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LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/25/2025 | . |       |
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The Committee on Criminal Justice (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (10) of section 57.085, Florida  
Statutes, is amended to read:

57.085 Deferral of prepayment of court costs and fees for  
indigent prisoners.—

(10) With the exception of challenges to prison  
disciplinary reports, this section does not apply to a criminal



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11 proceeding or a collateral criminal proceeding.

12 Section 2. Paragraph (b) of subsection (2) and paragraphs  
13 (f), (g), and (h) of subsection (6) of section 95.11, Florida  
14 Statutes, are amended to read:

15 95.11 Limitations other than for the recovery of real  
16 property.—Actions other than for recovery of real property shall  
17 be commenced as follows:

18 (2) WITHIN FIVE YEARS.—

19 (b) A legal or equitable action on a contract, obligation,  
20 or liability founded on a written instrument, except for an  
21 action to enforce a claim against a payment bond, which shall be  
22 governed by the applicable provisions of paragraph (6) (e), s.  
23 255.05(10), s. 337.18(1), or s. 713.23(1) (e), and except for an  
24 action for a deficiency judgment governed by paragraph (6) (g)  
25 ~~(6) (h)~~.

26 (6) WITHIN ONE YEAR.—

27 (f) Except for actions described in subsection (9), or a  
28 petition challenging a criminal conviction, all petitions;  
29 extraordinary writs; tort actions, including those under s.  
30 768.28(14); or other actions which concern any condition of  
31 confinement of a prisoner a petition for extraordinary writ,  
32 other than a petition challenging a criminal conviction, filed  
33 by or on behalf of a prisoner as defined in s. 57.085. Any  
34 petition, writ, or action brought under this paragraph must be  
35 commenced within 1 year after the time the incident, conduct, or  
36 conditions occurred or within 1 year after the time the  
37 incident, conduct, or conditions were discovered, or should have  
38 been discovered.

39 ~~(g) Except for actions described in subsection (9), an~~



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40 ~~action brought by or on behalf of a prisoner, as defined in s.~~  
41 ~~57.085, relating to the conditions of the prisoner's~~  
42 ~~confinement.~~

43 (g)(h) An action to enforce a claim of a deficiency related  
44 to a note secured by a mortgage against a residential property  
45 that is a one-family to four-family dwelling unit. The  
46 limitations period shall commence on the day after the  
47 certificate is issued by the clerk of court or the day after the  
48 mortgagee accepts a deed in lieu of foreclosure.

49 Section 3. Section 760.701, Florida Statutes, is created to  
50 read:

51 760.701 Lawsuits by prisoners.—

52 (1) For the purposes of this section, the term "prisoner"  
53 means any person incarcerated or detained in any jail, prison,  
54 or other correctional facility who is accused of, convicted of,  
55 sentenced for, or adjudicated delinquent for violations of  
56 criminal law or the terms and conditions of parole, probation,  
57 pretrial release, or a diversionary program.

58 (2) An action may not be brought by or on behalf of a  
59 prisoner relating to the conditions of the prisoner's  
60 confinement under 42 U.S.C. s. 1983, or any other state or  
61 federal law, until such administrative remedies as are available  
62 are fully exhausted.

63 (3) The court shall on its own motion or on the motion of a  
64 party dismiss any action brought relating to the conditions of  
65 the prisoner's confinement under 42 U.S.C. s. 1983, or any other  
66 state or federal law, by a prisoner if the court is satisfied  
67 that the action is frivolous, malicious, fails to state a claim  
68 upon which relief can be granted, or seeks monetary relief from



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69 a defendant who is immune from such relief. The court shall  
70 review any such action pursuant to s. 57.085(6).

71 (4) An action may not be brought in state court by or on  
72 behalf of a prisoner relating to the conditions of the  
73 prisoner's confinement under 42 U.S.C. s. 1983, or any state  
74 tort action, for mental or emotional injury suffered while in  
75 custody without a prior showing of physical injury or the  
76 commission of a sexual act as defined in 18 U.S.C. s. 2246(2).

77 (5) The time for bringing an action that concerns any  
78 condition of confinement of a prisoner shall be the limitations  
79 period as described in s. 95.11(6)(f).

80 Section 4. Paragraph (d) of subsection (2) of section  
81 775.087, Florida Statutes, is amended, paragraph (e) is added to  
82 that subsection, and paragraph (a) of that subsection is  
83 republished, to read:

84 775.087 Possession or use of weapon; aggravated battery;  
85 felony reclassification; minimum sentence.-

86 (2)(a)1. Any person who is convicted of a felony or an  
87 attempt to commit a felony, regardless of whether the use of a  
88 weapon is an element of the felony, and the conviction was for:

- 89 a. Murder;
- 90 b. Sexual battery;
- 91 c. Robbery;
- 92 d. Burglary;
- 93 e. Arson;
- 94 f. Aggravated battery;
- 95 g. Kidnapping;
- 96 h. Escape;
- 97 i. Aircraft piracy;



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98           j. Aggravated child abuse;  
99           k. Aggravated abuse of an elderly person or disabled adult;  
100          l. Unlawful throwing, placing, or discharging of a  
101 destructive device or bomb;  
102          m. Carjacking;  
103          n. Home-invasion robbery;  
104          o. Aggravated stalking;  
105          p. Trafficking in cannabis, trafficking in cocaine, capital  
106 importation of cocaine, trafficking in illegal drugs, capital  
107 importation of illegal drugs, trafficking in phencyclidine,  
108 capital importation of phencyclidine, trafficking in  
109 methaqualone, capital importation of methaqualone, trafficking  
110 in amphetamine, capital importation of amphetamine, trafficking  
111 in flunitrazepam, trafficking in gamma-hydroxybutyric acid  
112 (GHB), trafficking in 1,4-Butanediol, trafficking in  
113 Phenethylamines, or other violation of s. 893.135(1);  
114          q. Possession of a firearm by a felon; or  
115          r. Human trafficking  
116  
117 and during the commission of the offense, such person actually  
118 possessed a "firearm" or "destructive device" as those terms are  
119 defined in s. 790.001, shall be sentenced to a minimum term of  
120 imprisonment of 10 years, except that a person who is convicted  
121 for possession of a firearm by a felon or burglary of a  
122 conveyance shall be sentenced to a minimum term of imprisonment  
123 of 3 years if such person possessed a "firearm" or "destructive  
124 device" during the commission of the offense. However, if an  
125 offender who is convicted of the offense of possession of a  
126 firearm by a felon has a previous conviction of committing or



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127 attempting to commit a felony listed in s. 775.084(1)(b)1. and  
128 actually possessed a firearm or destructive device during the  
129 commission of the prior felony, the offender shall be sentenced  
130 to a minimum term of imprisonment of 10 years.

131 2. Any person who is convicted of a felony or an attempt to  
132 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-  
133 subparagraph 1.r., regardless of whether the use of a weapon is  
134 an element of the felony, and during the course of the  
135 commission of the felony such person discharged a "firearm" or  
136 "destructive device" as defined in s. 790.001 shall be sentenced  
137 to a minimum term of imprisonment of 20 years.

138 3. Any person who is convicted of a felony or an attempt to  
139 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-  
140 subparagraph 1.r., regardless of whether the use of a weapon is  
141 an element of the felony, and during the course of the  
142 commission of the felony such person discharged a "firearm" or  
143 "destructive device" as defined in s. 790.001 and, as the result  
144 of the discharge, death or great bodily harm was inflicted upon  
145 any person, the convicted person shall be sentenced to a minimum  
146 term of imprisonment of not less than 25 years and not more than  
147 a term of imprisonment of life in prison.

148 (d) It is the intent of the Legislature that offenders who  
149 actually possess, carry, display, use, threaten to use, or  
150 attempt to use firearms or destructive devices be punished to  
151 the fullest extent of the law, and the minimum terms of  
152 imprisonment imposed pursuant to this subsection shall be  
153 imposed for each qualifying felony count for which the person is  
154 convicted. The court shall impose any term of imprisonment  
155 provided for in this subsection consecutively ~~to any other term~~



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156 ~~of imprisonment imposed for any other felony offense.~~

157 (e) If a conviction enumerated in subparagraph (a)1. is  
158 committed in conjunction with any other felony offense, the  
159 court may impose any term of imprisonment provided for in this  
160 subsection consecutively to any other term of imprisonment  
161 imposed for any other felony offense.

