

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

26 | authorizing a county to include alternative funding  
27 | arrangements for transporting individuals to  
28 | designated receiving facilities in the county's  
29 | transportation plan; amending s. 394.4625, F.S.;  
30 | revising requirements relating to voluntary admissions  
31 | to a facility for examination and treatment; requiring  
32 | certain treating psychiatric nurses to document  
33 | specified information in a patient's clinical record  
34 | within a specified timeframe; requiring clinical  
35 | psychologists who make determinations of involuntary  
36 | placement at certain mental health facilities to have  
37 | specified clinical experience; authorizing certain  
38 | psychiatric nurses to order emergency treatment for  
39 | certain patients; conforming provisions to changes  
40 | made by the act; amending s. 394.463, F.S.;  
41 | authorizing, rather than requiring, law enforcement  
42 | officers to take certain persons into custody for  
43 | involuntary examinations; requiring a law enforcement  
44 | officer to provide a parent or legal guardian of a  
45 | minor being transported to certain facilities with  
46 | specified facility information; providing an  
47 | exception; requiring written reports by law  
48 | enforcement officers to contain certain information;  
49 | requiring the Louis de la Parte Florida Mental Health  
50 | Institute to collect and analyze certain documents and

51 use them to prepare annual reports; providing  
52 requirements for such reports; requiring the institute  
53 to post such reports on its website by a specified  
54 date; requiring the department to post a specified  
55 report on its website; revising requirements for  
56 releasing a patient from a receiving facility;  
57 revising requirements for petitions for involuntary  
58 services; requiring the department and the Agency for  
59 Health Care Administration to analyze certain data,  
60 identify patterns and trends, and make recommendations  
61 to decrease avoidable admissions; authorizing  
62 recommendations to be addressed in a specified manner;  
63 requiring the institute to publish a specified report  
64 on its website and submit such report to the Governor  
65 and Legislature by a certain date; amending s.  
66 394.4655, F.S.; defining the term "involuntary  
67 outpatient placement"; authorizing a specified court  
68 to order an individual to involuntary outpatient  
69 treatment; removing provisions relating to criteria,  
70 retention of a patient, and petition for involuntary  
71 outpatient services and court proceedings relating to  
72 involuntary outpatient services; amending s. 394.467,  
73 F.S.; providing definitions; revising requirements for  
74 ordering a person for involuntary services and  
75 treatment, petitions for involuntary service,

76 | appointment of counsel, and continuances of hearings,  
77 | respectively; requiring clinical psychologists to have  
78 | specified clinical experience in order to recommend  
79 | involuntary services; authorizing certain psychiatric  
80 | nurses to recommend involuntary services for mental  
81 | health treatment; revising the conditions under which  
82 | a court may waive the requirement for a patient to be  
83 | present at an involuntary inpatient placement hearing;  
84 | authorizing the court to permit witnesses to attend  
85 | and testify remotely at the hearing through specified  
86 | means; providing requirements for a witness to attend  
87 | and testify remotely; requiring facilities to make  
88 | certain clinical records available to a state attorney  
89 | within a specified timeframe; specifying that such  
90 | records remain confidential and may not be used for  
91 | certain purposes; requiring the court to allow certain  
92 | testimony from specified persons; revising the length  
93 | of time a court may require a patient to receive  
94 | services; requiring facilities to discharge patients  
95 | when they no longer meet the criteria for involuntary  
96 | inpatient treatment; prohibiting courts from ordering  
97 | individuals with developmental disabilities to be  
98 | involuntarily placed in a state treatment facility;  
99 | requiring courts to refer such individuals, and  
100 | authorizing courts to refer certain other individuals,

101 to specified agencies for evaluation and services;  
 102 providing requirements for service plan modifications,  
 103 noncompliance with involuntary outpatient services,  
 104 and discharge, respectively; revising requirements for  
 105 the procedure for continued involuntary services and  
 106 return to facilities, respectively; amending s.  
 107 394.468, F.S.; revising requirements for discharge  
 108 planning and procedures; providing requirements for  
 109 the discharge transition process; creating s.  
 110 394.4915, F.S.; establishing the Office of Children's  
 111 Behavioral Health Ombudsman within the Department of  
 112 Children and Families for a specified purpose;  
 113 providing responsibilities of the office; requiring  
 114 the department and managing entities to include  
 115 specified information in a specified manner on their  
 116 websites; amending ss. 394.495 and 394.496, F.S.;  
 117 conforming provisions to changes made by the act;  
 118 amending s. 394.499, F.S.; revising eligibility  
 119 requirements for children's crisis stabilization  
 120 unit/juvenile addictions receiving facility services;  
 121 amending s. 394.875, F.S.; authorizing certain  
 122 psychiatric nurses to provide certain services;  
 123 removing a limitation on the size of a crisis  
 124 stabilization unit; removing a requirement for the  
 125 department to implement a certain demonstration

126 project; creating s. 394.90826, F.S.; requiring the  
127 Department of Health and the Agency for Health Care  
128 Administration to jointly establish behavioral health  
129 interagency collaboratives throughout the state for  
130 specified purposes; providing objectives and  
131 membership for each regional collaborative; requiring  
132 the department to define the regions to be served;  
133 providing requirements for the entities represented in  
134 each collaborative; amending s. 394.9085, F.S.;

135 conforming a cross-reference to changes made by the  
136 act; amending s. 397.305, F.S.; revising the purpose  
137 to include the most appropriate environment for  
138 substance abuse services; amending s. 397.311, F.S.;

139 revising definitions; amending s. 397.401, F.S.;

140 prohibiting certain service providers from exceeding  
141 their licensed capacity by more than a specified  
142 percentage or for more than a specified number of  
143 days; amending s. 397.4073, F.S.; providing an  
144 exception to background screening requirements for  
145 certain licensed physicians and nurses; amending s.  
146 397.501, F.S.; revising notice requirements for the  
147 right to counsel; amending s. 397.581, F.S.; revising  
148 actions that constitute unlawful activities relating  
149 to assessment and treatment; providing penalties;

150 amending s. 397.675, F.S.; revising the criteria for

151 involuntary admissions for purposes of assessment and  
152 stabilization, and for involuntary treatment; amending  
153 s. 397.6751, F.S.; revising service provider  
154 responsibilities relating to involuntary admissions;  
155 amending s. 397.681, F.S.; revising where involuntary  
156 treatment petitions for substance abuse impaired  
157 persons may be filed specifying requirements for the  
158 court to allow a waiver of the respondent's right to  
159 counsel relating to petitions for involuntary  
160 treatment; revising the circumstances under which  
161 courts are required to appoint counsel for respondents  
162 without regard to respondents' wishes; renumbering and  
163 amending s. 397.693, F.S.; revising the circumstances  
164 under which a person may be the subject of court-  
165 ordered involuntary treatment; renumbering and  
166 amending s. 397.695, F.S.; authorizing the court or  
167 clerk of the court to waive or prohibit any service of  
168 process fees for petitioners determined to be  
169 indigent; renumbering and amending s. 397.6951, F.S.;  
170 revising the information required to be included in a  
171 petition for involuntary treatment services;  
172 authorizing a petitioner to include a certificate or  
173 report of a qualified professional with such petition;  
174 requiring such certificate or report to contain  
175 certain information; requiring that certain additional

176 information be included if an emergency exists;  
177 renumbering and amending s. 397.6955, F.S.; revising  
178 when the office of criminal conflict and civil  
179 regional counsel represents a person in the filing of  
180 a petition for involuntary services and when a hearing  
181 must be held on such petition; requiring a law  
182 enforcement agency to effect service for initial  
183 treatment hearings; providing an exception; amending  
184 s. 397.6818, F.S.; authorizing the court to take  
185 certain actions and issue certain orders regarding a  
186 respondent's involuntary assessment if emergency  
187 circumstances exist; providing a specified timeframe  
188 for taking such actions; amending s. 397.6957, F.S.;  
189 expanding the exemption from the requirement that a  
190 respondent be present at a hearing on a petition for  
191 involuntary treatment services; authorizing the court  
192 to order drug tests and to permit witnesses to attend  
193 and testify remotely at the hearing through certain  
194 means; removing a provision requiring the court to  
195 appoint a guardian advocate under certain  
196 circumstances; prohibiting a respondent from being  
197 involuntarily ordered into treatment unless certain  
198 requirements are met; providing requirements relating  
199 to involuntary assessment and stabilization orders;  
200 providing requirements relating to involuntary

201 treatment hearings; requiring that the assessment of a  
 202 respondent occur before a specified time unless  
 203 certain requirements are met; authorizing service  
 204 providers to petition the court in writing for an  
 205 extension of the observation period; providing service  
 206 requirements for such petitions; authorizing the  
 207 service provider to continue to hold the respondent if  
 208 the court grants the petition; requiring a qualified  
 209 professional to transmit his or her report to the  
 210 clerk of the court within a specified timeframe;  
 211 requiring the clerk of the court to enter the report  
 212 into the court file; providing requirements for the  
 213 report; providing that the report's filing satisfies  
 214 the requirements for release of certain individuals if  
 215 it contains admission and discharge information;  
 216 providing for the petition's dismissal under certain  
 217 circumstances; authorizing the court to order certain  
 218 persons to take a respondent into custody and  
 219 transport him or her to or from certain service  
 220 providers and the court; revising the petitioner's  
 221 burden of proof in the hearing; authorizing the court  
 222 to initiate involuntary proceedings and have the  
 223 respondent evaluated by the Agency for Persons with  
 224 Disabilities under certain circumstances; requiring  
 225 that, if a treatment order is issued, it must include

226 | certain findings; amending s. 397.697, F.S.; requiring  
 227 | that an individual meet certain requirements to  
 228 | qualify for involuntary outpatient treatment; revising  
 229 | the jurisdiction of the court with respect to certain  
 230 | orders entered in a case; specifying that certain  
 231 | hearings may be set by either the motion of a party or  
 232 | under the court's own authority; requiring a certain  
 233 | institute to receive and maintain copies of certain  
 234 | documents and use them to prepare annual reports;  
 235 | providing requirements for such reports; requiring the  
 236 | institute to post such reports on its website and  
 237 | provide copies of such reports to the department and  
 238 | the Legislature by a specified date; amending s.  
 239 | 397.6971, F.S.; revising when an individual receiving  
 240 | involuntary treatment services may be determined  
 241 | eligible for discharge; conforming provisions to  
 242 | changes made by the act; amending s. 397.6975, F.S.;  
 243 | authorizing certain entities to file a petition for  
 244 | renewal of an involuntary treatment services order;  
 245 | revising the timeframe during which the court is  
 246 | required to schedule a hearing; amending s. 397.6977,  
 247 | F.S.; providing requirements for discharge planning  
 248 | and procedures for a respondent's release from  
 249 | involuntary treatment services; repealing ss.  
 250 | 397.6811, 397.6814, 397.6815, 397.6819, 397.6821,

251 397.6822, and 397.6978, F.S., relating to involuntary  
 252 assessment and stabilization and the appointment of  
 253 guardian advocates, respectively; amending s. 916.13,  
 254 F.S.; requiring the Department of Children and  
 255 Families to complete and submit a competency  
 256 evaluation report to the circuit court to determine if  
 257 a defendant adjudicated incompetent to proceed meets  
 258 the criteria for involuntary civil commitment if it is  
 259 determined that the defendant will not or is unlikely  
 260 to regain competency; defining the term "competency  
 261 evaluation report to the circuit court"; requiring a  
 262 qualified professional to sign such report under  
 263 penalty of perjury; providing requirements for such  
 264 report; authorizing a defendant who meets the criteria  
 265 for involuntary examination and court witnesses to  
 266 appear remotely for a hearing; amending ss. 40.29,  
 267 394.455, 409.972, 464.012, 744.2007, and 916.107,  
 268 F.S.; conforming provisions to changes made by the  
 269 act; providing an appropriation; providing an  
 270 effective date.

271  
 272 Be It Enacted by the Legislature of the State of Florida:

273  
 274 Section 1. Paragraph (e) is added to subsection (1) of  
 275 section 394.4572, Florida Statutes, to read:

276 394.4572 Screening of mental health personnel.—

277 (1)

278 (e) Any physician licensed under chapter 458 or chapter  
279 459 or a nurse licensed under chapter 464 who was required to  
280 undergo background screening by the Department of Health as part  
281 of his or her initial licensure and the renewal of licensure,  
282 and who has an active and unencumbered license, is not subject  
283 to background screening pursuant to this section.

284 Section 2. Paragraph (d) of subsection (5) of section  
285 394.459, Florida Statutes, are amended to read:

286 394.459 Rights of patients.—

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

288 (d) If a patient's right to communicate with outside  
289 persons; receive, send, or mail sealed, unopened correspondence;  
290 or receive visitors is restricted by the facility, a qualified  
291 professional must record the restriction and its underlying  
292 reasons in the patient's clinical file within 24 hours. The  
293 notice of the restriction must immediately ~~written notice of~~  
294 ~~such restriction and the reasons for the restriction shall be~~  
295 served on the patient, the patient's attorney, and the patient's  
296 guardian, guardian advocate, or representative. ~~A qualified~~  
297 ~~professional must document any restriction within 24 hours, and~~  
298 ~~such restriction shall be recorded on the patient's clinical~~  
299 ~~record with the reasons therefor.~~ The restriction of a patient's  
300 right to communicate or to receive visitors shall be reviewed at

301 least every 3 days. The right to communicate or receive visitors  
302 shall not be restricted as a means of punishment. Nothing in  
303 this paragraph shall be construed to limit the provisions of  
304 paragraph (e).

305 Section 3. Subsection (3) of section 394.4598, Florida  
306 Statutes, is amended to read:

307 394.4598 Guardian advocate.—

308 (3) A facility requesting appointment of a guardian  
309 advocate must, prior to the appointment, provide the prospective  
310 guardian advocate with information about the duties and  
311 responsibilities of guardian advocates, including the  
312 information about the ethics of medical decisionmaking. Before  
313 asking a guardian advocate to give consent to treatment for a  
314 patient, the facility shall provide to the guardian advocate  
315 sufficient information so that the guardian advocate can decide  
316 whether to give express and informed consent to the treatment,  
317 including information that the treatment is essential to the  
318 care of the patient, and that the treatment does not present an  
319 unreasonable risk of serious, hazardous, or irreversible side  
320 effects. Before giving consent to treatment, the guardian  
321 advocate must meet and talk with the patient and the patient's  
322 physician or psychiatric nurse practicing within the framework  
323 of an established protocol with a psychiatrist in person, if at  
324 all possible, and by telephone, if not. The decision of the  
325 guardian advocate may be reviewed by the court, upon petition of

326 the patient's attorney, the patient's family, or the facility  
 327 administrator.

328 Section 4. Paragraph (d) of subsection (2) of section  
 329 394.4599, Florida Statutes, is amended to read:

330 394.4599 Notice.—

331 (2) INVOLUNTARY ADMISSION.—

332 (d) The written notice of the filing of the petition for  
 333 involuntary services for an individual being held must contain  
 334 the following:

335 1. Notice that the petition for:

336 a. Involuntary services ~~inpatient treatment~~ pursuant to s.  
 337 394.467 has been filed with the circuit court and the address of  
 338 such court ~~in the county in which the individual is hospitalized~~  
 339 ~~and the address of such court; or~~

340 b. Involuntary outpatient services pursuant to s. 394.467  
 341 ~~s. 394.4655~~ has been filed with the criminal county court, as  
 342 defined in s. 394.4655(1), ~~or the circuit court, as applicable,~~  
 343 ~~in the county in which the individual is hospitalized~~ and the  
 344 address of such court.

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

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

351 4. Notice that the individual, the individual's guardian,  
 352 guardian advocate, health care surrogate or proxy, or  
 353 representative, or the administrator may apply for a change of  
 354 venue for the convenience of the parties or witnesses or because  
 355 of the condition of the individual.

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

359 Section 5. Subsection (2) and paragraph (d) of subsection  
 360 (4) of section 394.461, Florida Statutes, are amended to read:

361 394.461 Designation of receiving and treatment facilities  
 362 and receiving systems.—The department is authorized to designate  
 363 and monitor receiving facilities, treatment facilities, and  
 364 receiving systems and may suspend or withdraw such designation  
 365 for failure to comply with this part and rules adopted under  
 366 this part. The department may issue a conditional designation  
 367 for up to 60 days to allow the implementation of corrective  
 368 measures. Unless designated by the department, facilities are  
 369 not permitted to hold or treat involuntary patients under this  
 370 part.

371 (2) TREATMENT FACILITY.—The department may designate any  
 372 state-owned, state-operated, or state-supported facility as a  
 373 state treatment facility. A civil patient shall not be admitted  
 374 to a state treatment facility without previously undergoing a  
 375 transfer evaluation. Before the close of the state's case-in-

376 chief in a court hearing for involuntary placement ~~in a state~~  
 377 ~~treatment facility~~, the state may establish that the transfer  
 378 evaluation was performed and the document was properly executed  
 379 by providing the court with a copy of the transfer evaluation.  
 380 The court may not ~~shall receive and~~ consider the substantive  
 381 information ~~documented~~ in the transfer evaluation unless the  
 382 evaluator testifies at the hearing. Any other facility,  
 383 including a private facility or a federal facility, may be  
 384 designated as a treatment facility by the department, provided  
 385 that such designation is agreed to by the appropriate governing  
 386 body or authority of the facility.

387 (4) REPORTING REQUIREMENTS.—

388 (d) The department shall issue an annual report based on  
 389 the data required pursuant to this subsection. The report shall  
 390 include individual facilities' data, as well as statewide  
 391 totals. The report shall be posted on the department's website  
 392 ~~submitted to the Governor, the President of the Senate, and the~~  
 393 ~~Speaker of the House of Representatives.~~

394 Section 6. Paragraph (a) of subsection (2) and subsection  
 395 (3) of section 394.4615, Florida Statutes, is amended to read:

396 394.4615 Clinical records; confidentiality.—

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

398 (a) The patient or the patient's guardian or legal  
 399 custodian authorizes the release. The guardian, ~~or~~ guardian  
 400 advocate, or legal custodian shall be provided access to the

401 appropriate clinical records of the patient. The patient or the  
402 patient's guardian, ~~or~~ guardian advocate, or legal custodian may  
403 authorize the release of information and clinical records to  
404 appropriate persons to ensure the continuity of the patient's  
405 health care or mental health care. A receiving facility must  
406 document that, within 24 hours of admission, individuals  
407 admitted on a voluntary basis have been provided with the option  
408 to authorize the release of information from their clinical  
409 record to the individual's health care surrogate or proxy,  
410 attorney, representative, or other known emergency contact.

411 (3) Information from the clinical record may be released  
412 in the following circumstances:

413 (a) When a patient has communicated to a service provider  
414 a specific threat to cause serious bodily injury or death to an  
415 identified or a readily available person, if the service  
416 provider reasonably believes, or should reasonably believe  
417 according to the standards of his or her profession, that the  
418 patient has the apparent intent and ability to imminently or  
419 immediately carry out such threat. When such communication has  
420 been made, the administrator may authorize the release of  
421 sufficient information to provide adequate warning to the person  
422 threatened with harm by the patient.

423 (b) When the administrator of the facility or secretary of  
424 the department deems release to a qualified researcher as  
425 defined in administrative rule, an aftercare treatment provider,

426 or an employee or agent of the department is necessary for  
 427 treatment of the patient, maintenance of adequate records,  
 428 compilation of treatment data, aftercare planning, or evaluation  
 429 of programs.

