

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 168

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Mental Health

DATE: March 5, 2025

REVISED: 3/4/25

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Wyant | Stokes | CJ | Fav/CS |
| 2. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 168, entitled the “Tristin Murphy Act,” aims to add alternative pathways to prosecuting defendants with mental illnesses.

The bill amends s. 916.105, F.S., to provide legislative intent that a defendant who is charged with certain felonies, any misdemeanor, or any ordinance violation and who has a mental illness, intellectual disability, or autism be evaluated and provided services in a community setting, when this is a feasible alternative to incarceration. Additionally, it is the intent of the legislature to provide law enforcement officers with crisis intervention team training.

Misdemeanor and Felony Diversion

The bill creates ss. 916.135, and 916.136, F.S., to provide model processes for a misdemeanor or ordinance violation mental health diversion program, and a pretrial felony mental health diversion program. The bill provides the process for screening a defendant to determine if there is an indication of a mental illness and diverting certain defendants to treatment.

The bill amends s. 394.658, F.S., to expand programs and diversion initiatives supported by the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program to include veterans treatment court programs and training for 911 public safety telecommunicators and emergency medical technicians. The bill provides an exception from providing matching local funds to fiscally constrained counties. A community desiring to establish a misdemeanor or felony mental health diversion program is encouraged to apply for such grants.

Additional Mental Health Provisions

The bill amends s. 916.185, F.S., to authorize the Department of Children and Families (DCF) to implement a Forensic Hospital Diversion Pilot Program modeled after the Miami-Dade Forensic Alternative Center in Hillsborough County, in conjunction with the Thirteenth Judicial Circuit in Hillsborough County.

The bill creates s. 945.093, F.S., to require the Department of Corrections (DOC) to evaluate, at a minimum, the physical and mental health of each inmate eligible for a work assignment or correctional work program. The bill requires the DOC to document approval of eligibility before such inmate receives orders for the assignment or program. The bill allows for the DOC to use discretion.

The bill creates s. 948.0395, F.S., to provide that a defendant who was adjudicated incompetent to proceed due to a mental illness and later regained competency, and who is sentenced to probation, must have a mental health evaluation and follow recommendations as a condition of such probation.

The Florida Behavioral Health Care Data Repository

The bill amends s. 1004.649, F.S. to establish the Florida Behavioral Health Care Data Repository (data repository) within the Northwest Regional Data Center (NWRDC). The data repository is created to collect and analyze existing statewide data related to behavioral health care in the state. This data analysis is intended to:

- Better understand the scope and trends in behavioral health services, spending, and outcomes.
- Better understand the scope of, trends in, and relationship between behavioral health, criminal justice, incarceration, and the use of behavioral health services as a diversion from incarceration.
- Enhance the collection and coordination of treatment and outcome information as an ongoing evidence base for research and education related to behavioral health.

The bill requires the NWRDC to collaborate with the state Commission on Mental Health and Substance Use Disorder to develop and submit an implementation plan and proposed budget for the data repository by December 1, 2025.

The bill requires the data repository to submit an annual report on the trends and issues the repository has identified to the Governor, the President of the Senate, and the Speaker of the House of Representatives beginning July 1, 2026.

The bill may have a negative indeterminate impact (unquantifiable decrease in prison beds). Additionally, the bill may have an indeterminate negative impact due to funds needed to establish the data repository. *See Section V., Fiscal Impact Statement.*

The bill is effective on October 1, 2025.

II. Present Situation:

On January 11, 2024, Cynthia Murphy spoke to the Florida Senate Committee on Criminal and Civil Appropriations about her son Tristin Murphy's battle with mental health challenges within the DOC. Tristin Murphy was a 37-year-old father of two boys.

On September 16, 2021, Tristin Murphy died by suicide on a landscaping work assignment at a Florida state prison. Murphy had been diagnosed with schizophrenia, paranoia and delusions, and was serving a term of imprisonment for an offense of littering more than 500 pounds after having driven his truck into a retention pond. The judge in Murphy's case is urging the Legislature to address the growing crisis of needlessly placing people with mental illnesses in the criminal justice system.¹

Nationally, Florida ranks fourth for the highest number of people with mental illness and substance use disorder and at the same time, does not have the existing capacity to meet treatment demand; Florida ranks 49th out of 50 states for access to health insurance and mental health treatment.² More than two percent of Florida's incarcerated population has been diagnosed with a mental health disorder and the DOC estimates that nearly 60 percent of incarcerated individuals have a substance use disorder. Alarming, only about one-third of these individuals receive services.³

Behavioral Health

Behavioral health generally refers to mental health and substance use disorders, life stressors and crises, and stress-related physical symptoms.⁴ Behavioral health care refers to the prevention, diagnosis, and treatment of those conditions.⁵

In 2023, the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) estimates that 22.8% of the U.S. population experienced some form of mental illness, known as any mental illness (AMI); this is approximately 58.7 million Americans.⁶ Of the 58.7 million Americans with AMI, 5.7% had serious mental illness.⁷

¹ CBS, *Judge Speaks Out on Tristin Murphy Case*, Jim DeFede (November 17, 2023), available at:

<https://www.cbsnews.com/miami/news/judge-speaks-out-on-tristin-murphy-case/> (last visited March 3, 2025).

