

By the Committee on Appropriations

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1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.453, F.S.; adding substance abuse
4 impairment to a list of disorders for which the
5 Legislature intends to develop treatment programs;
6 providing that dignity and human rights are guaranteed
7 to all individuals who are admitted to substance abuse
8 facilities; amending s. 394.455, F.S.; defining and
9 redefining terms; amending s. 394.457, F.S.; adding
10 substance abuse services as a program focus for which
11 the Department of Children and Families is
12 responsible; removing the department's responsibility
13 for personnel standards; amending s. 394.4573, F.S.;
14 redefining terms; adding substance abuse care as an
15 element of the continuity of care management system
16 that the department must establish; removing duties
17 and measures of performance of the department
18 regarding a continuity of care management system;
19 amending s. 394.459, F.S.; extending a right to
20 dignity to all individuals held for examination or
21 admitted for mental health or substance abuse
22 treatment; providing procedural requirements that must
23 be followed to detain without consent an individual
24 who has a mental illness or substance abuse impairment
25 but who has not been charged with a criminal offense;
26 providing that individuals held for examination or
27 admitted for treatment at a facility have a right to
28 certain evaluation and treatment procedures; removing
29 provisions regarding express and informed consent for

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30 medical procedures requiring the use of a general
31 anesthetic or electroconvulsive treatment; requiring
32 facilities to have written procedures for reporting
33 events that place individuals receiving services at
34 risk of harm; requiring service providers to provide
35 information concerning advance directives to
36 individuals receiving services; amending s. 394.4597,
37 F.S.; specifying certain persons who are prohibited
38 from being selected as an individual's representative;
39 providing certain rights for an individual's
40 representative; amending s. 394.4598, F.S.; specifying
41 certain persons who are prohibited from being
42 appointed as an individual's guardian advocate;
43 providing guidelines for decisions of guardian
44 advocates; amending s. 394.4599, F.S.; adding health
45 care surrogate or proxy to those individuals who have
46 responsibilities to act on behalf of an individual
47 admitted to a facility; amending s. 394.4615, F.S.;
48 adding a condition under which the clinical record of
49 an individual must be released to the state attorney;
50 amending s. 394.462, F.S.; providing that a person in
51 custody for a felony other than a forcible felony
52 shall be transported to the nearest receiving facility
53 for examination; providing that a law enforcement
54 officer may transport an individual meeting the
55 criteria for voluntary admission to a mental health
56 receiving facility, addictions receiving facility, or
57 detoxification facility at the individual's request;
58 amending s. 394.4625, F.S.; providing criteria for the

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59 examination and treatment of an individual admitted to
60 a facility on voluntary status; providing criteria for
61 the release or discharge of an individual on voluntary
62 status; providing that an individual on voluntary
63 status who is released or discharged and is currently
64 charged with a crime shall be returned to the custody
65 of a law enforcement officer; providing procedures for
66 transferring an individual to voluntary status and
67 transferring an individual to involuntary status;
68 amending s. 394.463, F.S.; providing for the
69 involuntary examination of a person for a substance
70 abuse impairment; providing for the transportation of
71 an individual for an involuntary examination;
72 providing that a certificate for an involuntary
73 examination must contain certain information;
74 providing criteria and procedures for the release of
75 an individual held for involuntary examination from
76 receiving or treatment facilities; amending s.
77 394.4655, F.S.; adding substance abuse impairment as a
78 condition to which criteria for involuntary outpatient
79 placement apply; providing guidelines for an attorney
80 representing an individual subject to proceedings for
81 involuntary outpatient placement; providing guidelines
82 for the state attorney in prosecuting a petition for
83 involuntary placement; requiring the court to consider
84 certain information when determining whether to
85 appoint a guardian advocate for the individual;
86 requiring the court to inform the individual and his
87 or her representatives of the individual's right to an

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88 independent expert examination with regard to
89 proceedings for involuntary outpatient placement;
90 amending s. 394.467, F.S.; adding substance abuse
91 impairment as a condition to which criteria for
92 involuntary inpatient placement apply; adding
93 addictions receiving facilities and detoxification
94 facilities as identified receiving facilities;
95 providing for first and second medical opinions in
96 proceedings for placement for treatment of substance
97 abuse impairment; providing guidelines for attorney
98 representation of an individual subject to proceedings
99 for involuntary inpatient placement; providing
100 guidelines for the state attorney in prosecuting a
101 petition for involuntary placement; setting standards
102 for the court to accept a waiver of the individual's
103 rights; requiring the court to consider certain
104 testimony regarding the individual's prior history in
105 proceedings; requiring the Division of Administrative
106 Hearings to inform the individual and his or her
107 representatives of the right to an independent expert
108 examination; amending s. 394.4672, F.S.; providing
109 authority of facilities of the United States
110 Department of Veterans Affairs to conduct certain
111 examinations and provide certain treatments; amending
112 s. 394.875, F.S.; removing a limitation on the amount
113 of beds in crisis stabilization units; transferring
114 and renumbering s. 765.401, F.S.; transferring and
115 renumbering s. 765.404, F.S.; providing a directive to
116 the Division of Law Revision and Information; creating

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117 s. 765.4015, F.S.; providing a short title; creating
118 s. 765.402, F.S.; providing legislative findings;
119 creating s. 765.403, F.S.; defining terms; creating s.
120 765.405, F.S.; authorizing an adult with capacity to
121 execute a mental health or substance abuse treatment
122 advance directive; providing a presumption of validity
123 if certain requirements are met; specifying provisions
124 that an advance directive may include; creating s.
125 765.406, F.S.; providing for execution of the mental
126 health or substance abuse treatment advance directive;
127 establishing requirements for a valid mental health or
128 substance abuse treatment advance directive; providing
129 that a mental health or substance abuse treatment
130 advance directive is valid upon execution even if a
131 part of the advance directive takes effect at a later
132 date; allowing a mental health or substance abuse
133 treatment advance directive to be revoked, in whole or
134 in part, or to expire under its own terms; specifying
135 that a mental health or substance abuse treatment
136 advance directive does not or may not serve specified
137 purposes; creating s. 765.407, F.S.; providing
138 circumstances under which a mental health or substance
139 abuse treatment advance directive may be revoked;
140 providing circumstances under which a principal may
141 waive specific directive provisions without revoking
142 the advance directive; creating s. 765.410, F.S.;

143 prohibiting criminal prosecution of a health care
144 facility, provider, or surrogate who acts pursuant to
145 a mental health or substance abuse treatment decision;

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146 creating s. 765.411, F.S.; providing for recognition
147 of a mental health and substance abuse treatment
148 advance directive executed in another state if it
149 complies with the laws of this state; creating s.
150 916.185, F.S.; providing legislative findings and
151 intent; defining terms; creating the Forensic Hospital
152 Diversion Pilot Program; requiring the Department of
153 Children and Families to implement a Forensic Hospital
154 Diversion Pilot Program in four specified judicial
155 circuits; providing eligibility criteria for
156 participation in the pilot program; providing
157 legislative intent concerning the training of judges;
158 authorizing the department to adopt rules; directing
159 the Office of Program Policy Analysis and Government
160 Accountability to submit a report to the Governor and
161 the Legislature; amending ss. 39.407, 394.4612,
162 394.495, 394.496, 394.499, 394.67, 394.674, 394.9085,
163 395.0197, 395.1051, 397.311, 397.431, 397.702, 397.94,
164 402.3057, 409.1757, 409.972, 456.0575, 744.704,
165 765.101, 765.104 and 790.065, F.S.; conforming cross-
166 references; repealing ss. 397.601, 397.675, 397.6751,
167 397.6752, 397.6758, 397.6759, 397.677, 397.6771,
168 397.6772, 397.6773, 397.6774, 397.6775, 397.679,
169 397.6791, 397.6793, 397.6795, 397.6797, 397.6798,
170 397.6799, 397.681, 397.6811, 397.6814, 397.6815,
171 397.6818, 397.6819, 397.6821, 397.6822, 397.693,
172 397.695, 397.6951, 397.6955, 397.6957, 397.697,
173 397.6971, 397.6975, and 397.6977, F.S.; providing an
174 effective date.

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

Section 1. Section 394.453, Florida Statutes, is amended to read:

394.453 Legislative intent.—It is the intent of the Legislature to authorize and direct the Department of Children and Families to evaluate, research, plan, and recommend to the Governor and the Legislature programs designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders, and substance abuse impairment. It is the intent of the Legislature that treatment programs for such disorders shall include, but not be limited to, comprehensive health, social, educational, and rehabilitative services for individuals ~~to persons~~ requiring intensive short-term and continued treatment in order to encourage them to assume responsibility for their treatment and recovery. It is intended that such individuals ~~persons~~ be provided with emergency service and temporary detention for evaluation if ~~when~~ required; that they be admitted to treatment facilities if ~~on a voluntary basis when~~ extended or continuing care is needed and unavailable in the community; that involuntary placement be provided only if ~~when~~ expert evaluation determines that it is necessary; that any involuntary treatment or examination be accomplished in a setting that ~~which~~ is clinically appropriate and most likely to facilitate the individual's ~~person's~~ return to the community as soon as possible; and that ~~individual~~ dignity and human rights be guaranteed to all individuals ~~persons~~ who are admitted to mental

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204 health and substance abuse treatment facilities or who are being
 205 held under s. 394.463. It is the further intent of the
 206 Legislature that the least restrictive means of intervention be
 207 employed based on the individual's ~~individual~~ needs ~~of each~~
 208 ~~person,~~ within the scope of available services. It is the policy
 209 of this state that the use of restraint and seclusion ~~on clients~~
 210 is justified only as an emergency safety measure to be used in
 211 response to imminent danger to the individual ~~client~~ or others.
 212 It is, therefore, the intent of the Legislature to achieve an
 213 ongoing reduction in the use of restraint and seclusion in
 214 programs and facilities serving individuals ~~persons~~ with mental
 215 illness or who have a substance abuse impairment.

216 Section 2. Section 394.455, Florida Statutes, is reordered
 217 and amended to read:

218 394.455 Definitions.—As used in this part, unless the
 219 context clearly requires otherwise, the term:

220 (1) "Addictions receiving facility" means a secure, acute
 221 care facility that, at a minimum, provides detoxification and
 222 stabilization services; is operated 24 hours per day, 7 days per
 223 week; and is designated by the department to serve individuals
 224 found to be substance abuse impaired as defined in subsection
 225 (44) who qualify for services under this section.

226 (2) ~~(1)~~ "Administrator" means the chief administrative
 227 officer of a receiving or treatment facility or his or her
 228 designee.

229 (3) "Adult" means an individual who is 18 years of age or
 230 older, or who has had the disability of nonage removed pursuant
 231 to s. 743.01 or s. 743.015.

232 (4) "Advanced registered nurse practitioner" means any

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233 person licensed in this state to practice professional nursing
234 who is certified in advanced or specialized nursing practice
235 under s. 464.012.

236 (36)~~(2)~~ "Clinical Psychologist" means a psychologist as
237 defined in s. 490.003(7) ~~with 3 years of postdoctoral experience~~
238 ~~in the practice of clinical psychology, inclusive of the~~
239 ~~experience required for licensure,~~ or a psychologist employed by
240 a facility operated by the United States Department of Veterans
241 Affairs that qualifies as a receiving or treatment facility
242 under this part.

243 (5)~~(3)~~ "Clinical record" means all parts of the record
244 required to be maintained and includes all medical records,
245 progress notes, charts, and admission and discharge data, and
246 all other information recorded by a facility staff which
247 pertains to an individual's ~~the patient's~~ hospitalization or
248 treatment.

249 (6)~~(4)~~ "Clinical social worker" means a person licensed as
250 a clinical social worker under s. 491.005 or s. 491.006 or a
251 person employed as a clinical social worker by a facility
252 operated by the United States Department of Veterans Affairs or
253 the United States Department of Defense under chapter 491.

254 (7)~~(5)~~ "Community facility" means a any community service
255 provider contracting with the department to furnish substance
256 abuse or mental health services under part IV of this chapter.

257 (8)~~(6)~~ "Community mental health center or clinic" means a
258 publicly funded, not-for-profit center that ~~which~~ contracts with
259 the department for the provision of inpatient, outpatient, day
260 treatment, or emergency services.

261 (9)~~(7)~~ "Court," unless otherwise specified, means the

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262 circuit court.

263 (10)~~(8)~~ "Department" means the Department of Children and
264 Families.

265 (11) "Detoxification facility" means a facility licensed to
266 provide detoxification services under chapter 397.

267 (12) "Electronic means" means a form of telecommunication
268 that requires all parties to maintain visual as well as audio
269 communication.

270 (13)~~(9)~~ "Express and informed consent" means consent
271 voluntarily given in writing, by a competent individual person,
272 after sufficient explanation and disclosure of the subject
273 matter involved to enable the individual person to make a
274 knowing and willful decision without any element of force,
275 fraud, deceit, duress, or other form of constraint or coercion.

276 (14)~~(10)~~ "Facility" means any hospital, community facility,
277 public or private facility, or receiving or treatment facility
278 providing for the evaluation, diagnosis, care, treatment,
279 training, or hospitalization of individuals persons who appear
280 to have a ~~mental illness~~ or who have been diagnosed as having a
281 mental illness or substance abuse impairment. The term
282 "Facility" does not include a any program or entity licensed
283 under pursuant to chapter 400 or chapter 429.

284 (15) "Governmental facility" means a facility owned,
285 operated, or administered by the Department of Corrections or
286 the United States Department of Veterans Affairs.

287 (16)~~(11)~~ "Guardian" means the natural guardian of a minor,
288 or a person appointed by a court to act on behalf of a ward's
289 person if the ward is a minor or has been adjudicated
290 incapacitated.

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291 ~~(17)(12)~~ "Guardian advocate" means a person appointed by a
292 court to make decisions regarding mental health or substance
293 abuse treatment on behalf of an individual ~~a patient~~ who has
294 been found incompetent to consent to treatment pursuant to this
295 part. ~~The guardian advocate may be granted specific additional~~
296 ~~powers by written order of the court, as provided in this part.~~

297 ~~(18)(13)~~ "Hospital" means a hospital ~~facility as defined in~~
298 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter
299 408.

300 ~~(19)(14)~~ "Incapacitated" means that an individual ~~a person~~
301 has been adjudicated incapacitated pursuant to part V of chapter
302 744 and a guardian of the person has been appointed.

303 ~~(20)(15)~~ "Incompetent to consent to treatment" means that
304 an individual's ~~a person's~~ judgment is so affected by ~~his or her~~
305 mental illness, substance abuse impairment, or any medical or
306 organic cause, that he or she ~~the person~~ lacks the capacity to
307 make a well-reasoned, willful, and knowing decision concerning
308 his or her medical, ~~or~~ mental health, or substance abuse
309 treatment.

310 ~~(21)~~ "Involuntary examination" means an examination
311 performed under s. 394.463 to determine whether an individual
312 qualifies for involuntary outpatient placement under s. 394.4655
313 or involuntary inpatient placement under s. 394.467.

314 ~~(22)~~ "Involuntary placement" means involuntary outpatient
315 placement pursuant to s. 394.4655 or involuntary inpatient
316 placement in a receiving or treatment facility pursuant to s.
317 394.467.

318 ~~(23)(16)~~ "Law enforcement officer" means a law enforcement
319 officer as defined in s. 943.10.

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320 (24) "Marriage and family therapist" means a person
321 licensed to practice marriage and family therapy under s.
322 491.005 or s. 491.006 or a person employed as a marriage and
323 family therapist by a facility operated by the United States
324 Department of Veterans Affairs or the United States Department
325 of Defense.

326 (25) "Mental health counselor" means a person licensed to
327 practice mental health counseling under s. 491.005 or s. 491.006
328 or a person employed as a mental health counselor by a facility
329 operated by the United States Department of Veterans Affairs or
330 the United States Department of Defense.

331 (26)~~(17)~~ "Mental health overlay program" means a mobile
332 service that ~~which~~ provides an independent examination for
333 voluntary admission ~~admissions~~ and a range of supplemental
334 onsite services to an individual who has ~~persons with~~ a mental
335 illness in a residential setting such as a nursing home,
336 assisted living facility, adult family-care home, or
337 nonresidential setting such as an adult day care center.
338 Independent examinations provided ~~pursuant to this part~~ through
339 a mental health overlay program must ~~only~~ be provided only under
340 contract with the department ~~for this service~~ or must be
341 attached to a public receiving facility that is also a community
342 mental health center.

343 (28)~~(18)~~ "Mental illness" means an impairment of the mental
344 or emotional processes that exercise conscious control of one's
345 actions or of the ability to perceive or understand reality,
346 which impairment substantially interferes with the individual's
347 ~~person's~~ ability to meet the ordinary demands of living. For the
348 purposes of this part, the term does not include a developmental

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349 disability as defined in chapter 393, intoxication, brain
350 injury, dementia, or conditions manifested only by antisocial
351 behavior or substance abuse impairment.

352 (29) "Minor" means an individual who is 17 years of age or
353 younger and who has not had the disabilities of nonage removed
354 pursuant to s. 743.01 or s. 743.015.

355 ~~(30)(19)~~ "Mobile crisis response service" means a
356 nonresidential crisis service ~~attached to a public receiving~~
357 ~~facility and~~ available 24 hours a day, 7 days a week, ~~through~~
358 which provides immediate intensive assessments and
359 interventions, including screening for admission into a mental
360 health receiving facility, addictions receiving facility, or a
361 detoxification facility, ~~take place~~ for the purpose of
362 identifying appropriate treatment services.

363 ~~(20) "Patient" means any person who is held or accepted for~~
364 ~~mental health treatment.~~

365 ~~(31)(21)~~ "Physician" means a medical practitioner licensed
366 under chapter 458 or chapter 459 ~~who has experience in the~~
367 ~~diagnosis and treatment of mental and nervous disorders~~ or a
368 physician employed by a facility operated by the United States
369 Department of Veterans Affairs or the United States Department
370 of Defense ~~which qualifies as a receiving or treatment facility~~
371 ~~under this part.~~

372 (32) "Physician assistant" means a person licensed under
373 chapter 458 or chapter 459 who has experience in the diagnosis
374 and treatment of mental disorders or a person employed as a
375 physician assistant by a facility operated by the United States
376 Department of Veterans Affairs or the United States Department
377 of Defense.

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378 ~~(33)(22)~~ "Private facility" means any hospital or facility
379 operated by a for-profit or not-for-profit corporation or
380 association that provides mental health or substance abuse
381 services and is not a public facility.

382 ~~(34)(23)~~ "Psychiatric nurse" means a registered nurse
383 licensed under part I of chapter 464 who has a master's degree
384 or a doctorate in psychiatric nursing and 2 years of post-
385 master's clinical experience under the supervision of a
386 physician or a person employed as a psychiatric nurse by a
387 facility operated by the United States Department of Veterans
388 Affairs or the United States Department of Defense.

389 ~~(35)(24)~~ "Psychiatrist" means a medical practitioner
390 licensed under chapter 458 or chapter 459 ~~who has primarily~~
391 ~~diagnosed and treated mental and nervous disorders for at least~~
392 ~~a period of not less than 3 years, inclusive of psychiatric~~
393 ~~residency, or a person employed as a psychiatrist by a facility~~
394 ~~operated by the United States Department of Veterans Affairs or~~
395 ~~the United States Department of Defense.~~

396 ~~(37)(25)~~ "Public facility" means any facility that has
397 contracted with the department to provide mental health or
398 substance abuse services to all individuals ~~persons~~, regardless
399 of ~~their~~ ability to pay, and is receiving state funds for such
400 purpose.

401 ~~(27)(26)~~ "Mental health receiving facility" means any
402 public or private facility designated by the department to
403 receive and hold individuals on involuntary status ~~involuntary~~
404 ~~patients under emergency conditions or for psychiatric~~
405 evaluation and to provide ~~short-term~~ treatment. The term does
406 not include a county jail.

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407 ~~(38)(27)~~ "Representative" means a person selected pursuant
408 to s. 394.4597(2) ~~to receive notice of proceedings during the~~
409 ~~time a patient is held in or admitted to a receiving or~~
410 ~~treatment facility.~~

411 ~~(39)(28)(a)~~ "Restraint" means a physical device, method, or
412 drug used to control behavior.

413 (a) A physical restraint is any manual method or physical
414 or mechanical device, material, or equipment attached or
415 adjacent to an ~~the~~ individual's body so that he or she cannot
416 easily remove the restraint and which restricts freedom of
417 movement or normal access to one's body.

418 (b) A drug used as a restraint is a medication used to
419 control an individual's ~~the person's~~ behavior or to restrict his
420 or her freedom of movement and is not part of the standard
421 treatment regimen for an individual having ~~of a person with~~ a
422 diagnosed mental illness ~~who is a client of the department.~~
423 Physically holding an individual ~~a person~~ during a procedure to
424 forcibly administer psychotropic medication is a physical
425 restraint.

426 (c) Restraint does not include physical devices, such as
427 orthopedically prescribed appliances, surgical dressings and
428 bandages, supportive body bands, or other physical holding ~~when~~
429 necessary for routine physical examinations and tests; ~~or~~ for
430 purposes of orthopedic, surgical, or other similar medical
431 treatment; ~~when used~~ to provide support for the achievement of
432 functional body position or proper balance; or ~~when used~~ to
433 protect an individual ~~a person~~ from falling out of bed.

434 (40) "School psychologist" has the same meaning as in s.
435 490.003.

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436 ~~(41)(29)~~ "Seclusion" means the physical segregation ~~of a~~
437 ~~person in any fashion~~ or involuntary isolation of an individual
438 ~~a person~~ in a room or area from which the individual person is
439 prevented from leaving. The prevention may be by physical
440 barrier or by a staff member who is acting in a manner, or who
441 is physically situated, so as to prevent the individual person
442 from leaving the room or area. For purposes of this chapter, the
443 term does not mean isolation due to an individual's ~~a person's~~
444 medical condition or symptoms.

445 ~~(42)(30)~~ "Secretary" means the Secretary of Children and
446 Families.

447 (43) "Service provider" means a mental health receiving
448 facility, any facility licensed under chapter 397, a treatment
449 facility, an entity under contract with the department to
450 provide mental health or substance abuse services, a community
451 mental health center or clinic, a psychologist, a clinical
452 social worker, a marriage and family therapist, a mental health
453 counselor, a physician, a psychiatrist, an advanced registered
454 nurse practitioner, or a psychiatric nurse.

455 (44) "Substance abuse impairment" means a condition
456 involving the use of alcoholic beverages or any psychoactive or
457 mood-altering substance in such a manner as to induce mental,
458 emotional, or physical problems and cause socially dysfunctional
459 behavior.

460 (45) "Substance abuse qualified professional" has the same
461 meaning as in s. 397.311(26).

462 ~~(46)(31)~~ "Transfer evaluation" means the process, as
463 approved by the ~~appropriate district office of the department,~~
464 in which an individual ~~whereby a person who is being considered~~

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465 ~~for placement in a state treatment facility is first~~ evaluated
466 for appropriateness of admission to a treatment ~~the~~ facility.
467 The transfer evaluation shall be conducted by the department, by
468 a ~~community-based~~ public receiving facility, or by another
469 service provider as authorized by the department or by a
470 community mental health center or clinic ~~if the public receiving~~
471 ~~facility is not a community mental health center or clinic.~~

472 ~~(47)(32)~~ "Treatment facility" means a any state-owned,
473 state-operated, or state-supported hospital, center, or clinic
474 designated by the department for extended treatment and
475 hospitalization of individuals who have a mental illness, beyond
476 that provided ~~for~~ by a receiving facility or a, ~~of persons who~~
477 ~~have a mental illness, including facilities of the United States~~
478 ~~Government, and any private facility designated by the~~
479 department when rendering such services ~~to a person~~ pursuant to
480 ~~the provisions of~~ this part. Patients treated in facilities of
481 the United States Government shall be solely those whose care is
482 the responsibility of the United States Department of Veterans
483 Affairs.

