

26 | involuntary outpatient services and court proceedings
27 | relating to involuntary outpatient services; amending
28 | s. 394.467, F.S.; providing definitions; revising
29 | requirements for ordering a person for involuntary
30 | services and treatment, petitions for involuntary
31 | services, appointment of counsel, and continuances of
32 | hearings, respectively; revising the conditions under
33 | which a court may waive the requirement for a patient
34 | to be present at an involuntary inpatient placement
35 | hearing; authorizing the court to permit witnesses to
36 | attend and testify remotely at the hearing through
37 | specified means; providing requirements for a witness
38 | to attend and testify remotely; requiring facilities
39 | to make certain clinical records available to a state
40 | attorney within a specified timeframe; specifying that
41 | such records remain confidential and may not be used
42 | for certain purposes; revising the circumstances under
43 | which a court may appoint a magistrate to preside over
44 | certain proceedings; requiring the court to allow
45 | certain testimony from specified persons; revising the
46 | length of time a court may require a patient to
47 | receive services; requiring facilities to discharge
48 | patients when they no longer meet the criteria for
49 | involuntary inpatient treatment; prohibiting courts
50 | from ordering individuals with developmental

51 disabilities to be involuntarily placed in a state
 52 treatment facility; requiring courts to refer such
 53 individuals, and authorizing courts to refer certain
 54 other individuals, to specified agencies for
 55 evaluation and services; providing requirements for
 56 treatment plan modifications, noncompliance with
 57 involuntary outpatient services, and discharge,
 58 respectively; revising requirements for the procedure
 59 for continued involuntary services and return to
 60 treatment facilities, respectively; amending ss.
 61 394.492, 394.495, 394.496, 394.9085, 409.972, 464.012,
 62 and 744.2007, F.S.; conforming provisions and cross-
 63 references to changes made by the act; providing an
 64 effective date.

65

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

67

68 Section 1. Paragraph (d) of subsection (2) of section
 69 394.4599, Florida Statutes, is amended to read:

70 394.4599 Notice.—

71 (2) INVOLUNTARY ADMISSION.—

72 (d) The written notice of the filing of the petition for
 73 involuntary services for an individual being held must contain
 74 the following:

75 1. Notice that the petition for:

76 a. Involuntary services ~~inpatient treatment~~ pursuant to s.
 77 394.467 has been filed with the circuit court and the address of
 78 such court ~~in the county in which the individual is hospitalized~~
 79 ~~and the address of such court~~; or

80 b. Involuntary outpatient services pursuant to s. 394.467
 81 ~~s. 394.4655~~ has been filed with the criminal county court, as
 82 defined in s. 394.4655(1), ~~or the circuit court, as applicable,~~
 83 ~~in the county in which the individual is hospitalized~~ and the
 84 address of such court.

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

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

91 4. Notice that the individual, the individual's guardian,
 92 guardian advocate, health care surrogate or proxy, or
 93 representative, or the administrator may apply for a change of
 94 venue for the convenience of the parties or witnesses or because
 95 of the condition of the individual.

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

99 Section 2. Subsection (3) of section 394.4615, Florida
 100 Statutes, is amended to read:

101 394.4615 Clinical records; confidentiality.—

102 (3) Information from the clinical record may be released
 103 in the following circumstances:

104 (a) When a patient has communicated to a service provider
 105 a specific threat to cause serious bodily injury or death to an
 106 identified or a readily available person, if the service
 107 provider reasonably believes, or should reasonably believe
 108 according to the standards of his or her profession, that the
 109 patient has the apparent intent and ability to imminently or
 110 immediately carry out such threat. When such communication has
 111 been made, the administrator may authorize the release of
 112 sufficient information to provide adequate warning to the person
 113 threatened with harm by the patient.

114 (b) When the administrator of the facility or secretary of
 115 the department deems release to a qualified researcher as
 116 defined in administrative rule, an aftercare treatment provider,
 117 or an employee or agent of the department is necessary for
 118 treatment of the patient, maintenance of adequate records,
 119 compilation of treatment data, aftercare planning, or evaluation
 120 of programs.

121
 122 For the purpose of determining whether a person meets the
 123 criteria for involuntary services ~~outpatient placement~~ or for
 124 preparing the proposed treatment plan pursuant to s. 394.4655 or
 125 s. 394.467, the clinical record may be released to the state

126 attorney, the public defender or the patient's private legal
 127 counsel, the court, and to the appropriate mental health
 128 professionals, including the service provider under s. 394.4655
 129 or s. 394.467 ~~identified in s. 394.4655(7)(b)2.~~, in accordance
 130 with state and federal law.

131 Section 3. Subsection (1) and paragraphs (a), (e), (f),
 132 (g), and (h) of subsection (2) of section 394.463, Florida
 133 Statutes, are amended to read:

134 394.463 Involuntary examination.—

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

139 (a)1. The person has refused voluntary examination after
 140 conscientious explanation and disclosure of the purpose of the
 141 examination; or

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

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

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

155 (2) INVOLUNTARY EXAMINATION.—

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

158 1. A circuit or county court may enter an ex parte order
 159 stating that a person appears to meet the criteria for
 160 involuntary examination and specifying the findings on which
 161 that conclusion is based. The ex parte order for involuntary
 162 examination must be based on written or oral sworn testimony
 163 that includes specific facts that support the findings. If other
 164 less restrictive means are not available, such as voluntary
 165 appearance for outpatient evaluation, a law enforcement officer,
 166 or other designated agent of the court, shall take the person
 167 into custody and deliver him or her to an appropriate, or the
 168 nearest, facility within the designated receiving system
 169 pursuant to s. 394.462 for involuntary examination. The order of
 170 the court shall be made a part of the patient's clinical record.
 171 A fee may not be charged for the filing of an order under this
 172 subsection. A facility accepting the patient based on this order
 173 must send a copy of the order to the department within 5 working
 174 days. The order may be submitted electronically through existing
 175 data systems, if available. The order shall be valid only until

176 the person is delivered to the facility or for the period
177 specified in the order itself, whichever comes first. If a time
178 limit is not specified in the order, the order is valid for 7
179 days after the date that the order was signed.

180 2. A law enforcement officer may ~~shall~~ take a person who
181 appears to meet the criteria for involuntary examination into
182 custody and deliver the person or have him or her delivered to
183 an appropriate, or the nearest, facility within the designated
184 receiving system pursuant to s. 394.462 for examination. A law
185 enforcement officer transporting a person pursuant to this
186 section ~~subparagraph~~ shall restrain the person in the least
187 restrictive manner available and appropriate under the
188 circumstances. The officer shall execute a written report
189 detailing the circumstances under which the person was taken
190 into custody, which must be made a part of the patient's
191 clinical record. The report must include all emergency contact
192 information for the person that is readily accessible to the law
193 enforcement officer, including information available through
194 electronic databases maintained by the Department of Law
195 Enforcement or by the Department of Highway Safety and Motor
196 Vehicles. Such emergency contact information may be used by a
197 receiving facility only for the purpose of informing listed
198 emergency contacts of a patient's whereabouts pursuant to s.
199 119.0712(2)(d). Any facility accepting the patient based on this
200 report must send a copy of the report to the department within 5

201 working days.

202 3. A physician, a physician assistant, a clinical
203 psychologist, a psychiatric nurse, an advanced practice
204 registered nurse registered under s. 464.0123, a mental health
205 counselor, a marriage and family therapist, or a clinical social
206 worker may execute a certificate stating that he or she has
207 examined a person within the preceding 48 hours and finds that
208 the person appears to meet the criteria for involuntary
209 examination and stating the observations upon which that
210 conclusion is based. If other less restrictive means, such as
211 voluntary appearance for outpatient evaluation, are not
212 available, a law enforcement officer shall take into custody the
213 person named in the certificate and deliver him or her to the
214 appropriate, or nearest, facility within the designated
215 receiving system pursuant to s. 394.462 for involuntary
216 examination. The law enforcement officer shall execute a written
217 report detailing the circumstances under which the person was
218 taken into custody and include all emergency contact information
219 required under subparagraph 2. The report must include all
220 emergency contact information for the person that is readily
221 accessible to the law enforcement officer, including information
222 available through electronic databases maintained by the
223 Department of Law Enforcement or by the Department of Highway
224 Safety and Motor Vehicles. Such emergency contact information
225 may be used by a receiving facility only for the purpose of

226 | informing listed emergency contacts of a patient's whereabouts
 227 | pursuant to s. 119.0712(2)(d). The report and certificate shall
 228 | be made a part of the patient's clinical record. Any facility
 229 | accepting the patient based on this certificate must send a copy
 230 | of the certificate to the department within 5 working days. The
 231 | document may be submitted electronically through existing data
 232 | systems, if applicable.

