented
852 approval of a psychiatrist or a clinical psychologist or, if the
853 receiving facility is owned or operated by a hospital, health
854 system, or nationally accredited community mental health center,
855 the release may also be approved by a psychiatric nurse
856 performing within the framework of an established protocol with
857 a psychiatrist, or an attending emergency department physician
858 with experience in the diagnosis and treatment of mental illness
859 after completion of an involuntary examination pursuant to this
860 subsection. A psychiatric nurse may not approve the release of a
861 patient if the involuntary examination was initiated by a
862 psychiatrist unless the release is approved by the initiating
863 psychiatrist.—The release may be approved through telehealth.

864 (g) The examination period must be for up to 72 hours and
865 begins when a patient arrives at the receiving facility. For a
866 minor, the examination shall be initiated within 12 hours after
867 the patient's arrival at the facility. Within the examination
868 period, one of the following actions must be taken, based on the
869 individual needs of the patient:

870 1. The patient shall be released, unless he or she is

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871 charged with a crime, in which case the patient shall be
872 returned to the custody of a law enforcement officer;

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

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

879 4. A petition for involuntary services shall be filed in
880 the circuit court ~~if inpatient treatment is deemed necessary~~ or
881 with the criminal county court, as defined in s. 394.4655(1), as
882 applicable. When inpatient treatment is deemed necessary, the
883 least restrictive treatment consistent with the optimum
884 improvement of the patient's condition shall be made available.
885 ~~The~~ When a petition must ~~is to be filed for involuntary~~
886 ~~outpatient placement, it shall~~ be filed by one of the
887 petitioners specified in s. 394.467, and the court shall dismiss
888 an untimely filed petition ~~s. 394.4655(4)(a)~~. ~~A petition for~~
889 ~~involuntary inpatient placement shall be filed by the facility~~
890 ~~administrator.~~ If a patient's 72-hour examination period ends on
891 a weekend or holiday, including the hours before the ordinary
892 business hours on the morning of the next working day, and the
893 receiving facility:

894 a. Intends to file a petition for involuntary services,
895 such patient may be held at the ~~a receiving~~ facility through the
896 next working day thereafter and the ~~such~~ petition ~~for~~
897 ~~involuntary services~~ must be filed no later than such date. If
898 the ~~receiving~~ facility fails to file the ~~a~~ petition by ~~for~~
899 ~~involuntary services~~ at the ordinary close of business on the

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900 next working day, the patient must ~~shall~~ be released from the
901 receiving facility following approval pursuant to paragraph (f).

902 b. Does not intend to file a petition for involuntary
903 services, the ~~a~~ receiving facility may postpone release of a
904 patient until the next working day thereafter only if a
905 qualified professional documents that adequate discharge
906 planning and procedures in accordance with s. 394.468, and
907 approval pursuant to paragraph (f), are not possible until the
908 next working day.

909 (h) A person for whom an involuntary examination has been
910 initiated who is being evaluated or treated at a hospital for an
911 emergency medical condition specified in s. 395.002 must be
912 examined by a facility within the examination period specified
913 in paragraph (g). The examination period begins when the patient
914 arrives at the hospital and ceases when the attending physician
915 documents that the patient has an emergency medical condition.
916 If the patient is examined at a hospital providing emergency
917 medical services by a professional qualified to perform an
918 involuntary examination and is found as a result of that
919 examination not to meet the criteria for involuntary ~~outpatient~~
920 services pursuant to s. 394.467 ~~s. 394.4655(2)~~ or involuntary
921 ~~inpatient placement pursuant to s. 394.467(1)~~, the patient may
922 be offered voluntary outpatient or inpatient services ~~or~~
923 ~~placement~~, if appropriate, or released directly from the
924 hospital providing emergency medical services. The finding by
925 the professional that the patient has been examined and does not
926 meet the criteria for involuntary ~~inpatient~~ services ~~or~~
927 ~~involuntary outpatient placement~~ must be entered into the
928 patient's clinical record. This paragraph is not intended to

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929 prevent a hospital providing emergency medical services from
930 appropriately transferring a patient to another hospital before
931 stabilization if the requirements of s. 395.1041(3)(c) have been
932 met.

933 (4) DATA ANALYSIS.—

934 (a) The department shall provide the data ~~Using data~~
935 collected under paragraph (2)(a) and s. 1006.07(10), and child
936 welfare data related to involuntary examinations, to the
937 institute established under s. 1004.44. The Agency for Health
938 Care Administration shall provide Medicaid data to the
939 institute, as requested by the institute, related to involuntary
940 examination of children enrolled in Medicaid for the purpose of
941 administering the program and improving service provision for
942 such children. The department and agency shall enter into any
943 necessary agreements with the institute to provide such data.
944 The institute ~~department~~ shall, at a minimum, use such data to
945 analyze data on both the initiation of involuntary examinations
946 of children and the initiation of involuntary examinations of
947 students who are removed from a school; identify any patterns or
948 trends and cases in which involuntary examinations are
949 repeatedly initiated on the same child or student; study root
950 causes for such patterns, trends, or repeated involuntary
951 examinations; and make recommendations to encourage the use of
952 alternatives to eliminate inappropriate initiations of such
953 examinations.

954 (b) The institute shall analyze service data on individuals
955 who are high utilizers of crisis stabilization services provided
956 in designated receiving facilities, and shall, at a minimum,
957 identify any patterns or trends and make recommendations to

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958 decrease avoidable admissions. Recommendations may be addressed
 959 in the department's contracts with the behavioral health
 960 managing entities and in the contracts between the Agency for
 961 Health Care Administration and the Medicaid managed medical
 962 assistance plans.

963 (c) The ~~institute~~ department shall publish ~~submit~~ a report
 964 on its findings and recommendations on its website and submit
 965 the report to the Governor, the President of the Senate, ~~and the~~
 966 Speaker of the House of Representatives, the department, and the
 967 Agency for Health Care Administration by November 1 of each odd-
 968 numbered year.

969 Section 11. Section 394.4655, Florida Statutes, is amended
 970 to read:

971 394.4655 Involuntary outpatient services.—

972 (1) DEFINITIONS.—As used in this section, the term:

973 (a) "Court" means a circuit court or a criminal county
 974 court.

975 (b) "Criminal county court" means a county court exercising
 976 its original jurisdiction in a misdemeanor case under s. 34.01.

977 (c) "Involuntary outpatient placement" means involuntary
 978 outpatient services as defined in s. 394.467.

979 (2) A criminal county court may order an individual to
 980 involuntary outpatient placement under s. 394.467. ~~CRITERIA FOR~~
 981 INVOLUNTARY OUTPATIENT SERVICES. A person may be ordered to
 982 involuntary outpatient services upon a finding of the court, by
 983 clear and convincing evidence, that the person meets all of the
 984 following criteria:

985 ~~(a) The person is 18 years of age or older.~~

986 ~~(b) The person has a mental illness.~~

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987 ~~(c) The person is unlikely to survive safely in the~~
988 ~~community without supervision, based on a clinical~~
989 ~~determination.~~

990 ~~(d) The person has a history of lack of compliance with~~
991 ~~treatment for mental illness.~~

992 ~~(e) The person has:~~

993 ~~1. At least twice within the immediately preceding 36~~
994 ~~months been involuntarily admitted to a receiving or treatment~~
995 ~~facility as defined in s. 394.455, or has received mental health~~
996 ~~services in a forensic or correctional facility. The 36-month~~
997 ~~period does not include any period during which the person was~~
998 ~~admitted or incarcerated; or~~

999 ~~2. Engaged in one or more acts of serious violent behavior~~
1000 ~~toward self or others, or attempts at serious bodily harm to~~
1001 ~~himself or herself or others, within the preceding 36 months.~~

1002 ~~(f) The person is, as a result of his or her mental~~
1003 ~~illness, unlikely to voluntarily participate in the recommended~~
1004 ~~treatment plan and has refused voluntary services for treatment~~
1005 ~~after sufficient and conscientious explanation and disclosure of~~
1006 ~~why the services are necessary or is unable to determine for~~
1007 ~~himself or herself whether services are necessary.~~

1008 ~~(g) In view of the person's treatment history and current~~
1009 ~~behavior, the person is in need of involuntary outpatient~~
1010 ~~services in order to prevent a relapse or deterioration that~~
1011 ~~would be likely to result in serious bodily harm to himself or~~
1012 ~~herself or others, or a substantial harm to his or her well-~~
1013 ~~being as set forth in s. 394.463(1).~~

1014 ~~(h) It is likely that the person will benefit from~~
1015 ~~involuntary outpatient services.~~

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1016 ~~(i) All available, less restrictive alternatives that would~~
1017 ~~offer an opportunity for improvement of his or her condition~~
1018 ~~have been judged to be inappropriate or unavailable.~~

1019 ~~(3) INVOLUNTARY OUTPATIENT SERVICES.~~

1020 ~~(a)1. A patient who is being recommended for involuntary~~
1021 ~~outpatient services by the administrator of the facility where~~
1022 ~~the patient has been examined may be retained by the facility~~
1023 ~~after adherence to the notice procedures provided in s.~~

1024 ~~394.4599. The recommendation must be supported by the opinion of~~
1025 ~~a psychiatrist and the second opinion of a clinical psychologist~~
1026 ~~or another psychiatrist, both of whom have personally examined~~
1027 ~~the patient within the preceding 72 hours, that the criteria for~~
1028 ~~involuntary outpatient services are met. However, if the~~
1029 ~~administrator certifies that a psychiatrist or clinical~~
1030 ~~psychologist is not available to provide the second opinion, the~~
1031 ~~second opinion may be provided by a licensed physician who has~~
1032 ~~postgraduate training and experience in diagnosis and treatment~~
1033 ~~of mental illness, a physician assistant who has at least 3~~
1034 ~~years' experience and is supervised by such licensed physician~~
1035 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
1036 ~~nurse. Any second opinion authorized in this subparagraph may be~~
1037 ~~conducted through a face-to-face examination, in person or by~~
1038 ~~electronic means. Such recommendation must be entered on an~~
1039 ~~involuntary outpatient services certificate that authorizes the~~
1040 ~~facility to retain the patient pending completion of a hearing.~~
1041 ~~The certificate must be made a part of the patient's clinical~~
1042 ~~record.~~

1043 ~~2. If the patient has been stabilized and no longer meets~~
1044 ~~the criteria for involuntary examination pursuant to s.~~

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1045 ~~394.463(1), the patient must be released from the facility while~~
1046 ~~awaiting the hearing for involuntary outpatient services. Before~~
1047 ~~filing a petition for involuntary outpatient services, the~~
1048 ~~administrator of the facility or a designated department~~
1049 ~~representative must identify the service provider that will have~~
1050 ~~primary responsibility for service provision under an order for~~
1051 ~~involuntary outpatient services, unless the person is otherwise~~
1052 ~~participating in outpatient psychiatric treatment and is not in~~
1053 ~~need of public financing for that treatment, in which case the~~
1054 ~~individual, if eligible, may be ordered to involuntary treatment~~
1055 ~~pursuant to the existing psychiatric treatment relationship.~~

1056 ~~3. The service provider shall prepare a written proposed~~
1057 ~~treatment plan in consultation with the patient or the patient's~~
1058 ~~guardian advocate, if appointed, for the court's consideration~~
1059 ~~for inclusion in the involuntary outpatient services order that~~
1060 ~~addresses the nature and extent of the mental illness and any~~
1061 ~~co-occurring substance use disorder that necessitate involuntary~~
1062 ~~outpatient services. The treatment plan must specify the likely~~
1063 ~~level of care, including the use of medication, and anticipated~~
1064 ~~discharge criteria for terminating involuntary outpatient~~
1065 ~~services. Service providers may select and supervise other~~
1066 ~~individuals to implement specific aspects of the treatment plan.~~
1067 ~~The services in the plan must be deemed clinically appropriate~~
1068 ~~by a physician, clinical psychologist, psychiatric nurse, mental~~
1069 ~~health counselor, marriage and family therapist, or clinical~~
1070 ~~social worker who consults with, or is employed or contracted~~
1071 ~~by, the service provider. The service provider must certify to~~
1072 ~~the court in the proposed plan whether sufficient services for~~
1073 ~~improvement and stabilization are currently available and~~

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1074 ~~whether the service provider agrees to provide those services.~~
1075 ~~If the service provider certifies that the services in the~~
1076 ~~proposed treatment plan are not available, the petitioner may~~
1077 ~~not file the petition. The service provider must notify the~~
1078 ~~managing entity if the requested services are not available. The~~
1079 ~~managing entity must document such efforts to obtain the~~
1080 ~~requested services.~~

1081 ~~(b) If a patient in involuntary inpatient placement meets~~
1082 ~~the criteria for involuntary outpatient services, the~~
1083 ~~administrator of the facility may, before the expiration of the~~
1084 ~~period during which the facility is authorized to retain the~~
1085 ~~patient, recommend involuntary outpatient services. The~~
1086 ~~recommendation must be supported by the opinion of a~~
1087 ~~psychiatrist and the second opinion of a clinical psychologist~~
1088 ~~or another psychiatrist, both of whom have personally examined~~
1089 ~~the patient within the preceding 72 hours, that the criteria for~~
1090 ~~involuntary outpatient services are met. However, if the~~
1091 ~~administrator certifies that a psychiatrist or clinical~~
1092 ~~psychologist is not available to provide the second opinion, the~~
1093 ~~second opinion may be provided by a licensed physician who has~~
1094 ~~postgraduate training and experience in diagnosis and treatment~~
1095 ~~of mental illness, a physician assistant who has at least 3~~
1096 ~~years' experience and is supervised by such licensed physician~~
1097 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
1098 ~~nurse. Any second opinion authorized in this subparagraph may be~~
1099 ~~conducted through a face-to-face examination, in person or by~~
1100 ~~electronic means. Such recommendation must be entered on an~~
1101 ~~involuntary outpatient services certificate, and the certificate~~
1102 ~~must be made a part of the patient's clinical record.~~

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1103 ~~(c)1. The administrator of the treatment facility shall~~
1104 ~~provide a copy of the involuntary outpatient services~~
1105 ~~certificate and a copy of the state mental health discharge form~~
1106 ~~to the managing entity in the county where the patient will be~~
1107 ~~residing. For persons who are leaving a state mental health~~
1108 ~~treatment facility, the petition for involuntary outpatient~~
1109 ~~services must be filed in the county where the patient will be~~
1110 ~~residing.~~