484 ~~(33)~~ "Service provider" means ~~any public or private~~
485 ~~receiving facility, an entity under contract with the Department~~
486 ~~of Children and Families to provide mental health services, a~~
487 ~~clinical psychologist, a clinical social worker, a marriage and~~
488 ~~family therapist, a mental health counselor, a physician, a~~
489 ~~psychiatric nurse as defined in subsection (23), or a community~~
490 ~~mental health center or clinic as defined in this part.~~

491 ~~(34)~~ "Involuntary examination" means ~~an examination~~
492 ~~performed under s. 394.463 to determine if an individual~~
493 ~~qualifies for involuntary inpatient treatment under s.~~

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494 ~~394.467(1) or involuntary outpatient treatment under s.~~
495 ~~394.4655(1).~~

496 ~~(35) "Involuntary placement" means either involuntary~~
497 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
498 ~~inpatient treatment pursuant to s. 394.467.~~

499 ~~(36) "Marriage and family therapist" means a person~~
500 ~~licensed as a marriage and family therapist under chapter 491.~~

501 ~~(37) "Mental health counselor" means a person licensed as a~~
502 ~~mental health counselor under chapter 491.~~

503 ~~(38) "Electronic means" means a form of telecommunication~~
504 ~~that requires all parties to maintain visual as well as audio~~
505 ~~communication.~~

506 Section 3. Section 394.457, Florida Statutes, is amended to
507 read:

508 394.457 Operation and administration.—

509 (1) ADMINISTRATION.—The Department of Children and Families
510 is designated the "Mental Health Authority" of Florida. The
511 department and the Agency for Health Care Administration shall
512 exercise executive and administrative supervision over all
513 ~~mental health~~ facilities, programs, and services.

514 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
515 responsible for:

516 (a) The planning, evaluation, and implementation of a
517 complete and comprehensive statewide program of mental health
518 and substance abuse, including community services, receiving and
519 treatment facilities, child services, research, and training as
520 authorized and approved by the Legislature, based on the annual
521 program budget of the department. The department is also
522 responsible for the coordination of efforts with other

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523 departments and divisions of the state government, county and
524 municipal governments, and private agencies concerned with and
525 providing mental health and substance abuse services. It is
526 responsible for establishing standards, providing technical
527 assistance, and supervising ~~exercising supervision of~~ mental
528 health and substance abuse programs of, and the treatment of
529 individuals ~~patients~~ at, community facilities, other facilities
530 serving individuals ~~for persons~~ who have a mental illness or
531 substance abuse impairment, and any agency or facility providing
532 services under ~~to patients pursuant to~~ this part.

533 (b) The publication and distribution of an information
534 handbook to facilitate understanding of this part, the policies
535 and procedures involved in the implementation of this part, and
536 the responsibilities of the various providers of services under
537 this part. It shall stimulate research by public and private
538 agencies, institutions of higher learning, and hospitals in the
539 interest of the elimination and amelioration of mental illness.

540 (3) POWER TO CONTRACT.—The department may contract to
541 provide, and be provided with, services and facilities in order
542 to carry out its responsibilities under this part with the
543 following agencies: public and private hospitals; receiving and
544 treatment facilities; clinics; laboratories; departments,
545 divisions, and other units of state government; the state
546 colleges and universities; the community colleges; private
547 colleges and universities; counties, municipalities, and any
548 other governmental unit, including facilities of the United
549 States Government; and any other public or private entity which
550 provides or needs facilities or services. Baker Act funds for
551 community inpatient, crisis stabilization, short-term

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552 residential treatment, and screening services must be allocated
553 to each county pursuant to the department's funding allocation
554 methodology. Notwithstanding s. 287.057(3)(e), contracts for
555 community-based Baker Act services for inpatient, crisis
556 stabilization, short-term residential treatment, and screening
557 provided under this part, other than those with other units of
558 government, to be provided for the department must be awarded
559 using competitive sealed bids if the county commission of the
560 county receiving the services makes a request to the
561 department's district office by January 15 of the contracting
562 year. The district may not enter into a competitively bid
563 contract under this provision if such action will result in
564 increases of state or local expenditures for Baker Act services
565 within the district. Contracts for these Baker Act services
566 using competitive sealed bids are effective for 3 years. The
567 department shall adopt rules establishing minimum standards for
568 such contracted services and facilities and shall make periodic
569 audits and inspections to assure that the contracted services
570 are provided and meet the standards of the department.

571 (4) APPLICATION FOR AND ACCEPTANCE OF GIFTS AND GRANTS.—The
572 department may apply for and accept any funds, grants, gifts, or
573 services made available to it by any agency or department of the
574 Federal Government or any other public or private agency or
575 person ~~individual~~ in aid of mental health and substance abuse
576 programs. All such moneys must ~~shall~~ be deposited in the State
577 Treasury and ~~shall be~~ disbursed as provided by law.

578 (5) RULES.—The department shall adopt rules:

579 (a) Establishing ~~The department shall adopt rules~~
580 ~~establishing~~ forms and procedures relating to the rights and

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581 privileges of individuals being examined or treated at ~~patients~~
582 ~~seeking mental health treatment from~~ facilities under this part.

583 (b) ~~The department shall adopt rules~~ Necessary for the
584 implementation and administration of ~~the provisions of~~ this
585 part, and A program subject to ~~the provisions of~~ this part may
586 ~~shall not be permitted to~~ operate unless rules designed to
587 ensure the protection of the health, safety, and welfare of the
588 individuals examined and ~~patients~~ treated under ~~through~~ such
589 program have been adopted. Such rules ~~adopted under this~~
590 ~~subsection~~ must include provisions governing the use of
591 restraint and seclusion which are consistent with recognized
592 best practices and professional judgment; prohibit inherently
593 dangerous restraint or seclusion procedures; establish
594 limitations on the use and duration of restraint and seclusion;
595 establish measures to ensure the safety of program participants
596 and staff during an incident of restraint or seclusion;
597 establish procedures for staff to follow before, during, and
598 after incidents of restraint or seclusion; establish
599 professional qualifications ~~of~~ and training for staff who may
600 order or be engaged in the use of restraint or seclusion; and
601 establish mandatory reporting, data collection, and data
602 dissemination procedures and requirements. Such rules ~~adopted~~
603 ~~under this subsection~~ must require that each instance of the use
604 of restraint or seclusion be documented in the clinical record
605 of the individual who has been restrained or secluded ~~patient~~.

606 (c) Establishing ~~The department shall adopt rules~~
607 ~~establishing~~ minimum standards for services provided by a mental
608 health overlay program or a mobile crisis response service.

609 ~~(6) PERSONNEL.~~

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610 ~~(a) The department shall, by rule, establish minimum~~
611 ~~standards of education and experience for professional and~~
612 ~~technical personnel employed in mental health programs,~~
613 ~~including members of a mobile crisis response service.~~

614 ~~(b) The department shall design and distribute appropriate~~
615 ~~materials for the orientation and training of persons actively~~
616 ~~engaged in implementing the provisions of this part relating to~~
617 ~~the involuntary examination and placement of persons who are~~
618 ~~believed to have a mental illness.~~

619 (6)~~(7)~~ PAYMENT FOR CARE OF PATIENTS.—Fees and fee
620 collections for patients in state-owned, state-operated, or
621 state-supported treatment facilities shall be according to s.
622 402.33.

623 Section 4. Section 394.4573, Florida Statutes, is amended
624 to read:

625 394.4573 Continuity of care management system; measures of
626 performance; reports.—

627 (1) For the purposes of this section, the term:

628 (a) "Case management" means those activities aimed at
629 assessing ~~client~~ needs, planning services, linking the service
630 system ~~to a client~~, coordinating the various system components,
631 monitoring service delivery, and evaluating the effect of
632 service delivery.

633 (b) "Case manager" means a person ~~an individual~~ who works
634 with clients, and their families and significant others, to
635 provide case management.

636 (c) "Client manager" means an employee of the department
637 who is assigned to specific provider agencies and geographic
638 areas to ensure that the full range of needed services is

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639 available to clients.

640 ~~(d) "Continuity of care management system" means a system~~
641 ~~that assures, within available resources, that clients have~~
642 ~~access to the full array of services within the mental health~~
643 ~~services delivery system.~~

644 (2) The department shall ensure the establishment of is
645 ~~directed to implement~~ a continuity of care management system for
646 the provision of mental health and substance abuse care in
647 keeping with s. 394.9082., ~~through the provision of client and~~
648 ~~case management, including clients referred from state treatment~~
649 ~~facilities to community mental health facilities. Such system~~
650 ~~shall include a network of client managers and case managers~~
651 ~~throughout the state designed to:~~

652 ~~(a) Reduce the possibility of a client's admission or~~
653 ~~readmission to a state treatment facility.~~

654 ~~(b) Provide for the creation or designation of an agency in~~
655 ~~each county to provide single intake services for each person~~
656 ~~seeking mental health services. Such agency shall provide~~
657 ~~information and referral services necessary to ensure that~~
658 ~~clients receive the most appropriate and least restrictive form~~
659 ~~of care, based on the individual needs of the person seeking~~
660 ~~treatment. Such agency shall have a single telephone number,~~
661 ~~operating 24 hours per day, 7 days per week, where practicable,~~
662 ~~at a central location, where each client will have a central~~
663 ~~record.~~

664 ~~(c) Advocate on behalf of the client to ensure that all~~
665 ~~appropriate services are afforded to the client in a timely and~~
666 ~~dignified manner.~~

667 ~~(d) Require that any public receiving facility initiating a~~

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668 ~~patient transfer to a licensed hospital for acute care mental~~
669 ~~health services not accessible through the public receiving~~
670 ~~facility shall notify the hospital of such transfer and send all~~
671 ~~records relating to the emergency psychiatric or medical~~
672 ~~condition.~~

673 ~~(3) The department is directed to develop and include in~~
674 ~~contracts with service providers measures of performance with~~
675 ~~regard to goals and objectives as specified in the state plan.~~
676 ~~Such measures shall use, to the extent practical, existing data~~
677 ~~collection methods and reports and shall not require, as a~~
678 ~~result of this subsection, additional reports on the part of~~
679 ~~service providers. The department shall plan monitoring visits~~
680 ~~of community mental health facilities with other state, federal,~~
681 ~~and local governmental and private agencies charged with~~
682 ~~monitoring such facilities.~~

683 Section 5. Subsections (1) through (6) and (8) of section
684 394.459, Florida Statutes, are amended, present subsection (12)
685 of that section is redesignated as subsection (13), and a new
686 subsection (12) is added to that section, to read:

687 394.459 Rights of individuals receiving treatment and
688 services patients.-

689 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.-It is the policy of this
690 state that the ~~individual~~ dignity of all individuals held for
691 examination or admitted for mental health or substance abuse
692 treatment ~~the patient~~ shall be respected at all times and upon
693 all occasions, including ~~any occasion~~ when the individual
694 ~~patient~~ is taken into custody, held, or transported. Procedures,
695 facilities, vehicles, and restraining devices used ~~utilized~~ for
696 criminals or those accused of a crime ~~may~~ ~~shall~~ not be used in

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697 connection with individuals ~~persons~~ who have a mental illness or
698 substance abuse impairment, except for the protection of that
699 individual ~~the patient~~ or others. An individual ~~Persons~~ who has
700 ~~have~~ a mental illness or substance abuse impairment but who has
701 ~~are~~ not been charged with a criminal offense may be detained
702 without his or her consent, subject to the limitations specified
703 in paragraph (b). If it has been determined that a hospital, an
704 addictions receiving facility, or a licensed detoxification
705 facility is the most appropriate placement for the individual,
706 the detaining officer shall: ~~shall not be detained or~~
707 ~~incarcerated in the jails of this state.~~

708 (a) Without using unreasonable force, take the individual,
709 if necessary, against his or her will, to a hospital or a
710 licensed detoxification or addictions receiving facility.

711 (b) In the case of an adult, detain the individual for his
712 or her own protection in a municipal or county jail or other
713 appropriate detention facility. Such detention may not be
714 considered an arrest for any purpose, and an entry or other
715 record may not be made to indicate that the individual has been
716 detained or charged with any crime. The officer in charge of the
717 detention facility must notify the nearest appropriate facility
718 within the first 8 hours after detention that the individual has
719 been detained. It is the duty of the detention facility to
720 arrange, as necessary, for transportation of the individual to
721 the appropriate facility.

722
723 The detaining officer shall notify the nearest relative of a
724 minor who has been taken into protective custody and shall
725 notify the nearest relative of an adult who is in such custody,

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726 unless the adult requests that notification not be given. An
727 individual ~~A person~~ who is receiving treatment for mental
728 illness or substance abuse may ~~shall~~ not be deprived of his or
729 her ~~any~~ constitutional rights. However, if such individual a
730 ~~person~~ is adjudicated incapacitated, his or her rights may be
731 limited to the same extent that the rights of any incapacitated
732 person are limited by law.

733 (2) RIGHT TO TREATMENT. An individual held for examination
734 or admitted for mental illness or substance abuse treatment:

735 (a) May ~~A person shall~~ not be denied treatment for mental
736 illness or substance abuse impairment, and services may ~~shall~~
737 not be delayed at a mental health receiving facility, addictions
738 receiving facility, detoxification facility, or treatment
739 facility because of inability to pay. However, every reasonable
740 effort to collect appropriate reimbursement for the cost of
741 providing mental health or substance abuse services from
742 individuals to persons able to pay for services, including
743 insurance or ~~third-party~~ payments by third-party payers, shall
744 be made by facilities providing services under ~~pursuant to~~ this
745 part.

746 (b) Shall be provided ~~It is further the policy of the state~~
747 ~~that~~ the least restrictive appropriate available treatment,
748 which must be utilized based on the individual's individual
749 needs and best interests ~~of the patient~~ and consistent with the
750 optimum improvement of the individual's patient's condition.

751 (c) Shall ~~Each person who remains at a receiving or~~
752 ~~treatment facility for more than 12 hours shall~~ be given a
753 physical examination by a health practitioner authorized by law
754 to give such examinations, and a mental health evaluation by a

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755 psychiatrist, psychologist, or psychiatric nurse, within 24
756 hours after arrival at such facility if the individual has not
757 been released or discharged pursuant to s. 394.463(2)(h) or s.
758 394.469. The physical examination and mental health evaluation
759 must be documented in the clinical record. The physical and
760 mental health examinations shall include efforts to identify
761 indicators of substance abuse impairment, substance abuse
762 intoxication, and substance abuse withdrawal.

763 (d) ~~Shall Every patient in a facility shall~~ be afforded the
764 opportunity to participate in activities designed to enhance
765 self-image and the beneficial effects of other treatments, as
766 determined by the facility.

767 (e) Shall, within 24 hours of admission to a facility, Not
768 ~~more than 5 days after admission to a facility, each patient~~
769 ~~shall~~ have and receive an individualized treatment plan in
770 writing, which the individual patient has had an opportunity to
771 assist in preparing and to review before ~~prior to its~~
772 implementation. The plan must ~~shall~~ include a space for the
773 individual's patient's comments and signature.

774 (3) RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

775 (a) ~~(a)1.~~ Each individual patient entering treatment shall
776 be asked to give express and informed consent for admission or
777 treatment.

778 1. If the individual patient has been adjudicated
779 incapacitated or found to be incompetent to consent to
780 treatment, express and informed consent must ~~to treatment shall~~
781 be sought from his or her ~~instead from the patient's~~ guardian,
782 ~~or~~ guardian advocate, or health care surrogate or proxy. If the
783 individual patient is a minor, express and informed consent for

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784 admission or treatment must be obtained ~~shall also be requested~~
 785 ~~from the patient's guardian. Express and informed consent for~~
 786 ~~admission or treatment of a patient under 18 years of age shall~~
 787 ~~be required~~ from the minor's ~~patient's~~ guardian, unless the
 788 minor is seeking outpatient crisis intervention services under
 789 s. 394.4784. ~~Express and informed consent for admission or~~
 790 ~~treatment given by a patient who is under 18 years of age shall~~
 791 ~~not be a condition of admission when the patient's guardian~~
 792 ~~gives express and informed consent for the patient's admission~~
 793 ~~pursuant to s. 394.463 or s. 394.467.~~

794 2. Before giving express and informed consent, the
 795 following information shall be provided and explained in plain
 796 language to the individual and patient, ~~or to his or her the~~
 797 ~~patient's~~ guardian if the individual patient is an adult 18
 798 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~
 799 to his or her the patient's guardian advocate if the individual
 800 ~~patient~~ has been found to be incompetent to consent to
 801 treatment, to the health care surrogate or proxy, or to both the
 802 individual patient and the guardian if the individual patient is
 803 a minor: the reason for admission or treatment; the proposed
 804 treatment and ~~+~~ the purpose of such ~~the~~ treatment ~~to be~~
 805 ~~provided~~; the common risks, benefits, and side effects of the
 806 proposed treatment thereof; the specific dosage range of ~~for the~~
 807 medication, if when applicable; alternative treatment
 808 modalities; the approximate length of care; the potential
 809 effects of stopping treatment; how treatment will be monitored;
 810 and that any consent given for treatment may be revoked orally
 811 or in writing before or during the treatment period by the
 812 individual receiving the treatment patient or by a person who is

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813 legally authorized to make health care decisions on the
814 individual's behalf ~~of the patient.~~

815 ~~(b) In the case of medical procedures requiring the use of~~
816 ~~a general anesthetic or electroconvulsive treatment, and prior~~
817 ~~to performing the procedure, express and informed consent shall~~
818 ~~be obtained from the patient if the patient is legally~~
819 ~~competent, from the guardian of a minor patient, from the~~
820 ~~guardian of a patient who has been adjudicated incapacitated, or~~
821 ~~from the guardian advocate of the patient if the guardian~~
822 ~~advocate has been given express court authority to consent to~~
823 ~~medical procedures or electroconvulsive treatment as provided~~
824 ~~under s. 394.4598.~~

825 (4) QUALITY OF TREATMENT.—

826 (a) Each individual held for examination, admitted for
827 mental health or substance abuse treatment, or receiving
828 involuntary outpatient treatment ~~patient shall receive services,~~
829 ~~including, for a patient placed under s. 394.4655 shall receive,~~
830 ~~those services that are included in the court order which are~~
831 ~~suites to his or her needs, and which shall be administered~~
832 ~~skillfully, safely, and humanely with full respect for the~~
833 individual's ~~patient's~~ dignity and personal integrity. Each
834 individual ~~patient~~ shall receive such medical, vocational,
835 social, educational, substance abuse, and rehabilitative
836 services as his or her condition requires in order to live
837 successfully in the community. In order to achieve this goal,
838 the department shall ~~is directed to~~ coordinate its mental health
839 and substance abuse programs with all other programs of the
840 department and other state agencies.

841 (b) Facilities shall develop and maintain, in a form that

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842 is accessible to and readily understandable by individuals held
843 for examination or admitted for mental health or substance abuse
844 treatment patients and consistent with rules adopted by the
845 department, ~~the following:~~

846 1. Criteria, procedures, and required staff training for
847 the any use of close or elevated levels of supervision, ~~of~~
848 restraint, seclusion, or isolation, ~~or of~~ emergency treatment
849 orders, and ~~for the use of~~ bodily control and physical
850 management techniques.

851 2. Procedures for documenting, monitoring, and requiring
852 clinical review of all uses of the procedures described in
853 subparagraph 1. and for documenting and requiring review of any
854 incidents resulting in injury to individuals receiving services
855 patients.

856 3. A system for investigating, tracking, managing, and
857 responding to complaints by individuals ~~persons~~ receiving
858 services or persons ~~individuals~~ acting on their behalf.

859 (c) Facilities shall have written procedures for reporting
860 events that place individuals receiving services at risk of
861 harm. Such events must be reported to the managing entity in the
862 facility's region and the department as soon as reasonably
863 possible after discovery and include, but are not limited to:

864 1. The death, regardless of cause or manner, of an
865 individual examined or treated at a facility that occurs while
866 the individual is at the facility or that occurs within 72 hours
867 after release, if the death is known to the facility
868 administrator.

869 2. An injury sustained, or allegedly sustained, at a
870 facility, by an individual examined or treated at the facility

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871 and caused by an accident, self-inflicted injury, assault, act
872 of abuse, neglect, or suicide attempt, if the injury requires
873 medical treatment by a licensed health care practitioner in an
874 acute care medical facility.

875 3. The unauthorized departure or absence of an individual
876 from a facility in which he or she has been held for involuntary
877 examination or involuntary placement.

878 4. A disaster or crisis situation such as a tornado,
879 hurricane, kidnapping, riot, or hostage situation that
880 jeopardizes the health, safety, or welfare of individuals
881 examined or treated in a facility.

882 5. An allegation of sexual battery upon an individual
883 examined or treated in a facility.

884 (d)(e) A facility may not use seclusion or restraint for
885 punishment, to compensate for inadequate staffing, or for the
886 convenience of staff. Facilities shall ensure that all staff are
887 made aware of these restrictions ~~on the use of seclusion and~~
888 ~~restraint and shall make and~~ maintain records that ~~which~~
889 demonstrate that this information has been conveyed to each
890 individual staff member ~~members~~.

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

892 (a) Each individual held for examination or admitted for
893 mental health or substance abuse treatment ~~person receiving~~
894 ~~services~~ in a facility providing mental health services under
895 this part has the right to communicate freely and privately with
896 persons outside the facility unless it is determined that such
897 communication is likely to be harmful to the individual ~~person~~
898 or others. Each facility shall make available ~~as soon as~~
899 ~~reasonably possible to persons receiving services~~ a telephone

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900 that allows for free local calls and access to a long-distance
901 service to the individual as soon as reasonably possible. A
902 facility is not required to pay the costs of the individual's a
903 ~~patient's~~ long-distance calls. The telephone must ~~shall~~ be
904 readily accessible ~~to the patient~~ and ~~shall be~~ placed so that
905 the individual patient may use it to communicate privately and
906 confidentially. The facility may establish reasonable rules for
907 the use of the this telephone which, ~~provided that the rules do~~
908 not interfere with an individual's a patient's access to a
909 telephone to report abuse pursuant to paragraph (e).

910 (b) Each individual patient admitted to a facility under
911 ~~the provisions of~~ this part shall be allowed to receive, send,
912 and mail sealed, unopened correspondence; and the individual's
913 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~
914 be opened, delayed, held, or censored by the facility unless
915 there is reason to believe that it contains items or substances
916 that which may be harmful to the individual patient or others,
917 in which case the administrator may direct reasonable
918 examination of such mail and may regulate the disposition of
919 such items or substances.

920 (c) Each facility shall allow ~~must permit~~ immediate access
921 to an individual held for examination or admitted for mental
922 health or substance abuse treatment any patient, subject to the
923 ~~patient's~~ right to deny or withdraw consent at any time, by the
924 individual, or by the individual's patient's family members,
925 guardian, guardian advocate, health care surrogate or proxy,
926 representative, ~~Florida statewide or local advocacy council,~~ or
927 attorneys attorney, unless such access would be detrimental to
928 the individual patient. If the a patient's right to communicate

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929 or to receive visitors is restricted by the facility, written
930 notice of such restriction and the reasons for the restriction
931 shall be served on the individual and patient, the individual's
932 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian
933 advocate, health care surrogate or proxy, or representative; and
934 such restriction, and the reasons for the restriction, must
935 shall be recorded in on the ~~patient's~~ clinical record ~~with the~~
936 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~
937 ~~communicate or to receive visitors~~ shall be reviewed at least
938 every 7 days. The right to communicate or receive visitors may
939 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~
940 ~~in this~~ paragraph may not shall be construed to limit the
941 provisions of paragraph (d).

942 (d) Each facility shall establish reasonable rules, which
943 must be the least restrictive possible, governing visitors,
944 visiting hours, and the use of telephones by individuals held
945 for examination or admitted for mental health or substance abuse
946 treatment patients in the least restrictive possible manner. An
947 individual has ~~Patients shall have~~ the right to contact and to
948 receive communication from his or her attorney ~~their attorneys~~
949 at any reasonable time.

950 (e) Each individual held for examination or admitted for
951 ~~patient receiving~~ mental health or substance abuse treatment in
952 ~~any facility~~ shall have ready access to a telephone in order to
953 report ~~an~~ alleged abuse. The facility staff shall orally and in
954 writing inform each individual patient of the procedure for
955 reporting abuse and shall make every reasonable effort to
956 present the information in a language the individual patient
957 understands. A written copy of that procedure, including the

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958 telephone number of the central abuse hotline and reporting
959 forms, must ~~shall~~ be posted in plain view.