² Mental Health America, *The State of Mental Health in America 2022*, Reinert, M., Fritze, D., & Nguyen, T. (2022), available at: <https://mhanational.org/sites/default/files/2022%20State%20of%20Mental%20Health%20in%20America.pdf> (last visited March 3, 2025).

³ The Commission on Mental Health and Substance Use Disorder, *Annual Interim Report*, (January 1, 2024), available at: <https://www.myflfamilies.com/sites/default/files/2024-01/Commission%20on%20Mental%20Health%20Substance%20Abuse%20Interim%20Report%201.1.2024.pdf> (last visited March 3, 2025).

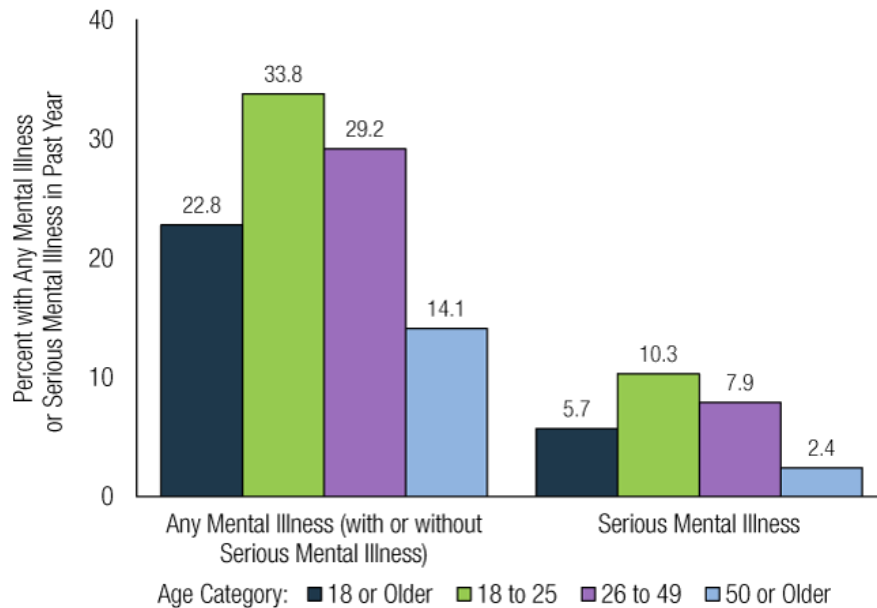
⁴ The American Medical Association, *What is behavioral health?*, available at: <https://www.ama-assn.org/delivering-care/public-health/what-behavioral-health> (last visited March 3, 2025).

⁵ *Id.*

⁶ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2022 National Survey on Drug Use and Health*, pg. 34, available at: <https://www.samhsa.gov/data/release/2023-national-survey-drug-use-and-health-nsduh-releases> (last visited March 3, 2025).

⁷ *Id.*

***Any Mental Illness (AMI) or Serious Mental Illness (SMI) in the Past Year:
Adults aged 18 or Older⁸***



Research has shown that individuals with mental and substance use disorders are often over-represented in the justice system.⁹ In 2016, the Bureau of Justice Statistics found that 41% of all state and federal prisoners had a history of a mental health problem, with 13% meeting the threshold for serious psychological distress 30 days prior to the data collection.¹⁰ If individuals do not receive the adequate treatment, incarceration is associated with worsening symptoms and increased length of incarceration.¹¹

Behavioral Health Care

A “coordinated system of care” refers to the full array of behavioral and related services available in a region or community. These services may be offered through managing entities,¹² community partners, or another service provider.¹³ Several state agencies are involved in the coordination of behavioral health services for individuals and collect data on the behavioral services available to individuals.

⁸ *Id.*

⁹ U.S. Substance Abuse and Mental Health Services Administration, *About Criminal and Juvenile Justice*, available at: <https://www.samhsa.gov/communities/criminal-juvenile-justice/about> (last visited March 3, 2025).

¹⁰ U.S. Bureau of Justice Statistics, *Indicators of Mental Health Problems Reported by Prisoners: Survey of Prison Inmates, 2016*, available at: <https://bjs.ojp.gov/library/publications/indicators-mental-health-problems-reported-prisoners-survey-prison-inmates> (last visited March 3, 2025).

¹¹ U.S. Substance Abuse and Mental Health Services Administration, *About Criminal and Juvenile Justice*, available at: <https://www.samhsa.gov/communities/criminal-juvenile-justice/about> (last visited March 3, 2025).

