

By the Committees on Judiciary; and Appropriations

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1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 381.0056, F.S.; revising the definition of
4 the term "emergency health needs"; requiring school
5 health services plans to include notification
6 requirements when a student is removed from school,
7 school transportation, or a school-sponsored activity
8 for involuntary examination; amending s. 394.453,
9 F.S.; providing legislative intent regarding the
10 development of programs related to substance abuse
11 impairment by the Department of Children and Families;
12 expanding legislative intent related to a guarantee of
13 dignity and human rights to all individuals who are
14 admitted to substance abuse treatment facilities;
15 amending s. 394.455, F.S.; defining and redefining
16 terms; deleting defined terms; amending s. 394.457,
17 F.S.; adding substance abuse services as a program
18 focus for which the Department of Children and
19 Families is responsible; deleting a requirement that
20 the department establish minimum standards for
21 personnel employed in mental health programs and
22 provide orientation and training materials; amending
23 s. 394.4573, F.S.; deleting a defined term; adding
24 substance abuse care as an element of the continuity
25 of care management system that the department must
26 establish; deleting duties and measures of performance
27 of the department regarding the continuity of care
28 management system; amending s. 394.459, F.S.;

29 extending a right to dignity to all individuals held

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30 for examination or admitted for mental health or
31 substance abuse treatment; providing procedural
32 requirements that must be followed to detain without
33 consent an individual who has a substance abuse
34 impairment but who has not been charged with a
35 criminal offense; providing that individuals held for
36 examination or admitted for treatment at a facility
37 have a right to certain evaluation and treatment
38 procedures; removing provisions regarding express and
39 informed consent for medical procedures requiring the
40 use of a general anesthetic or electroconvulsive
41 treatment; requiring facilities to have written
42 procedures for reporting events that place individuals
43 receiving services at risk of harm; requiring service
44 providers to provide information concerning advance
45 directives to individuals receiving services; amending
46 s. 394.4597, F.S.; specifying certain persons who are
47 prohibited from being selected as an individual's
48 representative; providing certain rights to
49 representatives; amending s. 394.4598, F.S.;
50 specifying certain persons who are prohibited from
51 being appointed as an individual's guardian advocate;
52 providing guidelines for decisions of guardian
53 advocates; amending s. 394.4599, F.S.; including
54 health care surrogates and proxies as individuals who
55 may act on behalf of an individual involuntarily
56 admitted to a facility; requiring a receiving facility
57 to give notice immediately of the whereabouts of a
58 minor who is being held involuntarily to the minor's

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59 parent, guardian, caregiver, or guardian advocate;
60 providing circumstances when notification may be
61 delayed; requiring the receiving facility to make
62 continuous attempts to notify; authorizing the
63 receiving facility to seek assistance from law
64 enforcement under certain circumstances; requiring the
65 receiving facility to document notification attempts
66 in the minor's clinical record; amending s. 394.4615,
67 F.S.; adding a condition under which the clinical
68 record of an individual must be released to the state
69 attorney; providing for the release of information
70 from the clinical record to law enforcement agencies
71 under certain circumstances; amending s. 394.462,
72 F.S.; providing that a person in custody for a felony
73 other than a forcible felony must be transported to
74 the nearest receiving facility for examination;
75 providing that a law enforcement officer may transport
76 an individual meeting the criteria for voluntary
77 admission to a mental health receiving facility,
78 addictions receiving facility, or detoxification
79 facility at the individual's request; amending s.
80 394.4625, F.S.; providing criteria for the examination
81 and treatment of an individual who is voluntarily
82 admitted to a facility; providing criteria for the
83 release or discharge of the individual; providing that
84 a voluntarily admitted individual who is released or
85 discharged and who is currently charged with a crime
86 shall be returned to the custody of a law enforcement
87 officer; providing procedures for transferring an

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88 individual to voluntary status and involuntary status;
89 amending s. 394.463, F.S.; providing for the
90 involuntary examination of a person for a substance
91 abuse impairment; providing for the transportation of
92 an individual for an involuntary examination;
93 providing that a certificate for an involuntary
94 examination must contain certain information;
95 providing criteria and procedures for the release of
96 an individual held for involuntary examination from
97 receiving or treatment facilities; amending s.
98 394.4655, F.S.; adding substance abuse impairment as a
99 condition to which criteria for involuntary outpatient
100 placement apply; providing guidelines for an attorney
101 representing an individual subject to proceedings for
102 involuntary outpatient placement; providing guidelines
103 for the state attorney in prosecuting a petition for
104 involuntary placement; requiring the court to consider
105 certain information when determining whether to
106 appoint a guardian advocate for the individual;
107 requiring the court to inform the individual and his
108 or her representatives of the individual's right to an
109 independent expert examination with regard to
110 proceedings for involuntary outpatient placement;
111 amending s. 394.467, F.S.; adding substance abuse
112 impairment as a condition to which criteria for
113 involuntary inpatient placement apply; adding
114 addictions receiving facilities and detoxification
115 facilities as identified receiving facilities;
116 providing for first and second medical opinions in

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117 proceedings for placement for treatment of substance
118 abuse impairment; providing guidelines for attorney
119 representation of an individual subject to proceedings
120 for involuntary inpatient placement; providing
121 guidelines for the state attorney in prosecuting a
122 petition for involuntary placement; setting standards
123 for the court to accept a waiver of the individual's
124 rights; requiring the court to consider certain
125 testimony regarding the individual's prior history in
126 proceedings; requiring the Division of Administrative
127 Hearings to inform the individual and his or her
128 representatives of the right to an independent expert
129 examination; amending s. 394.4672, F.S.; providing
130 authority of facilities of the United States
131 Department of Veterans Affairs to conduct certain
132 examinations and provide certain treatments; amending
133 s. 394.875, F.S.; removing a limitation on the number
134 of beds in crisis stabilization units; transferring
135 and renumbering s. 765.401, F.S.; transferring and
136 renumbering s. 765.404, F.S.; providing a directive to
137 the Division of Law Revision and Information; creating
138 s. 765.4015, F.S.; providing a short title; creating
139 s. 765.402, F.S.; providing legislative findings;
140 creating s. 765.403, F.S.; defining terms; creating s.
141 765.405, F.S.; authorizing an adult with capacity to
142 execute a mental health or substance abuse treatment
143 advance directive; providing a presumption of validity
144 if certain requirements are met; specifying provisions
145 that an advance directive may include; creating s.

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146 765.406, F.S.; providing for execution of the mental
147 health or substance abuse treatment advance directive;
148 establishing requirements for a valid mental health or
149 substance abuse treatment advance directive; providing
150 that a mental health or substance abuse treatment
151 advance directive is valid upon execution even if a
152 part of the advance directive takes effect at a later
153 date; allowing a mental health or substance abuse
154 treatment advance directive to be revoked, in whole or
155 in part, or to expire under its own terms; specifying
156 that a mental health or substance abuse treatment
157 advance directive does not or may not serve specified
158 purposes; creating s. 765.407, F.S.; providing
159 circumstances under which a mental health or substance
160 abuse treatment advance directive may be revoked;
161 providing circumstances under which a principal may
162 waive specific directive provisions without revoking
163 the advance directive; creating s. 765.410, F.S.;
164 prohibiting criminal prosecution of a health care
165 facility, provider, or surrogate who acts pursuant to
166 a mental health or substance abuse treatment decision;
167 creating s. 765.411, F.S.; providing for recognition
168 of a mental health and substance abuse treatment
169 advance directive executed in another state if it
170 complies with the laws of this state; creating s.
171 916.185, F.S.; providing legislative findings and
172 intent; defining terms; creating the Forensic Hospital
173 Diversion Pilot Program; requiring the Department of
174 Children and Families to implement a Forensic Hospital

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175 Diversion Pilot Program in five specified judicial
176 circuits; providing eligibility criteria for
177 participation in the pilot program; providing
178 legislative intent concerning the training of judges;
179 authorizing the department to adopt rules; directing
180 the Office of Program Policy Analysis and Government
181 Accountability to submit a report to the Governor and
182 the Legislature; creating s. 944.805, F.S.; defining
183 the terms "department" and "nonviolent offender";
184 requiring the Department of Corrections to develop and
185 administer a reentry program for nonviolent offenders
186 which is intended to divert nonviolent offenders from
187 long periods of incarceration; requiring that the
188 program include intensive substance abuse treatment
189 and rehabilitation programs; providing for the minimum
190 length of service in the program; providing that any
191 portion of a sentence before placement in the program
192 does not count as progress toward program completion;
193 identifying permissible locations for the operation of
194 a reentry program; specifying eligibility criteria for
195 a nonviolent offender's participation in the reentry
196 program; requiring the department to screen and select
197 eligible offenders for the program based on specified
198 considerations; requiring the department to notify a
199 nonviolent offender's sentencing court to obtain
200 approval before the nonviolent offender is placed in
201 the reentry program; requiring the department to
202 notify the state attorney that an offender is being
203 considered for placement in the program; authorizing

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204 the state attorney to file objections to placing the
205 offender in the reentry program within a specified
206 period; authorizing the sentencing court to consider
207 certain factors when deciding whether to approve an
208 offender for placement in a reentry program; requiring
209 the sentencing court to notify the department of the
210 court's decision to approve or disapprove the
211 requested placement within a specified period;
212 requiring a nonviolent offender to undergo an
213 educational assessment and a complete substance abuse
214 assessment if admitted into the reentry program;
215 requiring an offender to be enrolled in an adult
216 education program in specified circumstances;
217 requiring that assessments of vocational skills and
218 future career education be provided to an offender;
219 requiring that certain reevaluation be made
220 periodically; providing that a participating
221 nonviolent offender is subject to the disciplinary
222 rules of the department; specifying the reasons for
223 which an offender may be terminated from the reentry
224 program; requiring that the department submit a report
225 to the sentencing court at least 30 days before a
226 nonviolent offender is scheduled to complete the
227 reentry program; specifying the issues to be addressed
228 in the report; authorizing a court to schedule a
229 hearing to consider any modification to an imposed
230 sentence; requiring the sentencing court to issue an
231 order modifying the sentence imposed and placing a
232 nonviolent offender on drug offender probation if the