960 (f) The department shall adopt rules providing a procedure
961 for reporting abuse. ~~Facility staff shall be required,~~ As a
962 condition of employment, facility staff shall ~~to~~ become familiar
963 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

964 (6) CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ A
965 facility shall respect the rights of an individual held for
966 examination or admitted for mental health or substance abuse
967 treatment ~~A patient's right~~ to the possession of his or her
968 clothing and personal effects ~~shall be respected~~. The facility
969 may take temporary custody of such effects if ~~when~~ required for
970 medical and safety reasons. The ~~A patient's~~ clothing and
971 personal effects shall be inventoried upon their removal into
972 temporary custody. Copies of this inventory shall be given to
973 the individual patient and to his or her ~~the patient's~~ guardian,
974 guardian advocate, health care surrogate or proxy, or
975 representative and shall be recorded in the ~~patient's~~ clinical
976 record. This inventory may be amended upon the request of the
977 individual patient or his or her ~~the patient's~~ guardian,
978 guardian advocate, health care surrogate or proxy, or
979 representative. The inventory and any amendments ~~to it~~ must be
980 witnessed by two members of the facility staff and by the
981 individual patient, if he or she is able. All of the ~~a patient's~~
982 clothing and personal effects held by the facility shall be
983 returned to the individual patient immediately upon his or her
984 ~~the~~ discharge or transfer ~~of the patient~~ from the facility,
985 unless such return would be detrimental to the individual
986 ~~patient~~. If personal effects are not returned ~~to the patient~~,

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987 the reason must be documented in the clinical record along with
 988 the disposition of the clothing and personal effects, which may
 989 be given instead to the individual's patient's guardian,
 990 guardian advocate, health care surrogate or proxy, or
 991 representative. As soon as practicable after an emergency
 992 transfer ~~of a patient~~, the individual's ~~patient's~~ clothing and
 993 personal effects shall be transferred to the individual's
 994 ~~patient's~~ new location, together with a copy of the inventory
 995 and any amendments, unless an alternate plan is approved by the
 996 individual ~~patient~~, if he or she is able, and by his or her ~~the~~
 997 ~~patient's~~ guardian, guardian advocate, health care surrogate or
 998 proxy, or representative.

999 (7) VOTING IN PUBLIC ELECTIONS.—A patient who is eligible
 1000 to vote according to the laws of the state has the right to vote
 1001 in the primary and general elections. The department shall
 1002 establish rules to enable patients to obtain voter registration
 1003 forms, applications for absentee ballots, and absentee ballots.

1004 (8) HABEAS CORPUS.—

1005 (a) At any time, and without notice, an individual ~~a person~~
 1006 held or admitted for mental health or substance abuse
 1007 examination or placement in a ~~receiving or treatment~~ facility,
 1008 or a relative, friend, guardian, guardian advocate, health care
 1009 surrogate or proxy, representative, or attorney, or the
 1010 department, on behalf of such individual ~~person~~, may petition
 1011 for a writ of habeas corpus to question the cause and legality
 1012 of such detention and request that the court order a return to
 1013 the writ in accordance with chapter 79. Each individual ~~patient~~
 1014 held in a facility shall receive a written notice of the right
 1015 to petition for a writ of habeas corpus.

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1016 (b) At any time, and without notice, an individual held or
1017 admitted for mental health or substance abuse examination or
1018 placement ~~a person who is a patient~~ in a ~~receiving or treatment~~
1019 facility, or a relative, friend, guardian, guardian advocate,
1020 health care surrogate or proxy, representative, or attorney, or
1021 the department, on behalf of such individual ~~person~~, may file a
1022 petition in the circuit court in the county where the individual
1023 ~~patient~~ is being held alleging that he or she ~~the patient~~ is
1024 being unjustly denied a right or privilege granted under this
1025 part herein or that a procedure authorized under this part
1026 ~~herein~~ is being abused. Upon the filing of such a petition, the
1027 court may ~~shall have the authority to~~ conduct a judicial inquiry
1028 and ~~to~~ issue an ~~any~~ order ~~needed~~ to correct an abuse of ~~the~~
1029 ~~provisions of~~ this part.

1030 (c) The administrator of any ~~receiving or treatment~~
1031 facility receiving a petition under this subsection shall file
1032 the petition with the clerk of the court on the next court
1033 working day.

1034 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a
1035 petition under this subsection.

1036 (9) VIOLATIONS.—The department shall report to the Agency
1037 for Health Care Administration any violation of the rights or
1038 privileges of patients, or of any procedures provided under this
1039 part, by any facility or professional licensed or regulated by
1040 the agency. The agency is authorized to impose any sanction
1041 authorized for violation of this part, based solely on the
1042 investigation and findings of the department.

1043 (10) LIABILITY FOR VIOLATIONS.—Any person who violates or
1044 abuses any rights or privileges of patients provided by this

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1045 part is liable for damages as determined by law. Any person who
 1046 acts in good faith in compliance with the provisions of this
 1047 part is immune from civil or criminal liability for his or her
 1048 actions in connection with the admission, diagnosis, treatment,
 1049 or discharge of a patient to or from a facility. However, this
 1050 section does not relieve any person from liability if such
 1051 person commits negligence.

1052 (11) RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE
 1053 PLANNING.—The patient shall have the opportunity to participate
 1054 in treatment and discharge planning and shall be notified in
 1055 writing of his or her right, upon discharge from the facility,
 1056 to seek treatment from the professional or agency of the
 1057 patient's choice.

1058 (12) ADVANCE DIRECTIVES.—All service providers under this
 1059 part shall provide information concerning advance directives to
 1060 individuals and assist those who are competent and willing to
 1061 complete an advance directive. The directive may include
 1062 instructions regarding mental health or substance abuse care.
 1063 Service providers under this part shall honor the advance
 1064 directive of individuals they serve, or shall request the
 1065 transfer of the individual as required under s. 765.1105.

1066 Section 6. Section 394.4597, Florida Statutes, is amended
 1067 to read:

1068 394.4597 Persons to be notified; appointment of a patient's
 1069 representative.—

1070 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual
 1071 ~~a patient~~ is voluntarily admitted to a receiving or treatment
 1072 facility, the individual shall be asked to identify a person to
 1073 be notified in case of an emergency, and the identity and

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1074 contact information of that a person ~~to be notified in case of~~
1075 ~~an emergency~~ shall be entered in the individual's ~~patient's~~
1076 ~~clinical~~ record.

1077 (2) INVOLUNTARY ADMISSION PATIENTS.—

1078 (a) At the time an individual ~~a patient~~ is admitted to a
1079 facility for involuntary examination or placement, or when a
1080 petition for involuntary placement is filed, the names,
1081 addresses, and telephone numbers of the individual's ~~patient's~~
1082 guardian or guardian advocate, health care surrogate, or proxy,
1083 or representative if he or she ~~the patient~~ has no guardian, and
1084 the individual's ~~patient's~~ attorney shall be entered in the
1085 ~~patient's clinical~~ record.

1086 (b) If the individual ~~patient~~ has no guardian, guardian
1087 advocate, health care surrogate, or proxy, ~~he or she the patient~~
1088 shall be asked to designate a representative. If the individual
1089 ~~patient~~ is unable or unwilling to designate a representative,
1090 the facility shall select a representative.

1091 (c) The individual ~~patient~~ shall be consulted with regard
1092 to the selection of a representative by the receiving or
1093 treatment facility and may ~~shall have authority to~~ request that
1094 the ~~any such~~ representative be replaced.

1095 (d) If ~~When~~ the receiving or treatment facility selects a
1096 representative, first preference shall be given to a health care
1097 surrogate, if one has been previously selected ~~by the patient~~.
1098 If the individual ~~patient~~ has not previously selected a health
1099 care surrogate, the selection, except for good cause documented
1100 in the individual's ~~patient's~~ clinical record, shall be made
1101 from the following list in the order of listing:

1102 1. The individual's ~~patient's~~ spouse.

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- 1103 2. An adult child of the individual patient.
- 1104 3. A parent of the individual patient.
- 1105 4. The adult next of kin of the individual patient.
- 1106 5. An adult friend of the individual patient.
- 1107 ~~6. The appropriate Florida local advocacy council as~~
- 1108 ~~provided in s. 402.166.~~
- 1109 (e) The following persons are prohibited from selection as
- 1110 an individual's representative:
- 1111 1. A professional providing clinical services to the
- 1112 individual under this part;
- 1113 2. The licensed professional who initiated the involuntary
- 1114 examination of the individual, if the examination was initiated
- 1115 by professional certificate;
- 1116 3. An employee, administrator, or board member of the
- 1117 facility providing the examination of the individual;
- 1118 4. An employee, administrator, or board member of a
- 1119 treatment facility providing treatment of the individual;
- 1120 5. A person providing any substantial professional services
- 1121 to the individual, including clinical and nonclinical services;
- 1122 6. A creditor of the individual;
- 1123 7. A person subject to an injunction for protection against
- 1124 domestic violence under s. 741.30, whether the order of
- 1125 injunction is temporary or final, and for which the individual
- 1126 was the petitioner; and
- 1127 8. A person subject to an injunction for protection against
- 1128 repeat violence, sexual violence, or dating violence under s.
- 1129 784.046, whether the order of injunction is temporary or final,
- 1130 and for which the individual was the petitioner.
- 1131 ~~(e) A licensed professional providing services to the~~

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1132 ~~patient under this part, an employee of a facility providing~~
1133 ~~direct services to the patient under this part, a department~~
1134 ~~employee, a person providing other substantial services to the~~
1135 ~~patient in a professional or business capacity, or a creditor of~~
1136 ~~the patient shall not be appointed as the patient's~~
1137 ~~representative.~~

1138 (f) The representative selected by the individual or
1139 designated by the facility has the right to:

- 1140 1. Receive notice of the individual's admission;
- 1141 2. Receive notice of proceedings affecting the individual;
- 1142 3. Have immediate access to the individual unless such
1143 access is documented to be detrimental to the individual;
- 1144 4. Receive notice of any restriction of the individual's
1145 right to communicate or receive visitors;
- 1146 5. Receive a copy of the inventory of personal effects upon
1147 the individual's admission and to request an amendment to the
1148 inventory at any time;
- 1149 6. Receive disposition of the individual's clothing and
1150 personal effects if not returned to the individual, or to
1151 approve an alternate plan;
- 1152 7. Petition on behalf of the individual for a writ of
1153 habeas corpus to question the cause and legality of the
1154 individual's detention or to allege that the individual is being
1155 unjustly denied a right or privilege granted under this part, or
1156 that a procedure authorized under this part is being abused;
- 1157 8. Apply for a change of venue for the individual's
1158 involuntary placement hearing for the convenience of the parties
1159 or witnesses or because of the individual's condition;
- 1160 9. Receive written notice of any restriction of the

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1161 individual's right to inspect his or her clinical record;

1162 10. Receive notice of the release of the individual from a
1163 receiving facility where an involuntary examination was
1164 performed;

1165 11. Receive a copy of any petition for the individual's
1166 involuntary placement filed with the court; and

1167 12. Be informed by the court of the individual's right to
1168 an independent expert evaluation pursuant to involuntary
1169 placement procedures.

1170 Section 7. Section 394.4598, Florida Statutes, is amended
1171 to read:

1172 394.4598 Guardian advocate.—

1173 (1) The administrator may petition the court for the
1174 appointment of a guardian advocate based upon the opinion of a
1175 psychiatrist that an individual held for examination or admitted
1176 for mental health or substance abuse treatment ~~the patient~~ is
1177 incompetent to consent to treatment. If the court finds that the
1178 individual ~~a patient~~ is incompetent to consent to treatment and
1179 has not been adjudicated incapacitated and a guardian having
1180 with the authority to consent to mental health or substance
1181 abuse treatment has not been appointed, it shall appoint a
1182 guardian advocate. The individual ~~patient~~ has the right to have
1183 an attorney represent him or her at the hearing. If the
1184 individual ~~person~~ is indigent, the court shall appoint the
1185 office of the public defender to represent him or her at the
1186 hearing. The individual ~~patient~~ has the right to testify, cross-
1187 examine witnesses, and present witnesses. The proceeding must
1188 ~~shall~~ be recorded ~~either~~ electronically or stenographically, and
1189 testimony shall be ~~provided~~ under oath. One of the professionals

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1190 authorized to give an opinion in support of a petition for
1191 involuntary placement, as described in s. 394.4655 or s.
1192 394.467, shall ~~must~~ testify. The A guardian advocate shall ~~must~~
1193 meet the qualifications of a guardian pursuant to ~~contained in~~
1194 part IV of chapter 744, ~~except that a professional referred to~~
1195 ~~in this part, an employee of the facility providing direct~~
1196 ~~services to the patient under this part, a departmental~~
1197 ~~employee, a facility administrator, or member of the Florida~~
1198 ~~local advocacy council shall not be appointed. A person who is~~
1199 ~~appointed as a guardian advocate must agree to the appointment.~~
1200 A person may not be appointed as a guardian advocate unless he
1201 or she agrees to the appointment.

1202 (2) The following persons are prohibited from being
1203 appointed as an individual's guardian advocate:

1204 (a) A professional providing clinical services to the
1205 individual under this part;

1206 (b) The licensed professional who initiated the involuntary
1207 examination of the individual, if the examination was initiated
1208 by professional certificate;

1209 (c) An employee, administrator, or board member of the
1210 facility providing the examination of the individual;

1211 (d) An employee, administrator, or board member of a
1212 treatment facility providing treatment of the individual;

1213 (e) A person providing any substantial professional
1214 services to the individual, including clinical and nonclinical
1215 services;

1216 (f) A creditor of the individual;

1217 (g) A person subject to an injunction for protection
1218 against domestic violence under s. 741.30, whether the order of

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1219 injunction is temporary or final, and for which the individual
1220 was the petitioner; and

1221 (h) A person subject to an injunction for protection
1222 against repeat violence, sexual violence, or dating violence
1223 under s. 784.046, whether the order of injunction is temporary
1224 or final, and for which the individual was the petitioner.

1225 (3)(2) A facility requesting appointment of a guardian
1226 advocate must, prior to the appointment, provide the prospective
1227 guardian advocate with information about the duties and
1228 responsibilities of guardian advocates, including the
1229 information about the ethics of medical decisionmaking. Before
1230 asking a guardian advocate to give consent to treatment for an
1231 individual held for examination or admitted for mental health or
1232 substance abuse treatment a patient, the facility shall provide
1233 to the guardian advocate sufficient information to allow so that
1234 the guardian advocate to can decide whether to give express and
1235 informed consent to the treatment, including information that
1236 the treatment is essential to the care of the individual
1237 patient, and that the treatment does not present an unreasonable
1238 risk of serious, hazardous, or irreversible side effects. Before
1239 giving consent to treatment, the guardian advocate must meet and
1240 talk with the individual patient and the individual's patient's
1241 physician face to face in person, if at all possible, and by
1242 telephone, if not. The guardian advocate shall make every effort
1243 to make decisions regarding treatment that he or she believes
1244 the individual would have made under the circumstances if the
1245 individual were capable of making such a decision. The decision
1246 of the guardian advocate may be reviewed by the court, upon
1247 petition of the individual's patient's attorney, the

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1248 individual's ~~patient's~~ family, or the facility administrator.

1249 ~~(4)(3) Prior to~~ A guardian advocate must attend at least a
1250 4-hour training course approved by the court before exercising
1251 his or her authority, ~~the guardian advocate shall attend a~~
1252 ~~training course approved by the court.~~ This training course, ~~of~~
1253 ~~not less than 4 hours,~~ must include, at minimum, information
1254 about an the individual's ~~patient~~ rights, psychotropic
1255 medications, diagnosis of mental illness or substance abuse
1256 impairment, the ethics of medical decisionmaking, and the duties
1257 of guardian advocates. This training course shall take the place
1258 of the training required for guardians appointed pursuant to
1259 chapter 744.

1260 ~~(5)(4)~~ The information to be supplied to prospective
1261 guardian advocates before ~~prior to~~ their appointment and the
1262 training course for guardian advocates must be developed and
1263 completed through a course developed by the department and
1264 approved by the chief judge of the circuit court and taught by a
1265 court-approved organization. Court-approved organizations may
1266 include, but need ~~are~~ not be limited to, community ~~or junior~~
1267 colleges, guardianship organizations, and the local bar
1268 association or The Florida Bar. The court may, ~~in its~~
1269 ~~discretion,~~ waive some or all of the training requirements for
1270 guardian advocates or impose additional requirements. The court
1271 shall make its decision on a case-by-case basis and, in making
1272 its decision, shall consider the experience and education of the
1273 guardian advocate, the duties assigned to the guardian advocate,
1274 and the needs of the individual subject to involuntary
1275 examination or placement ~~patient~~.

1276 ~~(6)(5)~~ In selecting a guardian advocate, the court shall

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1277 give preference to a health care surrogate, if one has already
1278 been designated by the individual held for examination or
1279 admitted for mental health or substance abuse treatment ~~patient~~.

1280 If the individual ~~patient~~ has not previously selected a health
1281 care surrogate, except for good cause documented in the court
1282 record, the selection shall be made from the following list in
1283 the order of listing:

- 1284 (a) The individual's ~~patient's~~ spouse.
1285 (b) An adult child of the individual ~~patient~~.
1286 (c) A parent of the individual ~~patient~~.
1287 (d) The adult next of kin of the individual ~~patient~~.
1288 (e) An adult friend of the individual ~~patient~~.
1289 (f) An adult trained and willing to serve as guardian
1290 advocate for the individual ~~patient~~.

1291 (7)~~(6)~~ If a guardian with the authority to consent to
1292 medical treatment has not already been appointed or if the
1293 individual held for examination or admitted for mental health or
1294 substance abuse treatment ~~patient~~ has not already designated a
1295 health care surrogate, the court may authorize the guardian
1296 advocate to consent to medical treatment, as well as mental
1297 health and substance abuse treatment. Unless otherwise limited
1298 by the court, a guardian advocate with authority to consent to
1299 medical treatment shall have the same authority to make health
1300 care decisions and be subject to the same restrictions as a
1301 proxy appointed under part IV of chapter 765. Unless the
1302 guardian advocate has sought and received express court approval
1303 in proceeding separate from the proceeding to determine the
1304 competence of the patient to consent to medical treatment, the
1305 guardian advocate may not consent to:

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- 1306 (a) Abortion.
1307 (b) Sterilization.
1308 (c) Electroconvulsive treatment.
1309 (d) Psychosurgery.
1310 (e) Experimental treatments that have not been approved by
1311 a federally approved institutional review board in accordance
1312 with 45 C.F.R. part 46 or 21 C.F.R. part 56.
1313

1314 In making a medical treatment decision under this subsection,
1315 the court shall ~~must~~ base its decision on evidence that the
1316 treatment or procedure is essential to the care of the
1317 individual patient and that the treatment does not present an
1318 unreasonable risk of serious, hazardous, or irreversible side
1319 effects. The court shall follow the procedures set forth in
1320 subsection (1) of this section.

1321 ~~(8)(7)~~ The guardian advocate shall be discharged when the
1322 individual for whom he or she is appointed patient is discharged
1323 from an order for involuntary outpatient ~~placement~~ or
1324 involuntary inpatient placement or when the individual patient
1325 is transferred from involuntary to voluntary status. The court
1326 ~~or a hearing officer~~ shall consider the competence of the
1327 individual patient pursuant to subsection (1) and may consider
1328 an involuntarily placed individual's patient's competence to
1329 consent to treatment at any hearing. Upon sufficient evidence,
1330 the court may restore, or the magistrate or administrative law
1331 judge hearing officer may recommend that the court restore, the
1332 individual's patient's competence. A copy of the order restoring
1333 competence or the certificate of discharge containing the
1334 restoration of competence shall be provided to the individual

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1335 ~~patient~~ and the guardian advocate.

1336 Section 8. Section 394.4599, Florida Statutes, is amended
1337 to read:

1338 394.4599 Notice.—

1339 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's
1340 a voluntary ~~patient's~~ admission shall ~~only~~ be given only at the
1341 request of the individual patient, except that, in an emergency,
1342 notice shall be given as determined by the facility.

1343 (2) INVOLUNTARY ADMISSION PATIENTS.—

1344 (a) Whenever notice is required to be given under this
1345 part, such notice shall be given to the individual patient and
1346 the individual's patient's guardian, guardian advocate, health
1347 care surrogate or proxy, attorney, and representative.

1348 1. When notice is required to be given to an individual a
1349 ~~patient~~, it shall be given both orally and in writing, in the
1350 language and terminology that the individual patient can
1351 understand, and, if needed, the facility shall provide an
1352 interpreter for the individual patient.

1353 2. Notice to an individual's a patient's guardian, guardian
1354 advocate, health care surrogate or proxy, attorney, and
1355 representative shall be given by ~~United States mail and by~~
1356 ~~registered or certified~~ mail with the receipts attached to the
1357 ~~patient's~~ clinical record. Hand delivery by a facility employee
1358 may be used as an alternative, with delivery documented in the
1359 clinical record. If notice is given by a state attorney or an
1360 attorney for the department, a certificate of service is ~~shall~~
1361 ~~be~~ sufficient to document service.

1362 (b) A receiving facility shall give prompt notice of the
1363 whereabouts of an individual a patient who is being

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1364 involuntarily held for examination to the individual's guardian,
1365 guardian advocate, health care surrogate or proxy, attorney or
1366 representative, by telephone or in person within 24 hours after
1367 the individual's ~~patient's~~ arrival at the facility, ~~unless the~~
1368 ~~patient requests that no notification be made.~~ Contact attempts
1369 shall be documented in the individual's ~~patient's~~ clinical
1370 record and shall begin as soon as reasonably possible after the
1371 individual's ~~patient's~~ arrival. ~~Notice that a patient is being~~
1372 ~~admitted as an involuntary patient shall be given to the Florida~~
1373 ~~local advocacy council no later than the next working day after~~
1374 ~~the patient is admitted.~~

1375 (c) The written notice of the filing of the petition for
1376 involuntary placement of an individual being held must contain
1377 the following:

1378 1. Notice that the petition has been filed with the circuit
1379 court in the county in which the individual ~~patient~~ is
1380 hospitalized and the address of such court.

1381 2. Notice that the office of the public defender has been
1382 appointed to represent the individual ~~patient~~ in the proceeding,
1383 if the individual ~~patient~~ is not otherwise represented by
1384 counsel.

1385 3. The date, time, and place of the hearing and the name of
1386 each examining expert and every other person expected to testify
1387 in support of continued detention.

1388 4. Notice that the individual ~~patient~~, the individual's
1389 patient's guardian, guardian advocate, health care surrogate or
1390 proxy, or representative, or the administrator may apply for a
1391 change of venue for the convenience of the parties or witnesses
1392 or because of the condition of the individual ~~patient~~.

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1393 5. Notice that the individual ~~patient~~ is entitled to an
1394 independent expert examination and, if the individual ~~patient~~
1395 cannot afford such an examination, that the court will provide
1396 for one.

1397 (d) A treatment facility shall provide notice of an
1398 individual's ~~a patient's~~ involuntary admission on the next
1399 regular working day after the individual's ~~patient's~~ arrival at
1400 the facility.

1401 (e) When an individual ~~a patient~~ is to be transferred from
1402 one facility to another, notice shall be given by the facility
1403 where the individual ~~patient~~ is located before ~~prior to~~ the
1404 transfer.

1405 Section 9. Subsections (1), (2), (3), and (10) of section
1406 394.4615, Florida Statutes, are amended to read:

1407 394.4615 Clinical records; confidentiality.-

1408 (1) A clinical record shall be maintained for each
1409 individual held for examination or admitted for treatment under
1410 this part ~~patient~~. The record shall include data pertaining to
1411 admission and such other information as may be required under
1412 rules of the department. A clinical record is confidential and
1413 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by
1414 express and informed consent of the individual, by the patient
1415 or his or her ~~the patient's~~ guardian, ~~or~~ guardian advocate,
1416 health care surrogate or proxy, or, if the individual patient is
1417 deceased, by his or her guardian, guardian advocate, health care
1418 surrogate or proxy, by his or her ~~the patient's~~ personal
1419 representative or the family member who stands next in line of
1420 intestate succession, the confidential status of the clinical
1421 record shall not be lost by either authorized or unauthorized

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1422 disclosure to any person, organization, or agency.