¹² “Managing entity” refers to a corporation selected by and under contract with the DCF to manage the daily operational delivery of behavioral health services through a coordinated system of care. See Section 394.9082, F.S.

¹³ Section 394.9082, F.S.

The Department of Children and Families

The DCF is required to annually assess the behavioral health services available in the state.¹⁴ Florida law requires the coordinated system of care to include:¹⁵

- Community interventions, such as prevention, primary care for behavioral health needs, therapeutic and supportive services, crisis response services, and diversion programs.
- A designated receiving system that consists of one or more facilities serving a defined geographic area and responsible for assessment and evaluation, both voluntary and involuntary, and treatment or triage of patients who have a mental health or substance use disorder, or co-occurring disorders.

The DCF is directed to collaborate with the Agency for Health Care Administration (AHCA) to administer and supervise all mental health facilities, programs, and services.¹⁶

The DCF and AHCA are required by law to jointly establish behavioral health interagency collaboratives that are aimed at identifying and addressing ongoing challenges within the behavioral health system at the local level.¹⁷

The Florida Mental Health Act

The Florida Mental Health Act pursuant to ss. 394.451-394.47892, F.S., authorizes the DCF to plan, evaluate, and implement a complete and comprehensive statewide program of mental health, including community services, receiving and treatment facilities, child services, research, and training as authorized and approved by the Legislature, based on the annual program budget of the department.¹⁸

In accordance with this act, a person may be taken to a receiving facility¹⁹ for involuntary examination if there is reason to believe that the person has a mental illness and because of his or her mental illness:

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or
- The person is unable to determine for himself or herself whether examination is necessary and without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing, able, and responsible family members or friends or the provision of other services; or there is a substantial likelihood that without care or treatment the person will

¹⁴ Section 394.4573, F.S.

¹⁵ Section 394.4573, F.S.

¹⁶ Section 394.457, F.S.

¹⁷ Section 394.90826, F.S.

¹⁸ Section 394.457(2)(a), F.S.

¹⁹ “Receiving facility” means a public or private facility or hospital designated by the department to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. The term does not include a county jail. Section 394.455(40), F.S.

cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.²⁰

An involuntary examination can be initiated by a circuit or county court, a law enforcement officer, or by a physician, or other specified persons²¹, when he or she has examined the person within the past 48 hours, and finds that the person appears to meet criteria.²² The examination period must be for up to 72 hours and begins when a patient arrives at the receiving facility. Within the examination period, one of the following actions must be taken, based on the needs of the patient:

- The patient is released, unless he or she is charged with a crime, in which the patient is released into the custody of a law enforcement officer;
- The patient is released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must be asked to give express and informed consent to placement as a voluntary patient; or,
- A petition for involuntary services is filed in the circuit court or county court, as applicable.²³

Diversion Programs

Diversion is authorized in both pre-arrest and post-arrest actions. There are several different types of diversion programs, sometimes referred to as “problem-solving courts” such as pretrial intervention, drug diversion, traffic diversion, and juvenile diversion.

In 1989, Florida started the national problem-solving court movement by creating the first drug court in the United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed, using the drug court model, and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, child abuse neglect, and homelessness.²⁴

Problem-solving courts offer a specialized court docket and include, but are not limited to, the following elements:

- Problem solving team, a broad-based team of justice system stakeholders including judges, case managers, prosecutors, defense attorneys, treatment professionals, law enforcement officers, correctional personnel, and guardians ad litem.
- Non-adversarial approach, a commitment to offering alternatives to the traditional adversarial litigation process.
- Continuum of individualized treatment services, an array of evidence-based services designed to identify and meet the unique needs of each participant.

²⁰ Section 394.463(1), F.S.

²¹ Other specified persons include a physician assistant, a clinical psychologist, a psychiatric nurse, an advanced practice registered nurse registered under s. 464.0123, F.S., a mental health counselor, a marriage and family therapist, or a clinical social worker. Section 394.463(2)(a)3., F.S.

²² Section 394.463(2)(a), F.S.

²³ Section 394.463(2)(g), F.S.

²⁴ Florida Courts, Office of Problem-Solving Courts, *Background*, available at: <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts> (last visited March 3, 2025).

- Judicial leadership and interaction, a judge who leads the problem-solving team and monitors the court case using an increased number of hearings for monitoring compliance and progress.
- Response to participant compliance, the use of graduated, individualized, and coordinated responses, both for incentives and sanctions, to promote both public safety and participant's success.²⁵

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant

In 2007, the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program was created and funded for the purpose of providing funding to counties with which they can plan, implement, or expand initiatives that increase public safety, avert increased spending on criminal justice, and improve the accessibility and effectiveness of treatment services for adults or juveniles who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders and who are in, or at risk of entering, the criminal or juvenile justice systems.²⁶

The Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee has established requirements and application criteria to apply for a 1-year planning grant or a 3-year implementation or expansion grant.