162 Section 5. Section 922.10, Florida Statutes, is amended to  
163 read:

164 922.10 Execution of death sentence; executioner.—A death  
165 sentence shall be executed by electrocution, ~~or~~ lethal  
166 injection, or a method not deemed unconstitutional nor cruel and  
167 unusual in accordance with s. 922.105. The warden of the state  
168 prison shall designate the executioner. The warrant authorizing  
169 the execution shall be read to the convicted person immediately  
170 before execution.

171 Section 6. Subsection (3) of section 922.105, Florida  
172 Statutes, is amended to read:

173 922.105 Execution of death sentence; prohibition against  
174 reduction of death sentence as a result of determination that a  
175 method of execution is unconstitutional.—

176 (3) If electrocution or lethal injection is held to be  
177 unconstitutional or cruel and unusual by the Florida Supreme  
178 Court under the State Constitution, or held to be  
179 unconstitutional or cruel and unusual by the United States  
180 Supreme Court under the United States Constitution, or if the  
181 United States Supreme Court declines to review any judgment  
182 holding a method of execution to be unconstitutional or cruel  
183 and unusual under the United States Constitution made by the  
184 Florida Supreme Court or the United States Court of Appeals that



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185 has jurisdiction over Florida, or if the acquisition of  
186 chemicals necessary for lethal injection by the department  
187 becomes impossible or impractical, all persons sentenced to  
188 death for a capital crime shall be executed by a method not  
189 deemed unconstitutional nor cruel and unusual ~~any constitutional~~  
190 ~~method of execution.~~

191 Section 7. Present paragraphs (b) through (e) of subsection  
192 (4) of section 934.425, Florida Statutes, are redesignated as  
193 paragraphs (e) through (h), respectively, and new paragraphs  
194 (b), (c), and (d) are added to that subsection, to read:

195 934.425 Installation or use of tracking devices or tracking  
196 applications; exceptions; penalties.-

197 (4) This section does not apply to:

198 (b) A correctional officer, a correctional probation  
199 officer, or any other officer or support personnel, as those  
200 terms are defined in s. 943.10, of the Department of Corrections  
201 who lawfully installs, places, or uses a tracking device or  
202 tracking application on a person in his or her care, custody, or  
203 control and in the course and scope of his or her employment.

204 (c) A juvenile probation officer, an authorized agent or  
205 designee, or delinquency program staff, as those terms are  
206 defined in s. 985.03, of the Department of Juvenile Justice who  
207 lawfully installs, places, or uses a tracking device or tracking  
208 application on a person in his or her care, custody, or control  
209 and in the course and scope of his or her employment.

210 (d) A person authorized to install, place, or use a  
211 tracking device or tracking application pursuant to a court  
212 order.

213 Section 8. Section 945.41, Florida Statutes, is amended to





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214 read:

215 945.41 Mental health treatment for inmates; legislative  
216 intent of ss. 945.40-945.49.-

217 (1) INTENT.-It is the intent of the Legislature that:

218 (a) ~~mentally ill~~ Inmates in the custody of the department  
219 who have a mental illness ~~of Corrections~~ receive an evaluation  
220 and appropriate treatment for their mental illness through a  
221 continuum of outpatient and inpatient mental health treatment  
222 and services.

223 (b) The department is authorized to purchase treatment  
224 materials and equipment to support inmate rehabilitation; to  
225 ameliorate disabling mental symptoms associated with impairment  
226 in behavioral functioning, sensory and motor skills, and impulse  
227 control; and to improve adaptive coping skills consistent with  
228 the department's jurisdiction as described in s. 945.025.

229 (c) Sections 945.40-945.49 do not supplement, amend, or  
230 change the responsibilities of the Department of Children and  
231 Families pursuant to chapter 916, the Forensic Client Services  
232 Act, which governs forensic services for persons who are  
233 incompetent to proceed as defined in s. 916.106.

234 (2) INDIVIDUAL DIGNITY AND TREATMENT.-

235 (a) An inmate in the custody of the department shall be  
236 offered treatment that is suited to his or her needs as  
237 determined by health care staff.

238 (b) The department shall provide mental health treatment  
239 and services to inmates and may contract with any entities,  
240 persons, or agencies qualified to provide such treatment and  
241 services.

242 (c) Inmates receiving mental health treatment and services



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243 shall be offered the opportunity to participate in the  
244 development of a written individualized treatment plan and be  
245 provided a copy of such plan before its implementation. ~~It is~~  
246 ~~further the intent of the Legislature that:~~

247 (d)(1) Inmates in the custody of the department who have  
248 mental illnesses that require hospitalization and intensive  
249 mental health psychiatric inpatient treatment and services or  
250 care shall be offered receive appropriate treatment or care in  
251 an inpatient setting Department of Corrections mental health  
252 treatment facilities designated for that purpose. Inmates who  
253 have mental illnesses that require intensive hospitalization-  
254 level mental health inpatient treatment and services shall be  
255 transferred to a department mental health treatment facility  
256 designated for that purpose The Department of Corrections shall  
257 provide mental health services to inmates committed to it and  
258 may contract with any entities, persons, or agencies qualified  
259 to provide such services.

260 (e)(2) Mental health treatment facilities shall be secure  
261 and adequately equipped and staffed for the provision of mental  
262 health treatment and services. Inmates shall be offered the  
263 least restrictive appropriate available treatment and services  
264 based on their assessed needs and best interests and consistent  
265 with improvement of their condition for facilitation of  
266 appropriate adjustment within the correctional environment  
267 services and that, to the extent possible, such services be  
268 provided in the least restrictive manner consistent with optimum  
269 improvement of the inmate's condition.

270 (3) EXPRESS AND INFORMED CONSENT.-

271 (a) A mentally competent inmate offered mental health



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272 treatment within the department shall give his or her express  
273 and informed consent for such treatment. Before giving such  
274 consent, the following information shall be provided and  
275 explained in plain language to the inmate:

- 276 1. The proposed treatment.  
277 2. The purpose of the treatment.  
278 3. The common risks, benefits, and side effects of the  
279 treatment and the specific dosage range for a medication, if  
280 applicable.  
281 4. Alternative treatment modalities.  
282 5. The approximate length of treatment.  
283 6. The potential effects of stopping treatment.  
284 7. How treatment will be monitored.  
285 8. That any consent given for treatment may be revoked  
286 orally or in writing before or during the treatment period by  
287 the inmate or by a person legally authorized to make health care  
288 decisions on behalf of the inmate.

289 (b) Inmates who are determined to be incompetent to consent  
290 to treatment shall receive treatment deemed to be necessary for  
291 their appropriate care and for the safety of the inmate or  
292 others in accordance with the procedures established in ss.  
293 945.40-945.49.

294 (4)(3) PAROLE.—Inmates who are transferred to any facility  
295 for the purpose of mental health treatment and services shall be  
296 given consideration for parole and be eligible for release by  
297 reason of gain-time allowances as provided in s. 944.291 and  
298 release by expiration of sentence, consistent with guidelines  
299 established for that purpose by the department.

300 (5)(4) YOUTHFUL OFFENDERS.—Any inmate sentenced as a



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301 youthful offender, or designated as a youthful offender by the  
302 department under chapter 958, who is transferred pursuant to  
303 this act to a mental health treatment facility shall be  
304 separated from other inmates, if necessary, as determined by the  
305 warden of the mental health treatment facility.

306 (6)-(5) TREATMENT FACILITIES.—The department may designate  
307 mental health treatment facilities for adult, youthful, and  
308 female offenders or may contract with other appropriate  
309 entities, persons, or agencies for such services.

310 (7) EMERGENCY MEDICAL TREATMENT.—Notwithstanding any other  
311 provision of this section, when the express and informed consent  
312 of an inmate placed in a mental health treatment facility in  
313 accordance with s. 945.44 cannot be obtained or the inmate is  
314 incompetent to consent to treatment, the warden of a mental  
315 health treatment facility, or his or her designated  
316 representative, under the direction of the inmate's attending  
317 physician, may authorize nonpsychiatric, emergency surgical  
318 treatment or other routine medical treatment if such treatment  
319 is deemed lifesaving or there is a situation threatening serious  
320 bodily harm to the inmate.

321 Section 9. Section 945.42, Florida Statutes, is amended to  
322 read:

323 945.42 Definitions; ss. 945.40-945.49.—As used in ss.  
324 945.40-945.49, the following terms shall have the meanings  
325 ascribed to them, unless the context shall clearly indicate  
326 otherwise:

327 (1) "Court" means the circuit court.