1423 (2) The clinical record of an individual held for
1424 examination or admitted for treatment under this part shall be
1425 released if when:

1426 (a) The individual patient or the individual's patient's
1427 guardian, guardian advocate, health care surrogate or proxy, or
1428 representative authorizes the release. The guardian, ~~or~~ guardian
1429 advocate, health care surrogate or proxy shall be provided
1430 access to the appropriate clinical records ~~of the patient~~. The
1431 individual patient or the patient's guardian, or guardian
1432 advocate, health care surrogate or proxy may authorize the
1433 release of information and clinical records to appropriate
1434 persons to ensure the continuity of the individual's patient's
1435 health care or mental health or substance abuse care.

1436 (b) The individual patient is represented by counsel and
1437 the records are needed by the individual's patient's counsel for
1438 adequate representation.

1439 (c) A petition for involuntary placement is filed and the
1440 records are needed by the state attorney to evaluate and confirm
1441 the allegations set forth in the petition or to prosecute the
1442 petition. However, the state attorney may not use clinical
1443 records obtained under this part for the purpose of criminal
1444 investigation or prosecution, or for any other purpose not
1445 authorized by this part.

1446 (d) ~~(e)~~ The court orders such release. In determining
1447 whether there is good cause for disclosure, the court shall
1448 weigh the need for the information to be disclosed against the
1449 possible harm of disclosure to the individual person to whom
1450 such information pertains.

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1451 (e)~~(d)~~ The individual patient is committed to, or is to be
1452 returned to, the Department of Corrections ~~from the Department~~
1453 ~~of Children and Families,~~ and the Department of Corrections
1454 requests such records. These records shall be furnished without
1455 charge to the Department of Corrections.

1456 (3) Information from the clinical record may be released in
1457 the following circumstances:

1458 (a) When a patient has declared an intention to harm other
1459 persons. When such declaration has been made, the administrator
1460 may authorize the release of sufficient information to provide
1461 adequate warning to the person threatened with harm by the
1462 patient.

1463 (b) When the administrator of the facility or secretary of
1464 the department deems release to a qualified researcher as
1465 defined in administrative rule, an aftercare treatment provider,
1466 or an employee or agent of the department is necessary for
1467 treatment of the patient, maintenance of adequate records,
1468 compilation of treatment data, aftercare planning, or evaluation
1469 of programs.

1470
1471 For the purpose of determining whether a person meets the
1472 criteria for involuntary outpatient placement or for preparing
1473 the proposed treatment plan pursuant to s. 394.4655, the
1474 clinical record may be released to the state attorney, the
1475 public defender or the patient's private legal counsel, the
1476 court, and to the appropriate mental health professionals,
1477 including the service provider identified in s. 394.4655(7)(b)
1478 ~~s. 394.4655(6)(b)2.~~, in accordance with state and federal law.

1479 (10) An individual held for examination or admitted for

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1480 treatment ~~Patients~~ shall have reasonable access to his or her
1481 ~~their~~ clinical records, unless such access is determined by the
1482 individual's ~~patient's~~ physician to be harmful to the individual
1483 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or
1484 her clinical record is restricted by the facility, written
1485 notice of such restriction shall be given to the individual
1486 ~~patient~~ and the individual's ~~patient's~~ guardian, guardian
1487 advocate, health care surrogate or proxy, or attorney, and
1488 representative. In addition, the restriction shall be recorded
1489 in the clinical record, together with the reasons for it. The
1490 restriction of an individual's ~~a patient's~~ right to inspect his
1491 or her clinical record shall expire after 7 days but may be
1492 renewed, after review, for subsequent 7-day periods.

1493 Section 10. Paragraphs (a) through (m) of subsection (1) of
1494 section 394.462, Florida Statutes, are amended, and paragraph
1495 (n) is added to that subsection, to read:

1496 394.462 Transportation.—

1497 (1) TRANSPORTATION TO A RECEIVING OR DETOXIFICATION
1498 FACILITY.—

1499 (a) Each county shall designate a single law enforcement
1500 agency within the county, or portions thereof, to take an
1501 individual ~~a person~~ into custody upon the entry of an ex parte
1502 order or the execution of a certificate for involuntary
1503 examination by an authorized professional and to transport that
1504 individual ~~person~~ to the nearest receiving facility for
1505 examination. The designated law enforcement agency may decline
1506 to transport the individual ~~person~~ to a receiving or
1507 detoxification facility only if:

1508 1. The county or jurisdiction designated by the county has

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1509 contracted ~~on an annual basis~~ with an emergency medical
1510 transport service or private transport company for
1511 transportation of individuals ~~persons~~ to receiving facilities
1512 ~~pursuant to this section at the sole cost of the county;~~ and

1513 2. The law enforcement agency and the emergency medical
1514 transport service or private transport company agree that the
1515 continued presence of law enforcement personnel is not necessary
1516 for the safety of the individuals being transported ~~person~~ or
1517 others.

1518 3. The jurisdiction designated by the county may seek
1519 reimbursement for transportation expenses. The party responsible
1520 for payment for such transportation is the person receiving the
1521 transportation. The county shall seek reimbursement from the
1522 following sources in the following order:

1523 a. From an insurance company, health care corporation, or
1524 other source, if the individual being transported ~~person~~
1525 ~~receiving the transportation~~ is covered by an insurance policy
1526 or subscribes to a health care corporation or other source for
1527 payment of such expenses.

1528 b. From the individual being transported ~~person receiving~~
1529 ~~the transportation~~.

1530 c. From a financial settlement for medical care, treatment,
1531 hospitalization, or transportation payable or accruing to the
1532 injured party.

1533 (b) Any company that transports a patient pursuant to this
1534 subsection is considered an independent contractor and is solely
1535 liable for the safe and dignified transportation of the patient.
1536 Such company must be insured and provide no less than \$100,000
1537 in liability insurance with respect to the transportation of

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1538 patients.

1539 (c) Any company that contracts with a governing board of a
1540 county to transport patients shall comply with the applicable
1541 rules of the department to ensure the safety and dignity of the
1542 patients.

1543 (d) When a law enforcement officer takes custody of a
1544 person pursuant to this part, the officer may request assistance
1545 from emergency medical personnel if such assistance is needed
1546 for the safety of the officer or the person in custody.

1547 (e) When a member of a mental health overlay program or a
1548 mobile crisis response service is a professional authorized to
1549 initiate an involuntary examination pursuant to s. 394.463 and
1550 that professional evaluates a person and determines that
1551 transportation to a receiving facility is needed, the service,
1552 at its discretion, may transport the person to the facility or
1553 may call on the law enforcement agency or other transportation
1554 arrangement best suited to the needs of the patient.

1555 (f) When a ~~any~~ law enforcement officer has custody of a
1556 person, based on ~~either noncriminal or minor criminal~~ behavior,
1557 a misdemeanor, or a felony other than a forcible felony as
1558 defined in s. 776.08, who ~~that~~ meets the statutory guidelines
1559 for involuntary examination under this part, the law enforcement
1560 officer shall transport the individual ~~person~~ to the nearest
1561 receiving facility for examination.

1562 (g) When any law enforcement officer has arrested a person
1563 for a forcible felony as defined in s. 776.08 and it appears
1564 that the person meets the criteria ~~statutory guidelines~~ for
1565 involuntary examination ~~or placement~~ under this part, such
1566 person shall first be processed in the same manner as any other

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1567 criminal suspect. The law enforcement agency shall thereafter
1568 immediately notify the nearest public receiving facility, which
1569 shall be responsible for promptly arranging for the examination
1570 and treatment of the person. A receiving facility may not ~~is not~~
1571 ~~required to~~ admit a person charged with a forcible felony as
1572 defined in s. 776.08 ~~crime~~ for whom the facility determines and
1573 documents that it is unable to provide adequate security, but
1574 shall provide ~~mental health~~ examination and treatment to the
1575 person at the location where he or she is held.

1576 (h) If the appropriate law enforcement officer believes
1577 that a person has an emergency medical condition as defined in
1578 s. 395.002, the person may be first transported to a hospital
1579 for emergency medical treatment, regardless of whether the
1580 hospital is a designated receiving facility.

1581 (i) The costs of transportation, evaluation,
1582 hospitalization, and treatment incurred under this subsection by
1583 persons who have been arrested for violations of any state law
1584 or county or municipal ordinance may be recovered as provided in
1585 s. 901.35.

1586 (j) The nearest receiving facility must accept persons
1587 brought by law enforcement officers for involuntary examination.

1588 (k) Each law enforcement agency shall develop a memorandum
1589 of understanding with each receiving facility within the law
1590 enforcement agency's jurisdiction which reflects a single set of
1591 protocols for the safe and secure transportation of the person
1592 and transfer of custody of the person. These protocols must also
1593 address crisis intervention measures.

1594 (l) When a jurisdiction has entered into a contract with an
1595 emergency medical transport service or a private transport

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1596 company for transportation of persons to receiving facilities,
 1597 such service or company shall be given preference for
 1598 transportation of persons from nursing homes, assisted living
 1599 facilities, adult day care centers, or adult family-care homes,
 1600 unless the behavior of the person being transported is such that
 1601 transportation by a law enforcement officer is necessary.

1602 (m) Nothing in this section shall be construed to limit
 1603 emergency examination and treatment of incapacitated persons
 1604 provided in accordance with the provisions of s. 401.445.

1605 (n) Upon the request of an individual who appears to meet
 1606 criteria for voluntary admission under s. 394.4625(1) (a), a law
 1607 enforcement officer may transport him or her to a mental health
 1608 receiving facility, addictions receiving facility, or
 1609 detoxification facility.

1610 Section 11. Subsections (1), (4), and (5) of section
 1611 394.4625, Florida Statutes, are amended and paragraph (c) of
 1612 subsection (2) of that section is added, to read:

1613 394.4625 Voluntary admissions.—

1614 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
 1615 PATIENTS.—

1616 (a) In order to be admitted to a facility on a voluntary
 1617 status A facility may receive for observation, diagnosis, or
 1618 treatment: any person 18 years of age or older making
 1619 application by express and informed consent for admission or any
 1620 person age 17 or under for whom such application is made by his
 1621 or her guardian. If found to

1622 1. An individual must show evidence of mental illness or
 1623 substance abuse impairment; and, to be competent to provide
 1624 express and informed consent, and to be suitable for treatment,

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1625 ~~such person 18 years of age or older may be admitted to the~~
1626 ~~facility. A person age 17 or under may be admitted only after a~~
1627 ~~hearing to verify the voluntariness of the consent.~~

1628 2. An individual must be suitable for treatment by the
1629 facility.

1630 3. An adult must provide, and be competent to provide,
1631 express and informed consent.

1632 4. A minor may only be admitted on the basis of the express
1633 and informed consent of the minor's guardian in conjunction with
1634 the consent of the minor, except that a minor may be admitted to
1635 an addictions receiving facility or detoxification facility by
1636 his or her own consent without consent of the minor's guardian,
1637 if a physician documents in the clinical record that the minor
1638 has a substance abuse impairment. If the minor is admitted by
1639 his or her own consent and without consent of the minor's
1640 guardian, the facility must request the minor's permission to
1641 notify an adult family member or friend of the minor's voluntary
1642 admission into the facility.

1643 a. The consent of the minor is an affirmative agreement by
1644 the minor to remain at the facility for examination or
1645 treatment, and failure to object does not constitute consent.

1646 b. The minor's consent must be verified through a clinical
1647 assessment that is documented in the clinical record and
1648 conducted within 12 hours after arrival at the facility by a
1649 licensed professional authorized to initiate an involuntary
1650 examination pursuant to s. 394.463.

1651 c. In verifying the minor's consent, and using language
1652 that is appropriate to the minor's age, experience, maturity,
1653 and condition, the examining professional must provide the minor

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1654 with an explanation as to why the minor will be examined and
1655 treated, what the minor can expect while in the facility, and
1656 when the minor may expect to be released. The examining
1657 professional must determine and document that the minor is able
1658 to understand the information.

1659 d. Unless the minor's consent is verified pursuant to this
1660 section, a petition for involuntary inpatient placement shall be
1661 filed with the court within 1 court working day after his or her
1662 arrival or the minor must be released to his or her guardian.

1663 (b) A mental health overlay program or a mobile crisis
1664 response service or a licensed professional who is authorized to
1665 initiate an involuntary examination pursuant to s. 394.463 and
1666 is employed by a community mental health center or clinic must,
1667 pursuant to district procedure approved by the respective
1668 district administrator, conduct an initial assessment of the
1669 ability of the following persons to give express and informed
1670 consent to treatment before such persons may be admitted
1671 voluntarily:

1672 1. A person 60 years of age or older for whom transfer is
1673 being sought from a nursing home, assisted living facility,
1674 adult day care center, or adult family-care home, when such
1675 person has been diagnosed as suffering from dementia.

1676 2. A person 60 years of age or older for whom transfer is
1677 being sought from a nursing home pursuant to s. 400.0255(12).

1678 3. A person for whom all decisions concerning medical
1679 treatment are currently being lawfully made by the health care
1680 surrogate or proxy designated under chapter 765.

1681 (c) When an initial assessment of the ability of a person
1682 to give express and informed consent to treatment is required

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1683 under this section, and a mobile crisis response service does
1684 not respond to the request for an assessment within 2 hours
1685 after the request is made or informs the requesting facility
1686 that it will not be able to respond within 2 hours after the
1687 request is made, the requesting facility may arrange for
1688 assessment by any licensed professional authorized to initiate
1689 an involuntary examination pursuant to s. 394.463 who is not
1690 employed by or under contract with, and does not have a
1691 financial interest in, either the facility initiating the
1692 transfer or the receiving facility to which the transfer may be
1693 made.

1694 (d) A facility may not admit as a voluntary patient a
1695 person who has been adjudicated incapacitated, unless the
1696 condition of incapacity has been judicially removed. If a
1697 facility admits as a voluntary patient a person who is later
1698 determined to have been adjudicated incapacitated, and the
1699 condition of incapacity had not been removed by the time of the
1700 admission, the facility must either discharge the patient or
1701 transfer the patient to involuntary status.

1702 (e) The health care surrogate or proxy of an individual on
1703 a voluntary status ~~patient~~ may not consent to the provision of
1704 mental health treatment or substance abuse treatment for that
1705 individual ~~the patient~~. An individual on voluntary status ~~A~~
1706 ~~voluntary patient~~ who is unwilling or unable to provide express
1707 and informed consent to mental health treatment must ~~either~~ be
1708 discharged or transferred to involuntary status.

1709 (f) Within 24 hours after admission of a voluntary patient,
1710 the admitting physician shall document in the patient's clinical
1711 record that the patient is able to give express and informed

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1712 consent for admission. If the patient is not able to give
1713 express and informed consent for admission, the facility shall
1714 either discharge the patient or transfer the patient to
1715 involuntary status pursuant to subsection (5).

1716 (2) RELEASE OR DISCHARGE OF VOLUNTARY PATIENTS.-

1717 (a) A facility shall discharge a voluntary patient:

1718 1. Who has sufficiently improved so that retention in the
1719 facility is no longer desirable. A patient may also be
1720 discharged to the care of a community facility.

1721 2. Who revokes consent to admission or requests discharge.
1722 A voluntary patient or a relative, friend, or attorney of the
1723 patient may request discharge either orally or in writing at any
1724 time following admission to the facility. The patient must be
1725 discharged within 24 hours of the request, unless the request is
1726 rescinded or the patient is transferred to involuntary status
1727 pursuant to this section. The 24-hour time period may be
1728 extended by a treatment facility when necessary for adequate
1729 discharge planning, but shall not exceed 3 days exclusive of
1730 weekends and holidays. If the patient, or another on the
1731 patient's behalf, makes an oral request for discharge to a staff
1732 member, such request shall be immediately entered in the
1733 patient's clinical record. If the request for discharge is made
1734 by a person other than the patient, the discharge may be
1735 conditioned upon the express and informed consent of the
1736 patient.

1737 (b) A voluntary patient who has been admitted to a facility
1738 and who refuses to consent to or revokes consent to treatment
1739 shall be discharged within 24 hours after such refusal or
1740 revocation, unless transferred to involuntary status pursuant to

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1741 this section or unless the refusal or revocation is freely and
1742 voluntarily rescinded by the patient.

1743 (c) An individual on voluntary status who is currently
1744 charged with a crime shall be returned to the custody of a law
1745 enforcement officer upon release or discharge from a facility,
1746 unless the individual has been released from law enforcement
1747 custody by posting of a bond, by a pretrial conditional release,
1748 or by other judicial release.

1749 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on
1750 involuntary status ~~patient~~ who has been assessed and certified
1751 by a physician or psychologist as competent to provide express
1752 and informed consent and who applies to be transferred to
1753 voluntary status shall be transferred to voluntary status
1754 immediately, ~~unless the individual patient has been charged with~~
1755 ~~a crime, or~~ has been involuntarily placed for treatment by a
1756 court pursuant to s. 394.467 and continues to meet the criteria
1757 for involuntary placement. When transfer to voluntary status
1758 occurs, notice shall be given as provided in s. 394.4599.

1759 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on
1760 ~~When a~~ voluntary status ~~patient,~~ or an authorized person on the
1761 individual's ~~patient's~~ behalf, makes a request for discharge,
1762 the request for discharge, unless freely and voluntarily
1763 rescinded, must be communicated to a physician, ~~clinical~~
1764 psychologist, or psychiatrist as quickly as possible within, but
1765 ~~not later than~~ 12 hours after the request is made. If the
1766 individual ~~patient~~ meets the criteria for involuntary placement,
1767 the individual must be transferred to a designated receiving
1768 facility and the administrator of the receiving facility where
1769 the individual is held must file with the court a petition for

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1770 involuntary placement, within 2 court working days after the
1771 request ~~for discharge~~ is made. If the petition is not filed
1772 within 2 court working days, the individual must ~~patient shall~~
1773 be discharged. Pending the filing of the petition, the
1774 individual patient may be held and emergency mental health
1775 treatment rendered in the least restrictive manner, upon the
1776 written order of a physician, if it is determined that such
1777 treatment is necessary for the safety of the individual patient
1778 or others.

1779 Section 12. Section 394.463, Florida Statutes, is amended
1780 to read:

1781 394.463 Involuntary examination.—

1782 (1) CRITERIA.—A person may be subject to an ~~taken to a~~
1783 ~~receiving facility for~~ involuntary examination if there is
1784 reason to believe that he or she ~~the person~~ has a mental illness
1785 or substance abuse impairment and because of this ~~his or her~~
1786 mental illness or substance abuse impairment:

1787 (a)1. The person has refused voluntary examination after
1788 conscientious explanation and disclosure of the purpose of the
1789 examination; or

1790 2. The person is unable to determine for himself or herself
1791 whether examination is necessary; and

1792 (b)1. Without care or treatment, the person is likely to
1793 suffer from neglect or refuse to care for himself or herself;
1794 such neglect or refusal poses a real and present threat of
1795 substantial harm to his or her well-being; and it is not
1796 apparent that such harm may be avoided through the help of
1797 willing family members or friends or the provision of other
1798 services; or

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1799 2. There is a substantial likelihood that without care or
1800 treatment the person will cause serious bodily harm to himself
1801 or herself or others in the near future, as evidenced by recent
1802 behavior.

1803 (2) INVOLUNTARY EXAMINATION.—

1804 (a) An involuntary examination may be initiated by any one
1805 of the following means:

1806 1. A court may enter an ex parte order stating that an
1807 individual ~~a person~~ appears to meet the criteria for involuntary
1808 examination, giving the findings on which that conclusion is
1809 based. The ex parte order for involuntary examination must be
1810 based on sworn testimony, written or oral, which includes
1811 specific facts that support the finding that the criteria have
1812 been met. Any behavior relied on for the issuance of an ex parte
1813 order must have occurred within the preceding 7 calendar days.
1814 The order must specify whether the individual must be taken to a
1815 mental health facility, detoxification facility, or addictions
1816 receiving facility. If other less restrictive means are not
1817 available, such as voluntary appearance for outpatient
1818 evaluation, A law enforcement officer, or other designated agent
1819 of the court, shall take the individual person into custody and
1820 deliver him or her to the nearest receiving facility of the type
1821 specified in the order for involuntary examination. However, if
1822 the county in which the individual is taken into custody has a
1823 transportation exception plan specifying a central receiving
1824 facility, the law enforcement officer shall transport the
1825 individual to the central receiving facility pursuant to the
1826 plan. The order of the court order must shall be made a part of
1827 the patient's clinical record. A No fee may not shall be charged

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1828 for the filing of an order under this subsection. Any ~~receiving~~
1829 facility accepting the individual patient based on the court's
1830 ~~this~~ order must send a copy of the order to the Agency for
1831 Health Care Administration on the next working day. The order is
1832 ~~shall be~~ valid only until executed or, if not executed, for the
1833 period specified in the order itself. If no time limit is
1834 specified in the order, the order is ~~shall be~~ valid for 7 days
1835 after the date it ~~that the order~~ was signed.

1836 2. A law enforcement officer shall take a person who
1837 appears to meet the criteria for involuntary examination into
1838 custody and deliver ~~the person or have~~ him or her ~~delivered~~ to
1839 the nearest mental health receiving facility, addictions
1840 receiving facility, or detoxification facility, whichever the
1841 officer determines is most appropriate for examination. However,
1842 if the county in which the individual taken into custody has a
1843 transportation exception plan specifying a central receiving
1844 facility, the law enforcement officer shall transport the
1845 individual to the central receiving facility pursuant to the
1846 plan. The officer shall complete ~~execute~~ a written report
1847 detailing the circumstances under which the individual person
1848 was taken into custody., ~~and~~ The report shall be made a part of
1849 the patient's clinical record. Any receiving facility or
1850 detoxification facility accepting the individual patient based
1851 on the ~~this~~ report must send a copy of the report to the Agency
1852 for Health Care Administration on the next working day.

1853 3. A physician, physician assistant, clinical psychologist,
1854 advanced registered nurse practitioner certified pursuant to s.
1855 464.012, psychiatric nurse, mental health counselor, marriage
1856 and family therapist, or clinical social worker may execute a

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1857 certificate stating that he or she has examined the individual a
1858 ~~person~~ within the preceding 48 hours and finds that the
1859 individual ~~person~~ appears to meet the criteria for involuntary
1860 examination and stating the observations upon which that
1861 conclusion is based. The certificate must specify whether the
1862 individual is to be taken to a mental health receiving facility,
1863 an addictions receiving facility, or a detoxification facility,
1864 and must include specific facts supporting the conclusion that
1865 the individual would benefit from services provided by the type
1866 of facility specified. ~~If other less restrictive means are not~~
1867 available, such as voluntary appearance for outpatient
1868 evaluation. A law enforcement officer shall take the individual
1869 ~~person~~ named in the certificate into custody and deliver him or
1870 her to the nearest ~~receiving~~ facility of the type specified in
1871 the certificate for involuntary examination. However, if the
1872 county in which the individual is taken into custody has a
1873 transportation exception plan specifying a central receiving
1874 facility, the law enforcement officer shall transport the
1875 individual to the central receiving facility pursuant to the
1876 plan. A law enforcement officer may only take an individual into
1877 custody on the basis of a certificate within 7 calendar days
1878 after execution of the certificate. The law enforcement officer
1879 shall complete ~~execute~~ a written report detailing the
1880 circumstances under which the individual ~~person~~ was taken into
1881 custody. The report and certificate shall be made a part of the
1882 ~~patient's~~ clinical record. Any ~~receiving~~ facility accepting the
1883 individual ~~patient~~ based on the ~~this~~ certificate must send a
1884 copy of the certificate to the Agency for Health Care
1885 Administration on the next working day.

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1886 (b) An individual may ~~A person shall~~ not be removed from a
1887 ~~any~~ program or residential placement licensed under chapter 400
1888 or chapter 429 and transported to a receiving facility for
1889 involuntary examination unless an ex parte order, a professional
1890 certificate, or a law enforcement officer's report is first
1891 prepared. If the condition of the individual ~~person~~ is such that
1892 preparation of a law enforcement officer's report is not
1893 practicable before removal, the report must ~~shall~~ be completed
1894 as soon as possible after removal, but ~~in any case~~ before the
1895 individual ~~person~~ is transported to a receiving facility. A
1896 receiving facility admitting an individual ~~a person~~ for
1897 involuntary examination who is not accompanied by the required
1898 ex parte order, professional certificate, or law enforcement
1899 officer's report must ~~shall~~ notify the Agency for Health Care
1900 Administration of such admission by certified mail by ~~no later~~
1901 ~~than~~ the next working day. ~~The provisions of this paragraph do~~
1902 ~~not apply when transportation is provided by the patient's~~
1903 ~~family or guardian.~~

1904 (c) A law enforcement officer acting in accordance with an
1905 ex parte order issued pursuant to this subsection may serve and
1906 execute such order on any day of the week, at any time of the
1907 day or night.