430  
 431 For the purpose of determining whether a person meets the  
 432 criteria for involuntary services ~~outpatient placement~~ or for  
 433 preparing the proposed services ~~treatment~~ plan pursuant to s.  
 434 394.4655 or s. 394.467 ~~s. 394.4655~~, the clinical record may be  
 435 released to the state attorney, the public defender or the  
 436 patient's private legal counsel, the court, and to the  
 437 appropriate mental health professionals, including the service  
 438 provider under s. 394.4655 or s. 394.467 ~~identified in s.~~  
 439 ~~394.4655(7)(b)2.~~, in accordance with state and federal law.

440 Section 7. Section 394.462, Florida Statutes, is amended  
 441 to read:

442 394.462 Transportation.—A transportation plan shall be  
 443 developed and implemented by each county in collaboration with  
 444 the managing entity in accordance with this section. A county  
 445 may enter into a memorandum of understanding with the governing  
 446 boards of nearby counties to establish a shared transportation  
 447 plan. When multiple counties enter into a memorandum of  
 448 understanding for this purpose, the counties shall notify the  
 449 managing entity and provide it with a copy of the agreement. The  
 450 transportation plan shall describe methods of transport to a

451 facility within the designated receiving system for individuals  
452 subject to involuntary examination under s. 394.463 or  
453 involuntary admission under s. 397.6772, s. 397.679, s.  
454 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify  
455 responsibility for other transportation to a participating  
456 facility when necessary and agreed to by the facility. The plan  
457 may rely on emergency medical transport services or private  
458 transport companies, as appropriate. The plan shall comply with  
459 the transportation provisions of this section and ss. 397.6772,  
460 397.6795, ~~397.6822~~, and 397.697.

461 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

462 (a) Each county shall designate a single law enforcement  
463 agency within the county, or portions thereof, to take a person  
464 into custody upon the entry of an ex parte order or the  
465 execution of a certificate for involuntary examination by an  
466 authorized professional and to transport that person to the  
467 appropriate facility within the designated receiving system  
468 pursuant to a transportation plan.

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

471 a. The jurisdiction designated by the county has  
472 contracted on an annual basis with an emergency medical  
473 transport service or private transport company for  
474 transportation of persons to receiving facilities pursuant to  
475 this section at the sole cost of the county or as otherwise

476 provided in the transportation plan developed by the county; and

477       b. The law enforcement agency and the emergency medical  
478 transport service or private transport company agree that the  
479 continued presence of law enforcement personnel is not necessary  
480 for the safety of the person or others.

481       2. The entity providing transportation may seek  
482 reimbursement for transportation expenses. The party responsible  
483 for payment for such transportation is the person receiving the  
484 transportation. The county shall seek reimbursement from the  
485 following sources in the following order:

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

488       b. From the person receiving the transportation.

489       c. From a financial settlement for medical care,  
490 treatment, hospitalization, or transportation payable or  
491 accruing to the injured party.

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

497       (d) Any company that contracts with a governing board of a  
498 county to transport patients shall comply with the applicable  
499 rules of the department to ensure the safety and dignity of  
500 patients.

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

505 (f) When a member of a mental health overlay program or a  
506 mobile crisis response service is a professional authorized to  
507 initiate an involuntary examination pursuant to s. 394.463 or s.  
508 397.675 and that professional evaluates a person and determines  
509 that transportation to a receiving facility is needed, the  
510 service, at its discretion, may transport the person to the  
511 facility or may call on the law enforcement agency or other  
512 transportation arrangement best suited to the needs of the  
513 patient.

514 (g) When any law enforcement officer has custody of a  
515 person based on either noncriminal or minor criminal behavior  
516 that meets the statutory guidelines for involuntary examination  
517 pursuant to s. 394.463, the law enforcement officer shall  
518 transport the person to the appropriate facility within the  
519 designated receiving system pursuant to a transportation plan.  
520 Persons who meet the statutory guidelines for involuntary  
521 admission pursuant to s. 397.675 may also be transported by law  
522 enforcement officers to the extent resources are available and  
523 as otherwise provided by law. Such persons shall be transported  
524 to an appropriate facility within the designated receiving  
525 system pursuant to a transportation plan.

526 (h) When any law enforcement officer has arrested a person  
527 for a felony and it appears that the person meets the statutory  
528 guidelines for involuntary examination or placement under this  
529 part, such person must first be processed in the same manner as  
530 any other criminal suspect. The law enforcement agency shall  
531 thereafter immediately notify the appropriate facility within  
532 the designated receiving system pursuant to a transportation  
533 plan. The receiving facility shall be responsible for promptly  
534 arranging for the examination and treatment of the person. A  
535 receiving facility is not required to admit a person charged  
536 with a crime for whom the facility determines and documents that  
537 it is unable to provide adequate security, but shall provide  
538 examination and treatment to the person where he or she is held.

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

544 (j) The costs of transportation, evaluation,  
545 hospitalization, and treatment incurred under this subsection by  
546 persons who have been arrested for violations of any state law  
547 or county or municipal ordinance may be recovered as provided in  
548 s. 901.35.

549 (k) The appropriate facility within the designated  
550 receiving system pursuant to a transportation plan must accept

551 persons brought by law enforcement officers, or an emergency  
552 medical transport service or a private transport company  
553 authorized by the county, for involuntary examination pursuant  
554 to s. 394.463.

555 (l) The appropriate facility within the designated  
556 receiving system pursuant to a transportation plan must provide  
557 persons brought by law enforcement officers, or an emergency  
558 medical transport service or a private transport company  
559 authorized by the county, pursuant to s. 397.675, a basic  
560 screening or triage sufficient to refer the person to the  
561 appropriate services.

562 (m) Each law enforcement agency designated pursuant to  
563 paragraph (a) shall establish a policy that reflects a single  
564 set of protocols for the safe and secure transportation and  
565 transfer of custody of the person. Each law enforcement agency  
566 shall provide a copy of the protocols to the managing entity.

567 (n) When a jurisdiction has entered into a contract with  
568 an emergency medical transport service or a private transport  
569 company for transportation of persons to facilities within the  
570 designated receiving system, such service or company shall be  
571 given preference for transportation of persons from nursing  
572 homes, assisted living facilities, adult day care centers, or  
573 adult family-care homes, unless the behavior of the person being  
574 transported is such that transportation by a law enforcement  
575 officer is necessary.

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

579 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

580 (a) If neither the patient nor any person legally  
 581 obligated or responsible for the patient is able to pay for the  
 582 expense of transporting a voluntary or involuntary patient to a  
 583 treatment facility, the transportation plan established by the  
 584 governing board of the county or counties must specify how the  
 585 hospitalized patient will be transported to, from, and between  
 586 facilities in a safe and dignified manner.

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

593 (c) A company that contracts with one or more counties to  
 594 transport patients in accordance with this section shall comply  
 595 with the applicable rules of the department to ensure the safety  
 596 and dignity of patients.

597 (d) County or municipal law enforcement and correctional  
 598 personnel and equipment may not be used to transport patients  
 599 adjudicated incapacitated or found by the court to meet the  
 600 criteria for involuntary services placement ~~placement~~ pursuant to s.

601 394.467, except in small rural counties where there are no cost-  
 602 efficient alternatives.

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

607 Section 8. Paragraphs (a) and (f) of subsection (1) and  
 608 subsection (5) of section 394.4625, Florida Statutes, are  
 609 amended to read:

610 394.4625 Voluntary admissions.—

611 (1) AUTHORITY TO RECEIVE PATIENTS.—

612 (a) A facility may receive for observation, diagnosis, or  
 613 treatment any adult ~~person 18 years of age or older~~ who applies  
 614 by express and informed consent for admission or any minor  
 615 ~~person age 17 or younger~~ whose parent or legal guardian applies  
 616 for admission. Such person may be admitted to the facility if  
 617 found to show evidence of mental illness and to be suitable for  
 618 treatment, and:

619 1. If the person is an adult, is found, to be competent to  
 620 provide express and informed consent; or

621 2. If the person is a minor, the parent or legal guardian  
 622 provides express and informed consent and the facility performs,  
 623 ~~and to be suitable for treatment, such person 18 years of age or~~  
 624 ~~older may be admitted to the facility. A person age 17 or~~  
 625 ~~younger may be admitted only after a clinical review to verify~~

626 the voluntariness of the minor's assent.

627 (f) Within 24 hours after admission of a voluntary  
628 patient, the treating ~~admitting~~ physician or psychiatric nurse  
629 practicing within the framework of an established protocol with  
630 a psychiatrist shall document in the patient's clinical record  
631 that the patient is able to give express and informed consent  
632 for admission. If the patient is not able to give express and  
633 informed consent for admission, the facility shall either  
634 discharge the patient or transfer the patient to involuntary  
635 status pursuant to subsection (5).

636 (5) TRANSFER TO INVOLUNTARY STATUS.—When a voluntary  
637 patient, or an authorized person on the patient's behalf, makes  
638 a request for discharge, the request for discharge, unless  
639 freely and voluntarily rescinded, must be communicated to a  
640 physician, clinical psychologist with at least 3 years of  
641 postdoctoral experience in the practice of clinical psychology,  
642 or psychiatrist as quickly as possible, but not later than 12  
643 hours after the request is made. If the patient meets the  
644 criteria for involuntary placement, the administrator of the  
645 facility must file with the court a petition for involuntary  
646 placement, within 2 court working days after the request for  
647 discharge is made. If the petition is not filed within 2 court  
648 working days, the patient shall be discharged. Pending the  
649 filing of the petition, the patient may be held and emergency  
650 treatment rendered in the least restrictive manner, upon the

651 ~~written~~ order of a physician or psychiatric nurse practicing  
 652 within the framework of an established protocol with a  
 653 psychiatrist, if it is determined that such treatment is  
 654 necessary for the safety of the patient or others.

655 Section 9. Subsection (1), paragraphs (a), (e), (f), (g),  
 656 and (h) of subsection (2), and subsection (4) of section  
 657 394.463, Florida Statutes, are amended to read:

658 394.463 Involuntary examination.—

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

663 (a)1. The person has refused voluntary examination after  
 664 conscientious explanation and disclosure of the purpose of the  
 665 examination; or

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

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

675 2. There is a substantial likelihood that without care or

676 treatment the person will cause serious bodily harm to himself  
 677 or herself or others in the near future, as evidenced by recent  
 678 behavior.

679 (2) INVOLUNTARY EXAMINATION.—

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

682 1. A circuit or county court may enter an ex parte order  
 683 stating that a person appears to meet the criteria for  
 684 involuntary examination and specifying the findings on which  
 685 that conclusion is based. The ex parte order for involuntary  
 686 examination must be based on written or oral sworn testimony  
 687 that includes specific facts that support the findings. If other  
 688 less restrictive means are not available, such as voluntary  
 689 appearance for outpatient evaluation, a law enforcement officer,  
 690 or other designated agent of the court, shall take the person  
 691 into custody and deliver him or her to an appropriate, or the  
 692 nearest, facility within the designated receiving system  
 693 pursuant to s. 394.462 for involuntary examination. The order of  
 694 the court shall be made a part of the patient's clinical record.  
 695 A fee may not be charged for the filing of an order under this  
 696 subsection. A facility accepting the patient based on this order  
 697 must send a copy of the order to the department within 5 working  
 698 days. The order may be submitted electronically through existing  
 699 data systems, if available. The order shall be valid only until  
 700 the person is delivered to the facility or for the period

701 specified in the order itself, whichever comes first. If a time  
702 limit is not specified in the order, the order is valid for 7  
703 days after the date that the order was signed.

704 2. A law enforcement officer may ~~shall~~ take a person who  
705 appears to meet the criteria for involuntary examination into  
706 custody and deliver the person or have him or her delivered to  
707 an appropriate, or the nearest, facility within the designated  
708 receiving system pursuant to s. 394.462 for examination. A law  
709 enforcement officer transporting a person pursuant to this  
710 section ~~subparagraph~~ shall restrain the person in the least  
711 restrictive manner available and appropriate under the  
712 circumstances. If transporting a minor and the parent or legal  
713 guardian of the minor is present, before departing, the law  
714 enforcement officer shall provide the parent or legal guardian  
715 of the minor with the name, address, and contact information for  
716 the facility within the designated receiving system to which the  
717 law enforcement officer is transporting the minor, subject to  
718 any safety and welfare concerns for the minor. The officer shall  
719 execute a written report detailing the circumstances under which  
720 the person was taken into custody, which must be made a part of  
721 the patient's clinical record. The report must include all  
722 emergency contact information for the person that is readily  
723 accessible to the law enforcement officer, including information  
724 available through electronic databases maintained by the  
725 Department of Law Enforcement or by the Department of Highway

726 Safety and Motor Vehicles. Such emergency contact information  
727 may be used by a receiving facility only for the purpose of  
728 informing listed emergency contacts of a patient's whereabouts  
729 pursuant to s. 119.0712(2)(d). Any facility accepting the  
730 patient based on this report must send a copy of the report to  
731 the department within 5 working days.

732 3. A physician, a physician assistant, a clinical  
733 psychologist, a psychiatric nurse, an advanced practice  
734 registered nurse registered under s. 464.0123, a mental health  
735 counselor, a marriage and family therapist, or a clinical social  
736 worker may execute a certificate stating that he or she has  
737 examined a person within the preceding 48 hours and finds that  
738 the person appears to meet the criteria for involuntary  
739 examination and stating the observations upon which that  
740 conclusion is based. If other less restrictive means, such as  
741 voluntary appearance for outpatient evaluation, are not  
742 available, a law enforcement officer shall take into custody the  
743 person named in the certificate and deliver him or her to the  
744 appropriate, or nearest, facility within the designated  
745 receiving system pursuant to s. 394.462 for involuntary  
746 examination. The law enforcement officer shall execute a written  
747 report detailing the circumstances under which the person was  
748 taken into custody and include all emergency contact information  
749 required under subparagraph 2. The report must include all  
750 emergency contact information for the person that is readily

CS/CS/HB 7021

2024

751 accessible to the law enforcement officer, including information  
752 available through electronic databases maintained by the  
753 Department of Law Enforcement or by the Department of Highway  
754 Safety and Motor Vehicles. Such emergency contact information  
755 may be used by a receiving facility only for the purpose of  
756 informing listed emergency contacts of a patient's whereabouts  
757 pursuant to s. 119.0712(2)(d). The report and certificate shall  
758 be made a part of the patient's clinical record. Any facility  
759 accepting the patient based on this certificate must send a copy  
760 of the certificate to the department within 5 working days. The  
761 document may be submitted electronically through existing data  
762 systems, if applicable.

763  
764 When sending the order, report, or certificate to the  
765 department, a facility shall, at a minimum, provide information  
766 about which action was taken regarding the patient under  
767 paragraph (g), which information shall also be made a part of  
768 the patient's clinical record.

769 (e) The department shall receive and maintain the copies  
770 of ex parte orders, involuntary ~~outpatient~~ services orders  
771 issued pursuant to ss. 394.4655 and 394.467 ~~s. 394.4655,~~  
772 ~~involuntary inpatient placement orders issued pursuant to s.~~  
773 ~~394.467,~~ professional certificates, law enforcement officers'  
774 reports, and reports relating to the transportation of patients.  
775 These documents shall be considered part of the clinical record,

776 governed by the provisions of s. 394.4615. These documents shall  
777 be provided to the Louis de la Parte Florida Mental Health  
778 Institute established under s. 1004.44 by the department and  
779 used by the institute to prepare annual reports analyzing the  
780 data obtained from these documents, without including the  
781 personal identifying information of the patient. The information  
782 in the reports may include, but need not be limited to, a state  
783 level analysis of involuntary examinations, including a  
784 description of demographic characteristics of individuals and  
785 the geographic locations of involuntary examinations; counts of  
786 the number of involuntary examinations at each receiving  
787 facility; and reporting and analysis of trends for involuntary  
788 examinations within the state. The report shall also include  
789 counts of and provide demographic, geographic, and other  
790 relevant information about individuals with a developmental  
791 disability, as defined in s. 393.063, or a traumatic brain  
792 injury or dementia who were taken to a receiving facility for  
793 involuntary examination pursuant to s. 394.463 and determined  
794 not to have a co-occurring mental illness. The institute  
795 ~~identifying patients, and~~ shall post the reports on its website  
796 and provide copies of such reports to the department, the  
797 President of the Senate, the Speaker of the House of  
798 Representatives, and the minority leaders of the Senate and the  
799 House of Representatives by November 30 of each year.

800 (f) A patient shall be examined by a physician or a

801 clinical psychologist, or by a psychiatric nurse performing  
802 within the framework of an established protocol with a  
803 psychiatrist at a facility without unnecessary delay to  
804 determine if the criteria for involuntary services are met.  
805 Emergency treatment may be provided upon the order of a  
806 physician if the physician determines that such treatment is  
807 necessary for the safety of the patient or others. The patient  
808 may not be released by the receiving facility or its contractor  
809 without the documented approval of a psychiatrist or a clinical  
810 psychologist or, if the receiving facility is owned or operated  
811 by a hospital, health system, or nationally accredited community  
812 mental health center, the release may also be approved by a  
813 psychiatric nurse performing within the framework of an  
814 established protocol with a psychiatrist, or an attending  
815 emergency department physician with experience in the diagnosis  
816 and treatment of mental illness after completion of an  
817 involuntary examination pursuant to this subsection. A  
818 psychiatric nurse may not approve the release of a patient if  
819 the involuntary examination was initiated by a psychiatrist  
820 unless the release is approved by the initiating psychiatrist.  
821 The release may be approved through telehealth.

822 (g) The examination period must be for up to 72 hours and  
823 begins when a patient arrives at the receiving facility. For a  
824 minor, the examination shall be initiated within 12 hours after  
825 the patient's arrival at the facility. Within the examination

826 | period, one of the following actions must be taken, based on the  
827 | individual needs of the patient:

828 |       1. The patient shall be released, unless he or she is  
829 | charged with a crime, in which case the patient shall be  
830 | returned to the custody of a law enforcement officer;

831 |       2. The patient shall be released, subject to subparagraph  
832 | 1., for voluntary outpatient treatment;

833 |       3. The patient, unless he or she is charged with a crime,  
834 | shall be asked to give express and informed consent to placement  
835 | as a voluntary patient and, if such consent is given, the  
836 | patient shall be admitted as a voluntary patient; or

837 |       4. A petition for involuntary services shall be filed in  
838 | the circuit court ~~if inpatient treatment is deemed necessary~~ or  
839 | with the criminal county court, as defined in s. 394.4655(1), as  
840 | applicable. When inpatient treatment is deemed necessary, the  
841 | least restrictive treatment consistent with the optimum  
842 | improvement of the patient's condition shall be made available.  
843 | ~~The~~ When a petition is to be filed for involuntary outpatient  
844 | placement, ~~it~~ shall be filed by one of the petitioners specified  
845 | in s. 394.467, and the court shall dismiss an untimely filed  
846 | petition s. 394.4655(4) (a). ~~A petition for involuntary inpatient~~  
847 | ~~placement shall be filed by the facility administrator.~~ If a  
848 | patient's 72-hour examination period ends on a weekend or  
849 | holiday, including the hours before the ordinary business hours  
850 | on the morning of the next working day, and the receiving

851 facility:

852 a. Intends to file a petition for involuntary services,  
853 such patient may be held at the ~~a receiving~~ facility through the  
854 next working day thereafter and the ~~such~~ petition ~~for~~  
855 ~~involuntary services~~ must be filed no later than such date. If  
856 the ~~receiving~~ facility fails to file the ~~a~~ petition by ~~for~~  
857 ~~involuntary services~~ at the ordinary close of business on the  
858 next working day, the patient shall be released from the  
859 receiving facility following approval pursuant to paragraph (f).

