

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Maney offered the following:

2
3 **Amendment to Amendment (238169) (with title amendment)**

4 Remove lines 524-2181 of the amendment and insert:
5 with the ~~eriminal~~ county court, as defined in s. 394.4655(1), as
6 applicable. When inpatient treatment is deemed necessary, the
7 least restrictive treatment consistent with the optimum
8 improvement of the patient's condition shall be made available.
9 The ~~When a petition is to be filed for involuntary outpatient~~
10 ~~placement, it shall be filed by one of the petitioners specified~~
11 ~~in s. 394.467, and the court shall dismiss an untimely filed~~
12 ~~petition s. 394.4655(4) (a). A petition for involuntary inpatient~~
13 ~~placement shall be filed by the facility administrator. If a~~

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14 patient's 72-hour examination period ends on a weekend or
15 holiday, including the hours before the ordinary business hours
16 on the morning of the next working day, and the receiving
17 facility:

18 a. Intends to file a petition for involuntary services,
19 such patient may be held at the ~~a receiving~~ facility through the
20 next working day thereafter and the ~~such~~ petition ~~for~~
21 ~~involuntary services~~ must be filed no later than such date. If
22 the ~~receiving~~ facility fails to file the ~~a~~ petition by ~~for~~
23 ~~involuntary services~~ at the ordinary close of business on the
24 next working day, the patient shall be released from the
25 receiving facility following approval pursuant to paragraph (f).

26 b. Does not intend to file a petition for involuntary
27 services, the ~~a~~ receiving facility may postpone release of a
28 patient until the next working day thereafter only if a
29 qualified professional documents that adequate discharge
30 planning and procedures in accordance with s. 394.468, and
31 approval pursuant to paragraph (f), are not possible until the
32 next working day.

33 (h) A person for whom an involuntary examination has been
34 initiated who is being evaluated or treated at a hospital for an
35 emergency medical condition specified in s. 395.002 must be
36 examined by a facility within the examination period specified
37 in paragraph (g). The examination period begins when the patient
38 arrives at the hospital and ceases when the attending physician

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39 documents that the patient has an emergency medical condition.
40 If the patient is examined at a hospital providing emergency
41 medical services by a professional qualified to perform an
42 involuntary examination and is found as a result of that
43 examination not to meet the criteria for involuntary ~~outpatient~~
44 services pursuant to s. 394.467 ~~s. 394.4655(2)~~ or involuntary
45 ~~inpatient placement pursuant to s. 394.467(1)~~, the patient may
46 be offered voluntary outpatient or inpatient services ~~or~~
47 ~~placement~~, if appropriate, or released directly from the
48 hospital providing emergency medical services. The finding by
49 the professional that the patient has been examined and does not
50 meet the criteria for involuntary ~~inpatient~~ services ~~or~~
51 ~~involuntary outpatient placement~~ must be entered into the
52 patient's clinical record. This paragraph is not intended to
53 prevent a hospital providing emergency medical services from
54 appropriately transferring a patient to another hospital before
55 stabilization if the requirements of s. 395.1041(3)(c) have been
56 met.

57 (4) DATA ANALYSIS.—

58 (a) The department shall provide the ~~Using~~ data collected
59 under paragraph (2)(a) and s. 1006.07(10), and child welfare
60 data related to involuntary examinations, to the Louis de la
61 Parte Florida Mental Health Institute established under s.
62 1004.44. The Agency for Health Care Administration shall provide
63 Medicaid data to the institute, requested by the institute,

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64 related to involuntary examination of children enrolled in
65 Medicaid for the purpose of administering the program and
66 improving service provision for such children. The department
67 and agency shall enter into any necessary agreements with the
68 institute to provide such data. The institute shall use such
69 data to ~~the department shall~~, at a minimum, analyze data on both
70 the initiation of involuntary examinations of children and the
71 initiation of involuntary examinations of students who are
72 removed from a school; identify any patterns or trends and cases
73 in which involuntary examinations are repeatedly initiated on
74 the same child or student; study root causes for such patterns,
75 trends, or repeated involuntary examinations; and make
76 recommendations to encourage the use of alternatives to
77 eliminate inappropriate initiations of such examinations.

78 (b) The institute shall analyze service data on
79 individuals who are high utilizers of crisis stabilization
80 services provided in designated receiving facilities, and shall,
81 at a minimum, identify any patterns or trends and make
82 recommendations to decrease avoidable admissions.

83 Recommendations may be addressed in the department's contracts
84 with the behavioral health managing entities and in the
85 contracts between the Agency for Health Care Administration and
86 the Medicaid managed medical assistance plans.

87 (c) The institute ~~department~~ shall publish ~~submit~~ a report
88 on its findings and recommendations on its website and submit

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89 the report to the Governor, the President of the Senate, and the
90 Speaker of the House of Representatives, the department, and the
91 Agency for Health Care Administration by November 1 of each odd-
92 numbered year.

93 Section 10. Section 394.4655, Florida Statutes, is amended
94 to read:

95 394.4655 Orders to involuntary outpatient placement
96 services.—

97 (1) DEFINITIONS.—As used in this section, the term
98 "involuntary outpatient placement" means involuntary outpatient
99 services as defined in s. 394.467.÷

100 ~~(a) "Court" means a circuit court or a criminal county~~
101 ~~court.~~

102 ~~(b) "Criminal County court" means a county court~~
103 ~~exercising its original jurisdiction in a misdemeanor case under~~
104 ~~s. 34.01.~~

105 (2) A court or a county court may order an individual to
106 involuntary outpatient placement under s. 394.467. ~~CRITERIA FOR~~
107 ~~INVOLUNTARY OUTPATIENT SERVICES.—A person may be ordered to~~
108 ~~involuntary outpatient services upon a finding of the court, by~~
109 ~~clear and convincing evidence, that the person meets all of the~~
110 ~~following criteria:~~

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

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

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113 ~~(c) The person is unlikely to survive safely in the~~
114 ~~community without supervision, based on a clinical~~
115 ~~determination.~~

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

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

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

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

128 ~~(f) The person is, as a result of his or her mental~~
129 ~~illness, unlikely to voluntarily participate in the recommended~~
130 ~~treatment plan and has refused voluntary services for treatment~~
131 ~~after sufficient and conscientious explanation and disclosure of~~
132 ~~why the services are necessary or is unable to determine for~~
133 ~~himself or herself whether services are necessary.~~

134 ~~(g) In view of the person's treatment history and current~~
135 ~~behavior, the person is in need of involuntary outpatient~~
136 ~~services in order to prevent a relapse or deterioration that~~
137 ~~would be likely to result in serious bodily harm to himself or~~

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138 ~~herself or others, or a substantial harm to his or her well-~~
139 ~~being as set forth in s. 394.463(1).~~

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

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

145 ~~(3) INVOLUNTARY OUTPATIENT SERVICES.—~~

146 ~~(a)1. A patient who is being recommended for involuntary~~
147 ~~outpatient services by the administrator of the facility where~~
148 ~~the patient has been examined may be retained by the facility~~
149 ~~after adherence to the notice procedures provided in s.~~
150 ~~394.4599. The recommendation must be supported by the opinion of~~
151 ~~a psychiatrist and the second opinion of a clinical psychologist~~
152 ~~or another psychiatrist, both of whom have personally examined~~
153 ~~the patient within the preceding 72 hours, that the criteria for~~
154 ~~involuntary outpatient services are met. However, if the~~
155 ~~administrator certifies that a psychiatrist or clinical~~
156 ~~psychologist is not available to provide the second opinion, the~~
157 ~~second opinion may be provided by a licensed physician who has~~
158 ~~postgraduate training and experience in diagnosis and treatment~~
159 ~~of mental illness, a physician assistant who has at least 3~~
160 ~~years' experience and is supervised by such licensed physician~~
161 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
162 ~~nurse. Any second opinion authorized in this subparagraph may be~~

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163 ~~conducted through a face-to-face examination, in person or by~~
164 ~~electronic means. Such recommendation must be entered on an~~
165 ~~involuntary outpatient services certificate that authorizes the~~
166 ~~facility to retain the patient pending completion of a hearing.~~
167 ~~The certificate must be made a part of the patient's clinical~~
168 ~~record.~~

169 ~~2. If the patient has been stabilized and no longer meets~~
170 ~~the criteria for involuntary examination pursuant to s.~~
171 ~~394.463(1), the patient must be released from the facility while~~
172 ~~awaiting the hearing for involuntary outpatient services. Before~~
173 ~~filing a petition for involuntary outpatient services, the~~
174 ~~administrator of the facility or a designated department~~
175 ~~representative must identify the service provider that will have~~
176 ~~primary responsibility for service provision under an order for~~
177 ~~involuntary outpatient services, unless the person is otherwise~~
178 ~~participating in outpatient psychiatric treatment and is not in~~
179 ~~need of public financing for that treatment, in which case the~~
180 ~~individual, if eligible, may be ordered to involuntary treatment~~
181 ~~pursuant to the existing psychiatric treatment relationship.~~

182 ~~3. The service provider shall prepare a written proposed~~
183 ~~treatment plan in consultation with the patient or the patient's~~
184 ~~guardian advocate, if appointed, for the court's consideration~~
185 ~~for inclusion in the involuntary outpatient services order that~~
186 ~~addresses the nature and extent of the mental illness and any~~
187 ~~co-occurring substance use disorder that necessitate involuntary~~

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188 ~~outpatient services. The treatment plan must specify the likely~~
189 ~~level of care, including the use of medication, and anticipated~~
190 ~~discharge criteria for terminating involuntary outpatient~~
191 ~~services. Service providers may select and supervise other~~
192 ~~individuals to implement specific aspects of the treatment plan.~~
193 ~~The services in the plan must be deemed clinically appropriate~~
194 ~~by a physician, clinical psychologist, psychiatric nurse, mental~~
195 ~~health counselor, marriage and family therapist, or clinical~~
196 ~~social worker who consults with, or is employed or contracted~~
197 ~~by, the service provider. The service provider must certify to~~
198 ~~the court in the proposed plan whether sufficient services for~~
199 ~~improvement and stabilization are currently available and~~
200 ~~whether the service provider agrees to provide those services.~~
201 ~~If the service provider certifies that the services in the~~
202 ~~proposed treatment plan are not available, the petitioner may~~
203 ~~not file the petition. The service provider must notify the~~
204 ~~managing entity if the requested services are not available. The~~
205 ~~managing entity must document such efforts to obtain the~~
206 ~~requested services.~~