1908 (d) A law enforcement officer acting in accordance with an
1909 ex parte order issued pursuant to this subsection may use such
1910 reasonable physical force as is necessary to gain entry to the
1911 premises, and any dwellings, buildings, or other structures
1912 located on the premises, and to take custody of the person who
1913 is the subject of the ex parte order.

1914 (e) Petitions and ~~The Agency for Health Care Administration~~

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1915 ~~shall receive and maintain the copies of ex parte orders,~~
1916 ~~involuntary outpatient placement orders, involuntary outpatient~~
1917 ~~placement petitions and orders issued pursuant to s. 394.4655,~~
1918 ~~involuntary inpatient placement petitions and orders issued~~
1919 ~~pursuant to s. 394.467, professional certificates, and law~~
1920 ~~enforcement officers' reports are. ~~These documents shall be~~~~
1921 ~~considered part of the clinical record, governed by ~~the~~~~
1922 ~~provisions of s. 394.4615. The agency shall prepare annual~~
1923 ~~reports analyzing the data obtained from these documents,~~
1924 ~~without information identifying individuals held for examination~~
1925 ~~or admitted for mental health and substance abuse treatment~~
1926 ~~patients, and shall provide copies of reports to the department,~~
1927 ~~the President of the Senate, the Speaker of the House of~~
1928 ~~Representatives, and the minority leaders of the Senate and the~~
1929 ~~House of Representatives.~~

1930 (f) An individual held for examination ~~A patient~~ shall be
1931 examined by a physician, a or clinical psychologist, or a
1932 psychiatric nurse at a receiving facility without unnecessary
1933 delay and may, upon the order of a physician, be given emergency
1934 mental health treatment if it is determined that such treatment
1935 is necessary for the safety of the individual ~~patient~~ or others.
1936 ~~The patient may not be released by the receiving facility or its~~
1937 ~~contractor without the documented approval of a psychiatrist, a~~
1938 ~~clinical psychologist, or, if the receiving facility is a~~
1939 ~~hospital, the release may also be approved by an attending~~
1940 ~~emergency department physician with experience in the diagnosis~~
1941 ~~and treatment of mental and nervous disorders and after~~
1942 ~~completion of an involuntary examination pursuant to this~~
1943 ~~subsection. However, a patient may not be held in a receiving~~

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1944 ~~facility for involuntary examination longer than 72 hours.~~

1945 (g) An individual may not be held for involuntary
1946 examination for more than 72 hours from the time of the
1947 individual's arrival at the facility, except that this period
1948 may be extended by 48 hours if a physician documents in the
1949 clinical record that the individual has ongoing symptoms of
1950 substance intoxication or substance withdrawal and the
1951 individual would likely experience significant clinical benefit
1952 from detoxification services. This determination must be made
1953 based on a face-to-face examination conducted by the physician
1954 no less than 48 hours and not more than 72 hours after the
1955 individual's arrival at the facility. Based on the individual's
1956 needs, one of the following actions must be taken within the
1957 involuntary examination period:

1958 1. The individual shall be released with the approval of a
1959 psychiatrist, psychiatric nurse, or psychologist. However, if
1960 the examination is conducted in a hospital, an emergency
1961 department physician may approve the release. If the examination
1962 is conducted in an addictions receiving facility or
1963 detoxification facility, a physician may approve release. The
1964 professional approving release must have personally conducted
1965 the involuntary examination;

1966 2. The individual shall be asked to provide express and
1967 informed consent for voluntary admission if a physician or
1968 psychologist has determined that the individual is competent to
1969 consent to treatment; or

1970 3. A petition for involuntary placement shall be completed
1971 and filed in the circuit court by the receiving facility
1972 administrator if involuntary outpatient or inpatient placement

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1973 is deemed necessary. If the 72-hour period ends on a weekend or
1974 legal holiday, the petition must be filed by the next working
1975 day. If inpatient placement is deemed necessary, the least
1976 restrictive treatment consistent with the optimum improvement of
1977 the individual's condition must be made available.

1978 (h) An individual released from a receiving or treatment
1979 facility on a voluntary or involuntary basis who is currently
1980 charged with a crime shall be returned to the custody of law
1981 enforcement, unless the individual has been released from law
1982 enforcement custody by posting of a bond, by a pretrial
1983 conditional release, or by other judicial release.

1984 (i) If an individual ~~A person~~ for whom an involuntary
1985 examination has been initiated ~~who~~ is being evaluated or treated
1986 at a hospital for an emergency medical condition specified in s.
1987 395.002 ~~the involuntary examination period must be examined by a~~
1988 ~~receiving facility within 72 hours. The 72-hour period begins~~
1989 when the individual ~~patient~~ arrives at the hospital and ceases
1990 when a ~~the attending~~ physician documents that the individual
1991 patient ~~has an emergency medical condition. The 72-hour period~~
1992 resumes when the physician documents that the emergency medical
1993 condition has stabilized or does not exist. ~~If the patient is~~
1994 ~~examined at a hospital providing emergency medical services by a~~
1995 ~~professional qualified to perform an involuntary examination and~~
1996 ~~is found as a result of that examination not to meet the~~
1997 ~~criteria for involuntary outpatient placement pursuant to s.~~
1998 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~
1999 ~~394.467(1), the patient may be offered voluntary placement, if~~
2000 ~~appropriate, or released directly from the hospital providing~~
2001 ~~emergency medical services. The finding by the professional that~~

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2002 ~~the patient has been examined and does not meet the criteria for~~
2003 ~~involuntary inpatient placement or involuntary outpatient~~
2004 ~~placement must be entered into the patient's clinical record.~~
2005 ~~Nothing in this paragraph is intended to prevent~~ A hospital
2006 providing emergency medical services may transfer an individual
2007 ~~from appropriately transferring a patient to another hospital~~
2008 before ~~prior to~~ stabilization if, provided the requirements of
2009 s. 395.1041(3)(c) are ~~have been~~ met. One of the following
2010 actions must occur within 12 hours after a physician documents
2011 that the individual's emergency medical condition has stabilized
2012 or does not exist:

2013 ~~(h) One of the following must occur within 12 hours after~~
2014 ~~the patient's attending physician documents that the patient's~~
2015 ~~medical condition has stabilized or that an emergency medical~~
2016 ~~condition does not exist:~~

2017 1. The individual shall be examined by a physician,
2018 psychiatric nurse or psychologist and, if found not to meet the
2019 criteria for involuntary examination pursuant to s. 394.463,
2020 shall be released directly from the hospital providing the
2021 emergency medical services. The results of the examination,
2022 including the final disposition, shall be entered into the
2023 clinical records; or

2024 2. The individual shall be transferred to a receiving
2025 facility for examination if appropriate medical and mental
2026 health treatment is available. However, the receiving facility
2027 must be notified of the transfer within 2 hours after the
2028 individual's condition has been stabilized or after
2029 determination that an emergency medical condition does not
2030 exist. The patient must be examined by a designated receiving

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2031 ~~facility and released; or~~

2032 ~~2. The patient must be transferred to a designated~~
2033 ~~receiving facility in which appropriate medical treatment is~~
2034 ~~available. However, the receiving facility must be notified of~~
2035 ~~the transfer within 2 hours after the patient's condition has~~
2036 ~~been stabilized or after determination that an emergency medical~~
2037 ~~condition does not exist.~~

2038 ~~(i) Within the 72-hour examination period or, if the 72~~
2039 ~~hours ends on a weekend or holiday, no later than the next~~
2040 ~~working day thereafter, one of the following actions must be~~
2041 ~~taken, based on the individual needs of the patient:~~

2042 ~~1. The patient shall be released, unless he or she is~~
2043 ~~charged with a crime, in which case the patient shall be~~
2044 ~~returned to the custody of a law enforcement officer;~~

2045 ~~2. The patient shall be released, subject to the provisions~~
2046 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2047 ~~3. The patient, unless he or she is charged with a crime,~~
2048 ~~shall be asked to give express and informed consent to placement~~
2049 ~~as a voluntary patient, and, if such consent is given, the~~
2050 ~~patient shall be admitted as a voluntary patient; or~~

2051 ~~4. A petition for involuntary placement shall be filed in~~
2052 ~~the circuit court when outpatient or inpatient treatment is~~
2053 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
2054 ~~the least restrictive treatment consistent with the optimum~~
2055 ~~improvement of the patient's condition shall be made available.~~
2056 ~~When a petition is to be filed for involuntary outpatient~~
2057 ~~placement, it shall be filed by one of the petitioners specified~~
2058 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
2059 ~~placement shall be filed by the facility administrator.~~

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2060 (3) NOTICE OF RELEASE.—Notice of the release shall be given
 2061 to the individual's ~~patient's~~ guardian, health care surrogate or
 2062 proxy, or representative, to any person who executed a
 2063 certificate admitting the individual ~~patient~~ to the receiving
 2064 facility, and to any court that ~~which~~ ordered the individual's
 2065 examination ~~patient's evaluation~~.

2066 Section 13. Section 394.4655, Florida Statutes, is amended
 2067 to read:

2068 394.4655 Involuntary outpatient placement.—

2069 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An
 2070 individual ~~A person~~ may be ordered to involuntary outpatient
 2071 placement upon a finding of the court ~~that~~ by clear and
 2072 convincing evidence that:

2073 (a) The individual is an adult ~~person is 18 years of age or~~
 2074 ~~elder~~;

2075 (b) The individual ~~person~~ has a mental illness or substance
 2076 abuse impairment;

2077 (c) The individual ~~person~~ is unlikely to survive safely in
 2078 the community without supervision, based on a clinical
 2079 determination;

2080 (d) The individual ~~person~~ has a history of lack of
 2081 compliance with treatment for mental illness or substance abuse
 2082 impairment;

2083 (e) The individual ~~person~~ has:

2084 1. Within ~~At least twice within~~ the immediately preceding
 2085 36 months, been involuntarily admitted to a receiving or
 2086 treatment facility ~~as defined in s. 394.455~~, or has received
 2087 mental health or substance abuse services in a forensic or
 2088 correctional facility. The 36-month period does not include any

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2089 period during which the individual ~~person~~ was admitted or
2090 incarcerated; or

2091 2. Engaged in one or more acts of serious violent behavior
2092 toward self or others, or attempts at serious bodily harm to
2093 himself or herself or others, within the preceding 36 months;

2094 (f) Due to ~~The person is, as a result of~~ his or her mental
2095 illness or substance abuse impairment, the individual is,
2096 unlikely to voluntarily participate in the recommended treatment
2097 plan and ~~either he or she~~ has refused voluntary placement for
2098 treatment after sufficient and conscientious explanation and
2099 disclosure of the purpose of placement for treatment or ~~he or~~
2100 ~~she~~ is unable to determine for himself or herself whether
2101 placement is necessary;

2102 (g) In view of the individual's ~~person's~~ treatment history
2103 and current behavior, the individual ~~person~~ is in need of
2104 involuntary outpatient placement in order to prevent a relapse
2105 or deterioration that would be likely to result in serious
2106 bodily harm to self ~~himself or herself~~ or others, or a
2107 substantial harm to his or her well-being as set forth in s.
2108 394.463(1);

2109 (h) It is likely that the individual ~~person~~ will benefit
2110 from involuntary outpatient placement; and

2111 (i) All available, less restrictive alternatives that ~~would~~
2112 offer an opportunity for improvement of his or her condition
2113 have been judged to be inappropriate or unavailable.

2114 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

2115 (a) ~~1.~~ An individual ~~A patient~~ who is being recommended for
2116 involuntary outpatient placement by the administrator of the
2117 receiving facility where he or she ~~the patient~~ has been examined

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2118 may be retained by the facility after adherence to the notice
2119 procedures provided in s. 394.4599.

2120 1. The recommendation must be supported by the opinion of a
2121 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2122 or another psychiatrist, both of whom have personally examined
2123 the individual patient within the preceding 72 hours, that the
2124 criteria for involuntary outpatient placement are met. However,
2125 in a county having a population of fewer than 50,000, if the
2126 administrator certifies that a psychiatrist or clinical
2127 psychologist is not available to provide the second opinion, the
2128 second opinion may be provided by a ~~licensed~~ physician who has
2129 postgraduate training and experience in diagnosis and treatment
2130 of mental and nervous disorders or by a psychiatric nurse. Any
2131 second opinion authorized in this subparagraph may be conducted
2132 through a face-to-face examination, in person or by electronic
2133 means. Such recommendation must be entered on an involuntary
2134 outpatient placement certificate that authorizes the receiving
2135 facility to retain the individual patient pending completion of
2136 a hearing. The certificate shall be made a part of the patient's
2137 clinical record.

2138 2. If the individual patient has been stabilized and no
2139 longer meets the criteria for involuntary examination pursuant
2140 to s. 394.463(1), he or she ~~the patient~~ must be released from
2141 the receiving facility while awaiting the hearing for
2142 involuntary outpatient placement.

2143 3. Before filing a petition for involuntary outpatient
2144 treatment, the administrator of the ~~a~~ receiving facility or a
2145 designated department representative must identify the service
2146 provider that will have primary responsibility for service

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2147 provision under an order for involuntary outpatient placement,
2148 unless the individual ~~person~~ is otherwise participating in
2149 outpatient psychiatric treatment and is not in need of public
2150 financing for that treatment, in which case the individual, if
2151 eligible, may be ordered to involuntary treatment pursuant to
2152 the existing psychiatric treatment relationship.

2153 4.3. The service provider shall prepare a written proposed
2154 treatment plan in consultation with the individual being held
2155 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2156 appointed, for the court's consideration for inclusion in the
2157 involuntary outpatient placement order. The service provider
2158 shall ~~also~~ provide a copy of the proposed treatment plan to the
2159 individual ~~patient~~ and the administrator of the receiving
2160 facility. The treatment plan must specify the nature and extent
2161 of the individual's ~~patient's~~ mental illness or substance abuse
2162 impairment, address the reduction of symptoms that necessitate
2163 involuntary outpatient placement, and include measurable goals
2164 and objectives for the services and treatment that are provided
2165 to treat the individual's ~~person's~~ mental illness or substance
2166 abuse impairment and assist the individual ~~person~~ in living and
2167 functioning in the community or to prevent a relapse or
2168 deterioration. Service providers may select and supervise other
2169 providers ~~individuals~~ to implement specific aspects of the
2170 treatment plan. The services in the treatment plan must be
2171 deemed clinically appropriate by a physician, ~~clinical~~
2172 psychologist, psychiatric nurse, mental health counselor,
2173 marriage and family therapist, or clinical social worker who
2174 consults with, or is employed or contracted by, the service
2175 provider. The service provider must certify to the court in the

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2176 proposed treatment plan whether sufficient services for
2177 improvement and stabilization are currently available and
2178 whether the service provider agrees to provide those services.
2179 If the service provider certifies that the services in the
2180 proposed treatment plan are not available, the petitioner may
2181 not file the petition.

2182 (b) If an individual ~~a patient~~ in involuntary inpatient
2183 placement meets the criteria for involuntary outpatient
2184 placement, the administrator of the treatment facility may,
2185 before the expiration of the period during which the treatment
2186 facility is authorized to retain the individual ~~patient~~,
2187 recommend involuntary outpatient placement.

2188 1. The recommendation must be supported by the opinion of a
2189 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2190 or another psychiatrist, both of whom have personally examined
2191 the individual ~~patient~~ within the preceding 72 hours, that the
2192 criteria for involuntary outpatient placement are met. However,
2193 in a county having a population of fewer than 50,000, if the
2194 administrator certifies that a psychiatrist or ~~clinical~~
2195 psychologist is not available to provide the second opinion, the
2196 second opinion may be provided by a licensed physician who has
2197 postgraduate training and experience in diagnosis and treatment
2198 of mental and nervous disorders or by a psychiatric nurse. Any
2199 second opinion authorized in this subparagraph may be conducted
2200 through a face-to-face examination, in person or by electronic
2201 means. Such recommendation must be entered on an involuntary
2202 outpatient placement certificate, and the certificate must be
2203 made a part of the individual's ~~patient's~~ clinical record.

2204 2. ~~(c)1.~~ The administrator of the treatment facility shall

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2205 provide a copy of the involuntary outpatient placement
2206 certificate and a copy of the state mental health discharge form
2207 to a department representative in the county where the
2208 individual patient will be residing. ~~For persons who are leaving~~
2209 ~~a state mental health treatment facility, the petition for~~
2210 ~~involuntary outpatient placement must be filed in the county~~
2211 ~~where the patient will be residing.~~

2212 3.2. The service provider that will have primary
2213 responsibility for service provision shall be identified by the
2214 designated department representative prior to the order for
2215 involuntary outpatient placement and must, before ~~prior to~~
2216 filing a petition for involuntary outpatient placement, certify
2217 to the court whether the services recommended in the
2218 individual's ~~patient's~~ discharge plan are available in the local
2219 community and whether the service provider agrees to provide
2220 those services. The service provider must develop with the
2221 individual patient, or the patient's guardian advocate, if one
2222 is appointed, a treatment or service plan that addresses the
2223 needs identified in the discharge plan. The plan must be deemed
2224 to be clinically appropriate by a physician, ~~clinical~~
2225 psychologist, psychiatric nurse, mental health counselor,
2226 marriage and family therapist, or clinical social worker, ~~as~~
2227 ~~defined in this chapter~~, who consults with, or is employed or
2228 contracted by, the service provider.

2229 ~~3. If the service provider certifies that the services in~~
2230 ~~the proposed treatment or service plan are not available, the~~
2231 ~~petitioner may not file the petition.~~

2232 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2233 (a) A petition for involuntary outpatient placement may be

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2234 filed by:

2235 1. The administrator of a mental health receiving facility,
2236 an addictions receiving facility, or a detoxification facility;

2237 or

2238 2. The administrator of a treatment facility.

2239 (b) Each required criterion for involuntary outpatient
2240 placement must be alleged and substantiated in the petition for
2241 involuntary outpatient placement. A copy of the certificate
2242 recommending involuntary outpatient placement completed by a
2243 qualified professional specified in subsection (2) must be
2244 attached to the petition. A copy of the proposed treatment plan
2245 must be attached to the petition. Before the petition is filed,
2246 the service provider shall certify that the services in the
2247 proposed treatment plan are available. If the necessary services
2248 are not available in the ~~patient's~~ local community where the
2249 individual will reside ~~to respond to the person's individual~~
2250 ~~needs~~, the petition may not be filed.

2251 (c) A ~~The~~ petition for involuntary outpatient placement
2252 must be filed in the county where the individual who is the
2253 subject of the petition ~~patient~~ is located, unless the
2254 individual ~~patient~~ is being placed from a state treatment
2255 facility, in which case the petition must be filed in the county
2256 where the individual ~~patient~~ will reside. When the petition is
2257 ~~has been~~ filed, the clerk of the court shall provide copies of
2258 the petition and the proposed treatment plan to the department,
2259 the individual ~~patient~~, the individual's ~~patient's~~ guardian,
2260 guardian advocate, health care surrogate or proxy, or
2261 representative, the state attorney, and the public defender or
2262 the individual's ~~patient's~~ private counsel. A fee may not be

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2263 charged for filing a petition under this subsection.

2264 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2265 after ~~the~~ filing of a petition for involuntary outpatient
2266 placement, the court shall appoint the public defender to
2267 represent the individual ~~person~~ who is the subject of the
2268 petition, unless the individual ~~person~~ is otherwise represented
2269 by counsel. The clerk of the court shall immediately notify the
2270 public defender of the appointment. The public defender shall
2271 represent the individual ~~person~~ until the petition is dismissed,
2272 the court order expires, or the individual ~~patient~~ is discharged
2273 from involuntary outpatient placement. An attorney who
2274 represents the individual ~~patient~~ shall have access to the
2275 individual ~~patient~~, witnesses, and records relevant to the
2276 presentation of the individual's ~~patient's~~ case and shall
2277 represent the interests of the individual ~~patient~~, regardless of
2278 the source of payment to the attorney. An attorney representing
2279 an individual in proceedings under this part shall advocate the
2280 individual's expressed desires and must be present and actively
2281 participate in all hearings on involuntary placement. If the
2282 individual is unable or unwilling to express his or her desires
2283 to the attorney, the attorney shall proceed as though the
2284 individual expressed a desire for liberty, opposition to
2285 involuntary placement and, if placement is ordered, a preference
2286 for the least restrictive treatment possible.

2287 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
2288 the concurrence of the patient's counsel, to at least one
2289 continuance of the hearing. The continuance shall be for a
2290 period of up to 4 weeks.

2291 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

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2292 (a)~~1~~. The court shall hold the hearing on involuntary
2293 outpatient placement within 5 court working days after the
2294 filing of the petition, unless a continuance is granted. The
2295 hearing shall be held in the county where the petition is filed,
2296 ~~shall~~ be as convenient to the individual who is the subject of
2297 the petition patient as is consistent with orderly procedure,
2298 and ~~shall~~ be conducted in physical settings not likely to be
2299 injurious to the individual's patient's condition. If the court
2300 finds that the individual's patient's attendance at the hearing
2301 is not consistent with the best interests of the individual
2302 ~~patient~~ and if the individual's patient's counsel does not
2303 object, the court may waive the presence of the individual
2304 ~~patient~~ from all or any portion of the hearing. The state
2305 attorney for the circuit in which the individual patient is
2306 located shall represent the state, rather than the petitioner,
2307 as the real party in interest in the proceeding. The state
2308 attorney shall have access to the individual's clinical record
2309 and witnesses and shall independently evaluate and confirm the
2310 allegations set forth in the petition for involuntary placement.
2311 If the allegations are substantiated, the state attorney shall
2312 prosecute the petition. If the allegations are not
2313 substantiated, the state attorney shall withdraw the petition.

2314 (b)~~2~~. The court may appoint a magistrate ~~master~~ to preside
2315 at the hearing. One of the professionals who executed the
2316 involuntary outpatient placement certificate shall be a witness.
2317 The individual who is the subject of the petition patient and
2318 his or her the patient's guardian, guardian advocate, health
2319 care surrogate or proxy, or representative shall be informed by
2320 the court of the right to an independent expert examination. If

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2321 the individual ~~patient~~ cannot afford such an examination, the
2322 court shall provide ~~for~~ one. The independent expert's report is
2323 ~~shall be~~ confidential and not discoverable, unless the expert is
2324 ~~to be~~ called as a witness for the individual ~~patient~~ at the
2325 hearing. The court shall allow testimony from persons
2326 ~~individuals~~, including family members, deemed by the court to be
2327 relevant ~~under state law~~, regarding the individual's ~~person's~~
2328 prior history and how that ~~prior~~ history relates to the
2329 individual's ~~person's~~ current condition. The testimony in the
2330 hearing must be ~~given~~ under oath, and the proceedings must be
2331 recorded. The individual ~~patient~~ may refuse to testify at the
2332 hearing.

2333 (c) The court shall consider testimony and evidence
2334 regarding the competence of the individual being held to consent
2335 to treatment. If the court finds that the individual is
2336 incompetent to consent, it shall appoint a guardian advocate as
2337 provided in s. 394.4598.

2338 (7) COURT ORDER.—

2339 (a) ~~(b)~~1. If the court concludes that the individual who is
2340 the subject of the petition ~~patient~~ meets the criteria for
2341 involuntary outpatient placement under ~~pursuant to~~ subsection
2342 (1), the court shall issue an order for involuntary outpatient
2343 placement. The court order may ~~shall~~ be for a ~~period of~~ up to 6
2344 months. The order must specify the nature and extent of the
2345 individual's ~~patient's~~ mental illness or substance abuse
2346 impairment. The court order ~~of the court~~ and the treatment plan
2347 must ~~shall~~ be made part of the individual's ~~patient's~~ clinical
2348 record. The service provider shall discharge an individual ~~a~~
2349 ~~patient~~ from involuntary outpatient placement when the order

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2350 expires or any time the individual ~~patient~~ no longer meets the
2351 criteria for involuntary placement. Upon discharge, the service
2352 provider shall send a certificate of discharge to the court.