- The application criteria for a 1-year planning grant requires the applicant county or counties to have a strategic plan to initiate systemic change to identify and treat individuals who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in, or at risk of entering, the criminal or juvenile justice systems.²⁷
- The application criteria for a 3-year implementation or expansion grant requires information from a county demonstrating its completion of a well-established collaboration plan that includes public-private partnership models and the application of evidence-based practices.²⁸

Grants may not be awarded unless the applicant county makes available resources in an amount equal to the amount of the grant. For fiscally constrained counties,²⁹ the available resources may be at 50 percent of the total amount of the grant. The counties that have been awarded funding for an implementation or expansion grant are Alachua, Duval, Flagler, Gadsden, Lee, Leon, Levy, Manatee, Pinellas, and Sarasota.

The implementation or expansion grants may be used to fund local programs and diversion initiatives including, but not limited to, the following:

- Mental health courts.
- Diversion programs.
- Crisis intervention teams.

²⁵ Florida Courts, Office of Problem-Solving Courts, *Defining Elements*, available at: <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts> (last visited March 3, 2025).

²⁶ Chapter 2007-200, L.O.F.

²⁷ Section 394.658(1)(a), F.S.

²⁸ Section 394.658(1)(b), F.S.

²⁹ There are currently six counties that are considered "fiscally constrained" and are the recipients or applicants of funding. Those counties include Dixie, Gadsden, Glades, Hendry, Levy, and Okeechobee. See Florida Department of Children and Families, Office of Substance Abuse and Mental Health, *Criminal Justice Reinvestment Grants*, (On file with the Committee on Criminal Justice).

- Specialized training for criminal justice, juvenile justice, and treatment service professionals.³⁰

To date, Florida's Reinvestment Grant has served more than 12,000 Floridians and diverted more than 54 million dollars from the criminal justice system in jail-day savings.³¹

Miami Dade

Pretrial Mental Health Diversion

In 2000, the Eleventh Judicial Circuit's Criminal Mental Health Project (CMHP) was established to divert nonviolent misdemeanor defendants with mental illnesses, or co-occurring mental illness and substance use disorders, from the criminal justice system into community-based treatment and support services. Since then, the program has expanded to serve defendants that have been arrested for less serious felonies and other charges as deemed appropriate. The program operates on two components: pre-booking diversion consisting of Crisis Intervention Team (CIT) training for law enforcement officers and post-booking diversion serving individuals booked into the jail and awaiting adjudication. All post-booking participants are provided with individualized transition planning including linkages to community-based treatment and support services.³²

Miami Dade Forensic Alternative Center (MDFAC)

Section 916.185, F.S., created the Forensic Hospital Diversion Pilot Program. This pilot program was modeled after the MDFAC while considering the local needs and resources of each participating county.

The Legislature, by finding jail inmates with serious mental illnesses could be served more effectively and at less cost in community-based alternative programs, created the Forensic Hospital Diversion Pilot Program to serve offenders who have mental illnesses or co-occurring mental illnesses and substance abuse disorders and who are at risk of entering state forensic mental health treatment facilities, prison, jails, or state civil mental health treatment facilities.

Since 2009, the CMHP has overseen the implementation of the MDFAC. Participants include individuals charged with second and third degree felonies that do not have significant histories of violent felony offenses and are not likely to face incarceration if convicted of their offenses. Participants are adjudicated incompetent to proceed to trial or not guilty by reason of insanity. Unlike individuals admitted to state forensic treatment facilities, individuals served by the MDFAC are not returned to jail upon restoration of competency. The Eleventh Judicial Circuit states individuals admitted to the MDFAC program are identified as ready for discharge from forensic commitment an average of 52 days sooner than those who complete competency

³⁰ Section 394.658(1)(b), F.S.

³¹ University of South Florida, Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program, *Annual Report 2022-2023*, available at: <https://www.usf.edu/cbcs/mhlp/tac/documents/florida-main/cjmhsa-tac-reports/annual-reports/cjmhsatacannualreportfinalwebsiteupload.pdf> (last visited March 3, 2025).

³² Eleventh Judicial Circuit of Florida, *Criminal Mental Health Project*, pg. 3, (December 2021), available at: <https://www.jud11.flcourts.org/docs/CMHP%20Program.pdf> (last visited March 3, 2025).

restoration services in forensic treatment facilities, spend an average of 31 fewer days under forensic commitment, and the average cost of services is roughly 32% less expensive than state forensic treatment facilities.³³

Section 916.185, F.S., provides eligibility criteria for participation in the Forensic Hospital Diversion Pilot Program, and limits participation to offenders who:

- Are 18 years of age or older.
- Are charged with a second or third degree felony.
- Do not have a significant history of violent criminal offenses.
- Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity.
- Meet public safety and treatment criteria established by the department for placement in a community setting.
- Otherwise would be admitted to a state mental health treatment facility.