328 (2) "Crisis stabilization care" means an inpatient a level  
329 of care that is less restrictive and intensive ~~intense~~ than care



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330 provided in a mental health treatment facility, that includes a  
331 broad range of evaluation and treatment and services provided  
332 within a secure and highly structured residential setting ~~or~~  
333 ~~locked residential setting~~, and that is intended for inmates who  
334 are experiencing acute psychological ~~emotional~~ distress and who  
335 cannot be adequately evaluated and treated in a transitional  
336 care unit or infirmary isolation management room. Such treatment  
337 and services are ~~is also~~ more intense than treatment and  
338 services provided in a transitional care unit and are ~~is~~ devoted  
339 principally toward rapid stabilization of acute symptoms and  
340 conditions.

341 (3) "Department" means the Department of Corrections.

342 (4) "Express and informed consent" means consent  
343 voluntarily given in writing by a competent inmate, after  
344 sufficient explanation and disclosure of the subject matter  
345 involved, to enable the inmate to make a knowing and willful  
346 decision without any element of force, fraud, deceit, duress, or  
347 other form of constraint or coercion.

348 (5) "Gravely disabled" means a condition in which an  
349 inmate, as a result of a diagnosed mental illness, is:

350 (a) In danger of serious physical harm resulting from the  
351 inmate's failure to provide for his or her essential physical  
352 needs of food, clothing, hygiene, health, or safety without the  
353 assistance of others; or

354 (b) Experiencing a substantial deterioration in behavioral  
355 functioning evidenced by the inmate's unremitting decline in  
356 volitional control over his or her actions.

357 (6) "Incompetent to consent to treatment" means a state in  
358 which an inmate's judgment is so affected by mental illness that



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359 he or she lacks the capacity to make a well-reasoned, willful,  
360 and knowing decision concerning his or her medical or mental  
361 health treatment and services. The term is distinguished from  
362 the term "incompetent to proceed," as defined in s. 916.106, and  
363 only refers to an inmate's inability to provide express and  
364 informed consent for medical or mental health treatment and  
365 services.

366 ~~(4) "Director" means the Director for Mental Health~~  
367 ~~Services of the Department of Corrections or his or her~~  
368 ~~designee.~~

369 ~~(5) "In immediate need of care and treatment" means that an~~  
370 ~~inmate is apparently mentally ill and is not able to be~~  
371 ~~appropriately cared for in the institution where he or she is~~  
372 ~~confined and that, but for being isolated in a more restrictive~~  
373 ~~and secure housing environment, because of the apparent mental~~  
374 ~~illness:~~

375 ~~(a)1. The inmate is demonstrating a refusal to care for~~  
376 ~~himself or herself and without immediate treatment intervention~~  
377 ~~is likely to continue to refuse to care for himself or herself,~~  
378 ~~and such refusal poses an immediate, real, and present threat of~~  
379 ~~substantial harm to his or her well-being; or~~

380 ~~2. There is an immediate, real, and present threat that the~~  
381 ~~inmate will inflict serious bodily harm on himself or herself or~~  
382 ~~another person, as evidenced by recent behavior involving~~  
383 ~~causing, attempting, or threatening such harm;~~

384 ~~(b) The inmate is unable to determine for himself or~~  
385 ~~herself whether placement is necessary; and~~

386 ~~(c) All available less restrictive treatment alternatives~~  
387 ~~that would offer an opportunity for improvement of the inmate's~~



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388 ~~condition have been clinically determined to be inappropriate.~~

389 (7)~~(6)~~ "In need of care and treatment" means that an inmate  
390 has a mental illness for which inpatient services in a mental  
391 health treatment facility are necessary and ~~that, but for being~~  
392 ~~isolated in a more restrictive and secure housing environment,~~  
393 because of the mental illness:

394 (a) But for being isolated in a more restrictive and secure  
395 housing environment:

396 1. The inmate is demonstrating a refusal to care for  
397 himself or herself and without treatment is likely to continue  
398 to refuse to care for himself or herself, and such refusal poses  
399 a real and present threat of substantial harm to his or her  
400 well-being; or

401 2. There is a substantial likelihood that in the near  
402 future the inmate will inflict serious bodily harm on himself or  
403 herself or another person, as evidenced by recent behavior  
404 causing, attempting, or threatening such harm.†

405 (b) The inmate is incompetent to consent to treatment and  
406 is unable or is refusing to provide express and informed consent  
407 to treatment.

408 (c)~~(b)~~ The inmate is unable to determine for himself or  
409 herself whether placement is necessary; and

410 (d)~~(e)~~ All available less restrictive treatment  
411 alternatives that would offer an opportunity for improvement of  
412 the inmate's condition have been clinically determined to be  
413 inappropriate.

414 (8)~~(7)~~ "Inmate" means any person committed to the custody  
415 of the Department of Corrections.

416 (9) "Involuntary examination" means a psychiatric



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417 examination performed at a mental health treatment facility to  
418 determine whether an inmate should be placed in the mental  
419 health treatment facility for inpatient mental health treatment  
420 and services.

421 (10) "Likelihood of serious harm" means:

422 (a) A substantial risk that the inmate will inflict serious  
423 physical harm upon his or her own person, as evidenced by  
424 threats or attempts to commit suicide or the actual infliction  
425 of serious physical harm on self;

426 (b) A substantial risk that the inmate will inflict  
427 physical harm upon another person, as evidenced by behavior  
428 which has caused such harm or which places any person in  
429 reasonable fear of sustaining such harm; or

430 (c) A reasonable degree of medical certainty that the  
431 inmate will suffer serious physical or mental harm as evidenced  
432 by the inmate's recent behavior demonstrating an inability to  
433 refrain from engaging in self-harm behavior.

434 (11)-(8) "Mental health treatment facility" means any  
435 extended treatment or hospitalization-level unit within the  
436 corrections system which the Assistant Secretary for Health  
437 Services of the department specifically designates by rule to  
438 provide acute mental health ~~psychiatric~~ care and which may  
439 include involuntary treatment and therapeutic intervention in  
440 contrast to less intensive levels of care such as outpatient  
441 mental health care, transitional mental health care, or crisis  
442 stabilization care. The term does not include a forensic  
443 facility as defined in s. 916.106.

444 (12)-(9) "Mental illness" or "mentally ill" means an  
445 impairment of the mental or emotional processes that exercise





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446 conscious control of one's actions or of the ability to perceive  
447 or understand reality, which impairment substantially interferes  
448 with the person's ability to meet the ordinary demands of  
449 living. However, for the purposes of transferring an inmate to a  
450 mental health treatment facility, the term does not include a  
451 developmental disability as defined in s. 393.063, simple  
452 intoxication, or conditions manifested only by antisocial  
453 behavior or substance abuse addiction. However, an individual  
454 who is developmentally disabled may also have a mental illness.

455 (13)~~(10)~~ "Psychiatrist" means a medical practitioner  
456 licensed pursuant to chapter 458 or chapter 459 who has  
457 primarily diagnosed and treated nervous and mental disorders for  
458 a period of not less than 3 years inclusive of psychiatric  
459 residency.

460 (14)~~(11)~~ "Psychological professional" means a behavioral  
461 practitioner who has an approved doctoral degree in psychology  
462 as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by  
463 the department or who is licensed as a psychologist pursuant to  
464 chapter 490.

465 (15)~~(12)~~ "Secretary" means the Secretary of Corrections.

466 (16)~~(13)~~ "Transitional mental health care" means a level of  
467 care that is more intensive than outpatient care, but less  
468 intensive than crisis stabilization care, and is characterized  
469 by the provision of traditional mental health treatment and  
470 services ~~treatments~~ such as group and individual therapy,  
471 activity therapy, recreational therapy, and psychotropic  
472 medications in the context of a secure, structured residential  
473 setting. Transitional mental health care is indicated for an  
474 inmate ~~a person~~ with chronic or residual symptomatology who does



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475 not require crisis stabilization care or acute mental health  
476 ~~psychiatric~~ care, but whose impairment in functioning  
477 nevertheless renders him or her incapable of adjusting  
478 satisfactorily within the general inmate population.

479 (17) "Treatment" means psychotropic medications prescribed  
480 by a medical practitioner licensed pursuant to chapter 458 or  
481 chapter 459, including those laboratory tests and related  
482 medical procedures that are essential for the safe and effective  
483 administration of a psychotropic medication and psychological  
484 interventions and services, such as group and individual  
485 psychotherapy, activity therapy, recreational therapy, and music  
486 therapy. The term does not include forensic services for inmate  
487 defendants who are incompetent to proceed as defined in s.  
488 916.106.

489 (18) ~~(14)~~ "Warden" means the warden of a state corrections  
490 facility or his or her designee.