2353 (b)2. The court may not order the department or the service
2354 provider to provide services if the program or service is not
2355 available in the ~~patient's~~ local community of the individual
2356 being served, if there is no space available in the program or
2357 service for the individual ~~patient~~, or if funding is not
2358 available for the program or service. A copy of the order must
2359 be sent to the Agency for Health Care Administration by the
2360 service provider within 1 working day after it is received from
2361 the court. After the placement order is issued, the service
2362 provider and the individual ~~patient~~ may modify ~~provisions~~ of the
2363 treatment plan. For any material modification of the treatment
2364 plan to which the individual ~~patient~~ or the individual's
2365 ~~patient's~~ guardian advocate, if appointed, does agree, the
2366 service provider shall send notice of the modification to the
2367 court. Any material modifications of the treatment plan which
2368 are contested by the individual ~~patient~~ or the individual's
2369 ~~patient's~~ guardian advocate, if appointed, must be approved or
2370 disapproved by the court consistent with the requirements of
2371 subsection (2).

2372 (c)3. If, in the clinical judgment of a physician, the
2373 individual being served ~~patient~~ has failed or has refused to
2374 comply with the treatment ordered by the court, and, in the
2375 clinical judgment of the physician, efforts were made to solicit
2376 compliance and the individual ~~patient~~ may meet the criteria for
2377 involuntary examination, the individual ~~a person~~ may be brought
2378 to a receiving facility pursuant to s. 394.463 for involuntary

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2379 examination. If, after examination, the individual patient does
2380 not meet the criteria for involuntary inpatient placement
2381 pursuant to s. 394.467, the individual patient must be
2382 discharged from the receiving facility. The involuntary
2383 outpatient placement order remains ~~shall remain~~ in effect unless
2384 the service provider determines that the individual patient no
2385 longer meets the criteria for involuntary outpatient placement
2386 or until the order expires. The service provider must determine
2387 whether modifications should be made to the existing treatment
2388 plan and must attempt to continue to engage the individual
2389 ~~patient~~ in treatment. For any material modification of the
2390 treatment plan to which the individual patient or the
2391 individual's patient's guardian advocate, if appointed, agrees
2392 ~~does agree~~, the service provider shall send notice of the
2393 modification to the court. Any material modifications of the
2394 treatment plan which are contested by the individual patient or
2395 the individual's patient's guardian advocate, if appointed, must
2396 be approved or disapproved by the court consistent with the
2397 requirements of subsection (2).

2398 (d)(e) If, at any time before the conclusion of the initial
2399 hearing on involuntary outpatient placement, it appears to the
2400 court that the individual person does not meet the criteria for
2401 involuntary outpatient placement under this section but,
2402 ~~instead~~, meets the criteria for involuntary inpatient placement,
2403 the court may order the individual person admitted for
2404 involuntary inpatient examination under s. 394.463. ~~If the~~
2405 ~~person instead meets the criteria for involuntary assessment,~~
2406 ~~protective custody, or involuntary admission pursuant to s.~~
2407 ~~397.675, the court may order the person to be admitted for~~

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2408 ~~involuntary assessment for a period of 5 days pursuant to s.~~
2409 ~~397.6811. Thereafter, all proceedings shall be governed by~~
2410 ~~chapter 397.~~

2411 ~~(d) At the hearing on involuntary outpatient placement, the~~
2412 ~~court shall consider testimony and evidence regarding the~~
2413 ~~patient's competence to consent to treatment. If the court finds~~
2414 ~~that the patient is incompetent to consent to treatment, it~~
2415 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
2416 ~~The guardian advocate shall be appointed or discharged in~~
2417 ~~accordance with s. 394.4598.~~

2418 (e) The administrator of the receiving facility, the
2419 detoxification facility, or the designated department
2420 representative shall provide a copy of the court order and
2421 adequate documentation of an individual's ~~a patient's~~ mental
2422 illness or substance abuse impairment to the service provider
2423 for involuntary outpatient placement. Such documentation must
2424 include any advance directives made by the individual patient, a
2425 psychiatric evaluation of the individual patient, and any
2426 evaluations of the individual patient performed by a ~~clinical~~
2427 psychologist or a clinical social worker.

2428 ~~(8)(7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT~~
2429 ~~PLACEMENT.-~~

2430 (a)~~1.~~ If the individual person continues to meet the
2431 criteria for involuntary outpatient placement, the service
2432 provider shall, before the expiration of the period during which
2433 the placement treatment is ordered ~~for the person,~~ file in the
2434 circuit court a petition for continued involuntary outpatient
2435 placement.

2436 ~~1.2.~~ The existing involuntary outpatient placement order

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2437 remains in effect until disposition of ~~on~~ the petition for
2438 continued involuntary outpatient placement.

2439 ~~2.3.~~ A certificate must ~~shall~~ be attached to the petition
2440 which includes a statement from the individual's ~~person's~~
2441 physician or ~~clinical~~ psychologist justifying the request, a
2442 brief description of the individual's ~~patient's~~ treatment during
2443 the time he or she was involuntarily placed, and a personalized
2444 ~~an individualized~~ plan of continued treatment.

2445 ~~3.4.~~ The service provider shall develop the ~~individualized~~
2446 plan of continued treatment in consultation with the individual
2447 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2448 appointed. When the petition has been filed, the clerk of the
2449 court shall provide copies of the certificate and the
2450 ~~individualized~~ plan of continued treatment to the department,
2451 the individual ~~patient~~, the individual's ~~patient's~~ guardian
2452 advocate, the state attorney, and the individual's ~~patient's~~
2453 private counsel or the public defender.

2454 (b) Within 1 court working day after the filing of a
2455 petition for continued involuntary outpatient placement, the
2456 court shall appoint the public defender to represent the
2457 individual ~~person~~ who is the subject of the petition, unless the
2458 individual ~~person~~ is otherwise represented by counsel. The clerk
2459 of the court shall immediately notify the public defender of
2460 such appointment. The public defender shall represent the
2461 individual ~~person~~ until the petition is dismissed, ~~or~~ the court
2462 order expires, or the individual ~~patient~~ is discharged from
2463 involuntary outpatient placement. Any attorney representing the
2464 individual ~~patient~~ shall have access to the individual ~~patient~~,
2465 witnesses, and records relevant to the presentation of the

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2466 individual's ~~patient's~~ case and shall represent the interests of
2467 the individual ~~patient~~, regardless of the source of payment to
2468 the attorney.

2469 (c) The court shall inform the individual who is the
2470 subject of the petition and his or her guardian, guardian
2471 advocate, health care surrogate or proxy, or representative of
2472 the individual's right to an independent expert examination. If
2473 the individual cannot afford such an examination, the court
2474 shall provide one.

2475 (d)~~(e)~~ Hearings on petitions for continued involuntary
2476 outpatient placement are ~~shall be~~ before the circuit court. The
2477 court may appoint a magistrate ~~master~~ to preside at the hearing.
2478 The procedures for obtaining an order pursuant to this paragraph
2479 must ~~shall~~ be in accordance with subsection (6), except that the
2480 time period included in paragraph (1)(e) is not applicable in
2481 determining the appropriateness of additional periods of
2482 involuntary outpatient placement.

2483 (e)~~(d)~~ Notice of the hearing shall be provided in
2484 accordance with ~~as set forth in~~ s. 394.4599. The individual
2485 being served ~~patient~~ and the individual's ~~patient's~~ attorney may
2486 agree to a period of continued outpatient placement without a
2487 court hearing.

2488 (f)~~(e)~~ The same procedure shall be repeated before the
2489 expiration of each additional period the individual being served
2490 ~~patient~~ is placed in treatment.

2491 (g)~~(f)~~ If the individual in involuntary outpatient
2492 placement ~~patient~~ has previously been found incompetent to
2493 consent to treatment, the court shall consider testimony and
2494 evidence regarding the individual's ~~patient's~~ competence.

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2495 Section 394.4598 governs the discharge of the guardian advocate
2496 if the individual's ~~patient's~~ competency to consent to treatment
2497 has been restored.

2498 Section 14. Section 394.467, Florida Statutes, is amended
2499 to read:

2500 394.467 Involuntary inpatient placement.—

2501 (1) CRITERIA.—An individual ~~A person~~ may be placed in
2502 involuntary inpatient placement for treatment upon a finding of
2503 the court by clear and convincing evidence that:

2504 (a) He or she has a mental illness or substance abuse
2505 impairment ~~is mentally ill~~ and because of his or her mental
2506 illness or substance abuse impairment:

2507 1.a. He or she has refused voluntary placement for
2508 treatment after sufficient and conscientious explanation and
2509 disclosure of the purpose of placement for treatment; or

2510 b. He or she is unable to determine for himself or herself
2511 whether placement is necessary; and

2512 2.a. He or she is manifestly incapable of surviving alone
2513 or with the help of willing and responsible family or friends,
2514 including available alternative services, and, without
2515 treatment, is likely to suffer from neglect or refuse to care
2516 for himself or herself, and such neglect or refusal poses a real
2517 and present threat of substantial harm to his or her well-being;
2518 or

2519 b. There is substantial likelihood that in the near future
2520 he or she will inflict serious bodily harm on self or others
2521 ~~himself or herself or another person~~, as evidenced by recent
2522 behavior causing, attempting, or threatening such harm; and

2523 (b) All available less restrictive treatment alternatives

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2524 ~~that which would~~ offer an opportunity for improvement of his or
2525 her condition have been judged to be inappropriate.

2526 (2) ADMISSION TO A TREATMENT FACILITY.—An individual A
2527 ~~patient~~ may be retained by a mental health receiving facility,
2528 an addictions receiving facility, or a detoxification facility,
2529 or involuntarily placed in a treatment facility upon the
2530 recommendation of the administrator of the receiving facility
2531 where the individual patient has been examined and after
2532 adherence to the notice and hearing procedures provided in s.
2533 394.4599. The recommendation must be supported by the opinion of
2534 a psychiatrist and the second opinion of a ~~clinical~~ psychologist
2535 or another psychiatrist, both of whom have personally examined
2536 the individual patient within the preceding 72 hours, that the
2537 criteria for involuntary inpatient placement are met. However,
2538 in a county that has a population of fewer than 50,000, if the
2539 administrator certifies that a psychiatrist or ~~clinical~~
2540 psychologist is not available to provide the second opinion, the
2541 second opinion may be provided by a licensed physician who has
2542 postgraduate training and experience in diagnosis and treatment
2543 of mental and nervous disorders or by a psychiatric nurse. If
2544 the petition seeks placement for treatment of substance abuse
2545 impairment only, and the individual is examined by an addictions
2546 receiving facility or detoxification facility, the first opinion
2547 may be provided by a physician and the second opinion may be
2548 provided by a substance abuse qualified professional. Any second
2549 opinion authorized in this subsection may be conducted through a
2550 face-to-face examination, in person or by electronic means. Such
2551 recommendation must ~~shall~~ be entered on an involuntary inpatient
2552 placement certificate that authorizes the receiving facility to

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2553 retain the individual being held ~~patient~~ pending transfer to a
2554 treatment facility or completion of a hearing.

2555 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
2556 administrator of the mental health facility, addictions
2557 receiving facility, or detoxification facility shall file a
2558 petition for involuntary inpatient placement in the court in the
2559 county where the individual ~~patient~~ is located. Upon filing, the
2560 clerk of the court shall provide copies to the department, the
2561 individual ~~patient~~, the individual's ~~patient's~~ guardian,
2562 guardian advocate, health care surrogate or proxy, or
2563 representative, and the state attorney and public defender of
2564 the judicial circuit in which the individual ~~patient~~ is located.
2565 A No fee may not ~~shall~~ be charged for the filing of a petition
2566 under this subsection.

2567 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2568 after the filing of a petition for involuntary inpatient
2569 placement, the court shall appoint the public defender to
2570 represent the individual ~~person~~ who is the subject of the
2571 petition, unless the individual ~~person~~ is otherwise represented
2572 by counsel. The clerk of the court shall immediately notify the
2573 public defender of such appointment. Any attorney representing
2574 the individual ~~patient~~ shall have access to the individual
2575 ~~patient~~, witnesses, and records relevant to the presentation of
2576 the individual's ~~patient's~~ case and shall represent the
2577 interests of the individual ~~patient~~, regardless of the source of
2578 payment to the attorney.

2579 (a) An attorney representing an individual in proceedings
2580 under this part shall advocate the individual's expressed
2581 desires and must be present and actively participate in all

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2582 hearings on involuntary placement. If the individual is unable
2583 or unwilling to express his or her desires to the attorney, the
2584 attorney shall proceed as though the individual expressed a
2585 desire for liberty, opposition to involuntary placement, and, if
2586 placement is ordered, a preference for the least restrictive
2587 treatment possible.

2588 (b) The state attorney for the circuit in which the
2589 individual is located shall represent the state rather than the
2590 petitioning facility administrator as the real party in interest
2591 in the proceeding. The state attorney shall have access to the
2592 individual's clinical record and witnesses and shall
2593 independently evaluate and confirm the allegations set forth in
2594 the petition for involuntary placement. If the allegations are
2595 substantiated, the state attorney shall prosecute the petition.
2596 If the allegations are not substantiated, the state attorney
2597 shall withdraw the petition.

2598 (5) CONTINUANCE OF HEARING.—The individual patient is
2599 entitled, with the concurrence of the individual's patient's
2600 counsel, to at least one continuance of the hearing. The
2601 continuance shall be for ~~a period of~~ up to 4 weeks.

2602 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

2603 (a)~~1.~~ The court shall hold the hearing on involuntary
2604 inpatient placement within 5 court working days after the
2605 petition is filed, unless a continuance is granted.

2606 1. The hearing shall be held in the county where the
2607 individual patient is located and shall be as convenient to the
2608 individual patient as may be consistent with orderly procedure
2609 and shall be conducted in physical settings not likely to be
2610 injurious to the individual's patient's condition. If the

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2611 individual wishes to waive his or her ~~court finds that the~~
2612 ~~patient's~~ attendance at the hearing, the court must determine
2613 that the waiver is knowingly, intelligently, and voluntarily
2614 being waived and is not consistent with the best interests of
2615 ~~the patient, and the patient's counsel does not object, the~~
2616 ~~court~~ may waive the presence of the individual patient from all
2617 or any portion of the hearing. ~~The state attorney for the~~
2618 ~~circuit in which the patient is located shall represent the~~
2619 ~~state, rather than the petitioning facility administrator, as~~
2620 ~~the real party in interest in the proceeding.~~

2621 2. The court may appoint a general or special magistrate to
2622 preside at the hearing. One of the two professionals who
2623 executed the involuntary inpatient placement certificate shall
2624 be a witness. The individual patient and the individual's
2625 patient's guardian, guardian advocate, health care surrogate or
2626 proxy, or representative shall be informed by the court of the
2627 right to an independent expert examination. If the individual
2628 ~~patient~~ cannot afford such an examination, the court shall
2629 provide for one. The independent expert's report is ~~shall be~~
2630 confidential and not discoverable, unless the expert is to be
2631 called as a witness for the individual patient at the hearing.
2632 The testimony in the hearing must be given under oath, and the
2633 proceedings must be recorded. The individual patient may refuse
2634 to testify at the hearing.

2635 3. The court shall allow testimony from persons, including
2636 family members, deemed by the court to be relevant regarding the
2637 individual's prior history and how that prior history relates to
2638 the individual's current condition.

2639 (b) If the court concludes that the individual patient

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2640 meets the criteria for involuntary inpatient placement, it shall
2641 order that the individual ~~patient~~ be transferred to a treatment
2642 facility or, if the individual ~~patient~~ is at a treatment
2643 facility, that the individual ~~patient~~ be retained there or be
2644 treated at any other appropriate mental health receiving
2645 facility, addictions receiving facility, detoxification
2646 facility, or treatment facility, or that the individual ~~patient~~
2647 receive services from such a facility ~~a receiving or treatment~~
2648 ~~facility,~~ on an involuntary basis, for up to 90 days ~~a period of~~
2649 ~~up to 6 months~~. The order shall specify the nature and extent of
2650 the individual's ~~patient's~~ mental illness or substance abuse
2651 impairment. The facility shall discharge the individual at a
2652 ~~patient~~ any time the individual ~~patient~~ no longer meets the
2653 criteria for involuntary inpatient placement, unless the
2654 individual ~~patient~~ has transferred to voluntary status.

2655 (c) If at any time before ~~prior to~~ the conclusion of the
2656 hearing on involuntary inpatient placement it appears to the
2657 court that the individual ~~person~~ does not meet the criteria for
2658 involuntary inpatient placement under this section, but instead
2659 meets the criteria for involuntary outpatient placement, the
2660 court may order the individual ~~person~~ evaluated for involuntary
2661 outpatient placement pursuant to s. 394.4655, and ~~the~~ petition
2662 and hearing procedures set forth in s. 394.4655 ~~shall~~ apply. ~~If~~
2663 ~~the person instead meets the criteria for involuntary~~
2664 ~~assessment, protective custody, or involuntary admission~~
2665 ~~pursuant to s. 397.675, then the court may order the person to~~
2666 ~~be admitted for involuntary assessment for a period of 5 days~~
2667 ~~pursuant to s. 397.6811. Thereafter, all proceedings shall be~~
2668 ~~governed by chapter 397.~~

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2669 (d) At the hearing on involuntary inpatient placement, the
2670 court shall consider testimony and evidence regarding the
2671 individual's ~~patient's~~ competence to consent to treatment. If
2672 the court finds that the individual ~~patient~~ is incompetent to
2673 consent to treatment, it shall appoint a guardian advocate as
2674 provided in s. 394.4598.

2675 (e) The administrator of the petitioning ~~receiving~~ facility
2676 shall provide a copy of the court order and adequate
2677 documentation of the individual's ~~a patient's~~ mental illness or
2678 substance abuse impairment to the administrator of a treatment
2679 facility if the individual ~~whenever a patient~~ is ordered for
2680 involuntary inpatient placement, whether by civil or criminal
2681 court. The documentation must ~~shall~~ include any advance
2682 directives made by the individual ~~patient~~, a psychiatric
2683 evaluation of the individual ~~patient~~, and any evaluations of the
2684 individual ~~patient~~ performed by a ~~clinical~~ psychologist, a
2685 marriage and family therapist, a mental health counselor, a
2686 substance abuse qualified professional or a clinical social
2687 worker. The administrator of a treatment facility may refuse
2688 admission to an individual ~~any patient~~ directed to its
2689 facilities on an involuntary basis, whether by civil or criminal
2690 court order, who is not accompanied at the same time by adequate
2691 orders and documentation.

2692 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
2693 PLACEMENT.—

2694 (a) Hearings on petitions for continued involuntary
2695 inpatient placement shall be administrative hearings and shall
2696 be conducted in accordance with ~~the provisions of~~ s. 120.57(1),
2697 except that an ~~any~~ order entered by an ~~the~~ administrative law

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2698 judge is ~~shall be~~ final and subject to judicial review in
2699 accordance with s. 120.68. Orders concerning an individual
2700 ~~patients~~ committed after successfully pleading not guilty by
2701 reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s.
2702 916.15.

2703 (b) If the individual ~~patient~~ continues to meet the
2704 criteria for involuntary inpatient placement, the administrator
2705 shall, before ~~prior~~ to the expiration of the period ~~during which~~
2706 the ~~treatment~~ facility is authorized to retain the individual
2707 ~~patient~~, file a petition requesting authorization for continued
2708 involuntary inpatient placement. The request must ~~shall~~ be
2709 accompanied by a statement from the individual's ~~patient's~~
2710 physician or ~~clinical~~ psychologist justifying the request, a
2711 brief description of the individual's ~~patient's~~ treatment during
2712 the time he or she was involuntarily placed, and a personalized
2713 ~~an individualized~~ plan of continued treatment. Notice of the
2714 hearing must ~~shall~~ be provided as set forth in s. 394.4599. If
2715 at the hearing the administrative law judge finds that
2716 attendance at the hearing is not consistent with the
2717 individual's best interests ~~of the patient~~, the administrative
2718 law judge may waive the presence of the individual ~~patient~~ from
2719 all or any portion of the hearing, unless the individual
2720 ~~patient~~, through counsel, objects to the waiver of presence. The
2721 testimony in the hearing must be under oath, and the proceedings
2722 must be recorded.

2723 (c) Unless the individual ~~patient~~ is otherwise represented
2724 or is ineligible, he or she shall be represented at the hearing
2725 on the petition for continued involuntary inpatient placement by
2726 the public defender of the circuit in which the facility is

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2727 located.

2728 (d) The Division of Administrative Hearings shall inform
2729 the individual and his or her guardian, guardian advocate,
2730 health care surrogate or proxy, or representative of the right
2731 to an independent expert examination. If the individual cannot
2732 afford such an examination, the court shall provide one.

2733 (e)~~(d)~~ If at a hearing it is shown that the individual
2734 ~~patient~~ continues to meet the criteria for involuntary inpatient
2735 placement, the administrative law judge shall sign the order for
2736 continued involuntary inpatient placement for a period of up to
2737 90 days ~~not to exceed 6 months~~. The same procedure must ~~shall~~ be
2738 repeated prior to the expiration of each additional period the
2739 individual ~~patient~~ is retained.

2740 (f)~~(e)~~ If continued involuntary inpatient placement is
2741 necessary for an individual ~~a patient~~ admitted while serving a
2742 criminal sentence, but whose sentence is about to expire, or for
2743 a minor ~~patient~~ involuntarily placed ~~while a minor~~ but who is
2744 about to reach the age of 18, the administrator shall petition
2745 the administrative law judge for an order authorizing continued
2746 involuntary inpatient placement.

2747 (g)~~(f)~~ If the individual ~~previously~~ ~~patient~~ has been
2748 ~~previously~~ found incompetent to consent to treatment, the
2749 administrative law judge shall consider testimony and evidence
2750 regarding the individual's ~~patient's~~ competence. If the
2751 administrative law judge finds evidence that the individual
2752 ~~patient~~ is now competent to consent to treatment, the
2753 ~~administrative law~~ judge may issue a recommended order to the
2754 court that found the individual ~~patient~~ incompetent to consent
2755 to treatment that the individual's ~~patient's~~ competence be

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2756 restored and that any guardian advocate previously appointed be
2757 discharged.

2758 (8) RETURN TO FACILITY OF PATIENTS.—If an individual held
2759 ~~When a patient~~ at a ~~treatment~~ facility involuntarily under this
2760 part leaves the facility without the administrator's
2761 authorization, the administrator may authorize a search for, ~~the~~
2762 ~~patient~~ and the return of, the individual patient to the
2763 facility. The administrator may request the assistance of a law
2764 enforcement agency ~~in the search for and return of the patient.~~

2765 Section 15. Section 394.4672, Florida Statutes, is amended
2766 to read:

2767 394.4672 Procedure for placement of veteran with federal
2768 agency.—

2769 (1) A facility owned, operated, or administered by the
2770 United States Department of Veterans Affairs that provides
2771 mental health services has authority as granted by the
2772 Department of Veterans' Affairs to:

2773 (a) Initiate and conduct involuntary examinations pursuant
2774 to s. 394.463.

2775 (b) Provide voluntary treatment pursuant to s. 394.4625.

2776 (c) Petition for involuntary inpatient placement pursuant
2777 to s. 394.467.

2778 (d) Provide involuntary inpatient placement pursuant to
2779 this part.

2780 (2)~~(1)~~ If a ~~Whenever it is determined by the court~~
2781 determines that an individual ~~a person~~ meets the criteria for
2782 involuntary placement and he or she ~~it appears that such person~~
2783 is eligible for care or treatment by the United States
2784 Department of Veterans Affairs or another ~~other~~ agency of the

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2785 United States Government, the court, upon receipt of a
2786 certificate from the United States Department of Veterans
2787 Affairs or such other agency showing that facilities are
2788 available and that the individual ~~person~~ is eligible for care or
2789 treatment therein, may place that individual ~~person~~ with the
2790 United States Department of Veterans Affairs or other federal
2791 agency. The individual ~~person whose placement is sought~~ shall be
2792 personally served with notice of the pending placement
2793 proceeding in the manner as provided in this part., ~~and nothing~~
2794 ~~in~~ This section does not ~~shall~~ affect the individual's ~~his or~~
2795 ~~her~~ right to appear and be heard in the proceeding. Upon
2796 placement, the individual ~~is person shall be~~ subject to the
2797 ~~rules and~~ regulations of the United States Department of
2798 Veterans Affairs or other federal agency.