233 |

234 | When sending the order, report, or certificate to the
 235 | department, a facility shall, at a minimum, provide information
 236 | about which action was taken regarding the patient under
 237 | paragraph (g), which information shall also be made a part of
 238 | the patient's clinical record.

239 | (e) The department shall receive and maintain the copies
 240 | of ex parte orders, involuntary ~~outpatient~~ services orders
 241 | issued pursuant to ss. 394.4655 and 394.467 ~~s. 394.4655,~~
 242 | ~~involuntary inpatient placement orders issued pursuant to s.~~
 243 | ~~394.467,~~ professional certificates, law enforcement officers'
 244 | reports, and reports relating to the transportation of patients.
 245 | These documents shall be considered part of the clinical record,
 246 | governed by the provisions of s. 394.4615. These documents shall
 247 | be used to prepare annual reports analyzing the data obtained
 248 | from these documents, without including the personal identifying
 249 | information of the patient. The department ~~identifying patients,~~
 250 | ~~and~~ shall post the reports on its website and provide copies of

251 such reports to the ~~department,~~ the President of the Senate, the
252 Speaker of the House of Representatives, and the minority
253 leaders of the Senate and the House of Representatives by
254 November 30 of each year.

255 (f) A patient shall be examined by a physician or a
256 clinical psychologist, or by a psychiatric nurse performing
257 within the framework of an established protocol with a
258 psychiatrist at a facility without unnecessary delay to
259 determine if the criteria for involuntary services are met.
260 Emergency treatment may be provided upon the order of a
261 physician if the physician determines that such treatment is
262 necessary for the safety of the patient or others. The patient
263 may not be released by the receiving facility or its contractor
264 without the documented approval of a psychiatrist or a clinical
265 psychologist or, if the receiving facility is owned or operated
266 by a hospital, health system, or nationally accredited community
267 mental health center, the release may also be approved by a
268 psychiatric nurse performing within the framework of an
269 established protocol with a psychiatrist, or an attending
270 emergency department physician with experience in the diagnosis
271 and treatment of mental illness after completion of an
272 involuntary examination pursuant to this subsection. A
273 ~~psychiatric nurse may not approve the release of a patient if~~
274 ~~the involuntary examination was initiated by a psychiatrist~~
275 ~~unless the release is approved by the initiating psychiatrist.~~

276 The release may be approved through telehealth.

277 (g) The examination period must be for up to 72 hours and
278 begins when a patient arrives at the receiving facility. For a
279 minor, the examination shall be initiated within 12 hours after
280 the patient's arrival at the facility. Within the examination
281 period, one of the following actions must be taken, based on the
282 individual needs of the patient:

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

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

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

292 4. A petition for involuntary services shall be filed in
293 the circuit court ~~if inpatient treatment is deemed necessary~~ or
294 with the criminal county court, as defined in s. 394.4655(1), as
295 applicable. When inpatient treatment is deemed necessary, the
296 least restrictive treatment consistent with the optimum
297 improvement of the patient's condition shall be made available.
298 The ~~When a petition is to be filed for involuntary outpatient~~
299 ~~placement, it~~ shall be filed by one of the petitioners specified
300 in s. 394.467, and the court shall dismiss an untimely filed

301 ~~petition s. 394.4655(4)(a). A petition for involuntary inpatient~~
 302 ~~placement shall be filed by the facility administrator. If a~~
 303 ~~patient's 72-hour examination period ends on a weekend or~~
 304 ~~holiday, including the hours before the ordinary business hours~~
 305 ~~on the morning of the next working day, and the receiving~~
 306 ~~facility:~~

307 a. Intends to file a petition for involuntary services,
 308 such patient may be held at the ~~a receiving~~ facility through the
 309 next working day thereafter and the ~~such~~ petition ~~for~~
 310 ~~involuntary services~~ must be filed no later than such date. If
 311 the ~~receiving~~ facility fails to file the ~~a~~ petition by ~~for~~
 312 ~~involuntary services~~ at the ordinary close of business on the
 313 next working day, the patient shall be released from the
 314 receiving facility following approval pursuant to paragraph (f).

315 b. Does not intend to file a petition for involuntary
 316 services, the ~~a~~ receiving facility may postpone release of a
 317 patient until the next working day thereafter only if a
 318 qualified professional documents that adequate discharge
 319 planning and procedures in accordance with s. 394.468, and
 320 approval pursuant to paragraph (f), are not possible until the
 321 next working day.

322 (h) A person for whom an involuntary examination has been
 323 initiated who is being evaluated or treated at a hospital for an
 324 emergency medical condition specified in s. 395.002 must be
 325 examined by a facility within the examination period specified

326 in paragraph (g). The examination period begins when the patient
 327 arrives at the hospital and ceases when the attending physician
 328 documents that the patient has an emergency medical condition.
 329 If the patient is examined at a hospital providing emergency
 330 medical services by a professional qualified to perform an
 331 involuntary examination and is found as a result of that
 332 examination not to meet the criteria for involuntary ~~outpatient~~
 333 services pursuant to s. 394.467 ~~s. 394.4655(2)~~ or involuntary
 334 ~~inpatient~~ placement pursuant to ~~s. 394.467(1)~~, the patient may
 335 be offered voluntary outpatient or inpatient services ~~or~~
 336 ~~placement~~, if appropriate, or released directly from the
 337 hospital providing emergency medical services. The finding by
 338 the professional that the patient has been examined and does not
 339 meet the criteria for involuntary ~~inpatient~~ services ~~or~~
 340 ~~involuntary outpatient~~ placement must be entered into the
 341 patient's clinical record. This paragraph is not intended to
 342 prevent a hospital providing emergency medical services from
 343 appropriately transferring a patient to another hospital before
 344 stabilization if the requirements of s. 395.1041(3)(c) have been
 345 met.

346 Section 4. Section 394.4655, Florida Statutes, is amended
 347 to read:

348 394.4655 Involuntary outpatient services.—

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

350 (a) "Court" means a circuit court or a criminal county

351 court.

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

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

357 (2) A criminal county court may order an individual to
 358 involuntary outpatient placement under s. 394.467. CRITERIA FOR
 359 INVOLUNTARY OUTPATIENT SERVICES.—A person may be ordered to
 360 involuntary outpatient services upon a finding of the court, by
 361 clear and convincing evidence, that the person meets all of the
 362 following criteria:

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

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

365 (c) ~~The person is unlikely to survive safely in the~~
 366 ~~community without supervision, based on a clinical~~
 367 ~~determination.~~

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

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

371 1. ~~At least twice within the immediately preceding 36~~
 372 ~~months been involuntarily admitted to a receiving or treatment~~
 373 ~~facility as defined in s. 394.455, or has received mental health~~
 374 ~~services in a forensic or correctional facility. The 36-month~~
 375 ~~period does not include any period during which the person was~~

376 ~~admitted or incarcerated; or~~

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

380 ~~(f) The person is, as a result of his or her mental~~
381 ~~illness, unlikely to voluntarily participate in the recommended~~
382 ~~treatment plan and has refused voluntary services for treatment~~
383 ~~after sufficient and conscientious explanation and disclosure of~~
384 ~~why the services are necessary or is unable to determine for~~
385 ~~himself or herself whether services are necessary.~~

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

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

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

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

398 ~~(a)1. A patient who is being recommended for involuntary~~
399 ~~outpatient services by the administrator of the facility where~~
400 ~~the patient has been examined may be retained by the facility~~

401 ~~after adherence to the notice procedures provided in s.~~
402 ~~394.4599. The recommendation must be supported by the opinion of~~
403 ~~a psychiatrist and the second opinion of a clinical psychologist~~
404 ~~or another psychiatrist, both of whom have personally examined~~
405 ~~the patient within the preceding 72 hours, that the criteria for~~
406 ~~involuntary outpatient services are met. However, if the~~
407 ~~administrator certifies that a psychiatrist or clinical~~
408 ~~psychologist is not available to provide the second opinion, the~~
409 ~~second opinion may be provided by a licensed physician who has~~
410 ~~postgraduate training and experience in diagnosis and treatment~~
411 ~~of mental illness, a physician assistant who has at least 3~~
412 ~~years' experience and is supervised by such licensed physician~~
413 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
414 ~~nurse. Any second opinion authorized in this subparagraph may be~~
415 ~~conducted through a face-to-face examination, in person or by~~
416 ~~electronic means. Such recommendation must be entered on an~~
417 ~~involuntary outpatient services certificate that authorizes the~~
418 ~~facility to retain the patient pending completion of a hearing.~~
419 ~~The certificate must be made a part of the patient's clinical~~
420 ~~record.~~