491 Section 10. Section 13. Section 945.43, Florida Statutes,  
492 is amended to read:

493 (Substantial rewording of section. See  
494 s. 945.43, F.S., for present text.)

495 945.43 Involuntary examination.—

496 (1) If there is reason to believe that an inmate has a  
497 mental illness and the inmate is in need of care and treatment,  
498 the inmate's treating clinician may refer the inmate to a mental  
499 health treatment facility for an involuntary examination. Upon  
500 referral, the warden of the facility where the inmate is housed  
501 shall transfer the inmate to a mental health treatment facility.

502 (2) Upon arrival to the mental health treatment facility,  
503 the inmate shall be examined by a psychiatrist and a second



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504 psychiatrist or psychological professional to determine whether  
505 the inmate is in need of care and treatment.

506 (3) If, after the examination, the inmate is determined to  
507 be in need of care and treatment, the psychiatrist shall propose  
508 a recommended course of treatment that is essential to the care  
509 of the inmate, and the warden shall initiate proceedings for  
510 placement of the inmate in the mental health treatment facility  
511 and for involuntary treatment of the inmate as specified in s.  
512 945.44. If the inmate is not in need of care and treatment, he  
513 or she shall be transferred out of the mental health treatment  
514 facility and provided with appropriate mental health services.

515 (4) The involuntary examination and initiation of court  
516 proceedings for the placement and applicable involuntary  
517 treatment of the inmate in the mental health treatment facility  
518 shall be completed within 10 calendar days after arrival.

519 (5) The inmate may remain in the mental health treatment  
520 facility pending a hearing after the timely filing of a petition  
521 as described in s. 945.44. Pending a hearing, necessary  
522 emergency treatment may be provided in the mental health  
523 treatment facility upon the written order of a physician as  
524 provided in s. 945.48.

525 Section 11. Section 945.44, Florida Statutes, is amended to  
526 read:

527 (Substantial rewording of section. See  
528 s. 945.44, F.S., for present text.)

529 945.44 Placement and treatment of an inmate in a mental  
530 health treatment facility.—

531 (1) CRITERIA FOR INVOLUNTARY PLACEMENT OR TREATMENT.—

532 (a) An inmate may be placed in a mental health treatment



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533 facility if he or she is mentally ill and is in need of care and  
534 treatment.

535 (b) An inmate may receive involuntary treatment for which  
536 the inmate is unable or has refused to provide express and  
537 informed consent, if all of the following apply:

538 1. The inmate is mentally ill;

539 2. The treatment is essential to the care of the inmate;

540 3. The treatment is not experimental and does not present  
541 an unreasonable risk of serious, hazardous, or irreversible side  
542 effects;

543 4. The inmate is gravely disabled or poses a likelihood of  
544 serious harm; and

545 5. The inmate is incompetent to consent to treatment.

546 (2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND  
547 TREATMENT.—

548 (a) An inmate may be placed and involuntarily treated in a  
549 mental health treatment facility after notice and hearing upon  
550 the recommendation of the warden of the facility where the  
551 inmate is confined. The warden of the institution where the  
552 mental health treatment facility is located shall petition the  
553 circuit court serving the county for an order authorizing the  
554 placement and treatment of the inmate. The petition must be  
555 supported by the expert opinion of at least one of the inmate's  
556 treating psychiatrists.

557 (b) The inmate shall be provided with a copy of the  
558 petition along with the proposed treatment, the basis for the  
559 proposed treatment, the names of the examining experts, and the  
560 date, time, and location of the hearing. After considering the  
561 public safety and security concerns presented by transporting



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562 the inmate or in conducting onsite hearings, the court may order  
563 that the hearing be conducted by electronic means or in person  
564 at the facility or at another location designated by the court.  
565 If the hearing is ordered by the court to be conducted at a  
566 location other than the facility, the department is authorized  
567 to transport the inmate to the location of the hearing.

568 (c) The inmate may have an attorney represent him or her at  
569 the hearing, and, if the inmate is indigent, the court shall  
570 appoint the office of the public defender or private counsel  
571 pursuant to s. 27.40(1) to represent the inmate at the hearing.  
572 An attorney representing the inmate shall have access to the  
573 inmate and any records, including medical or mental health  
574 records, which are relevant to the representation of the inmate.

575 (d) The hearing on the petition for involuntary placement  
576 and treatment shall be held as expeditiously as possible after  
577 the petition is filed, but no later than 14 calendar days after  
578 filing. The court may appoint a general or special magistrate to  
579 preside. The inmate may testify or not, as he or she chooses,  
580 may cross-examine witnesses testifying on behalf of the  
581 facility, and may present his or her own witnesses.

582 (e) The court may waive the presence of the inmate at the  
583 hearing if the waiver is consistent with the best interests of  
584 the inmate and the inmate's counsel does not object. One of the  
585 inmate's physicians whose opinion supported the petition shall  
586 appear as a witness at the hearing.

587 (3) ORDERS FOR INVOLUNTARY PLACEMENT AND TREATMENT.—

588 (a) If the court finds by clear and convincing evidence  
589 that the inmate meets the criteria in paragraph (1)(a), the  
590 court must order that the inmate be involuntarily placed in the



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591 mental health treatment facility for a period not to exceed 6  
592 months.

593 (b) If the court finds by clear and convincing evidence  
594 that the inmate meets the criteria in paragraph (1)(b), the  
595 court may order that the inmate be involuntarily treated for a  
596 period not to exceed 6 months, concurrent with an order for  
597 placement in the mental health treatment facility. In  
598 determining whether to order involuntary treatment under this  
599 paragraph, the court must consider the inmate's expressed  
600 preference regarding treatment; whether the inmate is able to  
601 express a preference; the probability of adverse side effects;  
602 the prognosis for the inmate without treatment; the prognosis  
603 for the inmate with treatment; and any other factors the court  
604 deems relevant.

605 (4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order  
606 authorizing involuntary placement and treatment must allow such  
607 placement and treatment for a period not to exceed 6 months  
608 following the date of the order. Unless the court is notified in  
609 writing that the inmate has been discharged from the mental  
610 health treatment facility because he or she is no longer in need  
611 of care and treatment, has been transferred to another  
612 institution of the department, or has been released from the  
613 department's custody, the warden shall, before the expiration of  
614 the initial order, file a notice with the court to set a status  
615 hearing for an order authorizing the continuation of placement  
616 and treatment for another period not to exceed 6 months. This  
617 procedure shall be repeated until the inmate is no longer in  
618 need of care and treatment. Placement and treatment may be  
619 continued pending a hearing after the timely filing of any



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620 petition.

621 (5) COPIES OF ORDERS.—The court shall provide a copy of its  
622 order authorizing placement and treatment along with all  
623 supporting documentation relating to the inmate's condition to  
624 the warden of the mental health treatment facility.

625 (6) DISMISSAL OF PETITIONS.—If the court finds that  
626 criteria for placement and treatment are not satisfied, it shall  
627 dismiss the petition and the inmate shall be transferred out of  
628 the mental health treatment facility and provided with  
629 appropriate mental health services.

630 Section 12. Section 945.45, Florida Statutes, is repealed.

631 Section 13. Present subsection (3) of section 945.46,  
632 Florida Statutes, is renumbered as subsection (5) and amended,  
633 and new subsection (3) and subsection (4) are added to that  
634 section, to read:

635 945.46 Initiation of involuntary placement proceedings with  
636 respect to a mentally ill inmate scheduled for release.—

637 (3) The warden shall file, in the court in the county where  
638 the inmate is located, petitions for involuntary inpatient  
639 placement for inmates scheduled to be released. Upon filing, the  
640 clerk of the court shall provide copies to the Department of  
641 Children and Families, the inmate, and the state attorney and  
642 public defender of the judicial circuit in which the inmate is  
643 located. A fee may not be charged for the filing of a petition  
644 under chapter 394. Within 1 court working day after the filing  
645 of a petition for involuntary inpatient placement, the court  
646 shall appoint the public defender to represent the inmate who is  
647 the subject of the petition, unless the inmate is otherwise  
648 represented by counsel. The clerk of the court shall immediately



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649 notify the public defender of such appointment. Any attorney  
650 representing the inmate shall have access to the inmate,  
651 witnesses, and records relevant to the presentation of the  
652 patient's case and shall represent the interests of the inmate,  
653 regardless of the source of payment to the attorney. The state  
654 attorney for the circuit in which the inmate is located shall  
655 represent the state, rather than the petitioning warden, as the  
656 real party in interest in the proceeding. The remainder of the  
657 proceedings shall be governed by chapter 394.