1111 ~~2. The service provider that will have primary~~
1112 ~~responsibility for service provision shall be identified by the~~
1113 ~~designated department representative before the order for~~
1114 ~~involuntary outpatient services and must, before filing a~~
1115 ~~petition for involuntary outpatient services, certify to the~~
1116 ~~court whether the services recommended in the patient's~~
1117 ~~discharge plan are available and whether the service provider~~
1118 ~~agrees to provide those services. The service provider must~~
1119 ~~develop with the patient, or the patient's guardian advocate, if~~
1120 ~~appointed, a treatment or service plan that addresses the needs~~
1121 ~~identified in the discharge plan. The plan must be deemed to be~~
1122 ~~clinically appropriate by a physician, clinical psychologist,~~
1123 ~~psychiatric nurse, mental health counselor, marriage and family~~
1124 ~~therapist, or clinical social worker, as defined in this~~
1125 ~~chapter, who consults with, or is employed or contracted by, the~~
1126 ~~service provider.~~

1127 ~~3. If the service provider certifies that the services in~~
1128 ~~the proposed treatment or service plan are not available, the~~
1129 ~~petitioner may not file the petition. The service provider must~~
1130 ~~notify the managing entity if the requested services are not~~
1131 ~~available. The managing entity must document such efforts to~~

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1132 ~~obtain the requested services.~~

1133 ~~(4) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES.—~~

1134 ~~(a) A petition for involuntary outpatient services may be~~
1135 ~~filed by:~~

1136 ~~1. The administrator of a receiving facility; or~~

1137 ~~2. The administrator of a treatment facility.~~

1138 ~~(b) Each required criterion for involuntary outpatient~~
1139 ~~services must be alleged and substantiated in the petition for~~
1140 ~~involuntary outpatient services. A copy of the certificate~~
1141 ~~recommending involuntary outpatient services completed by a~~
1142 ~~qualified professional specified in subsection (3) must be~~
1143 ~~attached to the petition. A copy of the proposed treatment plan~~
1144 ~~must be attached to the petition. Before the petition is filed,~~
1145 ~~the service provider shall certify that the services in the~~
1146 ~~proposed plan are available. If the necessary services are not~~
1147 ~~available, the petition may not be filed. The service provider~~
1148 ~~must notify the managing entity if the requested services are~~
1149 ~~not available. The managing entity must document such efforts to~~
1150 ~~obtain the requested services.~~

1151 ~~(c) The petition for involuntary outpatient services must~~
1152 ~~be filed in the county where the patient is located, unless the~~
1153 ~~patient is being placed from a state treatment facility, in~~
1154 ~~which case the petition must be filed in the county where the~~
1155 ~~patient will reside. When the petition has been filed, the clerk~~
1156 ~~of the court shall provide copies of the petition and the~~
1157 ~~proposed treatment plan to the department, the managing entity,~~
1158 ~~the patient, the patient's guardian or representative, the state~~
1159 ~~attorney, and the public defender or the patient's private~~
1160 ~~counsel. A fee may not be charged for filing a petition under~~

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1161 ~~this subsection.~~

1162 ~~(5) APPOINTMENT OF COUNSEL. Within 1 court working day~~
1163 ~~after the filing of a petition for involuntary outpatient~~
1164 ~~services, the court shall appoint the public defender to~~
1165 ~~represent the person who is the subject of the petition, unless~~
1166 ~~the person is otherwise represented by counsel. The clerk of the~~
1167 ~~court shall immediately notify the public defender of the~~
1168 ~~appointment. The public defender shall represent the person~~
1169 ~~until the petition is dismissed, the court order expires, or the~~
1170 ~~patient is discharged from involuntary outpatient services. An~~
1171 ~~attorney who represents the patient must be provided access to~~
1172 ~~the patient, witnesses, and records relevant to the presentation~~
1173 ~~of the patient's case and shall represent the interests of the~~
1174 ~~patient, regardless of the source of payment to the attorney.~~

1175 ~~(6) CONTINUANCE OF HEARING. The patient is entitled, with~~
1176 ~~the concurrence of the patient's counsel, to at least one~~
1177 ~~continuance of the hearing. The continuance shall be for a~~
1178 ~~period of up to 4 weeks.~~

1179 ~~(7) HEARING ON INVOLUNTARY OUTPATIENT SERVICES.—~~

1180 ~~(a)1. The court shall hold the hearing on involuntary~~
1181 ~~outpatient services within 5 working days after the filing of~~
1182 ~~the petition, unless a continuance is granted. The hearing must~~
1183 ~~be held in the county where the petition is filed, must be as~~
1184 ~~convenient to the patient as is consistent with orderly~~
1185 ~~procedure, and must be conducted in physical settings not likely~~
1186 ~~to be injurious to the patient's condition. If the court finds~~
1187 ~~that the patient's attendance at the hearing is not consistent~~
1188 ~~with the best interests of the patient and if the patient's~~
1189 ~~counsel does not object, the court may waive the presence of the~~

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1190 ~~patient from all or any portion of the hearing. The state~~
1191 ~~attorney for the circuit in which the patient is located shall~~
1192 ~~represent the state, rather than the petitioner, as the real~~
1193 ~~party in interest in the proceeding.~~

1194 ~~2. The court may appoint a magistrate to preside at the~~
1195 ~~hearing. One of the professionals who executed the involuntary~~
1196 ~~outpatient services certificate shall be a witness. The patient~~
1197 ~~and the patient's guardian or representative shall be informed~~
1198 ~~by the court of the right to an independent expert examination.~~
1199 ~~If the patient cannot afford such an examination, the court~~
1200 ~~shall ensure that one is provided, as otherwise provided by law.~~
1201 ~~The independent expert's report is confidential and not~~
1202 ~~discoverable, unless the expert is to be called as a witness for~~
1203 ~~the patient at the hearing. The court shall allow testimony from~~
1204 ~~individuals, including family members, deemed by the court to be~~
1205 ~~relevant under state law, regarding the person's prior history~~
1206 ~~and how that prior history relates to the person's current~~
1207 ~~condition. The testimony in the hearing must be given under~~
1208 ~~oath, and the proceedings must be recorded. The patient may~~
1209 ~~refuse to testify at the hearing.~~

1210 ~~(b)1. If the court concludes that the patient meets the~~
1211 ~~criteria for involuntary outpatient services pursuant to~~
1212 ~~subsection (2), the court shall issue an order for involuntary~~
1213 ~~outpatient services. The court order shall be for a period of up~~
1214 ~~to 90 days. The order must specify the nature and extent of the~~
1215 ~~patient's mental illness. The order of the court and the~~
1216 ~~treatment plan must be made part of the patient's clinical~~
1217 ~~record. The service provider shall discharge a patient from~~
1218 ~~involuntary outpatient services when the order expires or any~~

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1219 ~~time the patient no longer meets the criteria for involuntary~~
1220 ~~placement. Upon discharge, the service provider shall send a~~
1221 ~~certificate of discharge to the court.~~

1222 ~~2. The court may not order the department or the service~~
1223 ~~provider to provide services if the program or service is not~~
1224 ~~available in the patient's local community, if there is no space~~
1225 ~~available in the program or service for the patient, or if~~
1226 ~~funding is not available for the program or service. The service~~
1227 ~~provider must notify the managing entity if the requested~~
1228 ~~services are not available. The managing entity must document~~
1229 ~~such efforts to obtain the requested services. A copy of the~~
1230 ~~order must be sent to the managing entity by the service~~
1231 ~~provider within 1 working day after it is received from the~~
1232 ~~court. The order may be submitted electronically through~~
1233 ~~existing data systems. After the order for involuntary services~~
1234 ~~is issued, the service provider and the patient may modify the~~
1235 ~~treatment plan. For any material modification of the treatment~~
1236 ~~plan to which the patient or, if one is appointed, the patient's~~
1237 ~~guardian advocate agrees, the service provider shall send notice~~
1238 ~~of the modification to the court. Any material modifications of~~
1239 ~~the treatment plan which are contested by the patient or the~~
1240 ~~patient's guardian advocate, if applicable, must be approved or~~
1241 ~~disapproved by the court consistent with subsection (3).~~

1242 ~~3. If, in the clinical judgment of a physician, the patient~~
1243 ~~has failed or has refused to comply with the treatment ordered~~
1244 ~~by the court, and, in the clinical judgment of the physician,~~
1245 ~~efforts were made to solicit compliance and the patient may meet~~
1246 ~~the criteria for involuntary examination, a person may be~~
1247 ~~brought to a receiving facility pursuant to s. 394.463. If,~~

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1248 ~~after examination, the patient does not meet the criteria for~~
1249 ~~involuntary inpatient placement pursuant to s. 394.467, the~~
1250 ~~patient must be discharged from the facility. The involuntary~~
1251 ~~outpatient services order shall remain in effect unless the~~
1252 ~~service provider determines that the patient no longer meets the~~
1253 ~~criteria for involuntary outpatient services or until the order~~
1254 ~~expires. The service provider must determine whether~~
1255 ~~modifications should be made to the existing treatment plan and~~
1256 ~~must attempt to continue to engage the patient in treatment. For~~
1257 ~~any material modification of the treatment plan to which the~~
1258 ~~patient or the patient's guardian advocate, if applicable,~~
1259 ~~agrees, the service provider shall send notice of the~~
1260 ~~modification to the court. Any material modifications of the~~
1261 ~~treatment plan which are contested by the patient or the~~
1262 ~~patient's guardian advocate, if applicable, must be approved or~~
1263 ~~disapproved by the court consistent with subsection (3).~~

1264 ~~(c) If, at any time before the conclusion of the initial~~
1265 ~~hearing on involuntary outpatient services, it appears to the~~
1266 ~~court that the person does not meet the criteria for involuntary~~
1267 ~~outpatient services under this section but, instead, meets the~~
1268 ~~criteria for involuntary inpatient placement, the court may~~
1269 ~~order the person admitted for involuntary inpatient examination~~
1270 ~~under s. 394.463. If the person instead meets the criteria for~~
1271 ~~involuntary assessment, protective custody, or involuntary~~
1272 ~~admission pursuant to s. 397.675, the court may order the person~~
1273 ~~to be admitted for involuntary assessment for a period of 5 days~~
1274 ~~pursuant to s. 397.6811. Thereafter, all proceedings are~~
1275 ~~governed by chapter 397.~~

1276 ~~(d) At the hearing on involuntary outpatient services, the~~

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1277 ~~court shall consider testimony and evidence regarding the~~
1278 ~~patient's competence to consent to services. If the court finds~~
1279 ~~that the patient is incompetent to consent to treatment, it~~
1280 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
1281 ~~The guardian advocate shall be appointed or discharged in~~
1282 ~~accordance with s. 394.4598.~~

1283 ~~(c) The administrator of the receiving facility or the~~
1284 ~~designated department representative shall provide a copy of the~~
1285 ~~court order and adequate documentation of a patient's mental~~
1286 ~~illness to the service provider for involuntary outpatient~~
1287 ~~services. Such documentation must include any advance directives~~
1288 ~~made by the patient, a psychiatric evaluation of the patient,~~
1289 ~~and any evaluations of the patient performed by a psychologist~~
1290 ~~or a clinical social worker.~~

1291 ~~(8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
1292 ~~SERVICES.—~~

1293 ~~(a)1. If the person continues to meet the criteria for~~
1294 ~~involuntary outpatient services, the service provider shall, at~~
1295 ~~least 10 days before the expiration of the period during which~~
1296 ~~the treatment is ordered for the person, file in the court that~~
1297 ~~issued the order for involuntary outpatient services a petition~~
1298 ~~for continued involuntary outpatient services. The court shall~~
1299 ~~immediately schedule a hearing on the petition to be held within~~
1300 ~~15 days after the petition is filed.~~

1301 ~~2. The existing involuntary outpatient services order~~
1302 ~~remains in effect until disposition on the petition for~~
1303 ~~continued involuntary outpatient services.~~

1304 ~~3. A certificate shall be attached to the petition which~~
1305 ~~includes a statement from the person's physician or clinical~~

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1306 ~~psychologist justifying the request, a brief description of the~~
1307 ~~patient's treatment during the time he or she was receiving~~
1308 ~~involuntary services, and an individualized plan of continued~~
1309 ~~treatment.~~

1310 ~~4. The service provider shall develop the individualized~~
1311 ~~plan of continued treatment in consultation with the patient or~~
1312 ~~the patient's guardian advocate, if applicable. When the~~
1313 ~~petition has been filed, the clerk of the court shall provide~~
1314 ~~copies of the certificate and the individualized plan of~~
1315 ~~continued services to the department, the patient, the patient's~~
1316 ~~guardian advocate, the state attorney, and the patient's private~~
1317 ~~counsel or the public defender.~~

1318 ~~(b) Within 1 court working day after the filing of a~~
1319 ~~petition for continued involuntary outpatient services, the~~
1320 ~~court shall appoint the public defender to represent the person~~
1321 ~~who is the subject of the petition, unless the person is~~
1322 ~~otherwise represented by counsel. The clerk of the court shall~~
1323 ~~immediately notify the public defender of such appointment. The~~
1324 ~~public defender shall represent the person until the petition is~~
1325 ~~dismissed or the court order expires or the patient is~~
1326 ~~discharged from involuntary outpatient services. Any attorney~~
1327 ~~representing the patient shall have access to the patient,~~
1328 ~~witnesses, and records relevant to the presentation of the~~
1329 ~~patient's case and shall represent the interests of the patient,~~
1330 ~~regardless of the source of payment to the attorney.~~

1331 ~~(c) Hearings on petitions for continued involuntary~~
1332 ~~outpatient services must be before the court that issued the~~
1333 ~~order for involuntary outpatient services. The court may appoint~~
1334 ~~a magistrate to preside at the hearing. The procedures for~~

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1335 ~~obtaining an order pursuant to this paragraph must meet the~~
1336 ~~requirements of subsection (7), except that the time period~~
1337 ~~included in paragraph (2) (c) is not applicable in determining~~
1338 ~~the appropriateness of additional periods of involuntary~~
1339 ~~outpatient placement.~~

1340 ~~(d) Notice of the hearing must be provided as set forth in~~
1341 ~~s. 394.4599. The patient and the patient's attorney may agree to~~
1342 ~~a period of continued outpatient services without a court~~
1343 ~~hearing.~~

1344 ~~(e) The same procedure must be repeated before the~~
1345 ~~expiration of each additional period the patient is placed in~~
1346 ~~treatment.~~

1347 ~~(f) If the patient has previously been found incompetent to~~
1348 ~~consent to treatment, the court shall consider testimony and~~
1349 ~~evidence regarding the patient's competence. Section 394.4598~~
1350 ~~governs the discharge of the guardian advocate if the patient's~~
1351 ~~competency to consent to treatment has been restored.~~

1352 Section 12. Section 394.467, Florida Statutes, is amended
1353 to read:

1354 394.467 Involuntary services ~~inpatient placement.~~-

1355 (1) DEFINITIONS.-As used in this section, the term:

1356 (a) "Court" means a circuit court.

