

1 A bill to be entitled
2 An act relating to determination of mental conditions
3 in judicial proceedings; amending s. 393.11, F.S.;
4 providing for petitions for involuntary admission to
5 residential services of persons with neurocognitive
6 disorders; amending s. 916.105, F.S.; revising
7 legislative intent; amending s. 916.106, F.S.;
8 defining the term "neurocognitive disorder"; amending
9 s. 916.107, F.S.; providing that forensic clients with
10 neurocognitive disorder have certain rights; amending
11 s. 916.115, F.S.; authorizing the appointment of
12 certain clinical social workers or mental health
13 counselors as experts to evaluate defendants for
14 mental competence to proceed; limiting the appointment
15 of such professionals to evaluations of mental
16 competence to proceed; amending s. 916.301, F.S.;
17 providing for the appointment of experts to evaluate
18 the mental condition of defendants whose suspected
19 mental condition is neurocognitive disorder; amending
20 s. 916.3012, F.S.; providing for a determination of
21 whether a defendant whose suspected mental condition
22 is neurocognitive disorder is mentally competent to
23 proceed; providing for training of such defendant in
24 certain circumstances; amending s. 916.302, F.S.;
25 providing for involuntary commitment of certain

26 defendants determined to be incompetent to proceed due
27 to neurocognitive disorder; amending s. 916.3025,
28 F.S.; providing for retention of jurisdiction over
29 certain defendants found incompetent to proceed and
30 ordered into a forensic facility for defendants who
31 have intellectual disabilities, autism, or
32 neurocognitive disorders; amending s. 916.303, F.S.;
33 providing for dismissal of charges without prejudice
34 under specified circumstances when a defendant is
35 found incompetent to proceed due to neurocognitive
36 disorder; amending s. 916.304, F.S.; providing for
37 conditional release, in certain circumstances, of a
38 defendant who is incompetent to proceed due to
39 neurocognitive disorder; amending s. 985.19, F.S.;
40 requiring certain juvenile delinquency procedures for
41 children who are incompetent to proceed because of
42 neurocognitive disorder; providing a directive to the
43 Division of Law Revision; reenacting s. 393.115(1)(b),
44 relating to the discharge of certain persons
45 involuntarily admitted to residential services, to
46 incorporate the amendment made to s. 393.11, F.S., in
47 a reference thereto; providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:
50

51 **Section 1. Subsection (1), paragraphs (c) and (d) of**
52 **subsection (2), paragraphs (b), (c), and (d) of subsection (3),**
53 **paragraph (b) of subsection (4), paragraphs (b), (e), (f), and**
54 **(g) of subsection (5), subsection (6), paragraph (d) of**
55 **subsection (7), paragraph (b) of subsection (8), subsection**
56 **(10), and paragraph (b) of subsection (12) of section 393.11,**
57 **Florida Statutes, are amended to read:**

58 393.11 Involuntary admission to residential services.—

59 (1) JURISDICTION.—If a person has an intellectual
60 disability, ~~or~~ autism, or a neurocognitive disorder and requires
61 involuntary admission to residential services provided by the
62 agency, the circuit court of the county in which the person
63 resides has jurisdiction to conduct a hearing and enter an order
64 involuntarily admitting the person in order for the person to
65 receive the care, treatment, habilitation, and rehabilitation
66 that the person needs. For the purpose of identifying
67 intellectual disability, ~~or~~ autism, or neurocognitive disorder,
68 diagnostic capability shall be established by the agency. Except
69 as otherwise specified, the proceedings under this section are
70 governed by the Florida Rules of Civil Procedure.

71 (2) PETITION.—

72 (c) The petition shall be verified and must:

73 1. State the name, age, and present address of the
74 commissioners and their relationship to the person who has an
75 intellectual disability, ~~or~~ autism, or a neurocognitive

76 disorder.~~†~~

77 2. State the name, age, county of residence, and present
78 address of the person who has an intellectual disability, ~~or~~
79 autism, or a neurocognitive disorder.~~†~~

80 3. Allege that the commission believes that the person
81 needs involuntary residential services and specify the factual
82 information on which the belief is based.~~†~~

83 4. Allege that the person lacks sufficient capacity to
84 give express and informed consent to a voluntary application for
85 services and lacks the basic survival and self-care skills to
86 provide for the person's well-being or is likely to physically
87 injure others if allowed to remain at liberty.~~†~~~~and~~

88 5. State which residential setting is the least
89 restrictive and most appropriate alternative and specify the
90 factual information on which the belief is based.