658 (4) After considering the public safety and security  
659 concerns presented by transporting a mentally ill inmate or in  
660 conducting an onsite hearing, the court may order that the  
661 hearing be conducted by electronic means, at the facility in  
662 person, or at another location designated by the court. If the  
663 hearing is ordered by the court to be conducted at a location  
664 other than the facility, the department is authorized to  
665 transport the inmate to the location of the hearing.

666 (5)~~(3)~~ The department may transport an individual who is  
667 being released from its custody to a receiving or mental health  
668 treatment facility for involuntary examination or placement.  
669 Such transport shall be made to a facility that is specified by  
670 the Department of Children and Families as able to meet the  
671 specific needs of the individual. If the Department of Children  
672 and Families does not specify a facility, transport shall ~~may~~ be  
673 made to the nearest receiving facility.

674 Section 14. Section 945.47, Florida Statutes, is amended to  
675 read:

676 945.47 Discharge of inmate from mental health treatment.—

677 (1) An inmate who has been placed in a mental health





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678 treatment facility transferred for the purpose of mental health  
679 treatment shall be discharged from treatment by the warden under  
680 the following conditions:

681 (a) If the inmate is no longer in need of care and  
682 treatment, as defined in s. 945.42, he or she may be transferred  
683 out of the mental health treatment facility and provided with  
684 appropriate mental health services; or

685 (b) If the inmate's sentence expires during his or her  
686 treatment, but he or she is no longer in need of care and  
687 treatment as an inpatient, the inmate may be released with a  
688 recommendation for outpatient treatment, pursuant to ~~the~~  
689 ~~provisions of~~ ss. 945.40-945.49.

690 (2) At any time that an inmate who has received mental  
691 health treatment while in the custody of the department becomes  
692 eligible for release under supervision or upon end of sentence,  
693 a record of the inmate's mental health treatment may be provided  
694 to the Florida Commission on Offender Review and to the  
695 Department of Children and Families to arrange postrelease  
696 aftercare placement and to prospective recipient inpatient  
697 health care or residential facilities upon request. The record  
698 shall include, at a minimum, a summary of the inmate's  
699 diagnosis, length of stay in treatment, clinical history,  
700 prognosis, prescribed medication, treatment plan, and  
701 recommendations for aftercare services.

702 Section 15. Section 18. Section 945.48, Florida Statutes,  
703 is amended to read:

704 (Substantial rewording of section. See  
705 s. 945.48, F.S., for present text.)

706 945.48 Emergency treatment orders and use of force.-



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707       (1) EMERGENCY MEDICATION.—The department is authorized to  
708 involuntarily administer psychotropic medication to an inmate on  
709 an emergency basis without following the procedure outlined in  
710 s. 945.43 only as specified in this section. An emergency  
711 treatment order for psychotropic medication may be provided to  
712 the inmate upon the written order of a physician licensed  
713 pursuant to chapter 458 or chapter 459 in an emergency not  
714 exceeding 72 hours, excluding weekends and legal holidays. An  
715 emergency exists when an inmate with a mental illness presents  
716 an immediate threat of:

717           (a) Bodily harm to self or others; or

718           (b) Extreme deterioration in behavioral functioning  
719 secondary to the mental illness.

720       (2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be  
721 administered only when the medication constitutes an appropriate  
722 treatment for a mental illness and its symptoms and alternative  
723 treatments are not available or indicated, or would not be  
724 effective. If after the 72-hour period the inmate has not given  
725 express and informed consent to the medication initially  
726 refused, the inmate's treating physician shall refer the inmate  
727 to a mental health treatment facility for an involuntary  
728 examination in accordance with the procedures described in s.  
729 945.43. Upon such referral, the warden shall, within 48 hours,  
730 excluding weekends and legal holidays, transfer the inmate to a  
731 mental health treatment facility. Upon transfer of the inmate  
732 for an involuntary examination, the emergency treatment order  
733 may be continued upon the written order of a physician as long  
734 as the physician has determined that the emergency continues to  
735 present a danger to the safety of the inmate or others and the



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736 criteria described in this subsection are satisfied. If  
737 psychotropic medication is still recommended after the  
738 emergency, it may only be administered after following the  
739 procedures outlined in s. 945.44.

740 (3) USE OF FORCE.—An employee or agent of the department is  
741 authorized to apply physical force upon an inmate when and to  
742 the extent that it reasonably appears necessary to effectuate  
743 the treatment of an inmate as described in this section, for the  
744 application of psychiatric restraint, to effectuate clinically  
745 necessary hygiene, or pursuant to a valid court order issued  
746 under s. 945.44 or s. 945.485. The requirements of s. 944.35  
747 shall be followed when using force to effectuate such treatment,  
748 apply such restraint, or effectuate such hygiene.

749 Section 16. Section 945.485, Florida Statutes, is created  
750 to read:

751 945.485 Management and treatment for self-injurious  
752 behaviors.—

753 (1) The Legislature finds that nonsuicidal self-injurious  
754 behaviors in correctional institutions, or acts intended to  
755 cause bodily harm but not death, have increased in the  
756 correctional environment. Self-injurious behavior may include  
757 nonsuicidal self-injury or self-mutilation, such as cutting,  
758 reopening wounds, and ingesting or inserting foreign objects or  
759 dangerous instruments into the body. These behaviors pose a  
760 significant threat to inmates, staff, and, in many cases, the  
761 safe and secure operation of the correctional institution. In  
762 addition, self-injurious behaviors, coupled with the inmate's  
763 repeated refusals to provide express and informed consent for  
764 medical treatment and care, are a significant challenge for



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765 correctional medical and mental health professionals, resulting  
766 in higher costs for medical services, and may result in  
767 inadvertent mortality in the incarcerated population.

768 (2) In accordance with s. 945.6042, the Legislature finds  
769 that an inmate retains the fundamental right of self-  
770 determination regarding decisions pertaining to his or her own  
771 health, including the right to choose or refuse medical  
772 treatment or life-saving medical procedures. However, the  
773 inmate's right to privacy and decisionmaking regarding medical  
774 treatment may be outweighed by compelling state interests.

775 (3) When an inmate is engaging in active or ongoing self-  
776 injurious behavior and has refused to provide express and  
777 informed consent for treatment related to the self-injurious  
778 behavior, the warden of the facility where the inmate is housed  
779 shall consult with the inmate's treating physician regarding the  
780 inmate's medical and mental health status, current medical and  
781 mental health treatment needs, and competency to provide express  
782 and informed consent for treatment. The warden shall also  
783 determine whether the inmate's self-injurious behavior presents  
784 a danger to the safety of department staff or other inmates or  
785 the security, internal order, or discipline of the institution.

786 (a) If the inmate's treating physician determines that the  
787 inmate has a mental illness and is incompetent to consent to  
788 treatment, the physician shall proceed in accordance with s.  
789 945.6042 for any necessary surgical or medical services. If the  
790 inmate is in need of care and treatment as defined in s. 945.42,  
791 the inmate shall be referred to a mental health treatment  
792 facility for an involuntary examination in accordance with s.  
793 945.44.



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794 (b) If the inmate is competent, refusing necessary surgical  
795 or medical treatment, and engaging in active or ongoing self-  
796 injurious behavior that presents a threat to the safety of  
797 department staff or other inmates or the security, internal  
798 order, or discipline of the institution, the warden shall follow  
799 the procedure set forth in subsection (4).

800 (4) (a) The warden, or his or her designated representative,  
801 shall, on behalf of the state, petition the circuit court of the  
802 county in which the inmate is residing or the county in which  
803 the inmate is hospitalized for an order compelling the inmate to  
804 submit to emergency surgical intervention or other medical  
805 services to the extent necessary to remedy the threat to the  
806 safety of staff or other inmates or the security, internal  
807 order, or discipline of the institution. The petition must be  
808 supported by the expert opinion of at least one of the inmate's  
809 treating physicians and may be supported by other staff as  
810 necessary.

811 (b) The inmate shall be provided with a copy of the  
812 petition along with the proposed intervention, the basis for the  
813 proposed intervention, the names of the testifying experts and  
814 witnesses, and the date, time, and location of the hearing.  
815 After considering the medical status of the inmate, public  
816 safety, and security concerns presented by transporting the  
817 inmate, the court may order that the hearing be conducted by  
818 electronic means or in person at the institution or at another  
819 location designated by the court. If the hearing is ordered by  
820 the court to be conducted at a location other than the  
821 institution, the department is authorized to transport the  
822 inmate to the location of the hearing.