860 b. Does not intend to file a petition for involuntary  
861 services, the ~~a~~ receiving facility may postpone release of a  
862 patient until the next working day thereafter only if a  
863 qualified professional documents that adequate discharge  
864 planning and procedures in accordance with s. 394.468, and  
865 approval pursuant to paragraph (f), are not possible until the  
866 next working day.

867 (h) A person for whom an involuntary examination has been  
868 initiated who is being evaluated or treated at a hospital for an  
869 emergency medical condition specified in s. 395.002 must be  
870 examined by a facility within the examination period specified  
871 in paragraph (g). The examination period begins when the patient  
872 arrives at the hospital and ceases when the attending physician  
873 documents that the patient has an emergency medical condition.  
874 If the patient is examined at a hospital providing emergency  
875 medical services by a professional qualified to perform an

876 involuntary examination and is found as a result of that  
 877 examination not to meet the criteria for involuntary ~~outpatient~~  
 878 services pursuant to s. 394.467 ~~s. 394.4655(2) or involuntary~~  
 879 ~~inpatient placement pursuant to s. 394.467(1)~~, the patient may  
 880 be offered voluntary outpatient or inpatient services ~~or~~  
 881 ~~placement~~, if appropriate, or released directly from the  
 882 hospital providing emergency medical services. The finding by  
 883 the professional that the patient has been examined and does not  
 884 meet the criteria for involuntary ~~inpatient~~ services ~~or~~  
 885 ~~involuntary outpatient placement~~ must be entered into the  
 886 patient's clinical record. This paragraph is not intended to  
 887 prevent a hospital providing emergency medical services from  
 888 appropriately transferring a patient to another hospital before  
 889 stabilization if the requirements of s. 395.1041(3)(c) have been  
 890 met.

891 (4) DATA ANALYSIS.—

892 (a) The department shall provide the ~~Using~~ data collected  
 893 under paragraph (2)(a) and s. 1006.07(10), and child welfare  
 894 data related to involuntary examinations, to the Louis de la  
 895 Parte Florida Mental Health Institute established under s.  
 896 1004.44. The Agency for Health Care Administration shall provide  
 897 Medicaid data to the institute, requested by the institute,  
 898 related to involuntary examination of children enrolled in  
 899 Medicaid for the purpose of administering the program and  
 900 improving service provision for such children. The department

901 and agency shall enter into any necessary agreements with the  
902 institute to provide such data. The institute shall use such  
903 data to ~~the department shall~~, at a minimum, analyze data on both  
904 the initiation of involuntary examinations of children and the  
905 initiation of involuntary examinations of students who are  
906 removed from a school; identify any patterns or trends and cases  
907 in which involuntary examinations are repeatedly initiated on  
908 the same child or student; study root causes for such patterns,  
909 trends, or repeated involuntary examinations; and make  
910 recommendations to encourage the use of alternatives to  
911 eliminate inappropriate initiations of such examinations.

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

917 Recommendations may be addressed in the department's contracts  
918 with the behavioral health managing entities and in the  
919 contracts between the Agency for Health Care Administration and  
920 the Medicaid managed medical assistance plans.

921 (c) The institute ~~department~~ shall publish ~~submit~~ a report  
922 on its findings and recommendations on its website and submit  
923 the report to the Governor, the President of the Senate, ~~and~~ the  
924 Speaker of the House of Representatives, the department, and the  
925 Agency for Health Care Administration by November 1 of each odd-

926 | numbered year.

927 | Section 10. Section 394.4655, Florida Statutes, is amended  
 928 | to read:

929 | 394.4655 Involuntary outpatient services.—

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

931 | (a) "Court" means a circuit court or a criminal county  
 932 | court.

933 | (b) "Criminal county court" means a county court  
 934 | exercising its original jurisdiction in a misdemeanor case under  
 935 | s. 34.01.

936 | (c) "Involuntary outpatient placement" means involuntary  
 937 | outpatient services as defined in s. 394.467, F.S.

938 | (2) A criminal county court may order an individual to  
 939 | involuntary outpatient placement under s. 394.467. CRITERIA FOR  
 940 | INVOLUNTARY OUTPATIENT SERVICES.—A person may be ordered to  
 941 | involuntary outpatient services upon a finding of the court, by  
 942 | clear and convincing evidence, that the person meets all of the  
 943 | following criteria:

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

945 | ~~(b) The person has a mental illness.~~

946 | ~~(c) The person is unlikely to survive safely in the~~  
 947 | ~~community without supervision, based on a clinical~~  
 948 | ~~determination.~~

949 | ~~(d) The person has a history of lack of compliance with~~  
 950 | ~~treatment for mental illness.~~

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

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

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

961 ~~(f) The person is, as a result of his or her mental~~  
962 ~~illness, unlikely to voluntarily participate in the recommended~~  
963 ~~treatment plan and has refused voluntary services for treatment~~  
964 ~~after sufficient and conscientious explanation and disclosure of~~  
965 ~~why the services are necessary or is unable to determine for~~  
966 ~~himself or herself whether services are necessary.~~

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

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

975 ~~(i) All available, less restrictive alternatives that~~

976 ~~would offer an opportunity for improvement of his or her~~  
 977 ~~condition have been judged to be inappropriate or unavailable.~~

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

979 ~~(a)1. A patient who is being recommended for involuntary~~  
 980 ~~outpatient services by the administrator of the facility where~~  
 981 ~~the patient has been examined may be retained by the facility~~  
 982 ~~after adherence to the notice procedures provided in s.~~  
 983 ~~394.4599. The recommendation must be supported by the opinion of~~  
 984 ~~a psychiatrist and the second opinion of a clinical psychologist~~  
 985 ~~or another psychiatrist, both of whom have personally examined~~  
 986 ~~the patient within the preceding 72 hours, that the criteria for~~  
 987 ~~involuntary outpatient services are met. However, if the~~  
 988 ~~administrator certifies that a psychiatrist or clinical~~  
 989 ~~psychologist is not available to provide the second opinion, the~~  
 990 ~~second opinion may be provided by a licensed physician who has~~  
 991 ~~postgraduate training and experience in diagnosis and treatment~~  
 992 ~~of mental illness, a physician assistant who has at least 3~~  
 993 ~~years' experience and is supervised by such licensed physician~~  
 994 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~  
 995 ~~nurse. Any second opinion authorized in this subparagraph may be~~  
 996 ~~conducted through a face-to-face examination, in person or by~~  
 997 ~~electronic means. Such recommendation must be entered on an~~  
 998 ~~involuntary outpatient services certificate that authorizes the~~  
 999 ~~facility to retain the patient pending completion of a hearing.~~  
 1000 ~~The certificate must be made a part of the patient's clinical~~

1001 ~~record.~~

1002 ~~2. If the patient has been stabilized and no longer meets~~  
1003 ~~the criteria for involuntary examination pursuant to s.~~  
1004 ~~394.463(1), the patient must be released from the facility while~~  
1005 ~~awaiting the hearing for involuntary outpatient services. Before~~  
1006 ~~filing a petition for involuntary outpatient services, the~~  
1007 ~~administrator of the facility or a designated department~~  
1008 ~~representative must identify the service provider that will have~~  
1009 ~~primary responsibility for service provision under an order for~~  
1010 ~~involuntary outpatient services, unless the person is otherwise~~  
1011 ~~participating in outpatient psychiatric treatment and is not in~~  
1012 ~~need of public financing for that treatment, in which case the~~  
1013 ~~individual, if eligible, may be ordered to involuntary treatment~~  
1014 ~~pursuant to the existing psychiatric treatment relationship.~~

1015 ~~3. The service provider shall prepare a written proposed~~  
1016 ~~treatment plan in consultation with the patient or the patient's~~  
1017 ~~guardian advocate, if appointed, for the court's consideration~~  
1018 ~~for inclusion in the involuntary outpatient services order that~~  
1019 ~~addresses the nature and extent of the mental illness and any~~  
1020 ~~co-occurring substance use disorder that necessitate involuntary~~  
1021 ~~outpatient services. The treatment plan must specify the likely~~  
1022 ~~level of care, including the use of medication, and anticipated~~  
1023 ~~discharge criteria for terminating involuntary outpatient~~  
1024 ~~services. Service providers may select and supervise other~~  
1025 ~~individuals to implement specific aspects of the treatment plan.~~

1026 ~~The services in the plan must be deemed clinically appropriate~~  
1027 ~~by a physician, clinical psychologist, psychiatric nurse, mental~~  
1028 ~~health counselor, marriage and family therapist, or clinical~~  
1029 ~~social worker who consults with, or is employed or contracted~~  
1030 ~~by, the service provider. The service provider must certify to~~  
1031 ~~the court in the proposed plan whether sufficient services for~~  
1032 ~~improvement and stabilization are currently available and~~  
1033 ~~whether the service provider agrees to provide those services.~~  
1034 ~~If the service provider certifies that the services in the~~  
1035 ~~proposed treatment plan are not available, the petitioner may~~  
1036 ~~not file the petition. The service provider must notify the~~  
1037 ~~managing entity if the requested services are not available. The~~  
1038 ~~managing entity must document such efforts to obtain the~~  
1039 ~~requested services.~~

1040 ~~(b) If a patient in involuntary inpatient placement meets~~  
1041 ~~the criteria for involuntary outpatient services, the~~  
1042 ~~administrator of the facility may, before the expiration of the~~  
1043 ~~period during which the facility is authorized to retain the~~  
1044 ~~patient, recommend involuntary outpatient services. The~~  
1045 ~~recommendation must be supported by the opinion of a~~  
1046 ~~psychiatrist and the second opinion of a clinical psychologist~~  
1047 ~~or another psychiatrist, both of whom have personally examined~~  
1048 ~~the patient within the preceding 72 hours, that the criteria for~~  
1049 ~~involuntary outpatient services are met. However, if the~~  
1050 ~~administrator certifies that a psychiatrist or clinical~~

1051 ~~psychologist is not available to provide the second opinion, the~~  
1052 ~~second opinion may be provided by a licensed physician who has~~  
1053 ~~postgraduate training and experience in diagnosis and treatment~~  
1054 ~~of mental illness, a physician assistant who has at least 3~~  
1055 ~~years' experience and is supervised by such licensed physician~~  
1056 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~  
1057 ~~nurse. Any second opinion authorized in this subparagraph may be~~  
1058 ~~conducted through a face-to-face examination, in person or by~~  
1059 ~~electronic means. Such recommendation must be entered on an~~  
1060 ~~involuntary outpatient services certificate, and the certificate~~  
1061 ~~must be made a part of the patient's clinical record.~~

1062 ~~(c)1. The administrator of the treatment facility shall~~  
1063 ~~provide a copy of the involuntary outpatient services~~  
1064 ~~certificate and a copy of the state mental health discharge form~~  
1065 ~~to the managing entity in the county where the patient will be~~  
1066 ~~residing. For persons who are leaving a state mental health~~  
1067 ~~treatment facility, the petition for involuntary outpatient~~  
1068 ~~services must be filed in the county where the patient will be~~  
1069 ~~residing.~~

1070 ~~2. The service provider that will have primary~~  
1071 ~~responsibility for service provision shall be identified by the~~  
1072 ~~designated department representative before the order for~~  
1073 ~~involuntary outpatient services and must, before filing a~~  
1074 ~~petition for involuntary outpatient services, certify to the~~  
1075 ~~court whether the services recommended in the patient's~~

1076 ~~discharge plan are available and whether the service provider~~  
 1077 ~~agrees to provide those services. The service provider must~~  
 1078 ~~develop with the patient, or the patient's guardian advocate, if~~  
 1079 ~~appointed, a treatment or service plan that addresses the needs~~  
 1080 ~~identified in the discharge plan. The plan must be deemed to be~~  
 1081 ~~clinically appropriate by a physician, clinical psychologist,~~  
 1082 ~~psychiatric nurse, mental health counselor, marriage and family~~  
 1083 ~~therapist, or clinical social worker, as defined in this~~  
 1084 ~~chapter, who consults with, or is employed or contracted by, the~~  
 1085 ~~service provider.~~

1086 ~~3. If the service provider certifies that the services in~~  
 1087 ~~the proposed treatment or service plan are not available, the~~  
 1088 ~~petitioner may not file the petition. The service provider must~~  
 1089 ~~notify the managing entity if the requested services are not~~  
 1090 ~~available. The managing entity must document such efforts to~~  
 1091 ~~obtain the requested services.~~

1092 ~~(4) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES.—~~

1093 ~~(a) A petition for involuntary outpatient services may be~~  
 1094 ~~filed by:~~

1095 ~~1. The administrator of a receiving facility; or~~

1096 ~~2. The administrator of a treatment facility.~~

1097 ~~(b) Each required criterion for involuntary outpatient~~  
 1098 ~~services must be alleged and substantiated in the petition for~~  
 1099 ~~involuntary outpatient services. A copy of the certificate~~  
 1100 ~~recommending involuntary outpatient services completed by a~~

1101 ~~qualified professional specified in subsection (3) must be~~  
1102 ~~attached to the petition. A copy of the proposed treatment plan~~  
1103 ~~must be attached to the petition. Before the petition is filed,~~  
1104 ~~the service provider shall certify that the services in the~~  
1105 ~~proposed plan are available. If the necessary services are not~~  
1106 ~~available, the petition may not be filed. The service provider~~  
1107 ~~must notify the managing entity if the requested services are~~  
1108 ~~not available. The managing entity must document such efforts to~~  
1109 ~~obtain the requested services.~~

1110 ~~(c) The petition for involuntary outpatient services must~~  
1111 ~~be filed in the county where the patient is located, unless the~~  
1112 ~~patient is being placed from a state treatment facility, in~~  
1113 ~~which case the petition must be filed in the county where the~~  
1114 ~~patient will reside. When the petition has been filed, the clerk~~  
1115 ~~of the court shall provide copies of the petition and the~~  
1116 ~~proposed treatment plan to the department, the managing entity,~~  
1117 ~~the patient, the patient's guardian or representative, the state~~  
1118 ~~attorney, and the public defender or the patient's private~~  
1119 ~~counsel. A fee may not be charged for filing a petition under~~  
1120 ~~this subsection.~~

1121 ~~(5) APPOINTMENT OF COUNSEL. Within 1 court working day~~  
1122 ~~after the filing of a petition for involuntary outpatient~~  
1123 ~~services, the court shall appoint the public defender to~~  
1124 ~~represent the person who is the subject of the petition, unless~~  
1125 ~~the person is otherwise represented by counsel. The clerk of the~~

1126 ~~court shall immediately notify the public defender of the~~  
1127 ~~appointment. The public defender shall represent the person~~  
1128 ~~until the petition is dismissed, the court order expires, or the~~  
1129 ~~patient is discharged from involuntary outpatient services. An~~  
1130 ~~attorney who represents the patient must be provided access to~~  
1131 ~~the patient, witnesses, and records relevant to the presentation~~  
1132 ~~of the patient's case and shall represent the interests of the~~  
1133 ~~patient, regardless of the source of payment to the attorney.~~

1134 ~~(6) CONTINUANCE OF HEARING.—The patient is entitled, with~~  
1135 ~~the concurrence of the patient's counsel, to at least one~~  
1136 ~~continuance of the hearing. The continuance shall be for a~~  
1137 ~~period of up to 4 weeks.~~

1138 ~~(7) HEARING ON INVOLUNTARY OUTPATIENT SERVICES.—~~

1139 ~~(a)1. The court shall hold the hearing on involuntary~~  
1140 ~~outpatient services within 5 working days after the filing of~~  
1141 ~~the petition, unless a continuance is granted. The hearing must~~  
1142 ~~be held in the county where the petition is filed, must be as~~  
1143 ~~convenient to the patient as is consistent with orderly~~  
1144 ~~procedure, and must be conducted in physical settings not likely~~  
1145 ~~to be injurious to the patient's condition. If the court finds~~  
1146 ~~that the patient's attendance at the hearing is not consistent~~  
1147 ~~with the best interests of the patient and if the patient's~~  
1148 ~~counsel does not object, the court may waive the presence of the~~  
1149 ~~patient from all or any portion of the hearing. The state~~  
1150 ~~attorney for the circuit in which the patient is located shall~~

1151 ~~represent the state, rather than the petitioner, as the real~~  
1152 ~~party in interest in the proceeding.~~

1153 ~~2. The court may appoint a magistrate to preside at the~~  
1154 ~~hearing. One of the professionals who executed the involuntary~~  
1155 ~~outpatient services certificate shall be a witness. The patient~~  
1156 ~~and the patient's guardian or representative shall be informed~~  
1157 ~~by the court of the right to an independent expert examination.~~  
1158 ~~If the patient cannot afford such an examination, the court~~  
1159 ~~shall ensure that one is provided, as otherwise provided by law.~~  
1160 ~~The independent expert's report is confidential and not~~  
1161 ~~discoverable, unless the expert is to be called as a witness for~~  
1162 ~~the patient at the hearing. The court shall allow testimony from~~  
1163 ~~individuals, including family members, deemed by the court to be~~  
1164 ~~relevant under state law, regarding the person's prior history~~  
1165 ~~and how that prior history relates to the person's current~~  
1166 ~~condition. The testimony in the hearing must be given under~~  
1167 ~~oath, and the proceedings must be recorded. The patient may~~  
1168 ~~refuse to testify at the hearing.~~

1169 ~~(b)1. If the court concludes that the patient meets the~~  
1170 ~~criteria for involuntary outpatient services pursuant to~~  
1171 ~~subsection (2), the court shall issue an order for involuntary~~  
1172 ~~outpatient services. The court order shall be for a period of up~~  
1173 ~~to 90 days. The order must specify the nature and extent of the~~  
1174 ~~patient's mental illness. The order of the court and the~~  
1175 ~~treatment plan must be made part of the patient's clinical~~

1176 ~~record. The service provider shall discharge a patient from~~  
1177 ~~involuntary outpatient services when the order expires or any~~  
1178 ~~time the patient no longer meets the criteria for involuntary~~  
1179 ~~placement. Upon discharge, the service provider shall send a~~  
1180 ~~certificate of discharge to the court.~~

1181 ~~2. The court may not order the department or the service~~  
1182 ~~provider to provide services if the program or service is not~~  
1183 ~~available in the patient's local community, if there is no space~~  
1184 ~~available in the program or service for the patient, or if~~  
1185 ~~funding is not available for the program or service. The service~~  
1186 ~~provider must notify the managing entity if the requested~~  
1187 ~~services are not available. The managing entity must document~~  
1188 ~~such efforts to obtain the requested services. A copy of the~~  
1189 ~~order must be sent to the managing entity by the service~~  
1190 ~~provider within 1 working day after it is received from the~~  
1191 ~~court. The order may be submitted electronically through~~  
1192 ~~existing data systems. After the order for involuntary services~~  
1193 ~~is issued, the service provider and the patient may modify the~~  
1194 ~~treatment plan. For any material modification of the treatment~~  
1195 ~~plan to which the patient or, if one is appointed, the patient's~~  
1196 ~~guardian advocate agrees, the service provider shall send notice~~  
1197 ~~of the modification to the court. Any material modifications of~~  
1198 ~~the treatment plan which are contested by the patient or the~~  
1199 ~~patient's guardian advocate, if applicable, must be approved or~~  
1200 ~~disapproved by the court consistent with subsection (3).~~