91 (d) The petition must be filed in the circuit court of the
92 county in which the person who has the intellectual disability,
93 ~~or~~ autism, or neurocognitive disorder resides.

94 (3) NOTICE.—

95 (b) If a motion or petition has been filed pursuant to s.
96 916.303 to dismiss criminal charges against a defendant who has
97 an intellectual disability, ~~or~~ autism, or a neurocognitive
98 disorder, and a petition is filed to involuntarily admit the
99 defendant to residential services under this section, the notice
100 of the filing of the petition must also be given to the

defendant's attorney, the state attorney of the circuit from which the defendant was committed, and the agency.

(c) The notice must state that a hearing shall be set to inquire into the need of the person who has an intellectual disability, ~~or~~ autism, or a neurocognitive disorder for involuntary residential services. The notice must also state the date of the hearing on the petition.

(d) The notice must state that the person ~~individual~~ who has an intellectual disability, ~~or~~ autism, or a neurocognitive disorder has the right to be represented by counsel of his or her own choice and that, if the person cannot afford an attorney, the court shall appoint one.

(4) AGENCY PARTICIPATION.—

(b) Following examination, the agency shall file a written report with the court at least 10 working days before the date of the hearing. The report must be served on the petitioner, the person who has the intellectual disability, ~~or~~ autism, or neurocognitive disorder, and the person's attorney at the time the report is filed with the court.

(5) EXAMINING COMMITTEE.—

(b) The court shall appoint at least three disinterested experts who have demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities, ~~or~~ autism, or neurocognitive disorders. The committee must include at least one licensed and

126 qualified physician, one licensed and qualified psychologist,
127 and one qualified professional who, at a minimum, has a master's
128 degree in social work, special education, or vocational
129 rehabilitation counseling, to examine the person and to testify
130 at the hearing on the involuntary admission to residential
131 services.

132 (e) The committee shall prepare a written report for the
133 court. The report must explicitly document the extent that the
134 person meets the criteria for involuntary admission. The report,
135 and expert testimony, must include, but not be limited to:

136 1. The degree of the person's intellectual disability, ~~or~~
137 autism, or neurocognitive disorder and whether, using diagnostic
138 capabilities established by the agency, the person is eligible
139 for agency services. ~~+~~

140 2. Whether, because of the person's degree of intellectual
141 disability, ~~or~~ autism, or neurocognitive disorder, the person:

142 a. Lacks sufficient capacity to give express and informed
143 consent to a voluntary application for services pursuant to s.
144 393.065 and lacks basic survival and self-care skills to such a
145 degree that close supervision and habilitation in a residential
146 setting is necessary and, if not provided, would result in a
147 threat of substantial harm to the person's well-being; or

148 b. Is likely to physically injure others if allowed to
149 remain at liberty.

150 3. The purpose to be served by residential care. ~~+~~

151 4. A recommendation on the type of residential placement
152 which would be the most appropriate and least restrictive for
153 the person.~~;~~~~and~~

154 5. The appropriate care, habilitation, and treatment.

155 (f) The committee shall file the report with the court at
156 least 10 working days before the date of the hearing. The report
157 must be served on the petitioner, the person who has the
158 intellectual disability, ~~or~~ autism, or neurocognitive disorder,
159 the person's attorney at the time the report is filed with the
160 court, and the agency.

161 (g) Members of the examining committee shall receive a
162 reasonable fee to be determined by the court. The fees shall be
163 paid from the general revenue fund of the county in which the
164 person who has the intellectual disability, ~~or~~ or
165 neurocognitive disorder resided when the petition was filed.

166 (6) COUNSEL; GUARDIAN AD LITEM.—

167 (a) The person who has the intellectual disability, ~~or~~
168 autism, or neurocognitive disorder must be represented by
169 counsel at all stages of the judicial proceeding. If the person
170 is indigent and cannot afford counsel, the court shall appoint a
171 public defender at least 20 working days before the scheduled
172 hearing. The person's counsel shall have full access to the
173 records of the service provider and the agency. In all cases,
174 the attorney shall represent the rights and legal interests of
175 the person, regardless of who initiates the proceedings or pays

176 the attorney fee.