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233 nonviolent offender's performance is satisfactory;
234 authorizing the court to revoke probation and impose
235 the original sentence in specified circumstances;
236 authorizing the court to require an offender to
237 complete a postadjudicatory drug court program in
238 specified circumstances; directing the department to
239 implement the reentry program using available
240 resources; authorizing the department to enter into
241 contracts with qualified individuals, agencies, or
242 corporations for services for the reentry program;
243 requiring offenders to abide by department conduct
244 rules; authorizing the department to impose
245 administrative or protective confinement as necessary;
246 providing that the section does not create a right to
247 placement in the reentry program or any right to
248 placement or early release under supervision of any
249 type; providing that the section does not create a
250 cause of action related to the program; authorizing
251 the department to establish a system of incentives
252 within the reentry program which the department may
253 use to promote participation in rehabilitative
254 programs and the orderly operation of institutions and
255 facilities; requiring the department to develop a
256 system for tracking recidivism, including, but not
257 limited to, rearrests and recommitment of nonviolent
258 offenders who successfully complete the reentry
259 program, and to report on recidivism in an annual
260 report; requiring the department to submit an annual
261 report to the Governor and Legislature detailing the

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262 extent of implementation of the reentry program,
263 specifying requirements for the report; requiring the
264 department to adopt rules; providing that specified
265 provisions are not severable; amending ss. 1002.20 and
266 1002.33, F.S.; requiring public school and charter
267 school principals or their designees to provide notice
268 of the whereabouts of a student removed from school,
269 school transportation, or a school-sponsored activity
270 for involuntary examination; providing circumstances
271 under which notification may be delayed; requiring
272 district school boards and charter school governing
273 boards to develop notification policies and
274 procedures; amending ss. 39.407, 394.4612, 394.495,
275 394.496, 394.499, 394.67, 394.674, 394.9085, 395.0197,
276 395.1051, 397.311, 397.431, 397.702, 397.94, 402.3057,
277 409.1757, 409.972, 456.0575, 744.704, 765.101,
278 765.104, and 790.065, F.S.; conforming cross-
279 references; repealing ss. 397.601, 397.675, 397.6751,
280 397.6752, 397.6758, 397.6759, 397.677, 397.6771,
281 397.6772, 397.6773, 397.6774, 397.6775, 397.679,
282 397.6791, 397.6793, 397.6795, 397.6797, 397.6798,
283 397.6799, 397.681, 397.6811, 397.6814, 397.6815,
284 397.6818, 397.6819, 397.6821, 397.6822, 397.693,
285 397.695, 397.6951, 397.6955, 397.6957, 397.697,
286 397.6971, 397.6975, and 397.6977, F.S.; reenacting ss.
287 394.4685(1), and 394.469(2), F.S., to incorporate the
288 amendment made to s. 394.4599, F.S., in references
289 thereto; providing an effective date.

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

292

293 Section 1. Subsection (2) and paragraph (a) of subsection
294 (4) of section 381.0056, Florida Statutes, are amended to read:
295 381.0056 School health services program.—

296 (2) As used in this section, the term:

297 (a) "Emergency health needs" means onsite evaluation,
298 management, and aid for illness or injury pending the student's
299 return to the classroom or release to a parent, guardian,
300 designated friend, law enforcement officer, or designated health
301 care provider.

302 (b) "Entity" or "health care entity" means a unit of local
303 government or a political subdivision of the state; a hospital
304 licensed under chapter 395; a health maintenance organization
305 certified under chapter 641; a health insurer authorized under
306 the Florida Insurance Code; a community health center; a migrant
307 health center; a federally qualified health center; an
308 organization that meets the requirements for nonprofit status
309 under s. 501(c) (3) of the Internal Revenue Code; a private
310 industry or business; or a philanthropic foundation that agrees
311 to participate in a public-private partnership with a county
312 health department, local school district, or school in the
313 delivery of school health services, and agrees to the terms and
314 conditions for the delivery of such services as required by this
315 section and as documented in the local school health services
316 plan.

317 (c) "Invasive screening" means any screening procedure in
318 which the skin or any body orifice is penetrated.

319 (d) "Physical examination" means a thorough evaluation of

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320 the health status of an individual.

321 (e) "School health services plan" means the document that
322 describes the services to be provided, the responsibility for
323 provision of the services, the anticipated expenditures to
324 provide the services, and evidence of cooperative planning by
325 local school districts and county health departments.

326 (f) "Screening" means presumptive identification of unknown
327 or unrecognized diseases or defects by the application of tests
328 that can be given with ease and rapidity to apparently healthy
329 persons.

330 (4) (a) Each county health department shall develop, jointly
331 with the district school board and the local school health
332 advisory committee, a school health services plan. ~~and~~ The plan
333 must include, at a minimum, provisions for all of the following:

- 334 1. Health appraisal;
- 335 2. Records review;
- 336 3. Nurse assessment;
- 337 4. Nutrition assessment;
- 338 5. A preventive dental program;
- 339 6. Vision screening;
- 340 7. Hearing screening;
- 341 8. Scoliosis screening;
- 342 9. Growth and development screening;
- 343 10. Health counseling;
- 344 11. Referral and followup of suspected or confirmed health
345 problems by the local county health department;
- 346 12. Meeting emergency health needs in each school;
- 347 13. County health department personnel to assist school
348 personnel in health education curriculum development;

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349 14. Referral of students to appropriate health treatment,
350 in cooperation with the private health community whenever
351 possible;

352 15. Consultation with a student's parent or guardian
353 regarding the need for health attention by the family physician,
354 dentist, or other specialist when definitive diagnosis or
355 treatment is indicated;

356 16. Maintenance of records on incidents of health problems,
357 corrective measures taken, and such other information as may be
358 needed to plan and evaluate health programs; except, however,
359 that provisions in the plan for maintenance of health records of
360 individual students must be in accordance with s. 1002.22;

361 17. Health information which will be provided by the school
362 health nurses, when necessary, regarding the placement of
363 students in exceptional student programs and the reevaluation at
364 periodic intervals of students placed in such programs; and

365 18. Notification to the local nonpublic schools of the
366 school health services program and the opportunity for
367 representatives of the local nonpublic schools to participate in
368 the development of the cooperative health services plan.

369 19. Immediate notification to a student's parent, guardian,
370 or caregiver if the student is removed from school, school
371 transportation, or a school-sponsored activity and taken to a
372 receiving facility for an involuntary examination pursuant to s.
373 394.463, including any requirements established under ss.
374 1002.20(3) and 1002.33(9), as applicable.

375 Section 2. Section 394.453, Florida Statutes, is amended to
376 read:

377 394.453 Legislative intent.—It is the intent of the

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378 Legislature to authorize and direct the Department of Children
379 and Families to evaluate, research, plan, and recommend to the
380 Governor and the Legislature programs designed to reduce the
381 occurrence, severity, duration, and disabling aspects of mental,
382 emotional, and behavioral disorders, and substance abuse
383 impairment. It is the intent of the Legislature that treatment
384 programs for such disorders shall include, but not be limited
385 to, comprehensive health, social, educational, and
386 rehabilitative services for individuals ~~to persons~~ requiring
387 intensive short-term and continued treatment in order to
388 encourage them to assume responsibility for their treatment and
389 recovery. It is intended that such individuals ~~persons~~ be
390 provided with emergency service and temporary detention for
391 evaluation if ~~when~~ required; that they be admitted to treatment
392 facilities if ~~on a voluntary basis when~~ extended or continuing
393 care is needed and unavailable in the community; that
394 involuntary placement be provided only if ~~when~~ expert evaluation
395 determines that it is necessary; that any involuntary treatment
396 or examination be accomplished in a setting that ~~which~~ is
397 clinically appropriate and most likely to facilitate the
398 individual's ~~person's~~ return to the community as soon as
399 possible; and that ~~individual~~ dignity and human rights be
400 guaranteed to all individuals ~~persons~~ who are admitted to mental
401 health and substance abuse treatment facilities or who are being
402 held under s. 394.463. It is the further intent of the
403 Legislature that the least restrictive means of intervention be
404 employed based on the individual's ~~individual~~ needs ~~of each~~
405 ~~person~~, within the scope of available services. It is the policy
406 of this state that the use of restraint and seclusion ~~on clients~~

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407 is justified only as an emergency safety measure to be used in
408 response to imminent danger to the individual ~~client~~ or others.
409 It is, therefore, the intent of the Legislature to achieve an
410 ongoing reduction in the use of restraint and seclusion in
411 programs and facilities serving individuals ~~persons~~ with mental
412 illness or who have a substance abuse impairment.

413 Section 3. Section 394.455, Florida Statutes, is reordered
414 and amended to read:

415 394.455 Definitions.—As used in this part, unless the
416 context clearly requires otherwise, the term:

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

423 (2) ~~(1)~~ "Administrator" means the chief administrative
424 officer of a receiving or treatment facility or his or her
425 designee.

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

429 (4) "Advanced registered nurse practitioner" means any
430 person licensed in this state to practice professional nursing
431 who is certified in advanced or specialized nursing practice
432 under s. 464.012.

433 (36) ~~(2)~~ "Clinical Psychologist" means a psychologist as
434 defined in s. 490.003(7) ~~with 3 years of postdoctoral experience~~
435 ~~in the practice of clinical psychology, inclusive of the~~

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436 ~~experience required for licensure~~, or a psychologist employed by
437 a facility operated by the United States Department of Veterans
438 Affairs that qualifies as a receiving or treatment facility
439 under this part.