207 ~~(b) If a patient in involuntary inpatient placement meets~~
208 ~~the criteria for involuntary outpatient services, the~~
209 ~~administrator of the facility may, before the expiration of the~~
210 ~~period during which the facility is authorized to retain the~~
211 ~~patient, recommend involuntary outpatient services. The~~
212 ~~recommendation must be supported by the opinion of a~~

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213 ~~psychiatrist and the second opinion of a clinical psychologist~~
214 ~~or another psychiatrist, both of whom have personally examined~~
215 ~~the patient within the preceding 72 hours, that the criteria for~~
216 ~~involuntary outpatient services are met. However, if the~~
217 ~~administrator certifies that a psychiatrist or clinical~~
218 ~~psychologist is not available to provide the second opinion, the~~
219 ~~second opinion may be provided by a licensed physician who has~~
220 ~~postgraduate training and experience in diagnosis and treatment~~
221 ~~of mental illness, a physician assistant who has at least 3~~
222 ~~years' experience and is supervised by such licensed physician~~
223 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
224 ~~nurse. Any second opinion authorized in this subparagraph may be~~
225 ~~conducted through a face-to-face examination, in person or by~~
226 ~~electronic means. Such recommendation must be entered on an~~
227 ~~involuntary outpatient services certificate, and the certificate~~
228 ~~must be made a part of the patient's clinical record.~~

229 ~~(c)1. The administrator of the treatment facility shall~~
230 ~~provide a copy of the involuntary outpatient services~~
231 ~~certificate and a copy of the state mental health discharge form~~
232 ~~to the managing entity in the county where the patient will be~~
233 ~~residing. For persons who are leaving a state mental health~~
234 ~~treatment facility, the petition for involuntary outpatient~~
235 ~~services must be filed in the county where the patient will be~~
236 ~~residing.~~

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237 ~~2. The service provider that will have primary~~
238 ~~responsibility for service provision shall be identified by the~~
239 ~~designated department representative before the order for~~
240 ~~involuntary outpatient services and must, before filing a~~
241 ~~petition for involuntary outpatient services, certify to the~~
242 ~~court whether the services recommended in the patient's~~
243 ~~discharge plan are available and whether the service provider~~
244 ~~agrees to provide those services. The service provider must~~
245 ~~develop with the patient, or the patient's guardian advocate, if~~
246 ~~appointed, a treatment or service plan that addresses the needs~~
247 ~~identified in the discharge plan. The plan must be deemed to be~~
248 ~~clinically appropriate by a physician, clinical psychologist,~~
249 ~~psychiatric nurse, mental health counselor, marriage and family~~
250 ~~therapist, or clinical social worker, as defined in this~~
251 ~~chapter, who consults with, or is employed or contracted by, the~~
252 ~~service provider.~~

253 ~~3. If the service provider certifies that the services in~~
254 ~~the proposed treatment or service plan are not available, the~~
255 ~~petitioner may not file the petition. The service provider must~~
256 ~~notify the managing entity if the requested services are not~~
257 ~~available. The managing entity must document such efforts to~~
258 ~~obtain the requested services.~~

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

260 ~~(a) A petition for involuntary outpatient services may be~~
261 ~~filed by:~~

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

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

264 ~~(b) Each required criterion for involuntary outpatient~~
265 ~~services must be alleged and substantiated in the petition for~~
266 ~~involuntary outpatient services. A copy of the certificate~~
267 ~~recommending involuntary outpatient services completed by a~~
268 ~~qualified professional specified in subsection (3) must be~~
269 ~~attached to the petition. A copy of the proposed treatment plan~~
270 ~~must be attached to the petition. Before the petition is filed,~~
271 ~~the service provider shall certify that the services in the~~
272 ~~proposed plan are available. If the necessary services are not~~
273 ~~available, the petition may not be filed. The service provider~~
274 ~~must notify the managing entity if the requested services are~~
275 ~~not available. The managing entity must document such efforts to~~
276 ~~obtain the requested services.~~

277 ~~(c) The petition for involuntary outpatient services must~~
278 ~~be filed in the county where the patient is located, unless the~~
279 ~~patient is being placed from a state treatment facility, in~~
280 ~~which case the petition must be filed in the county where the~~
281 ~~patient will reside. When the petition has been filed, the clerk~~
282 ~~of the court shall provide copies of the petition and the~~
283 ~~proposed treatment plan to the department, the managing entity,~~
284 ~~the patient, the patient's guardian or representative, the state~~
285 ~~attorney, and the public defender or the patient's private~~

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286 ~~counsel. A fee may not be charged for filing a petition under~~
287 ~~this subsection.~~

288 ~~(5) APPOINTMENT OF COUNSEL. Within 1 court working day~~
289 ~~after the filing of a petition for involuntary outpatient~~
290 ~~services, the court shall appoint the public defender to~~
291 ~~represent the person who is the subject of the petition, unless~~
292 ~~the person is otherwise represented by counsel. The clerk of the~~
293 ~~court shall immediately notify the public defender of the~~
294 ~~appointment. The public defender shall represent the person~~
295 ~~until the petition is dismissed, the court order expires, or the~~
296 ~~patient is discharged from involuntary outpatient services. An~~
297 ~~attorney who represents the patient must be provided access to~~
298 ~~the patient, witnesses, and records relevant to the presentation~~
299 ~~of the patient's case and shall represent the interests of the~~
300 ~~patient, regardless of the source of payment to the attorney.~~

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

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

306 ~~(a)1. The court shall hold the hearing on involuntary~~
307 ~~outpatient services within 5 working days after the filing of~~
308 ~~the petition, unless a continuance is granted. The hearing must~~
309 ~~be held in the county where the petition is filed, must be as~~
310 ~~convenient to the patient as is consistent with orderly~~

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311 ~~procedure, and must be conducted in physical settings not likely~~
312 ~~to be injurious to the patient's condition. If the court finds~~
313 ~~that the patient's attendance at the hearing is not consistent~~
314 ~~with the best interests of the patient and if the patient's~~
315 ~~counsel does not object, the court may waive the presence of the~~
316 ~~patient from all or any portion of the hearing. The state~~
317 ~~attorney for the circuit in which the patient is located shall~~
318 ~~represent the state, rather than the petitioner, as the real~~
319 ~~party in interest in the proceeding.~~

320 ~~2. The court may appoint a magistrate to preside at the~~
321 ~~hearing. One of the professionals who executed the involuntary~~
322 ~~outpatient services certificate shall be a witness. The patient~~
323 ~~and the patient's guardian or representative shall be informed~~
324 ~~by the court of the right to an independent expert examination.~~
325 ~~If the patient cannot afford such an examination, the court~~
326 ~~shall ensure that one is provided, as otherwise provided by law.~~
327 ~~The independent expert's report is confidential and not~~
328 ~~discoverable, unless the expert is to be called as a witness for~~
329 ~~the patient at the hearing. The court shall allow testimony from~~
330 ~~individuals, including family members, deemed by the court to be~~
331 ~~relevant under state law, regarding the person's prior history~~
332 ~~and how that prior history relates to the person's current~~
333 ~~condition. The testimony in the hearing must be given under~~
334 ~~oath, and the proceedings must be recorded. The patient may~~
335 ~~refuse to testify at the hearing.~~

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336 ~~(b)1. If the court concludes that the patient meets the~~
337 ~~criteria for involuntary outpatient services pursuant to~~
338 ~~subsection (2), the court shall issue an order for involuntary~~
339 ~~outpatient services. The court order shall be for a period of up~~
340 ~~to 90 days. The order must specify the nature and extent of the~~
341 ~~patient's mental illness. The order of the court and the~~
342 ~~treatment plan must be made part of the patient's clinical~~
343 ~~record. The service provider shall discharge a patient from~~
344 ~~involuntary outpatient services when the order expires or any~~
345 ~~time the patient no longer meets the criteria for involuntary~~
346 ~~placement. Upon discharge, the service provider shall send a~~
347 ~~certificate of discharge to the court.~~

348 ~~2. The court may not order the department or the service~~
349 ~~provider to provide services if the program or service is not~~
350 ~~available in the patient's local community, if there is no space~~
351 ~~available in the program or service for the patient, or if~~
352 ~~funding is not available for the program or service. The service~~
353 ~~provider must notify the managing entity if the requested~~
354 ~~services are not available. The managing entity must document~~
355 ~~such efforts to obtain the requested services. A copy of the~~
356 ~~order must be sent to the managing entity by the service~~
357 ~~provider within 1 working day after it is received from the~~
358 ~~court. The order may be submitted electronically through~~
359 ~~existing data systems. After the order for involuntary services~~
360 ~~is issued, the service provider and the patient may modify the~~

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361 ~~treatment plan. For any material modification of the treatment~~
362 ~~plan to which the patient or, if one is appointed, the patient's~~
363 ~~guardian advocate agrees, the service provider shall send notice~~
364 ~~of the modification to the court. Any material modifications of~~
365 ~~the treatment plan which are contested by the patient or the~~
366 ~~patient's guardian advocate, if applicable, must be approved or~~
367 ~~disapproved by the court consistent with subsection (3).~~

368 ~~3. If, in the clinical judgment of a physician, the~~
369 ~~patient has failed or has refused to comply with the treatment~~
370 ~~ordered by the court, and, in the clinical judgment of the~~
371 ~~physician, efforts were made to solicit compliance and the~~
372 ~~patient may meet the criteria for involuntary examination, a~~
373 ~~person may be brought to a receiving facility pursuant to s.~~
374 ~~394.463. If, after examination, the patient does not meet the~~
375 ~~criteria for involuntary inpatient placement pursuant to s.~~
376 ~~394.467, the patient must be discharged from the facility. The~~
377 ~~involuntary outpatient services order shall remain in effect~~
378 ~~unless the service provider determines that the patient no~~
379 ~~longer meets the criteria for involuntary outpatient services or~~
380 ~~until the order expires. The service provider must determine~~
381 ~~whether modifications should be made to the existing treatment~~
382 ~~plan and must attempt to continue to engage the patient in~~
383 ~~treatment. For any material modification of the treatment plan~~
384 ~~to which the patient or the patient's guardian advocate, if~~
385 ~~applicable, agrees, the service provider shall send notice of~~

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386 ~~the modification to the court. Any material modifications of the~~
387 ~~treatment plan which are contested by the patient or the~~
388 ~~patient's guardian advocate, if applicable, must be approved or~~
389 ~~disapproved by the court consistent with subsection (3).~~