177 (b) If the attorney, during the course of his or her
178 representation, reasonably believes that the person who has the
179 intellectual disability, ~~or~~ autism, or neurocognitive disorder
180 cannot adequately act in his or her own interest, the attorney
181 may seek the appointment of a guardian ad litem. A prior finding
182 of incompetency is not required before a guardian ad litem is
183 appointed pursuant to this section.

184 (7) HEARING.—

185 (d) The person who has the intellectual disability, ~~or~~
186 autism, or neurocognitive disorder must be physically present
187 throughout the entire proceeding. If the person's attorney
188 believes that the person's presence at the hearing is not in his
189 or her best interest, the person's presence may be waived once
190 the court has seen the person and the hearing has commenced.

191 (8) ORDER.—

192 (b) An order of involuntary admission to residential
193 services may not be entered unless the court finds that:

194 1. The person is intellectually disabled, ~~or~~ autistic, or
195 has a neurocognitive disorder.

196 2. Placement in a residential setting is the least
197 restrictive and most appropriate alternative to meet the
198 person's needs. ~~and~~

199 3. Because of the person's degree of intellectual
200 disability, ~~or~~ autism, or neurocognitive disorder, the person:

201 a. Lacks sufficient capacity to give express and informed
202 consent to a voluntary application for services pursuant to s.
203 393.065 and lacks basic survival and self-care skills to such a
204 degree that close supervision and habilitation in a residential
205 setting is necessary and, if not provided, would result in a
206 real and present threat of substantial harm to the person's
207 well-being; or

208 b. Is likely to physically injure others if allowed to
209 remain at liberty.

210 (10) COMPETENCY.—

211 (a) The issue of competency is separate and distinct from
212 a determination of the appropriateness of involuntary admission
213 to residential services due to intellectual disability, ~~or~~
214 autism, or neurocognitive disorder.

215 (b) The issue of the competency of a person who has an
216 intellectual disability, ~~or~~ autism, or a neurocognitive disorder
217 for purposes of assigning guardianship shall be determined in a
218 separate proceeding according to the procedures and requirements
219 of chapter 744. The issue of the competency of a person who has
220 an intellectual disability, ~~or~~ autism, or a neurocognitive
221 disorder for purposes of determining whether the person is
222 competent to proceed in a criminal trial shall be determined in
223 accordance with chapter 916.

224 (12) APPEAL.—

225 (b) The filing of an appeal by the person who has an

intellectual disability, ~~or~~ autism, or a neurocognitive disorder
stays admission of the person into residential care. The stay
remains in effect during the pendency of all review proceedings
in Florida courts until a mandate issues.

**Section 2. Subsections (1) through (4) of section 916.105,
Florida Statutes, are amended to read:**

916.105 Legislative intent.—

(1) It is the intent of the Legislature that the
Department of Children and Families and the Agency for Persons
with Disabilities, as appropriate, establish, locate, and
maintain separate and secure forensic facilities and programs
for the treatment or training of defendants who have been
charged with a felony and who have been found to be incompetent
to proceed due to their mental illness, intellectual disability,
~~or~~ autism, or neurocognitive disorder or who have been acquitted
of a felony by reason of insanity, and who, while still under
the jurisdiction of the committing court, are committed to the
department or agency under this chapter. Such facilities must be
sufficient to accommodate the number of defendants committed
under the conditions noted above. Except for those defendants
found by the department or agency to be appropriate for
treatment or training in a civil facility or program pursuant to
subsection (3), forensic facilities must be designed and
administered so that ingress and egress, together with other
requirements of this chapter, may be strictly controlled by

251 staff responsible for security in order to protect the
252 defendant, facility personnel, other clients, and citizens in
253 adjacent communities.

254 (2) It is the intent of the Legislature that treatment or
255 training programs for defendants who are found to have mental
256 illness, intellectual disability, ~~or~~ autism, or neurocognitive
257 disorder and are involuntarily committed to the department or
258 agency, and who are still under the jurisdiction of the
259 committing court, be provided in a manner, subject to security
260 requirements and other mandates of this chapter, which ensures
261 the rights of the defendants as provided in this chapter.

262 (3) It is the intent of the Legislature that evaluation
263 and services to defendants who have mental illness, intellectual
264 disability, ~~or~~ autism, or neurocognitive disorder be provided in
265 community settings, in community residential facilities, or in
266 civil facilities, whenever this is a feasible alternative to
267 treatment or training in a state forensic facility.