440 (5)~~(3)~~ "Clinical record" means all parts of the record
441 required to be maintained and includes all medical records,
442 progress notes, charts, and admission and discharge data, and
443 all other information recorded by ~~a~~ facility staff which
444 pertains to an individual's ~~the patient's~~ hospitalization or
445 treatment.

446 (6)~~(4)~~ "Clinical social worker" means a person licensed as
447 a clinical social worker under s. 491.005 or s. 491.006 or a
448 person employed as a clinical social worker by a facility
449 operated by the United States Department of Veterans Affairs or
450 the United States Department of Defense under chapter 491.

451 (7)~~(5)~~ "Community facility" means a ~~any~~ community service
452 provider contracting with the department to furnish substance
453 abuse or mental health services under part IV of this chapter.

454 (8)~~(6)~~ "Community mental health center or clinic" means a
455 publicly funded, not-for-profit center that ~~which~~ contracts with
456 the department for the provision of inpatient, outpatient, day
457 treatment, or emergency services.

458 (9)~~(7)~~ "Court," unless otherwise specified, means the
459 circuit court.

460 (10)~~(8)~~ "Department" means the Department of Children and
461 Families.

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

464 (12) "Electronic means" means a form of telecommunication

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465 that requires all parties to maintain visual as well as audio
466 communication.

467 (13)~~(9)~~ "Express and informed consent" means consent
468 voluntarily given in writing, by a competent individual ~~person~~,
469 after sufficient explanation and disclosure of the subject
470 matter involved to enable the individual ~~person~~ to make a
471 knowing and willful decision without any element of force,
472 fraud, deceit, duress, or other form of constraint or coercion.

473 (14)~~(10)~~ "Facility" means any hospital, community facility,
474 public or private facility, or receiving or treatment facility
475 providing for the evaluation, diagnosis, care, treatment,
476 training, or hospitalization of individuals ~~persons~~ who appear
477 to have ~~a mental illness~~ or who have been diagnosed as having a
478 mental illness or substance abuse impairment. The term
479 "Facility" does not include a ~~any~~ program or entity licensed
480 under ~~pursuant to~~ chapter 400 or chapter 429.

481 (15) "Governmental facility" means a facility owned,
482 operated, or administered by the Department of Corrections or
483 the United States Department of Veterans Affairs.

484 (16)~~(11)~~ "Guardian" means the natural guardian of a minor,
485 or a person appointed by a court to act on behalf of a ward's
486 person if the ward is a minor or has been adjudicated
487 incapacitated.

488 (17)~~(12)~~ "Guardian advocate" means a person appointed by a
489 court to make decisions regarding mental health or substance
490 abuse treatment on behalf of an individual ~~a patient~~ who has
491 been found incompetent to consent to treatment pursuant to this
492 part. ~~The guardian advocate may be granted specific additional~~
493 ~~powers by written order of the court, as provided in this part.~~

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494 ~~(18)(13)~~ "Hospital" means a hospital ~~facility as defined in~~
495 ~~s. 395.002 and~~ licensed under chapter 395 and part II of chapter
496 408.

497 ~~(19)(14)~~ "Incapacitated" means that an individual ~~a person~~
498 has been adjudicated incapacitated pursuant to part V of chapter
499 744 and a guardian of the person has been appointed.

500 ~~(20)(15)~~ "Incompetent to consent to treatment" means that
501 an individual's ~~a person's~~ judgment is so affected by ~~his or her~~
502 mental illness, substance abuse impairment, or any medical or
503 organic cause, that he or she ~~the person~~ lacks the capacity to
504 make a well-reasoned, willful, and knowing decision concerning
505 his or her medical, ~~or~~ mental health, or substance abuse
506 treatment.

507 (21) "Involuntary examination" means an examination
508 performed under s. 394.463 to determine whether an individual
509 qualifies for involuntary outpatient placement under s. 394.4655
510 or involuntary inpatient placement under s. 394.467.

511 (22) "Involuntary placement" means involuntary outpatient
512 placement pursuant to s. 394.4655 or involuntary inpatient
513 placement in a receiving or treatment facility pursuant to s.
514 394.467.

515 ~~(23)(16)~~ "Law enforcement officer" means a law enforcement
516 officer as defined in s. 943.10.

517 (24) "Marriage and family therapist" means a person
518 licensed to practice marriage and family therapy under s.
519 491.005 or s. 491.006 or a person employed as a marriage and
520 family therapist by a facility operated by the United States
521 Department of Veterans Affairs or the United States Department
522 of Defense.

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523 (25) "Mental health counselor" means a person licensed to
524 practice mental health counseling under s. 491.005 or s. 491.006
525 or a person employed as a mental health counselor by a facility
526 operated by the United States Department of Veterans Affairs or
527 the United States Department of Defense.

528 ~~(26)-(17)~~ "Mental health overlay program" means a mobile
529 service ~~that~~ which provides an independent examination for
530 voluntary admission ~~admissions~~ and a range of supplemental
531 onsite services to an individual who has ~~persons with~~ a mental
532 illness in a residential setting such as a nursing home,
533 assisted living facility, adult family-care home, or
534 nonresidential setting such as an adult day care center.
535 Independent examinations provided ~~pursuant to this part~~ through
536 a mental health overlay program must ~~only~~ be provided only under
537 contract with the department ~~for this service~~ or must be
538 attached to a public receiving facility that is also a community
539 mental health center.

540 ~~(28)-(18)~~ "Mental illness" means an impairment of the mental
541 or emotional processes that exercise conscious control of one's
542 actions or of the ability to perceive or understand reality,
543 which impairment substantially interferes with the individual's
544 ~~person's~~ ability to meet the ordinary demands of living. For the
545 purposes of this part, the term does not include a developmental
546 disability as defined in chapter 393, intoxication, brain
547 injury, dementia, or conditions manifested only by antisocial
548 behavior or substance abuse impairment.

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

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552 ~~(30)(19)~~ "Mobile crisis response service" means a
553 nonresidential crisis service ~~attached to a public receiving~~
554 ~~facility and~~ available 24 hours a day, 7 days a week, ~~through~~
555 which provides immediate intensive assessments and
556 interventions, including screening for admission into a mental
557 health receiving facility, addictions receiving facility, or a
558 detoxification facility, ~~take place~~ for the purpose of
559 identifying appropriate treatment services.

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

562 ~~(31)(21)~~ "Physician" means a medical practitioner licensed
563 under chapter 458 or chapter 459 ~~who has experience in the~~
564 ~~diagnosis and treatment of mental and nervous disorders or a~~
565 physician employed by a facility operated by the United States
566 Department of Veterans Affairs or the United States Department
567 of Defense which qualifies as a receiving or treatment facility
568 ~~under this part.~~

569 ~~(32)~~ "Physician assistant" means a person licensed under
570 chapter 458 or chapter 459 who has experience in the diagnosis
571 and treatment of mental disorders or a person employed as a
572 physician assistant by a facility operated by the United States
573 Department of Veterans Affairs or the United States Department
574 of Defense.

575 ~~(33)(22)~~ "Private facility" means any hospital or facility
576 operated by a for-profit or not-for-profit corporation or
577 association that provides mental health or substance abuse
578 services and is not a public facility.

579 ~~(34)(23)~~ "Psychiatric nurse" means an advanced ~~a~~ registered
580 nurse practitioner certified under s. 464.012 ~~licensed under~~

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581 ~~part I of chapter 464~~ who has a master's or doctoral degree ~~or a~~
582 ~~doctorate~~ in psychiatric nursing, holds a national advance
583 practice certification as a psychiatric-mental health advance
584 practice nurse, and has 2 years of post-master's clinical
585 experience under the supervision of a physician or a person
586 employed as a psychiatric nurse by a facility operated by the
587 United States Department of Veterans Affairs or the United
588 States Department of Defense.

589 ~~(35)(24)~~ "Psychiatrist" means a medical practitioner
590 licensed under chapter 458 or chapter 459 ~~who has primarily~~
591 ~~diagnosed and treated mental and nervous disorders~~ for at least
592 ~~a period of not less than~~ 3 years, inclusive of psychiatric
593 residency, or a person employed as a psychiatrist by a facility
594 operated by the United States Department of Veterans Affairs or
595 the United States Department of Defense.

596 ~~(37)(25)~~ "Public facility" means any facility that has
597 contracted with the department to provide mental health or
598 substance abuse services to all individuals ~~persons~~, regardless
599 of ~~their~~ ability to pay, and is receiving state funds for such
600 purpose.

601 ~~(27)(26)~~ "Mental health receiving facility" means any
602 public or private facility designated by the department to
603 receive and hold individuals on involuntary status ~~involuntary~~
604 ~~patients under emergency conditions~~ or for psychiatric
605 evaluation and to provide ~~short-term~~ treatment. The term does
606 not include a county jail.

607 ~~(38)(27)~~ "Representative" means a person selected pursuant
608 to s. 394.4597(2) ~~to receive notice of proceedings during the~~
609 ~~time a patient is held in or admitted to a receiving or~~

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610 ~~treatment facility.~~

611 ~~(39)(28)(a)~~ "Restraint" means a physical device, method, or
612 drug used to control behavior.

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

618 (b) A drug used as a restraint is a medication used to
619 control an individual's ~~the person's~~ behavior or to restrict his
620 or her freedom of movement and is not part of the standard
621 treatment regimen for an individual having ~~of a person with~~ a
622 diagnosed mental illness ~~who is a client of the department.~~
623 Physically holding an individual ~~a person~~ during a procedure to
624 forcibly administer psychotropic medication is a physical
625 restraint.