1357 (b) "Involuntary inpatient placement" means placement in a
1358 secure receiving or treatment facility providing stabilization
1359 and treatment services to a person 18 years of age or older who
1360 does not voluntarily consent to services under this chapter, or
1361 a minor who does not voluntarily assent to services under this
1362 chapter.

1363 (c) "Involuntary outpatient services" means services

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1364 provided in the community to a person who does not voluntarily
1365 consent to or participate in services under this chapter.

1366 (d) "Services plan" means an individualized plan detailing
1367 the recommended behavioral health services and supports, based
1368 on a thorough assessment of the needs of the patient, to
1369 safeguard and enhance the patient's health and well-being in the
1370 community.

1371 (2)(1) CRITERIA FOR INVOLUNTARY SERVICES.—A person may be
1372 ordered by a court to be provided for involuntary services
1373 inpatient placement for treatment upon a finding of the court,
1374 by clear and convincing evidence, that the person meets the
1375 following criteria:

1376 (a) Involuntary outpatient services.—A person ordered to
1377 involuntary outpatient services must meet the following
1378 criteria:

1379 1. The person has a mental illness and because of his or
1380 her mental illness:

1381 a. He or she is unlikely to voluntarily participate in a
1382 recommended services plan and has refused voluntary services for
1383 treatment after sufficient and conscientious explanation and
1384 disclosure of why the services are necessary; or

1385 b. He or she is unable to determine for himself or herself
1386 whether services are necessary.

1387 2. The person is unlikely to survive safely in the
1388 community without supervision, based on a clinical
1389 determination.

1390 3. The person has a history of lack of compliance with
1391 treatment for mental illness.

1392 4. In view of the person's treatment history and current

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1393 behavior, the person is in need of involuntary outpatient
1394 services in order to prevent a relapse or deterioration that
1395 would be likely to result in serious bodily harm to himself or
1396 herself or others, or a substantial harm to his or her well-
1397 being as set forth in s. 394.463(1).

1398 5. It is likely that the person will benefit from
1399 involuntary outpatient services.

1400 6. All available less restrictive alternatives that would
1401 offer an opportunity for improvement of the person's condition
1402 have been deemed to be inappropriate or unavailable.

1403 (b) Involuntary inpatient placement.—A person ordered to
1404 involuntary inpatient placement must meet the following
1405 criteria:

1406 1. (a) The person ~~He or she~~ has a mental illness and because
1407 of his or her mental illness:

1408 1.a. He or she has refused voluntary inpatient placement
1409 for treatment after sufficient and conscientious explanation and
1410 disclosure of the purpose of inpatient placement for treatment;
1411 or

1412 b. He or she is unable to determine for himself or herself
1413 whether inpatient placement is necessary; and

1414 2.a. The person ~~He or she~~ is incapable of surviving alone
1415 or with the help of willing, able, and responsible family or
1416 friends, including available alternative services, and, without
1417 treatment, is likely to suffer from neglect or refuse to care
1418 for himself or herself, and such neglect or refusal poses a real
1419 and present threat of substantial harm to his or her well-being;
1420 or

1421 b. Without treatment, there is a substantial likelihood

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1422 that in the near future the person ~~he or she~~ will inflict
1423 serious bodily harm on self or others, as evidenced by recent
1424 behavior causing, attempting to cause, or threatening to cause
1425 such harm; and

1426 c. ~~(b)~~ All available less restrictive treatment alternatives
1427 that would offer an opportunity for improvement of the person's
1428 ~~his or her~~ condition have been deemed ~~judged~~ to be inappropriate
1429 or unavailable.

1430 (3) ~~(2)~~ RECOMMENDATION FOR INVOLUNTARY SERVICES AND
1431 ADMISSION TO A TREATMENT FACILITY.—A patient may be recommended
1432 for involuntary inpatient placement, involuntary outpatient
1433 services, or a combination of both.

1434 (a) A patient may be retained by a facility for involuntary
1435 services ~~or involuntarily placed in a treatment facility~~ upon
1436 the recommendation of the administrator of the facility where
1437 the patient has been examined and after adherence to the notice
1438 and hearing procedures provided in s. 394.4599. However, if a
1439 patient who is being recommended for only involuntary outpatient
1440 services has been stabilized and no longer meets the criteria
1441 for involuntary examination pursuant to s. 394.463(1), the
1442 patient must be released from the facility while awaiting the
1443 hearing for involuntary outpatient services.

1444 (b) The recommendation must be supported by the opinion of
1445 a psychiatrist and the second opinion of a clinical psychologist
1446 with at least 3 years of clinical experience, or another
1447 psychiatrist, or a psychiatric nurse practicing within the
1448 framework of an established protocol with a psychiatrist, both
1449 of whom have personally examined the patient ~~services within the~~
1450 ~~preceding 72 hours, that the criteria for involuntary inpatient~~

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1451 ~~placement are met.~~ For involuntary inpatient placement, the
1452 patient must have been examined within the preceding 72 hours.
1453 For involuntary outpatient services, the patient must have been
1454 examined within the preceding 30 days.

1455 ~~(c) If However, if the administrator certifies that a~~
1456 psychiatrist or clinical psychologist with at least 3 years of
1457 clinical experience is not available to provide a the second
1458 opinion, the petitioner must certify that a clinical
1459 psychologist is not available and the second opinion may be
1460 provided by a licensed physician who has postgraduate training
1461 and experience in diagnosis and treatment of mental illness, a
1462 clinical psychologist, or by a psychiatric nurse.

1463 ~~(d) Any opinion authorized in this subsection may be~~
1464 conducted through a face-to-face or in-person examination, in
1465 person, or by electronic means. Recommendations for involuntary
1466 services must be Such recommendation shall be entered on a
1467 petition for involuntary services, which shall be made a part of
1468 the patient's clinical record. The petition must either
1469 authorize the facility to retain the patient pending completion
1470 of a hearing or authorize inpatient placement certificate that
1471 authorizes the facility to retain the patient pending transfer
1472 to a treatment facility or completion of a hearing.

1473 ~~(4)(3) PETITION FOR INVOLUNTARY SERVICES INPATIENT~~
1474 ~~PLACEMENT.-~~

1475 (a) A petition for involuntary services may be filed by:
1476 1. The administrator of a receiving the facility;
1477 2. The administrator of a treatment facility; or
1478 3. A service provider who is treating the person being
1479 petitioned.

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1480 (b) A ~~shall file a~~ petition for involuntary inpatient
1481 placement, or inpatient placement followed by outpatient
1482 services, must be filed in the court in the county where the
1483 patient is located.

1484 (c) A petition for involuntary outpatient services must be
1485 filed in the county where the patient is located, unless the
1486 patient is being placed from a state treatment facility, in
1487 which case the petition must be filed in the county where the
1488 patient will reside.

1489 (d)1. The petitioner must state in the petition:

1490 a. Whether the petitioner is recommending inpatient
1491 placement, outpatient services, or both.

1492 b. The length of time recommended for each type of
1493 involuntary services.

1494 c. The reasons for the recommendation.

1495 2. If recommending involuntary outpatient services, or a
1496 combination of involuntary inpatient placement and outpatient
1497 services, the petitioner must identify the service provider that
1498 has agreed to provide services for the person under an order for
1499 involuntary outpatient services, unless the person is otherwise
1500 participating in outpatient psychiatric treatment and is not in
1501 need of public financing for that treatment, in which case the
1502 individual, if eligible, may be ordered to involuntary treatment
1503 pursuant to the existing psychiatric treatment relationship.

1504 3. If recommending an immediate order to involuntary
1505 outpatient services, the petitioner must prepare a written
1506 proposed services plan in consultation with the patient or the
1507 patient's guardian advocate, if appointed, for the court's
1508 consideration for inclusion in the involuntary outpatient

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1509 services order that addresses the nature and extent of the
1510 mental illness and any co-occurring substance use disorder that
1511 necessitate involuntary outpatient services. The services plan
1512 must specify the likely needed level of care, including the use
1513 of medication, and anticipated discharge criteria for
1514 terminating involuntary outpatient services. The services in the
1515 plan must be deemed clinically appropriate by a physician,
1516 clinical psychologist, psychiatric nurse, mental health
1517 counselor, marriage and family therapist, or clinical social
1518 worker who consults with, or is employed or contracted by, the
1519 service provider. If the services in the proposed services plan
1520 are not available, the petitioner may not file the petition. The
1521 petitioner must notify the managing entity if the requested
1522 services are not available. The managing entity shall document
1523 such efforts to obtain the requested service. The service
1524 provider who accepts the patient for involuntary outpatient
1525 services is responsible for the development of a comprehensive
1526 treatment plan.

1527 (e) Each required criterion for the recommended involuntary
1528 services must be alleged and substantiated in the petition. A
1529 copy of the recommended services plan, if applicable, must be
1530 attached to the petition. The court shall accept petitions and
1531 other documentation with electronic signatures.

1532 (f) When the petition has been filed ~~Upon filing,~~ the clerk
1533 of the court shall provide copies of the petition and, if
1534 applicable, the recommended services plan to the department, the
1535 managing entity, the patient, the patient's guardian or
1536 representative, and the state attorney, and the public defender
1537 or the patient's private counsel ~~of the judicial circuit in~~

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1538 ~~which the patient is located.~~ A fee may not be charged for the
1539 filing of a petition under this subsection.

1540 (5)~~(4)~~ APPOINTMENT OF COUNSEL.—Within 1 court working day
1541 after the filing of a petition for involuntary services
1542 ~~inpatient placement,~~ the court shall appoint the public defender
1543 to represent the person who is the subject of the petition,
1544 unless the person is otherwise represented by counsel or
1545 ineligible. The clerk of the court shall immediately notify the
1546 public defender of such appointment. The public defender shall
1547 represent the person until the petition is dismissed, the court
1548 order expires, or the patient is discharged from involuntary
1549 services. Any attorney who represents ~~representing~~ the patient
1550 shall be provided ~~have~~ access to the patient, witnesses, and
1551 records relevant to the presentation of the patient's case and
1552 shall represent the interests of the patient, regardless of the
1553 source of payment to the attorney.

1554 (6)~~(5)~~ CONTINUANCE OF HEARING.—The patient and the state
1555 are independently ~~is entitled, with the concurrence of the~~
1556 ~~patient's counsel,~~ to seek a at least one continuance of the
1557 hearing for up to 4 weeks. The patient must be granted a request
1558 for an initial continuance of up to 7 calendar days. The patient
1559 may request additional continuances for up to 21 additional
1560 calendar days in total, which shall only be granted by a showing
1561 of good cause and due diligence by the patient and patient's
1562 counsel before requesting the continuance. The state may request
1563 one continuance of up to 7 calendar days, which shall only be
1564 granted by a showing of good cause and due diligence by the
1565 state before requesting the continuance. The state's failure to
1566 timely review any readily available document or failure to

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1567 attempt to contact a known witness does not warrant a
1568 continuance.

1569 (7)(6) HEARING ON INVOLUNTARY SERVICES INPATIENT
1570 PLACEMENT.—

1571 (a)1. The court shall hold a ~~the~~ hearing on the involuntary
1572 services petition inpatient placement within 5 court working
1573 days after the filing of the petition, unless a continuance is
1574 granted.

1575 2. The court must hold any hearing on involuntary
1576 outpatient services in the county where the petition is filed. A
1577 hearing on involuntary inpatient placement, or a combination of
1578 involuntary inpatient placement and involuntary outpatient
1579 services, Except for good cause documented in the court file,
1580 ~~the hearing~~ must be held in the county or the facility, as
1581 appropriate, where the patient is located, except for good cause
1582 documented in the court file.

1583 3. A hearing on involuntary services must be as convenient
1584 to the patient as is consistent with orderly procedure, and
1585 shall be conducted in physical settings not likely to be
1586 injurious to the patient's condition. If the court finds that
1587 the patient's attendance at the hearing is not consistent with
1588 the best interests of the patient, or the patient knowingly,
1589 intelligently, and voluntarily waives his or her right to be
1590 present, and if the patient's counsel does not object, the court
1591 may waive the attendance presence of the patient from all or any
1592 portion of the hearing. The state attorney for the circuit in
1593 which the patient is located shall represent the state, rather
1594 than the petitioner, as the real party in interest in the
1595 proceeding. The facility shall make the respondent's clinical

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1596 records available to the state attorney and the respondent's
1597 attorney so that the state can evaluate and prepare its case.
1598 However, these records shall remain confidential, and the state
1599 attorney may not use any record obtained under this part for
1600 criminal investigation or prosecution purposes, or for any
1601 purpose other than the patient's civil commitment under this
1602 chapter petitioning facility administrator, as the real party in
1603 interest in the proceeding.

1604 (b)3. The court may appoint a magistrate to preside at the
1605 hearing. Upon a finding of good cause, the court may permit all
1606 witnesses, including, but not limited to, medical professionals
1607 who are or have been involved with the patient's treatment, to
1608 remotely attend and testify at the hearing under oath through
1609 audio-video teleconference. A witness intending to remotely
1610 attend and testify must provide the parties with all relevant
1611 documents by the close of business on the day before the
1612 hearing. One of the professionals who executed the ~~petition for~~
1613 involuntary ~~services inpatient placement~~ certificate ~~must shall~~
1614 be a witness. The patient and the patient's guardian or
1615 representative shall be informed by the court of the right to an
1616 independent expert examination. If the patient cannot afford
1617 such an examination, the court ~~must shall~~ ensure that one is
1618 provided, as otherwise provided for by law. The independent
1619 expert's report is confidential and not discoverable, unless the
1620 expert is to be called as a witness for the patient at the
1621 hearing. The court shall allow testimony from persons, including
1622 family members, deemed by the court to be relevant under state
1623 law, regarding the person's prior history and how that prior
1624 history relates to the person's current condition. The testimony

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1625 in the hearing must be given under oath, and the proceedings
1626 must be recorded. The patient may refuse to testify at the
1627 hearing.

1628 (c)~~(b)~~ At the hearing, the court shall consider testimony
1629 and evidence regarding the patient's competence to consent to
1630 services and treatment. If the court finds that the patient is
1631 incompetent to consent to treatment, it must appoint a guardian
1632 advocate as provided in s. 394.4598.