1201           ~~3. If, in the clinical judgment of a physician, the~~  
1202 ~~patient has failed or has refused to comply with the treatment~~  
1203 ~~ordered by the court, and, in the clinical judgment of the~~  
1204 ~~physician, efforts were made to solicit compliance and the~~  
1205 ~~patient may meet the criteria for involuntary examination, a~~  
1206 ~~person may be brought to a receiving facility pursuant to s.~~  
1207 ~~394.463. If, after examination, the patient does not meet the~~  
1208 ~~criteria for involuntary inpatient placement pursuant to s.~~  
1209 ~~394.467, the patient must be discharged from the facility. The~~  
1210 ~~involuntary outpatient services order shall remain in effect~~  
1211 ~~unless the service provider determines that the patient no~~  
1212 ~~longer meets the criteria for involuntary outpatient services or~~  
1213 ~~until the order expires. The service provider must determine~~  
1214 ~~whether modifications should be made to the existing treatment~~  
1215 ~~plan and must attempt to continue to engage the patient in~~  
1216 ~~treatment. For any material modification of the treatment plan~~  
1217 ~~to which the patient or the patient's guardian advocate, if~~  
1218 ~~applicable, agrees, the service provider shall send notice of~~  
1219 ~~the modification to the court. Any material modifications of the~~  
1220 ~~treatment plan which are contested by the patient or the~~  
1221 ~~patient's guardian advocate, if applicable, must be approved or~~  
1222 ~~disapproved by the court consistent with subsection (3).~~

1223           ~~(c) If, at any time before the conclusion of the initial~~  
1224 ~~hearing on involuntary outpatient services, it appears to the~~  
1225 ~~court that the person does not meet the criteria for involuntary~~

1226 ~~outpatient services under this section but, instead, meets the~~  
1227 ~~criteria for involuntary inpatient placement, the court may~~  
1228 ~~order the person admitted for involuntary inpatient examination~~  
1229 ~~under s. 394.463. If the person instead meets the criteria for~~  
1230 ~~involuntary assessment, protective custody, or involuntary~~  
1231 ~~admission pursuant to s. 397.675, the court may order the person~~  
1232 ~~to be admitted for involuntary assessment for a period of 5 days~~  
1233 ~~pursuant to s. 397.6811. Thereafter, all proceedings are~~  
1234 ~~governed by chapter 397.~~

1235 ~~(d) At the hearing on involuntary outpatient services, the~~  
1236 ~~court shall consider testimony and evidence regarding the~~  
1237 ~~patient's competence to consent to services. If the court finds~~  
1238 ~~that the patient is incompetent to consent to treatment, it~~  
1239 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~  
1240 ~~The guardian advocate shall be appointed or discharged in~~  
1241 ~~accordance with s. 394.4598.~~

1242 ~~(e) The administrator of the receiving facility or the~~  
1243 ~~designated department representative shall provide a copy of the~~  
1244 ~~court order and adequate documentation of a patient's mental~~  
1245 ~~illness to the service provider for involuntary outpatient~~  
1246 ~~services. Such documentation must include any advance directives~~  
1247 ~~made by the patient, a psychiatric evaluation of the patient,~~  
1248 ~~and any evaluations of the patient performed by a psychologist~~  
1249 ~~or a clinical social worker.~~

1250 ~~(8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~

1251 ~~SERVICES.—~~

1252 ~~(a)1. If the person continues to meet the criteria for~~  
1253 ~~involuntary outpatient services, the service provider shall, at~~  
1254 ~~least 10 days before the expiration of the period during which~~  
1255 ~~the treatment is ordered for the person, file in the court that~~  
1256 ~~issued the order for involuntary outpatient services a petition~~  
1257 ~~for continued involuntary outpatient services. The court shall~~  
1258 ~~immediately schedule a hearing on the petition to be held within~~  
1259 ~~15 days after the petition is filed.~~

1260 ~~2. The existing involuntary outpatient services order~~  
1261 ~~remains in effect until disposition on the petition for~~  
1262 ~~continued involuntary outpatient services.~~

1263 ~~3. A certificate shall be attached to the petition which~~  
1264 ~~includes a statement from the person's physician or clinical~~  
1265 ~~psychologist justifying the request, a brief description of the~~  
1266 ~~patient's treatment during the time he or she was receiving~~  
1267 ~~involuntary services, and an individualized plan of continued~~  
1268 ~~treatment.~~

1269 ~~4. The service provider shall develop the individualized~~  
1270 ~~plan of continued treatment in consultation with the patient or~~  
1271 ~~the patient's guardian advocate, if applicable. When the~~  
1272 ~~petition has been filed, the clerk of the court shall provide~~  
1273 ~~copies of the certificate and the individualized plan of~~  
1274 ~~continued services to the department, the patient, the patient's~~  
1275 ~~guardian advocate, the state attorney, and the patient's private~~

1276 ~~counsel or the public defender.~~

1277 ~~(b) Within 1 court working day after the filing of a~~  
1278 ~~petition for continued involuntary outpatient services, the~~  
1279 ~~court shall appoint the public defender to represent the person~~  
1280 ~~who is the subject of the petition, unless the person is~~  
1281 ~~otherwise represented by counsel. The clerk of the court shall~~  
1282 ~~immediately notify the public defender of such appointment. The~~  
1283 ~~public defender shall represent the person until the petition is~~  
1284 ~~dismissed or the court order expires or the patient is~~  
1285 ~~discharged from involuntary outpatient services. Any attorney~~  
1286 ~~representing the patient shall have access to the patient,~~  
1287 ~~witnesses, and records relevant to the presentation of the~~  
1288 ~~patient's case and shall represent the interests of the patient,~~  
1289 ~~regardless of the source of payment to the attorney.~~

1290 ~~(c) Hearings on petitions for continued involuntary~~  
1291 ~~outpatient services must be before the court that issued the~~  
1292 ~~order for involuntary outpatient services. The court may appoint~~  
1293 ~~a magistrate to preside at the hearing. The procedures for~~  
1294 ~~obtaining an order pursuant to this paragraph must meet the~~  
1295 ~~requirements of subsection (7), except that the time period~~  
1296 ~~included in paragraph (2) (c) is not applicable in determining~~  
1297 ~~the appropriateness of additional periods of involuntary~~  
1298 ~~outpatient placement.~~

1299 ~~(d) Notice of the hearing must be provided as set forth in~~  
1300 ~~s. 394.4599. The patient and the patient's attorney may agree to~~

1301 a period of continued outpatient services without a court  
 1302 hearing.

1303 ~~(c) The same procedure must be repeated before the~~  
 1304 ~~expiration of each additional period the patient is placed in~~  
 1305 ~~treatment.~~

1306 ~~(f) If the patient has previously been found incompetent~~  
 1307 ~~to consent to treatment, the court shall consider testimony and~~  
 1308 ~~evidence regarding the patient's competence. Section 394.4598~~  
 1309 ~~governs the discharge of the guardian advocate if the patient's~~  
 1310 ~~competency to consent to treatment has been restored.~~

1311 Section 11. Section 394.467, Florida Statutes, is amended  
 1312 to read:

1313 394.467 Involuntary services ~~inpatient placement~~.

1314 (1) DEFINITIONS.—As used in this section, the term:

1315 (a) "Court" means a circuit court.

1316 (b) "Involuntary inpatient placement" means placement in a  
 1317 secure receiving or treatment facility providing stabilization  
 1318 and treatment services to a person 18 years of age or older who  
 1319 does not voluntarily consent to services under this chapter, or  
 1320 a minor who does not voluntarily assent to services under this  
 1321 chapter.

1322 (c) "Involuntary outpatient services" means services  
 1323 provided in the community to a person who does not voluntarily  
 1324 consent to or participate in services under this chapter.

1325 (d) "Services plan" means an individualized plan detailing

1326 the recommended behavioral health services and supports based on  
1327 a thorough assessment of the needs of the patient, to safeguard  
1328 and enhance the patient's health and well-being in the  
1329 community.

1330 (2)-(1) CRITERIA FOR INVOLUNTARY SERVICES.-A person may be  
1331 ordered by a court to be provided for involuntary services  
1332 inpatient placement for treatment upon a finding of the court,  
1333 by clear and convincing evidence, that the person meets the  
1334 following criteria:

1335 (a) Involuntary outpatient services.-A person ordered to  
1336 involuntary outpatient services must meet the following  
1337 criteria:

1338 1. The person has a mental illness and because of his or  
1339 her mental illness:

1340 a. Is unlikely to voluntarily participate in a recommended  
1341 services plan and has refused voluntary services for treatment  
1342 after sufficient and conscientious explanation and disclosure of  
1343 why the services are necessary; or

1344 b. He or she is unable to determine for himself or herself  
1345 whether services are necessary.

1346 2. The person is unlikely to survive safely in the  
1347 community without supervision, based on a clinical  
1348 determination.

1349 3. The person has a history of lack of compliance with  
1350 treatment for mental illness.

1351 4. In view of the person's treatment history and current  
 1352 behavior, the person is in need of involuntary outpatient  
 1353 services in order to prevent a relapse or deterioration that  
 1354 would be likely to result in serious bodily harm to himself or  
 1355 herself or others, or a substantial harm to his or her well-  
 1356 being as set forth in s. 394.463(1).

1357 5. It is likely that the person will benefit from  
 1358 involuntary outpatient services.

1359 6. All available less restrictive alternatives that would  
 1360 offer an opportunity for improvement of the person's condition  
 1361 have been deemed to be inappropriate or unavailable.

1362 (b) Involuntary inpatient placement.—A person ordered to  
 1363 involuntary inpatient placement must meet the following  
 1364 criteria:

1365 1.(a) The person ~~He or she~~ has a mental illness and  
 1366 because of his or her mental illness:

1367 a.1.a. He or she has refused voluntary inpatient placement  
 1368 for treatment after sufficient and conscientious explanation and  
 1369 disclosure of the purpose of ~~inpatient placement for~~ treatment;  
 1370 or

1371 b. ~~He or she~~ Is unable to determine for himself or herself  
 1372 whether inpatient placement is necessary; and

1373 2.a. He or she is incapable of surviving alone or with the  
 1374 help of willing, able, and responsible family or friends,  
 1375 including available alternative services, and, without

1376 treatment, is likely to suffer from neglect or refuse to care  
 1377 for himself or herself, and such neglect or refusal poses a real  
 1378 and present threat of substantial harm to his or her well-being;  
 1379 or

1380       b. Without treatment, there is a substantial likelihood  
 1381 that in the near future the person ~~he or she~~ will inflict  
 1382 serious bodily harm on self or others, as evidenced by recent  
 1383 behavior causing, attempting to cause, or threatening to cause  
 1384 such harm; and

1385       ~~(c)-(b)~~ All available less restrictive treatment  
 1386 alternatives that would offer an opportunity for improvement of  
 1387 the person's ~~his or her~~ condition have been deemed ~~judged~~ to be  
 1388 inappropriate or unavailable.

1389       ~~(3)-(2)~~ RECOMMENDATION FOR INVOLUNTARY SERVICES AND  
 1390 ADMISSION TO A TREATMENT FACILITY.—A patient may be recommended  
 1391 for involuntary inpatient placement, involuntary outpatient  
 1392 services, or a combination of both.

1393       (a) A patient may be retained by a facility for  
 1394 involuntary services ~~or involuntarily placed in a treatment~~  
 1395 ~~facility~~ upon the recommendation of the administrator of the  
 1396 facility where the patient has been examined and after adherence  
 1397 to the notice and hearing procedures provided in s. 394.4599.  
 1398 However, if a patient who is being recommended for only  
 1399 involuntary outpatient services has been stabilized and no  
 1400 longer meets the criteria for involuntary examination pursuant

1401 to s. 394.463(1), the patient must be released from the facility  
 1402 while awaiting the hearing for involuntary outpatient services.

1403 (b) The recommendation must be supported by the opinion of  
 1404 a psychiatrist and the second opinion of a clinical psychologist  
 1405 with at least 3 years of clinical experience, ~~or~~ another  
 1406 psychiatrist, or a psychiatric nurse practicing within the  
 1407 framework of an established protocol with a psychiatrist, both  
 1408 of whom have personally examined the patient ~~within the~~  
 1409 ~~preceding 72 hours, that the criteria for involuntary inpatient~~  
 1410 ~~placement are met. For involuntary inpatient placement, the~~  
 1411 patient must have been examined within the preceding 72 hours.  
 1412 For involuntary outpatient services the patient must have been  
 1413 examined within the preceding 30 days.

1414 (c) ~~If However, if the administrator certifies that a~~  
 1415 psychiatrist or clinical psychologist with at least 3 years of  
 1416 clinical experience is not available to provide a ~~the~~ second  
 1417 opinion, the petitioner must certify that a clinical  
 1418 psychologist is not available and the second opinion may be  
 1419 provided by a licensed physician who has postgraduate training  
 1420 and experience in diagnosis and treatment of mental illness, a  
 1421 clinical psychologist, or ~~by~~ a psychiatric nurse.

1422 (d) Any opinion authorized in this subsection may be  
 1423 conducted through a face-to-face or in-person examination, ~~in~~  
 1424 ~~person,~~ or by electronic means. Recommendations for involuntary  
 1425 services must be ~~Such recommendation shall be~~ entered on a

1426 petition for involuntary services ~~inpatient placement~~  
 1427 ~~certificate~~, which shall be made a part of the patient's  
 1428 clinical record. The petition must either authorize the facility  
 1429 to retain the patient pending completion of a hearing or  
 1430 authorize that authorizes the facility to retain the patient  
 1431 pending transfer to a treatment facility or completion of a  
 1432 hearing.

1433 (4)-(3) PETITION FOR INVOLUNTARY SERVICES ~~INPATIENT~~  
 1434 ~~PLACEMENT.~~-

1435 (a) A petition for involuntary services may be filed by:

- 1436 1. The administrator of a receiving ~~the~~ facility;
- 1437 2. The administrator of a treatment facility; or
- 1438 3. A service provider who is treating the person being  
 1439 petitioned.

1440 (b) A ~~shall file a~~ petition for involuntary inpatient  
 1441 placement, or inpatient placement followed by outpatient  
 1442 services, must be filed in the court in the county where the  
 1443 patient is located.

1444 (c) A petition for involuntary outpatient services must be  
 1445 filed in the county where the patient is located, unless the  
 1446 patient is being placed from a state treatment facility, in  
 1447 which case the petition must be filed in the county where the  
 1448 patient will reside.

1449 (d)1. The petitioner must state in the petition:

- 1450 a. Whether the petitioner is recommending inpatient

1451 placement, outpatient services, or both.

1452 b. The length of time recommended for each type of  
1453 involuntary services.

1454 c. The reasons for the recommendation.

1455 2. If recommending involuntary outpatient services, or a  
1456 combination of involuntary inpatient placement and outpatient  
1457 services, the petitioner must identify the service provider that  
1458 has agreed to provide services for the person under an order for  
1459 involuntary outpatient services, unless he or she is otherwise  
1460 participating in outpatient psychiatric treatment and is not in  
1461 need of public financing for that treatment, in which case the  
1462 individual, if eligible, may be ordered to involuntary treatment  
1463 pursuant to the existing psychiatric treatment relationship.

1464 3. If recommending an immediate order to involuntary  
1465 outpatient services, the petitioner shall prepare a written  
1466 proposed services plan in consultation with the patient or the  
1467 patient's guardian advocate, if appointed, for the court's  
1468 consideration for inclusion in the involuntary outpatient  
1469 services order that addresses the nature and extent of the  
1470 mental illness and any co-occurring substance use disorder that  
1471 necessitate involuntary outpatient services. The services plan  
1472 must specify the likely needed level of care, including the use  
1473 of medication, and anticipated discharge criteria for  
1474 terminating involuntary outpatient services. The services in the  
1475 plan must be deemed clinically appropriate by a physician,

1476 clinical psychologist, psychiatric nurse, mental health  
1477 counselor, marriage and family therapist, or clinical social  
1478 worker who consults with, or is employed or contracted by, the  
1479 service provider. If the services in the proposed services plan  
1480 are not available, the petitioner may not file the petition. The  
1481 petitioner must notify the managing entity if the requested  
1482 services are not available. The managing entity must document  
1483 such efforts to obtain the requested service. The service  
1484 provider who accepts the patient for involuntary outpatient  
1485 services is responsible for the development of a comprehensive  
1486 treatment plan.

1487 (e) Each required criterion for the recommended  
1488 involuntary services must be alleged and substantiated in the  
1489 petition. A copy of the recommended services plan, if  
1490 applicable, must be attached to the petition. The court must  
1491 accept petitions and other documentation with electronic  
1492 signatures.

1493 (f) When the petition has been filed ~~Upon filing,~~ the  
1494 clerk of the court shall provide copies of the petition and the  
1495 recommended services plan, if applicable, to the department, the  
1496 managing entity, the patient, the patient's guardian or  
1497 representative, and the state attorney, and the public defender  
1498 or the patient's private counsel ~~of the judicial circuit in~~  
1499 ~~which the patient is located.~~ A fee may not be charged for the  
1500 filing of a petition under this subsection.

1501        (5)-(4) APPOINTMENT OF COUNSEL.—Within 1 court working day  
 1502 after the filing of a petition for involuntary services  
 1503 ~~inpatient placement~~, the court shall appoint the public defender  
 1504 to represent the person who is the subject of the petition,  
 1505 unless the person is otherwise represented by counsel or  
 1506 ineligible. The clerk of the court shall immediately notify the  
 1507 public defender of such appointment. The public defender shall  
 1508 represent the person until the petition is dismissed, the court  
 1509 order expires, or the patient is discharged from involuntary  
 1510 services. Any attorney who represents ~~representing~~ the patient  
 1511 shall be provided ~~have~~ access to the patient, witnesses, and  
 1512 records relevant to the presentation of the patient's case and  
 1513 shall represent the interests of the patient, regardless of the  
 1514 source of payment to the attorney.

1515        (6)-(5) CONTINUANCE OF HEARING.—The patient and the state  
 1516 are independently ~~is entitled, with the concurrence of the~~  
 1517 ~~patient's counsel~~, to at least one continuance of the hearing.  
 1518 The patient's continuance may be for a period of up to 4 weeks  
 1519 and requires the concurrence of the patient's counsel. The  
 1520 state's continuance may be for a period of up to 5 court working  
 1521 days and requires a showing of good cause and due diligence by  
 1522 the state before requesting the continuance. The state's failure  
 1523 to timely review any readily available document or failure to  
 1524 attempt to contact a known witness does not warrant a  
 1525 continuance.

1526 (7)-(6) HEARING ON INVOLUNTARY SERVICES ~~INPATIENT~~  
 1527 ~~PLACEMENT.~~—

1528 (a)1. The court shall hold a ~~the~~ hearing on the  
 1529 involuntary services petition ~~inpatient placement~~ within 5 court  
 1530 working days after the filing of the petition, unless a  
 1531 continuance is granted.

1532 2. The court must hold any hearing on involuntary  
 1533 outpatient services in the county where the petition is filed. A  
 1534 hearing on involuntary inpatient placement, or a combination of  
 1535 involuntary inpatient placement and involuntary outpatient  
 1536 services, Except for good cause documented in the court file,  
 1537 ~~the hearing~~ must be held in the county or the facility, as  
 1538 appropriate, where the patient is located, except for good cause  
 1539 documented in the court file.

1540 3. A hearing on involuntary services must be as convenient  
 1541 to the patient as is consistent with orderly procedure, and  
 1542 shall be conducted in physical settings not likely to be  
 1543 injurious to the patient's condition. If the court finds that  
 1544 the patient's attendance at the hearing is not consistent with  
 1545 the best interests of the patient, or the patient knowingly,  
 1546 intelligently, and voluntarily waives his or her right to be  
 1547 present, and if the patient's counsel does not object, the court  
 1548 may waive the attendance ~~presence~~ of the patient from all or any  
 1549 portion of the hearing. The state attorney for the circuit in  
 1550 which the patient is located shall represent the state, rather

1551 than the petitioner, as the real party in interest in the  
1552 proceeding. The facility shall make the respondent's clinical  
1553 records available to the state attorney and the respondent's  
1554 attorney so that the state can evaluate and prepare its case.  
1555 However, these records shall remain confidential, and the state  
1556 attorney may not use any record obtained under this part for  
1557 criminal investigation or prosecution purposes, or for any  
1558 purpose other than the patient's civil commitment under this  
1559 chapter petitioning facility administrator, as the real party in  
1560 interest in the proceeding.