626 (c) Restraint does not include physical devices, such as
627 orthopedically prescribed appliances, surgical dressings and
628 bandages, supportive body bands, or other physical holding ~~when~~
629 necessary for routine physical examinations and tests; ~~or~~ for
630 purposes of orthopedic, surgical, or other similar medical
631 treatment; ~~when used~~ to provide support for the achievement of
632 functional body position or proper balance; or ~~when used~~ to
633 protect an individual ~~a person~~ from falling out of bed.

634 (40) "School psychologist" has the same meaning as in s.
635 490.003.

636 ~~(41)(29)~~ "Seclusion" means the physical segregation ~~of a~~
637 ~~person in any fashion~~ or involuntary isolation of an individual
638 ~~a person~~ in a room or area from which the individual ~~person~~ is

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639 prevented from leaving. The prevention may be by physical
640 barrier or by a staff member who is acting in a manner, or who
641 is physically situated, so as to prevent the individual ~~person~~
642 from leaving the room or area. For purposes of this chapter, the
643 term does not mean isolation due to an individual's ~~a person's~~
644 medical condition or symptoms.

645 ~~(42)(30)~~ "Secretary" means the Secretary of Children and
646 Families.

647 (43) "Service provider" means a mental health receiving
648 facility, any facility licensed under chapter 397, a treatment
649 facility, an entity under contract with the department to
650 provide mental health or substance abuse services, a community
651 mental health center or clinic, a psychologist, a clinical
652 social worker, a marriage and family therapist, a mental health
653 counselor, a physician, a psychiatrist, an advanced registered
654 nurse practitioner, or a psychiatric nurse.

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

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

662 ~~(46)(31)~~ "Transfer evaluation" means the process, as
663 approved by the ~~appropriate district office of the department,~~
664 in which an individual ~~whereby a person who is being considered~~
665 ~~for placement in a state treatment facility is first~~ evaluated
666 for appropriateness of admission to a treatment ~~the~~ facility.
667 The transfer evaluation shall be conducted by the department, by

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668 a ~~community-based~~ public receiving facility, or by another
669 service provider as authorized by the department or by a
670 community mental health center or clinic ~~if the public receiving~~
671 ~~facility is not a community mental health center or clinic.~~

672 (47) ~~(32)~~ "Treatment facility" means a ~~any~~ state-owned,
673 state-operated, or state-supported hospital, center, or clinic
674 designated by the department for extended treatment and
675 hospitalization of individuals who have a mental illness, beyond
676 that provided ~~for~~ by a receiving facility or a, ~~of persons who~~
677 ~~have a mental illness, including facilities of the United States~~
678 ~~Government, and any private facility designated by the~~
679 department when rendering such services ~~to a person~~ pursuant to
680 ~~the provisions of this part.~~ Patients treated in facilities of
681 the United States Government shall be solely those whose care is
682 the responsibility of the United States Department of Veterans
683 Affairs.

684 ~~(33)~~ "Service provider" means ~~any public or private~~
685 ~~receiving facility, an entity under contract with the Department~~
686 ~~of Children and Families to provide mental health services, a~~
687 ~~clinical psychologist, a clinical social worker, a marriage and~~
688 ~~family therapist, a mental health counselor, a physician, a~~
689 ~~psychiatric nurse as defined in subsection (23), or a community~~
690 ~~mental health center or clinic as defined in this part.~~

691 ~~(34)~~ "Involuntary examination" means ~~an examination~~
692 ~~performed under s. 394.463 to determine if an individual~~
693 ~~qualifies for involuntary inpatient treatment under s.~~
694 ~~394.467(1) or involuntary outpatient treatment under s.~~
695 ~~394.4655(1).~~

696 ~~(35)~~ "Involuntary placement" means ~~either involuntary~~

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697 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
698 ~~inpatient treatment pursuant to s. 394.467.~~

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

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

703 ~~(38) "Electronic means" means a form of telecommunication~~
704 ~~that requires all parties to maintain visual as well as audio~~
705 ~~communication.~~

706 Section 4. Section 394.457, Florida Statutes, is amended to
707 read:

708 394.457 Operation and administration.—

709 (1) ADMINISTRATION.—The Department of Children and Families
710 is designated the "Mental Health Authority" of Florida. The
711 department and the Agency for Health Care Administration shall
712 exercise executive and administrative supervision over all
713 ~~mental health~~ facilities, programs, and services.

714 (2) RESPONSIBILITIES OF THE DEPARTMENT.—The department is
715 responsible for:

716 (a) The planning, evaluation, and implementation of a
717 complete and comprehensive statewide ~~program of~~ mental health
718 and substance abuse program, including community services,
719 receiving and treatment facilities, child services, research,
720 and training as authorized and approved by the Legislature,
721 based on the annual program budget of the department. The
722 department is also responsible for the coordination of efforts
723 with other departments and divisions of the state government,
724 county and municipal governments, and private agencies concerned
725 with and providing mental health and substance abuse services.

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726 It is responsible for establishing standards, providing
727 technical assistance, and supervising ~~exercising supervision of~~
728 mental health and substance abuse programs of, and the treatment
729 of individuals ~~patients~~ at, community facilities, other
730 facilities serving individuals ~~for persons~~ who have a mental
731 illness or substance abuse impairment, and any agency or
732 facility providing services under ~~to patients pursuant to~~ this
733 part.

734 (b) The publication and distribution of an information
735 handbook to facilitate understanding of this part, the policies
736 and procedures involved in the implementation of this part, and
737 the responsibilities of the various providers of services under
738 this part. It shall stimulate research by public and private
739 agencies, institutions of higher learning, and hospitals in the
740 interest of the elimination and amelioration of mental illness.

741 (3) POWER TO CONTRACT.—The department may contract to
742 provide, and be provided with, services and facilities in order
743 to carry out its responsibilities under this part with the
744 following agencies: public and private hospitals; receiving and
745 treatment facilities; clinics; laboratories; departments,
746 divisions, and other units of state government; the state
747 colleges and universities; the community colleges; private
748 colleges and universities; counties, municipalities, and any
749 other governmental unit, including facilities of the United
750 States Government; and any other public or private entity which
751 provides or needs facilities or services. Baker Act funds for
752 community inpatient, crisis stabilization, short-term
753 residential treatment, and screening services must be allocated
754 to each county pursuant to the department's funding allocation

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755 methodology. Notwithstanding s. 287.057(3)(e), contracts for
756 community-based Baker Act services for inpatient, crisis
757 stabilization, short-term residential treatment, and screening
758 provided under this part, other than those with other units of
759 government, to be provided for the department must be awarded
760 using competitive sealed bids if the county commission of the
761 county receiving the services makes a request to the
762 department's district office by January 15 of the contracting
763 year. The district may not enter into a competitively bid
764 contract under this provision if such action will result in
765 increases of state or local expenditures for Baker Act services
766 within the district. Contracts for these Baker Act services
767 using competitive sealed bids are effective for 3 years. The
768 department shall adopt rules establishing minimum standards for
769 such contracted services and facilities and shall make periodic
770 audits and inspections to assure that the contracted services
771 are provided and meet the standards of the department.

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

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

780 (a) Establishing ~~The department shall adopt rules~~
781 ~~establishing~~ forms and procedures relating to the rights and
782 privileges of individuals being examined or treated at ~~patients~~
783 ~~seeking mental health treatment from~~ facilities under this part.

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784 (b) ~~The department shall adopt rules~~ Necessary for the
785 implementation and administration of ~~the provisions of this~~
786 ~~part.~~, and A program subject to ~~the provisions of this part~~ may
787 ~~shall not be permitted to~~ operate unless rules designed to
788 ensure the protection of the health, safety, and welfare of the
789 individuals examined and patients treated under ~~through~~ such
790 program have been adopted. Such rules ~~adopted under this~~
791 ~~subsection~~ must include provisions governing the use of
792 restraint and seclusion which are consistent with recognized
793 best practices and professional judgment; prohibit inherently
794 dangerous restraint or seclusion procedures; establish
795 limitations on the use and duration of restraint and seclusion;
796 establish measures to ensure the safety of program participants
797 and staff during an incident of restraint or seclusion;
798 establish procedures for staff to follow before, during, and
799 after incidents of restraint or seclusion; establish
800 professional qualifications ~~of~~ and training for staff who may
801 order or be engaged in the use of restraint or seclusion; and
802 establish mandatory reporting, data collection, and data
803 dissemination procedures and requirements. Such rules ~~adopted~~
804 ~~under this subsection~~ must require that each instance of the use
805 of restraint or seclusion be documented in the clinical record
806 of the individual who has been restrained or secluded ~~patient~~.

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

810 ~~(6) PERSONNEL.—~~

811 ~~(a) The department shall, by rule, establish minimum~~
812 ~~standards of education and experience for professional and~~

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813 ~~technical personnel employed in mental health programs,~~
814 ~~including members of a mobile crisis response service.~~

815 ~~(b) The department shall design and distribute appropriate~~
816 ~~materials for the orientation and training of persons actively~~
817 ~~engaged in implementing the provisions of this part relating to~~
818 ~~the involuntary examination and placement of persons who are~~
819 ~~believed to have a mental illness.~~

820 (6) ~~(7)~~ PAYMENT FOR CARE OF PATIENTS.—Fees and fee
821 collections for patients in state-owned, state-operated, or
822 state-supported treatment facilities shall be according to s.
823 402.33.

824 Section 5. Section 394.4573, Florida Statutes, is amended
825 to read:

826 394.4573 Continuity of care management system; measures of
827 performance; reports.—

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

829 (a) "Case management" means those activities aimed at
830 assessing ~~client~~ needs, planning services, linking the service
831 system ~~to a client~~, coordinating the various system components,
832 monitoring service delivery, and evaluating the effect of
833 service delivery.

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

837 (c) "Client manager" means an employee of the department
838 who is assigned to specific provider agencies and geographic
839 areas to ensure that the full range of needed services is
840 available to clients.