1633 (8) ORDERS OF THE COURT.—

1634 (a)1. If the court concludes that the patient meets the
1635 criteria for involuntary services, the court may order a patient
1636 to involuntary inpatient placement, involuntary outpatient
1637 services, or a combination of involuntary services depending on
1638 the criteria met and which type of involuntary services best
1639 meet the needs of the patient. However, if the court orders the
1640 patient to involuntary outpatient services, the court may not
1641 order the department or the service provider to provide services
1642 if the program or service is not available in the patient's
1643 local community, if there is no space available in the program
1644 or service for the patient, or if funding is not available for
1645 the program or service. The petitioner must notify the managing
1646 entity if the requested services are not available. The managing
1647 entity must document such efforts to obtain the requested
1648 services. A copy of the order must be sent to the managing
1649 entity by the service provider within 1 working day after it is
1650 received from the court.

1651 2. The order must specify the nature and extent of the
1652 patient's mental illness.

1653 3.a. An order for only involuntary outpatient services

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1654 shall be for a period of up to 90 days.

1655 b. An order for involuntary inpatient placement, or a
1656 combination of inpatient placement and outpatient services, may
1657 be for a period of up to 6 months.

1658 4. An order for a combination of involuntary services must
1659 specify the length of time the patient shall be ordered for
1660 involuntary inpatient placement and involuntary outpatient
1661 services.

1662 5. The order of the court and the patient's services plan,
1663 if applicable, must be made part of the patient's clinical
1664 record.

1665 (b) If the court orders a patient into involuntary
1666 inpatient placement, the court ~~it~~ may order that the patient be
1667 transferred to a treatment facility, ~~or,~~ if the patient is at a
1668 treatment facility, that the patient be retained there or be
1669 treated at any other appropriate facility, or that the patient
1670 receive services, ~~on an involuntary basis, for up to 90 days.~~
1671 However, any order for involuntary mental health services in a
1672 treatment facility may be for up to 6 months. The order shall
1673 specify the nature and extent of the patient's mental illness.
1674 The court may not order an individual with a developmental
1675 disability as defined in s. 393.063 or a traumatic brain injury
1676 or dementia who lacks a co-occurring mental illness to be
1677 involuntarily placed in a state treatment facility. ~~The facility~~
1678 shall discharge a patient any time the patient no longer meets
1679 the criteria for involuntary inpatient placement, unless the
1680 patient has transferred to voluntary status.

1681 (c) If at any time before the conclusion of a ~~the~~ hearing
1682 on involuntary services, ~~inpatient placement~~ it appears to the

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1683 court that the patient ~~person does not meet the criteria for~~
1684 ~~involuntary inpatient placement under this section, but instead~~
1685 ~~meets the criteria for involuntary outpatient services, the~~
1686 ~~court may order the person evaluated for involuntary outpatient~~
1687 ~~services pursuant to s. 394.4655. The petition and hearing~~
1688 ~~procedures set forth in s. 394.4655 shall apply. If the person~~
1689 ~~instead meets the criteria for involuntary assessment,~~
1690 ~~protective custody, or involuntary admission or treatment~~
1691 ~~pursuant to s. 397.675, then~~ the court may order the person to
1692 be admitted for involuntary assessment ~~for a period of 5 days~~
1693 pursuant to s. 397.6757 ~~s. 397.6811~~. Thereafter, all proceedings
1694 are governed by chapter 397.

1695 ~~(d) At the hearing on involuntary inpatient placement, the~~
1696 ~~court shall consider testimony and evidence regarding the~~
1697 ~~patient's competence to consent to treatment. If the court finds~~
1698 ~~that the patient is incompetent to consent to treatment, it~~
1699 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~

1700 ~~(d)~~(e) The administrator of the petitioning facility or the
1701 designated department representative shall provide a copy of the
1702 court order and adequate documentation of a patient's mental
1703 illness to the service provider for involuntary outpatient
1704 services or the administrator of a treatment facility if the
1705 patient is ordered for involuntary inpatient placement, ~~whether~~
1706 ~~by civil or criminal court~~. The documentation must include any
1707 advance directives made by the patient, a psychiatric evaluation
1708 of the patient, and any evaluations of the patient performed by
1709 a psychiatric nurse, a clinical psychologist, a marriage and
1710 family therapist, a mental health counselor, or a clinical
1711 social worker. The administrator of a treatment facility may

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1712 refuse admission to any patient directed to its facilities on an
1713 involuntary basis, whether by civil or criminal court order, who
1714 is not accompanied by adequate orders and documentation.

1715 (9) SERVICE PLAN MODIFICATION.—After the order for
1716 involuntary outpatient services is issued, the service provider
1717 and the patient may modify the services plan. For any material
1718 modification of the services plan to which the patient or, if
1719 one is appointed, the patient’s guardian advocate agrees, the
1720 service provider shall send notice of the modification to the
1721 court. Any material modifications of the services plan which are
1722 contested by the patient or the patient’s guardian advocate, if
1723 applicable, must be approved or disapproved by the court
1724 consistent with subsection (4).

1725 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.—
1726 If, in the clinical judgment of a physician, a patient receiving
1727 involuntary outpatient services has failed or has refused to
1728 comply with the services plan ordered by the court, and efforts
1729 were made to solicit compliance, the service provider must
1730 report such noncompliance to the court. The involuntary
1731 outpatient services order shall remain in effect unless the
1732 service provider determines that the patient no longer meets the
1733 criteria for involuntary outpatient services or until the order
1734 expires. The service provider must determine whether
1735 modifications should be made to the existing services plan and
1736 must attempt to continue to engage the patient in treatment. For
1737 any material modification of the services plan to which the
1738 patient or the patient’s guardian advocate, if applicable,
1739 agrees, the service provider shall send notice of the
1740 modification to the court. Any material modifications of the

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1741 services plan which are contested by the patient or the
1742 patient's guardian advocate, if applicable, must be approved or
1743 disapproved by the court consistent with subsection (4).

1744 (11)(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES
1745 INPATIENT PLACEMENT.—

1746 (a) A petition for continued involuntary services must be
1747 filed if the patient continues to meets the criteria for
1748 involuntary services.

1749 (b)1. If a patient receiving involuntary outpatient
1750 services continues to meet the criteria for involuntary
1751 outpatient services, the service provider must file in the court
1752 that issued the initial order for involuntary outpatient
1753 services a petition for continued involuntary outpatient
1754 services.

1755 2. If a patient in involuntary inpatient placement

1756 ~~(a) Hearings on petitions for continued involuntary~~
1757 ~~inpatient placement of an individual placed at any treatment~~
1758 ~~facility are administrative hearings and must be conducted in~~
1759 ~~accordance with s. 120.57(1), except that any order entered by~~
1760 ~~the administrative law judge is final and subject to judicial~~
1761 ~~review in accordance with s. 120.68. Orders concerning patients~~
1762 ~~committed after successfully pleading not guilty by reason of~~
1763 ~~insanity are governed by s. 916.15.~~

1764 ~~(b) If the patient continues to meet the criteria for~~
1765 ~~involuntary inpatient placement and is being treated at a~~
1766 ~~receiving treatment facility, the administrator must shall,~~
1767 ~~before the expiration of the period the receiving treatment~~
1768 ~~facility is authorized to retain the patient, file in the court~~
1769 ~~that issued the initial order for involuntary inpatient~~

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1770 placement a petition requesting authorization for continued
1771 involuntary inpatient placement.

1772 3. Hearings on petitions for continued involuntary
1773 inpatient placement of an individual placed at any treatment
1774 facility are administrative hearings and must be conducted in
1775 accordance with s. 120.57(1), except that any order entered by
1776 the judge is final and subject to judicial review in accordance
1777 with s. 120.68. Orders concerning patients committed after
1778 successfully pleading not guilty by reason of insanity are
1779 governed by s. 916.15.

1780 4. The court shall immediately schedule a hearing on the
1781 petition to be held within 15 days after the petition is filed.

1782 5. The existing involuntary services order shall remain in
1783 effect until disposition on the petition for continued
1784 involuntary services.

1785 (c) The petition ~~request~~ must be accompanied by a statement
1786 from the patient's physician, psychiatrist, psychiatric nurse,
1787 or clinical psychologist justifying the request, a brief
1788 description of the patient's treatment during the time he or she
1789 was receiving involuntary services ~~involuntarily placed~~, and an
1790 individualized plan of continued treatment developed in
1791 consultation with the patient or the patient's guardian
1792 advocate, if applicable. When the petition has been filed, the
1793 clerk of the court shall provide copies of the petition and the
1794 individualized plan of continued services to the department, the
1795 patient, the patient's guardian advocate, the state attorney,
1796 and the patient's private counsel or the public defender.

1797 (d) The court shall appoint counsel to represent the person
1798 who is the subject of the petition for continued involuntary

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1799 services in accordance with subsection (5), unless the person is
1800 otherwise represented by counsel or ineligible.

1801 (e) Hearings on petitions for continued involuntary
1802 outpatient services must be before the court that issued the
1803 order for involuntary outpatient services. However, the patient
1804 may agree to a period of continued outpatient services without a
1805 court hearing.

1806 (f) Hearings on petitions for continued involuntary
1807 inpatient placement in receiving facilities must be held in the
1808 county or the facility, as appropriate, where the patient is
1809 located.

1810 (g) The court may appoint a magistrate to preside at the
1811 hearing. The procedures for obtaining an order pursuant to this
1812 paragraph must meet the requirements of subsection (7).

1813 (h) Notice of the hearing must be provided as set forth
1814 ~~provided~~ in s. 394.4599.

1815 (i) If a patient's attendance at the hearing is voluntarily
1816 waived, the administrative law judge must determine that the
1817 patient knowingly, intelligently, and voluntarily waived his or
1818 her right to be present, waiver is knowing and voluntary before
1819 waiving the presence of the patient from all or a portion of the
1820 hearing. Alternatively, if at the hearing the administrative law
1821 judge finds that attendance at the hearing is not consistent
1822 with the best interests of the patient, the administrative law
1823 judge may waive the presence of the patient from all or any
1824 portion of the hearing, unless the patient, through counsel,
1825 objects to the waiver of presence. The testimony in the hearing
1826 must be under oath, and the proceedings must be recorded.

1827 ~~(e) Unless the patient is otherwise represented or is~~

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1828 ~~ineligible, he or she shall be represented at the hearing on the~~
1829 ~~petition for continued involuntary inpatient placement by the~~
1830 ~~public defender of the circuit in which the facility is located.~~

1831 (j)~~(d)~~ If at a hearing it is shown that the patient
1832 continues to meet the criteria for involuntary services
1833 ~~inpatient placement~~, the court ~~administrative law judge~~ shall
1834 issue an sign the order for continued involuntary outpatient
1835 services inpatient placement for up to 90 days or. ~~However, any~~
1836 ~~order for involuntary inpatient placement, or mental health~~
1837 ~~services in a combination of involuntary services, treatment~~
1838 ~~facility may be~~ for up to 6 months. The same procedure shall be
1839 repeated before the expiration of each additional period the
1840 patient is retained.

1841 (k) If the patient has been ordered to undergo involuntary
1842 services and has previously been found incompetent to consent to
1843 treatment, the court must consider testimony and evidence
1844 regarding the patient's competence. If the patient's competency
1845 to consent to treatment is restored, the discharge of the
1846 guardian advocate is governed by s. 394.4598. If the patient has
1847 been ordered to undergo involuntary inpatient placement only and
1848 the patient's competency to consent to treatment is restored,
1849 the administrative law judge may issue, to the court that found
1850 the patient incompetent to consent to treatment, a recommended
1851 order that the patient's competence be restored and that any
1852 guardian advocate previously appointed be discharged.

1853 (l)~~(e)~~ If continued involuntary inpatient placement is
1854 necessary for a patient in involuntary inpatient placement who
1855 was admitted while serving a criminal sentence, but his or her
1856 sentence is about to expire, or for a minor involuntarily

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1857 placed, but who is about to reach the age of 18, the
1858 administrator shall petition the administrative law judge for an
1859 order authorizing continued involuntary inpatient placement.

1860
1861 The procedure required in this subsection must be followed
1862 before the expiration of each additional period the patient is
1863 involuntarily receiving services.

1864 (12)~~(8)~~ RETURN TO FACILITY.—If a patient has been ordered
1865 to undergo involuntary inpatient placement ~~involuntarily~~ held at
1866 a treatment facility under this part leaves the facility without
1867 the administrator's authorization, the administrator may
1868 authorize a search for the patient and his or her return to the
1869 facility. The administrator may request the assistance of a law
1870 enforcement agency in this regard.

1871 (13) DISCHARGE.—The patient shall be discharged upon
1872 expiration of the court order or at any time the patient no
1873 longer meets the criteria for involuntary services, unless the
1874 patient has transferred to voluntary status. Upon discharge, the
1875 service provider or facility shall send a certificate of
1876 discharge to the court.

1877 Section 13. Subsection (2) of section 394.468, Florida
1878 Statutes, is amended, and subsection (3) is added to that
1879 section, to read:

1880 394.468 Admission and discharge procedures.—

1881 (2) Discharge planning and procedures for any patient's
1882 release from a receiving facility or treatment facility must
1883 include and document the patient's needs, and actions to address
1884 such needs, for consideration of, at a minimum, all of the
1885 following:

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- 1886 (a) Follow-up behavioral health appointments;
- 1887 (b) Information on how to obtain prescribed medications;
- 1888 and
- 1889 (c) Information pertaining to:
- 1890 1. Available living arrangements;
- 1891 2. Transportation; and
- 1892 (d) Referral to:
- 1893 1. Care coordination services. The patient must be referred
- 1894 for care coordination services if the patient meets the criteria
- 1895 as a member of a priority population as determined by the
- 1896 department under s. 394.9082(3)(c) and is in need of such
- 1897 services.
- 1898 2.3. Recovery support opportunities under s.
- 1899 394.4573(2)(1), including, but not limited to, connection to a
- 1900 peer specialist.
- 1901 (3) During the discharge transition process and while the
- 1902 patient is present unless determined inappropriate by a
- 1903 physician or psychiatric nurse practicing within the framework
- 1904 of an established protocol with a psychiatrist, a receiving
- 1905 facility shall coordinate, face-to-face or through electronic
- 1906 means, discharge plans to a less restrictive community
- 1907 behavioral health provider, a peer specialist, a case manager,
- 1908 or a care coordination service. The transition process must, at
- 1909 a minimum, include all of the following criteria:
- 1910 (a) Implementation of policies and procedures outlining
- 1911 strategies for how the receiving facility will comprehensively
- 1912 address the needs of patients who demonstrate a high use of
- 1913 receiving facility services to avoid or reduce future use of
- 1914 crisis stabilization services. For any such patient, policies

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1915 and procedures must, at a minimum, include a review of the
1916 effectiveness of previous discharge plans created by the
1917 facility for the patient, and the new discharge plan must
1918 address problems experienced with implementation of previous
1919 discharge plans.