268 (4) It is the intent of the Legislature that a defendant
269 who is charged with certain felonies, any misdemeanor, or any
270 ordinance violation and who has a mental illness, intellectual
271 disability, ~~or~~ autism, or neurocognitive disorder be evaluated
272 and provided services in a community setting, whenever this is a
273 feasible alternative to incarceration.

274 **Section 3. Subsections (15), (16), and (17) of section**
275 **916.106, Florida Statutes, are renumbered as subsections (16),**

(17), and (18), respectively, and a new subsection (15) is added to that section, to read:

916.106 Definitions.—For the purposes of this chapter, the term:

(15) "Neurocognitive disorder" means a decrease in mental function due to a medical condition other than a mental illness. The term includes, but is not limited to, a decrease in mental function due to traumatic brain injury, dementia, Alzheimer's disease, or a neurodegenerative disease.

Section 4. Paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 916.107, Florida Statutes, are amended to read:

916.107 Rights of forensic clients.—

(1) RIGHT TO INDIVIDUAL DIGNITY.—

(a) The policy of the state is that the individual dignity of the client shall be respected at all times and upon all occasions, including any occasion when the forensic client is detained, transported, or treated. Clients with mental illness, intellectual disability, ~~or~~ autism, or neurocognitive disorder and who are charged with committing felonies shall receive appropriate treatment or training. In a criminal case involving a client who has been adjudicated incompetent to proceed or not guilty by reason of insanity, a jail may be used as an emergency facility for up to 15 days following the date the department or agency receives a completed copy of the court commitment order

301 containing all documentation required by the applicable Florida
302 Rules of Criminal Procedure. For a forensic client who is held
303 in a jail awaiting admission to a facility of the department or
304 agency, evaluation and treatment or training may be provided in
305 the jail by the local community mental health provider for
306 mental health services, by the developmental disabilities
307 program for persons with intellectual disability, ~~or~~ or
308 neurocognitive disorder, the client's physician or psychologist,
309 or any other appropriate program until the client is transferred
310 to a civil or forensic facility. The sheriff shall administer or
311 permit the department to administer the appropriate psychotropic
312 medication to forensic clients before admission to a state
313 mental health treatment facility.

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

315 (a) A forensic client shall be asked to give express and
316 informed written consent for treatment. If a client refuses such
317 treatment as is deemed necessary and essential by the client's
318 multidisciplinary treatment team for the appropriate care of the
319 client, such treatment may be provided under the following
320 circumstances:

321 1. In an emergency situation in which there is immediate
322 danger to the safety of the client or others, such treatment may
323 be provided upon the order of a physician for up to 48 hours,
324 excluding weekends and legal holidays. If, after the 48-hour
325 period, the client has not given express and informed consent to

the treatment initially refused, the administrator or designee of the civil or forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, the need for treatment shall be reviewed every 48 hours and may be continued without the consent of the client upon the continued order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

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

a. If the client has been receiving psychotropic medication at the jail at the time of transfer to the forensic or civil facility and lacks the capacity to make an informed decision regarding mental health treatment at the time of admission, the admitting physician shall order continued administration of psychotropic medication if, in the clinical judgment of the physician, abrupt cessation of that psychotropic medication could pose a risk to the health or safety of the client while a court order to medicate is pursued. The administrator or designee of the forensic or civil facility

351 shall, within 5 days after a client's admission, excluding
352 weekends and legal holidays, petition the committing court or
353 the circuit court serving the county in which the facility is
354 located, at the option of the facility administrator or
355 designee, for an order authorizing the continued treatment of a
356 client with psychotropic medication. The jail physician shall
357 provide a current psychotropic medication order at the time of
358 transfer to the forensic or civil facility or upon request of
359 the admitting physician after the client is evaluated.

360 b. The court order shall allow such treatment for up to 90
361 days after the date that the order was entered. Unless the court
362 is notified in writing that the client has provided express and
363 informed written consent or that the client has been discharged
364 by the committing court, the administrator or designee of the
365 facility shall, before the expiration of the initial 90-day
366 order, petition the court for an order authorizing the
367 continuation of treatment for an additional 90 days. This
368 procedure shall be repeated until the client provides consent or
369 is discharged by the committing court.