Currently, the following counties authorized to implement a Forensic Hospital Diversion Pilot Program are Okaloosa, Duval, Broward, and Miami-Dade.

Department of Corrections

The Department of Corrections is responsible for the inmates and for the operation of, and has supervisory and protective care, custody, and control of, all buildings, grounds, property of, and matters connected with, the correctional system. Additionally, the DOC is to maximize the use of inmate labor in the construction of inmate housing and the conduct of all maintenance projects so that such activities provide work opportunities for the optimum number of inmates in the most cost-effective manner.³⁴

Corrections Mental Health Act

The Corrections Mental Health Act found in ss. 945.40-945.49, F.S., outlines the processes for treating mentally ill inmates who are already in the custody of the DOC to receive an evaluation and appropriate treatment for their mental illness through a continuum of services. The DOC must provide mental health services to inmates committed to the DOC and may contract with entities, persons, or agencies qualified to provide such services.³⁵ Mental health treatment facilities are required to be secure, adequately equipped and staffed, and provide services in the least restrictive manner consistent with optimum improvement of the inmate's condition.³⁶

Correctional Work Programs

There are several statutes to address different work programs within the DOC. Currently, the DOC is not required to address the mental health of an inmate when considering an inmate for job and program assignments.

³³ Eleventh Judicial Circuit of Florida, *Criminal Mental Health Project*, pg. 9-10, (December 2021), available at: <https://www.jud11.flcourts.org/docs/CMHP%20Program.pdf> (last visited March 3, 2025).

³⁴ Section 945.04, F.S.

³⁵ Section 945.41(1), F.S.

³⁶ Section 945.41(2), F.S.

Pursuant to s. 945.092, F.S., a person who has ever been convicted, regardless of adjudication, of the offense of escape, is not eligible for any work-release program under s. 945.091, F.S.

Inmate training programs for eligible inmates are established within ss. 945.71- 945.74, F.S., which include, but are not limited to, marching drills, calisthenics, a rigid dress code, work assignments, physical training, training in decision making and personal development, drug counseling, education, and rehabilitation.³⁷ Pursuant to s. 945.72, F.S., upon receipt of an inmate into the prison system, the DOC must screen the inmate for the training program. To participate, an inmate must have no physical limitations which would preclude participation in strenuous activity and must not be impaired. Additionally, in screening an inmate for the program, the department must consider the inmate's criminal history and the possible rehabilitative benefits of "shock" incarceration.³⁸

The DOC may allow inmates to cultivate food items grown on farms or in gardens generally, as needed and used in the state institutions, and may use the services of inmates to perform such work as needed.³⁹ Additionally, the DOC is authorized to make rules governing the work and supervision of inmates used in public works projects and is allowed to enter into agreements with political subdivisions⁴⁰ in the state, including municipalities; with such agencies and institutions of the state; and with such nonprofit corporations to use the services of inmates⁴¹.

As part of the reception process,⁴² inmates are evaluated to determine basic literacy, employment skills, academic skills, vocational skills, and remedial and rehabilitative needs.⁴³ The evaluation prescribes education, work, and work-training for each inmate and is required to be reviewed every six months to ensure proper placement based on bed space availability. It is an objective and priority for inmates to be assigned to correctional work programs to meet the needs of the work requirements of the DOC, including essential operating functions, revenue-generating contracts, remaining operational functions, and nonrevenue-generating contracts.⁴⁴

The DOC'S rule 33-601.201 defines "assignment" as the work or program that an inmate has been assigned to by the department staff. The staff is required to consider factors including the "type of work assignment and level of skill required, the inmate's disciplinary history, the

³⁷ Section 945.73(1), F.S.

³⁸ "Shock incarceration" otherwise known as "boot camp prisons," are designed to confine inmates for a short period of time with the intention to rehabilitate and instill discipline in certain cases of nonviolent offenders. Styled after military boot camps, shock incarceration requires inmates to participate in rigorous physical training and various rehabilitative, educational, and vocational programs. Brooklyn Law Review, *Shock Incarceration and Parole A Process Without Process*, pg. 1322, Adam Yefet (2016), available at: <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1502&context=blr> (last visited March 3, 2025).

³⁹ Section 946.205, F.S.

⁴⁰ "Political subdivision" includes counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state. Section 1.01(8), F.S.

⁴¹ Section 946.40, F.S.

⁴² "Upon an inmate's arrival at a reception center, such inmate is processed, tested, evaluated by health services, assessed for program needs, and his or her custody (security risks) is determined." Florida Department of Corrections, *Institutions*, available at: <https://www.fdc.myflorida.com/institutions> (last visited March 3, 2025).

⁴³ Section 946.511(1), F.S.