1920 (b) Developing, and including in discharge paperwork, a
1921 personalized crisis prevention plan that identifies stressors,
1922 early warning signs or symptoms, and strategies to deal with a
1923 crisis.

1924 (c) Requiring a staff member to seek to engage a family
1925 member, legal guardian, legal representative, or natural support
1926 in discharge planning and meet face to face or through
1927 electronic means to review the discharge instructions, including
1928 prescribed medications, follow-up appointments, and any other
1929 recommended services or follow-up resources, and document the
1930 outcome of such meeting.

1931 (d) When the recommended level of care at discharge is not
1932 immediately available to the patient, the receiving facility
1933 must, at a minimum, initiate a referral to an appropriate
1934 provider to meet the needs of the patient to continue care until
1935 the recommended level of care is available.

1936 Section 14. Section 394.4915, Florida Statutes, is created
1937 to read:

1938 394.4915 Office of Children's Behavioral Health Ombudsman.—
1939 The Office of Children's Behavioral Health Ombudsman is
1940 established within the department for the purpose of being a
1941 central point to receive complaints on behalf of children and
1942 adolescents with behavioral health disorders and who are
1943 receiving state-funded services and use such information to

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1944 improve the child and adolescent mental health treatment and
1945 support system. The department and managing entities shall
1946 include information about and contact information for the office
1947 placed prominently on their websites on easily accessible web
1948 pages related to children and adolescent behavioral health
1949 services. To the extent permitted by available resources, the
1950 office shall, at a minimum:

1951 (1) Receive and direct to the appropriate contact within
1952 the department, the Agency for Health Care Administration, or
1953 the appropriate organizations providing behavioral health
1954 services complaints from children and adolescents and their
1955 families about the child and adolescent mental health treatment
1956 and support system.

1957 (2) Maintain records of complaints received and the actions
1958 taken.

1959 (3) Be a resource to identify and explain relevant policies
1960 or procedures to children, adolescents, and their families about
1961 the child and adolescent mental health treatment and support
1962 system.

1963 (4) Provide recommendations to the department to address
1964 systemic problems within the child and adolescent mental health
1965 treatment and support system which are leading to complaints.
1966 The department shall include an analysis of complaints and
1967 recommendations in the report required under s. 394.4573.

1968 (5) Engage in functions that may improve the child and
1969 adolescent mental health treatment and support system.

1970 Section 15. Subsection (3) of section 394.495, Florida
1971 Statutes, is amended to read:

1972 394.495 Child and adolescent mental health system of care;

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1973 programs and services.—

1974 (3) Assessments must be performed by:

1975 (a) A clinical psychologist, clinical social worker,
 1976 physician, psychiatric nurse, or psychiatrist, as those terms
 1977 are defined in s. 394.455 ~~professional as defined in s.~~
 1978 ~~394.455(5), (7), (33), (36), or (37);~~

1979 (b) A professional licensed under chapter 491; or

1980 (c) A person who is under the direct supervision of a
 1981 clinical psychologist, clinical social worker, physician,
 1982 psychiatric nurse, or psychiatrist, as those terms are defined
 1983 in s. 394.455, ~~qualified professional as defined in s.~~
 1984 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 1985 under chapter 491.

1986 Section 16. Subsection (5) of section 394.496, Florida
 1987 Statutes, is amended to read:

1988 394.496 Service planning.—

1989 (5) A clinical psychologist, clinical social worker,
 1990 physician, psychiatric nurse, or psychiatrist, as those terms
 1991 are defined in s. 394.455, ~~professional as defined in s.~~
 1992 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 1993 under chapter 491 must be included among those persons
 1994 developing the services plan.

1995 Section 17. Paragraph (a) of subsection (2) of section
 1996 394.499, Florida Statutes, is amended to read:

1997 394.499 Integrated children's crisis stabilization
 1998 unit/juvenile addictions receiving facility services.—

1999 (2) Children eligible to receive integrated children's
 2000 crisis stabilization unit/juvenile addictions receiving facility
 2001 services include:

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2002 (a) A minor whose parent makes ~~person under 18 years of age~~
2003 ~~for whom~~ voluntary application based on the parent's express and
2004 informed consent, and the requirements of s. 394.4625(1) (a) are
2005 met ~~is made by his or her guardian, if such person is found to~~
2006 ~~show evidence of mental illness and to be suitable for treatment~~
2007 ~~pursuant to s. 394.4625. A person under 18 years of age may be~~
2008 ~~admitted for integrated facility services only after a hearing~~
2009 ~~to verify that the consent to admission is voluntary.~~

2010 Section 18. Paragraphs (a) and (d) of subsection (1) of
2011 section 394.875, Florida Statutes, are amended to read:

2012 394.875 Crisis stabilization units, residential treatment
2013 facilities, and residential treatment centers for children and
2014 adolescents; authorized services; license required.—

2015 (1) (a) The purpose of a crisis stabilization unit is to
2016 stabilize and redirect a client to the most appropriate and
2017 least restrictive community setting available, consistent with
2018 the client's needs. Crisis stabilization units may screen,
2019 assess, and admit for stabilization persons who present
2020 themselves to the unit and persons who are brought to the unit
2021 under s. 394.463. Clients may be provided 24-hour observation,
2022 medication prescribed by a physician, or ~~or~~ psychiatrist, or
2023 psychiatric nurse practicing within the framework of an
2024 established protocol with a psychiatrist, and other appropriate
2025 services. Crisis stabilization units shall provide services
2026 regardless of the client's ability to pay ~~and shall be limited~~
2027 ~~in size to a maximum of 30 beds.~~

2028 ~~(d) The department is directed to implement a demonstration~~
2029 ~~project in circuit 18 to test the impact of expanding beds~~
2030 ~~authorized in crisis stabilization units from 30 to 50 beds.~~

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2031 ~~Specifically, the department is directed to authorize existing~~
2032 ~~public or private crisis stabilization units in circuit 18 to~~
2033 ~~expand bed capacity to a maximum of 50 beds and to assess the~~
2034 ~~impact such expansion would have on the availability of crisis~~
2035 ~~stabilization services to clients.~~

2036 Section 19. Section 394.90826, Florida Statutes, is created
2037 to read:

2038 394.90826 Behavioral health interagency collaboration.-

2039 (1) The department and the Agency for Health Care
2040 Administration shall jointly establish behavioral health
2041 interagency collaboratives throughout this state with the goal
2042 of identifying and addressing ongoing challenges within the
2043 behavioral health system at the local level to improve the
2044 accessibility, availability, and quality of behavioral health
2045 services. The objectives of the regional collaboratives are to:

2046 a. Facilitate enhanced interagency communication and
2047 collaboration.

2048 b. Develop and promote regional strategies tailored to
2049 address community-level challenges in the behavioral health
2050 system.

2051 (2) The regional collaborative membership shall, at a
2052 minimum, be composed of representatives serving the region from
2053 the following:

2054 a. Department of Children and Families;

2055 b. Agency for Health Care Administration;

2056 c. Agency for Persons with Disabilities;

2057 d. Department of Elder Affairs;

2058 e. Department of Health;

2059 f. Department of Education;

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- 2060 g. School districts;
 2061 h. Area agencies on aging;
 2062 i. Community-based care lead agencies, as defined in s.
 2063 409.986(3)(d);
 2064 j. Managing entities, as defined in s. 394.9082;
 2065 k. Behavioral health services providers;
 2066 l. Hospitals;
 2067 m. Medicaid Managed Medical Assistance Plans;
 2068 n. Police departments; and
 2069 o. Sheriffs' offices.

2070 (3) Each regional collaborative shall define the objectives
 2071 of that collaborative based upon the specific needs of the
 2072 region, and the local communities located within the region, to
 2073 achieve the specified goals.

2074 (4) The department shall define the region to be served by
 2075 each collaborative and shall be responsible for facilitating
 2076 meetings.

2077 (5) All entities represented on the regional collaboratives
 2078 shall provide assistance as appropriate and reasonably necessary
 2079 to fulfill the goals of the regional collaboratives.

2080 Section 20. Subsection (6) of section 394.9085, Florida
 2081 Statutes, is amended to read:

2082 394.9085 Behavioral provider liability.—

2083 (6) For purposes of this section, the terms "detoxification
 2084 services," "addictions receiving facility," and "receiving
 2085 facility" have the same meanings as those provided in ss.
 2086 397.311(26)(a)4. ~~397.311(26)(a)3.~~, 397.311(26)(a)1., and
 2087 394.455(41) ~~394.455(40)~~, respectively.

2088 Section 21. Subsection (3) of section 397.305, Florida

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2089 Statutes, is amended to read:

2090 397.305 Legislative findings, intent, and purpose.—

2091 (3) It is the purpose of this chapter to provide for a
2092 comprehensive continuum of accessible and quality substance
2093 abuse prevention, intervention, clinical treatment, and recovery
2094 support services in the most appropriate and least restrictive
2095 environment which promotes long-term recovery while protecting
2096 and respecting the rights of individuals, primarily through
2097 community-based private not-for-profit providers working with
2098 local governmental programs involving a wide range of agencies
2099 from both the public and private sectors.

2100 Section 22. Subsections (19) and (23) of section 397.311,
2101 Florida Statutes, are amended to read:

2102 397.311 Definitions.—As used in this chapter, except part
2103 VIII, the term:

2104 (19) "Impaired" or "substance abuse impaired" means having
2105 a substance use disorder or a condition involving the use of
2106 alcoholic beverages, illicit or prescription drugs, or any
2107 psychoactive or mood-altering substance in such a manner as to
2108 induce mental, emotional, or physical problems or ~~and~~ cause
2109 socially dysfunctional behavior.

2110 (23) "Involuntary treatment services" means an array of
2111 behavioral health services that may be ordered by the court for
2112 persons with substance abuse impairment or co-occurring
2113 substance abuse impairment and mental health disorders.

2114 Section 23. Subsection (6) is added to section 397.401,
2115 Florida Statutes, to read:

2116 397.401 License required; penalty; injunction; rules
2117 waivers.—

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2118 (6) A service provider operating an addictions receiving
2119 facility or providing detoxification on a nonhospital inpatient
2120 basis may not exceed its licensed capacity by more than 10
2121 percent and may not exceed its licensed capacity for more than 3
2122 consecutive working days or for more than 7 days in 1 month.

2123 Section 24. Paragraph (i) is added to subsection (1) of
2124 section 397.4073, Florida Statutes, to read:

2125 397.4073 Background checks of service provider personnel.—

2126 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
2127 EXCEPTIONS.—

2128 (i) A physician licensed under chapter 458 or chapter 459
2129 or a nurse licensed under chapter 464 who was required to
2130 undergo background screening by the Department of Health as part
2131 of his or her initial licensure or the renewal of licensure, and
2132 who has an active and unencumbered license, is not subject to
2133 background screening pursuant to this section.

2134 Section 25. Subsection (8) of section 397.501, Florida
2135 Statutes, is amended to read:

2136 397.501 Rights of individuals.—Individuals receiving
2137 substance abuse services from any service provider are
2138 guaranteed protection of the rights specified in this section,
2139 unless otherwise expressly provided, and service providers must
2140 ensure the protection of such rights.

2141 (8) RIGHT TO COUNSEL.—Each individual must be informed that
2142 he or she has the right to be represented by counsel in any
2143 judicial involuntary proceeding for involuntary assessment,
2144 stabilization, or treatment services and that he or she, or if
2145 the individual is a minor his or her parent, legal guardian, or
2146 legal custodian, may apply immediately to the court to have an

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2147 attorney appointed if he or she cannot afford one.

2148 Section 26. Section 397.581, Florida Statutes, is amended
2149 to read:

2150 397.581 Unlawful activities relating to assessment and
2151 treatment; penalties.—

2152 (1) A person may not knowingly and willfully:

2153 (a) Furnish ~~furnishing~~ false information for the purpose of
2154 obtaining emergency or other involuntary admission of another
2155 person ~~for any person is a misdemeanor of the first degree,~~
2156 ~~punishable as provided in s. 775.082 and by a fine not exceeding~~
2157 ~~\$5,000.~~

2158 (b) ~~(2)~~ Cause or otherwise secure, or conspire with or
2159 assist another to cause or secure ~~Causing or otherwise securing,~~
2160 ~~or conspiring with or assisting another to cause or secure,~~
2161 ~~without reason for believing a person to be impaired,~~ any
2162 emergency or other involuntary procedure of another ~~for the~~
2163 person under false pretenses ~~is a misdemeanor of the first~~
2164 ~~degree, punishable as provided in s. 775.082 and by a fine not~~
2165 ~~exceeding \$5,000.~~

2166 (c) ~~(3)~~ Cause, or conspire with or assist another to cause,
2167 without lawful justification ~~Causing, or conspiring with or~~
2168 ~~assisting another to cause,~~ the denial to any person of any
2169 right accorded pursuant to this chapter.

2170 (2) A person who violates subsection (1) commits ~~is~~ a
2171 misdemeanor of the first degree, punishable as provided in s.
2172 775.082 and by a fine not exceeding \$5,000.

2173 Section 27. Section 397.675, Florida Statutes, is amended
2174 to read:

2175 397.675 Criteria for involuntary admissions, including

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2176 protective custody, emergency admission, and other involuntary
2177 assessment, involuntary treatment, and alternative involuntary
2178 assessment for minors, for purposes of assessment and
2179 stabilization, and for involuntary treatment.—A person meets the
2180 criteria for involuntary admission if there is good faith reason
2181 to believe that the person is substance abuse impaired or has a
2182 substance use disorder and a co-occurring mental health disorder
2183 and, because of such impairment or disorder:

2184 (1) Has lost the power of self-control with respect to
2185 substance abuse; and

2186 (2) (a) Is in need of substance abuse services and, by
2187 reason of substance abuse impairment, his or her judgment has
2188 been so impaired that he or she is incapable of appreciating his
2189 or her need for such services and of making a rational decision
2190 in that regard, although mere refusal to receive such services
2191 does not constitute evidence of lack of judgment with respect to
2192 his or her need for such services; or

2193 (b) Without care or treatment, is likely to suffer from
2194 neglect or refuse to care for himself or herself; that such
2195 neglect or refusal poses a real and present threat of
2196 substantial harm to his or her well-being; and that it is not
2197 apparent that such harm may be avoided through the help of
2198 willing, able, and responsible family members or friends or the
2199 provision of other services, or there is substantial likelihood
2200 that the person has inflicted, or threatened to or attempted to
2201 inflict, or, unless admitted, is likely to inflict, physical
2202 harm on himself, herself, or another.