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823       (c) The inmate may have an attorney represent him or her at  
824 the hearing, and, if the inmate is indigent, the court shall  
825 appoint the office of the public defender or private counsel  
826 pursuant to s. 27.40(1) to represent the inmate at the hearing.  
827 An attorney representing the inmate shall have access to the  
828 inmate and any records, including medical or mental health  
829 records, which are relevant to the representation of the inmate.

830       (d) The hearing on the petition shall be held as  
831 expeditiously as possible after the petition is filed, but no  
832 later than 5 calendar days after filing. The court may appoint a  
833 general or special magistrate to preside. The inmate may testify  
834 or not, as he or she chooses, may cross-examine witnesses  
835 testifying on behalf of the institution, and may present his or  
836 her own witnesses.

837       (e) The court may waive the presence of the inmate at the  
838 hearing if the waiver is consistent with the best interests of  
839 the inmate and the inmate's counsel does not object.

840       (f) The court shall determine whether the warden has  
841 established, by clear and convincing evidence, a compelling  
842 state interest sufficient to outweigh the inmate's right to  
843 refuse treatment. The court shall consider all of the following:

- 844       1. Preservation of the life of the inmate.
- 845       2. Prevention of suicide.
- 846       3. Protection of innocent third parties.
- 847       4. Maintenance of the ethical integrity of the medical  
848 profession.
- 849       5. Preservation of the security, internal order, or  
850 discipline of the institution.
- 851       6. Rehabilitation of the inmate.



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852 7. Any other compelling state interest.

853 (g) If the court determines that there are compelling state  
854 interests sufficient to override the inmate's right to refuse  
855 treatment, the court shall enter an order authorizing emergency  
856 surgical intervention or other medical services, narrowly  
857 tailored and in the least intrusive manner possible, only as  
858 necessary to remedy the threat to the safety of third parties or  
859 the security, internal order, or discipline of the institution.  
860 Emergency surgical intervention or other medical services  
861 authorized by the court may be carried out at the institution or  
862 at a licensed hospital, as applicable.

863 (5) This section does not repeal by implication any  
864 provision of s. 766.103, the Florida Medical Consent Law, or s.  
865 768.13, the Good Samaritan Act. For all purposes, the Florida  
866 Medical Consent Law and the Good Samaritan Act shall be  
867 considered alternatives to this section.

868 Section 17. Subsection (2) of section 945.49, Florida  
869 Statutes, is amended to read:

870 945.49 Operation and administration.—

871 (2) RULES.—~~The department, in cooperation with the Mental~~  
872 ~~Health Program Office of the Department of Children and~~  
873 ~~Families,~~ shall adopt rules necessary for administration of ss.  
874 945.40-945.49 in accordance with chapter 120.

875 Section 18. Section 945.6402, Florida Statutes, is created  
876 to read:

877 945.6402 Inmate health care advance directives.—

878 (1) DEFINITIONS.—The terms used in this section have the  
879 same meanings as in s. 765.101 unless otherwise specified in  
880 this section. For purposes of this section, the term:



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881       (a) "Health care facility" has the same meaning as in s.  
882 765.101 and includes any correctional institution or facility  
883 where health care is provided.

884       (b) "Incapacity" or "incompetent" means an inmate is  
885 physically or mentally unable to communicate a willful and  
886 knowing health care decision.

887       (c) "Informed consent" means consent voluntarily given by  
888 an inmate after a sufficient explanation and disclosure of the  
889 subject matter involved to enable the inmate to have a general  
890 understanding of the treatment or procedure and the medically  
891 acceptable alternatives, including the substantial risks and  
892 hazards inherent in the proposed treatment or procedures, and to  
893 make a knowing health care decision without coercion or undue  
894 influence.

895       (d) "Inmate" means any person committed to the custody of  
896 the department.

897       (e) "Ombudsman" means an individual designated and  
898 specifically trained by the department to identify conditions  
899 that may pose a threat to the rights, health, safety, and  
900 welfare of inmates in a health care facility and who may be  
901 appointed to serve as a proxy for an inmate who is physically or  
902 mentally unable to communicate a willful and knowing health care  
903 decision.

904       (f) "Proxy" means a competent adult who has not been  
905 expressly designated to make health care decisions for a  
906 particular incapacitated inmate, but who, nevertheless, is  
907 authorized pursuant to s. 765.401 and as specified in this  
908 section to make health care decisions for such inmate.

909       (g) "Proxy review team" means a team of at least five





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910 members, appointed by the Assistant Secretary for Health  
911 Services. The team shall be composed of, at a minimum, one  
912 physician licensed pursuant to chapter 458 or chapter 459, one  
913 psychologist licensed pursuant to chapter 490, one nurse  
914 licensed pursuant to chapter 464, and one department chaplain.

915 (2) LEGISLATIVE FINDINGS AND INTENT.-

916 (a) In accordance with chapter 765, the Legislature finds  
917 that an inmate retains the fundamental right of self-  
918 determination regarding decisions pertaining to his or her own  
919 health, including the right to choose or refuse medical  
920 treatment. In accordance with chapter 765, this right is subject  
921 to certain institutional interests, including the protection of  
922 human life, the preservation of ethical standards in the medical  
923 profession, and, for inmates committed to the custody of the  
924 department, the security and good order of the institutional  
925 setting.

926 (b) To ensure that such right is not lost or diminished by  
927 virtue of later physical or mental incapacity, the Legislature  
928 intends that the procedures specified in chapter 765, and as  
929 modified in this section for the institutional health care  
930 setting, apply to incarcerated inmates. These procedures should  
931 be less expensive and less restrictive than guardianship and  
932 allow an inmate to plan for incapacity by executing a document  
933 or orally designating another person to direct the course of his  
934 or her health care or receive his or her health information, or  
935 both, upon his or her incapacity. These procedures permit a  
936 previously incapacitated inmate to exercise his or her full  
937 right to make health care decisions as soon as the capacity to  
938 make such decisions has been regained.



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939       (c) In order to ensure that the rights and intentions of an  
940 inmate are respected when the inmate is not able to participate  
941 actively in decisions concerning himself or herself, and to  
942 encourage communication among such inmate, his or her family,  
943 and his or her treating physicians, the Legislature declares  
944 that the laws of this state recognize the right of a competent  
945 incarcerated adult to make an advance directive instructing his  
946 or her physicians to provide, withhold, or withdraw life-  
947 prolonging procedures or to designate another person to make the  
948 health care decision for him or her in the event that such  
949 incarcerated person should become incapacitated and unable to  
950 personally direct his or her health care. It is further the  
951 intent of the Legislature that the department provide the  
952 opportunity for inmates to make advance directives as specified  
953 in this section.

954       (d) The Legislature further recognizes that incarcerated  
955 inmates may not avail themselves of the opportunity to make an  
956 advance directive or, because of incarceration, may not have a  
957 surrogate, as defined in s. 765.101, willing, able, or  
958 reasonably available to make health care decisions on their  
959 behalf. Additionally, because of incarceration, the individuals  
960 designated in s. 765.401 who are eligible to serve as an  
961 appointed proxy may not be reasonably available, willing, or  
962 competent to make health care decisions for the inmate in the  
963 event of incapacity. Thus, it is the intent of the Legislature  
964 that the department have an efficient process that is less  
965 expensive and less restrictive than guardianship for the  
966 appointment of a proxy to allow for the expedient delivery of  
967 necessary health care to an incarcerated inmate.



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968       (e) This section does not supersede the process for inmate  
969 involuntary mental health treatment in ss. 945.40-945.49.

970       (3) CAPACITY OF INMATE; PROCEDURE.—

971       (a) An inmate is presumed to be capable of making health  
972 care decisions for himself or herself unless he or she is  
973 determined to be incapacitated. When an inmate has  
974 decisionmaking capacity, the inmate's wishes are controlling.  
975 Each physician or health care provider must clearly communicate  
976 the treatment plan and any change to the treatment plan before  
977 implementation of the plan or any change to the plan. Incapacity  
978 may not be inferred from an inmate's involuntary hospitalization  
979 for mental illness or from his or her intellectual disability.

980       (b) If an inmate's capacity to make health care decisions  
981 for himself or herself or provide informed consent is in  
982 question, the inmate's treating physician at the health care  
983 facility where the inmate is located shall evaluate the inmate's  
984 capacity and, if the evaluating physician concludes that the  
985 inmate lacks capacity, enter that evaluation in the inmate's  
986 medical record. If the evaluating physician has a question as to  
987 whether the inmate lacks capacity, another physician shall also  
988 evaluate the inmate's capacity, and if the second physician  
989 finds that the inmate lacks the capacity to make health care  
990 decisions for himself or herself or provide informed consent,  
991 both physicians' evaluations shall be entered in the inmate's  
992 medical record.