⁴⁴ Section 946.511(1) (a) and (c), F.S.

inmate’s arrest and conviction history, and the needs of the institution” when determining such inmate’s assignment eligibility.⁴⁵

Data Collection

The Department of Management Services (DMS) oversees information technology (IT) governance and security for the executive branch of the State government.⁴⁶ The DMS is responsible for providing operational management and oversight of the state data center.⁴⁷

Northwest Regional Data Center

In 2011, the NWRDC at Florida State University was designated a state primary data center.⁴⁸ This designation, with prescribed state agency customer requirements, allowed state agencies to enter into service level agreements with NWRDC to provide data center services.⁴⁹ A service level agreement is defined in law as a written contract between DMS and a customer entity which specifies the scope of services provided, the service level, the duration of the agreement, the responsible parties, and service costs.⁵⁰ In 2022, the NWRDC assumed all functions, records, personnel, contracts, interagency agreements, and assets of the DMS State Data Center.⁵¹ Currently, the NWRDC contracts with 30 state agencies.⁵²

Commission on Mental Health and Substance Use Disorder

In 2021, the Legislature created the Commission on Mental Health and Substance Use Disorder (Commission) to examine the current methods of providing mental health and substance use disorder services in the state.⁵³ The Commission is composed of a variety of stakeholders that represent different parts of the behavioral health system in the state, including members of the Legislature, state agency officials, service providers, mental health professionals, and individuals who receive state behavioral health services.⁵⁴

The Commission is required to provide the Legislature with policy recommendations to improve the services the state provides. Additionally, the Legislature directs a Data Analysis sub-committee of the Commission to review data collection, reporting mechanisms, and other data resources for behavioral health services.⁵⁵

⁴⁵ Rule 33-601.201 (8)

⁴⁶ Section 282.0051, F.S.

⁴⁷ Section 282.201, F.S.

⁴⁸ Chapter 2011-63, Laws of Fla.

⁴⁹ *Id.*

⁵⁰ Section 282.0041(31), F.S.

⁵¹ Chapter 2022-153, Laws of Fla.

⁵² Northwest Regional Data Center, *Annual Report 23/24*, available at: <https://www.nwrdc.fsu.edu/> (last visited March 3, 2025).

⁵³ Florida Department of Children and Families, *Commission on Mental Health and Substance Use Disorder*, available at: <https://www.myflfamilies.com/services/samh/commission-mental-health-and-substance-use-disorder> (last visited March 3, 2025).

⁵⁴ Section 394.9086(3), F.S.

⁵⁵ *Id.*

Statewide Florida Behavioral Healthcare Data Repository

In its annual interim report in 2024, the Commission recommends the creation of a centralized Florida Behavioral Healthcare Data Repository that provides information on the prevalence, cost, access, quality, and outcomes for behavioral health services in Florida.⁵⁶ The data repository is intended to standardize data entry, enhance data organization, improve accessibility and timeliness of data sharing, and support future research as more data becomes available.⁵⁷ Through a data analysis of the current behavioral health services available in Florida, the data repository is expected to facilitate the identification of service gaps and connections with local partners and coalitions that can be expanded.⁵⁸

III. Effect of Proposed Changes:

The bill is relating to mental health and provides the title as the “Tristin Murphy Act”.

The bill amends s. 916.105, F.S., to provide legislative intent that a defendant who is charged with certain felonies, any misdemeanor, or any ordinance violation and who has a mental illness, intellectual disability, or autism be evaluated and provided services in a community setting, when this is a feasible alternative to incarceration. Additionally, it is the intent of the legislature to provide law enforcement officers with crisis intervention team training.

Misdemeanor Diversion

The bill creates s. 916.135, F.S., to provide a model process for a misdemeanor or ordinance violation mental health diversion program for diverting certain defendants to treatment. The bill allows for the process to be modified according to each community’s particular resources, however a community that obtains a grant under s. 394.658, F.S., must adhere to these processes to the extent that local resources are available to do so. For a defendant to participate in the diversion program, he or she must sign a consent form. The consent form must include:

- The defendant’s consent to treatment,
- The defendant’s consent to release any records necessary to demonstrate compliance and completion of treatment, and
- That the defendant agrees to waive his or her right to speedy trial by participating in the diversion program.

The bill provides a process for screening a defendant, within 24 hours of being booked into a jail, by using a standardized validated mental health screening instrument to determine if there is an indication of a mental illness, and if so, allows for the defendant to be evaluated for involuntary examination pursuant to s. 394.463, F.S., by a qualified mental health professional. The qualified mental health professional may evaluate the defendant as if he or she is at liberty in the community, and may not rely on the defendant’s incarcerated status to defeat the involuntary examination criteria.

⁵⁶ Commission on Mental Health and Substance Use Disorder Annual Interim Report 2025, available at: <https://www.myflfamilies.com/services/samh/commission-mental-health-and-substance-use-disorder> (last visited March 3, 2025).