421 ~~2. If the patient has been stabilized and no longer meets~~
422 ~~the criteria for involuntary examination pursuant to s.~~
423 ~~394.463(1), the patient must be released from the facility while~~
424 ~~awaiting the hearing for involuntary outpatient services. Before~~
425 ~~filing a petition for involuntary outpatient services, the~~

426 ~~administrator of the facility or a designated department~~
427 ~~representative must identify the service provider that will have~~
428 ~~primary responsibility for service provision under an order for~~
429 ~~involuntary outpatient services, unless the person is otherwise~~
430 ~~participating in outpatient psychiatric treatment and is not in~~
431 ~~need of public financing for that treatment, in which case the~~
432 ~~individual, if eligible, may be ordered to involuntary treatment~~
433 ~~pursuant to the existing psychiatric treatment relationship.~~

434 ~~3. The service provider shall prepare a written proposed~~
435 ~~treatment plan in consultation with the patient or the patient's~~
436 ~~guardian advocate, if appointed, for the court's consideration~~
437 ~~for inclusion in the involuntary outpatient services order that~~
438 ~~addresses the nature and extent of the mental illness and any~~
439 ~~co-occurring substance use disorder that necessitate involuntary~~
440 ~~outpatient services. The treatment plan must specify the likely~~
441 ~~level of care, including the use of medication, and anticipated~~
442 ~~discharge criteria for terminating involuntary outpatient~~
443 ~~services. Service providers may select and supervise other~~
444 ~~individuals to implement specific aspects of the treatment plan.~~
445 ~~The services in the plan must be deemed clinically appropriate~~
446 ~~by a physician, clinical psychologist, psychiatric nurse, mental~~
447 ~~health counselor, marriage and family therapist, or clinical~~
448 ~~social worker who consults with, or is employed or contracted~~
449 ~~by, the service provider. The service provider must certify to~~
450 ~~the court in the proposed plan whether sufficient services for~~

451 ~~improvement and stabilization are currently available and~~
452 ~~whether the service provider agrees to provide those services.~~
453 ~~If the service provider certifies that the services in the~~
454 ~~proposed treatment plan are not available, the petitioner may~~
455 ~~not file the petition. The service provider must notify the~~
456 ~~managing entity if the requested services are not available. The~~
457 ~~managing entity must document such efforts to obtain the~~
458 ~~requested services.~~

459 ~~(b) If a patient in involuntary inpatient placement meets~~
460 ~~the criteria for involuntary outpatient services, the~~
461 ~~administrator of the facility may, before the expiration of the~~
462 ~~period during which the facility is authorized to retain the~~
463 ~~patient, recommend involuntary outpatient services. The~~
464 ~~recommendation must be supported by the opinion of a~~
465 ~~psychiatrist and the second opinion of a clinical psychologist~~
466 ~~or another psychiatrist, both of whom have personally examined~~
467 ~~the patient within the preceding 72 hours, that the criteria for~~
468 ~~involuntary outpatient services are met. However, if the~~
469 ~~administrator certifies that a psychiatrist or clinical~~
470 ~~psychologist is not available to provide the second opinion, the~~
471 ~~second opinion may be provided by a licensed physician who has~~
472 ~~postgraduate training and experience in diagnosis and treatment~~
473 ~~of mental illness, a physician assistant who has at least 3~~
474 ~~years' experience and is supervised by such licensed physician~~
475 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~

476 nurse. Any second opinion authorized in this subparagraph may be
477 conducted through a face-to-face examination, in person or by
478 electronic means. Such recommendation must be entered on an
479 involuntary outpatient services certificate, and the certificate
480 must be made a part of the patient's clinical record.

481 (c)1. The administrator of the treatment facility shall
482 provide a copy of the involuntary outpatient services
483 certificate and a copy of the state mental health discharge form
484 to the managing entity in the county where the patient will be
485 residing. For persons who are leaving a state mental health
486 treatment facility, the petition for involuntary outpatient
487 services must be filed in the county where the patient will be
488 residing.

489 2. The service provider that will have primary
490 responsibility for service provision shall be identified by the
491 designated department representative before the order for
492 involuntary outpatient services and must, before filing a
493 petition for involuntary outpatient services, certify to the
494 court whether the services recommended in the patient's
495 discharge plan are available and whether the service provider
496 agrees to provide those services. The service provider must
497 develop with the patient, or the patient's guardian advocate, if
498 appointed, a treatment or service plan that addresses the needs
499 identified in the discharge plan. The plan must be deemed to be
500 clinically appropriate by a physician, clinical psychologist,

501 ~~psychiatric nurse, mental health counselor, marriage and family~~
 502 ~~therapist, or clinical social worker, as defined in this~~
 503 ~~chapter, who consults with, or is employed or contracted by, the~~
 504 ~~service provider.~~

505 ~~3. If the service provider certifies that the services in~~
 506 ~~the proposed treatment or service plan are not available, the~~
 507 ~~petitioner may not file the petition. The service provider must~~
 508 ~~notify the managing entity if the requested services are not~~
 509 ~~available. The managing entity must document such efforts to~~
 510 ~~obtain the requested services.~~

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

512 ~~(a) A petition for involuntary outpatient services may be~~
 513 ~~filed by:~~

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

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

516 ~~(b) Each required criterion for involuntary outpatient~~
 517 ~~services must be alleged and substantiated in the petition for~~
 518 ~~involuntary outpatient services. A copy of the certificate~~
 519 ~~recommending involuntary outpatient services completed by a~~
 520 ~~qualified professional specified in subsection (3) must be~~
 521 ~~attached to the petition. A copy of the proposed treatment plan~~
 522 ~~must be attached to the petition. Before the petition is filed,~~
 523 ~~the service provider shall certify that the services in the~~
 524 ~~proposed plan are available. If the necessary services are not~~
 525 ~~available, the petition may not be filed. The service provider~~

526 ~~must notify the managing entity if the requested services are~~
527 ~~not available. The managing entity must document such efforts to~~
528 ~~obtain the requested services.~~

529 ~~(c) The petition for involuntary outpatient services must~~
530 ~~be filed in the county where the patient is located, unless the~~
531 ~~patient is being placed from a state treatment facility, in~~
532 ~~which case the petition must be filed in the county where the~~
533 ~~patient will reside. When the petition has been filed, the clerk~~
534 ~~of the court shall provide copies of the petition and the~~
535 ~~proposed treatment plan to the department, the managing entity,~~
536 ~~the patient, the patient's guardian or representative, the state~~
537 ~~attorney, and the public defender or the patient's private~~
538 ~~counsel. A fee may not be charged for filing a petition under~~
539 ~~this subsection.~~

540 ~~(5) APPOINTMENT OF COUNSEL. Within 1 court working day~~
541 ~~after the filing of a petition for involuntary outpatient~~
542 ~~services, the court shall appoint the public defender to~~
543 ~~represent the person who is the subject of the petition, unless~~
544 ~~the person is otherwise represented by counsel. The clerk of the~~
545 ~~court shall immediately notify the public defender of the~~
546 ~~appointment. The public defender shall represent the person~~
547 ~~until the petition is dismissed, the court order expires, or the~~
548 ~~patient is discharged from involuntary outpatient services. An~~
549 ~~attorney who represents the patient must be provided access to~~
550 ~~the patient, witnesses, and records relevant to the presentation~~

551 ~~of the patient's case and shall represent the interests of the~~
552 ~~patient, regardless of the source of payment to the attorney.~~

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

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

558 ~~(a)1. The court shall hold the hearing on involuntary~~
559 ~~outpatient services within 5 working days after the filing of~~
560 ~~the petition, unless a continuance is granted. The hearing must~~
561 ~~be held in the county where the petition is filed, must be as~~
562 ~~convenient to the patient as is consistent with orderly~~
563 ~~procedure, and must be conducted in physical settings not likely~~
564 ~~to be injurious to the patient's condition. If the court finds~~
565 ~~that the patient's attendance at the hearing is not consistent~~
566 ~~with the best interests of the patient and if the patient's~~
567 ~~counsel does not object, the court may waive the presence of the~~
568 ~~patient from all or any portion of the hearing. The state~~
569 ~~attorney for the circuit in which the patient is located shall~~
570 ~~represent the state, rather than the petitioner, as the real~~
571 ~~party in interest in the proceeding.~~