390 ~~(c) If, at any time before the conclusion of the initial~~
391 ~~hearing on involuntary outpatient services, it appears to the~~
392 ~~court that the person does not meet the criteria for involuntary~~
393 ~~outpatient services under this section but, instead, meets the~~
394 ~~criteria for involuntary inpatient placement, the court may~~
395 ~~order the person admitted for involuntary inpatient examination~~
396 ~~under s. 394.463. If the person instead meets the criteria for~~
397 ~~involuntary assessment, protective custody, or involuntary~~
398 ~~admission pursuant to s. 397.675, the court may order the person~~
399 ~~to be admitted for involuntary assessment for a period of 5 days~~
400 ~~pursuant to s. 397.6811. Thereafter, all proceedings are~~
401 ~~governed by chapter 397.~~

402 ~~(d) At the hearing on involuntary outpatient services, the~~
403 ~~court shall consider testimony and evidence regarding the~~
404 ~~patient's competence to consent to services. If the court finds~~
405 ~~that the patient is incompetent to consent to treatment, it~~
406 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
407 ~~The guardian advocate shall be appointed or discharged in~~
408 ~~accordance with s. 394.4598.~~

409 ~~(e) The administrator of the receiving facility or the~~
410 ~~designated department representative shall provide a copy of the~~

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411 ~~court order and adequate documentation of a patient's mental~~
412 ~~illness to the service provider for involuntary outpatient~~
413 ~~services. Such documentation must include any advance directives~~
414 ~~made by the patient, a psychiatric evaluation of the patient,~~
415 ~~and any evaluations of the patient performed by a psychologist~~
416 ~~or a clinical social worker.~~

417 ~~(8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
418 ~~SERVICES.—~~

419 ~~(a)1. If the person continues to meet the criteria for~~
420 ~~involuntary outpatient services, the service provider shall, at~~
421 ~~least 10 days before the expiration of the period during which~~
422 ~~the treatment is ordered for the person, file in the court that~~
423 ~~issued the order for involuntary outpatient services a petition~~
424 ~~for continued involuntary outpatient services. The court shall~~
425 ~~immediately schedule a hearing on the petition to be held within~~
426 ~~15 days after the petition is filed.~~

427 ~~2. The existing involuntary outpatient services order~~
428 ~~remains in effect until disposition on the petition for~~
429 ~~continued involuntary outpatient services.~~

430 ~~3. A certificate shall be attached to the petition which~~
431 ~~includes a statement from the person's physician or clinical~~
432 ~~psychologist justifying the request, a brief description of the~~
433 ~~patient's treatment during the time he or she was receiving~~
434 ~~involuntary services, and an individualized plan of continued~~
435 ~~treatment.~~

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436 ~~4. The service provider shall develop the individualized~~
437 ~~plan of continued treatment in consultation with the patient or~~
438 ~~the patient's guardian advocate, if applicable. When the~~
439 ~~petition has been filed, the clerk of the court shall provide~~
440 ~~copies of the certificate and the individualized plan of~~
441 ~~continued services to the department, the patient, the patient's~~
442 ~~guardian advocate, the state attorney, and the patient's private~~
443 ~~counsel or the public defender.~~

444 ~~(b) Within 1 court working day after the filing of a~~
445 ~~petition for continued involuntary outpatient services, the~~
446 ~~court shall appoint the public defender to represent the person~~
447 ~~who is the subject of the petition, unless the person is~~
448 ~~otherwise represented by counsel. The clerk of the court shall~~
449 ~~immediately notify the public defender of such appointment. The~~
450 ~~public defender shall represent the person until the petition is~~
451 ~~dismissed or the court order expires or the patient is~~
452 ~~discharged from involuntary outpatient services. Any attorney~~
453 ~~representing the patient shall have access to the patient,~~
454 ~~witnesses, and records relevant to the presentation of the~~
455 ~~patient's case and shall represent the interests of the patient,~~
456 ~~regardless of the source of payment to the attorney.~~

457 ~~(c) Hearings on petitions for continued involuntary~~
458 ~~outpatient services must be before the court that issued the~~
459 ~~order for involuntary outpatient services. The court may appoint~~
460 ~~a magistrate to preside at the hearing. The procedures for~~

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461 ~~obtaining an order pursuant to this paragraph must meet the~~
462 ~~requirements of subsection (7), except that the time period~~
463 ~~included in paragraph (2) (c) is not applicable in determining~~
464 ~~the appropriateness of additional periods of involuntary~~
465 ~~outpatient placement.~~

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

470 ~~(e) The same procedure must be repeated before the~~
471 ~~expiration of each additional period the patient is placed in~~
472 ~~treatment.~~

473 ~~(f) If the patient has previously been found incompetent~~
474 ~~to consent to treatment, the court shall consider testimony and~~
475 ~~evidence regarding the patient's competence. Section 394.4598~~
476 ~~governs the discharge of the guardian advocate if the patient's~~
477 ~~competency to consent to treatment has been restored.~~

478 Section 11. Section 394.467, Florida Statutes, is amended
479 to read:

480 394.467 Involuntary inpatient placement and involuntary
481 outpatient services.-

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

483 (a) "Court" means a circuit court or, for commitments only
484 to involuntary outpatient services as defined in s. 394.4655, a
485 county court.

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486 (b) "Involuntary inpatient placement" means placement in a
487 secure receiving or treatment facility providing stabilization
488 and treatment services to a person 18 years of age or older who
489 does not voluntarily consent to services under this chapter, or
490 a minor who does not voluntarily assent to services under this
491 chapter.

492 (c) "Involuntary outpatient services" means services
493 provided in the community to a person who does not voluntarily
494 consent to or participate in services under this chapter.

495 (d) "Services plan" means an individualized plan detailing
496 the recommended behavioral health services and supports based on
497 a thorough assessment of the needs of the patient, to safeguard
498 and enhance the patient's health and well-being in the
499 community.

500 (2)-(1) CRITERIA FOR INVOLUNTARY SERVICES.-A person may be
501 ordered by a court to be provided for involuntary services
502 inpatient placement for treatment upon a finding of the court,
503 by clear and convincing evidence, that the person meets the
504 following criteria:

505 (a) Involuntary outpatient services.-A person ordered to
506 involuntary outpatient services must meet the following
507 criteria:

508 1. The person has a mental illness and because of his or
509 her mental illness:

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510 a. Is unlikely to voluntarily participate in a recommended
511 services plan and has refused voluntary services for treatment
512 after sufficient and conscientious explanation and disclosure of
513 why the services are necessary; or

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

516 2. The person is unlikely to survive safely in the
517 community without supervision, based on a clinical
518 determination.

519 3. The person has a history of lack of compliance with
520 treatment for mental illness.

521 4. In view of the person's treatment history and current
522 behavior, the person is in need of involuntary outpatient
523 services in order to prevent a relapse or deterioration that
524 would be likely to result in serious bodily harm to himself or
525 herself or others, or a substantial harm to his or her well-
526 being as set forth in s. 394.463(1).

527 5. It is likely that the person will benefit from
528 involuntary outpatient services.

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

532 (b) Involuntary inpatient placement.—A person ordered to
533 involuntary inpatient placement must meet the following
534 criteria:

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

537 a.1.a. He or she has refused voluntary inpatient placement
538 for treatment after sufficient and conscientious explanation and
539 disclosure of the purpose of ~~inpatient placement for~~ treatment;
540 or

541 b. ~~He or she~~ Is unable to determine for himself or herself
542 whether inpatient placement is necessary; and

543 2.a. He or she is incapable of surviving alone or with the
544 help of willing, able, and responsible family or friends,
545 including available alternative services, and, without
546 treatment, is likely to suffer from neglect or refuse to care
547 for himself or herself, and such neglect or refusal poses a real
548 and present threat of substantial harm to his or her well-being;
549 or

550 b. Without treatment, there is a substantial likelihood
551 that in the near future the person ~~he or she~~ will inflict
552 serious bodily harm on self or others, as evidenced by recent
553 behavior causing, attempting to cause, or threatening to cause
554 such harm; and

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

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559 (3)-(2) RECOMMENDATION FOR INVOLUNTARY SERVICES AND
560 ADMISSION TO A TREATMENT FACILITY.—A patient may be recommended
561 for involuntary inpatient placement, involuntary outpatient
562 services, or a combination of both.

563 (a) A patient may be retained by the a facility that
564 examined the patient for involuntary services until the
565 completion of the patient's court hearing ~~or involuntarily~~
566 ~~placed in a treatment facility~~ upon the recommendation of the
567 administrator of the facility where the patient has been
568 examined and after adherence to the notice and hearing
569 procedures provided in s. 394.4599. However, if a patient who is
570 being recommended for only involuntary outpatient services has
571 been stabilized and no longer meets the criteria for involuntary
572 examination pursuant to s. 394.463(1), the patient must be
573 released from the facility while awaiting the hearing for
574 involuntary outpatient services.

575 (b) The recommendation that the involuntary services
576 criteria reasonably appear to have been met must be supported by
577 the opinion of a psychiatrist and the second opinion of a
578 clinical psychologist with at least 3 years of clinical
579 experience, ~~or another psychiatrist, or a psychiatric nurse~~
580 practicing within the framework of an established protocol with
581 a psychiatrist, who both of whom have personally examined the
582 patient within the preceding 72 hours, that the criteria for
583 involuntary inpatient placement are met. For involuntary

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584 inpatient placement, the patient must have been examined within
585 the preceding 72 hours. For involuntary outpatient services the
586 patient must have been examined within the preceding 30 days.

587 (c) If ~~However,~~ if the administrator certifies that a
588 psychiatrist, a ~~or~~ clinical psychologist with at least 3 years
589 of clinical experience, or a psychiatric nurse practicing within
590 the framework of an established protocol with a psychiatrist is
591 not available to provide a ~~the~~ second opinion, the petitioner
592 must certify as such and the second opinion may be provided by a
593 licensed physician who has postgraduate training and experience
594 in diagnosis and treatment of mental illness, a clinical
595 psychologist, or ~~by~~ a psychiatric nurse.

596 (d) Any opinion authorized in this subsection may be
597 conducted through a face-to-face or in-person examination, ~~in~~
598 ~~person,~~ or by electronic means. Recommendations for involuntary
599 services must be ~~Such recommendation shall be~~ entered on a
600 petition for involuntary services ~~inpatient placement~~
601 ~~certificate,~~ which shall be made a part of the patient's
602 clinical record. The filing of the petition ~~that~~ authorizes the
603 facility to retain the patient pending transfer to a treatment
604 facility or completion of a hearing.

605 (4)-(3) PETITION FOR INVOLUNTARY SERVICES ~~INPATIENT~~
606 ~~PLACEMENT.~~

607 (a) A petition for involuntary services may be filed by:
608 1. The administrator of a receiving ~~the~~ facility;

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609 2. The administrator of a treatment facility; or

610 3. A service provider who is treating the person being
611 petitioned.