1561 (b)3. The court may appoint a magistrate to preside at the  
1562 hearing. Upon a finding of good cause, the court may permit all  
1563 witnesses, including, but not limited to, medical professionals  
1564 who are or have been involved with the patient's treatment, to  
1565 remotely attend and testify at the hearing under oath via audio-  
1566 video teleconference. A witness intending to remotely attend and  
1567 testify must provide the parties with all relevant documents by  
1568 the close of business on the day before the hearing. One of the  
1569 professionals who executed the ~~petition for~~ involuntary services  
1570 ~~inpatient placement~~ certificate shall be a witness. The patient  
1571 and the patient's guardian or representative shall be informed  
1572 by the court of the right to an independent expert examination.  
1573 If the patient cannot afford such an examination, the court  
1574 shall ensure that one is provided, as otherwise provided for by  
1575 law. The independent expert's report is confidential and not

1576 discoverable, unless the expert is to be called as a witness for  
 1577 the patient at the hearing. The court shall allow testimony from  
 1578 persons, including family members, deemed by the court to be  
 1579 relevant under state law, regarding the person's prior history  
 1580 and how that prior history relates to the person's current  
 1581 condition. The testimony in the hearing must be given under  
 1582 oath, and the proceedings must be recorded. The patient may  
 1583 refuse to testify at the hearing.

1584 (c) ~~(b)~~ At the hearing, the court shall consider testimony  
 1585 and evidence regarding the patient's competence to consent to  
 1586 services and treatment. If the court finds that the patient is  
 1587 incompetent to consent to treatment, it shall appoint a guardian  
 1588 advocate as provided in s. 394.4598.

1589 (8) ORDERS OF THE COURT.—

1590 (a)1. If the court concludes that the patient meets the  
 1591 criteria for involuntary services, the court may order a patient  
 1592 to involuntary inpatient placement, involuntary outpatient  
 1593 services, or a combination of involuntary services depending on  
 1594 the criteria met and which type of involuntary services best  
 1595 meet the needs of the patient. However, if the court orders the  
 1596 patient to involuntary outpatient services, the court may not  
 1597 order the department or the service provider to provide services  
 1598 if the program or service is not available in the patient's  
 1599 local community, if there is no space available in the program  
 1600 or service for the patient, or if funding is not available for

1601 the program or service. The petitioner must notify the managing  
1602 entity if the requested services are not available. The managing  
1603 entity must document such efforts to obtain the requested  
1604 services. A copy of the order must be sent to the managing  
1605 entity by the service provider within 1 working day after it is  
1606 received from the court.

1607 2. The order must specify the nature and extent of the  
1608 patient's mental illness.

1609 3.a. An order for only involuntary outpatient services  
1610 shall be for a period of up to 90 days.

1611 b. An order for involuntary inpatient placement, or a  
1612 combination of inpatient placement and outpatient services, may  
1613 be up to 6 months.

1614 4. An order for a combination of involuntary services  
1615 shall specify the length of time the patient shall be ordered  
1616 for involuntary inpatient placement and involuntary outpatient  
1617 services.

1618 5. The order of the court and the patient's services plan,  
1619 if applicable, must be made part of the patient's clinical  
1620 record.

1621 (b) If the court orders a patient into involuntary  
1622 inpatient placement, the court ~~it~~ may order that the patient be  
1623 transferred to a treatment facility, ~~or,~~ if the patient is at a  
1624 treatment facility, that the patient be retained there or be  
1625 treated at any other appropriate facility, or that the patient

1626 receive services, on an involuntary basis, ~~for up to 90 days.~~  
1627 ~~However, any order for involuntary mental health services in a~~  
1628 ~~treatment facility may be for up to 6 months. The order shall~~  
1629 ~~specify the nature and extent of the patient's mental illness.~~  
1630 The court may not order an individual with a developmental  
1631 disability as defined in s. 393.063 or a traumatic brain injury  
1632 or dementia who lacks a co-occurring mental illness to be  
1633 involuntarily placed in a state treatment facility. ~~The facility~~  
1634 ~~shall discharge a patient any time the patient no longer meets~~  
1635 ~~the criteria for involuntary inpatient placement, unless the~~  
1636 ~~patient has transferred to voluntary status.~~

1637 (c) If at any time before the conclusion of a ~~the~~ hearing  
1638 on involuntary services, ~~inpatient placement~~ it appears to the  
1639 court that the patient ~~person does not meet the criteria for~~  
1640 ~~involuntary inpatient placement under this section, but instead~~  
1641 ~~meets the criteria for involuntary outpatient services, the~~  
1642 ~~court may order the person evaluated for involuntary outpatient~~  
1643 ~~services pursuant to s. 394.4655. The petition and hearing~~  
1644 ~~procedures set forth in s. 394.4655 shall apply. If the person~~  
1645 ~~instead meets the criteria for involuntary assessment,~~  
1646 ~~protective custody, or involuntary admission~~ or treatment  
1647 pursuant to s. 397.675, then the court may order the person to  
1648 be admitted for involuntary assessment ~~for a period of 5 days~~  
1649 pursuant to s. 397.6757 ~~s. 397.6811~~. Thereafter, all proceedings  
1650 are governed by chapter 397.

1651 ~~(d) At the hearing on involuntary inpatient placement, the~~  
 1652 ~~court shall consider testimony and evidence regarding the~~  
 1653 ~~patient's competence to consent to treatment. If the court finds~~  
 1654 ~~that the patient is incompetent to consent to treatment, it~~  
 1655 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~

1656 (d)(e) The administrator of the petitioning facility or  
 1657 the designated department representative shall provide a copy of  
 1658 the court order and adequate documentation of a patient's mental  
 1659 illness to the service provider for involuntary outpatient  
 1660 services or the administrator of a treatment facility if the  
 1661 patient is ordered for involuntary inpatient placement, ~~whether~~  
 1662 ~~by civil or criminal court~~. The documentation must include any  
 1663 advance directives made by the patient, a psychiatric evaluation  
 1664 of the patient, and any evaluations of the patient performed by  
 1665 a psychiatric nurse, a clinical psychologist, a marriage and  
 1666 family therapist, a mental health counselor, or a clinical  
 1667 social worker. The administrator of a treatment facility may  
 1668 refuse admission to any patient directed to its facilities on an  
 1669 involuntary basis, whether by civil or criminal court order, who  
 1670 is not accompanied by adequate orders and documentation.

1671 (9) SERVICES PLAN MODIFICATION—After the order for  
 1672 involuntary outpatient services is issued, the service provider  
 1673 and the patient may modify the services plan. For any material  
 1674 modification of the services plan to which the patient or, if  
 1675 one is appointed, the patient's guardian advocate agrees, the

1676 service provider shall send notice of the modification to the  
1677 court. Any material modifications of the services plan which are  
1678 contested by the patient or the patient's guardian advocate, if  
1679 applicable, must be approved or disapproved by the court  
1680 consistent with subsection (4).

1681 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.-  
1682 If, in the clinical judgment of a physician, a patient receiving  
1683 involuntary outpatient services has failed or has refused to  
1684 comply with the services plan ordered by the court, and efforts  
1685 were made to solicit compliance, the service provider must  
1686 report such noncompliance to the court. The involuntary  
1687 outpatient services order shall remain in effect unless the  
1688 service provider determines that the patient no longer meets the  
1689 criteria for involuntary outpatient services or until the order  
1690 expires. The service provider must determine whether  
1691 modifications should be made to the existing services plan and  
1692 must attempt to continue to engage the patient in treatment. For  
1693 any material modification of the services plan to which the  
1694 patient or the patient's guardian advocate, if applicable,  
1695 agrees, the service provider shall send notice of the  
1696 modification to the court. Any material modifications of the  
1697 services plan which are contested by the patient or the  
1698 patient's guardian advocate, if applicable, must be approved or  
1699 disapproved by the court consistent with subsection (4).

1700 (11)-(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES

1701 ~~INPATIENT PLACEMENT.—~~

1702 (a) A petition for continued involuntary services shall be  
1703 filed if the patient continues to meets the criteria for  
1704 involuntary services.

1705 (b)1. If a patient receiving involuntary outpatient  
1706 services continues to meet the criteria for involuntary  
1707 outpatient services, the service provider shall file in the  
1708 court that issued the initial order for involuntary outpatient  
1709 services a petition for continued involuntary outpatient  
1710 services.

1711 2. If a patient in involuntary inpatient placement

1712 ~~(a) Hearings on petitions for continued involuntary~~  
1713 ~~inpatient placement of an individual placed at any treatment~~  
1714 ~~facility are administrative hearings and must be conducted in~~  
1715 ~~accordance with s. 120.57(1), except that any order entered by~~  
1716 ~~the administrative law judge is final and subject to judicial~~  
1717 ~~review in accordance with s. 120.68. Orders concerning patients~~  
1718 ~~committed after successfully pleading not guilty by reason of~~  
1719 ~~insanity are governed by s. 916.15.~~

1720 ~~(b) If the patient continues to meet the criteria for~~  
1721 ~~involuntary inpatient placement and is being treated at a~~  
1722 receiving treatment facility, the administrator shall, before  
1723 the expiration of the period the receiving treatment facility is  
1724 authorized to retain the patient, file in the court that issued  
1725 the initial order for involuntary inpatient placement, a

1726 petition requesting authorization for continued involuntary  
1727 inpatient placement.

1728 3. Hearings on petitions for continued involuntary  
1729 inpatient placement of an individual placed at any treatment  
1730 facility are administrative hearings and must be conducted in  
1731 accordance with s. 120.57(1), except that any order entered by  
1732 the judge is final and subject to judicial review in accordance  
1733 with s. 120.68. Orders concerning patients committed after  
1734 successfully pleading not guilty by reason of insanity are  
1735 governed by s. 916.15.

1736 4. The court shall immediately schedule a hearing on the  
1737 petition to be held within 15 days after the petition is filed.

1738 5. The existing involuntary services order shall remain in  
1739 effect until disposition on the petition for continued  
1740 involuntary services.

1741 (c) The ~~petition request~~ must be accompanied by a  
1742 statement from the patient's physician, psychiatrist,  
1743 psychiatric nurse, or clinical psychologist justifying the  
1744 request, a brief description of the patient's treatment during  
1745 the time he or she was receiving involuntary services  
1746 ~~involuntarily placed~~, and an individualized plan of continued  
1747 treatment developed in consultation with the patient or the  
1748 patient's guardian advocate, if applicable. When the petition  
1749 has been filed, the clerk of the court shall provide copies of  
1750 the petition and the individualized plan of continued services

1751 to the department, the patient, the patient's guardian advocate,  
1752 the state attorney, and the patient's private counsel or the  
1753 public defender.

1754 (d) The court shall appoint counsel to represent the  
1755 person who is the subject of the petition for continued  
1756 involuntary services in accordance to the provisions set forth  
1757 in subsection (5), unless the person is otherwise represented by  
1758 counsel or ineligible.

1759 (e) Hearings on petitions for continued involuntary  
1760 outpatient services must be before the court that issued the  
1761 order for involuntary outpatient services. However, the patient  
1762 and the patient's attorney may agree to a period of continued  
1763 outpatient services without a court hearing.

1764 (f) Hearings on petitions for continued involuntary  
1765 inpatient placement in receiving facilities must be held in the  
1766 county or the facility, as appropriate, where the patient is  
1767 located.

1768 (g) The court may appoint a magistrate to preside at the  
1769 hearing. The procedures for obtaining an order pursuant to this  
1770 paragraph must meet the requirements of subsection (7).

1771 (h) Notice of the hearing must be provided as set forth  
1772 provided in s. 394.4599.

1773 (i) If a patient's attendance at the hearing is  
1774 voluntarily waived, the ~~administrative law~~ judge must determine  
1775 that the patient knowingly, intelligently, and voluntarily

1776 waived his or her right to be present, ~~waiver is knowing and~~  
1777 ~~voluntary~~ before waiving the presence of the patient from all or  
1778 a portion of the hearing. Alternatively, if at the hearing the  
1779 ~~administrative law~~ judge finds that attendance at the hearing is  
1780 not consistent with the best interests of the patient, the  
1781 ~~administrative law~~ judge may waive the presence of the patient  
1782 from all or any portion of the hearing, unless the patient,  
1783 through counsel, objects to the waiver of presence. The  
1784 testimony in the hearing must be under oath, and the proceedings  
1785 must be recorded.

1786 ~~(c) Unless the patient is otherwise represented or is~~  
1787 ~~ineligible, he or she shall be represented at the hearing on the~~  
1788 ~~petition for continued involuntary inpatient placement by the~~  
1789 ~~public defender of the circuit in which the facility is located.~~

1790 (j)(d) If at a hearing it is shown that the patient  
1791 continues to meet the criteria for involuntary services  
1792 ~~inpatient placement,~~ the court ~~administrative law judge~~ shall  
1793 issue an sign the order for continued involuntary outpatient  
1794 services ~~inpatient placement~~ for up to 90 days or. ~~However, any~~  
1795 ~~order for~~ involuntary inpatient placement, ~~or mental health~~  
1796 ~~services in a~~ combination of involuntary services ~~treatment~~  
1797 ~~facility may be~~ for up to 6 months. The same procedure shall be  
1798 repeated before the expiration of each additional period the  
1799 patient is retained.

1800 (k) If the patient has been ordered to undergo involuntary

1801 services and has previously been found incompetent to consent to  
1802 treatment, the court shall consider testimony and evidence  
1803 regarding the patient's competence. If the patient's competency  
1804 to consent to treatment is restored, the discharge of the  
1805 guardian advocate shall be governed by s. 394.4598. If the  
1806 patient has been ordered to undergo involuntary inpatient  
1807 placement only and the patient's competency to consent to  
1808 treatment is restored, the administrative law judge may issue a  
1809 recommended order, to the court that found the patient  
1810 incompetent to consent to treatment, that the patient's  
1811 competence be restored and that any guardian advocate previously  
1812 appointed be discharged.

1813 (1)(e) If continued involuntary inpatient placement is  
1814 necessary for a patient in involuntary inpatient placement who  
1815 was admitted while serving a criminal sentence, but his or her  
1816 sentence is about to expire, or for a minor involuntarily  
1817 placed, but who is about to reach the age of 18, the  
1818 administrator shall petition the administrative law judge for an  
1819 order authorizing continued involuntary inpatient placement.  
1820 The procedure required in this subsection must be followed  
1821 before the expiration of each additional period the patient is  
1822 involuntarily receiving services.

1823 (12)(8) RETURN TO FACILITY.—If a patient has been ordered  
1824 to undergo involuntary inpatient placement ~~involuntarily~~ held at  
1825 a treatment facility under this part leaves the facility without

1826 | the administrator's authorization, the administrator may  
 1827 | authorize a search for the patient and his or her return to the  
 1828 | facility. The administrator may request the assistance of a law  
 1829 | enforcement agency in this regard.

1830 |       (13) DISCHARGE.—The patient shall be discharged upon  
 1831 | expiration of the court order or at any time the patient no  
 1832 | longer meets the criteria for involuntary services, unless the  
 1833 | patient has transferred to voluntary status. Upon discharge, the  
 1834 | service provider or facility shall send a certificate of  
 1835 | discharge to the court.

1836 |       Section 12. Subsection (2) of section 394.468, Florida  
 1837 | Statutes, is amended and subsection (3) is added to that section  
 1838 | to read:

1839 |       394.468 Admission and discharge procedures.—

1840 |       (2) Discharge planning and procedures for any patient's  
 1841 | release from a receiving facility or treatment facility must  
 1842 | include and document the patient's needs, and actions to address  
 1843 | such needs, for ~~consideration of~~, at a minimum:

- 1844 |       (a) Follow-up behavioral health appointments;
- 1845 |       (b) Information on how to obtain prescribed medications;
- 1846 | and
- 1847 |       (c) Information pertaining to:
  - 1848 |           1. Available living arrangements;
  - 1849 |           2. Transportation; and
  - 1850 |           (d) Referral to:

1851 1. Care coordination services. The patient must be  
 1852 referred for care coordination services if the patient meets the  
 1853 criteria as a member of a priority population as determined by  
 1854 the department under s. 394.9082 (3) (c) and is in need of such  
 1855 services.

1856 ~~2.3.~~ Recovery support opportunities under s.  
 1857 394.4573(2)(1), including, but not limited to, connection to a  
 1858 peer specialist.

1859 (3) During the discharge transition process and while the  
 1860 patient is present unless determined inappropriate by a  
 1861 physician or psychiatric nurse practicing within the framework  
 1862 of an established protocol with a psychiatrist a receiving  
 1863 facility shall coordinate, face-to-face or through electronic  
 1864 means, discharge plans to a less restrictive community  
 1865 behavioral health provider, a peer specialist, a case manager,  
 1866 or a care coordination service. The transition process must  
 1867 include all of the following criteria:

1868 (a) Implementation of policies and procedures outlining  
 1869 strategies for how the receiving facility will comprehensively  
 1870 address the needs of patients who demonstrate a high use of  
 1871 receiving facility services to avoid or reduce future use of  
 1872 crisis stabilization services.

1873 (b) Developing and including in discharge paperwork a  
 1874 personalized crisis prevention plan that identifies stressors,  
 1875 early warning signs or symptoms, and strategies to deal with

1876 crisis.  
 1877 (c) Requiring a staff member to seek to engage a family  
 1878 member, legal guardian, legal representative, or natural support  
 1879 in discharge planning and meet face to face or through  
 1880 electronic means to review the discharge instructions, including  
 1881 prescribed medications, follow-up appointments, and any other  
 1882 recommended services or follow-up resources, and document the  
 1883 outcome of such meeting.

1884 (d) When the recommended level of care at discharge is not  
 1885 immediately available to the patient, the receiving facility  
 1886 must, at a minimum, initiate a referral to an appropriate  
 1887 provider to meet the needs of the patient to continue care until  
 1888 the recommended level of care is available.

1889 Section 13. Section 394.4915, Florida Statutes, is created  
 1890 to read:

1891 394.4915 Office of Children's Behavioral Health  
 1892 Ombudsman.-The Office of Children's Behavioral Health Ombudsman  
 1893 is established within the department for the purpose of being a  
 1894 central point to receive complaints on behalf of children and  
 1895 adolescents with behavioral health disorders receiving state-  
 1896 funded services and use such information to improve the child  
 1897 and adolescent mental health treatment and support system. The  
 1898 department and managing entities shall include information about  
 1899 and contact information for the office placed prominently on  
 1900 their websites on easily accessible web pages related to

1901 children and adolescent behavioral health services. To the  
 1902 extent permitted by available resources, the office shall, at a  
 1903 minimum:

1904 (1) Receive and direct to the appropriate contact within  
 1905 the department, the Agency for Health Care Administration, or  
 1906 the appropriate organizations providing behavioral health  
 1907 services complaints from children and adolescents and their  
 1908 families about the child and adolescent mental health treatment  
 1909 and support system.

1910 (2) Maintain records of complaints received and the  
 1911 actions taken.

1912 (3) Be a resource to identify and explain relevant  
 1913 policies or procedures to children, adolescents, and their  
 1914 families about the child and adolescent mental health treatment  
 1915 and support system.