572 ~~2. The court may appoint a magistrate to preside at the~~
573 ~~hearing. One of the professionals who executed the involuntary~~
574 ~~outpatient services certificate shall be a witness. The patient~~
575 ~~and the patient's guardian or representative shall be informed~~

576 ~~by the court of the right to an independent expert examination.~~
577 ~~If the patient cannot afford such an examination, the court~~
578 ~~shall ensure that one is provided, as otherwise provided by law.~~
579 ~~The independent expert's report is confidential and not~~
580 ~~discoverable, unless the expert is to be called as a witness for~~
581 ~~the patient at the hearing. The court shall allow testimony from~~
582 ~~individuals, including family members, deemed by the court to be~~
583 ~~relevant under state law, regarding the person's prior history~~
584 ~~and how that prior history relates to the person's current~~
585 ~~condition. The testimony in the hearing must be given under~~
586 ~~oath, and the proceedings must be recorded. The patient may~~
587 ~~refuse to testify at the hearing.~~

588 ~~(b)1. If the court concludes that the patient meets the~~
589 ~~criteria for involuntary outpatient services pursuant to~~
590 ~~subsection (2), the court shall issue an order for involuntary~~
591 ~~outpatient services. The court order shall be for a period of up~~
592 ~~to 90 days. The order must specify the nature and extent of the~~
593 ~~patient's mental illness. The order of the court and the~~
594 ~~treatment plan must be made part of the patient's clinical~~
595 ~~record. The service provider shall discharge a patient from~~
596 ~~involuntary outpatient services when the order expires or any~~
597 ~~time the patient no longer meets the criteria for involuntary~~
598 ~~placement. Upon discharge, the service provider shall send a~~
599 ~~certificate of discharge to the court.~~

600 ~~2. The court may not order the department or the service~~

601 ~~provider to provide services if the program or service is not~~
602 ~~available in the patient's local community, if there is no space~~
603 ~~available in the program or service for the patient, or if~~
604 ~~funding is not available for the program or service. The service~~
605 ~~provider must notify the managing entity if the requested~~
606 ~~services are not available. The managing entity must document~~
607 ~~such efforts to obtain the requested services. A copy of the~~
608 ~~order must be sent to the managing entity by the service~~
609 ~~provider within 1 working day after it is received from the~~
610 ~~court. The order may be submitted electronically through~~
611 ~~existing data systems. After the order for involuntary services~~
612 ~~is issued, the service provider and the patient may modify the~~
613 ~~treatment plan. For any material modification of the treatment~~
614 ~~plan to which the patient or, if one is appointed, the patient's~~
615 ~~guardian advocate agrees, the service provider shall send notice~~
616 ~~of the modification to the court. Any material modifications of~~
617 ~~the treatment plan which are contested by the patient or the~~
618 ~~patient's guardian advocate, if applicable, must be approved or~~
619 ~~disapproved by the court consistent with subsection (3).~~

620 ~~3. If, in the clinical judgment of a physician, the~~
621 ~~patient has failed or has refused to comply with the treatment~~
622 ~~ordered by the court, and, in the clinical judgment of the~~
623 ~~physician, efforts were made to solicit compliance and the~~
624 ~~patient may meet the criteria for involuntary examination, a~~
625 ~~person may be brought to a receiving facility pursuant to s.~~

626 ~~394.463. If, after examination, the patient does not meet the~~
627 ~~criteria for involuntary inpatient placement pursuant to s.~~
628 ~~394.467, the patient must be discharged from the facility. The~~
629 ~~involuntary outpatient services order shall remain in effect~~
630 ~~unless the service provider determines that the patient no~~
631 ~~longer meets the criteria for involuntary outpatient services or~~
632 ~~until the order expires. The service provider must determine~~
633 ~~whether modifications should be made to the existing treatment~~
634 ~~plan and must attempt to continue to engage the patient in~~
635 ~~treatment. For any material modification of the treatment plan~~
636 ~~to which the patient or the patient's guardian advocate, if~~
637 ~~applicable, agrees, the service provider shall send notice of~~
638 ~~the modification to the court. Any material modifications of the~~
639 ~~treatment plan which are contested by the patient or the~~
640 ~~patient's guardian advocate, if applicable, must be approved or~~
641 ~~disapproved by the court consistent with subsection (3).~~

642 ~~(c) If, at any time before the conclusion of the initial~~
643 ~~hearing on involuntary outpatient services, it appears to the~~
644 ~~court that the person does not meet the criteria for involuntary~~
645 ~~outpatient services under this section but, instead, meets the~~
646 ~~criteria for involuntary inpatient placement, the court may~~
647 ~~order the person admitted for involuntary inpatient examination~~
648 ~~under s. 394.463. If the person instead meets the criteria for~~
649 ~~involuntary assessment, protective custody, or involuntary~~
650 ~~admission pursuant to s. 397.675, the court may order the person~~

651 ~~to be admitted for involuntary assessment for a period of 5 days~~
652 ~~pursuant to s. 397.6811. Thereafter, all proceedings are~~
653 ~~governed by chapter 397.~~

654 ~~(d) At the hearing on involuntary outpatient services, the~~
655 ~~court shall consider testimony and evidence regarding the~~
656 ~~patient's competence to consent to services. If the court finds~~
657 ~~that the patient is incompetent to consent to treatment, it~~
658 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
659 ~~The guardian advocate shall be appointed or discharged in~~
660 ~~accordance with s. 394.4598.~~

661 ~~(e) The administrator of the receiving facility or the~~
662 ~~designated department representative shall provide a copy of the~~
663 ~~court order and adequate documentation of a patient's mental~~
664 ~~illness to the service provider for involuntary outpatient~~
665 ~~services. Such documentation must include any advance directives~~
666 ~~made by the patient, a psychiatric evaluation of the patient,~~
667 ~~and any evaluations of the patient performed by a psychologist~~
668 ~~or a clinical social worker.~~

669 ~~(8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
670 ~~SERVICES.—~~

671 ~~(a)1. If the person continues to meet the criteria for~~
672 ~~involuntary outpatient services, the service provider shall, at~~
673 ~~least 10 days before the expiration of the period during which~~
674 ~~the treatment is ordered for the person, file in the court that~~
675 ~~issued the order for involuntary outpatient services a petition~~

676 ~~for continued involuntary outpatient services. The court shall~~
677 ~~immediately schedule a hearing on the petition to be held within~~
678 ~~15 days after the petition is filed.~~

679 ~~2. The existing involuntary outpatient services order~~
680 ~~remains in effect until disposition on the petition for~~
681 ~~continued involuntary outpatient services.~~

682 ~~3. A certificate shall be attached to the petition which~~
683 ~~includes a statement from the person's physician or clinical~~
684 ~~psychologist justifying the request, a brief description of the~~
685 ~~patient's treatment during the time he or she was receiving~~
686 ~~involuntary services, and an individualized plan of continued~~
687 ~~treatment.~~

688 ~~4. The service provider shall develop the individualized~~
689 ~~plan of continued treatment in consultation with the patient or~~
690 ~~the patient's guardian advocate, if applicable. When the~~
691 ~~petition has been filed, the clerk of the court shall provide~~
692 ~~copies of the certificate and the individualized plan of~~
693 ~~continued services to the department, the patient, the patient's~~
694 ~~guardian advocate, the state attorney, and the patient's private~~
695 ~~counsel or the public defender.~~

696 ~~(b) Within 1 court working day after the filing of a~~
697 ~~petition for continued involuntary outpatient services, the~~
698 ~~court shall appoint the public defender to represent the person~~
699 ~~who is the subject of the petition, unless the person is~~
700 ~~otherwise represented by counsel. The clerk of the court shall~~

701 ~~immediately notify the public defender of such appointment. The~~
702 ~~public defender shall represent the person until the petition is~~
703 ~~dismissed or the court order expires or the patient is~~
704 ~~discharged from involuntary outpatient services. Any attorney~~
705 ~~representing the patient shall have access to the patient,~~
706 ~~witnesses, and records relevant to the presentation of the~~
707 ~~patient's case and shall represent the interests of the patient,~~
708 ~~regardless of the source of payment to the attorney.~~