612 (b) A ~~shall file a~~ petition for involuntary inpatient
613 placement, or inpatient placement followed by outpatient
614 services, must be filed in the court in the county where the
615 patient is located.

616 (c) A petition for involuntary outpatient services must be
617 filed in the county where the patient is located, unless the
618 patient is being placed from a state treatment facility, in
619 which case the petition must be filed in the county where the
620 patient will reside.

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

622 a. Whether the petitioner is recommending inpatient
623 placement, outpatient services, or both.

624 b. The length of time recommended for each type of
625 involuntary services.

626 c. The reasons for the recommendation.

627 2. If recommending involuntary outpatient services, or a
628 combination of involuntary inpatient placement and outpatient
629 services, the petitioner must identify the service provider that
630 has agreed to provide services for the person under an order for
631 involuntary outpatient services, unless he or she is otherwise
632 participating in outpatient psychiatric treatment and is not in
633 need of public financing for that treatment, in which case the

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634 individual, if eligible, may be ordered to involuntary treatment
635 pursuant to the existing psychiatric treatment relationship.

636 3. When recommending an order to involuntary outpatient
637 services, the petitioner shall prepare a written proposed
638 services plan in consultation with the patient or the patient's
639 guardian advocate, if appointed, for the court's consideration
640 for inclusion in the involuntary outpatient services order that
641 addresses the nature and extent of the mental illness and any
642 co-occurring substance use disorder that necessitate involuntary
643 outpatient services. The services plan must specify the likely
644 needed level of care, including the use of medication, and
645 anticipated discharge criteria for terminating involuntary
646 outpatient services. The services in the plan must be deemed
647 clinically appropriate by a physician, clinical psychologist,
648 psychiatric nurse, mental health counselor, marriage and family
649 therapist, or clinical social worker who consults with, or is
650 employed or contracted by, the service provider. If the services
651 in the proposed services plan are not available, the petitioner
652 may not file the petition. The petitioner must notify the
653 managing entity if the requested services are not available. The
654 managing entity must document such efforts to obtain the
655 requested service. The service provider who accepts the patient
656 for involuntary outpatient services is responsible for the
657 development of a comprehensive treatment plan.

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658 (e) Each required criterion for the recommended
659 involuntary services must be alleged and substantiated in the
660 petition. A copy of the recommended services plan, if
661 applicable, must be attached to the petition. The court must
662 accept petitions and other documentation with electronic
663 signatures.

664 (f) When the petition has been filed ~~Upon filing,~~ the
665 clerk of the court shall provide copies of the petition and the
666 recommended services plan, if applicable, to the department, the
667 managing entity, the patient, the patient's guardian or
668 representative, and the state attorney, and the public defender
669 or the patient's private counsel ~~of the judicial circuit in~~
670 ~~which the patient is located.~~ A fee may not be charged for the
671 filing of a petition under this subsection.

672 (g) If the service provider is petitioning for involuntary
673 outpatient services, and the provider's patient is not in a
674 receiving or treatment facility, the petition shall be heard and
675 processed in accordance with the requirements of this section,
676 subject to the following exceptions:

677 1. Unless a continuance is granted, the petition must be
678 heard no later than 10 court working days after its filing;

679 2. The service provider must provide a copy of its
680 patient's clinical records, examination report recommending
681 outpatient services, and services plan to the court, state
682 attorney, and the patient's attorney; and

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683 3. There is proof that the respondent has been served, and
684 the court may continue the case for lack of service.

685 (5)-(4) APPOINTMENT OF COUNSEL.-Within 1 court working day
686 after the filing of a petition for involuntary services
687 inpatient placement, the court shall appoint the public defender
688 to represent the person who is the subject of the petition,
689 unless the person is otherwise represented by counsel or
690 ineligible. The clerk of the court shall immediately notify the
691 public defender of such appointment. The public defender shall
692 represent the person until the petition is dismissed, the court
693 order expires, the patient is discharged from involuntary
694 services, or the public defender is otherwise discharged by the
695 court. Any attorney who represents representing the patient
696 shall be provided have access to the patient, witnesses, and
697 records relevant to the presentation of the patient's case and
698 shall represent the interests of the patient, regardless of the
699 source of payment to the attorney.

700 (6)-(5) CONTINUANCE OF HEARING.-The patient and the state
701 are independently is entitled, with the concurrence of the
702 patient's counsel, to seek a at least one continuance of the
703 hearing. The patient shall be granted a request for an initial
704 continuance for up to 7 calendar days. The patient may request
705 additional continuances for up to 21 calendar days in total,
706 which shall only be granted by a showing of good cause and due
707 diligence by the patient and the patient's counsel before

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708 requesting the continuance. The state may request one
709 continuance of up to 7 calendar days, which shall only be
710 granted by a showing of good cause and due diligence by the
711 state before requesting the continuance. The state's failure to
712 timely review any readily available document or failure to
713 attempt to contact a known witness does not warrant a
714 continuance 4 weeks.

715 (7)-(6) HEARING ON INVOLUNTARY SERVICES INPATIENT
716 PLACEMENT.-

717 (a)1. The court shall hold a the hearing on the
718 involuntary services petition inpatient placement within 5 court
719 working days after the filing of the petition, unless a
720 continuance is granted.

721 2. The court must hold any hearing on involuntary
722 outpatient services in the county where the petition is filed. A
723 hearing on involuntary inpatient placement, or a combination of
724 involuntary inpatient placement and involuntary outpatient
725 services, Except for good cause documented in the court file,
726 the hearing must be held in the county or the facility, as
727 appropriate, where the patient is located, except for good cause
728 documented in the court file.

729 3. A hearing on involuntary services must be as convenient
730 to the patient as is consistent with orderly procedure, and
731 shall be conducted in physical settings not likely to be
732 injurious to the patient's condition. If the court finds that

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733 the patient's attendance at the hearing is not consistent with
734 the best interests of the patient, or the patient knowingly,
735 intelligently, and voluntarily waives his or her right to be
736 present, and if the patient's counsel does not object, the court
737 may waive the attendance presence of the patient from all or any
738 portion of the hearing. The state attorney for the circuit in
739 which the patient is located shall represent the state, rather
740 than the petitioner, as the real party in interest in the
741 proceeding. The facility or service provider shall make the
742 patient's clinical records available to the state attorney and
743 the patient's attorney so that the state can evaluate and
744 prepare its case. However, these records shall remain
745 confidential, and the state attorney may not use any record
746 obtained under this part for criminal investigation or
747 prosecution purposes, or for any purpose other than the
748 patient's civil commitment under this chapter petitioning
749 facility administrator, as the real party in interest in the
750 proceeding.

751 (b)3- The court may appoint a magistrate to preside at the
752 hearing. The state attorney and witnesses may remotely attend
753 and, as appropriate, testify at the hearing under oath via
754 audio-video teleconference. A witness intending to remotely
755 attend and testify must provide the parties with all relevant
756 documents by the close of business on the day before the
757 hearing. One of the professionals who executed the ~~petition for~~

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758 involuntary services ~~inpatient placement~~ certificate shall be a
759 witness. The patient and the patient's guardian or
760 representative shall be informed by the court of the right to an
761 independent expert examination. If the patient cannot afford
762 such an examination, the court shall ensure that one is
763 provided, as otherwise provided for by law. The independent
764 expert's report is confidential and not discoverable, unless the
765 expert is to be called as a witness for the patient at the
766 hearing. The court shall allow testimony from persons, including
767 family members, deemed by the court to be relevant under state
768 law, regarding the person's prior history and how that prior
769 history relates to the person's current condition. The testimony
770 in the hearing must be given under oath, and the proceedings
771 must be recorded. The patient may refuse to testify at the
772 hearing.

773 (c) ~~(b)~~ At the hearing, the court shall consider testimony
774 and evidence regarding the patient's competence to consent to
775 services and treatment. If the court finds that the patient is
776 incompetent to consent to treatment, it shall appoint a guardian
777 advocate as provided in s. 394.4598.

778 (8) ORDERS OF THE COURT.-

779 (a)1. If the court concludes that the patient meets the
780 criteria for involuntary services, the court may order a patient
781 to involuntary inpatient placement, involuntary outpatient
782 services, or a combination of involuntary services depending on

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783 the criteria met and which type of involuntary services best
784 meet the needs of the patient. However, if the court orders the
785 patient to involuntary outpatient services, the court may not
786 order the department or the service provider to provide services
787 if the program or service is not available in the patient's
788 local community, if there is no space available in the program
789 or service for the patient, or if funding is not available for
790 the program or service. The petitioner must notify the managing
791 entity if the requested services are not available. The managing
792 entity must document such efforts to obtain the requested
793 services. A copy of the order must be sent to the managing
794 entity by the service provider within 1 working day after it is
795 received from the court.

796 2. If the court orders the patient to involuntary
797 outpatient services, the patient must be monitored by a social
798 worker or case manager of the outpatient provider, or a willing,
799 able, and responsible individual appointed by the court who must
800 inform the court, the state attorney, and the patient's attorney
801 of any failure by the patient to comply with his or her
802 outpatient treatment.

803 3. The order must specify the nature and extent of the
804 patient's mental illness and the reasons the appropriate
805 involuntary services criteria are satisfied.

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806 4. An order for only involuntary outpatient services,
807 involuntary inpatient placement, or of a combination of
808 involuntary services may be for a period of up to 6 months.

809 5. An order for a combination of involuntary services
810 shall specify the length of time the patient shall be ordered
811 for involuntary inpatient placement and involuntary outpatient
812 services.

813 6. The order of the court and the patient's services plan,
814 if applicable, must be made part of the patient's clinical
815 record.

816 (b) If the court orders a patient into involuntary
817 inpatient placement, the court ~~it~~ may order that the patient be
818 retained at a receiving facility while awaiting transfer
819 transferred to a treatment facility, ~~or~~ if the patient is at a
820 treatment facility, that the patient be retained there or be
821 treated at any other appropriate facility, or that the patient
822 receive services, ~~on an involuntary basis, for up to 90 days.~~
823 ~~However, any order for involuntary mental health services in a~~
824 ~~treatment facility may be for up to 6 months. The order shall~~
825 ~~specify the nature and extent of the patient's mental illness.~~
826 The court may not order an individual with a developmental
827 disability as defined in s. 393.063 or a traumatic brain injury
828 or dementia who lacks a co-occurring mental illness to be
829 involuntarily placed in a state treatment facility. ~~The facility~~
830 ~~shall discharge a patient any time the patient no longer meets~~

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831 ~~the criteria for involuntary inpatient placement, unless the~~
832 ~~patient has transferred to voluntary status.~~

833 (c) If at any time before the conclusion of a ~~the~~ hearing
834 on involuntary services, ~~inpatient placement~~ it appears to the
835 court that the patient ~~person does not meet the criteria for~~
836 ~~involuntary inpatient placement under this section, but instead~~
837 meets the criteria for involuntary ~~outpatient services~~, the
838 court may order the person evaluated for involuntary outpatient
839 services pursuant to s. 394.4655. The petition and hearing
840 procedures set forth in s. 394.4655 shall apply. If the person
841 instead meets the criteria for involuntary assessment,
842 ~~protective custody, or involuntary admission~~ or treatment
843 pursuant to s. 397.675, then the court may order the person to
844 be admitted for involuntary assessment ~~for a period of 5 days~~
845 pursuant to s. 397.675 ~~s. 397.6811~~. Thereafter, all proceedings
846 are governed by chapter 397.