841 ~~(d) "Continuity of care management system" means a system~~

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842 ~~that assures, within available resources, that clients have~~
843 ~~access to the full array of services within the mental health~~
844 ~~services delivery system.~~

845 (2) The department shall ensure the establishment of ~~is~~
846 ~~directed to implement~~ a continuity of care management system for
847 the provision of mental health and substance abuse care in
848 keeping with s. 394.9082., ~~through the provision of client and~~
849 ~~case management, including clients referred from state treatment~~
850 ~~facilities to community mental health facilities. Such system~~
851 ~~shall include a network of client managers and case managers~~
852 ~~throughout the state designed to:~~

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

855 ~~(b) Provide for the creation or designation of an agency in~~
856 ~~each county to provide single intake services for each person~~
857 ~~seeking mental health services. Such agency shall provide~~
858 ~~information and referral services necessary to ensure that~~
859 ~~clients receive the most appropriate and least restrictive form~~
860 ~~of care, based on the individual needs of the person seeking~~
861 ~~treatment. Such agency shall have a single telephone number,~~
862 ~~operating 24 hours per day, 7 days per week, where practicable,~~
863 ~~at a central location, where each client will have a central~~
864 ~~record.~~

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

868 ~~(d) Require that any public receiving facility initiating a~~
869 ~~patient transfer to a licensed hospital for acute care mental~~
870 ~~health services not accessible through the public receiving~~

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871 ~~facility shall notify the hospital of such transfer and send all~~
872 ~~records relating to the emergency psychiatric or medical~~
873 ~~condition.~~

874 ~~(3) The department is directed to develop and include in~~
875 ~~contracts with service providers measures of performance with~~
876 ~~regard to goals and objectives as specified in the state plan.~~
877 ~~Such measures shall use, to the extent practical, existing data~~
878 ~~collection methods and reports and shall not require, as a~~
879 ~~result of this subsection, additional reports on the part of~~
880 ~~service providers. The department shall plan monitoring visits~~
881 ~~of community mental health facilities with other state, federal,~~
882 ~~and local governmental and private agencies charged with~~
883 ~~monitoring such facilities.~~

884 Section 6. Subsection (1), present subsections (2) through
885 (6), and present subsection (8) of section 394.459, Florida
886 Statutes, are amended, present subsections (2) through (11) of
887 that section are redesignated as subsections (3) through (12),
888 respectively, present subsection (12) of that section is
889 redesignated as subsection (14), and new subsections (2) and
890 (13) are added to that section, to read:

891 394.459 Rights of individuals receiving treatment and
892 services patients.-

893 (1) RIGHT TO ~~INDIVIDUAL~~ DIGNITY.-It is the policy of this
894 state that the ~~individual~~ dignity of all individuals held for
895 examination or admitted for mental health or substance abuse
896 treatment ~~the patient~~ shall be respected at all times and upon
897 all occasions, including ~~any occasion~~ when the individual
898 ~~patient~~ is taken into custody, held, or transported. Procedures,
899 facilities, vehicles, and restraining devices used ~~utilized~~ for

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900 criminals or those accused of a crime ~~may shall~~ not be used in
901 connection with individuals ~~persons~~ who have a mental illness or
902 substance abuse impairment, except for the protection of that
903 individual ~~the patient~~ or others. An individual ~~Persons~~ who has
904 ~~have~~ a mental illness but who has ~~are~~ not been charged with a
905 criminal offense ~~may shall~~ not be detained or incarcerated in
906 the jails of this state. An individual ~~A person~~ who is receiving
907 treatment for mental illness or substance abuse ~~may shall~~ not be
908 deprived of his or her ~~any~~ constitutional rights. However, if
909 such individual ~~a person~~ is adjudicated incapacitated, his or
910 her rights may be limited to the same extent that the rights of
911 any incapacitated individual ~~person~~ are limited by law.

912 (2) PROTECTIVE CUSTODY WITHOUT CONSENT FOR SUBSTANCE ABUSE
913 IMPAIRMENT.—An individual who has a substance abuse impairment
914 but who has not been charged with a criminal offense may be
915 placed in protective custody without his or her consent, subject
916 to the limitations specified in this subsection. If it has been
917 determined that a hospital, an addictions receiving facility, or
918 a licensed detoxification facility is the most appropriate
919 placement for the individual, law enforcement may implement
920 protective custody measures as specified in this subsection.

921 (a) An individual meets the criteria for placement in
922 protective custody if there is a good faith reason to believe
923 that the individual is impaired by substance abuse, has lost the
924 power of self-control with respect to substance use because of
925 such impairment, and:

926 1. Has inflicted, or threatened or attempted to inflict, or
927 unless admitted is likely to inflict, physical harm on himself
928 or herself or another; or

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929 2. Is in need of substance abuse services and, by reason of
930 substance abuse impairment, is incapacitated and unable to make
931 a rational decision with regard thereto. However, mere refusal
932 to seek or obtain such services does not constitute evidence of
933 lack of judgment with respect to his or her need for such
934 services.

935 (b) If an individual who is in circumstances that justify
936 protective custody as described in paragraph (a) fails or
937 refuses to consent to assistance and a law enforcement officer
938 has determined that a hospital, an addictions receiving
939 facility, or a licensed detoxification facility is the most
940 appropriate place for such individual, the officer may, after
941 giving due consideration to the expressed wishes of the
942 individual:

943 1. Take the individual to a hospital, an addictions
944 receiving facility, or a licensed detoxification facility
945 against the individual's will but without using unreasonable
946 force; or

947 2. In the case of an adult, detain the individual for his
948 or her own protection in any municipal or county jail or other
949 appropriate detention facility.

950
951 Detention under this paragraph is not to be considered an arrest
952 for any purpose, and an entry or other record may not be made to
953 indicate that the individual has been detained or charged with
954 any crime. The officer in charge of the detention facility must
955 notify the nearest appropriate licensed service provider within
956 8 hours after detention that the individual has been detained.
957 The detention facility must arrange, as necessary, for

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958 transportation of the individual to an appropriate licensed
959 service provider with an available bed. Individuals detained
960 under this paragraph must be assessed by an attending physician
961 without unnecessary delay and within a 72-hour period to
962 determine the need for further services.

963 (c) The nearest relative of a minor in protective custody
964 must be notified by the law enforcement officer, as must the
965 nearest relative of an adult, unless the adult requests that
966 there be no notification.

967 (d) An individual who is in protective custody must be
968 released by a qualified professional when any of the following
969 circumstances occur:

970 1. The individual no longer meets the protective custody
971 criteria set out in paragraph (a);

972 2. A 72-hour period has elapsed since the individual was
973 taken into custody; or

974 3. The individual has consented voluntarily to readmission
975 at the facility of the licensed service provider.

976 (e) An individual may be detained in protective custody
977 beyond the 72-hour period if a petitioner has initiated
978 proceedings for involuntary assessment or treatment. The timely
979 filing of the petition authorizes the service provider to retain
980 physical custody of the individual pending further order of the
981 court.

982 (3)(2) RIGHT TO TREATMENT.—An individual held for
983 examination or admitted for mental illness or substance abuse
984 treatment:

985 (a) ~~May~~ ~~A person shall~~ not be denied treatment for mental
986 illness or substance abuse impairment, and services ~~may shall~~

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987 not be delayed at a mental health receiving facility, addictions
988 receiving facility, detoxification facility, or treatment
989 facility because of inability to pay. However, every reasonable
990 effort to collect appropriate reimbursement for the cost of
991 providing mental health or substance abuse services from
992 individuals ~~to persons~~ able to pay for services, including
993 insurance or ~~third-party~~ payments by third-party payers, shall
994 be made by facilities providing services under ~~pursuant to~~ this
995 part.

996 (b) Shall be provided ~~It is further the policy of the state~~
997 ~~that~~ the least restrictive appropriate available treatment,
998 which must be utilized based on the individual's individual
999 needs and best interests ~~of the patient~~ and consistent with the
1000 optimum improvement of the individual's patient's condition.

1001 (c) Shall ~~Each person who remains at a receiving or~~
1002 ~~treatment facility for more than 12 hours shall~~ be given a
1003 physical examination by a health practitioner authorized by law
1004 to give such examinations, and a mental health or substance
1005 abuse evaluation, as appropriate, by a psychiatrist,
1006 psychologist, psychiatric nurse, or qualified substance abuse
1007 professional, within 24 hours after arrival at such facility if
1008 the individual has not been released or discharged pursuant to
1009 s. 394.463(2) (h) or s. 394.469. The physical examination and
1010 mental health evaluation must be documented in the clinical
1011 record. The physical and mental health examinations shall
1012 include efforts to identify indicators of substance abuse
1013 impairment, substance abuse intoxication, and substance abuse
1014 withdrawal.

1015 (d) Shall ~~Every patient in a facility shall~~ be afforded the

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1016 opportunity to participate in activities designed to enhance
1017 self-image and the beneficial effects of other treatments, as
1018 determined by the facility.

1019 (e) Shall, not more than 5 days after admission to a
1020 facility, ~~each patient shall~~ have and receive an individualized
1021 treatment plan in writing, which the individual patient has had
1022 an opportunity to assist in preparing and to review before ~~prior~~
1023 ~~to its~~ implementation. The plan must ~~shall~~ include a space for
1024 the individual's patient's comments and signature.

1025 ~~(4)(3)~~ RIGHT TO EXPRESS AND INFORMED ~~PATIENT~~ CONSENT.—

1026 ~~(a)1.~~ Each individual patient entering treatment shall be
1027 asked to give express and informed consent for admission or
1028 treatment.