1916 (4) Provide recommendations to the department to address  
 1917 systemic problems within the child and adolescent mental health  
 1918 treatment and support system that are leading to complaints. The  
 1919 department shall include an analysis of complaints and  
 1920 recommendations in the report required under s. 394.4573.

1921 (5) Engage in functions that may improve the child and  
 1922 adolescent mental health treatment and support system.

1923 Section 14. Subsection (3) of section 394.495, Florida  
 1924 Statutes, is amended to read:

1925 394.495 Child and adolescent mental health system of care;

1926 programs and services.—

1927 (3) Assessments must be performed by:

1928 (a) A clinical psychologist, clinical social worker,

1929 physician, psychiatric nurse, or psychiatrist, as those terms

1930 are defined in s. 394.455 ~~professional as defined in s.~~

1931 ~~394.455(5), (7), (33), (36), or (37);~~

1932 (b) A professional licensed under chapter 491; or

1933 (c) A person who is under the direct supervision of a

1934 clinical psychologist, clinical social worker, physician,

1935 psychiatric nurse, or psychiatrist, as those terms are defined

1936 in s. 394.455, ~~qualified professional as defined in s.~~

1937 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed

1938 under chapter 491.

1939 Section 15. Subsection (5) of section 394.496, Florida

1940 Statutes, is amended to read:

1941 394.496 Service planning.—

1942 (5) A clinical psychologist, clinical social worker,

1943 physician, psychiatric nurse, or psychiatrist, as those terms

1944 are defined in s. 394.455, ~~professional as defined in s.~~

1945 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed

1946 under chapter 491 must be included among those persons

1947 developing the services plan.

1948 Section 16. Paragraph (a) of subsection (2) of section

1949 394.499, Florida Statutes, is amended to read:

1950 394.499 Integrated children's crisis stabilization

1951 unit/juvenile addictions receiving facility services.—

1952 (2) Children eligible to receive integrated children's  
 1953 crisis stabilization unit/juvenile addictions receiving facility  
 1954 services include:

1955 (a) A minor whose parent makes ~~person under 18 years of~~  
 1956 ~~age for whom~~ voluntary application based on the parent's express  
 1957 and informed consent, and the requirements of s. 394.4625(1) (a)  
 1958 are met ~~is made by his or her guardian, if such person is found~~  
 1959 ~~to show evidence of mental illness and to be suitable for~~  
 1960 ~~treatment pursuant to s. 394.4625. A person under 18 years of~~  
 1961 ~~age may be admitted for integrated facility services only after~~  
 1962 ~~a hearing to verify that the consent to admission is voluntary.~~

1963 Section 17. Paragraphs (a) and (d) of subsection (1) of  
 1964 section 394.875, Florida Statutes, are amended to read:

1965 394.875 Crisis stabilization units, residential treatment  
 1966 facilities, and residential treatment centers for children and  
 1967 adolescents; authorized services; license required.—

1968 (1) (a) The purpose of a crisis stabilization unit is to  
 1969 stabilize and redirect a client to the most appropriate and  
 1970 least restrictive community setting available, consistent with  
 1971 the client's needs. Crisis stabilization units may screen,  
 1972 assess, and admit for stabilization persons who present  
 1973 themselves to the unit and persons who are brought to the unit  
 1974 under s. 394.463. Clients may be provided 24-hour observation,  
 1975 medication prescribed by a physician, ~~or~~ psychiatrist, or

CS/CS/HB 7021

2024

1976 psychiatric nurse practicing within the framework of an  
 1977 established protocol with a psychiatrist, and other appropriate  
 1978 services. Crisis stabilization units shall provide services  
 1979 regardless of the client's ability to pay and ~~shall be limited~~  
 1980 ~~in size to a maximum of 30 beds.~~

1981 ~~(d) The department is directed to implement a~~  
 1982 ~~demonstration project in circuit 18 to test the impact of~~  
 1983 ~~expanding beds authorized in crisis stabilization units from 30~~  
 1984 ~~to 50 beds. Specifically, the department is directed to~~  
 1985 ~~authorize existing public or private crisis stabilization units~~  
 1986 ~~in circuit 18 to expand bed capacity to a maximum of 50 beds and~~  
 1987 ~~to assess the impact such expansion would have on the~~  
 1988 ~~availability of crisis stabilization services to clients.~~

1989 Section 18. Section 394.90826, Florida Statutes, is  
 1990 created to read:

1991 394.90826 Behavioral Health Interagency Collaboration.-

1992 (1) The department and the Agency for Health Care  
 1993 Administration shall jointly establish behavioral health  
 1994 interagency collaboratives throughout the state with the goal of  
 1995 identifying and addressing ongoing challenges within the  
 1996 behavioral health system at the local level to improve the  
 1997 accessibility, availability, and quality of behavioral health  
 1998 services. The objectives of the regional collaboratives are to:

1999 (a) Facilitate enhanced interagency communication and  
 2000 collaboration.

2001           (b) Develop and promote regional strategies tailored to  
 2002 address community-level challenges in the behavioral health  
 2003 system.

2004           (2) The regional collaborative membership shall at a  
 2005 minimum be composed of representatives from all of the  
 2006 following, serving the region:

2007           (a) Department of Children and Families.  
 2008           (b) Agency for Health Care Administration.  
 2009           (c) Agency for Persons with Disabilities.  
 2010           (d) Department of Elder Affairs.  
 2011           (e) Department of Health.  
 2012           (f) Department of Education.  
 2013           (g) School districts.  
 2014           (h) Area Agencies on Aging.  
 2015           (i) Community-based care lead agencies, as defined in s.  
 2016 409.986(3)(d).

2017           (j) Managing entities, as defined in s. 394.9082(2).  
 2018           (k) Behavioral health services providers.  
 2019           (l) Hospitals.  
 2020           (m) Medicaid Managed Medical Assistance Plans.  
 2021           (n) Police departments.  
 2022           (o) Sheriffs' Offices.

2023           (3) Each regional collaborative shall define the  
 2024 objectives of that collaborative based upon the specific needs  
 2025 of the region and local communities located within the region,

2026 | to achieve the specified goals.

2027 |       (4) The department shall define the region to be served by  
 2028 | each collaborative and shall be responsible for facilitating  
 2029 | meetings.

2030 |       (5) All entities represented on the regional  
 2031 | collaboratives shall provide assistance as appropriate and  
 2032 | reasonably necessary to fulfill the goals of the regional  
 2033 | collaboratives.

2034 |       Section 19. Subsection (6) of section 394.9085, Florida  
 2035 | Statutes, is amended to read:

2036 |       394.9085 Behavioral provider liability.—

2037 |       (6) For purposes of this section, the terms  
 2038 | "detoxification ~~services,~~" "addictions receiving facility," and  
 2039 | "receiving facility" have the same meanings as those provided in  
 2040 | ss. 397.311(26) (a) 4. ~~397.311(26) (a) 3.,~~ 397.311(26) (a) 1., and  
 2041 | 394.455(40), respectively.

2042 |       Section 20. Subsection (3) of section 397.305, Florida  
 2043 | Statutes, is amended to read:

2044 |       397.305 Legislative findings, intent, and purpose.—

2045 |       (3) It is the purpose of this chapter to provide for a  
 2046 | comprehensive continuum of accessible and quality substance  
 2047 | abuse prevention, intervention, clinical treatment, and recovery  
 2048 | support services in the most appropriate and least restrictive  
 2049 | environment which promotes long-term recovery while protecting  
 2050 | and respecting the rights of individuals, primarily through

2051 community-based private not-for-profit providers working with  
 2052 local governmental programs involving a wide range of agencies  
 2053 from both the public and private sectors.

2054 Section 21. Subsections (19) and (23) of section 397.311,  
 2055 Florida Statutes, are amended to read:

2056 397.311 Definitions.—As used in this chapter, except part  
 2057 VIII, the term:

2058 (19) "Impaired" or "substance abuse impaired" means having  
 2059 a substance use disorder or a condition involving the use of  
 2060 alcoholic beverages, illicit or prescription drugs, or any  
 2061 psychoactive or mood-altering substance in such a manner as to  
 2062 induce mental, emotional, or physical problems or ~~and~~ cause  
 2063 socially dysfunctional behavior.

2064 (23) "Involuntary treatment services" means an array of  
 2065 behavioral health services that may be ordered by the court for  
 2066 persons with substance abuse impairment or co-occurring  
 2067 substance abuse impairment and mental health disorders.

2068 Section 22. Subsection (6) is added to section 397.401,  
 2069 Florida Statutes, to read:

2070 397.401 License required; penalty; injunction; rules  
 2071 waivers.—

2072 (6) A service provider operating an addictions receiving  
 2073 facility or providing detoxification on a nonhospital inpatient  
 2074 basis may not exceed its licensed capacity by more than 10  
 2075 percent and may not exceed their licensed capacity for more than

2076 | 3 consecutive working days or for more than 7 days in 1 month.

2077 | Section 23. Paragraph (i) is added to subsection (1) of  
 2078 | section 397.4073, Florida Statutes, to read:

2079 | 397.4073 Background checks of service provider personnel.—

2080 | (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
 2081 | EXCEPTIONS.—

2082 | (i) Any physician licensed under chapter 458 or chapter  
 2083 | 459 or a nurse licensed under chapter 464 who was required to  
 2084 | undergo background screening by the Department of Health as part  
 2085 | of his or her initial licensure or the renewal of licensure, and  
 2086 | who has an active and unencumbered license, is not subject to  
 2087 | background screening pursuant to this section.

2088 | Section 24. Subsection (8) of section 397.501, Florida  
 2089 | Statutes, is amended to read:

2090 | 397.501 Rights of individuals.—Individuals receiving  
 2091 | substance abuse services from any service provider are  
 2092 | guaranteed protection of the rights specified in this section,  
 2093 | unless otherwise expressly provided, and service providers must  
 2094 | ensure the protection of such rights.

2095 | (8) RIGHT TO COUNSEL.—Each individual must be informed  
 2096 | that he or she has the right to be represented by counsel in any  
 2097 | judicial involuntary proceeding for involuntary assessment,  
 2098 | stabilization, or treatment services and that he or she, or if  
 2099 | the individual is a minor his or her parent, legal guardian, or  
 2100 | legal custodian, may apply immediately to the court to have an

2101 attorney appointed if he or she cannot afford one.

2102 Section 25. Section 397.581, Florida Statutes, is amended  
 2103 to read:

2104 397.581 Unlawful activities relating to assessment and  
 2105 treatment; penalties.—

2106 (1) A person may not knowingly and willfully:

2107 (a) Furnish ~~furnishing~~ false information for the purpose  
 2108 of obtaining emergency or other involuntary admission of another  
 2109 person ~~for any person is a misdemeanor of the first degree,~~  
 2110 ~~punishable as provided in s. 775.082 and by a fine not exceeding~~  
 2111 ~~\$5,000.~~

2112 (b)(2) Cause or otherwise secure, or conspire with or  
 2113 assist another to cause or secure ~~Causing or otherwise securing,~~  
 2114 ~~or conspiring with or assisting another to cause or secure,~~  
 2115 ~~without reason for believing a person to be impaired,~~ any  
 2116 emergency or other involuntary procedure of another ~~for the~~  
 2117 person under false pretenses ~~is a misdemeanor of the first~~  
 2118 ~~degree, punishable as provided in s. 775.082 and by a fine not~~  
 2119 ~~exceeding \$5,000.~~

2120 (c)(3) Cause, or conspire with or assist another to cause,  
 2121 without lawful justification ~~Causing, or conspiring with or~~  
 2122 ~~assisting another to cause,~~ the denial to any person of any  
 2123 right accorded pursuant to this chapter.

2124 (2) A person who violates subsection (1) commits ~~is a~~  
 2125 ~~misdemeanor of the first degree, punishable as provided in s.~~

2126 | 775.082 and by a fine not exceeding \$5,000.

2127 | Section 26. Section 397.675, Florida Statutes, is amended  
 2128 | to read:

2129 | 397.675 Criteria for involuntary admissions, including  
 2130 | protective custody, emergency admission, and other involuntary  
 2131 | assessment, involuntary treatment, and alternative involuntary  
 2132 | assessment for minors, for purposes of assessment and  
 2133 | stabilization, and for involuntary treatment.—A person meets the  
 2134 | criteria for involuntary admission if there is good faith reason  
 2135 | to believe that the person is substance abuse impaired or has a  
 2136 | substance use disorder and a co-occurring mental health disorder  
 2137 | and, because of such impairment or disorder:

2138 | (1) Has lost the power of self-control with respect to  
 2139 | substance abuse; and

2140 | (2) (a) Is in need of substance abuse services and, by  
 2141 | reason of substance abuse impairment, his or her judgment has  
 2142 | been so impaired that he or she is incapable of appreciating his  
 2143 | or her need for such services and of making a rational decision  
 2144 | in that regard, although mere refusal to receive such services  
 2145 | does not constitute evidence of lack of judgment with respect to  
 2146 | his or her need for such services; or

2147 | (b) Without care or treatment, is likely to suffer from  
 2148 | neglect or refuse to care for himself or herself; that such  
 2149 | neglect or refusal poses a real and present threat of  
 2150 | substantial harm to his or her well-being; and that it is not

2151 | apparent that such harm may be avoided through the help of  
 2152 | willing, able, and responsible family members or friends or the  
 2153 | provision of other services, or there is substantial likelihood  
 2154 | that the person has inflicted, or threatened to or attempted to  
 2155 | inflict, or, unless admitted, is likely to inflict, physical  
 2156 | harm on himself, herself, or another.

2157 | Section 27. Subsection (1) of section 397.6751, Florida  
 2158 | Statutes, is amended to read:

2159 | 397.6751 Service provider responsibilities regarding  
 2160 | involuntary admissions.—

2161 | (1) It is the responsibility of the service provider to:

2162 | (a) Ensure that a person who is admitted to a licensed  
 2163 | service component meets the admission criteria specified in s.  
 2164 | 397.675;

2165 | (b) Ascertain whether the medical and behavioral  
 2166 | conditions of the person, as presented, are beyond the safe  
 2167 | management capabilities of the service provider;

2168 | (c) Provide for the admission of the person to the service  
 2169 | component that represents the most appropriate and least  
 2170 | restrictive available setting that is responsive to the person's  
 2171 | treatment needs;

2172 | (d) Verify that the admission of the person to the service  
 2173 | component does not result in a census in excess of its licensed  
 2174 | service capacity;

2175 | (e) Determine whether the cost of services is within the

2176 financial means of the person or those who are financially  
 2177 responsible for the person's care; and

2178 (f) Take all necessary measures to ensure that each  
 2179 individual in treatment is provided with a safe environment, and  
 2180 to ensure that each individual whose medical condition or  
 2181 behavioral problem becomes such that he or she cannot be safely  
 2182 managed by the service component is discharged and referred to a  
 2183 more appropriate setting for care.

2184 Section 28. Section 397.681, Florida Statutes, is amended  
 2185 to read:

2186 397.681 Involuntary petitions; general provisions; court  
 2187 jurisdiction and right to counsel.—

2188 (1) JURISDICTION.—The courts have jurisdiction of  
 2189 ~~involuntary assessment and stabilization petitions and~~  
 2190 involuntary treatment petitions for substance abuse impaired  
 2191 persons, and such petitions must be filed with the clerk of the  
 2192 court in the county where the person resides ~~is located~~. The  
 2193 clerk of the court may not charge a fee for the filing of a  
 2194 petition under this section. The chief judge may appoint a  
 2195 general or special magistrate to preside over all or part of the  
 2196 proceedings. The alleged impaired person is named as the  
 2197 respondent.

2198 (2) RIGHT TO COUNSEL.—A respondent has the right to  
 2199 counsel at every stage of a judicial proceeding relating to a  
 2200 petition for his or her ~~involuntary assessment and a petition~~

2201 ~~for his or her~~ involuntary treatment for substance abuse  
 2202 impairment; however, the respondent may waive that right if the  
 2203 respondent is present and the court finds that such waiver is  
 2204 made knowingly, intelligently, and voluntarily. A respondent who  
 2205 desires counsel and is unable to afford private counsel has the  
 2206 right to court-appointed counsel and to the benefits of s.  
 2207 57.081. If the court believes that the respondent needs or  
 2208 desires the assistance of counsel, the court shall appoint such  
 2209 counsel for the respondent without regard to the respondent's  
 2210 wishes. If the respondent is a minor not otherwise represented  
 2211 in the proceeding, the court shall immediately appoint a  
 2212 guardian ad litem to act on the minor's behalf.

2213 Section 29. Section 397.693, Florida Statutes, is  
 2214 renumbered as 397.68111, Florida Statutes, and amended to read:

2215 397.68111 ~~397.693~~ Involuntary treatment.—A person may be  
 2216 the subject of a petition for court-ordered involuntary  
 2217 treatment pursuant to this part, if that person:

2218 (1) Reasonably appears to meet ~~meets~~ the criteria for  
 2219 involuntary admission provided in s. 397.675; ~~and:~~

2220 (2) ~~(1)~~ Has been placed under protective custody pursuant  
 2221 to s. 397.677 within the previous 10 days;

2222 (3) ~~(2)~~ Has been subject to an emergency admission pursuant  
 2223 to s. 397.679 within the previous 10 days; or

2224 (4) ~~(3)~~ Has been assessed by a qualified professional  
 2225 within 30 ~~5~~ days;

2226 ~~(4) Has been subject to involuntary assessment and~~  
 2227 ~~stabilization pursuant to s. 397.6818 within the previous 12~~  
 2228 ~~days; or~~

2229 ~~(5) Has been subject to alternative involuntary admission~~  
 2230 ~~pursuant to s. 397.6822 within the previous 12 days.~~

2231 Section 30. Section 397.695, Florida Statutes, is  
 2232 renumbered as section 397.68112, Florida Statutes, and amended  
 2233 to read:

2234 397.68112 ~~397.695~~ Involuntary services; persons who may  
 2235 petition.—

2236 (1) If the respondent is an adult, a petition for  
 2237 involuntary treatment services may be filed by the respondent's  
 2238 spouse or legal guardian, any relative, a service provider, or  
 2239 an adult who has direct personal knowledge of the respondent's  
 2240 substance abuse impairment and his or her prior course of  
 2241 assessment and treatment.

2242 (2) If the respondent is a minor, a petition for  
 2243 involuntary treatment services may be filed by a parent, legal  
 2244 guardian, or service provider.

2245 (3) The court may prohibit, or a law enforcement agency  
 2246 may waive, any service of process fees if a petitioner is  
 2247 determined to be indigent.

2248 Section 31. Section 397.6951, Florida Statutes, is  
 2249 renumbered as 397.68141, Florida Statutes, and amended to read:

2250 397.68141 ~~397.6951~~ Contents of petition for involuntary

2251 treatment services.—A petition for involuntary services must  
2252 contain the name of the respondent; the name of the petitioner  
2253 ~~or petitioners;~~ the relationship between the respondent and the  
2254 petitioner; the name of the respondent's attorney, if known; ~~the~~  
2255 ~~findings and recommendations of the assessment performed by the~~  
2256 ~~qualified professional;~~ and the factual allegations presented by  
2257 the petitioner establishing the need for involuntary ~~outpatient~~  
2258 services for substance abuse impairment. The factual allegations  
2259 must demonstrate:

2260 (1) The reason for the petitioner's belief that the  
2261 respondent is substance abuse impaired;

2262 (2) The reason for the petitioner's belief that because of  
2263 such impairment the respondent has lost the power of self-  
2264 control with respect to substance abuse; and

2265 (3) (a) The reason the petitioner believes that the  
2266 respondent has inflicted or is likely to inflict physical harm  
2267 on himself or herself or others unless the court orders the  
2268 involuntary services; or

2269 (b) The reason the petitioner believes that the  
2270 respondent's refusal to voluntarily receive care is based on  
2271 judgment so impaired by reason of substance abuse that the  
2272 respondent is incapable of appreciating his or her need for care  
2273 and of making a rational decision regarding that need for care.