709 ~~(c) Hearings on petitions for continued involuntary~~
710 ~~outpatient services must be before the court that issued the~~
711 ~~order for involuntary outpatient services. The court may appoint~~
712 ~~a magistrate to preside at the hearing. The procedures for~~
713 ~~obtaining an order pursuant to this paragraph must meet the~~
714 ~~requirements of subsection (7), except that the time period~~
715 ~~included in paragraph (2) (c) is not applicable in determining~~
716 ~~the appropriateness of additional periods of involuntary~~
717 ~~outpatient placement.~~

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

722 ~~(e) The same procedure must be repeated before the~~
723 ~~expiration of each additional period the patient is placed in~~
724 ~~treatment.~~

725 ~~(f) If the patient has previously been found incompetent~~

726 ~~to consent to treatment, the court shall consider testimony and~~
 727 ~~evidence regarding the patient's competence. Section 394.4598~~
 728 ~~governs the discharge of the guardian advocate if the patient's~~
 729 ~~competency to consent to treatment has been restored.~~

730 Section 5. Section 394.467, Florida Statutes, is amended
 731 to read:

732 394.467 Involuntary services ~~inpatient placement.~~-

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

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

735 (b) "Involuntary inpatient placement" means services
 736 provided on an inpatient basis to a person 18 years of age or
 737 older who does not voluntarily consent to services under this
 738 chapter or a minor who does not voluntarily assent to services
 739 under this chapter.

740 (c) "Involuntary outpatient services" means services
 741 provided on an outpatient basis to a person who does not
 742 voluntarily consent to services under this chapter.

743 (2)-(1) CRITERIA FOR INVOLUNTARY SERVICES.-A person may be
 744 ordered by a court to be provided for involuntary services
 745 inpatient placement for treatment upon a finding of the court,
 746 by clear and convincing evidence, that the person meets the
 747 following criteria:

748 (a) The person ~~He or she~~ has a mental illness and because
 749 of his or her mental illness:

750 1.a. Is unlikely to voluntarily participate in the

751 recommended treatment plan and has refused voluntary services or
 752 ~~He or she has refused~~ voluntary inpatient placement for
 753 treatment after sufficient and conscientious explanation and
 754 disclosure of the purpose of ~~inpatient placement for~~ treatment;
 755 or

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

758 2.a. Is unlikely to survive safely in the community
 759 without supervision, based on clinical determination;

760 ~~b.2.a. He or she~~ Is incapable of surviving alone or with
 761 the help of willing, able, and responsible family or friends,
 762 including available alternative services, and, without
 763 treatment, is likely to suffer from neglect or refuse to care
 764 for himself or herself, and such neglect or refusal poses a real
 765 and present threat of substantial harm to his or her well-being;
 766 or

767 ~~c.b. Without treatment,~~ there is a substantial likelihood
 768 that in the near future the person ~~he or she~~ will inflict
 769 serious bodily harm on self or others, as evidenced by recent
 770 behavior causing, attempting to cause, or threatening to cause
 771 such harm. ~~;~~ and

772 (b) In view of the person's treatment history and current
 773 behavior, the person is in need of involuntary outpatient
 774 services to prevent a relapse or deterioration of his or her
 775 mental health that would be likely to result in serious bodily

776 harm to self or others, or a substantial harm to his or her
777 well-being as set forth in s. 394.463(1).

778 (c) The person has a history of lack of compliance with
779 treatment for mental illness.

780 (d) It is likely that the person will benefit from
781 involuntary services.

782 (e)~~(b)~~ All available less restrictive treatment
783 alternatives that would offer an opportunity for improvement of
784 the person's ~~his or her~~ condition have been deemed ~~judged~~ to be
785 inappropriate or unavailable.

786 (3)~~(2)~~ RECOMMENDATION FOR INVOLUNTARY SERVICES AND
787 ADMISSION TO A TREATMENT FACILITY.—A patient may be recommended
788 for involuntary inpatient placement, involuntary outpatient
789 services, or a combination of both.

790 (a) A patient may be retained by a facility for
791 involuntary services ~~or involuntarily placed in a treatment~~
792 ~~facility~~ upon the recommendation of the administrator of the
793 facility where the patient has been examined and after adherence
794 to the notice and hearing procedures provided in s. 394.4599.
795 However, if a patient who is being recommended for only
796 involuntary outpatient services has been stabilized and no
797 longer meets the criteria for involuntary examination pursuant
798 to s. 394.463(1), the patient must be released from the facility
799 while awaiting the hearing for involuntary outpatient services.

800 (b) The recommendation must be supported by the opinion of

801 a psychiatrist and the second opinion of a clinical psychologist
802 or another psychiatrist, both of whom have personally examined
803 the patient within the preceding 72 hours, that the criteria for
804 involuntary services ~~inpatient placement~~ are met.

805 (c) ~~If However, if the administrator certifies that a~~
806 psychiatrist or clinical psychologist is not available to
807 provide a ~~the~~ second opinion, the administrator must certify
808 that a clinical psychologist is not available and the second
809 opinion may be provided by a licensed physician who has
810 postgraduate training and experience in diagnosis and treatment
811 of mental illness or by a psychiatric nurse. If the patient is
812 being recommended for involuntary outpatient services only, the
813 second opinion may be provided by a physician assistant who has
814 at least 3 years' experience and is supervised by a licensed
815 physician or psychiatrist or a clinical social worker.

816 (d) Any opinion authorized in this subsection may be
817 conducted through a face-to-face or in-person examination, ~~in~~
818 ~~person,~~ or by electronic means. Recommendations for involuntary
819 services must ~~Such recommendation shall~~ be entered on an ~~a~~
820 ~~petition for involuntary~~ services ~~inpatient placement~~
821 certificate, which shall be made a part of the patient's
822 clinical record. The certificate must either authorize the
823 facility to retain the patient pending completion of a hearing
824 or authorize ~~that authorizes~~ the facility to retain the patient
825 pending transfer to a treatment facility or completion of a

826 hearing.

827 (4)~~(3)~~ PETITION FOR INVOLUNTARY SERVICES ~~INPATIENT~~
 828 ~~PLACEMENT.~~—

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

830 1. The administrator of a receiving ~~the~~ facility; or

831 2. The administrator of a treatment facility.

832 (b) ~~shall file~~ A petition for involuntary inpatient
 833 placement, or inpatient placement followed by outpatient
 834 services, must be filed in the court in the county where the
 835 patient is located.

836 (c) A petition for involuntary outpatient services must be
 837 filed in the county where the patient is located, unless the
 838 patient is being placed from a state treatment facility, in
 839 which case the petition must be filed in the county where the
 840 patient will reside.

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

842 a. Whether the petitioner is recommending inpatient
 843 placement, outpatient services, or both.

844 b. The length of time recommended for each type of
 845 involuntary services.

846 c. The reasons for the recommendation.

847 2. If recommending involuntary outpatient services, or a
 848 combination of involuntary inpatient placement and involuntary
 849 outpatient services, the petitioner must identify the service
 850 provider that will have primary responsibility for providing

851 such services under an order for involuntary outpatient
852 services, unless the person is otherwise participating in
853 outpatient psychiatric treatment and is not in need of public
854 financing for that treatment, in which case the individual, if
855 eligible, may be ordered to involuntary treatment pursuant to
856 the existing psychiatric treatment relationship.

857 3. If recommending an immediate order to involuntary
858 outpatient placement, the service provider shall prepare a
859 written proposed treatment plan in consultation with the patient
860 or the patient's guardian advocate, if appointed, for the
861 court's consideration for inclusion in the involuntary
862 outpatient services order that addresses the nature and extent
863 of the mental illness and any co-occurring substance use
864 disorder that necessitate involuntary outpatient services. The
865 treatment plan must specify the likely level of care, including
866 the use of medication, and anticipated discharge criteria for
867 terminating involuntary outpatient services. Service providers
868 may select and supervise other individuals to implement specific
869 aspects of the treatment plan. The services in the plan must be
870 deemed clinically appropriate by a physician, clinical
871 psychologist, psychiatric nurse, mental health counselor,
872 marriage and family therapist, or clinical social worker who
873 consults with, or is employed or contracted by, the service
874 provider. The service provider must certify to the court in the
875 proposed plan whether sufficient services for improvement and

876 stabilization are currently available and whether the service
 877 provider agrees to provide those services. If the service
 878 provider certifies that the services in the proposed treatment
 879 plan are not available, the petitioner may not file the
 880 petition. The service provider must notify the managing entity
 881 if the requested services are not available. The managing entity
 882 must document such efforts to obtain the requested services.