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

852 ~~(d)-(e)~~ The administrator of the petitioning facility or
853 the designated department representative shall provide a copy of
854 the court order and adequate documentation of a patient's mental
855 illness to the service provider for involuntary outpatient

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856 services or the administrator of a treatment facility if the
857 patient is ordered for involuntary inpatient placement,~~whether~~
858 ~~by civil or criminal court.~~ The documentation must include any
859 advance directives made by the patient, a psychiatric evaluation
860 of the patient, and any evaluations of the patient performed by
861 a psychiatric nurse, a clinical psychologist, a marriage and
862 family therapist, a mental health counselor, or a clinical
863 social worker. The administrator of a treatment facility may
864 refuse admission to any patient directed to its facilities on an
865 involuntary basis, whether by civil or criminal court order, who
866 is not accompanied by adequate orders and documentation.

867 (e) In cases resulting in an order for involuntary
868 outpatient services, the court shall retain jurisdiction over
869 the case and the parties for entry of further orders as
870 circumstances may require, including, but not limited to,
871 monitoring compliance with treatment or ordering inpatient
872 treatment to stabilize a person who decompensates while under
873 court-ordered outpatient treatment and meets the commitment
874 criteria of s. 394.467.

875 (9) SERVICES PLAN MODIFICATION—After the order for
876 involuntary outpatient services is issued, the service provider
877 and the patient may modify the services plan as provided by
878 department rule.

879 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.—

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880 (a) If, in the clinical judgment of a physician, a
881 psychiatrist, a clinical psychologist with at least 3 years of
882 clinical experience, or a psychiatric nurse practicing within
883 the framework of an established protocol with a psychiatrist, a
884 patient receiving involuntary outpatient services has failed or
885 has refused to comply with the services plan ordered by the
886 court, and efforts were made to solicit compliance, the service
887 provider must report such noncompliance to the court. The
888 involuntary outpatient services order shall remain in effect
889 unless the service provider determines that the patient no
890 longer meets the criteria for involuntary outpatient services or
891 until the order expires. The service provider must determine
892 whether modifications should be made to the existing services
893 plan and must attempt to continue to engage the patient in
894 treatment. For any material modification of the services plan to
895 which the patient or the patient's guardian advocate, if
896 applicable, agrees, the service provider shall send notice of
897 the modification to the court. Any material modifications of the
898 services plan which are contested by the patient or the
899 patient's guardian advocate, if applicable, must be approved or
900 disapproved by the court consistent with subsection (4).

901 (b) A county court may not use incarceration as a sanction
902 for noncompliance with the services plan, but it may order an
903 individual evaluated for possible inpatient placement if there
904 is significant, or are multiple instances of, noncompliance.

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905 (11)(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES
906 INPATIENT PLACEMENT.—

907 (a) A petition for continued involuntary services shall be
908 filed if the patient continues to meets the criteria for
909 involuntary services.

910 (b)1. If a patient receiving involuntary outpatient
911 services continues to meet the criteria for involuntary
912 outpatient services, the service provider shall file in the
913 court that issued the initial order for involuntary outpatient
914 services a petition for continued involuntary outpatient
915 services.

916 2. If a patient in involuntary inpatient placement

917 ~~(a) Hearings on petitions for continued involuntary~~
918 ~~inpatient placement of an individual placed at any treatment~~
919 ~~facility are administrative hearings and must be conducted in~~
920 ~~accordance with s. 120.57(1), except that any order entered by~~
921 ~~the administrative law judge is final and subject to judicial~~
922 ~~review in accordance with s. 120.68. Orders concerning patients~~
923 ~~committed after successfully pleading not guilty by reason of~~
924 ~~insanity are governed by s. 916.15.~~

925 ~~(b) If the patient continues to meet the criteria for~~
926 ~~involuntary services inpatient placement and is being treated at~~
927 ~~a receiving treatment facility, the administrator shall, before~~
928 ~~the expiration of the period the receiving treatment facility is~~
929 ~~authorized to retain the patient, file in the court that issued~~

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930 the initial order for involuntary inpatient placement, a
931 petition requesting authorization for continued involuntary
932 services inpatient placement. The administrator may petition for
933 inpatient or outpatient services.

934 3. If a patient in inpatient placement continues to meet
935 the criteria for involuntary services and is being treated at a
936 treatment facility, the administrator shall, before expiration
937 of the period the treatment facility is authorized to retain the
938 patient, file a petition requesting authorization for continued
939 involuntary services. The administrator may petition for
940 inpatient or outpatient services. Hearings on petitions for
941 continued involuntary services of an individual placed at any
942 treatment facility are administrative hearings and must be
943 conducted in accordance with s. 120.57(1), except that any order
944 entered by the judge is final and subject to judicial review in
945 accordance with s. 120.68. Orders concerning patients committed
946 after successfully pleading not guilty by reason of insanity are
947 governed by s. 916.15.

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

950 5. The existing involuntary services order shall remain in
951 effect until disposition on the petition for continued
952 involuntary services.

953 (c) The petition request must be accompanied by a
954 statement from the patient's physician, psychiatrist,

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955 psychiatric nurse, or clinical psychologist justifying the
956 request, a brief description of the patient's treatment during
957 the time he or she was receiving involuntary services
958 ~~involuntarily placed~~, and an individualized plan of continued
959 treatment developed in consultation with the patient or the
960 patient's guardian advocate, if applicable. If the petition is
961 for involuntary outpatient services, it must comply with the
962 requirements of subparagraph (4) (d) 3. When the petition has been
963 filed, the clerk of the court shall provide copies of the
964 petition and the individualized plan of continued services to
965 the department, the patient, the patient's guardian advocate,
966 the state attorney, and the patient's private counsel or the
967 public defender.

968 (d) The court shall appoint counsel to represent the
969 person who is the subject of the petition for continued
970 involuntary services in accordance to the provisions set forth
971 in subsection (5), unless the person is otherwise represented by
972 counsel or ineligible.

973 (e) Hearings on petitions for continued involuntary
974 outpatient services must be before the court that issued the
975 order for involuntary outpatient services. However, the patient
976 and the patient's attorney may agree to a period of continued
977 outpatient services without a court hearing.

978 (f) Hearings on petitions for continued involuntary
979 inpatient placement in receiving facilities, or involuntary

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980 outpatient services following involuntary inpatient services,
981 must be held in the county or the facility, as appropriate,
982 where the patient is located.

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

986 (h) Notice of the hearing must be provided as set forth
987 provided in s. 394.4599.

988 (i) If a patient's attendance at the hearing is
989 voluntarily waived, the administrative law judge must determine
990 that the patient knowingly, intelligently, and voluntarily
991 waived his or her right to be present, waiver is knowing and
992 voluntary before waiving the presence of the patient from all or
993 a portion of the hearing. Alternatively, if at the hearing the
994 administrative law judge finds that attendance at the hearing is
995 not consistent with the best interests of the patient, the
996 administrative law judge may waive the presence of the patient
997 from all or any portion of the hearing, unless the patient,
998 through counsel, objects to the waiver of presence. The
999 testimony in the hearing must be under oath, and the proceedings
1000 must be recorded.

1001 ~~(c) Unless the patient is otherwise represented or is~~
1002 ~~ineligible, he or she shall be represented at the hearing on the~~
1003 ~~petition for continued involuntary inpatient placement by the~~
1004 ~~public defender of the circuit in which the facility is located.~~

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1005 ~~(j)(d)~~ If at a hearing it is shown that the patient
1006 continues to meet the criteria for involuntary services
1007 ~~inpatient placement~~, the court administrative law judge shall
1008 issue an sign the order for continued involuntary outpatient
1009 services, inpatient placement for up to 90 days. However, any
1010 ~~order for involuntary inpatient placement, or mental health~~
1011 ~~services in a combination of involuntary services treatment~~
1012 ~~facility may be~~ for up to 6 months. The same procedure shall be
1013 repeated before the expiration of each additional period the
1014 patient is retained.

1015 (k) If the patient has been ordered to undergo involuntary
1016 services and has previously been found incompetent to consent to
1017 treatment, the court shall consider testimony and evidence
1018 regarding the patient's competence. If the patient's competency
1019 to consent to treatment is restored, the discharge of the
1020 guardian advocate shall be governed by s. 394.4598. If the
1021 patient has been ordered to undergo involuntary inpatient
1022 placement only and the patient's competency to consent to
1023 treatment is restored, the administrative law judge may issue a
1024 recommended order, to the court that found the patient
1025 incompetent to consent to treatment, that the patient's
1026 competence be restored and that any guardian advocate previously
1027 appointed be discharged.

1028 ~~(l)(e)~~ If continued involuntary inpatient placement is
1029 necessary for a patient in involuntary inpatient placement who

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1030 was admitted while serving a criminal sentence, but his or her
1031 sentence is about to expire, or for a minor involuntarily
1032 placed, but who is about to reach the age of 18, the
1033 administrator shall petition the administrative law judge for an
1034 order authorizing continued involuntary inpatient placement.
1035 The procedure required in this subsection must be followed
1036 before the expiration of each additional period the patient is
1037 involuntarily receiving services.

1038 (12) ~~(8)~~ RETURN TO FACILITY.—If a patient has been ordered
1039 to undergo involuntary inpatient placement involuntarily held at
1040 a receiving or treatment facility under this part and leaves the
1041 facility without the administrator's authorization, the
1042 administrator may authorize a search for the patient and his or
1043 her return to the facility. The administrator may request the
1044 assistance of a law enforcement agency in this regard.

1045 (13) DISCHARGE.—The patient shall be discharged upon
1046 expiration of the court order or at any time the patient no
1047 longer meets the criteria for involuntary services, unless the
1048 patient has transferred to voluntary status. Upon discharge, the
1049 service provider or facility shall send a certificate of
1050 discharge to the court.