2274 (4) The petition may be accompanied by a certificate or  
2275 report of a qualified professional who examined the respondent

2276 within 30 days before the petition was filed. The certificate or  
 2277 report must include the qualified professional's findings  
 2278 relating to his or her assessment of the patient and his or her  
 2279 treatment recommendations. If the respondent was not assessed  
 2280 before the filing of a treatment petition or refused to submit  
 2281 to an evaluation, the lack of assessment or refusal must be  
 2282 noted in the petition.

2283 (5) If there is an emergency, the petition must also  
 2284 describe the respondent's exigent circumstances and include a  
 2285 request for an ex parte assessment and stabilization order that  
 2286 must be executed pursuant to s. 397.68151.

2287 Section 32. Section 397.6955, Florida Statutes, is  
 2288 renumbered as section 397.68151, Florida Statutes, and amended  
 2289 to read:

2290 397.68151 ~~397.6955~~ Duties of court upon filing of petition  
 2291 for involuntary services.—

2292 (1) Upon the filing of a petition for involuntary services  
 2293 for a substance abuse impaired person with the clerk of the  
 2294 court, the court shall immediately determine whether the  
 2295 respondent is represented by an attorney or whether the  
 2296 appointment of counsel for the respondent is appropriate. If the  
 2297 court appoints counsel for the person, the clerk of the court  
 2298 shall immediately notify the office of criminal conflict and  
 2299 civil regional counsel, created pursuant to s. 27.511, of the  
 2300 appointment. The office of criminal conflict and civil regional

2301 counsel shall represent the person until the petition is  
 2302 dismissed, the court order expires, ~~or~~ the person is discharged  
 2303 from involuntary treatment services, or the office is otherwise  
 2304 discharged by the court. An attorney that represents the person  
 2305 named in the petition shall have access to the person,  
 2306 witnesses, and records relevant to the presentation of the  
 2307 person's case and shall represent the interests of the person,  
 2308 regardless of the source of payment to the attorney.

2309 (2) The court shall schedule a hearing to be held on the  
 2310 petition within 10 court working 5 days unless a continuance is  
 2311 granted. The court may appoint a magistrate to preside at the  
 2312 hearing.

2313 (3) A copy of the petition and notice of the hearing must  
 2314 be provided to the respondent; the respondent's parent,  
 2315 guardian, or legal custodian, in the case of a minor; the  
 2316 respondent's attorney, if known; the petitioner; the  
 2317 respondent's spouse or guardian, if applicable; and such other  
 2318 persons as the court may direct. If the respondent is a minor, a  
 2319 copy of the petition and notice of the hearing must be  
 2320 personally delivered to the respondent. The clerk ~~court~~ shall  
 2321 also issue a summons to the person whose admission is sought and  
 2322 unless a circuit court's chief judge authorizes disinterested  
 2323 private process servers to serve parties under this chapter, a  
 2324 law enforcement agency must effect such service on the person  
 2325 whose admission is sought for the initial treatment hearing.

2326 Section 33. Section 397.6818, Florida Statutes, is amended  
 2327 to read:

2328 397.6818 Court determination.—

2329 (1) When the petitioner asserts that emergency  
 2330 circumstances exist, or when upon review of the petition the  
 2331 court determines that an emergency exists, the court may rely  
 2332 solely on the contents of the petition and, without the  
 2333 appointment of an attorney, enter an ex parte order for the  
 2334 respondent's involuntary assessment and stabilization which must  
 2335 be executed during the period when the hearing on the petition  
 2336 for treatment is pending.

2337 (2) The court may further order a law enforcement officer  
 2338 or another designated agent of the court to:

2339 (a) Take the respondent into custody and deliver him or  
 2340 her for evaluation to either the nearest appropriate licensed  
 2341 service provider or a licensed service provider designated by  
 2342 the court.

2343 (b) Serve the respondent with the notice of hearing and a  
 2344 copy of the petition.

2345 (3) The service provider may not hold the respondent for  
 2346 longer than 72 hours of observation, unless:

2347 (a) The service provider seeks additional time under s.  
 2348 397.6957(1)(c) and the court, after a hearing, grants that  
 2349 motion;

2350 (b) The respondent shows signs of withdrawal, or a need to

2351 be either detoxified or treated for a medical condition, which  
2352 shall extend the amount of time the respondent may be held for  
2353 observation until the issue is resolved but no later than the  
2354 scheduled hearing date, absent a court-approved extension; or

2355 (c) The original or extended observation period ends on a  
2356 weekend or holiday, including the hours before the ordinary  
2357 business hours of the following workday morning, in which case  
2358 the provider may hold the respondent until the next court  
2359 working day.

2360 (4) If the ex parte order was not executed by the initial  
2361 hearing date, it shall be deemed void. However, should the  
2362 respondent not appear at the hearing for any reason, including  
2363 lack of service, and upon reviewing the petition, testimony, and  
2364 evidence presented, the court reasonably believes the respondent  
2365 meets this chapter's commitment criteria and that a substance  
2366 abuse emergency exists, the court may issue or reissue an ex  
2367 parte assessment and stabilization order that is valid for 90  
2368 days. If the respondent's location is known at the time of the  
2369 hearing, the court:

2370 (a) Shall continue the case for no more than 10 court  
2371 working days; and

2372 (b) May order a law enforcement officer or another  
2373 designated agent of the court to:

2374 1. Take the respondent into custody and deliver him or her  
2375 for evaluation to either the nearest appropriate licensed

2376 service provider or a licensed service provider designated by  
 2377 the court; and

2378 2. If a hearing date is set, serve the respondent with  
 2379 notice of the rescheduled hearing and a copy of the involuntary  
 2380 treatment petition if the respondent has not already been  
 2381 served.

2382  
 2383 Otherwise, the petitioner must inform the court that the  
 2384 respondent has been assessed so that the court may schedule a  
 2385 hearing as soon as is practicable. However, if the respondent  
 2386 has not been assessed within 90 days, the court must dismiss the  
 2387 case. At the hearing initiated in accordance with s.

2388 ~~397.6811(1), the court shall hear all relevant testimony. The~~  
 2389 ~~respondent must be present unless the court has reason to~~  
 2390 ~~believe that his or her presence is likely to be injurious to~~  
 2391 ~~him or her, in which event the court shall appoint a guardian~~  
 2392 ~~advocate to represent the respondent. The respondent has the~~  
 2393 ~~right to examination by a court-appointed qualified~~  
 2394 ~~professional. After hearing all the evidence, the court shall~~  
 2395 ~~determine whether there is a reasonable basis to believe the~~  
 2396 ~~respondent meets the involuntary admission criteria of s.~~  
 2397 ~~397.675.~~

2398 ~~(1) Based on its determination, the court shall either~~  
 2399 ~~dismiss the petition or immediately enter an order authorizing~~  
 2400 ~~the involuntary assessment and stabilization of the respondent;~~

2401 ~~or, if in the course of the hearing the court has reason to~~  
2402 ~~believe that the respondent, due to mental illness other than or~~  
2403 ~~in addition to substance abuse impairment, is likely to injure~~  
2404 ~~himself or herself or another if allowed to remain at liberty,~~  
2405 ~~the court may initiate involuntary proceedings under the~~  
2406 ~~provisions of part I of chapter 394.~~

2407 ~~(2) If the court enters an order authorizing involuntary~~  
2408 ~~assessment and stabilization, the order shall include the~~  
2409 ~~court's findings with respect to the availability and~~  
2410 ~~appropriateness of the least restrictive alternatives and the~~  
2411 ~~need for the appointment of an attorney to represent the~~  
2412 ~~respondent, and may designate the specific licensed service~~  
2413 ~~provider to perform the involuntary assessment and stabilization~~  
2414 ~~of the respondent. The respondent may choose the licensed~~  
2415 ~~service provider to deliver the involuntary assessment where~~  
2416 ~~possible and appropriate.~~

2417 ~~(3) If the court finds it necessary, it may order the~~  
2418 ~~sheriff to take the respondent into custody and deliver him or~~  
2419 ~~her to the licensed service provider specified in the court~~  
2420 ~~order or, if none is specified, to the nearest appropriate~~  
2421 ~~licensed service provider for involuntary assessment.~~

2422 ~~(4) The order is valid only for the period specified in~~  
2423 ~~the order or, if a period is not specified, for 7 days after the~~  
2424 ~~order is signed.~~

2425 Section 34. Section 397.6957, Florida Statutes, is amended

2426 to read:

2427 397.6957 Hearing on petition for involuntary treatment  
 2428 services.—

2429 (1) (a) The respondent must be present at a hearing on a  
 2430 petition for involuntary treatment services, unless the court  
 2431 finds that he or she knowingly, intelligently, and voluntarily  
 2432 waives his or her right to be present or, upon receiving proof  
 2433 of service and evaluating the circumstances of the case, that  
 2434 his or her presence is inconsistent with his or her best  
 2435 interests or is likely to be injurious to self or others. The  
 2436 court shall hear and review all relevant evidence, including  
 2437 testimony from individuals such as family members familiar with  
 2438 the respondent's prior history and how it relates to his or her  
 2439 current condition, and the ~~review of~~ results of the assessment  
 2440 completed by the qualified professional in connection with this  
 2441 chapter. The court may also order drug tests. Upon a finding of  
 2442 good cause, the court may permit all witnesses, including, but  
 2443 not limited to, medical professionals who are or have been  
 2444 involved with the respondent's treatment, to remotely attend and  
 2445 testify at the hearing under oath via audio-video  
 2446 teleconference. A witness intending to remotely attend and  
 2447 testify must provide the parties with all relevant documents by  
 2448 the close of business on the day before the hearing ~~the~~  
 2449 ~~respondent's protective custody, emergency admission,~~  
 2450 ~~involuntary assessment, or alternative involuntary admission.~~

2451 ~~The respondent must be present unless the court finds that his~~  
2452 ~~or her presence is likely to be injurious to himself or herself~~  
2453 ~~or others, in which event the court must appoint a guardian~~  
2454 ~~advocate to act in behalf of the respondent throughout the~~  
2455 ~~proceedings.~~

2456 (b) A respondent may not be involuntarily ordered into  
2457 treatment under this chapter without a clinical assessment being  
2458 performed, unless he or she is present in court and expressly  
2459 waives the assessment. In nonemergency situations, if the  
2460 respondent was not, or had previously refused to be, assessed by  
2461 a qualified professional and, based on the petition, testimony,  
2462 and evidence presented, it reasonably appears that the  
2463 respondent qualifies for involuntary treatment services, the  
2464 court shall issue an involuntary assessment and stabilization  
2465 order to determine the appropriate level of treatment the  
2466 respondent requires. Additionally, in cases where an assessment  
2467 was attached to the petition, the respondent may request, or the  
2468 court on its own motion may order, an independent assessment by  
2469 a court-appointed or otherwise agreed upon qualified  
2470 professional. If an assessment order is issued, it is valid for  
2471 90 days, and if the respondent is present or there is either  
2472 proof of service or his or her location is known, the  
2473 involuntary treatment hearing shall be continued for no more  
2474 than 10 court working days. Otherwise, the petitioner must  
2475 inform the court that the respondent has been assessed so that

2476 the court may schedule a hearing as soon as is practicable. The  
2477 assessment must occur before the new hearing date, and if there  
2478 is evidence indicating that the respondent will not voluntarily  
2479 appear at the forthcoming hearing or is a danger to self or  
2480 others, the court may enter a preliminary order committing the  
2481 respondent to an appropriate treatment facility for further  
2482 evaluation until the date of the rescheduled hearing. However,  
2483 if after 90 days the respondent remains unassessed, the court  
2484 shall dismiss the case.

2485 (c)1. The respondent's assessment by a qualified  
2486 professional must occur within 72 hours after his or her arrival  
2487 at a licensed service provider unless the respondent shows signs  
2488 of withdrawal or a need to be either detoxified or treated for a  
2489 medical condition, which shall extend the amount of time the  
2490 respondent may be held for observation until such issue is  
2491 resolved but no later than the scheduled hearing date, absent a  
2492 court-approved extension. If the respondent is a minor, such  
2493 assessment must be initiated within the first 12 hours of the  
2494 minor's admission to the facility. The service provider may also  
2495 move to extend the 72 hours of observation by petitioning the  
2496 court in writing for additional time. The service provider must  
2497 furnish copies of such motion to all parties in accordance with  
2498 applicable confidentiality requirements, and after a hearing,  
2499 the court may grant additional time. If the court grants the  
2500 service provider's petition, the service provider may continue

2501 to hold the respondent, and if the original or extended  
2502 observation period ends on a weekend or holiday, including the  
2503 hours before the ordinary business hours of the following  
2504 workday morning, the provider may hold the respondent until the  
2505 next court working day.

2506 2. No later than the ordinary close of business on the day  
2507 before the hearing, the qualified professional shall transmit,  
2508 in accordance with any applicable confidentiality requirements,  
2509 his or her clinical assessment to the clerk of the court, who  
2510 shall enter it into the court file. The report must contain a  
2511 recommendation on the level of substance abuse treatment the  
2512 respondent requires, if any, and the relevant information on  
2513 which the qualified professional's findings are based. This  
2514 document must further note whether the respondent has any co-  
2515 occurring mental health or other treatment needs. For adults  
2516 subject to an involuntary assessment, the report's filing with  
2517 the court satisfies s. 397.6758 if it also contains the  
2518 respondent's admission and discharge information. The qualified  
2519 professional's failure to include a treatment recommendation,  
2520 much like a recommendation of no treatment, shall result in the  
2521 petition's dismissal.

2522 (2) The petitioner has the burden of proving by clear and  
2523 convincing evidence that:

2524 (a) The respondent is substance abuse impaired and has a  
2525 history of lack of compliance with treatment for substance

2526 | abuse; and

2527 |       (b) Because of such impairment the respondent is unlikely  
 2528 | to voluntarily participate in the recommended services or is  
 2529 | unable to determine for himself or herself whether services are  
 2530 | necessary and:

2531 |       1. Without services, the respondent is likely to suffer  
 2532 | from neglect or refuse to care for himself or herself; that such  
 2533 | neglect or refusal poses a real and present threat of  
 2534 | substantial harm to his or her well-being; and that there is a  
 2535 | substantial likelihood that without services the respondent will  
 2536 | cause serious bodily harm to himself, herself, or another in the  
 2537 | near future, as evidenced by recent behavior; or

2538 |       2. The respondent's refusal to voluntarily receive care is  
 2539 | based on judgment so impaired by reason of substance abuse that  
 2540 | the respondent is incapable of appreciating his or her need for  
 2541 | care and of making a rational decision regarding that need for  
 2542 | care.

2543 |       (3) ~~One of the qualified professionals who executed the~~  
 2544 | ~~involuntary services certificate must be a witness. The court~~  
 2545 | ~~shall allow testimony from individuals, including family~~  
 2546 | ~~members, deemed by the court to be relevant under state law,~~  
 2547 | ~~regarding the respondent's prior history and how that prior~~  
 2548 | ~~history relates to the person's current condition. The Testimony~~  
 2549 | in the hearing must be taken under oath, and the proceedings  
 2550 | must be recorded. The respondent ~~patient~~ may refuse to testify

2551 at the hearing.

2552 (4) If at any point during the hearing the court has  
 2553 reason to believe that the respondent, due to mental illness  
 2554 other than or in addition to substance abuse impairment, meets  
 2555 the involuntary commitment provisions of part I of chapter 394,  
 2556 the court may initiate involuntary examination proceedings under  
 2557 such provisions.

2558 (5)-(4) At the conclusion of the hearing the court shall  
 2559 either dismiss the petition or order the respondent to receive  
 2560 involuntary treatment services from his or her chosen licensed  
 2561 service provider if possible and appropriate. Any treatment  
 2562 order must include findings regarding the respondent's need for  
 2563 treatment and the appropriateness of other less restrictive  
 2564 alternatives.

2565 Section 35. Section 397.697, Florida Statutes, is amended  
 2566 to read:

2567 397.697 Court determination; effect of court order for  
 2568 involuntary services.-

2569 (1)(a) When the court finds that the conditions for  
 2570 involuntary treatment services have been proved by clear and  
 2571 convincing evidence, it may order the respondent to receive  
 2572 involuntary treatment services from a publicly funded licensed  
 2573 service provider for a period not to exceed 90 days. The court  
 2574 may also order a respondent to undergo treatment through a  
 2575 privately funded licensed service provider if the respondent has

2576 the ability to pay for the treatment, or if any person on the  
 2577 respondent's behalf voluntarily demonstrates a willingness and  
 2578 an ability to pay for the treatment. If the court finds it  
 2579 necessary, it may direct the sheriff to take the respondent into  
 2580 custody and deliver him or her to the licensed service provider  
 2581 specified in the court order, or to the nearest appropriate  
 2582 licensed service provider, for involuntary treatment services.  
 2583 When the conditions justifying involuntary treatment services no  
 2584 longer exist, the individual must be released as provided in s.  
 2585 397.6971. When the conditions justifying involuntary treatment  
 2586 services are expected to exist after 90 days of treatment  
 2587 services, a renewal of the involuntary services order may be  
 2588 requested pursuant to s. 397.6975 before the end of the 90-day  
 2589 period.

2590 (b) To qualify for involuntary outpatient treatment, an  
 2591 individual must be supported by a social worker or case manager  
 2592 of a licensed service provider, or a willing, able, and  
 2593 responsible individual appointed by the court who shall inform  
 2594 the court and parties if the respondent fails to comply with his  
 2595 or her outpatient program. In addition, unless the respondent  
 2596 has been involuntarily ordered into inpatient treatment under  
 2597 this chapter at least twice during the last 36 months, or  
 2598 demonstrates the ability to substantially comply with the  
 2599 outpatient treatment while waiting for residential placement to  
 2600 become available, he or she must receive an assessment from a

2601 qualified professional or licensed physician expressly  
2602 recommending outpatient services, such services must be  
2603 available in the county in which the respondent is located, and  
2604 it must appear likely that the respondent will follow a  
2605 prescribed outpatient care plan.

2606 (2) In all cases resulting in an order for involuntary  
2607 treatment services, the court shall retain jurisdiction over the  
2608 case and the parties for the entry of such further orders as the  
2609 circumstances may require, including, but not limited to,  
2610 monitoring compliance with treatment, changing the treatment  
2611 modality, or initiating contempt of court proceedings for  
2612 violating any valid order issued pursuant to this chapter.  
2613 Hearings under this section may be set by motion of the parties  
2614 or under the court's own authority, and the motion and notice of  
2615 hearing for these ancillary proceedings, which include, but are  
2616 not limited to, civil contempt, must be served in accordance  
2617 with relevant court procedural rules. The court's requirements  
2618 for notification of proposed release must be included in the  
2619 original order.

2620 (3) An involuntary treatment services order also  
2621 authorizes the licensed service provider to require the  
2622 individual to receive treatment services that will benefit him  
2623 or her, including treatment services at any licensable service  
2624 component of a licensed service provider.