883 (e) Each required criterion for the recommended
 884 involuntary services must be alleged and substantiated in the
 885 petition. A copy of the certificate recommending involuntary
 886 services completed by a qualified professional specified in
 887 subsection (3) and, if applicable, a copy of the proposed
 888 treatment plan must be attached to the petition.

889 (f) When the petition has been filed ~~Upon filing,~~ the
 890 clerk of the court shall provide copies of the petition and, if
 891 applicable, the proposed treatment plan to the department, the
 892 managing entity, the patient, the patient's guardian or
 893 representative, and the state attorney, and the public defender
 894 or the patient's private counsel ~~of the judicial circuit in~~
 895 ~~which the patient is located.~~ A fee may not be charged for the
 896 filing of a petition under this subsection.

897 (5)-(4) APPOINTMENT OF COUNSEL.—Within 1 court working day
 898 after the filing of a petition for involuntary services
 899 ~~inpatient placement,~~ the court shall appoint the public defender
 900 to represent the person who is the subject of the petition,

901 unless the person is otherwise represented by counsel or
 902 ineligible. The clerk of the court shall immediately notify the
 903 public defender of such appointment. The public defender shall
 904 represent the person until the petition is dismissed, the court
 905 order expires, or the patient is discharged from involuntary
 906 services. Any attorney who represents ~~representing~~ the patient
 907 shall be provided ~~have~~ access to the patient, witnesses, and
 908 records relevant to the presentation of the patient's case and
 909 shall represent the interests of the patient, regardless of the
 910 source of payment to the attorney.

911 (6)-(5) CONTINUANCE OF HEARING.—The patient and the state
 912 are independently ~~is~~ entitled, with the concurrence of the
 913 ~~patient's counsel,~~ to at least one continuance of the hearing.
 914 The patient's continuance may be for a period of up to 4 weeks
 915 and requires the concurrence of the patient's counsel. The
 916 state's continuance may be for a period of up to 5 court working
 917 days and requires a showing of good cause and due diligence by
 918 the state before requesting the continuance. The state's failure
 919 to timely review any readily available document or failure to
 920 attempt to contact a known witness does not warrant a
 921 continuance.

922 (7)-(6) HEARING ON INVOLUNTARY SERVICES INPATIENT
 923 PLACEMENT.—

924 (a)1. The court shall hold a ~~the~~ hearing on the
 925 involuntary services petition ~~inpatient placement~~ within 5 court

926 working days after the filing of the petition, unless a
927 continuance is granted.

928 2. The court must hold any hearing on involuntary
929 outpatient services in the county where the petition is filed. A
930 hearing on involuntary inpatient placement, or a combination of
931 involuntary inpatient placement and involuntary outpatient
932 services ~~Except for good cause documented in the court file, the~~
933 ~~hearing~~ must be held in the county or the facility, as
934 appropriate, where the patient is located, except for good cause
935 documented in the court file.

936 3. A hearing on involuntary services must be as convenient
937 to the patient as is consistent with orderly procedure, and
938 shall be conducted in physical settings not likely to be
939 injurious to the patient's condition. If the court finds that
940 the patient's attendance at the hearing is not consistent with
941 the best interests of the patient, or the patient knowingly,
942 intelligently, and voluntarily waives his or her right to be
943 present, and if the patient's counsel does not object, the court
944 may waive the attendance ~~presence~~ of the patient from all or any
945 portion of the hearing. The state attorney for the circuit in
946 which the patient is located shall represent the state, rather
947 than the petitioner, as the real party in interest in the
948 proceeding. The facility shall make the respondent's clinical
949 records available to the state attorney and the respondent's
950 attorney so that the state can evaluate and prepare its case.

951 However, these records shall remain confidential, and the state
952 attorney may not use any record obtained under this part for
953 criminal investigation or prosecution purposes, or for any
954 purpose other than the patient's civil commitment under this
955 chapter petitioning facility administrator, as the real party in
956 interest in the proceeding.

957 (b)3. The court may appoint a magistrate to preside at the
958 hearing on the petition and any ancillary proceedings,
959 including, but not limited to, writs of habeas corpus issued
960 pursuant to s. 394.459. Upon a finding of good cause, the court
961 may permit all witnesses, including, but not limited to, medical
962 professionals who are or have been involved with the patient's
963 treatment, to remotely attend and testify at the hearing under
964 oath via audio-video teleconference. A witness intending to
965 remotely attend and testify must provide the parties with all
966 relevant documents by the close of business on the day before
967 the hearing. One of the professionals who executed the ~~petition~~
968 ~~for involuntary services inpatient placement~~ certificate shall
969 be a witness. The patient and the patient's guardian or
970 representative shall be informed by the court of the right to an
971 independent expert examination. If the patient cannot afford
972 such an examination, the court shall ensure that one is
973 provided, as otherwise provided for by law. The independent
974 expert's report is confidential and not discoverable, unless the
975 expert is to be called as a witness for the patient at the

976 hearing. The court shall allow testimony from persons, including
977 family members, deemed by the court to be relevant under state
978 law, regarding the person's prior history and how that prior
979 history relates to the person's current condition. The testimony
980 in the hearing must be given under oath, and the proceedings
981 must be recorded. The patient may refuse to testify at the
982 hearing.

983 ~~(c)-(b)~~ At the hearing, the court shall consider testimony
984 and evidence regarding the patient's competence to consent to
985 services and treatment. If the court finds that the patient is
986 incompetent to consent to treatment, it shall appoint a guardian
987 advocate as provided in s. 394.4598.

988 (8) ORDERS OF THE COURT.—

989 (a)1. If the court concludes that the patient meets the
990 criteria for involuntary services, the court may order a patient
991 to involuntary inpatient placement, involuntary outpatient
992 services, or a combination of involuntary services depending on
993 the criteria met and which type of involuntary services best
994 meet the needs of the patient. However, if the court orders the
995 patient to involuntary outpatient services, the court may not
996 order the department or the service provider to provide services
997 if the program or service is not available in the patient's
998 local community, if there is no space available in the program
999 or service for the patient, or if funding is not available for
1000 the program or service. The service provider must notify the

1001 managing entity if the requested services are not available. The
 1002 managing entity must document such efforts to obtain the
 1003 requested services. A copy of the order must be sent to the
 1004 managing entity by the service provider within 1 working day
 1005 after it is received from the court.

1006 2. The order must specify the nature and extent of the
 1007 patient's mental illness.

1008 3.a. An order for only involuntary outpatient services
 1009 shall be for a period of up to 90 days.

1010 b. An order for involuntary inpatient placement,
 1011 involuntary outpatient services, or a combination of involuntary
 1012 services may be for up to 6 months.

1013 4. An order for a combination of involuntary services
 1014 shall specify the length of time the patient shall be ordered
 1015 for involuntary inpatient placement and involuntary outpatient
 1016 services.

1017 5. The order of the court and the patient's treatment
 1018 plan, if applicable, must be made part of the patient's clinical
 1019 record.

1020 (b) If the court orders a patient into involuntary
 1021 inpatient placement, the court ~~it~~ may order that the patient be
 1022 transferred to a treatment facility, or, if the patient is at a
 1023 treatment facility, that the patient be retained there or be
 1024 treated at any other appropriate facility, or that the patient
 1025 receive services, on an involuntary basis, ~~for up to 90 days.~~

1026 ~~However, any order for involuntary mental health services in a~~
1027 ~~treatment facility may be for up to 6 months. The order shall~~
1028 ~~specify the nature and extent of the patient's mental illness.~~
1029 The court may not order an individual with a developmental
1030 disability as defined in s. 393.063 or a traumatic brain injury
1031 or dementia who lacks a co-occurring mental illness to be
1032 involuntarily placed in a state treatment facility. ~~The facility~~
1033 ~~shall discharge a patient any time the patient no longer meets~~
1034 ~~the criteria for involuntary inpatient placement, unless the~~
1035 ~~patient has transferred to voluntary status.~~

1036 (c) If at any time before the conclusion of ~~a the~~ hearing
1037 on involuntary services ~~inpatient placement~~ it appears to the
1038 court that the patient ~~person does not meet the criteria for~~
1039 ~~involuntary inpatient placement under this section, but instead~~
1040 meets the criteria for involuntary ~~outpatient services,~~ the
1041 court may order the person evaluated for involuntary outpatient
1042 services pursuant to s. 394.4655. The petition and hearing
1043 procedures set forth in s. 394.4655 shall apply. If the person
1044 ~~instead meets the criteria for involuntary assessment,~~
1045 ~~protective custody, or involuntary admission~~ or treatment
1046 pursuant to s. 397.675, then the court may order the person to
1047 be admitted for involuntary assessment ~~for a period of 5 days~~
1048 pursuant to s. 397.677 ~~s. 397.6811~~. Thereafter, all proceedings
1049 are governed by chapter 397.