1029 (a) If the individual patient has been adjudicated
1030 incapacitated or found to be incompetent to consent to
1031 treatment, express and informed consent must ~~to treatment shall~~
1032 be sought from his or her ~~instead from the patient's~~ guardian,
1033 ~~or~~ guardian advocate, or health care surrogate or proxy. If the
1034 individual patient is a minor, express and informed consent for
1035 admission or treatment must be obtained ~~shall also be requested~~
1036 ~~from the patient's guardian. Express and informed consent for~~
1037 ~~admission or treatment of a patient under 18 years of age shall~~
1038 ~~be required~~ from the minor's patient's guardian, unless the
1039 minor is seeking outpatient crisis intervention services under
1040 s. 394.4784. ~~Express and informed consent for admission or~~
1041 ~~treatment given by a patient who is under 18 years of age shall~~
1042 ~~not be a condition of admission when the patient's guardian~~
1043 ~~gives express and informed consent for the patient's admission~~
1044 ~~pursuant to s. 394.463 or s. 394.467.~~

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1045 (b)2. Before giving express and informed consent, the
1046 following information shall be provided and explained in plain
1047 language to the individual and patient, ~~or to his or her~~ the
1048 ~~patient's~~ guardian if the individual patient is an adult ~~18~~
1049 ~~years of age or older~~ and has been adjudicated incapacitated, ~~or~~
1050 to his or her ~~the patient's~~ guardian advocate if the individual
1051 ~~patient~~ has been found to be incompetent to consent to
1052 treatment, to the health care surrogate or proxy, or to both the
1053 individual patient and the guardian if the individual patient is
1054 a minor: the reason for admission or treatment; the proposed
1055 treatment and ~~;~~ the purpose of such ~~the~~ treatment ~~to be~~
1056 ~~provided~~; the common risks, benefits, and side effects of the
1057 proposed treatment ~~thereof~~; the specific dosage range of ~~for~~ the
1058 medication, if ~~when~~ applicable; alternative treatment
1059 modalities; the approximate length of care; the potential
1060 effects of stopping treatment; how treatment will be monitored;
1061 and that any consent given for treatment may be revoked orally
1062 or in writing before or during the treatment period by the
1063 individual receiving the treatment ~~patient~~ or by a person who is
1064 legally authorized to make health care decisions on the
1065 individual's behalf ~~of the patient~~.

1066 ~~(b) In the case of medical procedures requiring the use of~~
1067 ~~a general anesthetic or electroconvulsive treatment, and prior~~
1068 ~~to performing the procedure, express and informed consent shall~~
1069 ~~be obtained from the patient if the patient is legally~~
1070 ~~competent, from the guardian of a minor patient, from the~~
1071 ~~guardian of a patient who has been adjudicated incapacitated, or~~
1072 ~~from the guardian advocate of the patient if the guardian~~
1073 ~~advocate has been given express court authority to consent to~~

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1074 ~~medical procedures or electroconvulsive treatment as provided~~
1075 ~~under s. 394.4598.~~

1076 (5)~~(4)~~ QUALITY OF TREATMENT.-

1077 (a) Each individual ~~patient shall receive services,~~
1078 ~~including, for a patient placed~~ under s. 394.4655 shall receive,
1079 ~~those services that are included in the court order which are~~
1080 ~~suited to his or her needs, and which shall be administered~~
1081 ~~skillfully, safely, and humanely with full respect for the~~
1082 individual's ~~patient's~~ dignity and personal integrity. Each
1083 individual ~~patient~~ shall receive such medical, vocational,
1084 social, educational, substance abuse, and rehabilitative
1085 services as his or her condition requires in order to live
1086 successfully in the community. In order to achieve this goal,
1087 the department shall ~~is directed to~~ coordinate its mental health
1088 and substance abuse programs with all other programs of the
1089 department and other state agencies.

1090 (b) Facilities shall develop and maintain, in a form that
1091 is accessible to and readily understandable by individuals held
1092 for examination or admitted for mental health or substance abuse
1093 treatment ~~patients~~ and consistent with rules adopted by the
1094 department, ~~the following:~~

1095 1. Criteria, procedures, and required staff training for
1096 the ~~any~~ use of close or elevated levels of supervision, ~~of~~
1097 restraint, seclusion, or isolation, ~~or of~~ emergency treatment
1098 orders, and ~~for the use of~~ bodily control and physical
1099 management techniques.

1100 2. Procedures for documenting, monitoring, and requiring
1101 clinical review of all uses of the procedures described in
1102 subparagraph 1. and for documenting and requiring review of any

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1103 incidents resulting in injury to individuals receiving services
1104 patients.

1105 3. A system for investigating, tracking, managing, and
1106 responding to complaints by individuals ~~persons~~ receiving
1107 services or persons ~~individuals~~ acting on their behalf.

1108 (c) Facilities shall have written procedures for reporting
1109 events that place individuals receiving services at risk of
1110 harm. Such events must be reported to the managing entity in the
1111 facility's region and the department as soon as reasonably
1112 possible after discovery and include, but are not limited to:

1113 1. The death, regardless of cause or manner, of an
1114 individual examined or treated at a facility that occurs while
1115 the individual is at the facility or that occurs within 72 hours
1116 after release, if the death is known to the facility
1117 administrator.

1118 2. An injury sustained, or allegedly sustained, at a
1119 facility, by an individual examined or treated at the facility
1120 and caused by an accident, self-inflicted injury, assault, act
1121 of abuse, neglect, or suicide attempt, if the injury requires
1122 medical treatment by a licensed health care practitioner in an
1123 acute care medical facility.

1124 3. The unauthorized departure or absence of an individual
1125 from a facility in which he or she has been held for involuntary
1126 examination or involuntary placement.

1127 4. A disaster or crisis situation such as a tornado,
1128 hurricane, kidnapping, riot, or hostage situation that
1129 jeopardizes the health, safety, or welfare of individuals
1130 examined or treated in a facility.

1131 5. An allegation of sexual battery upon an individual

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1132 examined or treated in a facility.

1133 ~~(d)(e)~~ A facility may not use seclusion or restraint for
1134 punishment, to compensate for inadequate staffing, or for the
1135 convenience of staff. Facilities shall ensure that all staff are
1136 made aware of these restrictions ~~on the use of seclusion and~~
1137 ~~restraint~~ and ~~shall make and~~ maintain records that ~~which~~
1138 demonstrate that this information has been conveyed to each
1139 ~~individual~~ staff member ~~members~~.

1140 ~~(6)(5)~~ COMMUNICATION, ABUSE REPORTING, AND VISITS.—

1141 (a) Each individual ~~person receiving services~~ in a facility
1142 providing mental health services under this part has the right
1143 to communicate freely and privately with persons outside the
1144 facility unless it is determined that such communication is
1145 likely to be harmful to the individual ~~person~~ or others. Each
1146 facility shall make available ~~as soon as reasonably possible to~~
1147 ~~persons receiving services~~ a telephone that allows for free
1148 local calls and access to a long-distance service to the
1149 individual as soon as reasonably possible. A facility is not
1150 required to pay the costs of the individual's ~~a patient's~~ long-
1151 distance calls. The telephone must ~~shall~~ be readily accessible
1152 ~~to the patient~~ and ~~shall be~~ placed so that the individual
1153 ~~patient~~ may use it to communicate privately and confidentially.
1154 The facility may establish reasonable rules for the use of the
1155 ~~this~~ telephone which, ~~provided that the rules~~ do not interfere
1156 with an individual's ~~a patient's~~ access to a telephone to report
1157 abuse pursuant to paragraph (e).

1158 (b) Each individual ~~patient~~ admitted to a facility under
1159 ~~the provisions of~~ this part shall be allowed to receive, send,
1160 and mail sealed, unopened correspondence; and the individual's

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1161 ~~no patient's~~ incoming or outgoing correspondence may not ~~shall~~
1162 be opened, delayed, held, or censored by the facility unless
1163 there is reason to believe that it contains items or substances
1164 that ~~which~~ may be harmful to the individual ~~patient~~ or others,
1165 in which case the administrator may direct reasonable
1166 examination of such mail and may regulate the disposition of
1167 such items or substances.

1168 (c) Each facility shall allow ~~must permit~~ immediate access
1169 to an individual ~~any patient~~, subject to the ~~patient's~~ right to
1170 deny or withdraw consent at any time, by the individual, or by
1171 the individual's ~~patient's~~ family members, guardian, guardian
1172 advocate, health care surrogate or proxy, representative,
1173 ~~Florida statewide or local advocacy council~~, or attorneys
1174 ~~attorney~~, unless such access would be detrimental to the
1175 individual ~~patient~~. If the ~~a patient's~~ right to communicate or
1176 to receive visitors is restricted by the facility, written
1177 notice of such restriction and the reasons for the restriction
1178 shall be served on the individual and patient, the individual's
1179 ~~patient's~~ attorney, and ~~the patient's~~ guardian, guardian
1180 advocate, health care surrogate or proxy, or representative; and
1181 such restriction, and the reasons for the restriction, must
1182 ~~shall~~ be recorded in on the ~~patient's~~ clinical record ~~with the~~
1183 ~~reasons therefor~~. The restriction must ~~of a patient's right to~~
1184 ~~communicate or to receive visitors shall~~ be reviewed at least
1185 every 7 days. The right to communicate or receive visitors may
1186 ~~shall~~ not be restricted as a means of punishment. This ~~Nothing~~
1187 ~~in this~~ paragraph may not ~~shall~~ be construed to limit the
1188 provisions of paragraph (d).

1189 (d) Each facility shall establish reasonable rules, which

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1190 must be the least restrictive possible, governing visitors,
 1191 visiting hours, and the use of telephones by individuals
 1192 ~~patients in the least restrictive possible manner.~~ An individual
 1193 has ~~Patients shall have~~ the right to contact and to receive
 1194 communication from his or her attorney ~~their attorneys~~ at any
 1195 reasonable time.