2203 Section 28. Subsection (1) of section 397.6751, Florida
2204 Statutes, is amended to read:

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2205 397.6751 Service provider responsibilities regarding
2206 involuntary admissions.—

2207 (1) It is the responsibility of the service provider to:

2208 (a) Ensure that a person who is admitted to a licensed
2209 service component meets the admission criteria specified in s.
2210 397.675;

2211 (b) Ascertain whether the medical and behavioral conditions
2212 of the person, as presented, are beyond the safe management
2213 capabilities of the service provider;

2214 (c) Provide for the admission of the person to the service
2215 component that represents the most appropriate and least
2216 restrictive available setting that is responsive to the person's
2217 treatment needs;

2218 (d) Verify that the admission of the person to the service
2219 component does not result in a census in excess of its licensed
2220 service capacity;

2221 (e) Determine whether the cost of services is within the
2222 financial means of the person or those who are financially
2223 responsible for the person's care; and

2224 (f) Take all necessary measures to ensure that each
2225 individual in treatment is provided with a safe environment, and
2226 to ensure that each individual whose medical condition or
2227 behavioral problem becomes such that he or she cannot be safely
2228 managed by the service component is discharged and referred to a
2229 more appropriate setting for care.

2230 Section 29. Section 397.681, Florida Statutes, is amended
2231 to read:

2232 397.681 Involuntary petitions; general provisions; court
2233 jurisdiction and right to counsel.—

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2234 (1) JURISDICTION.—The courts have jurisdiction of
 2235 ~~involuntary assessment and stabilization petitions and~~
 2236 involuntary treatment petitions for substance abuse impaired
 2237 persons, and such petitions must be filed with the clerk of the
 2238 court in the county where the person is located. The clerk of
 2239 the court may not charge a fee for the filing of a petition
 2240 under this section. The chief judge may appoint a general or
 2241 special magistrate to preside over all or part of the
 2242 proceedings. The alleged impaired person is named as the
 2243 respondent.

2244 (2) RIGHT TO COUNSEL.— A respondent has the right to
 2245 counsel at every stage of a judicial proceeding relating to a
 2246 petition for his or her ~~involuntary assessment and a petition~~
 2247 ~~for his or her~~ involuntary treatment for substance abuse
 2248 impairment, but the respondent may waive that right if the
 2249 respondent is present and the court finds that such waiver is
 2250 made knowingly, intelligently, and voluntarily. A respondent who
 2251 desires counsel and is unable to afford private counsel has the
 2252 right to court-appointed counsel and to the benefits of s.
 2253 57.081. If the court believes that the respondent needs or
 2254 desires the assistance of counsel, the court shall appoint such
 2255 counsel for the respondent without regard to the respondent's
 2256 wishes. If the respondent is a minor not otherwise represented
 2257 in the proceeding, the court shall immediately appoint a
 2258 guardian ad litem to act on the minor's behalf.

2259 Section 30. Section 397.693, Florida Statutes, is
 2260 renumbered as section 397.68111, Florida Statutes, and amended
 2261 to read:

2262 397.68111 ~~397.693~~ Involuntary treatment.—A person may be

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2263 the subject of a petition for court-ordered involuntary
2264 treatment pursuant to this part, if that person:

2265 (1) Reasonably appears to meet ~~meets~~ the criteria for
2266 involuntary admission provided in s. 397.675; ~~and:~~

2267 (2) ~~(1)~~ Has been placed under protective custody pursuant to
2268 s. 397.677 within the previous 10 days;

2269 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
2270 to s. 397.679 within the previous 10 days; or

2271 (4) ~~(3)~~ Has been assessed by a qualified professional within
2272 30 ~~5~~ days;

2273 ~~(4) Has been subject to involuntary assessment and~~
2274 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
2275 ~~days; or~~

2276 ~~(5) Has been subject to alternative involuntary admission~~
2277 ~~pursuant to s. 397.6822 within the previous 12 days.~~

2278 Section 31. Section 397.695, Florida Statutes, is
2279 renumbered as section 397.68112, Florida Statutes, and amended
2280 to read:

2281 397.68112 ~~397.695~~ Involuntary services; persons who may
2282 petition.—

2283 (1) If the respondent is an adult, a petition for
2284 involuntary treatment services may be filed by the respondent's
2285 spouse or legal guardian, any relative, a service provider, or
2286 an adult who has direct personal knowledge of the respondent's
2287 substance abuse impairment and his or her prior course of
2288 assessment and treatment.

2289 (2) If the respondent is a minor, a petition for
2290 involuntary treatment services may be filed by a parent, legal
2291 guardian, or service provider.

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2292 (3) The court may prohibit, or a law enforcement agency may
2293 waive, any service of process fees if a petitioner is determined
2294 to be indigent.

2295 Section 32. Section 397.6951, Florida Statutes, is
2296 renumbered as section 397.68141, Florida Statutes, and amended
2297 to read:

2298 397.68141 ~~397.6951~~ Contents of petition for involuntary
2299 treatment services.—A petition for involuntary services must
2300 contain the name of the respondent; the name of the petitioner
2301 ~~or petitioners~~; the relationship between the respondent and the
2302 petitioner; the name of the respondent's attorney, if known; ~~the~~
2303 ~~findings and recommendations of the assessment performed by the~~
2304 ~~qualified professional~~; and the factual allegations presented by
2305 the petitioner establishing the need for involuntary ~~outpatient~~
2306 services for substance abuse impairment. The factual allegations
2307 must demonstrate:

2308 (1) The reason for the petitioner's belief that the
2309 respondent is substance abuse impaired;

2310 (2) The reason for the petitioner's belief that because of
2311 such impairment the respondent has lost the power of self-
2312 control with respect to substance abuse; and

2313 (3) (a) The reason the petitioner believes that the
2314 respondent has inflicted or is likely to inflict physical harm
2315 on himself or herself or others unless the court orders the
2316 involuntary services; or

2317 (b) The reason the petitioner believes that the
2318 respondent's refusal to voluntarily receive care is based on
2319 judgment so impaired by reason of substance abuse that the
2320 respondent is incapable of appreciating his or her need for care

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2321 and of making a rational decision regarding that need for care.

2322 (4) The petition may be accompanied by a certificate or
2323 report of a qualified professional who examined the respondent
2324 within 30 days before the petition was filed. The certificate or
2325 report must include the qualified professional's findings
2326 relating to his or her assessment of the patient and his or her
2327 treatment recommendations. If the respondent was not assessed
2328 before the filing of an involuntary treatment petition or
2329 refused to submit to an evaluation, the lack of assessment or
2330 refusal must be noted in the petition.

2331 (5) If there is an emergency, the petition must also
2332 describe the respondent's exigent circumstances and include a
2333 request for an ex parte assessment and stabilization order that
2334 must be executed pursuant to s. 397.68151.

2335 Section 33. Section 397.6955, Florida Statutes, is
2336 renumbered as section 397.68151, Florida Statutes, and amended
2337 to read:

2338 397.68151 ~~397.6955~~ Duties of court upon filing of petition
2339 for involuntary services.—

2340 (1) Upon the filing of a petition for involuntary services
2341 for a substance abuse impaired person with the clerk of the
2342 court, the court shall immediately determine whether the
2343 respondent is represented by an attorney or whether the
2344 appointment of counsel for the respondent is appropriate. If the
2345 court appoints counsel for the person, the clerk of the court
2346 shall immediately notify the office of criminal conflict and
2347 civil regional counsel, created pursuant to s. 27.511, of the
2348 appointment. The office of criminal conflict and civil regional
2349 counsel shall represent the person until the petition is

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2350 dismissed, the court order expires, ~~or~~ the person is discharged
2351 from involuntary treatment services, or the office is otherwise
2352 discharged by the court. An attorney who ~~that~~ represents the
2353 person named in the petition shall have access to the person,
2354 witnesses, and records relevant to the presentation of the
2355 person's case and shall represent the interests of the person,
2356 regardless of the source of payment to the attorney.

2357 (2) The court shall schedule a hearing to be held on the
2358 petition within 10 court working ~~5~~ days unless a continuance is
2359 granted. The court may appoint a magistrate to preside at the
2360 hearing.

2361 (3) A copy of the petition and notice of the hearing must
2362 be provided to the respondent; the respondent's parent,
2363 guardian, or legal custodian, in the case of a minor; the
2364 respondent's attorney, if known; the petitioner; the
2365 respondent's spouse or guardian, if applicable; and such other
2366 persons as the court may direct. If the respondent is a minor, a
2367 copy of the petition and notice of the hearing must be
2368 personally delivered to the respondent. The clerk ~~court~~ shall
2369 also issue a summons to the person whose admission is sought and
2370 unless a circuit court's chief judge authorizes disinterested
2371 private process servers to serve parties under this chapter, a
2372 law enforcement agency must effect such service on the person
2373 whose admission is sought for the initial treatment hearing.

2374 Section 34. Section 397.6818, Florida Statutes, is amended
2375 to read:

2376 397.6818 Court determination.—

2377 (1) When the petitioner asserts that emergency
2378 circumstances exist, or when upon review of the petition the

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2379 court determines that an emergency exists, the court may rely
2380 solely on the contents of the petition and, without the
2381 appointment of an attorney, enter an ex parte order for the
2382 respondent's involuntary assessment and stabilization which must
2383 be executed during the period when the hearing on the petition
2384 for treatment is pending.

2385 (2) The court may further order a law enforcement officer
2386 or another designated agent of the court to:

2387 (a) Take the respondent into custody and deliver him or her
2388 for evaluation to either the nearest appropriate licensed
2389 service provider or a licensed service provider designated by
2390 the court.

2391 (b) Serve the respondent with the notice of hearing and a
2392 copy of the petition.

2393 (3) The service provider may not hold the respondent for
2394 longer than 72 hours of observation, unless:

2395 (a) The service provider seeks additional time under s.
2396 397.6957(1)(c) and the court, after a hearing, grants that
2397 motion;

2398 (b) The respondent shows signs of withdrawal, or a need to
2399 be either detoxified or treated for a medical condition, which
2400 shall extend the amount of time the respondent may be held for
2401 observation until the issue is resolved but no later than the
2402 scheduled hearing date, absent a court-approved extension; or

2403 (c) The original or extended observation period ends on a
2404 weekend or holiday, including the hours before the ordinary
2405 business hours of the following workday morning, in which case
2406 the provider may hold the respondent until the next court
2407 working day.

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2408 (4) If the ex parte order was not executed by the initial
2409 hearing date, it shall be deemed void. However, should the
2410 respondent not appear at the hearing for any reason, including
2411 lack of service, and upon reviewing the petition, testimony, and
2412 evidence presented, the court reasonably believes the respondent
2413 meets this chapter's commitment criteria and that a substance
2414 abuse emergency exists, the court may issue or reissue an ex
2415 parte assessment and stabilization order that is valid for 90
2416 days. If the respondent's location is known at the time of the
2417 hearing, the court:

2418 (a) Shall continue the case for no more than 10 court
2419 working days; and

2420 (b) May order a law enforcement officer or another
2421 designated agent of the court to:

2422 1. Take the respondent into custody and deliver him or her
2423 for evaluation to either the nearest appropriate licensed
2424 service provider or a licensed service provider designated by
2425 the court; and

2426 2. If a hearing date is set, serve the respondent with
2427 notice of the rescheduled hearing and a copy of the involuntary
2428 treatment petition if the respondent has not already been
2429 served.

2430
2431 Otherwise, the petitioner must inform the court that the
2432 respondent has been assessed so that the court may schedule a
2433 hearing as soon as is practicable. However, if the respondent
2434 has not been assessed within 90 days, the court must dismiss the
2435 case. ~~At the hearing initiated in accordance with s.~~
2436 ~~397.6811(1), the court shall hear all relevant testimony. The~~

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2437 ~~respondent must be present unless the court has reason to~~
2438 ~~believe that his or her presence is likely to be injurious to~~
2439 ~~him or her, in which event the court shall appoint a guardian~~
2440 ~~advocate to represent the respondent. The respondent has the~~
2441 ~~right to examination by a court-appointed qualified~~
2442 ~~professional. After hearing all the evidence, the court shall~~
2443 ~~determine whether there is a reasonable basis to believe the~~
2444 ~~respondent meets the involuntary admission criteria of s.~~
2445 ~~397.675.~~

2446 ~~(1) Based on its determination, the court shall either~~
2447 ~~dismiss the petition or immediately enter an order authorizing~~
2448 ~~the involuntary assessment and stabilization of the respondent;~~
2449 ~~or, if in the course of the hearing the court has reason to~~
2450 ~~believe that the respondent, due to mental illness other than or~~
2451 ~~in addition to substance abuse impairment, is likely to injure~~
2452 ~~himself or herself or another if allowed to remain at liberty,~~
2453 ~~the court may initiate involuntary proceedings under the~~
2454 ~~provisions of part I of chapter 394.~~

2455 ~~(2) If the court enters an order authorizing involuntary~~
2456 ~~assessment and stabilization, the order shall include the~~
2457 ~~court's findings with respect to the availability and~~
2458 ~~appropriateness of the least restrictive alternatives and the~~
2459 ~~need for the appointment of an attorney to represent the~~
2460 ~~respondent, and may designate the specific licensed service~~
2461 ~~provider to perform the involuntary assessment and stabilization~~
2462 ~~of the respondent. The respondent may choose the licensed~~
2463 ~~service provider to deliver the involuntary assessment where~~
2464 ~~possible and appropriate.~~

2465 ~~(3) If the court finds it necessary, it may order the~~

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2466 ~~sheriff to take the respondent into custody and deliver him or~~
2467 ~~her to the licensed service provider specified in the court~~
2468 ~~order or, if none is specified, to the nearest appropriate~~
2469 ~~licensed service provider for involuntary assessment.~~

2470 ~~(4) The order is valid only for the period specified in the~~
2471 ~~order or, if a period is not specified, for 7 days after the~~
2472 ~~order is signed.~~