370 3. At the hearing on the issue of whether the court should
371 enter an order authorizing treatment for which a client was
372 unable to or refused to give express and informed consent, the
373 court shall determine by clear and convincing evidence that the
374 client has mental illness, intellectual disability, ~~or~~ autism,
375 or neurocognitive disorder; that the treatment not consented to

is essential to the care of the client; and that the treatment not consented to is not experimental and does not present an unreasonable risk of serious, hazardous, or irreversible side effects. In arriving at the substitute judgment decision, the court must consider at least the following factors:

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

The hearing shall be as convenient to the client as may be consistent with orderly procedure and shall be conducted in physical settings not likely to be injurious to the client's condition. The court may appoint a general or special magistrate to preside at the hearing. The client or the client's guardian, and the representative, shall be provided with a copy of the petition and the date, time, and location of the hearing. The client has the right to have an attorney represent him or her at the hearing, and, if the client is indigent, the court shall appoint the office of the public defender to represent the client at the hearing. The client may testify or not, as he or she chooses, and has the right to cross-examine witnesses and may present his or her own witnesses.

Section 5. Subsection (1) of section 916.115, Florida Statutes, is amended to read:

916.115 Appointment of experts.—

(1) The court shall appoint no more than three experts to determine the mental condition of a defendant in a criminal case, including competency to proceed, insanity, involuntary placement, and treatment. The experts may evaluate the defendant in jail or in another appropriate local facility or in a facility of the Department of Corrections.

(a) The court-appointed experts shall:

1. Be a psychiatrist, licensed psychologist, or physician.
2. Have completed initial and annual forensic evaluator training, provided by the department.
3. If performing juvenile evaluations, have completed initial and annual juvenile forensic competency evaluation training provided by the department.

(b) In jurisdictions in which there is a demonstrated need for additional qualified evaluators, the chief judge of the circuit court may, by administrative order, approve for appointment as an expert a clinical social worker or mental health counselor, as those terms are defined in s. 394.455, if such clinical social worker or mental health counselor meets the qualification requirements in subsection (c). The court shall select experts from a list of qualified mental health professionals maintained by the department unless the court finds good cause to appoint an expert who is not on such list.

(c) A clinical social worker or mental health counselor is

qualified for appointment under this section if he or she has:

1. Successfully completed the Florida Adult Forensic Examiner Training offered by the University of South Florida or an equivalent training program approved by the department and has completed annual forensic evaluator training provided by the department.

2. At least 2 years of documented experience working with persons involved in the criminal justice system. Such experience may include work in a correctional facility, forensic treatment setting, diversion program, or similar environment.

3. If performing juvenile evaluations, completed initial and annual juvenile forensic competency evaluation training provided by the department.

(d) A clinical social worker or mental health counselor may be appointed as an expert to evaluate a defendant in a proceeding relating a determination of competence to proceed as described in ss. 916.12 and 916.13. A clinical social worker or mental health counselor may not be appointed to evaluate a defendant in a proceeding relating to any of the following:

1. Involuntary commitment of a defendant adjudicated not guilty by reason of insanity pursuant to s. 916.15.

2. Involuntary admission to residential services pursuant to s. 393.11.

3. A life felony, homicide, or sexual offense.

4. Any forensic matter other than a determination of

451 mental competence to proceed, unless otherwise authorized by
452 general law.

453 ~~(b) Existing evaluators as of July 1, 2024, shall complete~~
454 ~~department-provided annual forensic evaluator training by July~~
455 ~~1, 2026, to remain active on the list described in paragraph~~
456 ~~(c).~~

457 (e) ~~(c)~~ The department shall maintain and annually provide
458 the courts with a list of available mental health professionals
459 who have completed the initial and annual training as experts.

460 **Section 6. Subsections (1) and (2) of section 916.301,**
461 **Florida Statutes, are amended to read:**

462 916.301 Appointment of experts.—

463 (1) All evaluations ordered by the court under this part
464 must be conducted by qualified experts who have expertise in
465 evaluating persons who have ~~an~~ intellectual disabilities,
466 ~~disability or autism, or neurocognitive disorders.~~ The agency
467 shall maintain and provide the courts annually with a list of
468 available professionals who are appropriately licensed and
469 qualified to perform evaluations of defendants alleged to be
470 incompetent to proceed due to intellectual disability, or
471 autism, or neurocognitive disorder. The courts may use
472 professionals from this list when appointing experts and
473 ordering evaluations under this part.