993       (c) If the inmate is found to be incapacitated and has  
994 designated a health care surrogate in accordance with chapter  
995 765, the institution's or facility's health care staff shall  
996 notify the surrogate and proceed as specified in chapter 765. If



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997 the incapacitated inmate has not designated a health care  
998 surrogate, the health care facility shall appoint a proxy to  
999 make health care decisions for the inmate as specified in this  
1000 section.

1001 (d) A determination made pursuant to this section that an  
1002 inmate lacks the capacity to make health care decisions for  
1003 himself or herself may not be construed as a finding that an  
1004 inmate lacks capacity for any other purpose.

1005 (4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

1006 (a) In accordance with chapter 765, the department shall  
1007 offer inmates the opportunity to execute an advance directive as  
1008 defined in s. 765.101.

1009 (b) The department shall provide to each inmate written  
1010 information concerning advance directives and necessary forms to  
1011 allow inmates to execute an advance directive. The department  
1012 and its health care providers shall document in the inmate's  
1013 medical records whether the inmate has executed an advance  
1014 directive. Neither the department nor its health care providers  
1015 may require an inmate to execute an advance directive using the  
1016 department's forms. The inmate's advance directive shall travel  
1017 with the inmate within the department as part of the inmate's  
1018 medical record.

1019 (c) An advance directive may be amended or revoked at any  
1020 time by a competent inmate by means of:

1021 1. A signed, dated writing of intent to amend or revoke;

1022 2. The physical cancellation or destruction of the advance  
1023 directive by the inmate or by another person in the inmate's  
1024 presence and at the inmate's direction;

1025 3. An oral expression of intent to amend or revoke; or



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1026 4. A subsequently executed advance directive that is  
1027 materially different from a previously executed advance  
1028 directive.

1029 (5) PROXY.—

1030 (a) If an incapacitated inmate has not executed an advance  
1031 directive, or designated a health care surrogate in accordance  
1032 with the procedures specified in chapter 765 or the designated  
1033 health care surrogate is no longer available to make health care  
1034 decisions, health care decisions may be made for the inmate by  
1035 any of the individuals specified in the priority order provided  
1036 in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts  
1037 to locate a proxy from the classes specified in s.  
1038 765.401(1)(a)-(g) shall be recorded in the inmate's medical  
1039 file.

1040 (b) If there are no individuals as specified in s.  
1041 765.401(1)(a)-(g) available, willing, or competent to act on  
1042 behalf of the inmate, and the inmate is housed in a correctional  
1043 institution or facility where health care is provided in a  
1044 nonhospital setting, the warden of the institution where the  
1045 inmate is housed, or the warden's designee, shall consult with  
1046 the Assistant Secretary for Health Services or his or her  
1047 designee, who shall appoint a department ombudsman to serve as  
1048 the proxy. This appointment terminates when the inmate regains  
1049 capacity or is no longer incarcerated in the custody of the  
1050 department. In accordance with chapter 765 and as provided in  
1051 this section, decisions to withhold or withdraw life-prolonging  
1052 procedures will be reviewed by the department's proxy review  
1053 team for compliance with chapter 765 and the requirements of  
1054 this section.



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1055       (c) The ombudsman appointed to serve as the proxy is  
1056 authorized to request the assistance of the treating physician  
1057 and, upon request, a second physician not involved in the  
1058 inmate's care to assist the proxy in evaluating the inmate's  
1059 treatment.

1060       (d) In accordance with chapter 765, any health care  
1061 decision made by any appointed proxy under this section must be  
1062 based on the proxy's informed consent and on the decision that  
1063 the proxy reasonably believes the inmate would have made under  
1064 the circumstances. If there is no indication of what decision  
1065 the inmate would have made, the proxy may consider the inmate's  
1066 best interest in deciding that proposed treatments are to be  
1067 withheld or that treatments currently in effect are to be  
1068 withdrawn.

1069       (e) Before exercising the incapacitated inmate's rights to  
1070 select or decline health care, the proxy must comply with ss.  
1071 765.205 and 765.305, except that any proxy's decision to  
1072 withhold or withdraw life-prolonging procedures must be  
1073 supported by clear and convincing evidence that the decision  
1074 would have been the one the inmate would have made had he or she  
1075 been competent or, if there is no indication of what decision  
1076 the inmate would have made, that the decision is in the inmate's  
1077 best interest.

1078       (f) Notwithstanding s. 456.057 and pursuant to s. 945.10  
1079 and 45 C.F.R. part 164, subpart E, relevant protected health  
1080 information and mental health and medical records of an  
1081 incapacitated inmate may be disclosed to a proxy appointed to  
1082 make health care decisions for an inmate.

1083       (6) USE OF FORCE.—In addition to s. 944.35(1), an employee



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1084 of the department may apply reasonable physical force upon an  
1085 incapacitated inmate to administer medical treatment only by or  
1086 under the clinical supervision of a physician or his or her  
1087 designee and only to carry out a health care decision made in  
1088 accordance with this section and chapter 765.

1089 (7) IMMUNITY FROM LIABILITY.—A department health care  
1090 provider, ombudsman, or other employee who acts under the  
1091 direction of a health care provider as authorized in this  
1092 section or chapter 765 is not subject to criminal prosecution or  
1093 civil liability and may not be deemed to have engaged in  
1094 unprofessional conduct as a result of carrying out a health care  
1095 decision made in accordance with this section or chapter 765 on  
1096 an inmate's behalf.

1097 Section 19. Section 947.02, Florida Statutes, is amended to  
1098 read:

1099 947.02 Florida Commission on Offender Review; members,  
1100 appointment.—

1101 ~~(1) Except as provided in s. 947.021, The members of the~~  
1102 ~~Florida commission on Offender Review shall be directly~~  
1103 ~~appointed by the Governor and Cabinet from a list of eligible~~  
1104 ~~applicants submitted by a parole qualifications committee. The~~  
1105 ~~appointments of members of the commission shall be certified to~~  
1106 ~~the Senate by the Governor and Cabinet for confirmation, and the~~  
1107 ~~membership of the commission shall include representation from~~  
1108 ~~minority persons as defined in s. 288.703.~~

1109 (2) If the Legislature decreases the membership of the  
1110 commission, all commission member terms of office shall expire  
1111 and new members of the commission must be appointed in  
1112 accordance with subsection (1). Members appointed to the



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1113 ~~commission may be selected from incumbents A parole~~  
1114 ~~qualifications committee shall consist of five persons who are~~  
1115 ~~appointed by the Governor and Cabinet. One member shall be~~  
1116 ~~designated as chair by the Governor and Cabinet. The committee~~  
1117 ~~shall provide for statewide advertisement and the receiving of~~  
1118 ~~applications for any position or positions on the commission and~~  
1119 ~~shall devise a plan for the determination of the qualifications~~  
1120 ~~of the applicants by investigations and comprehensive~~  
1121 ~~evaluations, including, but not limited to, investigation and~~  
1122 ~~evaluation of the character, habits, and philosophy of each~~  
1123 ~~applicant. Each parole qualifications committee shall exist for~~  
1124 ~~2 years. If additional vacancies on the commission occur during~~  
1125 ~~this 2-year period, the committee may advertise and accept~~  
1126 ~~additional applications; however, all previously submitted~~  
1127 ~~applications shall be considered along with the new applications~~  
1128 ~~according to the previously established plan for the evaluation~~  
1129 ~~of the qualifications of applicants.~~

1130 ~~(3) Within 90 days before an anticipated vacancy by~~  
1131 ~~expiration of term pursuant to s. 947.03 or upon any other~~  
1132 ~~vacancy, the Governor and Cabinet shall appoint a parole~~  
1133 ~~qualifications committee if one has not been appointed during~~  
1134 ~~the previous 2 years. The committee shall consider applications~~  
1135 ~~for the commission seat, including the application of an~~  
1136 ~~incumbent commissioner if he or she applies, according to~~  
1137 ~~subsection (2). The committee shall submit a list of three~~  
1138 ~~eligible applicants, which may include the incumbent if the~~  
1139 ~~committee so decides, without recommendation, to the Governor~~  
1140 ~~and Cabinet for appointment to the commission. In the case of an~~  
1141 ~~unexpired term, the appointment must be for the remainder of the~~