2625 (4) If the court orders involuntary treatment services, a

2626 copy of the order must be sent to the managing entity within 1  
2627 working day after it is received from the court. Documents may  
2628 be submitted electronically through ~~though~~ existing data  
2629 systems, if applicable. The Louis de la Parte Florida Mental  
2630 Health Institute established under s. 1004.44, shall also  
2631 receive and maintain copies of the involuntary assessment and  
2632 treatment orders issued pursuant to ss. 397.68151, 397.6818, and  
2633 397.6957; the qualified professional assessments; the  
2634 professional certificates; and the law enforcement officers'  
2635 protective custody reports. The institute established under  
2636 1004.44, shall use such documents to prepare annual reports  
2637 analyzing the data the documents contain, without including  
2638 patients' personal identifying information, and the institute  
2639 shall post such reports on its website and provide copies of the  
2640 reports to the department, the President of the Senate, and the  
2641 Speaker of the House of Representatives by December 31 of each  
2642 year.

2643 Section 36. Section 397.6971, Florida Statutes, is amended  
2644 to read:

2645 397.6971 Early release from involuntary services.—

2646 (1) At any time before the end of the 90-day involuntary  
2647 treatment services period, or before the end of any extension  
2648 granted pursuant to s. 397.6975, an individual receiving  
2649 involuntary treatment services may be determined eligible for  
2650 discharge to the most appropriate referral or disposition for

2651 the individual when any of the following apply:

2652 (a) The individual no longer meets the criteria for  
 2653 involuntary admission and has given his or her informed consent  
 2654 to be transferred to voluntary treatment status.

2655 (b) If the individual was admitted on the grounds of  
 2656 likelihood of infliction of physical harm upon himself or  
 2657 herself or others, such likelihood no longer exists.

2658 (c) If the individual was admitted on the grounds of need  
 2659 for assessment and stabilization or treatment, accompanied by  
 2660 inability to make a determination respecting such need:

2661 1. Such inability no longer exists; or

2662 2. It is evident that further treatment will not bring  
 2663 about further significant improvements in the individual's  
 2664 condition.

2665 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~  
 2666 services.

2667 (e) The director of the service provider determines that  
 2668 the individual is beyond the safe management capabilities of the  
 2669 provider.

2670 (2) Whenever a qualified professional determines that an  
 2671 individual admitted for involuntary treatment services qualifies  
 2672 for early release under subsection (1), the service provider  
 2673 shall immediately discharge the individual and must notify all  
 2674 persons specified by the court in the original treatment order.

2675 Section 37. Section 397.6975, Florida Statutes, is amended

2676 to read:

2677 397.6975 Extension of involuntary treatment services  
2678 period.—

2679 (1) Whenever a service provider believes that an  
2680 individual who is nearing the scheduled date of his or her  
2681 release from involuntary treatment services continues to meet  
2682 the criteria for involuntary services in s. 397.68111 or s.  
2683 397.6957 ~~s. 397.693~~, a petition for renewal of the involuntary  
2684 treatment services order must ~~may~~ be filed with the court ~~at~~  
2685 ~~least 10 days~~ before the expiration of the court-ordered  
2686 services period. The petition may be filed by the service  
2687 provider or by the person who filed the petition for the initial  
2688 treatment order if the petition is accompanied by supporting  
2689 documentation from the service provider. The court shall  
2690 immediately schedule a hearing within 10 court working days to  
2691 be held not more than 15 days after filing of the petition ~~and~~.  
2692 the court shall provide the copy of the petition for renewal and  
2693 the notice of the hearing to all parties and counsel to the  
2694 proceeding. The hearing is conducted pursuant to ss. 397.6957  
2695 and 397.697 and must be held before the circuit court unless  
2696 referred to a magistrate ~~s. 397.6957~~.

2697 (2) If the court finds that the petition for renewal of  
2698 the involuntary treatment services order should be granted, it  
2699 may order the respondent to receive involuntary treatment  
2700 services for a period not to exceed an additional 90 days. When

2701 the conditions justifying involuntary treatment services no  
2702 longer exist, the individual must be released as provided in s.  
2703 397.6971. When the conditions justifying involuntary services  
2704 continue to exist after an additional 90 days of service, a new  
2705 petition requesting renewal of the involuntary treatment  
2706 services order may be filed pursuant to this section.

2707 ~~(3) Within 1 court working day after the filing of a~~  
2708 ~~petition for continued involuntary services, the court shall~~  
2709 ~~appoint the office of criminal conflict and civil regional~~  
2710 ~~counsel to represent the respondent, unless the respondent is~~  
2711 ~~otherwise represented by counsel. The clerk of the court shall~~  
2712 ~~immediately notify the office of criminal conflict and civil~~  
2713 ~~regional counsel of such appointment. The office of criminal~~  
2714 ~~conflict and civil regional counsel shall represent the~~  
2715 ~~respondent until the petition is dismissed or the court order~~  
2716 ~~expires or the respondent is discharged from involuntary~~  
2717 ~~services. Any attorney representing the respondent shall have~~  
2718 ~~access to the respondent, witnesses, and records relevant to the~~  
2719 ~~presentation of the respondent's case and shall represent the~~  
2720 ~~interests of the respondent, regardless of the source of payment~~  
2721 ~~to the attorney.~~

2722 ~~(4) Hearings on petitions for continued involuntary~~  
2723 ~~services shall be before the circuit court. The court may~~  
2724 ~~appoint a magistrate to preside at the hearing. The procedures~~  
2725 ~~for obtaining an order pursuant to this section shall be in~~

2726 | ~~accordance with s. 397.697.~~

2727 | ~~(5) Notice of hearing shall be provided to the respondent~~  
 2728 | ~~or his or her counsel. The respondent and the respondent's~~  
 2729 | ~~counsel may agree to a period of continued involuntary services~~  
 2730 | ~~without a court hearing.~~

2731 | ~~(6) The same procedure shall be repeated before the~~  
 2732 | ~~expiration of each additional period of involuntary services.~~

2733 | ~~(7) If the respondent has previously been found~~  
 2734 | ~~incompetent to consent to treatment, the court shall consider~~  
 2735 | ~~testimony and evidence regarding the respondent's competence.~~

2736 | Section 38. Section 397.6977, Florida Statutes, is amended  
 2737 | to read:

2738 | 397.6977 Disposition of individual upon completion of  
 2739 | involuntary services.—

2740 | (1) At the conclusion of the 90-day period of court-  
 2741 | ordered involuntary services, the respondent is automatically  
 2742 | discharged unless a motion for renewal of the involuntary  
 2743 | services order has been filed with the court pursuant to s.  
 2744 | 397.6975.

2745 | (2) Discharge planning and procedures for any respondent's  
 2746 | release from involuntary treatment services must include and  
 2747 | document the respondent's needs, and actions to address such  
 2748 | needs, for, at a minimum:

2749 | (a) Follow-up behavioral health appointments.

2750 | (b) Information on how to obtain prescribed medications.

2751           (c) Information pertaining to available living  
 2752 arrangements and transportation.

2753           (d) Referral to recovery support opportunities, including,  
 2754 but not limited to, connection to a peer specialist.

2755           Section 39. Section 397.6811, Florida Statutes, is  
 2756 repealed.

2757           Section 40. Section 397.6814, Florida Statutes, is  
 2758 repealed.

2759           Section 41. Section 397.6815, Florida Statutes, is  
 2760 repealed.

2761           Section 42. Section 397.6819, Florida Statutes, is  
 2762 repealed.

2763           Section 43. Section 397.6821, Florida Statutes, is  
 2764 repealed.

2765           Section 44. Section 397.6822, Florida Statutes, is  
 2766 repealed.

2767           Section 45. Section 397.6978, Florida Statutes, is  
 2768 repealed.

2769           Section 46. Section (2) of section 916.13, Florida  
 2770 Statutes, is amended to read:

2771           916.13 Involuntary commitment of defendant adjudicated  
 2772 incompetent.—

2773           (2) A defendant who has been charged with a felony and who  
 2774 has been adjudicated incompetent to proceed due to mental  
 2775 illness, and who meets the criteria for involuntary commitment

2776 | under this chapter, may be committed to the department, and the  
 2777 | department shall retain and treat the defendant.

2778 |         (a) Immediately after receipt of a completed copy of the  
 2779 | court commitment order containing all documentation required by  
 2780 | the applicable Florida Rules of Criminal Procedure, the  
 2781 | department shall request all medical information relating to the  
 2782 | defendant from the jail. The jail shall provide the department  
 2783 | with all medical information relating to the defendant within 3  
 2784 | business days after receipt of the department's request or at  
 2785 | the time the defendant enters the physical custody of the  
 2786 | department, whichever is earlier.

2787 |         (b) Within 60 days after the date of admission and at the  
 2788 | end of any period of extended commitment, or at any time the  
 2789 | administrator or his or her designee determines that the  
 2790 | defendant has regained competency to proceed or no longer meets  
 2791 | the criteria for continued commitment, the administrator or  
 2792 | designee shall file a report with the court pursuant to the  
 2793 | applicable Florida Rules of Criminal Procedure.

2794 |         (c)1. If the department determines at any time that a  
 2795 | defendant will not or is unlikely to regain competency to  
 2796 | proceed, the department shall, within 30 days after the  
 2797 | determination, complete and submit a competency evaluation  
 2798 | report to the circuit court to determine if the defendant meets  
 2799 | the criteria for involuntary civil commitment under s. 394.467.  
 2800 | A qualified professional, as defined in s. 394.455, must sign

2801 the competency evaluation report for the circuit court under  
2802 penalty of perjury. A copy of the report shall be provided, at a  
2803 minimum, to the court, state attorney, and counsel for the  
2804 defendant before initiating any transfer of the defendant back  
2805 to the committing jurisdiction.

2806 2. For purposes of this paragraph, the term "competency  
2807 evaluation report to the circuit court" means a report by the  
2808 department regarding a defendant's incompetence to proceed in a  
2809 criminal proceeding due to mental illness as set forth in this  
2810 section. The report shall include, at a minimum, the following  
2811 regarding the defendant:

2812 a. A description of mental, emotional, and behavioral  
2813 disturbances.

2814 b. An explanation to support the opinion of incompetence  
2815 to proceed.

2816 c. The rationale to support why the defendant is unlikely  
2817 to gain competence to proceed in the foreseeable future.

2818 d. A clinical opinion regarding whether the defendant no  
2819 longer meets the criteria for involuntary forensic commitment  
2820 pursuant to this section.

2821 e. A recommendation on whether the defendant meets the  
2822 criteria for involuntary services pursuant to s. 394.467.

2823 (d)-(e) The defendant must be transported, in accordance  
2824 with s. 916.107, to the committing court's jurisdiction within 7  
2825 days after ~~of~~ notification that the defendant is competent to

2826 proceed or no longer meets the criteria for continued  
2827 commitment. A determination on the issue of competency must be  
2828 made at a hearing within 30 days of the notification. If the  
2829 defendant is receiving psychotropic medication at a mental  
2830 health facility at the time he or she is discharged and  
2831 transferred to the jail, the administering of such medication  
2832 must continue unless the jail physician documents the need to  
2833 change or discontinue it. To ensure continuity of care, the  
2834 referring mental health facility must transfer the patient with  
2835 up to 30 days of medications and assist in discharge planning  
2836 with medical teams at the receiving county jail. The jail and  
2837 department physicians shall collaborate to ensure that  
2838 medication changes do not adversely affect the defendant's  
2839 mental health status or his or her ability to continue with  
2840 court proceedings; however, the final authority regarding the  
2841 administering of medication to an inmate in jail rests with the  
2842 jail physician. Notwithstanding this paragraph, a defendant who  
2843 meets the criteria for involuntary examination pursuant to s.  
2844 394.463 as determined by an independent clinical opinion shall  
2845 appear remotely for the hearing. Court witnesses may appear  
2846 remotely.

2847 Section 47. Subsection (6) of section 40.29, Florida  
2848 Statutes, is amended to read:

2849 40.29 Payment of due-process costs; reimbursement for  
2850 petitions and orders.-

2851 (6) Subject to legislative appropriation, the clerk of the  
 2852 circuit court may, on a quarterly basis, submit to the Justice  
 2853 Administrative Commission a certified request for reimbursement  
 2854 for petitions and orders filed under ss. 394.459, 394.463,  
 2855 394.467, and 394.917, ~~and 397.6814,~~ at the rate of \$40 per  
 2856 petition or order. Such request for reimbursement shall be  
 2857 submitted in the form and manner prescribed by the Justice  
 2858 Administrative Commission pursuant to s. 28.35(2)(i).

2859 Section 48. Subsection (23) of section 394.455, Florida  
 2860 Statutes, is amended to read:

2861 394.455 Definitions.—As used in this part, the term:

2862 (23) "Involuntary examination" means an examination  
 2863 performed under s. 394.463, s. 397.6772, s. 397.679, s.  
 2864 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a  
 2865 person qualifies for involuntary services.

2866 Section 49. Paragraph (b) of subsection (1) of section  
 2867 409.972, Florida Statutes, is amended to read:

2868 409.972 Mandatory and voluntary enrollment.—

2869 (1) The following Medicaid-eligible persons are exempt  
 2870 from mandatory managed care enrollment required by s. 409.965,  
 2871 and may voluntarily choose to participate in the managed medical  
 2872 assistance program:

2873 (b) Medicaid recipients residing in residential commitment  
 2874 facilities operated through the Department of Juvenile Justice  
 2875 or a treatment facility as defined in s. 394.455 ~~s. 394.455(49)~~.

2876 Section 50. Paragraph (e) of subsection (4) of section  
 2877 464.012, Florida Statutes, is amended to read:

2878 464.012 Licensure of advanced practice registered nurses;  
 2879 fees; controlled substance prescribing.—

2880 (4) In addition to the general functions specified in  
 2881 subsection (3), an advanced practice registered nurse may  
 2882 perform the following acts within his or her specialty:

2883 (e) A psychiatric nurse, who meets the requirements in s.  
 2884 394.455 ~~s. 394.455(36)~~, within the framework of an established  
 2885 protocol with a psychiatrist, may prescribe psychotropic  
 2886 controlled substances for the treatment of mental disorders.

2887 Section 51. Subsection (7) of section 744.2007, Florida  
 2888 Statutes, is amended to read:

2889 744.2007 Powers and duties.—

2890 (7) A public guardian may not commit a ward to a treatment  
 2891 facility, as defined in s. 394.455 ~~s. 394.455(49)~~, without an  
 2892 involuntary placement proceeding as provided by law.

2893 Section 52. Subsection (3) of section 916.107, Florida  
 2894 Statutes, is amended to read:

2895 916.107 Rights of forensic clients.—

2896 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

2897 (a) A forensic client shall be asked to give express and  
 2898 informed written consent for treatment. If a client refuses such  
 2899 treatment as is deemed necessary and essential by the client's  
 2900 multidisciplinary treatment team for the appropriate care of the

2901 client, such treatment may be provided under the following  
2902 circumstances:

2903 1. In an emergency situation in which there is immediate  
2904 danger to the safety of the client or others, such treatment may  
2905 be provided upon the ~~written~~ order of a physician for up to 48  
2906 hours, excluding weekends and legal holidays. If, after the 48-  
2907 hour period, the client has not given express and informed  
2908 consent to the treatment initially refused, the administrator or  
2909 designee of the civil or forensic facility shall, within 48  
2910 hours, excluding weekends and legal holidays, petition the  
2911 committing court or the circuit court serving the county in  
2912 which the facility is located, at the option of the facility  
2913 administrator or designee, for an order authorizing the  
2914 continued treatment of the client. In the interim, the need for  
2915 treatment shall be reviewed every 48 hours and may be continued  
2916 without the consent of the client upon the continued ~~written~~  
2917 order of a physician who has determined that the emergency  
2918 situation continues to present a danger to the safety of the  
2919 client or others.

2920 2. In a situation other than an emergency situation, the  
2921 administrator or designee of the facility shall petition the  
2922 court for an order authorizing necessary and essential treatment  
2923 for the client.

2924 a. If the client has been receiving psychotropic  
2925 medication at the jail at the time of transfer to the forensic

2926 or civil facility and lacks the capacity to make an informed  
2927 decision regarding mental health treatment at the time of  
2928 admission, the admitting physician shall order continued  
2929 administration of psychotropic medication if, in the clinical  
2930 judgment of the physician, abrupt cessation of that psychotropic  
2931 medication could pose a risk to the health or safety of the  
2932 client while a court order to medicate is pursued. The  
2933 administrator or designee of the forensic or civil facility  
2934 shall, within 5 days after a client's admission, excluding  
2935 weekends and legal holidays, petition the committing court or  
2936 the circuit court serving the county in which the facility is  
2937 located, at the option of the facility administrator or  
2938 designee, for an order authorizing the continued treatment of a  
2939 client with psychotropic medication. The jail physician shall  
2940 provide a current psychotropic medication order at the time of  
2941 transfer to the forensic or civil facility or upon request of  
2942 the admitting physician after the client is evaluated.

2943       b. The court order shall allow such treatment for up to 90  
2944 days after the date that the order was entered. Unless the court  
2945 is notified in writing that the client has provided express and  
2946 informed written consent or that the client has been discharged  
2947 by the committing court, the administrator or designee of the  
2948 facility shall, before the expiration of the initial 90-day  
2949 order, petition the court for an order authorizing the  
2950 continuation of treatment for an additional 90 days. This

2951 procedure shall be repeated until the client provides consent or  
2952 is discharged by the committing court.

2953 3. At the hearing on the issue of whether the court should  
2954 enter an order authorizing treatment for which a client was  
2955 unable to or refused to give express and informed consent, the  
2956 court shall determine by clear and convincing evidence that the  
2957 client has mental illness, intellectual disability, or autism,  
2958 that the treatment not consented to is essential to the care of  
2959 the client, and that the treatment not consented to is not  
2960 experimental and does not present an unreasonable risk of  
2961 serious, hazardous, or irreversible side effects. In arriving at  
2962 the substitute judgment decision, the court must consider at  
2963 least the following factors:

- 2964 a. The client's expressed preference regarding treatment;
- 2965 b. The probability of adverse side effects;
- 2966 c. The prognosis without treatment; and
- 2967 d. The prognosis with treatment.

2968  
2969 The hearing shall be as convenient to the client as may be  
2970 consistent with orderly procedure and shall be conducted in  
2971 physical settings not likely to be injurious to the client's  
2972 condition. The court may appoint a general or special magistrate  
2973 to preside at the hearing. The client or the client's guardian,  
2974 and the representative, shall be provided with a copy of the  
2975 petition and the date, time, and location of the hearing. The

2976 client has the right to have an attorney represent him or her at  
2977 the hearing, and, if the client is indigent, the court shall  
2978 appoint the office of the public defender to represent the  
2979 client at the hearing. The client may testify or not, as he or  
2980 she chooses, and has the right to cross-examine witnesses and  
2981 may present his or her own witnesses.

2982 (b) In addition to the provisions of paragraph (a), in the  
2983 case of surgical procedures requiring the use of a general  
2984 anesthetic or electroconvulsive treatment or nonpsychiatric  
2985 medical procedures, and prior to performing the procedure,  
2986 written permission shall be obtained from the client, if the  
2987 client is legally competent, from the parent or guardian of a  
2988 minor client, or from the guardian of an incompetent client. The  
2989 administrator or designee of the forensic facility or a  
2990 designated representative may, with the concurrence of the  
2991 client's attending physician, authorize emergency surgical or  
2992 nonpsychiatric medical treatment if such treatment is deemed  
2993 lifesaving or for a situation threatening serious bodily harm to  
2994 the client and permission of the client or the client's guardian  
2995 could not be obtained before provision of the needed treatment.

2996 Section 53. For the 2024-2025 fiscal year, the sum of  
2997 \$50,000,000 of recurring funds from the General Revenue Fund are  
2998 provided to the Department of Children and Families to implement  
2999 the provisions of this act.

3000 Section 54. This act shall take effect July 1, 2024.