⁵⁷ *Id.*

⁵⁸ *Id.*

If a defendant meets the criteria for involuntary examination, the qualified mental health professional may issue a professional certificate. Upon issuance of a professional certificate, the defendant must be transported within 72 hours to a receiving facility for further evaluation for involuntary examination.

- If criteria are met, the receiving facility may forward the court a discharge plan when the defendant no longer meets the criteria for inpatient treatment, or an outpatient treatment plan, if appropriate.
- If the defendant does not meet the criteria for involuntary services, the receiving facility may issue an outpatient treatment plan and forward it to the court, or a facility may notify the court that no treatment is necessary.

The court, upon receipt of a discharge plan or an outpatient treatment plan, may consider releasing the defendant on his or her own recognizance on the condition he or she comply fully with the discharge plan or outpatient treatment plan. The state attorney and the defense must have an opportunity to be heard before the court releases the defendant.

If a professional certificate is not issued, but a defendant has a mental illness, the bill requires the court to order the defendant be assessed for outpatient treatment by a local mental health treatment center. This assessment may be completed:

- At the jail via telehealth by the local mental health treatment center;
- By the sheriff or jail authorities transporting the defendant to and from the local mental health treatment center for the assessment; or
- By releasing the defendant on the condition the assessment be completed at the local mental health treatment center within 48 hours after his or her release.

If the assessment results in an outpatient treatment plan, and the defendant has not already been released, the defendant may be released on his or her own recognizance on the condition that all treatment recommendations must be followed. The state attorney and the defense attorney must have an opportunity to be heard before such release.

The bill allows for the evaluation or assessment of a defendant, released from custody on pretrial release before the completion of this process, to be ordered at any time by the court at the request of the state attorney or the defense attorney, or on the court's own motion.

Upon the defendant's successful completion of all treatment recommendations from any mental health evaluation or assessment completed, the state attorney must consider the dismissal of the defendant's charges. If deemed inappropriate, the state attorney may refer the case to a mental health court or another mental health diversion program. If the defendant fails to comply with the discharge or outpatient treatment plan, the court may exhaust therapeutic interventions aimed at improving compliance before considering returning the defendant to jail.

Felony Diversion

The bill creates s. 916.136, F.S., to provide a model process for a pretrial felony mental health diversion program to divert clinically appropriate defendants from jails to treatment. The bill allows for the process to be modified according to each community's particular resources. To

participate in the diversion program, a defendant must sign a consent form. The consent form must include:

- The defendant's consent to treatment,
- The defendant's consent to release any records necessary to demonstrate compliance and completion of treatment, and
- That the defendant agrees to waive his or her right to speedy trial by participating in the diversion program.

A defendant may be eligible for the pretrial felony mental health diversion program if he or she meets the following criteria:

- Has a mental illness;
- Has no more than three prior felony convictions in the past five years;
- Is not charged with a violent felony; and,
- Does not have a significant history of violence.

The state attorney has the sole discretion to determine eligibility for the program, regardless of whether criteria are met. The state attorney may also waive criteria in extenuating circumstances.

At any stage in the pretrial process, the state attorney may recommend a defendant be screened using a standardized validated mental health screening instrument to determine if there is an indication of mental illness. Such screening may be completed by the jail's corrections or medical staff or by any qualified mental health professional, and such results must be forwarded to the state attorney and the defense attorney.

If a defendant's mental health screening indicates mental illness, the state attorney may consider an offer of pretrial felony mental health diversion. Participation is voluntary, and if agreed upon by the defendant, requires the defendant to be assessed for outpatient treatment. This assessment may be completed:

- At the jail via telehealth by the local mental health treatment center;
- By the sheriff or jail authorities transporting the defendant to and from the local mental health treatment center for the assessment; or
- Be completed at the local mental health treatment center within 48 hours after his or her release.

If the assessment results in an outpatient treatment plan and the defendant has not been released, the defendant may be released on his or her own recognizance on the condition that all treatment recommendation be followed.

If the defendant successfully completes the treatment recommendations from the mental health evaluation or assessment, the state attorney must consider dismissal of the charges. If the defendant fails comply with pretrial release, or any aspect of treatment, the state attorney may revoke the defendant's participation in the program.

The bill amends s. 394.658, F.S., to expand programs and diversion initiatives supported by the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program to include veterans treatment court programs and training for 911 public safety telecommunicators and

emergency medical technicians to assist in determining the most appropriate response team. The bill provides an exception from providing matching local funds to fiscally constrained counties seeking a 1-year planning grant or a 3-year implementation or expansion grant. A community desiring to establish a misdemeanor or felony mental health diversion program is encouraged to apply for such grants.

Additional Mental Health Provisions

The bill amends s. 916.185, F.S., to authorize the DCF to implement a Forensic Hospital Diversion Pilot Program modeled after the MDFAC in Hillsborough County, in conjunction with the Thirteenth Judicial Circuit in Hillsborough County.