1050 ~~(d) At the hearing on involuntary inpatient placement, the~~

1051 ~~court shall consider testimony and evidence regarding the~~
 1052 ~~patient's competence to consent to treatment. If the court finds~~
 1053 ~~that the patient is incompetent to consent to treatment, it~~
 1054 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~

1055 (d)(e) The administrator of the petitioning facility or
 1056 the designated department representative shall provide a copy of
 1057 the court order and adequate documentation of a patient's mental
 1058 illness to the service provider for involuntary outpatient
 1059 services or the administrator of a treatment facility if the
 1060 patient is ordered for involuntary inpatient placement, ~~whether~~
 1061 ~~by civil or criminal court~~. The documentation must include any
 1062 advance directives made by the patient, a psychiatric evaluation
 1063 of the patient, and any evaluations of the patient performed by
 1064 a psychiatric nurse, a clinical psychologist, a marriage and
 1065 family therapist, a mental health counselor, or a clinical
 1066 social worker. The administrator of a treatment facility may
 1067 refuse admission to any patient directed to its facilities on an
 1068 involuntary basis, whether by civil or criminal court order, who
 1069 is not accompanied by adequate orders and documentation.

1070 (9) TREATMENT PLAN MODIFICATION.—After the order for
 1071 involuntary outpatient services is issued, the service provider
 1072 and the patient may modify the treatment plan. For any material
 1073 modification of the treatment plan to which the patient or, if
 1074 one is appointed, the patient's guardian advocate agrees, the
 1075 service provider shall send notice of the modification to the

1076 court. Any material modifications of the treatment plan which
 1077 are contested by the patient or the patient's guardian advocate,
 1078 if applicable, must be approved or disapproved by the court
 1079 consistent with subsection (4).

1080 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.-
 1081 If, in the clinical judgment of a physician, a patient receiving
 1082 involuntary outpatient services has failed or has refused to
 1083 comply with the treatment plan ordered by the court, and, in the
 1084 clinical judgment of the physician, efforts were made to solicit
 1085 compliance, and the patient may meet the criteria for
 1086 involuntary examination, the patient may be brought to a
 1087 receiving facility pursuant to s. 394.463. If, after
 1088 examination, the patient does not meet the criteria for
 1089 involuntary inpatient placement under this section, the patient
 1090 must be discharged from the facility. The involuntary outpatient
 1091 services order shall remain in effect unless the service
 1092 provider determines that the patient no longer meets the
 1093 criteria for involuntary outpatient services or until the order
 1094 expires. The service provider must determine whether
 1095 modifications should be made to the existing treatment plan and
 1096 must attempt to continue to engage the patient in treatment. For
 1097 any material modification of the treatment plan to which the
 1098 patient or the patient's guardian advocate, if applicable,
 1099 agrees, the service provider shall send notice of the
 1100 modification to the court. Any material modifications of the

1101 treatment plan which are contested by the patient or the
 1102 patient's guardian advocate, if applicable, must be approved or
 1103 disapproved by the court consistent with subsection (4).

1104 (11)(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES
 1105 INPATIENT PLACEMENT.—

1106 (a) A petition for continued involuntary services shall be
 1107 filed if the patient continues to meets the criteria for
 1108 involuntary services.

1109 (b)1. If a patient receiving involuntary outpatient
 1110 services continues to meet the criteria for involuntary
 1111 outpatient services, the service provider shall file in the
 1112 court that issued the order for involuntary outpatient services
 1113 a petition for continued involuntary outpatient services.

1114 2. If the patient in involuntary inpatient placement

1115 ~~(a) Hearings on petitions for continued involuntary~~
 1116 ~~inpatient placement of an individual placed at any treatment~~
 1117 ~~facility are administrative hearings and must be conducted in~~
 1118 ~~accordance with s. 120.57(1), except that any order entered by~~
 1119 ~~the administrative law judge is final and subject to judicial~~
 1120 ~~review in accordance with s. 120.68. Orders concerning patients~~
 1121 ~~committed after successfully pleading not guilty by reason of~~
 1122 ~~insanity are governed by s. 916.15.~~

1123 ~~(b) If the patient continues to meet the criteria for~~
 1124 ~~involuntary inpatient placement and is being treated at a~~
 1125 ~~treatment facility, the administrator shall, before the~~

1126 expiration of the period the treatment facility is authorized to
1127 retain the patient, file a petition requesting authorization for
1128 continued involuntary inpatient placement.

1129 3. The court shall immediately schedule a hearing on the
1130 petition to be held within 15 days after the petition is filed.

1131 4. The existing involuntary services order shall remain in
1132 effect until disposition on the petition for continued
1133 involuntary services.

1134 (c) A certificate for continued involuntary services must
1135 be attached to the petition and shall include ~~The request must~~
1136 ~~be accompanied by~~ a statement from the patient's physician,
1137 psychiatrist, psychiatric nurse, or clinical psychologist
1138 justifying the request, a brief description of the patient's
1139 treatment during the time he or she was receiving involuntary
1140 services involuntarily placed, and, if requesting involuntary
1141 outpatient services, an individualized plan of continued
1142 treatment. The individualized plan of continued treatment shall
1143 be developed in consultation with the patient or the patient's
1144 guardian advocate, if applicable. When the petition has been
1145 filed, the clerk of the court shall provide copies of the
1146 certificate and the individualized plan of continued services to
1147 the department, the patient, the patient's guardian advocate,
1148 the state attorney, and the patient's private counsel or the
1149 public defender.

1150 (d) The court shall appoint counsel to represent the

1151 person who is the subject of the petition for continued
1152 involuntary services in accordance with subsection (5), unless
1153 the person is otherwise represented by counsel or ineligible.

1154 (e) Hearings on petitions for continued involuntary
1155 outpatient services must be before the court that issued the
1156 order for involuntary outpatient services. However, the patient
1157 and the patient's attorney may agree to a period of continued
1158 outpatient services without a court hearing.

1159 (f) Hearings on petitions for continued involuntary
1160 inpatient placement must be held in the county or the facility,
1161 as appropriate, where the patient is located.

1162 (g) The court may appoint a magistrate to preside at the
1163 hearing. The procedures for obtaining an order pursuant to this
1164 paragraph must meet the requirements of subsection (7).

1165 (h) Notice of the hearing must be provided as set forth
1166 provided in s. 394.4599.

1167 (i) If a patient's attendance at the hearing is
1168 voluntarily waived, the ~~administrative law~~ judge must determine
1169 that the patient knowingly, intelligently, and voluntarily
1170 waived his or her right to be present ~~waiver is knowing and~~
1171 ~~voluntary~~ before waiving the presence of the patient from all or
1172 a portion of the hearing. Alternatively, if at the hearing the
1173 ~~administrative law~~ judge finds that attendance at the hearing is
1174 not consistent with the best interests of the patient, the
1175 ~~administrative law~~ judge may waive the presence of the patient

1176 from all or any portion of the hearing, unless the patient,
1177 through counsel, objects to the waiver of presence. The
1178 testimony in the hearing must be under oath, and the proceedings
1179 must be recorded.

1180 (j) Hearings on petitions for continued involuntary
1181 inpatient placement of an individual placed at any treatment
1182 facility are administrative hearings and must be conducted in
1183 accordance with s. 120.57(1), except that any order entered by
1184 the judge is final and subject to judicial review in accordance
1185 with s. 120.68. Orders concerning patients committed after
1186 successfully pleading not guilty by reason of insanity are
1187 governed by s. 916.15.