2799 (3) ~~(2)~~ The judgment or order of placement issued by a court
2800 of competent jurisdiction of another state or of the District of
2801 Columbia which places an individual, ~~placing a person~~ with the
2802 United States Department of Veterans Affairs or other federal
2803 agency for care or treatment has, ~~shall have~~ the same force and
2804 effect in this state as in the jurisdiction of the court
2805 entering the judgment or making the order., ~~and~~ The courts of
2806 the placing state or of the District of Columbia shall retain ~~be~~
2807 ~~deemed to have retained~~ jurisdiction of the individual ~~person~~ ~~so~~
2808 placed. Consent is hereby given to the application of the law of
2809 the placing state or district with respect to the authority of
2810 the chief officer of any facility of the United States
2811 Department of Veterans Affairs or other federal agency operated
2812 in this state to retain custody or to transfer, parole, or
2813 discharge the individual ~~person~~.

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2814 (4)~~(3)~~ Upon receipt of a certificate of the United States
 2815 Department of Veterans Affairs or another ~~such other~~ federal
 2816 agency that facilities are available for the care or treatment
 2817 of individuals who have mental illness or substance abuse
 2818 impairment ~~mentally ill persons~~ and that an individual ~~the~~
 2819 ~~person~~ is eligible for that care or treatment, the administrator
 2820 of the receiving or treatment facility may ~~cause the~~ transfer of
 2821 that individual ~~person~~ to the United States Department of
 2822 Veterans Affairs or other federal agency. Upon ~~effecting~~ such
 2823 transfer, the committing court shall be notified by the
 2824 transferring agency. An individual may not ~~No person shall~~ be
 2825 transferred ~~to the United States Department of Veterans Affairs~~
 2826 ~~or other federal agency~~ if he or she is confined pursuant to the
 2827 conviction of any felony or misdemeanor or if he or she has been
 2828 acquitted of the charge solely on the ground of insanity, unless
 2829 prior to transfer the court placing the individual ~~such person~~
 2830 enters an order for the transfer after appropriate motion and
 2831 hearing and without objection by the United States Department of
 2832 Veterans Affairs.

2833 (5)~~(4)~~ An individual ~~Any person~~ transferred as provided in
 2834 this section is ~~shall be~~ deemed to be placed with the United
 2835 States Department of Veterans Affairs or other federal agency
 2836 pursuant to the original placement.

2837 Section 16. Paragraph (a) of subsection (1) of section
 2838 394.875, Florida Statutes, is amended to read:

2839 394.875 Crisis stabilization units, residential treatment
 2840 facilities, and residential treatment centers for children and
 2841 adolescents; authorized services; license required.—

2842 (1) (a) The purpose of a crisis stabilization unit is to

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2843 stabilize and redirect a client to the most appropriate and
2844 least restrictive community setting available, consistent with
2845 the client's needs. Crisis stabilization units may screen,
2846 assess, and admit for stabilization persons who present
2847 themselves to the unit and persons who are brought to the unit
2848 under s. 394.463. Clients may be provided 24-hour observation,
2849 medication prescribed by a physician or psychiatrist, and other
2850 appropriate services. Crisis stabilization units shall provide
2851 services regardless of the client's ability to pay ~~and shall be~~
2852 ~~limited in size to a maximum of 30 beds.~~

2853 Section 17. Section 765.401, Florida Statutes, is
2854 transferred and renumbered as section 765.311, Florida Statutes.

2855 Section 18. Section 765.404, Florida Statutes, is
2856 transferred and renumbered as section 765.312, Florida Statutes.

2857 Section 19. The Division of Law Revision and Information is
2858 directed to rename part IV of chapter 765, Florida Statutes, as
2859 "Mental Health and Substance Abuse Advance Directives."

2860 Section 20. Section 765.4015, Florida Statutes, is created
2861 to read:

2862 765.4015 Short title.—Sections 765.402-765.411 may be cited
2863 as the "Jennifer Act."

2864 Section 21. Section 765.402, Florida Statutes, is created
2865 to read:

2866 765.402 Legislative findings.—

2867 (1) The Legislature recognizes that an individual with
2868 capacity has the ability to control decisions relating to his or
2869 her own mental health care or substance abuse treatment. The
2870 Legislature finds that:

2871 (a) Substance abuse and some mental illnesses cause

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2872 individuals to fluctuate between capacity and incapacity;

2873 (b) During periods when an individual's capacity is
2874 unclear, the individual may be unable to provide informed
2875 consent necessary to access needed treatment;

2876 (c) Early treatment may prevent an individual from becoming
2877 so ill that involuntary treatment is necessary; and

2878 (d) Individuals with substance abuse impairment or mental
2879 illness need an established procedure to express their
2880 instructions and preferences for treatment and provide advance
2881 consent to or refusal of treatment. This procedure should be
2882 less expensive and less restrictive than guardianship.

2883 (2) The Legislature further recognizes that:

2884 (a) A mental health or substance abuse treatment advance
2885 directive must provide the individual with a full range of
2886 choices.

2887 (b) For a mental health or substance abuse directive to be
2888 an effective tool, individuals must be able to choose how they
2889 want their directives to be applied, including the right of
2890 revocation, during periods when they are incompetent to consent
2891 to treatment.

2892 (c) There must be a clear process so that treatment
2893 providers can abide by an individual's treatment choices.

2894 Section 22. Section 765.403, Florida Statutes, is created
2895 to read:

2896 765.403 Definitions.—As used in this section, the term:

2897 (1) "Adult" means any individual who has attained the age
2898 of majority or is an emancipated minor.

2899 (2) "Capacity" means that an adult has not been found to be
2900 incapacitated pursuant to s. 394.463.

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2901 (3) "Health care facility" means a hospital, nursing home,
2902 hospice, home health agency, or health maintenance organization
2903 licensed in this state, or any facility subject to part I of
2904 chapter 394.

2905 (4) "Incapacity" or "incompetent" means an adult who is:

2906 (a) Unable to understand the nature, character, and
2907 anticipated results of proposed treatment or alternatives or the
2908 recognized serious possible risks, complications, and
2909 anticipated benefits of treatments and alternatives, including
2910 nontreatment;

2911 (b) Physically or mentally unable to communicate a willful
2912 and knowing decision about mental health care or substance abuse
2913 treatment;

2914 (c) Unable to communicate his or her understanding or
2915 treatment decisions; or

2916 (d) Determined incompetent pursuant to s. 394.463.

2917 (5) "Informed consent" means consent voluntarily given by a
2918 person after a sufficient explanation and disclosure of the
2919 subject matter involved to enable that person to have a general
2920 understanding of the treatment or procedure and the medically
2921 acceptable alternatives, including the substantial risks and
2922 hazards inherent in the proposed treatment or procedures or
2923 nontreatment, and to make knowing mental health care or
2924 substance abuse treatment decisions without coercion or undue
2925 influence.

2926 (6) "Interested person" means, for the purposes of this
2927 chapter, any person who may reasonably be expected to be
2928 affected by the outcome of the particular proceeding involved,
2929 including anyone interested in the welfare of an incapacitated

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2930 person.

2931 (7) "Mental health or substance abuse treatment advance
2932 directive" means a written document in which the principal makes
2933 a declaration of instructions or preferences or appoints a
2934 surrogate to make decisions on behalf of the principal regarding
2935 the principal's mental health or substance abuse treatment, or
2936 both.

2937 (8) "Mental health professional" means a psychiatrist,
2938 psychologist, psychiatric nurse, or social worker, and such
2939 other mental health professionals licensed pursuant to chapter
2940 458, chapter 464, chapter 490, or chapter 491.

2941 (9) "Principal" means a competent adult who executes a
2942 mental health or substance abuse treatment advance directive and
2943 on whose behalf mental health care or substance abuse treatment
2944 decisions are to be made.

2945 (10) "Surrogate" means any competent adult expressly
2946 designated by a principal to make mental health care or
2947 substance abuse treatment decisions on behalf of the principal
2948 as set forth in the principal's mental health or substance abuse
2949 treatment advance directive or self-binding arrangement as those
2950 terms are defined in this part.

2951 Section 23. Section 765.405, Florida Statutes, is created
2952 to read:

2953 765.405 Mental health or substance abuse treatment advance
2954 directive; execution; allowable provisions.—

2955 (1) An adult with capacity may execute a mental health or
2956 substance abuse treatment advance directive.

2957 (2) A directive executed in accordance with this section is
2958 presumed to be valid. The inability to honor one or more

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2959 provisions of a directive does not affect the validity of the
2960 remaining provisions.

2961 (3) A directive may include any provision relating to
2962 mental health or substance abuse treatment or the care of the
2963 principal. Without limitation, a directive may include:

2964 (a) The principal's preferences and instructions for mental
2965 health or substance abuse treatment.

2966 (b) Consent to specific types of mental health or substance
2967 abuse treatment.

2968 (c) Refusal to consent to specific types of mental health
2969 or substance abuse treatment.

2970 (d) Descriptions of situations that may cause the principal
2971 to experience a mental health or substance abuse crisis.

2972 (e) Suggested alternative responses that may supplement or
2973 be in lieu of direct mental health or substance abuse treatment,
2974 such as treatment approaches from other providers.

2975 (f) The principal's nomination of a guardian, limited
2976 guardian, or guardian advocate as provided chapter 744.

2977 (4) A directive may be combined with or be independent of a
2978 nomination of a guardian, other durable power of attorney, or
2979 other advance directive.

2980 Section 24. Section 765.406, Florida Statutes, is created
2981 to read:

2982 765.406 Execution of a mental health or substance abuse
2983 advance directive; effective date; expiration.-

2984 (1) A directive must:

2985 (a) Be in writing.

2986 (b) Contain language that clearly indicates that the
2987 principal intends to create a directive.

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2988 (c) Be dated and signed by the principal or, if the
2989 principal is unable to sign, at the principal's direction in the
2990 principal's presence.

2991 (d) Be witnessed by two adults, each of whom must declare
2992 that he or she personally knows the principal and was present
2993 when the principal dated and signed the directive, and that the
2994 principal did not appear to be incapacitated or acting under
2995 fraud, undue influence, or duress. The person designated as the
2996 surrogate may not act as a witness to the execution of the
2997 document designating the mental health or substance abuse care
2998 treatment surrogate. At least one person who acts as a witness
2999 must be neither the principal's spouse nor his or her blood
3000 relative.

3001 (2) A directive is valid upon execution, but all or part of
3002 the directive may take effect at a later date as designated by
3003 the principal in the directive.

3004 (3) A directive may:

3005 (a) Be revoked, in whole or in part, pursuant to s.

3006 765.407; or

3007 (b) Expire under its own terms.

3008 (4) A directive does not or may not:

3009 (a) Create an entitlement to mental health, substance
3010 abuse, or medical treatment or supersede a determination of
3011 medical necessity.

3012 (b) Obligate any health care provider, professional person,
3013 or health care facility to pay the costs associated with the
3014 treatment requested.

3015 (c) Obligate a health care provider, professional person,
3016 or health care facility to be responsible for the nontreatment

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3017 or personal care of the principal or the principal's personal
3018 affairs outside the scope of services the facility normally
3019 provides.

3020 (d) Replace or supersede any will or testamentary document
3021 or supersede the provision of intestate succession.

3022 (e) Be revoked by an incapacitated principal unless that
3023 principal selected the option to permit revocation while
3024 incapacitated at the time his or her directive was executed.

3025 Section 25. Section 765.407, Florida Statutes, is created
3026 to read:

3027 765.407 Revocation; waiver.—

3028 (1) A principal with capacity may, by written statement of
3029 the principal or at the principal's direction in the principal's
3030 presence, revoke a directive in whole or in part.

3031 (2) The principal shall provide a copy of his or her
3032 written statement of revocation to his or her agent, if any, and
3033 to each health care provider, professional person, or health
3034 care facility that received a copy of the directive from the
3035 principal.

3036 (3) The written statement of revocation is effective as to
3037 a health care provider, professional person, or health care
3038 facility upon receipt. The professional person, health care
3039 provider, or health care facility, or persons acting under their
3040 direction, shall make the statement of revocation part of the
3041 principal's medical record.

3042 (4) A directive also may:

3043 (a) Be revoked, in whole or in part, expressly or to the
3044 extent of any inconsistency, by a subsequent directive; or

3045 (b) Be superseded or revoked by a court order, including

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3046 any order entered in a criminal matter. The individual's family,
3047 the health care facility, the attending physician, or any other
3048 interested person who may be directly affected by the
3049 surrogate's decision concerning any health care may seek
3050 expedited judicial intervention pursuant to rule 5.900 of the
3051 Florida Probate Rules, if that person believes:

3052 1. The surrogate's decision is not in accord with the
3053 individual's known desires;

3054 2. The advance directive is ambiguous, or the individual
3055 has changed his or her mind after execution of the advance
3056 directive;

3057 3. The surrogate was improperly designated or appointed, or
3058 the designation of the surrogate is no longer effective or has
3059 been revoked;

3060 4. The surrogate has failed to discharge duties, or
3061 incapacity or illness renders the surrogate incapable of
3062 discharging duties;

3063 5. The surrogate has abused powers; or

3064 6. The individual has sufficient capacity to make his or
3065 her own health care decisions.

3066 (5) A directive that would have otherwise expired but is
3067 effective because the principal is incapacitated remains
3068 effective until the principal is no longer incapacitated unless
3069 the principal elected to be able to revoke while incapacitated
3070 and has revoked the directive.

3071 (6) When a principal with capacity consents to treatment
3072 that differs from, or refuses treatment consented to in, his or
3073 her directive, the consent or refusal constitutes a waiver of a
3074 particular provision and does not constitute a revocation of the

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3075 provision or the directive unless that principal also revokes
3076 the provision or directive.

3077 Section 26. Section 765.410, Florida Statutes, is created
3078 to read:

3079 765.410 Immunity from liability; weight of proof;
3080 presumption.—

3081 (1) A health care facility, provider, or other person who
3082 acts under the direction of a health care facility or provider
3083 is not subject to criminal prosecution or civil liability, and
3084 may not be deemed to have engaged in unprofessional conduct, as
3085 a result of carrying out a mental health care or substance abuse
3086 treatment decision made in accordance with this section. The
3087 surrogate who makes a mental health care or substance abuse
3088 treatment decision on a principal's behalf, pursuant to this
3089 section, is not subject to criminal prosecution or civil
3090 liability for such action.

3091 (2) This section applies unless it is shown by a
3092 preponderance of the evidence that the person authorizing or
3093 carrying out a mental health or substance abuse treatment
3094 decision did not, in good faith, comply with this section.

3095 Section 27. Section 765.411, Florida Statutes, is created
3096 to read:

3097 765.411 Recognition of mental health and substance abuse
3098 treatment advance directive executed in another state.—A mental
3099 health or substance abuse treatment advance directive executed
3100 in another state in compliance with the law of that state is
3101 validly executed for the purposes of this chapter.

3102 Section 28. Section 916.185, Florida Statutes, is created
3103 to read:

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3104 916.185 Forensic Hospital Diversion Pilot Program.—
3105 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
3106 that many jail inmates who have serious mental illnesses and who
3107 are committed to state forensic mental health treatment
3108 facilities for restoration of competency to proceed could be
3109 served more effectively and at less cost in community-based
3110 alternative programs. The Legislature further finds that many
3111 individuals who have serious mental illnesses and who have been
3112 discharged from state forensic mental health treatment
3113 facilities could avoid recidivism in the criminal justice and
3114 forensic mental health systems if they received specialized
3115 treatment in the community. Therefore, it is the intent of the
3116 Legislature to create the Forensic Hospital Diversion Pilot
3117 Program to serve individuals who have mental illnesses or co-
3118 occurring mental illnesses and substance use disorders and who
3119 are admitted to or are at risk of entering state forensic mental
3120 health treatment facilities, prisons, jails, or state civil
3121 mental health treatment facilities.

3122 (2) DEFINITIONS.—As used in this section, the term:
3123 (a) "Best practices" means treatment services that
3124 incorporate the most effective and acceptable interventions
3125 available in the care and treatment of individuals who are
3126 diagnosed as having mental illnesses or co-occurring mental
3127 illnesses and substance use disorders.

3128 (b) "Community forensic system" means the community mental
3129 health and substance use forensic treatment system, including
3130 the comprehensive set of services and supports provided to
3131 individuals involved in or at risk of becoming involved in the
3132 criminal justice system.

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3133 (c) "Evidence-based practices" means interventions and
3134 strategies that, based on the best available empirical research,
3135 demonstrate effective and efficient outcomes in the care and
3136 treatment of individuals who are diagnosed as having mental
3137 illnesses or co-occurring mental illnesses and substance use
3138 disorders.

3139 (3) CREATION.—There is created a Forensic Hospital
3140 Diversion Pilot Program to provide, when appropriate,
3141 competency-restoration and community-reintegration services in
3142 locked residential treatment facilities, based on considerations
3143 of public safety, the needs of the individual, and available
3144 resources.

3145 (a) The department shall implement a Forensic Hospital
3146 Diversion Pilot Program in Alachua, Escambia, Hillsborough, and
3147 Miami-Dade Counties, in conjunction with the Eighth Judicial
3148 Circuit, the First Judicial Circuit, the Thirteenth Judicial
3149 Circuit, and the Eleventh Judicial Circuit, respectively, which
3150 shall be modeled after the Miami-Dade Forensic Alternative
3151 Center, taking into account local needs and subject to the
3152 availability of local resources.

3153 (b) In creating and implementing the program, the
3154 department shall include a comprehensive continuum of care and
3155 services which uses evidence-based practices and best practices
3156 to treat individuals who have mental health and co-occurring
3157 substance use disorders.

3158 (c) The department and the respective judicial circuits
3159 shall implement this section within available resources. State
3160 funding may be made available through a specific appropriation.

3161 (4) ELIGIBILITY.—Participation in the Forensic Hospital

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3162 Diversion Pilot Program is limited to individuals who:

3163 (a) Are 18 years of age or older;

3164 (b) Are charged with a felony of the second degree or a

3165 felony of the third degree;

3166 (c) Do not have a significant history of violent criminal

3167 offenses;

3168 (d) Have been adjudicated incompetent to proceed to trial

3169 or not guilty by reason of insanity under this part;

3170 (e) Meet public safety and treatment criteria established

3171 by the department for placement in a community setting; and

3172 (f) Would be admitted to a state mental health treatment

3173 facility if not for the availability of the Forensic Hospital

3174 Diversion Pilot Program.

3175 (5) TRAINING.—The Legislature encourages the Florida

3176 Supreme Court, in consultation and cooperation with the Task

3177 Force on Substance Abuse and Mental Health Issues in the Courts,

3178 to develop educational training on the community forensic system

3179 for judges in the pilot program areas.

3180 (6) RULEMAKING.—The department may adopt rules to

3181 administer this section.

3182 (7) REPORT.—The Office of Program Policy Analysis and

3183 Government Accountability shall review and evaluate the Forensic

3184 Hospital Diversion Pilot Program and submit a report to the

3185 Governor, the President of the Senate, and the Speaker of the

3186 House of Representatives by December 31, 2016. The report shall

3187 examine the efficiency and cost-effectiveness of providing

3188 forensic mental health services in secure, outpatient,

3189 community-based settings. In addition, the report shall examine

3190 the impact of the Forensic Hospital Diversion Pilot Program on

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3191 public health and safety.

3192 Section 29. Paragraph (a) of subsection (3) of section
3193 39.407, Florida Statutes, is amended to read:

3194 39.407 Medical, psychiatric, and psychological examination
3195 and treatment of child; physical, mental, or substance abuse
3196 examination of person with or requesting child custody.—

3197 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
3198 or paragraph (e), before the department provides psychotropic
3199 medications to a child in its custody, the prescribing physician
3200 shall attempt to obtain express and informed consent, as defined
3201 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.
3202 394.459(3) (a), from the child's parent or legal guardian. The
3203 department must take steps necessary to facilitate the inclusion
3204 of the parent in the child's consultation with the physician.
3205 However, if the parental rights of the parent have been
3206 terminated, the parent's location or identity is unknown or
3207 cannot reasonably be ascertained, or the parent declines to give
3208 express and informed consent, the department may, after
3209 consultation with the prescribing physician, seek court
3210 authorization to provide the psychotropic medications to the
3211 child. Unless parental rights have been terminated and if it is
3212 possible to do so, the department shall continue to involve the
3213 parent in the decisionmaking process regarding the provision of
3214 psychotropic medications. If, at any time, a parent whose
3215 parental rights have not been terminated provides express and
3216 informed consent to the provision of a psychotropic medication,
3217 the requirements of this section that the department seek court
3218 authorization do not apply to that medication until such time as
3219 the parent no longer consents.

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3220 2. Any time the department seeks a medical evaluation to
 3221 determine the need to initiate or continue a psychotropic
 3222 medication for a child, the department must provide to the
 3223 evaluating physician all pertinent medical information known to
 3224 the department concerning that child.

3225 Section 30. Subsection (2) of section 394.4612, Florida
 3226 Statutes, is amended to read:

3227 394.4612 Integrated adult mental health crisis
 3228 stabilization and addictions receiving facilities.—

3229 (2) An integrated mental health crisis stabilization unit
 3230 and addictions receiving facility may provide services under
 3231 this section to adults who are 18 years of age or older and who
 3232 fall into one or more of the following categories:

3233 (a) An adult meeting the requirements for voluntary
 3234 admission for mental health treatment under s. 394.4625.

3235 (b) An adult meeting the criteria for involuntary
 3236 examination for mental illness under s. 394.463.

3237 ~~(c) An adult qualifying for voluntary admission for
 3238 substance abuse treatment under s. 397.601.~~

3239 ~~(d) An adult meeting the criteria for involuntary admission
 3240 for substance abuse impairment under s. 397.675.~~

3241 Section 31. Paragraphs (a) and (c) of subsection (3) of
 3242 section 394.495, Florida Statutes, are amended to read:

3243 394.495 Child and adolescent mental health system of care;
 3244 programs and services.—

3245 (3) Assessments must be performed by:

3246 (a) A professional as defined in s. 394.455(6), (31), (34),
 3247 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24);~~

3248 (c) A person who is under the direct supervision of a

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3249 professional as defined in s. 394.455(6), (31), (34), (35), or
3250 (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
3251 licensed under chapter 491.

3252
3253 The department shall adopt by rule statewide standards for
3254 mental health assessments, which must be based on current
3255 relevant professional and accreditation standards.

3256 Section 32. Subsection (6) of section 394.496, Florida
3257 Statutes, is amended to read:

3258 394.496 Service planning.—

3259 (6) A professional as defined in s. 394.455(6), (31), (34),
3260 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a
3261 professional licensed under chapter 491 must be included among
3262 those persons developing the services plan.

3263 Section 33. Subsection (2) of section 394.499, Florida
3264 Statutes, is amended to read:

3265 394.499 Integrated children's crisis stabilization
3266 unit/juvenile addictions receiving facility services.—

3267 (2) Children eligible to receive integrated children's
3268 crisis stabilization unit/juvenile addictions receiving facility
3269 services include:

3270 (a) A person under 18 years of age for whom voluntary
3271 application is made by his or her guardian, if such person is
3272 found to show evidence of mental illness and to be suitable for
3273 treatment pursuant to s. 394.4625. A person under 18 years of
3274 age may be admitted for integrated facility services only after
3275 a hearing to verify that the consent to admission is voluntary.

3276 (b) A person under 18 years of age who may be taken to a
3277 receiving facility for involuntary examination, if there is

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3278 reason to believe that he or she is mentally ill and because of
3279 his or her mental illness, pursuant to s. 394.463:

3280 1. Has refused voluntary examination after conscientious
3281 explanation and disclosure of the purpose of the examination; or

3282 2. Is unable to determine for himself or herself whether
3283 examination is necessary; and

3284 a. Without care or treatment is likely to suffer from
3285 neglect or refuse to care for himself or herself; such neglect
3286 or refusal poses a real and present threat of substantial harm
3287 to his or her well-being; and it is not apparent that such harm
3288 may be avoided through the help of willing family members or
3289 friends or the provision of other services; or

3290 b. There is a substantial likelihood that without care or
3291 treatment he or she will cause serious bodily harm to himself or
3292 herself or others in the near future, as evidenced by recent
3293 behavior.