1051 Section 12. Subsection (2) of section 394.468, Florida
1052 Statutes, is amended and subsection (3) is added to that section
1053 to read:

1054 394.468 Admission and discharge procedures.—

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1055 (2) Discharge planning and procedures for any patient's
1056 release from a receiving facility or treatment facility must
1057 include and document the patient's needs, and actions to address
1058 such needs, for ~~consideration of~~, at a minimum:

1059 (a) Follow-up behavioral health appointments;
1060 (b) Information on how to obtain prescribed medications;
1061 and

1062 (c) Information pertaining to:
1063 1. Available living arrangements;
1064 2. Transportation; and

1065 (d) Referral to:
1066 1. Care coordination services. The patient must be
1067 referred for care coordination services if the patient meets the
1068 criteria as a member of a priority population as determined by
1069 the department under s. 394.9082(3)(c) and is in need of such
1070 services.

1071 ~~2.3.~~ Recovery support opportunities under s.
1072 394.4573(2)(1), including, but not limited to, connection to a
1073 peer specialist.

1074 (3) During the discharge transition process and while the
1075 patient is present unless determined inappropriate by a
1076 physician or psychiatric nurse practicing within the framework
1077 of an established protocol with a psychiatrist a receiving
1078 facility shall coordinate, face-to-face or through electronic
1079 means, discharge plans to a less restrictive community

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1080 behavioral health provider, a peer specialist, a case manager,
1081 or a care coordination service. The transition process must, at
1082 a minimum, include all of the following criteria:

1083 (a) Implementation of policies and procedures outlining
1084 strategies for how the receiving facility will comprehensively
1085 address the needs of patients who demonstrate a high use of
1086 receiving facility services to avoid or reduce future use of
1087 crisis stabilization services. For any such patient, policies
1088 and procedures must include, at a minimum, a review of the
1089 effectiveness of previous discharge plans created by the
1090 facility for the patient, and the new discharge plan must
1091 address problems experienced with implementation of previous
1092 discharge plans.

1093 (b) Developing and including in discharge paperwork a
1094 personalized crisis prevention plan that identifies stressors,
1095 early warning signs or symptoms, and strategies to deal with
1096 crisis.

1097 (c) Requiring a staff member to seek to engage a family
1098 member, legal guardian, legal representative, or natural support
1099 in discharge planning and meet face to face or through
1100 electronic means to review the discharge instructions, including
1101 prescribed medications, follow-up appointments, and any other
1102 recommended services or follow-up resources, and document the
1103 outcome of such meeting.

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1104 (d) When the recommended level of care at discharge is not
1105 immediately available to the patient, the receiving facility
1106 must, at a minimum, initiate a referral to an appropriate
1107 provider to meet the needs of the patient to continue care until
1108 the recommended level of care is available.

1109 Section 13. Section 394.4915, Florida Statutes, is created
1110 to read:

1111 394.4915 Office of Children's Behavioral Health
1112 Ombudsman.-The Office of Children's Behavioral Health Ombudsman
1113 is established within the department for the purpose of being a
1114 central point to receive complaints on behalf of children and
1115 adolescents with behavioral health disorders receiving state-
1116 funded services and use such information to improve the child
1117 and adolescent mental health treatment and support system. The
1118 department and managing entities shall include information about
1119 and contact information for the office placed prominently on
1120 their websites on easily accessible web pages related to
1121 children and adolescent behavioral health services. To the
1122 extent permitted by available resources, the office shall, at a
1123 minimum:

1124 (1) Receive and direct to the appropriate contact within
1125 the department, the Agency for Health Care Administration, or
1126 the appropriate organizations providing behavioral health
1127 services complaints from children and adolescents and their

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1128 families about the child and adolescent mental health treatment
1129 and support system.

1130 (2) Maintain records of complaints received and the
1131 actions taken.

1132 (3) Be a resource to identify and explain relevant
1133 policies or procedures to children, adolescents, and their
1134 families about the child and adolescent mental health treatment
1135 and support system.

1136 (4) Provide recommendations to the department to address
1137 systemic problems within the child and adolescent mental health
1138 treatment and support system that are leading to complaints. The
1139 department shall include an analysis of complaints and
1140 recommendations in the report required under s. 394.4573.

1141 (5) Engage in functions that may improve the child and
1142 adolescent mental health treatment and support system.

1143 Section 14. Subsection (3) of section 394.495, Florida
1144 Statutes, is amended to read:

1145 394.495 Child and adolescent mental health system of care;
1146 programs and services.—

1147 (3) Assessments must be performed by:

1148 (a) A clinical psychologist, clinical social worker,
1149 physician, psychiatric nurse, or psychiatrist, as those terms
1150 are defined in s. 394.455 ~~professional as defined in s.~~
1151 394.455 (5), (7), (33), (36), or (37);

1152 (b) A professional licensed under chapter 491; or

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1153 (c) A person who is under the direct supervision of a
1154 clinical psychologist, clinical social worker, physician,
1155 psychiatric nurse, or psychiatrist, as those terms are defined
1156 in s. 394.455, ~~qualified professional as defined in s.~~
1157 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
1158 under chapter 491.

1159 Section 15. Subsection (5) of section 394.496, Florida
1160 Statutes, is amended to read:

1161 394.496 Service planning.—

1162 (5) A clinical psychologist, clinical social worker,
1163 physician, psychiatric nurse, or psychiatrist, as those terms
1164 are defined in s. 394.455, ~~professional as defined in s.~~
1165 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
1166 under chapter 491 must be included among those persons
1167 developing the services plan.

1168 Section 16. Paragraph (a) of subsection (2) of section
1169 394.499, Florida Statutes, is amended to read:

1170 394.499 Integrated children's crisis stabilization
1171 unit/juvenile addictions receiving facility services.—

1172 (2) Children eligible to receive integrated children's
1173 crisis stabilization unit/juvenile addictions receiving facility
1174 services include:

1175 (a) A minor whose parent makes ~~person under 18 years of~~
1176 ~~age for whom~~ voluntary application based on the parent's express
1177 and informed consent, and the requirements of s. 394.4625(1) (a)

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1178 ~~are met is made by his or her guardian, if such person is found~~
1179 ~~to show evidence of mental illness and to be suitable for~~
1180 ~~treatment pursuant to s. 394.4625. A person under 18 years of~~
1181 ~~age may be admitted for integrated facility services only after~~
1182 ~~a hearing to verify that the consent to admission is voluntary.~~

1183 Section 17. Paragraphs (a) and (d) of subsection (1) of
1184 section 394.875, Florida Statutes, are amended to read:

1185 394.875 Crisis stabilization units, residential treatment
1186 facilities, and residential treatment centers for children and
1187 adolescents; authorized services; license required.-

1188 (1) (a) The purpose of a crisis stabilization unit is to
1189 stabilize and redirect a client to the most appropriate and
1190 least restrictive community setting available, consistent with
1191 the client's needs. Crisis stabilization units may screen,
1192 assess, and admit for stabilization persons who present
1193 themselves to the unit and persons who are brought to the unit
1194 under s. 394.463. Clients may be provided 24-hour observation,
1195 medication prescribed by a physician, ~~or~~ psychiatrist, or
1196 psychiatric nurse practicing within the framework of an
1197 established protocol with a psychiatrist, and other appropriate
1198 services. Crisis stabilization units shall provide services
1199 regardless of the client's ability to pay ~~and shall be limited~~
1200 ~~in size to a maximum of 30 beds.~~

1201 ~~(d) The department is directed to implement a~~
1202 ~~demonstration project in circuit 18 to test the impact of~~

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1203 ~~expanding beds authorized in crisis stabilization units from 30~~
1204 ~~to 50 beds. Specifically, the department is directed to~~
1205 ~~authorize existing public or private crisis stabilization units~~
1206 ~~in circuit 18 to expand bed capacity to a maximum of 50 beds and~~
1207 ~~to assess the impact such expansion would have on the~~
1208 ~~availability of crisis stabilization services to clients.~~

1209 Section 18. Section 394.90826, Florida Statutes, is
1210 created to read:

1211 394.90826 Behavioral Health Interagency Collaboration.-

1212 (1) The department and the Agency for Health Care
1213 Administration shall jointly establish behavioral health
1214 interagency collaboratives throughout the state with the goal of
1215 identifying and addressing ongoing challenges within the
1216 behavioral health system at the local level to improve the
1217 accessibility, availability, and quality of behavioral health
1218 services. The objectives of the regional collaboratives are to:

1219 (a) Facilitate enhanced interagency communication and
1220 collaboration.

1221 (b) Develop and promote regional strategies tailored to
1222 address community-level challenges in the behavioral health
1223 system.

1224 (2) The regional collaborative membership shall at a
1225 minimum be composed of representatives from all of the
1226 following, serving the region:

1227 (a) Department of Children and Families.

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- 1228 | (b) Agency for Health Care Administration.
- 1229 | (c) Agency for Persons with Disabilities.
- 1230 | (d) Department of Elder Affairs.
- 1231 | (e) Department of Health.
- 1232 | (f) Department of Education.
- 1233 | (g) School districts.
- 1234 | (h) Area Agencies on Aging.
- 1235 | (i) Community-based care lead agencies, as defined in s.
- 1236 | 409.986(3)(d).
- 1237 | (j) Managing entities, as defined in s. 394.9082(2).
- 1238 | (k) Behavioral health services providers.
- 1239 | (l) Hospitals.
- 1240 | (m) Medicaid Managed Medical Assistance Plans.
- 1241 | (n) Police departments.
- 1242 | (o) Sheriffs' Offices.
- 1243 | (3) Each regional collaborative shall define the
- 1244 | objectives of that collaborative based upon the specific needs
- 1245 | of the region and local communities located within the region,
- 1246 | to achieve the specified goals.
- 1247 | (4) The department shall define the region to be served by
- 1248 | each collaborative and shall be responsible for facilitating
- 1249 | meetings.
- 1250 | (5) All entities represented on the regional
- 1251 | collaboratives shall provide assistance as appropriate and

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1252 reasonably necessary to fulfill the goals of the regional
1253 collaboratives.

1254 Section 19. Subsection (6) of section 394.9085, Florida
1255 Statutes, is amended to read:

1256 394.9085 Behavioral provider liability.—

1257 (6) For purposes of this section, the terms
1258 "detoxification ~~services,~~" "addictions receiving facility," and
1259 "receiving facility" have the same meanings as those provided in
1260 ss. 397.311(26) (a) 4. ~~397.311(26) (a) 3.~~, 397.311(26) (a) 1., and
1261 394.455(40), respectively.