1188 ~~(c) Unless the patient is otherwise represented or is~~
1189 ~~ineligible, he or she shall be represented at the hearing on the~~
1190 ~~petition for continued involuntary inpatient placement by the~~
1191 ~~public defender of the circuit in which the facility is located.~~

1192 (k)~~(d)~~ If at a hearing it is shown that the patient
1193 continues to meet the criteria for involuntary services
1194 ~~inpatient placement~~, the court ~~administrative law judge~~ shall
1195 issue an ~~sign the~~ order for continued involuntary services
1196 ~~inpatient placement~~ for up to 90 days. However, any order for
1197 involuntary inpatient placement or ~~mental health services in a~~
1198 combination of involuntary services ~~treatment facility~~ may be
1199 for up to 6 months. The same procedure shall be repeated before
1200 the expiration of each additional period the patient is

1201 retained.

1202 (l) If the patient has been ordered to undergo involuntary
 1203 services and has previously been found incompetent to consent to
 1204 treatment, the court shall consider testimony and evidence
 1205 regarding the patient's competence. If the patient's competency
 1206 to consent to treatment is restored, the discharge of the
 1207 guardian advocate shall be governed by s. 394.4598. If the
 1208 patient has been ordered to undergo involuntary inpatient
 1209 placement only and the patient's competency to consent to
 1210 treatment is restored, the administrative law judge may issue a
 1211 recommended order, to the court that found the patient
 1212 incompetent to consent to treatment, that the patient's
 1213 competence be restored and that any guardian advocate previously
 1214 appointed be discharged.

1215 (m)-(e) If continued involuntary inpatient placement is
 1216 necessary for a patient in involuntary inpatient placement who
 1217 was admitted while serving a criminal sentence, but his or her
 1218 sentence is about to expire, or for a minor involuntarily
 1219 placed, but who is about to reach the age of 18, the
 1220 administrator shall petition the administrative law judge for an
 1221 order authorizing continued involuntary inpatient placement.

1222 (n)-(f) If the patient has been previously found
 1223 incompetent to consent to treatment, the administrative law
 1224 judge shall consider testimony and evidence regarding the
 1225 patient's competence. If the administrative law judge finds

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1226 evidence that the patient is now competent to consent to
1227 treatment, the administrative law judge may issue a recommended
1228 order to the court that found the patient incompetent to consent
1229 to treatment that the patient's competence be restored and that
1230 any guardian advocate previously appointed be discharged.

1231 (o)~~(g)~~ If the patient has been ordered to undergo
1232 involuntary inpatient placement and has previously been found
1233 incompetent to consent to treatment, the court shall consider
1234 testimony and evidence regarding the patient's incompetence. If
1235 the patient's competency to consent to treatment is restored,
1236 the discharge of the guardian advocate shall be governed by s.
1237 394.4598.

1238
1239 The procedure required in this section ~~subsection~~ must be
1240 followed before the expiration of each additional period the
1241 patient is involuntarily receiving services.

1242 (12)~~(8)~~ RETURN TO FACILITY.—If a patient has been ordered
1243 to undergo involuntary inpatient placement ~~involuntarily held at~~
1244 a treatment facility under this part leaves the facility without
1245 the administrator's authorization, the administrator may
1246 authorize a search for the patient and his or her return to the
1247 facility. The administrator may request the assistance of a law
1248 enforcement agency in this regard.

1249 (13) DISCHARGE.—The patient shall be discharged upon
1250 expiration of the court order or at any time that the patient no

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1251 longer meets the criteria for involuntary services, unless the
1252 patient has transferred to voluntary status. Upon discharge, the
1253 service provider or facility shall send a certificate of
1254 discharge to the court.

1255 Section 6. Subsections (5) and (6) of section 394.492,
1256 Florida Statutes, are amended to read:

1257 394.492 Definitions.—As used in ss. 394.490-394.497, the
1258 term:

1259 (5) "Child or adolescent who has an emotional disturbance"
1260 means a person under 18 years of age who is diagnosed with a
1261 mental, emotional, or behavioral disorder of sufficient duration
1262 to meet one of the diagnostic categories specified in the most
1263 recent edition of the Diagnostic and Statistical Manual of the
1264 American Psychiatric Association, but who does not exhibit
1265 behaviors that substantially interfere with or limit his or her
1266 role or ability to function in the family, school, or community.
1267 The emotional disturbance must not be considered to be a
1268 temporary response to a stressful situation. The term does not
1269 include a child or adolescent who meets the criteria for
1270 involuntary placement under s. 394.467 ~~s. 394.467(1)~~.

1271 (6) "Child or adolescent who has a serious emotional
1272 disturbance or mental illness" means a person under 18 years of
1273 age who:

1274 (a) Is diagnosed as having a mental, emotional, or
1275 behavioral disorder that meets one of the diagnostic categories

1276 specified in the most recent edition of the Diagnostic and
 1277 Statistical Manual of Mental Disorders of the American
 1278 Psychiatric Association; and

1279 (b) Exhibits behaviors that substantially interfere with
 1280 or limit his or her role or ability to function in the family,
 1281 school, or community, which behaviors are not considered to be a
 1282 temporary response to a stressful situation.

1283
 1284 The term includes a child or adolescent who meets the criteria
 1285 for involuntary placement under s. 394.467 ~~s. 394.467(1)~~.

1286 Section 7. Paragraphs (a) and (c) of subsection (3) of
 1287 section 394.495, Florida Statutes, are amended to read:

1288 394.495 Child and adolescent mental health system of care;
 1289 programs and services.—

1290 (3) Assessments must be performed by:

1291 (a) A clinical psychologist, clinical social worker,
 1292 physician, psychiatric nurse, or psychiatrist, as those terms
 1293 are defined in s. 394.455 ~~professional as defined in s.~~
 1294 ~~394.455(5), (7), (33), (36), or (37);~~

1295 (c) A person who is under the direct supervision of a
 1296 clinical psychologist, clinical social worker, physician,
 1297 psychiatric nurse, or psychiatrist, as those terms are defined
 1298 in s. 394.455, ~~qualified professional as defined in s.~~
 1299 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 1300 under chapter 491.

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1301 Section 8. Subsection (5) of section 394.496, Florida
 1302 Statutes, is amended to read:

1303 394.496 Service planning.—

1304 (5) A clinical psychologist, clinical social worker,
 1305 physician, psychiatric nurse, or psychiatrist, as those terms
 1306 are defined in s. 394.455, professional as defined in s.
 1307 394.455(5), (7), (33), (36), or (37) or a professional licensed
 1308 under chapter 491 must be included among those persons
 1309 developing the services plan.

1310 Section 9. Subsection (6) of section 394.9085, Florida
 1311 Statutes, is amended to read:

1312 394.9085 Behavioral provider liability.—

1313 (6) For purposes of this section, the terms
 1314 "detoxification ~~services,~~" "addictions receiving facility," and
 1315 "receiving facility" have the same meanings as ~~those provided in~~
 1316 ss. 397.311(26) (a) 4. ~~397.311(26) (a) 3.,~~ 397.311(26) (a) 1., and
 1317 394.455 ~~394.455(40),~~ respectively.

1318 Section 10. Paragraph (b) of subsection (1) of section
 1319 409.972, Florida Statutes, is amended to read:

1320 409.972 Mandatory and voluntary enrollment.—

1321 (1) The following Medicaid-eligible persons are exempt
 1322 from mandatory managed care enrollment required by s. 409.965,
 1323 and may voluntarily choose to participate in the managed medical
 1324 assistance program:

1325 (b) Medicaid recipients residing in residential commitment

1326 facilities operated through the Department of Juvenile Justice
 1327 or a treatment facility as defined in s. 394.455 ~~s. 394.455(49)~~.

1328 Section 11. Paragraph (e) of subsection (4) of section
 1329 464.012, Florida Statutes, is amended to read:

1330 464.012 Licensure of advanced practice registered nurses;
 1331 fees; controlled substance prescribing.—

1332 (4) In addition to the general functions specified in
 1333 subsection (3), an advanced practice registered nurse may
 1334 perform the following acts within his or her specialty:

1335 (e) A psychiatric nurse, who meets the requirements in s.
 1336 394.455 ~~s. 394.455(36)~~, within the framework of an established
 1337 protocol with a psychiatrist, may prescribe psychotropic
 1338 controlled substances for the treatment of mental disorders.

1339 Section 12. Subsection (7) of section 744.2007, Florida
 1340 Statutes, is amended to read:

1341 744.2007 Powers and duties.—

1342 (7) A public guardian may not commit a ward to a treatment
 1343 facility, as defined in s. 394.455 ~~s. 394.455(49)~~, without an
 1344 involuntary placement proceeding as provided by law.

1345 Section 13. This act shall take effect July 1, 2024.