2473 Section 35. Section 397.6957, Florida Statutes, is amended
2474 to read:

2475 397.6957 Hearing on petition for involuntary treatment
2476 services.—

2477 (1) (a) The respondent must be present at a hearing on a
2478 petition for involuntary treatment services unless the court
2479 finds that he or she knowingly, intelligently, and voluntarily
2480 waives his or her right to be present or, upon receiving proof
2481 of service and evaluating the circumstances of the case, that
2482 his or her presence is inconsistent with his or her best
2483 interests or is likely to be injurious to self or others. The
2484 court shall hear and review all relevant evidence, including
2485 testimony from individuals such as family members familiar with
2486 the respondent's prior history and how it relates to his or her
2487 current condition, and the ~~review of~~ results of the assessment
2488 completed by the qualified professional in connection with this
2489 chapter. The court may also order drug tests. Upon a finding of
2490 good cause, the court may permit all witnesses, including, but
2491 not limited to, medical professionals who are or have been
2492 involved with the respondent's treatment, to remotely attend and
2493 testify at the hearing under oath via audio-video
2494 teleconference. A witness intending to remotely attend and

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2495 testify must provide the parties with all relevant documents by
2496 the close of business on the day before the hearing the
2497 ~~respondent's protective custody, emergency admission,~~
2498 ~~involuntary assessment, or alternative involuntary admission.~~
2499 ~~The respondent must be present unless the court finds that his~~
2500 ~~or her presence is likely to be injurious to himself or herself~~
2501 ~~or others, in which event the court must appoint a guardian~~
2502 ~~advocate to act in behalf of the respondent throughout the~~
2503 ~~proceedings.~~

2504 (b) A respondent may not be involuntarily ordered into
2505 treatment under this chapter without a clinical assessment being
2506 performed, unless he or she is present in court and expressly
2507 waives the assessment. In nonemergency situations, if the
2508 respondent was not, or had previously refused to be, assessed by
2509 a qualified professional and, based on the petition, testimony,
2510 and evidence presented, it reasonably appears that the
2511 respondent qualifies for involuntary treatment services, the
2512 court must issue an involuntary assessment and stabilization
2513 order to determine the appropriate level of treatment the
2514 respondent requires. Additionally, in cases where an assessment
2515 was attached to the petition, the respondent may request, or the
2516 court on its own motion may order, an independent assessment by
2517 a court-appointed or otherwise agreed upon qualified
2518 professional. If an assessment order is issued, it is valid for
2519 90 days, and if the respondent is present or there is either
2520 proof of service or his or her location is known, the
2521 involuntary treatment hearing shall be continued for no more
2522 than 10 court working days. Otherwise, the petitioner must
2523 inform the court that the respondent has been assessed so that

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2524 the court may schedule a hearing as soon as is practicable. The
2525 assessment must occur before the new hearing date, and if there
2526 is evidence indicating that the respondent will not voluntarily
2527 appear at the forthcoming hearing or is a danger to self or
2528 others, the court may enter a preliminary order committing the
2529 respondent to an appropriate treatment facility for further
2530 evaluation until the date of the rescheduled hearing. However,
2531 if after 90 days the respondent remains unassessed, the court
2532 must dismiss the case.

2533 (c)1. The respondent's assessment by a qualified
2534 professional must occur within 72 hours after his or her arrival
2535 at a licensed service provider unless the respondent shows signs
2536 of withdrawal or a need to be either detoxified or treated for a
2537 medical condition, which shall extend the amount of time the
2538 respondent may be held for observation until such issue is
2539 resolved but no later than the scheduled hearing date, absent a
2540 court-approved extension. If the respondent is a minor, such
2541 assessment must be initiated within the first 12 hours of the
2542 minor's admission to the facility. The service provider may also
2543 move to extend the 72 hours of observation by petitioning the
2544 court in writing for additional time. The service provider must
2545 furnish copies of such motion to all parties in accordance with
2546 applicable confidentiality requirements, and after a hearing,
2547 the court may grant additional time. If the court grants the
2548 service provider's petition, the service provider may continue
2549 to hold the respondent, and if the original or extended
2550 observation period ends on a weekend or holiday, including the
2551 hours before the ordinary business hours of the following
2552 workday morning, the provider may hold the respondent until the

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2553 next court working day.

2554 2. No later than the ordinary close of business on the day
2555 before the hearing, the qualified professional shall transmit,
2556 in accordance with any applicable confidentiality requirements,
2557 his or her clinical assessment to the clerk of the court, who
2558 shall enter it into the court file. The report must contain a
2559 recommendation on the level of substance abuse treatment the
2560 respondent requires, if any, and the relevant information on
2561 which the qualified professional's findings are based. This
2562 document must further note whether the respondent has any co-
2563 occurring mental health or other treatment needs. For adults
2564 subject to an involuntary assessment, the report's filing with
2565 the court satisfies s. 397.6758 if it also contains the
2566 respondent's admission and discharge information. The qualified
2567 professional's failure to include a treatment recommendation,
2568 much like a recommendation of no treatment, shall result in the
2569 petition's dismissal.

2570 (2) The petitioner has the burden of proving by clear and
2571 convincing evidence that:

2572 (a) The respondent is substance abuse impaired and has a
2573 history of lack of compliance with treatment for substance
2574 abuse; and

2575 (b) Because of such impairment the respondent is unlikely
2576 to voluntarily participate in the recommended services or is
2577 unable to determine for himself or herself whether services are
2578 necessary and:

2579 1. Without services, the respondent is likely to suffer
2580 from neglect or refuse to care for himself or herself; that such
2581 neglect or refusal poses a real and present threat of

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2582 substantial harm to his or her well-being; and that there is a
2583 substantial likelihood that without services the respondent will
2584 cause serious bodily harm to himself, herself, or another in the
2585 near future, as evidenced by recent behavior; or

2586 2. The respondent's refusal to voluntarily receive care is
2587 based on judgment so impaired by reason of substance abuse that
2588 the respondent is incapable of appreciating his or her need for
2589 care and of making a rational decision regarding that need for
2590 care.

2591 ~~(3) One of the qualified professionals who executed the~~
2592 ~~involuntary services certificate must be a witness. The court~~
2593 ~~shall allow testimony from individuals, including family~~
2594 ~~members, deemed by the court to be relevant under state law,~~
2595 ~~regarding the respondent's prior history and how that prior~~
2596 ~~history relates to the person's current condition. The Testimony~~
2597 in the hearing must be taken under oath, and the proceedings
2598 must be recorded. The respondent patient may refuse to testify
2599 at the hearing.

2600 (4) If at any point during the hearing the court has reason
2601 to believe that the respondent, due to mental illness other than
2602 or in addition to substance abuse impairment, meets the
2603 involuntary commitment provisions of part I of chapter 394, the
2604 court may initiate involuntary examination proceedings under
2605 such provisions.

2606 (5)~~(4)~~ At the conclusion of the hearing the court shall
2607 either dismiss the petition or order the respondent to receive
2608 involuntary treatment services from his or her chosen licensed
2609 service provider if possible and appropriate. Any treatment
2610 order must include findings regarding the respondent's need for

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2611 treatment and the appropriateness of other less restrictive
2612 alternatives.

2613 Section 36. Section 397.697, Florida Statutes, is amended
2614 to read:

2615 397.697 Court determination; effect of court order for
2616 involuntary services.—

2617 (1) (a) When the court finds that the conditions for
2618 involuntary treatment services have been proved by clear and
2619 convincing evidence, it may order the respondent to receive
2620 involuntary treatment services from a publicly funded licensed
2621 service provider for a period not to exceed 90 days. The court
2622 may also order a respondent to undergo treatment through a
2623 privately funded licensed service provider if the respondent has
2624 the ability to pay for the treatment, or if any person on the
2625 respondent's behalf voluntarily demonstrates a willingness and
2626 an ability to pay for the treatment. If the court finds it
2627 necessary, it may direct the sheriff to take the respondent into
2628 custody and deliver him or her to the licensed service provider
2629 specified in the court order, or to the nearest appropriate
2630 licensed service provider, for involuntary treatment services.
2631 When the conditions justifying involuntary treatment services no
2632 longer exist, the individual must be released as provided in s.
2633 397.6971. When the conditions justifying involuntary treatment
2634 services are expected to exist after 90 days of treatment
2635 services, a renewal of the involuntary services order may be
2636 requested pursuant to s. 397.6975 before the end of the 90-day
2637 period.

2638 (b) To qualify for involuntary outpatient treatment, an
2639 individual must be supported by a social worker or case manager

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2640 of a licensed service provider, or a willing, able, and
2641 responsible individual appointed by the court who shall inform
2642 the court and parties if the respondent fails to comply with his
2643 or her outpatient program. In addition, unless the respondent
2644 has been involuntarily ordered into inpatient treatment under
2645 this chapter at least twice during the last 36 months, or
2646 demonstrates the ability to substantially comply with the
2647 outpatient treatment while waiting for residential placement to
2648 become available, he or she must receive an assessment from a
2649 qualified professional or licensed physician expressly
2650 recommending outpatient services, such services must be
2651 available in the county in which the respondent is located, and
2652 it must appear likely that the respondent will follow a
2653 prescribed outpatient care plan.

2654 (2) In all cases resulting in an order for involuntary
2655 treatment services, the court shall retain jurisdiction over the
2656 case and the parties for the entry of such further orders as the
2657 circumstances may require, including, but not limited to,
2658 monitoring compliance with treatment, changing the treatment
2659 modality, or initiating contempt of court proceedings for
2660 violating any valid order issued pursuant to this chapter.
2661 Hearings under this section may be set by motion of the parties
2662 or under the court's own authority, and the motion and notice of
2663 hearing for these ancillary proceedings, which include, but are
2664 not limited to, civil contempt, must be served in accordance
2665 with relevant court procedural rules. The court's requirements
2666 for notification of proposed release must be included in the
2667 original order.

2668 (3) An involuntary treatment services order also authorizes

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2669 the licensed service provider to require the individual to
2670 receive treatment services that will benefit him or her,
2671 including treatment services at any licensable service component
2672 of a licensed service provider.

2673 (4) If the court orders involuntary treatment services, a
2674 copy of the order must be sent to the managing entity within 1
2675 working day after it is received from the court. Documents may
2676 be submitted electronically through ~~though~~ existing data
2677 systems, if applicable. The institute established under s.
2678 1004.44 shall also receive and maintain copies of the
2679 involuntary assessment and treatment orders issued pursuant to
2680 ss. 397.68151, 397.6818, and 397.6957; the qualified
2681 professional assessments; the professional certificates; and the
2682 law enforcement officers' protective custody reports. The
2683 institute established under s. 1004.44 shall use such documents
2684 to prepare annual reports analyzing the data the documents
2685 contain, without including patients' personal identifying
2686 information, and the institute shall post such reports on its
2687 website and provide copies of the reports to the department, the
2688 President of the Senate, and the Speaker of the House of
2689 Representatives by December 31 of each year.

2690 Section 37. Section 397.6971, Florida Statutes, is amended
2691 to read:

2692 397.6971 Early release from involuntary services.—

2693 (1) At any time before the end of the 90-day involuntary
2694 treatment services period, or before the end of any extension
2695 granted pursuant to s. 397.6975, an individual receiving
2696 involuntary treatment services may be determined eligible for
2697 discharge to the most appropriate referral or disposition for

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2698 the individual when any of the following apply:

2699 (a) The individual no longer meets the criteria for
2700 involuntary admission and has given his or her informed consent
2701 to be transferred to voluntary treatment status.

2702 (b) If the individual was admitted on the grounds of
2703 likelihood of infliction of physical harm upon himself or
2704 herself or others, such likelihood no longer exists.

2705 (c) If the individual was admitted on the grounds of need
2706 for assessment and stabilization or treatment, accompanied by
2707 inability to make a determination respecting such need:

2708 1. Such inability no longer exists; or

2709 2. It is evident that further treatment will not bring
2710 about further significant improvements in the individual's
2711 condition.

2712 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
2713 services.

2714 (e) The director of the service provider determines that
2715 the individual is beyond the safe management capabilities of the
2716 provider.

2717 (2) Whenever a qualified professional determines that an
2718 individual admitted for involuntary treatment services qualifies
2719 for early release under subsection (1), the service provider
2720 shall immediately discharge the individual and must notify all
2721 persons specified by the court in the original treatment order.

2722 Section 38. Section 397.6975, Florida Statutes, is amended
2723 to read:

2724 397.6975 Extension of involuntary treatment services
2725 period.—

2726 (1) Whenever a service provider believes that an individual

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2727 who is nearing the scheduled date of his or her release from
2728 involuntary treatment services continues to meet the criteria
2729 for involuntary services in s. 397.68111 or s. 397.6957 ~~s.~~
2730 ~~397.693~~, a petition for renewal of the involuntary treatment
2731 services order must ~~may~~ be filed with the court ~~at least 10 days~~
2732 before the expiration of the court-ordered services period. The
2733 petition may be filed by the service provider or by the person
2734 who filed the petition for the initial treatment order if the
2735 petition is accompanied by supporting documentation from the
2736 service provider. The court shall immediately schedule a hearing
2737 within 10 court working days to be held not more than 15 days
2738 after filing of the petition, ~~and~~ the court shall provide the
2739 copy of the petition for renewal and the notice of the hearing
2740 to all parties and counsel to the proceeding. The hearing is
2741 conducted pursuant to ss. 397.6957 and 397.697 and must be held
2742 before the circuit court unless referred to a magistrate ~~s.~~
2743 ~~397.6957.~~

2744 (2) If the court finds that the petition for renewal of the
2745 involuntary treatment services order should be granted, it may
2746 order the respondent to receive involuntary treatment services
2747 for a period not to exceed an additional 90 days. When the
2748 conditions justifying involuntary treatment services no longer
2749 exist, the individual must be released as provided in s.
2750 397.6971. When the conditions justifying involuntary services
2751 continue to exist after an additional 90 days of service, a new
2752 petition requesting renewal of the involuntary treatment
2753 services order may be filed pursuant to this section.