1196 (e) Each individual patient receiving mental health or
 1197 substance abuse treatment ~~in any facility~~ shall have ready
 1198 access to a telephone in order to report ~~an~~ alleged abuse. The
 1199 facility staff shall orally and in writing inform each
 1200 individual patient of the procedure for reporting abuse and
 1201 shall make every reasonable effort to present the information in
 1202 a language the individual patient understands. A written copy of
 1203 that procedure, including the telephone number of the central
 1204 abuse hotline and reporting forms, must ~~shall~~ be posted in plain
 1205 view.

1206 (f) The department shall adopt rules providing a procedure
 1207 for reporting abuse. ~~Facility staff shall be required,~~ As a
 1208 condition of employment, facility staff shall ~~to~~ become familiar
 1209 with the requirements and procedures for ~~the~~ reporting ~~of~~ abuse.

1210 (7) ~~(6)~~ CARE AND CUSTODY OF PERSONAL EFFECTS ~~OF PATIENTS.~~ A
 1211 facility shall respect the rights of an individual with regard A
 1212 ~~patient's right~~ to the possession of his or her clothing and
 1213 personal effects ~~shall be respected.~~ The facility may take
 1214 temporary custody of such effects if ~~when~~ required for medical
 1215 and safety reasons. The ~~A patient's~~ clothing and personal
 1216 effects shall be inventoried upon their removal into temporary
 1217 custody. Copies of this inventory shall be given to the
 1218 individual patient and to his or her ~~the patient's~~ guardian,

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1219 guardian advocate, health care surrogate or proxy, or
1220 representative and shall be recorded in the ~~patient's~~ clinical
1221 record. This inventory may be amended upon the request of the
1222 individual patient or his or her ~~the patient's~~ guardian,
1223 guardian advocate, health care surrogate or proxy, or
1224 representative. The inventory and any amendments ~~to it~~ must be
1225 witnessed by two members of the facility staff and by the
1226 individual patient, if he or she is able. All of ~~the a patient's~~
1227 clothing and personal effects held by the facility shall be
1228 returned to the individual patient immediately upon his or her
1229 ~~the~~ discharge or transfer ~~of the patient~~ from the facility,
1230 unless such return would be detrimental to the individual
1231 ~~patient~~. If personal effects are not returned ~~to the patient~~,
1232 the reason must be documented in the clinical record along with
1233 the disposition of the clothing and personal effects, which may
1234 be given instead to the individual's patient's guardian,
1235 guardian advocate, health care surrogate or proxy, or
1236 representative. As soon as practicable after an emergency
1237 transfer ~~of a patient~~, the individual's ~~patient's~~ clothing and
1238 personal effects shall be transferred to the individual's
1239 ~~patient's~~ new location, together with a copy of the inventory
1240 and any amendments, unless an alternate plan is approved by the
1241 individual patient, if he or she is able, and by his or her ~~the~~
1242 ~~patient's~~ guardian, guardian advocate, health care surrogate or
1243 proxy, or representative.

1244 (8) ~~(7)~~ VOTING IN PUBLIC ELECTIONS.—A patient who is
1245 eligible to vote according to the laws of the state has the
1246 right to vote in the primary and general elections. The
1247 department shall establish rules to enable patients to obtain

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1248 voter registration forms, applications for absentee ballots, and
1249 absentee ballots.

1250 (9)~~(8)~~ HABEAS CORPUS.—

1251 (a) At any time, and without notice, an individual ~~a person~~
1252 held or admitted for mental health or substance abuse
1253 examination or placement in a receiving or treatment facility,
1254 or a relative, friend, guardian, guardian advocate, health care
1255 surrogate or proxy, representative, or attorney, or the
1256 department, on behalf of such individual ~~person~~, may petition
1257 for a writ of habeas corpus to question the cause and legality
1258 of such detention and request that the court order a return to
1259 the writ in accordance with chapter 79. Each individual ~~patient~~
1260 held in a facility shall receive a written notice of the right
1261 to petition for a writ of habeas corpus.

1262 (b) At any time, and without notice, an individual held or
1263 admitted for mental health or substance abuse examination or
1264 placement ~~a person who is a patient~~ in a ~~receiving or treatment~~
1265 facility, or a relative, friend, guardian, guardian advocate,
1266 health care surrogate or proxy, representative, or attorney, or
1267 the department, on behalf of such individual ~~person~~, may file a
1268 petition in the circuit court in the county where the individual
1269 ~~patient~~ is being held alleging that he or she ~~the patient~~ is
1270 being unjustly denied a right or privilege granted under this
1271 part herein or that a procedure authorized under this part
1272 ~~herein~~ is being abused. Upon the filing of such a petition, the
1273 court may ~~shall have the authority to~~ conduct a judicial inquiry
1274 and ~~to~~ issue an ~~any~~ order ~~needed~~ to correct an abuse of ~~the~~
1275 ~~provisions of~~ this part.

1276 (c) The administrator of any ~~receiving or treatment~~

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1277 facility receiving a petition under this subsection shall file
1278 the petition with the clerk of the court on the next court
1279 working day.

1280 (d) A ~~No~~ fee may not ~~shall~~ be charged for ~~the~~ filing ~~of~~ a
1281 petition under this subsection.

1282 (10) ~~(9)~~ VIOLATIONS.—The department shall report to the
1283 Agency for Health Care Administration any violation of the
1284 rights or privileges of patients, or of any procedures provided
1285 under this part, by any facility or professional licensed or
1286 regulated by the agency. The agency is authorized to impose any
1287 sanction authorized for violation of this part, based solely on
1288 the investigation and findings of the department.

1289 (11) ~~(10)~~ LIABILITY FOR VIOLATIONS.—Any person who violates
1290 or abuses any rights or privileges of patients provided by this
1291 part is liable for damages as determined by law. Any person who
1292 acts in good faith in compliance with the provisions of this
1293 part is immune from civil or criminal liability for his or her
1294 actions in connection with the admission, diagnosis, treatment,
1295 or discharge of a patient to or from a facility. However, this
1296 section does not relieve any person from liability if such
1297 person commits negligence.

1298 (12) ~~(11)~~ RIGHT TO PARTICIPATE IN TREATMENT AND DISCHARGE
1299 PLANNING.—The patient shall have the opportunity to participate
1300 in treatment and discharge planning and shall be notified in
1301 writing of his or her right, upon discharge from the facility,
1302 to seek treatment from the professional or agency of the
1303 patient's choice.

1304 (13) ADVANCE DIRECTIVES.—All service providers under this
1305 part shall provide information concerning advance directives to

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1306 individuals and assist those who are competent and willing to
 1307 complete an advance directive. The directive may include
 1308 instructions regarding mental health or substance abuse care.
 1309 Service providers under this part shall honor the advance
 1310 directive of individuals they serve, or shall request the
 1311 transfer of the individual as required under s. 765.1105.

1312 (14)~~(12)~~ POSTING OF NOTICE OF RIGHTS OF PATIENTS.—Each
 1313 facility shall post a notice listing and describing, in the
 1314 language and terminology that the persons to whom the notice is
 1315 addressed can understand, the rights provided in this section.
 1316 This notice shall include a statement that provisions of the
 1317 federal Americans with Disabilities Act apply and the name and
 1318 telephone number of a person to contact for further information.
 1319 This notice shall be posted in a place readily accessible to
 1320 patients and in a format easily seen by patients. This notice
 1321 shall include the telephone numbers of the Florida local
 1322 advocacy council and Advocacy Center for Persons with
 1323 Disabilities, Inc.

1324 Section 7. Section 394.4597, Florida Statutes, is amended
 1325 to read:

1326 394.4597 Persons to be notified; appointment of a patient's
 1327 representative.—

1328 (1) VOLUNTARY ADMISSION PATIENTS.—At the time an individual
 1329 ~~a patient~~ is voluntarily admitted to a receiving or treatment
 1330 facility, the individual shall be asked to identify a person to
 1331 be notified in case of an emergency, and the identity and
 1332 contact information of that a person to be notified in case of
 1333 ~~an emergency~~ shall be entered in the individual's patient's
 1334 ~~clinical~~ record.

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1335 (2) INVOLUNTARY ADMISSION ~~PATIENTS~~.—

1336 (a) At the time an individual ~~a patient~~ is admitted to a
1337 facility for involuntary examination or placement, or when a
1338 petition for involuntary placement is filed, the names,
1339 addresses, and telephone numbers of the individual's ~~patient's~~
1340 guardian or guardian advocate, health care surrogate, or proxy,
1341 or representative if he or she ~~the patient~~ has no guardian, and
1342 the individual's ~~patient's~~ attorney shall be entered in the
1343 ~~patient's clinical~~ record.

1344 (b) If the individual ~~patient~~ has no guardian, guardian
1345 advocate, health care surrogate, or proxy, ~~he or she the patient~~
1346 shall be asked to designate a representative. If the individual
1347 ~~patient~~ is unable or unwilling to designate a representative,
1348 the facility shall select a representative.

1349 (c) The individual ~~patient~~ shall be consulted with regard
1350 to the selection of a representative by the receiving or
1351 treatment facility and may ~~shall have authority to~~ request that
1352 the ~~any such~~ representative be replaced.

1353 (d) ~~If~~ When the receiving or treatment facility selects a
1354 representative, first preference shall be given to a health care
1355 surrogate, if one has been previously selected ~~by the patient~~.
1356 If the individual ~~patient~~ has not previously selected a health
1357 care surrogate, the selection, except for good cause documented
1358 in the individual's ~~patient's~~ clinical record, shall be made
1359 from the following list in the order of listing:

- 1360 1. The individual's ~~patient's~~ spouse.
- 1361 2. An adult child of the individual ~~patient~~.
- 1362 3. A parent of the individual ~~patient~~.
- 1363 4. The adult next of kin of the individual ~~patient~~.

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1364 5. An adult friend of the individual patient.