474 (2) If a defendant's suspected mental condition is
475 intellectual disability, or ~~autism, or neurocognitive disorder,~~

the court shall appoint the following:

(a) At least one, or at the request of any party, two experts to evaluate whether the defendant meets the definition of intellectual disability, ~~or~~ autism, or neurocognitive disorder and, if so, whether the defendant is competent to proceed; and

(b) A psychologist selected by the agency who is licensed or authorized by law to practice in this state, with experience in evaluating persons suspected of having an intellectual disability, ~~or~~ or a neurocognitive disorder, and a social service professional, with experience in working with persons who have ~~an~~ intellectual disabilities, ~~disability or~~ autism, or neurocognitive disorders.

1. The psychologist shall evaluate whether the defendant meets the definition of intellectual disability, ~~or~~ or neurocognitive disorder and, if so, whether the defendant is incompetent to proceed due to intellectual disability, ~~or~~ autism, or neurocognitive disorder.

2. The social service professional shall provide a social and developmental history of the defendant.

Section 7. Subsections (1), (2), and (4) of section 916.3012, Florida Statutes, are amended to read:

916.3012 Mental competence to proceed.—

(1) A defendant whose suspected mental condition is intellectual disability, ~~or~~ autism, or neurocognitive disorder

501 is incompetent to proceed within the meaning of this chapter if
502 the defendant does not have sufficient present ability to
503 consult with the defendant's lawyer with a reasonable degree of
504 rational understanding or if the defendant has no rational, as
505 well as factual, understanding of the proceedings against the
506 defendant.

507 (2) Experts in intellectual disability, ~~or~~ autism, or
508 neurocognitive disorder appointed pursuant to s. 916.301 shall
509 first consider whether the defendant meets the definition of
510 intellectual disability, ~~or~~ autism, or neurocognitive disorder
511 and, if so, consider the factors related to the issue of whether
512 the defendant meets the criteria for competence to proceed as
513 described in subsection (1).

514 (4) If the experts find that the defendant is incompetent
515 to proceed, the experts shall report on any recommended training
516 for the defendant to attain competence to proceed. In
517 considering the issues relating to training, the examining
518 experts shall specifically report on all of the following:

519 (a) The intellectual disability, ~~or~~ autism, or
520 neurocognitive disorder causing the incompetence. ~~+~~

521 (b) The training appropriate for the intellectual
522 disability, ~~or~~ autism, or neurocognitive disorder of the
523 defendant and an explanation of each of the possible training
524 alternatives in order of choices. ~~+~~

525 (c) The availability of acceptable training and, if

training is available in the community, the expert shall so state in the report.~~;~~~~and~~

(d) The likelihood of the defendant's attaining competence under the training recommended, an assessment of the probable duration of the training required to restore competence, and the probability that the defendant will attain competence to proceed in the foreseeable future.

Section 8. Subsection (1), paragraphs (a) and (b) of subsection (2), and paragraph (a) of subsection (3) of section 916.302, Florida Statutes, are amended to read:

916.302 Involuntary commitment of defendant determined to be incompetent to proceed.—

(1) CRITERIA.—Every defendant who is charged with a felony and who is adjudicated incompetent to proceed due to intellectual disability, ~~or~~ autism, or neurocognitive disorder may be involuntarily committed for training upon a finding by the court of clear and convincing evidence that:

(a) The defendant has an intellectual disability, ~~or~~ autism, or a neurocognitive disorder.

(b) There is a substantial likelihood that in the near future the defendant will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.~~;~~

(c) All available, less restrictive alternatives, including services provided in community residential facilities

551 or other community settings, which would offer an opportunity
552 for improvement of the condition have been judged to be
553 inappropriate.~~;~~ ~~and~~

554 (d) There is a substantial probability that the
555 intellectual disability, ~~or~~ autism, or neurocognitive disorder
556 causing the defendant's incompetence will respond to training
557 and the defendant will regain competency to proceed in the
558 reasonably foreseeable future.

559 (2) ADMISSION TO A FACILITY.—

560 (a) A defendant who has been charged with a felony and who
561 is found to be incompetent to proceed due to intellectual
562 disability, ~~or~~ autism, or neurocognitive disorder, and who meets
563 the criteria for involuntary commitment to the agency under this
564 chapter, shall be committed to the agency, and the agency shall
565 retain and provide appropriate training for the defendant.
566 Within 6 months after the date of admission or at the end of any
567 period of extended commitment or at any time the administrator
568 or designee determines that the defendant has regained
569 competency to proceed or no longer meets the criteria for
570 continued commitment, the administrator or designee shall file a
571 report with the court pursuant to this chapter and the
572 applicable Florida Rules of Criminal Procedure.