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1142 ~~unexpired term and until a successor is appointed and qualified.~~  
1143 ~~If more than one seat is vacant, the committee shall submit a~~  
1144 ~~list of eligible applicants, without recommendation, containing~~  
1145 ~~a number of names equal to three times the number of vacant~~  
1146 ~~seats; however, the names submitted may not be distinguished by~~  
1147 ~~seat, and each submitted applicant shall be considered eligible~~  
1148 ~~for each vacancy.~~

1149 ~~(4) Upon receiving a list of eligible persons from the~~  
1150 ~~parole qualifications committee, the Governor and Cabinet may~~  
1151 ~~reject the list. If the list is rejected, the committee shall~~  
1152 ~~reinitiate the application and examination procedure according~~  
1153 ~~to subsection (2).~~

1154 ~~(5) Section 120.525 and chapters 119 and 286 apply to all~~  
1155 ~~activities and proceedings of a parole qualifications committee.~~

1156 Section 20. Section 947.021, Florida Statutes, is repealed.

1157 Section 21. Subsection (2) of section 947.12, Florida  
1158 Statutes, is amended to read:

1159 947.12 Members, employees, expenses.—

1160 ~~(2) The members of the examining board created in s. 947.02~~  
1161 ~~shall each be paid per diem and travel expenses pursuant to s.~~  
1162 ~~112.061 when traveling in the performance of their duties.~~

1163 Section 22. Paragraph (g) of subsection (1) and subsection  
1164 (5) of section 957.04, Florida Statutes, are amended to read:

1165 957.04 Contract requirements.—

1166 (1) A contract entered into under this chapter for the  
1167 operation of contractor-operated correctional facilities shall  
1168 maximize the cost savings of such facilities and:

1169 (g) Require the contractor to be responsible for a range of  
1170 dental, medical, and psychological services; diet; education;



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1171 and work programs at least equal to those provided by the  
1172 department in comparable facilities. The work and education  
1173 programs must be designed to reduce recidivism, and include  
1174 opportunities to participate in such work programs as authorized  
1175 pursuant to s. 946.523. However, with respect to the dental,  
1176 medical, psychological, and dietary services, the department is  
1177 authorized to exclude any or all of these services from a  
1178 contract for private correctional services entered into under  
1179 this chapter and retain responsibility for the delivery of those  
1180 services, if the department finds it to be in the best interests  
1181 of the state.

1182 ~~(5) Each contract entered into by the department must~~  
1183 ~~include substantial minority participation unless demonstrated~~  
1184 ~~by evidence, after a good faith effort, as impractical and must~~  
1185 ~~also include any other requirements the department considers~~  
1186 ~~necessary and appropriate for carrying out the purposes of this~~  
1187 ~~chapter.~~

1188 Section 23. Subsection (3) of section 957.09, Florida  
1189 Statutes, is amended to read:

1190 957.09 Applicability of chapter to other provisions of  
1191 law.—

1192 ~~(3) The provisions of law governing the participation of~~  
1193 ~~minority business enterprises are applicable to this chapter.~~

1194 Section 24. Subsection (2) of section 20.32, Florida  
1195 Statutes, is amended to read:

1196 20.32 Florida Commission on Offender Review.—

1197 (2) All powers, duties, and functions relating to the  
1198 appointment of the Florida Commission on Offender Review as  
1199 provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and



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1200 performed by the Governor and Cabinet. ~~Except as provided in s.~~  
1201 ~~947.021,~~ Each appointment shall be made from among the first  
1202 three eligible persons on the list of the persons eligible for  
1203 said position.

1204 Section 25. This act shall take effect July 1, 2025.

1205

1206 ===== T I T L E A M E N D M E N T =====

1207 And the title is amended as follows:

1208 Delete everything before the enacting clause  
1209 and insert:

1210

A bill to be entitled

1211 An act relating to corrections; amending s. 57.085,  
1212 F.S.; revising provisions relating to deferral of  
1213 prepayment of court costs and fees for indigent  
1214 prisoners for actions involving challenges to prison  
1215 disciplinary reports; amending s. 95.11, F.S.;  
1216 providing for a 1-year period of limitation for  
1217 bringing certain actions relating to the condition of  
1218 confinement of prisoners; creating s. 760.701, F.S.;  
1219 defining the term "prisoner"; requiring exhaustion of  
1220 administrative remedies before certain actions  
1221 concerning confinement of prisoners may be brought;  
1222 providing for dismissal of certain actions involving  
1223 prisoner confinement in certain circumstances;  
1224 requiring a showing of physical injury or the  
1225 commission of a certain act as a condition precedent  
1226 for bringing certain actions relating to prisoner  
1227 confinement; specifying a time limitation period for  
1228 bringing an action concerning any condition of



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1229 confinement; amending s. 775.087, F.S.; providing that  
1230 prison terms for certain offenses committed in  
1231 conjunction with another felony offense may be  
1232 sentenced to be served consecutively; amending ss.  
1233 922.10 and 922.105, F.S.; revising provisions  
1234 concerning methods of execution of death sentences;  
1235 amending s. 934.425, F.S.; exempting persons working  
1236 for the Department of Corrections or the Department of  
1237 Juvenile Justice, or persons authorized pursuant to a  
1238 court order, from provisions regulating the use of  
1239 tracking devices or tracking applications; amending s.  
1240 945.41, F.S.; revising legislative intent; revising  
1241 provisions relating to mental health treatment for  
1242 inmates; providing that an inmate must give his or her  
1243 express and informed consent to such treatment;  
1244 specifying information an inmate must receive  
1245 regarding treatment; authorizing the warden to  
1246 authorize certain emergency medical treatment under  
1247 the direction of the inmate's attending physician  
1248 under certain circumstances; amending s. 945.42, F.S.;  
1249 revising and providing definitions; amending s.  
1250 945.43, F.S.; revising provisions concerning  
1251 involuntary examinations; amending s. 945.44, F.S.;  
1252 revising provisions concerning involuntary placement  
1253 and treatment of an inmate in a mental health  
1254 treatment facility; repealing s. 945.45 F.S., relating  
1255 to continued placement of inmates in mental health  
1256 treatment facilities; amending s. 945.46, F.S.;  
1257 providing requirements for filing petitions for



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1258 involuntary inpatient placement for certain inmates;  
1259 authorizing the court to order alternative means and  
1260 venues for certain hearings; requiring, rather than  
1261 authorizing, inmates to be transported to the nearest  
1262 receiving facility in certain circumstances; amending  
1263 s. 945.47, F.S.; specifying purposes for which an  
1264 inmate's mental health treatment records may be  
1265 provided to the Florida Commission on Offender Review  
1266 and the Department of Children and Families;  
1267 authorizing such records to be provided to certain  
1268 facilities upon request; amending s. 945.48, F.S.;  
1269 substantially rewording provisions relating to  
1270 emergency treatment orders and use of force and  
1271 providing requirements therefore; providing  
1272 requirements for emergency and psychotropic  
1273 medications and use of force; creating s. 945.485,  
1274 F.S.; providing legislative findings; providing  
1275 requirements for management and treatment for an  
1276 inmate's self-injurious behaviors; requiring facility  
1277 wardens to consult with an inmate's treating physician  
1278 in certain circumstances and make certain  
1279 determinations; providing for petitions to compel an  
1280 inmate to submit to medical treatment in certain  
1281 circumstances; providing construction; amending s.  
1282 945.49, F.S.; deleting a requirement that the  
1283 Department of Corrections adopt certain rules in  
1284 cooperation with the Mental Health Program Office of  
1285 the Department of Children and Families; creating s.  
1286 945.6402, F.S.; providing definitions; providing



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1287 legislative findings and intent; providing  
1288 requirements for inmate capacity, health care advance  
1289 directives, and proxies; authorizing the use of force  
1290 on incapacitated inmates in certain circumstances;  
1291 providing immunity from liability for certain persons  
1292 in certain circumstances; amending s. 947.02, F.S.;  
1293 revising the manner in which the membership of the  
1294 Florida Commission on Offender Review is appointed;  
1295 repealing s. 947.021, F.S., relating to expedited  
1296 appointments of the Florida Commission on Offender  
1297 Review; amending s. 947.12, F.S.; conforming  
1298 provisions to changes made by the act; amending s.  
1299 957.04, F.S.; revising requirements for contracting  
1300 for certain services; amending s. 957.09, F.S.;  
1301 deleting a provision relating to minority business  
1302 enterprises; amending s. 20.32, F.S.; conforming  
1303 provisions to changes made by the act; providing an  
1304 effective date.