2754 ~~(3) Within 1 court working day after the filing of a~~
2755 ~~petition for continued involuntary services, the court shall~~

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2756 ~~appoint the office of criminal conflict and civil regional~~
2757 ~~counsel to represent the respondent, unless the respondent is~~
2758 ~~otherwise represented by counsel. The clerk of the court shall~~
2759 ~~immediately notify the office of criminal conflict and civil~~
2760 ~~regional counsel of such appointment. The office of criminal~~
2761 ~~conflict and civil regional counsel shall represent the~~
2762 ~~respondent until the petition is dismissed or the court order~~
2763 ~~expires or the respondent is discharged from involuntary~~
2764 ~~services. Any attorney representing the respondent shall have~~
2765 ~~access to the respondent, witnesses, and records relevant to the~~
2766 ~~presentation of the respondent's case and shall represent the~~
2767 ~~interests of the respondent, regardless of the source of payment~~
2768 ~~to the attorney.~~

2769 ~~(4) Hearings on petitions for continued involuntary~~
2770 ~~services shall be before the circuit court. The court may~~
2771 ~~appoint a magistrate to preside at the hearing. The procedures~~
2772 ~~for obtaining an order pursuant to this section shall be in~~
2773 ~~accordance with s. 397.697.~~

2774 ~~(5) Notice of hearing shall be provided to the respondent~~
2775 ~~or his or her counsel. The respondent and the respondent's~~
2776 ~~counsel may agree to a period of continued involuntary services~~
2777 ~~without a court hearing.~~

2778 ~~(6) The same procedure shall be repeated before the~~
2779 ~~expiration of each additional period of involuntary services.~~

2780 ~~(7) If the respondent has previously been found incompetent~~
2781 ~~to consent to treatment, the court shall consider testimony and~~
2782 ~~evidence regarding the respondent's competence.~~

2783 ~~Section 39. Section 397.6977, Florida Statutes, is amended~~
2784 ~~to read:~~

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2785 397.6977 Disposition of individual upon completion of
2786 involuntary services.—

2787 (1) At the conclusion of the 90-day period of court-ordered
2788 involuntary services, the respondent is automatically discharged
2789 unless a motion for renewal of the involuntary services order
2790 has been filed with the court pursuant to s. 397.6975.

2791 (2) Discharge planning and procedures for any respondent's
2792 release from involuntary treatment services must include and
2793 document the respondent's needs, and actions to address such
2794 needs, for, at a minimum:

2795 (a) Follow-up behavioral health appointments.

2796 (b) Information on how to obtain prescribed medications.

2797 (c) Information pertaining to available living arrangements
2798 and transportation.

2799 (d) Referral to recovery support opportunities, including,
2800 but not limited to, connection to a peer specialist.

2801 Section 40. Section 397.6811, Florida Statutes, is
2802 repealed.

2803 Section 41. Section 397.6814, Florida Statutes, is
2804 repealed.

2805 Section 42. Section 397.6815, Florida Statutes, is
2806 repealed.

2807 Section 43. Section 397.6819, Florida Statutes, is
2808 repealed.

2809 Section 44. Section 397.6821, Florida Statutes, is
2810 repealed.

2811 Section 45. Section 397.6822, Florida Statutes, is
2812 repealed.

2813 Section 46. Section 397.6978, Florida Statutes, is

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2814 repealed.

2815 Section 47. Subsection (2) of section 916.13, Florida
2816 Statutes, is amended to read:

2817 916.13 Involuntary commitment of defendant adjudicated
2818 incompetent.—

2819 (2) A defendant who has been charged with a felony and who
2820 has been adjudicated incompetent to proceed due to mental
2821 illness, and who meets the criteria for involuntary commitment
2822 under this chapter, may be committed to the department, and the
2823 department shall retain and treat the defendant.

2824 (a) Immediately after receipt of a completed copy of the
2825 court commitment order containing all documentation required by
2826 the applicable Florida Rules of Criminal Procedure, the
2827 department shall request all medical information relating to the
2828 defendant from the jail. The jail shall provide the department
2829 with all medical information relating to the defendant within 3
2830 business days after receipt of the department's request or at
2831 the time the defendant enters the physical custody of the
2832 department, whichever is earlier.

2833 (b) Within 60 days after the date of admission and at the
2834 end of any period of extended commitment, or at any time the
2835 administrator or his or her designee determines that the
2836 defendant has regained competency to proceed or no longer meets
2837 the criteria for continued commitment, the administrator or
2838 designee shall file a report with the court pursuant to the
2839 applicable Florida Rules of Criminal Procedure.

2840 (c)1. If the department determines at any time that a
2841 defendant will not or is unlikely to regain competency to
2842 proceed, the department must, within 30 days after the

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2843 determination, complete and submit a competency evaluation
2844 report to the circuit court to determine if the defendant meets
2845 the criteria for involuntary civil commitment under s. 394.467.
2846 A qualified professional, as defined in s. 394.455, must sign
2847 the competency evaluation report for the circuit court under
2848 penalty of perjury. A copy of the report must, at a minimum, be
2849 provided to the court, state attorney, and counsel for the
2850 defendant before initiating any transfer of the defendant back
2851 to the committing jurisdiction.

2852 2. For purposes of this paragraph, the term "competency
2853 evaluation report to the circuit court" means a report by the
2854 department regarding a defendant's incompetence to proceed in a
2855 criminal proceeding due to mental illness as set forth in this
2856 section. The report must, at a minimum, include the following
2857 regarding the defendant:

2858 a. A description of mental, emotional, and behavioral
2859 disturbances.

2860 b. An explanation to support the opinion of incompetence to
2861 proceed.

2862 c. The rationale to support why the defendant is unlikely
2863 to gain competence to proceed in the foreseeable future.

2864 d. A clinical opinion regarding whether the defendant no
2865 longer meets the criteria for involuntary forensic commitment
2866 pursuant to this section.

2867 e. A recommendation on whether the defendant meets the
2868 criteria for involuntary services pursuant to s. 394.467.

2869 (d)(e) The defendant must be transported, in accordance
2870 with s. 916.107, to the committing court's jurisdiction within 7
2871 days after ~~of~~ notification that the defendant is competent to

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2872 proceed or no longer meets the criteria for continued
2873 commitment. A determination on the issue of competency must be
2874 made at a hearing within 30 days of the notification. If the
2875 defendant is receiving psychotropic medication at a mental
2876 health facility at the time he or she is discharged and
2877 transferred to the jail, the administering of such medication
2878 must continue unless the jail physician documents the need to
2879 change or discontinue it. To ensure continuity of care, the
2880 referring mental health facility must transfer the patient with
2881 up to 30 days of medications and assist in discharge planning
2882 with medical teams at the receiving county jail. The jail and
2883 department physicians shall collaborate to ensure that
2884 medication changes do not adversely affect the defendant's
2885 mental health status or his or her ability to continue with
2886 court proceedings; however, the final authority regarding the
2887 administering of medication to an inmate in jail rests with the
2888 jail physician. Notwithstanding this paragraph, a defendant who
2889 meets the criteria for involuntary examination pursuant to s.
2890 394.463, as determined by an independent clinical opinion, shall
2891 appear remotely for the hearing. Court witnesses may appear
2892 remotely.

2893 Section 48. Subsection (6) of section 40.29, Florida
2894 Statutes, is amended to read:

2895 40.29 Payment of due-process costs; reimbursement for
2896 petitions and orders.—

2897 (6) Subject to legislative appropriation, the clerk of the
2898 circuit court may, on a quarterly basis, submit to the Justice
2899 Administrative Commission a certified request for reimbursement
2900 for petitions and orders filed under ss. 394.459, 394.463,

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2901 394.467, and 394.917, ~~and 397.6814,~~ at the rate of \$40 per
2902 petition or order. Such request for reimbursement shall be
2903 submitted in the form and manner prescribed by the Justice
2904 Administrative Commission pursuant to s. 28.35(2)(i).

2905 Section 49. Subsections (5) and (6) of section 394.492,
2906 Florida Statutes, are amended to read:

2907 394.492 Definitions.—As used in ss. 394.490-394.497, the
2908 term:

2909 (5) "Child or adolescent who has an emotional disturbance"
2910 means a person under 18 years of age who is diagnosed with a
2911 mental, emotional, or behavioral disorder of sufficient duration
2912 to meet one of the diagnostic categories specified in the most
2913 recent edition of the Diagnostic and Statistical Manual of the
2914 American Psychiatric Association, but who does not exhibit
2915 behaviors that substantially interfere with or limit his or her
2916 role or ability to function in the family, school, or community.
2917 The emotional disturbance must not be considered to be a
2918 temporary response to a stressful situation. The term does not
2919 include a child or adolescent who meets the criteria for
2920 involuntary placement under s. 394.497(2) ~~s. 394.467(1)~~.

2921 (6) "Child or adolescent who has a serious emotional
2922 disturbance or mental illness" means a person under 18 years of
2923 age who:

2924 (a) Is diagnosed as having a mental, emotional, or
2925 behavioral disorder that meets one of the diagnostic categories
2926 specified in the most recent edition of the Diagnostic and
2927 Statistical Manual of Mental Disorders of the American
2928 Psychiatric Association; and

2929 (b) Exhibits behaviors that substantially interfere with or

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2930 limit his or her role or ability to function in the family,
2931 school, or community, which behaviors are not considered to be a
2932 temporary response to a stressful situation.

2933
2934 The term includes a child or adolescent who meets the criteria
2935 for involuntary placement under s. 394.467(2) ~~s. 394.467(1)~~.

2936 Section 50. Paragraph (b) of subsection (1) of section
2937 409.972, Florida Statutes, is amended to read:

2938 409.972 Mandatory and voluntary enrollment.—

2939 (1) The following Medicaid-eligible persons are exempt from
2940 mandatory managed care enrollment required by s. 409.965, and
2941 may voluntarily choose to participate in the managed medical
2942 assistance program:

2943 (b) Medicaid recipients residing in residential commitment
2944 facilities operated through the Department of Juvenile Justice
2945 or a treatment facility as defined in s. 394.455 ~~s. 394.455(49)~~.

2946 Section 51. Subsection (7) of section 744.2007, Florida
2947 Statutes, is amended to read:

2948 744.2007 Powers and duties.—

2949 (7) A public guardian may not commit a ward to a treatment
2950 facility, as defined in s. 394.455 ~~s. 394.455(49)~~, without an
2951 involuntary placement proceeding as provided by law.

2952 Section 52. Subsection (3) of section 916.107, Florida
2953 Statutes, is amended to read:

2954 916.107 Rights of forensic clients.—

2955 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

2956 (a) A forensic client shall be asked to give express and
2957 informed written consent for treatment. If a client refuses such
2958 treatment as is deemed necessary and essential by the client's

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2959 multidisciplinary treatment team for the appropriate care of the
2960 client, such treatment may be provided under the following
2961 circumstances:

2962 1. In an emergency situation in which there is immediate
2963 danger to the safety of the client or others, such treatment may
2964 be provided upon the ~~written~~ order of a physician for up to 48
2965 hours, excluding weekends and legal holidays. If, after the 48-
2966 hour period, the client has not given express and informed
2967 consent to the treatment initially refused, the administrator or
2968 designee of the civil or forensic facility shall, within 48
2969 hours, excluding weekends and legal holidays, petition the
2970 committing court or the circuit court serving the county in
2971 which the facility is located, at the option of the facility
2972 administrator or designee, for an order authorizing the
2973 continued treatment of the client. In the interim, the need for
2974 treatment shall be reviewed every 48 hours and may be continued
2975 without the consent of the client upon the continued ~~written~~
2976 order of a physician who has determined that the emergency
2977 situation continues to present a danger to the safety of the
2978 client or others.

2979 2. In a situation other than an emergency situation, the
2980 administrator or designee of the facility shall petition the
2981 court for an order authorizing necessary and essential treatment
2982 for the client.

2983 a. If the client has been receiving psychotropic medication
2984 at the jail at the time of transfer to the forensic or civil
2985 facility and lacks the capacity to make an informed decision
2986 regarding mental health treatment at the time of admission, the
2987 admitting physician shall order continued administration of

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2988 psychotropic medication if, in the clinical judgment of the
2989 physician, abrupt cessation of that psychotropic medication
2990 could pose a risk to the health or safety of the client while a
2991 court order to medicate is pursued. The administrator or
2992 designee of the forensic or civil facility shall, within 5 days
2993 after a client's admission, excluding weekends and legal
2994 holidays, petition the committing court or the circuit court
2995 serving the county in which the facility is located, at the
2996 option of the facility administrator or designee, for an order
2997 authorizing the continued treatment of a client with
2998 psychotropic medication. The jail physician shall provide a
2999 current psychotropic medication order at the time of transfer to
3000 the forensic or civil facility or upon request of the admitting
3001 physician after the client is evaluated.

3002 b. The court order shall allow such treatment for up to 90
3003 days after the date that the order was entered. Unless the court
3004 is notified in writing that the client has provided express and
3005 informed written consent or that the client has been discharged
3006 by the committing court, the administrator or designee of the
3007 facility shall, before the expiration of the initial 90-day
3008 order, petition the court for an order authorizing the
3009 continuation of treatment for an additional 90 days. This
3010 procedure shall be repeated until the client provides consent or
3011 is discharged by the committing court.

3012 3. At the hearing on the issue of whether the court should
3013 enter an order authorizing treatment for which a client was
3014 unable to or refused to give express and informed consent, the
3015 court shall determine by clear and convincing evidence that the
3016 client has mental illness, intellectual disability, or autism,

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3017 that the treatment not consented to is essential to the care of
3018 the client, and that the treatment not consented to is not
3019 experimental and does not present an unreasonable risk of
3020 serious, hazardous, or irreversible side effects. In arriving at
3021 the substitute judgment decision, the court must consider at
3022 least the following factors:

- 3023 a. The client's expressed preference regarding treatment;
- 3024 b. The probability of adverse side effects;
- 3025 c. The prognosis without treatment; and
- 3026 d. The prognosis with treatment.

3027
3028 The hearing shall be as convenient to the client as may be
3029 consistent with orderly procedure and shall be conducted in
3030 physical settings not likely to be injurious to the client's
3031 condition. The court may appoint a general or special magistrate
3032 to preside at the hearing. The client or the client's guardian,
3033 and the representative, shall be provided with a copy of the
3034 petition and the date, time, and location of the hearing. The
3035 client has the right to have an attorney represent him or her at
3036 the hearing, and, if the client is indigent, the court shall
3037 appoint the office of the public defender to represent the
3038 client at the hearing. The client may testify or not, as he or
3039 she chooses, and has the right to cross-examine witnesses and
3040 may present his or her own witnesses.

3041 (b) In addition to the provisions of paragraph (a), in the
3042 case of surgical procedures requiring the use of a general
3043 anesthetic or electroconvulsive treatment or nonpsychiatric
3044 medical procedures, and prior to performing the procedure,
3045 written permission shall be obtained from the client, if the

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3046 client is legally competent, from the parent or guardian of a
3047 minor client, or from the guardian of an incompetent client. The
3048 administrator or designee of the forensic facility or a
3049 designated representative may, with the concurrence of the
3050 client's attending physician, authorize emergency surgical or
3051 nonpsychiatric medical treatment if such treatment is deemed
3052 lifesaving or for a situation threatening serious bodily harm to
3053 the client and permission of the client or the client's guardian
3054 could not be obtained before provision of the needed treatment.

3055 Section 53. For the 2024-2025 fiscal year, the sum of \$50
3056 million of recurring funds from the General Revenue Fund is
3057 appropriated to the Department of Children and Families to
3058 implement the provisions of this act.

3059 Section 54. This act shall take effect July 1, 2024.