573 (b) A defendant determined to be incompetent to proceed
574 due to intellectual disability, ~~or~~ autism, or neurocognitive
575 disorder may be ordered by a circuit court into a forensic

576 facility designated by the agency for defendants who have ~~an~~
577 intellectual disabilities, ~~disability or~~ autism, or
578 neurocognitive disorders.

579 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.—

580 (a) If a defendant has both an intellectual disability, ~~or~~
581 autism, or a neurocognitive disorder and a mental illness,
582 evaluations must address which condition is primarily affecting
583 the defendant's competency to proceed. Referral of the defendant
584 should be made to a civil or forensic facility most appropriate
585 to address the symptoms that are the cause of the defendant's
586 incompetence.

587 **Section 9. Subsection (1) of section 916.3025, Florida**
588 **Statutes, is amended to read:**

589 916.3025 Jurisdiction of committing court.—

590 (1) The committing court shall retain jurisdiction in the
591 case of any defendant found to be incompetent to proceed due to
592 intellectual disability, ~~or~~ autism, or neurocognitive disorder
593 and ordered into a forensic facility designated by the agency
594 for defendants who have intellectual disabilities, ~~or~~ autism, or
595 neurocognitive disorders. A defendant may not be released except
596 by the order of the committing court. An administrative hearing
597 examiner does not have jurisdiction to determine issues of
598 continuing commitment or release of any defendant involuntarily
599 committed pursuant to this chapter.

600 **Section 10. Subsection (1) of section 916.303, Florida**

Statutes, is amended to read:

916.303 Determination of incompetency; dismissal of charges.—

(1) The charges against any defendant found to be incompetent to proceed due to intellectual disability, ~~or~~ autism, or neurocognitive disorder shall be dismissed without prejudice to the state if the defendant remains incompetent to proceed within a reasonable time after such determination, not to exceed 2 years, unless the court in its order specifies its reasons for believing that the defendant will become competent to proceed within the foreseeable future and specifies the time within which the defendant is expected to become competent to proceed. The charges may be refiled by the state if the defendant is declared competent to proceed in the future.

Section 11. Subsection (1) of section 916.304, Florida Statutes, is amended to read:

916.304 Conditional release.—

(1) Except for an inmate currently serving a prison sentence, the committing court may order a conditional release of any defendant who has been found to be incompetent to proceed due to intellectual disability, ~~or~~ autism, or neurocognitive disorder, based on an approved plan for providing community-based training. The committing criminal court may order a conditional release of any defendant to a civil facility in lieu of an involuntary commitment to a forensic facility pursuant to

s. 916.302. Upon a recommendation that community-based training for the defendant is appropriate, a written plan for community-based training, including recommendations from qualified professionals, may be filed with the court, with copies to all parties. Such a plan may also be submitted by the defendant and filed with the court, with copies to all parties. The plan must include:

(a) Special provisions for residential care and adequate supervision of the defendant, including recommended location of placement.

(b) Recommendations for auxiliary services such as vocational training, psychological training, educational services, leisure services, and special medical care.

In its order of conditional release, the court shall specify the conditions of release based upon the release plan and shall direct the appropriate agencies or persons to submit periodic reports to the courts regarding the defendant's compliance with the conditions of the release and progress in training, with copies to all parties.

Section 12. Paragraph (e) of subsection (1), subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), and paragraph (a) of subsection (6) of section 985.19, Florida Statutes, are amended to read:

985.19 Incompetency in juvenile delinquency cases.—

651 (1) If, at any time prior to or during a delinquency case,
652 the court has reason to believe that the child named in the
653 petition may be incompetent to proceed with the hearing, the
654 court on its own motion may, or on the motion of the child's
655 attorney or state attorney must, stay all proceedings and order
656 an evaluation of the child's mental condition.

657 (e) For incompetency evaluations related to intellectual
658 disability, ~~or~~ autism, or neurocognitive disorder, the court
659 shall order the Agency for Persons with Disabilities to examine
660 the child to determine if the child meets the definition of
661 "intellectual disability" or "autism" in s. 393.063 or
662 "neurocognitive disorder" in s. 916.106 and, if so, whether the
663 child is competent to proceed with delinquency proceedings.