1262 Section 20. Subsection (3) of section 397.305, Florida
1263 Statutes, is amended to read:

1264 397.305 Legislative findings, intent, and purpose.—

1265 (3) It is the purpose of this chapter to provide for a
1266 comprehensive continuum of accessible and quality substance
1267 abuse prevention, intervention, clinical treatment, and recovery
1268 support services in the most appropriate and least restrictive
1269 environment which promotes long-term recovery while protecting
1270 and respecting the rights of individuals, primarily through
1271 community-based private not-for-profit providers working with
1272 local governmental programs involving a wide range of agencies
1273 from both the public and private sectors.

1274 Section 21. Subsections (19) and (23) of section 397.311,
1275 Florida Statutes, are amended to read:

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1276 397.311 Definitions.—As used in this chapter, except part
1277 VIII, the term:

1278 (19) "Impaired" or "substance abuse impaired" means having
1279 a substance use disorder or a condition involving the use of
1280 alcoholic beverages, illicit or prescription drugs, or any
1281 psychoactive or mood-altering substance in such a manner as to
1282 induce mental, emotional, or physical problems or ~~and~~ cause
1283 socially dysfunctional behavior.

1284 (23) "Involuntary treatment services" means an array of
1285 behavioral health services that may be ordered by the court for
1286 persons with substance abuse impairment or co-occurring
1287 substance abuse impairment and mental health disorders.

1288 Section 22. Subsection (6) is added to section 397.401,
1289 Florida Statutes, to read:

1290 397.401 License required; penalty; injunction; rules
1291 waivers.—

1292 (6) A service provider operating an addictions receiving
1293 facility or providing detoxification on a nonhospital inpatient
1294 basis may not exceed its licensed capacity by more than 10
1295 percent and may not exceed their licensed capacity for more than
1296 3 consecutive working days or for more than 7 days in 1 month.

1297 Section 23. Paragraph (i) is added to subsection (1) of
1298 section 397.4073, Florida Statutes, to read:

1299 397.4073 Background checks of service provider personnel.—

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1300 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
1301 EXCEPTIONS.—

1302 (i) Any physician licensed under chapter 458 or chapter
1303 459 or a nurse licensed under chapter 464 who was required to
1304 undergo background screening by the Department of Health as part
1305 of his or her initial licensure or the renewal of licensure, and
1306 who has an active and unencumbered license, is not subject to
1307 background screening pursuant to this section.

1308 Section 24. Subsection (8) of section 397.501, Florida
1309 Statutes, is amended to read:

1310 397.501 Rights of individuals.—Individuals receiving
1311 substance abuse services from any service provider are
1312 guaranteed protection of the rights specified in this section,
1313 unless otherwise expressly provided, and service providers must
1314 ensure the protection of such rights.

1315 (8) RIGHT TO COUNSEL.—Each individual must be informed
1316 that he or she has the right to be represented by counsel in any
1317 judicial involuntary proceeding for involuntary assessment,
1318 ~~stabilization, or~~ treatment services and that he or she, or if
1319 the individual is a minor his or her parent, legal guardian, or
1320 legal custodian, may apply immediately to the court to have an
1321 attorney appointed if he or she cannot afford one.

1322 Section 25. Section 397.581, Florida Statutes, is amended
1323 to read:

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1324 397.581 Unlawful activities relating to assessment and
1325 treatment; penalties.—

1326 (1) A person may not knowingly and willfully:

1327 (a) Furnish ~~furnishing~~ false information for the purpose
1328 of obtaining emergency or other involuntary admission of another
1329 person ~~for any person is a misdemeanor of the first degree,~~
1330 ~~punishable as provided in s. 775.082 and by a fine not exceeding~~
1331 ~~\$5,000.~~

1332 (b)(2) Cause or otherwise secure, or conspire with or
1333 assist another to cause or secure ~~Causing or otherwise securing,~~
1334 ~~or conspiring with or assisting another to cause or secure,~~
1335 ~~without reason for believing a person to be impaired,~~ any
1336 emergency or other involuntary procedure of another ~~for the~~
1337 person under false pretenses ~~is a misdemeanor of the first~~
1338 ~~degree, punishable as provided in s. 775.082 and by a fine not~~
1339 ~~exceeding \$5,000.~~

1340 (c)(3) Cause, or conspire with or assist another to cause,
1341 without lawful justification ~~Causing, or conspiring with or~~
1342 ~~assisting another to cause,~~ the denial to any person of any
1343 right accorded pursuant to this chapter.

1344 (2) A person who violates subsection (1) commits ~~is a~~
1345 ~~misdemeanor of the first degree, punishable as provided in s.~~
1346 ~~775.082 and by a fine not exceeding \$5,000.~~

1347 Section 26. Section 397.675, Florida Statutes, is amended
1348 to read:

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1349 397.675 Criteria for involuntary admissions, including
1350 protective custody, emergency admission, and other involuntary
1351 assessment, involuntary treatment, and alternative involuntary
1352 assessment for minors, for purposes of assessment and
1353 stabilization, and for involuntary treatment.—A person meets the
1354 criteria for involuntary admission if there is good faith reason
1355 to believe that the person is substance abuse impaired or has a
1356 substance use disorder and a co-occurring mental health disorder
1357 and, because of such impairment or disorder:

1358 (1) Has lost the power of self-control with respect to
1359 substance abuse; and

1360 (2) (a) Is in need of substance abuse services and, by
1361 reason of substance abuse impairment, his or her judgment has
1362 been so impaired that he or she is incapable of appreciating his
1363 or her need for such services and of making a rational decision
1364 in that regard, although mere refusal to receive such services
1365 does not constitute evidence of lack of judgment with respect to
1366 his or her need for such services; or

1367 (b) Without care or treatment, is likely to suffer from
1368 neglect or refuse to care for himself or herself; that such
1369 neglect or refusal poses a real and present threat of
1370 substantial harm to his or her well-being; and that it is not
1371 apparent that such harm may be avoided through the help of
1372 willing, able, and responsible family members or friends or the
1373 provision of other services, or there is substantial likelihood

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1374 that the person has inflicted, or threatened to or attempted to
1375 inflict, or, unless admitted, is likely to inflict, physical
1376 harm on himself, herself, or another.

1377 Section 27. Subsection (1) of section 397.6751, Florida
1378 Statutes, is amended to read:

1379 397.6751 Service provider responsibilities regarding
1380 involuntary admissions.—

1381 (1) It is the responsibility of the service provider to:

1382 (a) Ensure that a person who is admitted to a licensed
1383 service component meets the admission criteria specified in s.
1384 397.675;

1385 (b) Ascertain whether the medical and behavioral
1386 conditions of the person, as presented, are beyond the safe
1387 management capabilities of the service provider;

1388 (c) Provide for the admission of the person to the service
1389 component that represents the most appropriate and least
1390 restrictive available setting that is responsive to the person's
1391 treatment needs;

1392 (d) Verify that the admission of the person to the service
1393 component does not result in a census in excess of its licensed
1394 service capacity;

1395 (e) Determine whether the cost of services is within the
1396 financial means of the person or those who are financially
1397 responsible for the person's care; and

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1398 (f) Take all necessary measures to ensure that each
1399 individual in treatment is provided with a safe environment, and
1400 to ensure that each individual whose medical condition or
1401 behavioral problem becomes such that he or she cannot be safely
1402 managed by the service component is discharged and referred to a
1403 more appropriate setting for care.

1404 Section 28. Section 397.681, Florida Statutes, is amended
1405 to read:

1406 397.681 Involuntary petitions; general provisions; court
1407 jurisdiction and right to counsel.—

1408 (1) JURISDICTION.—The courts have jurisdiction of
1409 ~~involuntary assessment and stabilization petitions and~~
1410 involuntary treatment petitions for substance abuse impaired
1411 persons, and such petitions must be filed with the clerk of the
1412 court in the county where the person is located. The clerk of
1413 the court may not charge a fee for the filing of a petition
1414 under this section. The chief judge may appoint a general or
1415 special magistrate to preside over all or part of the
1416 proceedings. The alleged impaired person is named as the
1417 respondent.

1418 (2) RIGHT TO COUNSEL.—A respondent has the right to
1419 counsel at every stage of a judicial proceeding relating to a
1420 petition for his or her ~~involuntary assessment and a petition~~
1421 ~~for his or her~~ involuntary treatment for substance abuse
1422 impairment; however, the respondent may waive that right if the

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1423 respondent is present and the court finds that such waiver is
1424 made knowingly, intelligently, and voluntarily. A respondent who
1425 desires counsel and is unable to afford private counsel has the
1426 right to court-appointed counsel and to the benefits of s.
1427 57.081. If the court believes that the respondent needs or
1428 desires the assistance of counsel, the court shall appoint such
1429 counsel for the respondent without regard to the respondent's
1430 wishes. If the respondent is a minor not otherwise represented
1431 in the proceeding, the court shall immediately appoint a
1432 guardian ad litem to act on the minor's behalf.

1433 Section 29. Section 397.693, Florida Statutes, is
1434 renumbered as 397.68111, Florida Statutes, and amended to read:

1435 397.68111 ~~397.693~~ Involuntary treatment.—A person may be
1436 the subject of a petition for court-ordered involuntary
1437 treatment pursuant to this part, if that person:

1438 (1) Reasonably appears to meet ~~meets~~ the criteria for
1439 involuntary admission provided in s. 397.675; ~~and:~~

1440 (2) ~~(1)~~ Has been placed under protective custody pursuant
1441 to s. 397.677 within the previous 10 days;

1442 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
1443 to s. 397.679 within the previous 10 days; or

1444 (4) ~~(3)~~ Has been assessed by a qualified professional
1445 within 30 ~~5~~ days;

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1446 ~~(4) Has been subject to involuntary assessment and~~
1447 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
1448 ~~days; or~~

1449 ~~(5) Has been subject to alternative involuntary admission~~
1450 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1451 Section 30. Section 397.695, Florida Statutes, is
1452 renumbered as section 397.68112, Florida Statutes, and amended
1453 to read:

1454 397.68112 ~~397.695~~ Involuntary services; persons who may
1455 petition.—

1456 (1) If the respondent is an adult, a petition for
1457 involuntary treatment services may be filed by the respondent's
1458 spouse or legal guardian, any relative, a service provider, or
1459 an adult who has direct personal knowledge of the respondent's
1460 substance abuse impairment and his or her prior course of
1461 assessment and treatment.

1462 (2) If the respondent is a minor, a petition for
1463 involuntary treatment services may be filed by a parent, legal
1464 guardian, or service provider.