The bill creates s. 945.093, F.S., to require the DOC to evaluate, at a minimum, the physical and mental health of each inmate eligible for a work assignment or correctional work program. The bill requires the DOC to document approval of eligibility before such inmate receives orders for the assignment or program. The bill allows for the DOC to use discretion in determining whether an inmate is appropriate for an assignment.

The bill creates s. 948.0395, F.S., to provide that a defendant who was adjudicated incompetent to proceed due to a mental illness and later regained competency, and who is sentenced to probation, must have a mental health evaluation and follow recommendations as a condition of such probation.

Florida Behavioral Health Care Data Repository

The bill amends s. 1004.649, F.S. to create the Florida Behavioral Health Care Data Repository within the NWRDC as the administrative manager of the State Data Center. The data repository is created to:

- Collect and analyze existing statewide behavioral health care data to:
 - Better understand the scope of and trends in behavioral health services, spending, and outcomes to improve patient care and enhance the efficiency and effectiveness of behavioral health services.
 - Better understand the scope of, trends in, and relationship between behavioral health, criminal justice, incarceration, and the use of behavioral health services as a diversion from incarceration of individuals with mental illness.
 - Enhance the collection and coordination of treatment and outcome information as an ongoing evidence base for research and education related to behavioral health.
- Develop useful data analytics, economic metrics, and visual representations of such analytics and metrics to inform relevant state agencies and the Legislature of data and trends in behavioral health.

The bill requires the NWRDC to develop a plan that:

- Creates a centralized, integrated, and coordinated data system.
- Develop, in collaboration with the Data Analysis Committee of the Commission on Mental Health and Substance Use Disorder, a governance structure that allows for the operation of the repository.

- Incorporates existing data from relevant state agencies, including, but not limited to, the AHCA, the DCF, the Department of Juvenile Justice (DJJ), the Office of the State Courts Administrator (OSCA), and the DOC.
- Identifies relevant data and metrics to support actionable information and ensure efficient and responsible use of taxpayer dollars within the behavioral health systems of care.
- Develops and details data security requirements for the repository.
- Develops, in collaboration with the Commission on Mental Health and Substance Use Disorder and relevant stakeholders, a structure for an annual analysis and report that gives state agencies and the Legislature better understanding of trends and issues in the state's behavioral health systems of care generally and the trends and issues in behavioral health systems related to criminal justice treatment, diversion, and incarceration.

The bill requires the NWRDC to collaborate with the Data Analysis Committee of the Commission on Mental Health and Substance Use Disorder to submit a developed plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill requires the plan to include information on the implementation and ongoing operation of the data repository with a proposed budget. The plan must be submitted by December 1, 2025.

The bill requires the Florida Behavioral Health Care Data Repository to annually submit, beginning July 1, 2026, the developed trends and issues report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill is effective on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

State Government

This bill may increase the demand on Baker Act receiving facilities serving defendants who meet the criteria for involuntary examination.

The DOC facilities may see a potential increase in cost-savings due to certain misdemeanor and felony offenders being diverted from incarceration in a state correctional facility.

Local Government

The bill may increase the need for additional staff to screen offenders, or to transport them to and from receiving facilities. It may also have an impact on courts if additional staff are needed due to an increase in offenders being diverted.

Local jails may see a potential increase in cost-savings due to certain misdemeanor and felony offenders being diverted from detention or incarceration. Local jails may also see an increase in cost spending due to the transportation of offenders for evaluations.

Data Repository

The Commission on Mental Health and Substance Use Disorder has identified that the creation and planning of the data repository will require \$794,880. The following table displays a breakdown of the anticipated costs:

| Service | Annual Cost | Description/ Justification |
|-------------------------------|-------------|--|
| Sr. Project Manager | \$229,840 | Project Manager w/ experience in data projects in the behavioral health sector. Coordinates the project team. |
| Data Engineer/ Designer | \$202,800 | Specialized software developer who focuses on data integration. Designs the systems that will answer questions being asked of the system. Data analysis to inform database construction and access control. |
| Behavioral Health Data Expert | \$162,240 | Behavioral health data expert identifies needed data for inclusion in the database and infer analyses that can be completed with identified data. Specific knowledge and subject matter expert to work closely with the data designer to tailor the data collection and outputs. |

| | | |
|--------------|-----------|--|
| Data Catalog | \$200,000 | Allows for system users to engage in data discovery with AI-assisted search, contextual results, auto-enrichment, and data lineage. Establishment of a data catalog reduces workload and provides quick context and defined meaning to complex raw data. |
|--------------|-----------|--|

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.658, 916.105, 916.185, and 1004.649.

This bill creates the following sections of the Florida Statutes: 916.135, 916.136, 945.093, and 948.0395.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 4, 2025:

The committee substitute:

- Provides a technical change to ensure the provision relating to the assessment and release of a defendant applies to all situations in which a defendant may be assessed for the program.

B. Amendments:

None.