664 (2) A child who is adjudicated incompetent to proceed, and
665 who has committed a delinquent act or violation of law, either
666 of which would be a felony if committed by an adult, must be
667 committed to the Department of Children and Families for
668 treatment or training. A child who has been adjudicated
669 incompetent to proceed because of age or immaturity, or for any
670 reason other than for mental illness, intellectual disability,
671 ~~or~~ autism, or neurocognitive disorder, must not be committed to
672 the department or to the Department of Children and Families for
673 restoration-of-competency treatment or training services. For
674 purposes of this section, a child who has committed a delinquent
675 act or violation of law, either of which would be a misdemeanor

676 if committed by an adult, may not be committed to the department
677 or to the Department of Children and Families for restoration-
678 of-competency treatment or training services.

679 (3) If the court finds that a child has mental illness,
680 intellectual disability, ~~or~~ autism, or neurocognitive disorder
681 and adjudicates the child incompetent to proceed, the court must
682 also determine whether the child meets the criteria for secure
683 placement. A child may be placed in a secure facility or program
684 if the court makes a finding by clear and convincing evidence
685 that:

686 (a) The child has mental illness, intellectual disability,
687 ~~or~~ autism, or neurocognitive disorder and because of the mental
688 illness, intellectual disability, ~~or~~ autism, or neurocognitive
689 disorder:

690 1. The child is manifestly incapable of surviving with the
691 help of willing and responsible family or friends, including
692 available alternative services, and without treatment or
693 training the child is likely to suffer from neglect or refuse to
694 care for self, and such neglect or refusal poses a real and
695 present threat of substantial harm to the child's well-being; or

696 2. There is a substantial likelihood that in the near
697 future the child will inflict serious bodily harm on self or
698 others, as evidenced by recent behavior causing, attempting, or
699 threatening such harm; and

700 (4) A child who is determined to have mental illness,

701 intellectual disability, ~~or~~ autism, or neurocognitive disorder,
702 who has been adjudicated incompetent to proceed, and who meets
703 the criteria set forth in subsection (3), must be committed to
704 the Department of Children and Families and receive treatment or
705 training in a secure facility or program that is the least
706 restrictive alternative consistent with public safety. Any
707 placement of a child to a secure residential program must be
708 separate from adult forensic programs. If the child attains
709 competency, custody, case management, and supervision of the
710 child shall be transferred to the department in order to
711 continue delinquency proceedings; however, the court retains
712 authority to order the Department of Children and Families to
713 provide continued treatment or training to maintain competency.

714 (a) A child adjudicated incompetent due to intellectual
715 disability, ~~or~~ autism, or neurocognitive disorder may be ordered
716 into a secure program or facility designated by the Department
717 of Children and Families for children who have intellectual
718 disabilities, ~~or~~ autism, or neurocognitive disorders.

719 (6)(a) If a child is determined to have mental illness,
720 intellectual disability, ~~or~~ autism, or neurocognitive disorder
721 and is found to be incompetent to proceed but does not meet the
722 criteria set forth in subsection (3), the court shall commit the
723 child to the Department of Children and Families and order the
724 Department of Children and Families to provide appropriate
725 treatment and training in the community. The purpose of the

726 treatment or training is the restoration of the child's
727 competency to proceed.

728 **Section 13.** The Division of Law Revision is directed to
729 redesignate part III of chapter 916, Florida Statutes, as
730 "FORENSIC SERVICES FOR PERSONS WHO ARE INTELLECTUALLY DISABLED
731 OR AUTISTIC, OR WHO HAVE NEUROCOGNITIVE DISORDERS."

732 **Section 14.** **For the purpose of incorporating the amendment**
733 **made by this act to section 393.11, Florida Statutes, in a**
734 **reference thereto, paragraph (b) of subsection (1) of section**
735 **393.115, Florida Statutes, is reenacted to read:**

736 393.115 Discharge.—

737 (1) DISCHARGE AT THE AGE OF MAJORITY.—

738 (b) If the resident appears to meet the criteria for
739 involuntary admission to residential services pursuant to s.
740 393.11, the agency shall file a petition to determine the
741 appropriateness of continued residential placement on an
742 involuntary basis. The agency shall file the petition for
743 involuntary admission in the county in which the client resides.
744 If the resident was originally involuntarily admitted to
745 residential services pursuant to s. 393.11, then the agency
746 shall file the petition in the court having continuing
747 jurisdiction over the case.

748 **Section 15.** This act shall take effect July 1, 2026.