3294 ~~(c) A person under 18 years of age who wishes to enter~~
3295 ~~treatment for substance abuse and applies to a service provider~~
3296 ~~for voluntary admission, pursuant to s. 397.601.~~

3297 ~~(d) A person under 18 years of age who meets the criteria~~
3298 ~~for involuntary admission because there is good faith reason to~~
3299 ~~believe the person is substance abuse impaired pursuant to s.~~
3300 ~~397.675 and, because of such impairment:~~

3301 1. Has lost the power of self-control with respect to
3302 substance use; and

3303 2.a. Has inflicted, or threatened or attempted to inflict,
3304 or unless admitted is likely to inflict, physical harm on
3305 himself or herself or another; or

3306 b. Is in need of substance abuse services and, by reason of

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3307 ~~substance abuse impairment, his or her judgment has been so~~
3308 ~~impaired that the person is incapable of appreciating his or her~~
3309 ~~need for such services and of making a rational decision in~~
3310 ~~regard thereto; however, mere refusal to receive such services~~
3311 ~~does not constitute evidence of lack of judgment with respect to~~
3312 ~~his or her need for such services.~~

3313 (c)~~(e)~~ A person under 18 years of age who meets the
3314 criteria for examination or admission under paragraph (b) ~~or~~
3315 ~~paragraph (d)~~ and has a coexisting mental health and substance
3316 abuse disorder.

3317 Section 34. Subsection (18) of section 394.67, Florida
3318 Statutes, is amended to read:

3319 394.67 Definitions.—As used in this part, the term:

3320 (18) "Person who is experiencing an acute substance abuse
3321 crisis" means a child, adolescent, or adult who is experiencing
3322 a medical or emotional crisis because of the use of alcoholic
3323 beverages or any psychoactive or mood-altering substance. ~~The~~
3324 ~~term includes an individual who meets the criteria for~~
3325 ~~involuntary admission specified in s. 397.675.~~

3326 Section 35. Subsection (2) of section 394.674, Florida
3327 Statutes, is amended to read:

3328 394.674 Eligibility for publicly funded substance abuse and
3329 mental health services; fee collection requirements.—

3330 (2) Crisis services, as defined in s. 394.67, must, within
3331 the limitations of available state and local matching resources,
3332 be available to each person who is eligible for services under
3333 subsection (1), regardless of the person's ability to pay for
3334 such services. A person who is experiencing a mental health
3335 crisis and who does not meet the criteria for involuntary

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3336 examination under s. 394.463(1), ~~or a person who is experiencing~~
3337 ~~a substance abuse crisis and who does not meet the involuntary~~
3338 ~~admission criteria in s. 397.675,~~ must contribute to the cost of
3339 his or her care and treatment pursuant to the sliding fee scale
3340 developed under subsection (4), unless charging a fee is
3341 contraindicated because of the crisis situation.

3342 Section 36. Subsection (6) of section 394.9085, Florida
3343 Statutes, is amended to read:

3344 394.9085 Behavioral provider liability.—

3345 (6) For purposes of this section, the terms "detoxification
3346 services," "addictions receiving facility," and "receiving
3347 facility" have the same meanings as those provided in ss.
3348 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,
3349 respectively.

3350 Section 37. Paragraph (d) of subsection (1) of section
3351 395.0197, Florida Statutes, is amended to read:

3352 395.0197 Internal risk management program.—

3353 (1) Every licensed facility shall, as a part of its
3354 administrative functions, establish an internal risk management
3355 program that includes all of the following components:

3356 (d) A system for informing a patient or an individual
3357 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~ that the
3358 patient was the subject of an adverse incident, as defined in
3359 subsection (5). Such notice shall be given by an appropriately
3360 trained person designated by the licensed facility as soon as
3361 practicable to allow the patient an opportunity to minimize
3362 damage or injury.

3363 Section 38. Section 395.1051, Florida Statutes, is amended
3364 to read:

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3365 395.1051 Duty to notify patients.—An appropriately trained
3366 person designated by each licensed facility shall inform each
3367 patient, or an individual identified pursuant to s. 765.311(1)
3368 ~~s. 765.401(1)~~, in person about adverse incidents that result in
3369 serious harm to the patient. Notification of outcomes of care
3370 that result in harm to the patient under this section shall not
3371 constitute an acknowledgment or admission of liability, nor can
3372 it be introduced as evidence.

3373 Section 39. Subsection (11) and paragraph (a) of subsection
3374 (18) of section 397.311, Florida Statutes, are amended to read:
3375 397.311 Definitions.—As used in this chapter, except part
3376 VIII, the term:

3377 (11) "Habitual abuser" means a person who is brought to the
3378 attention of law enforcement for being substance impaired, ~~who~~
3379 ~~meets the criteria for involuntary admission in s. 397.675,~~ and
3380 who has been taken into custody for such impairment three or
3381 more times during the preceding 12 months.

3382 (18) Licensed service components include a comprehensive
3383 continuum of accessible and quality substance abuse prevention,
3384 intervention, and clinical treatment services, including the
3385 following services:

3386 (a) "Clinical treatment" means a professionally directed,
3387 deliberate, and planned regimen of services and interventions
3388 that are designed to reduce or eliminate the misuse of drugs and
3389 alcohol and promote a healthy, drug-free lifestyle. As defined
3390 by rule, "clinical treatment services" include, but are not
3391 limited to, the following licensable service components:

3392 1. "Addictions receiving facility" is a secure, acute care
3393 facility that provides, at a minimum, detoxification and

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3394 stabilization services ~~and~~ is operated 24 hours per day, 7 days
3395 per week; and is designated by the department to serve
3396 individuals found to be substance use impaired ~~as described in~~
3397 ~~s. 397.675~~ who meet the placement criteria for this component.

3398 2. "Day or night treatment" is a service provided in a
3399 nonresidential environment, with a structured schedule of
3400 treatment and rehabilitative services.

3401 3. "Day or night treatment with community housing" means a
3402 program intended for individuals who can benefit from living
3403 independently in peer community housing while participating in
3404 treatment services for a minimum of 5 hours a day for a minimum
3405 of 25 hours per week.

3406 4. "Detoxification" is a service involving subacute care
3407 that is provided on an inpatient or an outpatient basis to
3408 assist individuals to withdraw from the physiological and
3409 psychological effects of substance abuse and who meet the
3410 placement criteria for this component.

3411 5. "Intensive inpatient treatment" includes a planned
3412 regimen of evaluation, observation, medical monitoring, and
3413 clinical protocols delivered through an interdisciplinary team
3414 approach provided 24-hours-per-day ~~24 hours per day~~, 7-days-per-
3415 week ~~7 days per week~~, in a highly structured, live-in
3416 environment.

3417 6. "Intensive outpatient treatment" is a service that
3418 provides individual or group counseling in a more structured
3419 environment, is of higher intensity and duration than outpatient
3420 treatment, and is provided to individuals who meet the placement
3421 criteria for this component.

3422 7. "Medication-assisted treatment for opiate addiction" is

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3423 a service that uses methadone or other medication as authorized
3424 by state and federal law, in combination with medical,
3425 rehabilitative, and counseling services in the treatment of
3426 individuals who are dependent on opioid drugs.

3427 8. "Outpatient treatment" is a service that provides
3428 individual, group, or family counseling by appointment during
3429 scheduled operating hours for individuals who meet the placement
3430 criteria for this component.

3431 9. "Residential treatment" is a service provided in a
3432 structured live-in environment within a nonhospital setting on a
3433 24-hours-per-day, 7-days-per-week basis, and is intended for
3434 individuals who meet the placement criteria for this component.

3435 Section 40. Subsection (3) of section 397.431, Florida
3436 Statutes, is amended to read:

3437 397.431 Individual responsibility for cost of substance
3438 abuse impairment services.—

3439 (3) The parent, legal guardian, or legal custodian of a
3440 minor is not liable for payment for any substance abuse services
3441 provided to the minor without parental consent ~~pursuant to s.~~
3442 ~~397.601(4)~~, unless the parent, legal guardian, or legal
3443 custodian participates or is ordered to participate in the
3444 services, and only for the substance abuse services rendered. If
3445 the minor is receiving services as a juvenile offender, the
3446 obligation to pay is governed by the law relating to juvenile
3447 offenders.

3448 Section 41. Paragraph (b) of subsection (2) of section
3449 397.702, Florida Statutes, is amended to read:

3450 397.702 Authorization of local ordinances for treatment of
3451 habitual abusers in licensed secure facilities.—

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3452 (2) Ordinances for the treatment of habitual abusers must
3453 provide:

3454 (b) That when seeking treatment of a habitual abuser, the
3455 county or municipality, through an officer or agent specified in
3456 the ordinance, must file with the court a petition which alleges
3457 the following information about the alleged habitual abuser (the
3458 respondent):

3459 1. The name, address, age, and gender of the respondent.

3460 2. The name of any spouse, adult child, other relative, or
3461 guardian of the respondent, if known to the petitioner, and the
3462 efforts, if any, by the petitioner, ~~if any~~, to ascertain this
3463 information.

3464 3. The name of the petitioner, the name of the person who
3465 has physical custody of the respondent, and the current location
3466 of the respondent.

3467 4. That the respondent has been taken into custody for
3468 impairment in a public place, or has been arrested for an
3469 offense committed while impaired, three or more times during the
3470 preceding 12 months.

3471 ~~5. Specific facts indicating that the respondent meets the~~
3472 ~~criteria for involuntary admission in s. 397.675.~~

3473 5.6. Whether the respondent was advised of his or her right
3474 to be represented by counsel and to request that the court
3475 appoint an attorney if he or she is unable to afford one, and
3476 whether the respondent indicated to petitioner his or her desire
3477 to have an attorney appointed.

3478 Section 42. Paragraph (a) of subsection (1) of section
3479 397.94, Florida Statutes, is amended to read:

3480 397.94 Children's substance abuse services; information and

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3481 referral network.—

3482 (1) The substate entity shall determine the most cost-
3483 effective method for delivering this service and may select a
3484 new provider or utilize an existing provider or providers with a
3485 record of success in providing information and referral
3486 services.

3487 (a) The plan must provide assurances that the information
3488 and referral network will include a resource directory that
3489 contains information regarding the children's substance abuse
3490 services available, including, but not limited to:

3491 ~~1. Public and private resources by service component,~~
3492 ~~including resources for involuntary admissions under s. 397.675.~~

3493 1.2. Hours of operation and hours during which services are
3494 provided.

3495 2.3. Ages of persons served.

3496 3.4. Description of services.

3497 4.5. Eligibility requirements.

3498 5.6. Fee schedules.

3499 Section 43. Section 402.3057, Florida Statutes, is amended
3500 to read:

3501 402.3057 Persons not required to be refingerprinted or
3502 rescreened.—Any provision of law to the contrary
3503 notwithstanding, human resource personnel who have been
3504 fingerprinted or screened pursuant to chapters 393, 394, 397,
3505 402, and 409, and teachers and noninstructional personnel who
3506 have been fingerprinted pursuant to chapter 1012, who have not
3507 been unemployed for more than 90 days thereafter, and who under
3508 the penalty of perjury attest to the completion of such
3509 fingerprinting or screening and to compliance with the

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3510 provisions of this section and the standards for good moral
3511 character as contained in such provisions as ss. 110.1127(2)(c),
3512 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),
3513 shall not be required to be refingerprinted or rescreened in
3514 order to comply with any caretaker screening or fingerprinting
3515 requirements.

3516 Section 44. Section 409.1757, Florida Statutes, is amended
3517 to read:

3518 409.1757 Persons not required to be refingerprinted or
3519 rescreened.—Any law to the contrary notwithstanding, human
3520 resource personnel who have been fingerprinted or screened
3521 pursuant to chapters 393, 394, 397, 402, and this chapter,
3522 teachers who have been fingerprinted pursuant to chapter 1012,
3523 and law enforcement officers who meet the requirements of s.
3524 943.13, who have not been unemployed for more than 90 days
3525 thereafter, and who under the penalty of perjury attest to the
3526 completion of such fingerprinting or screening and to compliance
3527 with this section and the standards for good moral character as
3528 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
3529 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are
3530 not required to be refingerprinted or rescreened in order to
3531 comply with any caretaker screening or fingerprinting
3532 requirements.

3533 Section 45. Paragraph (b) of subsection (1) of section
3534 409.972, Florida Statutes, is amended to read:

3535 409.972 Mandatory and voluntary enrollment.—

3536 (1) The following Medicaid-eligible persons are exempt from
3537 mandatory managed care enrollment required by s. 409.965, and
3538 may voluntarily choose to participate in the managed medical

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3539 assistance program:

3540 (b) Medicaid recipients residing in residential commitment
3541 facilities operated through the Department of Juvenile Justice
3542 or mental health treatment facilities as defined by s.
3543 394.455(47) ~~s. 394.455(32)~~.

3544 Section 46. Section 456.0575, Florida Statutes, is amended
3545 to read:

3546 456.0575 Duty to notify patients.—Every licensed health
3547 care practitioner shall inform each patient, or an individual
3548 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~, in person
3549 about adverse incidents that result in serious harm to the
3550 patient. Notification of outcomes of care that result in harm to
3551 the patient under this section shall not constitute an
3552 acknowledgment of admission of liability, nor can such
3553 notifications be introduced as evidence.

3554 Section 47. Subsection (7) of section 744.704, Florida
3555 Statutes, is amended to read:

3556 744.704 Powers and duties.—

3557 (7) A public guardian shall not commit a ward to a mental
3558 health treatment facility, as defined in s. 394.455(47) ~~s.~~
3559 ~~394.455(32)~~, without an involuntary placement proceeding as
3560 provided by law.

3561 Section 48. Subsection (15) of section 765.101, Florida
3562 Statutes, is amended to read:

3563 765.101 Definitions.—As used in this chapter:

3564 (15) "Proxy" means a competent adult who has not been
3565 expressly designated to make health care decisions for a
3566 particular incapacitated individual, but who, nevertheless, is
3567 authorized pursuant to s. 765.311 ~~s. 765.401~~ to make health care

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3568 decisions for such individual.

3569 Section 49. Subsection (4) of section 765.104, Florida
3570 Statutes, is amended to read:

3571 765.104 Amendment or revocation.—

3572 (4) Any patient for whom a medical proxy has been
3573 recognized under s. 765.311 ~~s. 765.401~~ and for whom any previous
3574 legal disability that precluded the patient's ability to consent
3575 is removed may amend or revoke the recognition of the medical
3576 proxy and any uncompleted decision made by that proxy. The
3577 amendment or revocation takes effect when it is communicated to
3578 the proxy, the health care provider, or the health care facility
3579 in writing or, if communicated orally, in the presence of a
3580 third person.

3581 Section 50. Paragraph (a) of subsection (2) of section
3582 790.065, Florida Statutes, is amended to read:

3583 790.065 Sale and delivery of firearms.—

3584 (2) Upon receipt of a request for a criminal history record
3585 check, the Department of Law Enforcement shall, during the
3586 licensee's call or by return call, forthwith:

3587 (a) Review any records available to determine if the
3588 potential buyer or transferee:

3589 1. Has been convicted of a felony and is prohibited from
3590 receipt or possession of a firearm pursuant to s. 790.23;

3591 2. Has been convicted of a misdemeanor crime of domestic
3592 violence, and therefore is prohibited from purchasing a firearm;

3593 3. Has had adjudication of guilt withheld or imposition of
3594 sentence suspended on any felony or misdemeanor crime of
3595 domestic violence unless 3 years have elapsed since probation or
3596 any other conditions set by the court have been fulfilled or

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3597 expunction has occurred; or

3598 4. Has been adjudicated mentally defective or has been
3599 committed to a mental institution by a court or as provided in
3600 sub-sub-subparagraph b.(II), and as a result is prohibited by
3601 state or federal law from purchasing a firearm.

3602 a. As used in this subparagraph, "adjudicated mentally
3603 defective" means a determination by a court that a person, as a
3604 result of marked subnormal intelligence, or mental illness,
3605 incompetency, condition, or disease, is a danger to himself or
3606 herself or to others or lacks the mental capacity to contract or
3607 manage his or her own affairs. The phrase includes a judicial
3608 finding of incapacity under s. 744.331(6)(a), an acquittal by
3609 reason of insanity of a person charged with a criminal offense,
3610 and a judicial finding that a criminal defendant is not
3611 competent to stand trial.

3612 b. As used in this subparagraph, "committed to a mental
3613 institution" means:

3614 (I) Involuntary commitment, commitment for mental
3615 defectiveness or mental illness, and commitment for substance
3616 abuse. The phrase includes involuntary inpatient placement as
3617 defined in s. 394.467, or involuntary outpatient placement as
3618 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
3619 ~~under s. 397.6818, and involuntary substance abuse treatment~~
3620 ~~under s. 397.6957~~, but does not include a person in a mental
3621 institution for observation or discharged from a mental
3622 institution based upon the initial review by the physician or a
3623 voluntary admission to a mental institution; or

3624 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3625 admission to a mental institution for outpatient or inpatient

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3626 treatment of a person who had an involuntary examination under
3627 s. 394.463, where each of the following conditions have been
3628 met:

3629 (A) An examining physician found that the person is an
3630 imminent danger to himself or herself or others.

3631 (B) The examining physician certified that if the person
3632 did not agree to voluntary treatment, a petition for involuntary
3633 outpatient or inpatient treatment would have been filed under s.
3634 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician
3635 certified that a petition was filed and the person subsequently
3636 agreed to voluntary treatment prior to a court hearing on the
3637 petition.

3638 (C) Before agreeing to voluntary treatment, the person
3639 received written notice of that finding and certification, and
3640 written notice that as a result of such finding, he or she may
3641 be prohibited from purchasing a firearm, and may not be eligible
3642 to apply for or retain a concealed weapon or firearms license
3643 under s. 790.06 and the person acknowledged such notice in
3644 writing, in substantially the following form:

3645
3646 "I understand that the doctor who examined me believes I am
3647 a danger to myself or to others. I understand that if I do not
3648 agree to voluntary treatment, a petition will be filed in court
3649 to require me to receive involuntary treatment. I understand
3650 that if that petition is filed, I have the right to contest it.
3651 In the event a petition has been filed, I understand that I can
3652 subsequently agree to voluntary treatment prior to a court
3653 hearing. I understand that by agreeing to voluntary treatment in
3654 either of these situations, I may be prohibited from buying

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3655 firearms and from applying for or retaining a concealed weapons
3656 or firearms license until I apply for and receive relief from
3657 that restriction under Florida law.”

3658
3659 (D) A judge or a magistrate has, pursuant to sub-sub-
3660 subparagraph c.(II), reviewed the record of the finding,
3661 certification, notice, and written acknowledgment classifying
3662 the person as an imminent danger to himself or herself or
3663 others, and ordered that such record be submitted to the
3664 department.

3665 c. In order to check for these conditions, the department
3666 shall compile and maintain an automated database of persons who
3667 are prohibited from purchasing a firearm based on court records
3668 of adjudications of mental defectiveness or commitments to
3669 mental institutions.

3670 (I) Except as provided in sub-sub-subparagraph (II), clerks
3671 of court shall submit these records to the department within 1
3672 month after the rendition of the adjudication or commitment.
3673 Reports shall be submitted in an automated format. The reports
3674 must, at a minimum, include the name, along with any known alias
3675 or former name, the sex, and the date of birth of the subject.

3676 (II) For persons committed to a mental institution pursuant
3677 to sub-sub-subparagraph b.(II), within 24 hours after the
3678 person's agreement to voluntary admission, a record of the
3679 finding, certification, notice, and written acknowledgment must
3680 be filed by the administrator of the receiving or treatment
3681 facility, as defined in s. 394.455, with the clerk of the court
3682 for the county in which the involuntary examination under s.
3683 394.463 occurred. No fee shall be charged for the filing under

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3684 this sub-sub-subparagraph. The clerk must present the records to
3685 a judge or magistrate within 24 hours after receipt of the
3686 records. A judge or magistrate is required and has the lawful
3687 authority to review the records ex parte and, if the judge or
3688 magistrate determines that the record supports the classifying
3689 of the person as an imminent danger to himself or herself or
3690 others, to order that the record be submitted to the department.
3691 If a judge or magistrate orders the submittal of the record to
3692 the department, the record must be submitted to the department
3693 within 24 hours.

3694 d. A person who has been adjudicated mentally defective or
3695 committed to a mental institution, as those terms are defined in
3696 this paragraph, may petition the circuit court that made the
3697 adjudication or commitment, or the court that ordered that the
3698 record be submitted to the department pursuant to sub-sub-
3699 subparagraph c.(II), for relief from the firearm disabilities
3700 imposed by such adjudication or commitment. A copy of the
3701 petition shall be served on the state attorney for the county in
3702 which the person was adjudicated or committed. The state
3703 attorney may object to and present evidence relevant to the
3704 relief sought by the petition. The hearing on the petition may
3705 be open or closed as the petitioner may choose. The petitioner
3706 may present evidence and subpoena witnesses to appear at the
3707 hearing on the petition. The petitioner may confront and cross-
3708 examine witnesses called by the state attorney. A record of the
3709 hearing shall be made by a certified court reporter or by court-
3710 approved electronic means. The court shall make written findings
3711 of fact and conclusions of law on the issues before it and issue
3712 a final order. The court shall grant the relief requested in the

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3713 petition if the court finds, based on the evidence presented
3714 with respect to the petitioner's reputation, the petitioner's
3715 mental health record and, if applicable, criminal history
3716 record, the circumstances surrounding the firearm disability,
3717 and any other evidence in the record, that the petitioner will
3718 not be likely to act in a manner that is dangerous to public
3719 safety and that granting the relief would not be contrary to the
3720 public interest. If the final order denies relief, the
3721 petitioner may not petition again for relief from firearm
3722 disabilities until 1 year after the date of the final order. The
3723 petitioner may seek judicial review of a final order denying
3724 relief in the district court of appeal having jurisdiction over
3725 the court that issued the order. The review shall be conducted
3726 de novo. Relief from a firearm disability granted under this
3727 sub-subparagraph has no effect on the loss of civil rights,
3728 including firearm rights, for any reason other than the
3729 particular adjudication of mental defectiveness or commitment to
3730 a mental institution from which relief is granted.

3731 e. Upon receipt of proper notice of relief from firearm
3732 disabilities granted under sub-subparagraph d., the department
3733 shall delete any mental health record of the person granted
3734 relief from the automated database of persons who are prohibited
3735 from purchasing a firearm based on court records of
3736 adjudications of mental defectiveness or commitments to mental
3737 institutions.

3738 f. The department is authorized to disclose data collected
3739 pursuant to this subparagraph to agencies of the Federal
3740 Government and other states for use exclusively in determining
3741 the lawfulness of a firearm sale or transfer. The department is

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3742 also authorized to disclose this data to the Department of
3743 Agriculture and Consumer Services for purposes of determining
3744 eligibility for issuance of a concealed weapons or concealed
3745 firearms license and for determining whether a basis exists for
3746 revoking or suspending a previously issued license pursuant to
3747 s. 790.06(10). When a potential buyer or transferee appeals a
3748 nonapproval based on these records, the clerks of court and
3749 mental institutions shall, upon request by the department,
3750 provide information to help determine whether the potential
3751 buyer or transferee is the same person as the subject of the
3752 record. Photographs and any other data that could confirm or
3753 negate identity must be made available to the department for
3754 such purposes, notwithstanding any other provision of state law
3755 to the contrary. Any such information that is made confidential
3756 or exempt from disclosure by law shall retain such confidential
3757 or exempt status when transferred to the department.

3758 Section 51. Part IV of chapter 397, Florida Statutes,
3759 consisting of s. 397.601, Florida Statutes, is repealed.

3760 Section 52. Part V of chapter 397, Florida Statutes,
3761 consisting of ss. 397.675-397.6977, Florida Statutes, is
3762 repealed.

3763 Section 53. This act shall take effect July 1, 2015.