1465 (3) The court may prohibit, or a law enforcement agency
1466 may waive, any service of process fees if a petitioner is
1467 determined to be indigent.

1468 Section 31. Section 397.6951, Florida Statutes, is
1469 renumbered as 397.68141, Florida Statutes, and amended to read:

1470 397.68141 ~~397.6951~~ Contents of petition for involuntary

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1471 treatment services.—A petition for involuntary services must
1472 contain the name of the respondent; the name of the petitioner
1473 ~~or petitioners~~; the relationship between the respondent and the
1474 petitioner; the name of the respondent's attorney, if known; ~~the~~
1475 ~~findings and recommendations of the assessment performed by the~~
1476 ~~qualified professional~~; and the factual allegations presented by
1477 the petitioner establishing the need for involuntary ~~outpatient~~
1478 services for substance abuse impairment. The factual allegations
1479 must demonstrate:

1480 (1) The reason for the petitioner's belief that the
1481 respondent is substance abuse impaired;

1482 (2) The reason for the petitioner's belief that because of
1483 such impairment the respondent has lost the power of self-
1484 control with respect to substance abuse; and

1485 (3) (a) The reason the petitioner believes that the
1486 respondent has inflicted or is likely to inflict physical harm
1487 on himself or herself or others unless the court orders the
1488 involuntary services; or

1489 (b) The reason the petitioner believes that the
1490 respondent's refusal to voluntarily receive care is based on
1491 judgment so impaired by reason of substance abuse that the
1492 respondent is incapable of appreciating his or her need for care
1493 and of making a rational decision regarding that need for care.

1494 (4) The petition may be accompanied by a certificate or
1495 report of a qualified professional who examined the respondent

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1496 within 30 days before the petition was filed. The certificate or
1497 report must include the qualified professional's findings
1498 relating to his or her assessment of the patient and his or her
1499 treatment recommendations. If the respondent was not assessed
1500 before the filing of a treatment petition or refused to submit
1501 to an evaluation, the lack of assessment or refusal must be
1502 noted in the petition.

1503 (5) If there is an emergency, the petition must also
1504 describe the respondent's exigent circumstances and include a
1505 request for an ex parte assessment and stabilization order that
1506 must be executed pursuant to s. 397.68151.

1507 Section 32. Section 397.6955, Florida Statutes, is
1508 renumbered as section 397.68151, Florida Statutes, and amended
1509 to read:

1510 397.68151 ~~397.6955~~ Duties of court upon filing of petition
1511 for involuntary services.-

1512 (1) Upon the filing of a petition for involuntary services
1513 for a substance abuse impaired person with the clerk of the
1514 court, the court shall immediately determine whether the
1515 respondent is represented by an attorney or whether the
1516 appointment of counsel for the respondent is appropriate. If the
1517 court appoints counsel for the person, the clerk of the court
1518 shall immediately notify the office of criminal conflict and
1519 civil regional counsel, created pursuant to s. 27.511, of the
1520 appointment. The office of criminal conflict and civil regional

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1521 counsel shall represent the person until the petition is
1522 dismissed, the court order expires, ~~or~~ the person is discharged
1523 from involuntary treatment services, or the office is otherwise
1524 discharged by the court. An attorney that represents the person
1525 named in the petition shall have access to the person,
1526 witnesses, and records relevant to the presentation of the
1527 person's case and shall represent the interests of the person,
1528 regardless of the source of payment to the attorney.

1529 (2) The court shall schedule a hearing to be held on the
1530 petition within 10 court working 5 days unless a continuance is
1531 granted. The court may appoint a magistrate to preside at the
1532 hearing.

1533 (3) A copy of the petition and notice of the hearing must
1534 be provided to the respondent; the respondent's parent,
1535 guardian, or legal custodian, in the case of a minor; the
1536 respondent's attorney, if known; the petitioner; the
1537 respondent's spouse or guardian, if applicable; and such other
1538 persons as the court may direct. If the respondent is a minor, a
1539 copy of the petition and notice of the hearing must be
1540 personally delivered to the respondent. The clerk ~~court~~ shall
1541 also issue a summons to the person whose admission is sought and
1542 unless a circuit court's chief judge authorizes disinterested
1543 private process servers to serve parties under this chapter, a
1544 law enforcement agency must effect such service on the person
1545 whose admission is sought for the initial treatment hearing.

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1546 Section 33. Section 397.6818, Florida Statutes, is amended
1547 to read:

1548 397.6818 Court determination.—

1549 (1) When the petitioner asserts that emergency
1550 circumstances exist, or when upon review of the petition the
1551 court determines that an emergency exists, the court may rely
1552 solely on the contents of the petition and, without the
1553 appointment of an attorney, enter an ex parte order for the
1554 respondent's involuntary assessment and stabilization which must
1555 be executed during the period when the hearing on the petition
1556 for treatment is pending.

1557 (2) The court may further order a law enforcement officer
1558 or another designated agent of the court to:

1559 (a) Take the respondent into custody and deliver him or
1560 her for evaluation to either the nearest appropriate licensed
1561 service provider or a licensed service provider designated by
1562 the court.

1563 (b) Serve the respondent with the notice of hearing and a
1564 copy of the petition.

1565 (3) The service provider may not hold the respondent for
1566 longer than 72 hours of observation, unless:

1567 (a) The service provider seeks additional time under s.
1568 397.6957(1)(c) and the court, after a hearing, grants that
1569 motion;

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1570 (b) The respondent shows signs of withdrawal, or a need to
1571 be either detoxified or treated for a medical condition, which
1572 shall extend the amount of time the respondent may be held for
1573 observation until the issue is resolved but no later than the
1574 scheduled hearing date, absent a court-approved extension; or

1575 (c) The original or extended observation period ends on a
1576 weekend or holiday, including the hours before the ordinary
1577 business hours of the following workday morning, in which case
1578 the provider may hold the respondent until the next court
1579 working day.

1580 (4) If the ex parte order was not executed by the initial
1581 hearing date, it shall be deemed void. However, should the
1582 respondent not appear at the hearing for any reason, including
1583 lack of service, and upon reviewing the petition, testimony, and
1584 evidence presented, the court reasonably believes the respondent
1585 meets this chapter's commitment criteria and that a substance
1586 abuse emergency exists, the court may issue or reissue an ex
1587 parte assessment and stabilization order that is valid for 90
1588 days. If the respondent's location is known at the time of the
1589 hearing, the court:

1590 (a) Shall continue the case for no more than 10 court
1591 working days; and

1592 (b) May order a law enforcement officer or another
1593 designated agent of the court to:

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1594 1. Take the respondent into custody and deliver him or her
1595 for evaluation to either the nearest appropriate licensed
1596 service provider or a licensed service provider designated by
1597 the court; and

1598 2. If a hearing date is set, serve the respondent with
1599 notice of the rescheduled hearing and a copy of the involuntary
1600 treatment petition if the respondent has not already been
1601 served.

1602
1603 Otherwise, the petitioner must inform the court that the
1604 respondent has been assessed so that the court may schedule a
1605 hearing as soon as is practicable. However, if the respondent
1606 has not been assessed within 90 days, the court must dismiss the
1607 case. ~~At the hearing initiated in accordance with s.~~
1608 ~~397.6811(1), the court shall hear all relevant testimony. The~~
1609 ~~respondent must be present unless the court has reason to~~
1610 ~~believe that his or her presence is likely to be injurious to~~
1611 ~~him or her, in which event the court shall appoint a guardian~~
1612 ~~advocate to represent the respondent. The respondent has the~~
1613 ~~right to examination by a court-appointed qualified~~
1614 ~~professional. After hearing all the evidence, the court shall~~
1615 ~~determine whether there is a reasonable basis to believe the~~
1616 ~~respondent meets the involuntary admission criteria of s.~~
1617 ~~397.675.~~

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1618 ~~(1) Based on its determination, the court shall either~~
1619 ~~dismiss the petition or immediately enter an order authorizing~~
1620 ~~the involuntary assessment and stabilization of the respondent;~~
1621 ~~or, if in the course of the hearing the court has reason to~~
1622 ~~believe that the respondent, due to mental illness other than or~~
1623 ~~in addition to substance abuse impairment, is likely to injure~~
1624 ~~himself or herself or another if allowed to remain at liberty,~~
1625 ~~the court may initiate involuntary proceedings under the~~
1626 ~~provisions of part I of chapter 394.~~

1627 ~~(2) If the court enters an order authorizing involuntary~~
1628 ~~assessment and stabilization, the order shall include the~~
1629 ~~court's findings with respect to the availability and~~
1630 ~~appropriateness of the least restrictive alternatives and the~~
1631 ~~need for the appointment of an attorney to represent the~~
1632 ~~respondent, and may designate the specific licensed service~~
1633 ~~provider to perform the involuntary assessment and stabilization~~
1634 ~~of the respondent. The respondent may choose the licensed~~
1635 ~~service provider to deliver the involuntary assessment where~~
1636 ~~possible and appropriate.~~

1637 ~~(3) If the court finds it necessary, it may order the~~
1638 ~~sheriff to take the respondent into custody and deliver him or~~
1639 ~~her to the licensed service provider specified in the court~~
1640 ~~order or, if none is specified, to the nearest appropriate~~
1641 ~~licensed service provider for involuntary assessment.~~

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1642 ~~(4) The order is valid only for the period specified in~~
1643 ~~the order or, if a period is not specified, for 7 days after the~~
1644 ~~order is signed.~~

1645 Section 34. Section 397.6957, Florida Statutes, is amended
1646 to read:

1647 397.6957 Hearing on petition for involuntary treatment
1648 services.—

1649 (1) (a) The respondent must be present at a hearing on a
1650 petition for involuntary treatment services, unless the court
1651 finds that he or she knowingly, intelligently, and voluntarily
1652 waives his or her right to be present or, upon receiving proof
1653 of service and evaluating the circumstances of the case, that
1654 his or her presence is inconsistent with his or her best
1655 interests or is likely to be injurious to self or others. The
1656 court shall hear and review all relevant evidence, including
1657 testimony from individuals such as family members familiar with
1658 the respondent's prior history and how it relates to his or her
1659 current condition, and the review of results of the assessment
1660 completed by the qualified professional in connection with this
1661 chapter. The court may also order drug tests. The state attorney
1662 and witnesses may

1663
1664 -----

1665 **T I T L E A M E N D M E N T**

1666 Remove lines 2414-2417 of the amendment and insert:

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1667 | authorizing the court to permit the state attorney and witnesses
1668 | to attend and testify remotely at the hearing through specified
1669 | means; providing requirements for the state attorney and
1670 | witnesses to attend and testify remotely; requiring facilities
1671 | to make

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