1365 ~~6. The appropriate Florida local advocacy council as~~
1366 ~~provided in s. 402.166.~~

1367 (e) The following persons are prohibited from selection as
1368 an individual's representative:

1369 1. A professional providing clinical services to the
1370 individual under this part;

1371 2. The licensed professional who initiated the involuntary
1372 examination of the individual, if the examination was initiated
1373 by professional certificate;

1374 3. An employee, administrator, or board member of the
1375 facility providing the examination of the individual;

1376 4. An employee, administrator, or board member of a
1377 treatment facility providing treatment of the individual;

1378 5. A person providing any substantial professional services
1379 to the individual, including clinical and nonclinical services;

1380 6. A creditor of the individual;

1381 7. A person subject to an injunction for protection against
1382 domestic violence under s. 741.30, whether the order of
1383 injunction is temporary or final, and for which the individual
1384 was the petitioner; and

1385 8. A person subject to an injunction for protection against
1386 repeat violence, sexual violence, or dating violence under s.
1387 784.046, whether the order of injunction is temporary or final,
1388 and for which the individual was the petitioner.

1389 ~~(e) A licensed professional providing services to the~~
1390 ~~patient under this part, an employee of a facility providing~~
1391 ~~direct services to the patient under this part, a department~~
1392 ~~employee, a person providing other substantial services to the~~

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1393 ~~patient in a professional or business capacity, or a creditor of~~
1394 ~~the patient shall not be appointed as the patient's~~
1395 ~~representative.~~

1396 (f) The representative selected by the individual or
1397 designated by the facility has the right to:

- 1398 1. Receive notice of the individual's admission;
- 1399 2. Receive notice of proceedings affecting the individual;
- 1400 3. Have immediate access to the individual unless such
1401 access is documented to be detrimental to the individual;
- 1402 4. Receive notice of any restriction of the individual's
1403 right to communicate or receive visitors;
- 1404 5. Receive a copy of the inventory of personal effects upon
1405 the individual's admission and to request an amendment to the
1406 inventory at any time;
- 1407 6. Receive disposition of the individual's clothing and
1408 personal effects if not returned to the individual, or to
1409 approve an alternate plan;
- 1410 7. Petition on behalf of the individual for a writ of
1411 habeas corpus to question the cause and legality of the
1412 individual's detention or to allege that the individual is being
1413 unjustly denied a right or privilege granted under this part, or
1414 that a procedure authorized under this part is being abused;
- 1415 8. Apply for a change of venue for the individual's
1416 involuntary placement hearing for the convenience of the parties
1417 or witnesses or because of the individual's condition;
- 1418 9. Receive written notice of any restriction of the
1419 individual's right to inspect his or her clinical record;
- 1420 10. Receive notice of the release of the individual from a
1421 receiving facility where an involuntary examination was

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1422 performed;

1423 11. Receive a copy of any petition for the individual's
1424 involuntary placement filed with the court; and

1425 12. Be informed by the court of the individual's right to
1426 an independent expert evaluation pursuant to involuntary
1427 placement procedures.

1428 Section 8. Section 394.4598, Florida Statutes, is amended
1429 to read:

1430 394.4598 Guardian advocate.—

1431 (1) The administrator may petition the court for the
1432 appointment of a guardian advocate based upon the opinion of a
1433 psychiatrist that an individual held for examination or admitted
1434 for mental health or substance abuse treatment ~~the patient~~ is
1435 incompetent to consent to treatment. If the court finds that the
1436 individual ~~a patient~~ is incompetent to consent to treatment and
1437 has not been adjudicated incapacitated and a guardian having
1438 ~~with the~~ authority to consent to mental health or substance
1439 abuse treatment has not been appointed, it shall appoint a
1440 guardian advocate. The individual ~~patient~~ has the right to have
1441 an attorney represent him or her at the hearing. If the
1442 individual ~~person~~ is indigent, the court shall appoint the
1443 office of the public defender to represent him or her at the
1444 hearing. The individual ~~patient~~ has the right to testify, cross-
1445 examine witnesses, and present witnesses. The proceeding must
1446 ~~shall~~ be recorded ~~either~~ electronically or stenographically, and
1447 testimony shall be ~~provided~~ under oath. One of the professionals
1448 authorized to give an opinion in support of a petition for
1449 involuntary placement, as described in s. 394.4655 or s.
1450 394.467, shall ~~must~~ testify. The ~~A~~ guardian advocate shall ~~must~~

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1451 meet the qualifications of a guardian pursuant to ~~contained in~~
1452 part IV of chapter 744, ~~except that a professional referred to~~
1453 ~~in this part, an employee of the facility providing direct~~
1454 ~~services to the patient under this part, a departmental~~
1455 ~~employee, a facility administrator, or member of the Florida~~
1456 ~~local advocacy council shall not be appointed. A person who is~~
1457 ~~appointed as a guardian advocate must agree to the appointment.~~
1458 A person may not be appointed as a guardian advocate unless he
1459 or she agrees to the appointment.

1460 (2) The following persons are prohibited from being
1461 appointed as an individual's guardian advocate:

1462 (a) A professional providing clinical services to the
1463 individual under this part;

1464 (b) The licensed professional who initiated the involuntary
1465 examination of the individual, if the examination was initiated
1466 by professional certificate;

1467 (c) An employee, administrator, or board member of the
1468 facility providing the examination of the individual;

1469 (d) An employee, administrator, or board member of a
1470 treatment facility providing treatment of the individual;

1471 (e) A person providing any substantial professional
1472 services to the individual, including clinical and nonclinical
1473 services;

1474 (f) A creditor of the individual;

1475 (g) A person subject to an injunction for protection
1476 against domestic violence under s. 741.30, whether the order of
1477 injunction is temporary or final, and for which the individual
1478 was the petitioner; and

1479 (h) A person subject to an injunction for protection

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1480 against repeat violence, sexual violence, or dating violence
1481 under s. 784.046, whether the order of injunction is temporary
1482 or final, and for which the individual was the petitioner.

1483 (3)-(2) A facility requesting appointment of a guardian
1484 advocate must, prior to the appointment, provide the prospective
1485 guardian advocate with information about the duties and
1486 responsibilities of guardian advocates, including the
1487 information about the ethics of medical decisionmaking. Before
1488 asking a guardian advocate to give consent to treatment for an
1489 individual held for examination or admitted for mental health or
1490 substance abuse treatment a patient, the facility shall provide
1491 to the guardian advocate sufficient information to allow ~~so that~~
1492 the guardian advocate to ~~can~~ decide whether to give express and
1493 informed consent to the treatment, including information that
1494 the treatment is essential to the care of the individual
1495 ~~patient~~, and that the treatment does not present an unreasonable
1496 risk of serious, hazardous, or irreversible side effects. Before
1497 giving consent to treatment, the guardian advocate must meet and
1498 talk with the individual patient and the individual's patient's
1499 physician face to face in person, if ~~at all~~ possible, and by
1500 telephone, if not. The guardian advocate shall make every effort
1501 to make decisions regarding treatment that he or she believes
1502 the individual would have made under the circumstances if the
1503 individual were capable of making such a decision. The decision
1504 of the guardian advocate may be reviewed by the court, upon
1505 petition of the individual's patient's attorney, the
1506 individual's patient's family, or the facility administrator.

1507 (4)-(3) ~~Prior to~~ A guardian advocate must attend at least a
1508 4-hour training course approved by the court before exercising

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1509 his or her authority, ~~the guardian advocate shall attend a~~
1510 ~~training course approved by the court.~~ This training course, ~~of~~
1511 ~~not less than 4 hours,~~ must include, at minimum, information
1512 about an the individual's ~~patient~~ rights, psychotropic
1513 medications, diagnosis of mental illness or substance abuse
1514 impairment, the ethics of medical decisionmaking, and the duties
1515 of guardian advocates. This training course shall take the place
1516 of the training required for guardians appointed pursuant to
1517 chapter 744.

1518 (5)~~(4)~~ The information to be supplied to prospective
1519 guardian advocates before ~~prior to~~ their appointment and the
1520 training course for guardian advocates must be developed and
1521 completed through a course developed by the department and
1522 approved by the chief judge of the circuit court and taught by a
1523 court-approved organization. Court-approved organizations may
1524 include, but need ~~are~~ not be limited to, community ~~or junior~~
1525 colleges, guardianship organizations, and the local bar
1526 association or The Florida Bar. The court may, ~~in its~~
1527 ~~discretion,~~ waive some or all of the training requirements for
1528 guardian advocates or impose additional requirements. The court
1529 shall make its decision on a case-by-case basis and, in making
1530 its decision, shall consider the experience and education of the
1531 guardian advocate, the duties assigned to the guardian advocate,
1532 and the needs of the individual subject to involuntary placement
1533 ~~patient~~.

1534 (6)~~(5)~~ In selecting a guardian advocate, the court shall
1535 give preference to a health care surrogate, if one has already
1536 been designated by the individual held for examination or
1537 admitted for mental health or substance abuse treatment ~~patient~~.

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1538 If the individual ~~patient~~ has not previously selected a health
1539 care surrogate, except for good cause documented in the court
1540 record, the selection shall be made from the following list in
1541 the order of listing:

- 1542 (a) The individual's ~~patient's~~ spouse.
- 1543 (b) An adult child of the individual ~~patient~~.
- 1544 (c) A parent of the individual ~~patient~~.
- 1545 (d) The adult next of kin of the individual ~~patient~~.
- 1546 (e) An adult friend of the individual ~~patient~~.
- 1547 (f) An adult trained and willing to serve as guardian
1548 advocate for the individual ~~patient~~.

1549 ~~(7)-(6)~~ If a guardian with the authority to consent to
1550 medical treatment has not already been appointed or if the
1551 individual held for examination or admitted for mental health or
1552 substance abuse treatment ~~patient~~ has not already designated a
1553 health care surrogate, the court may authorize the guardian
1554 advocate to consent to medical treatment, as well as mental
1555 health and substance abuse treatment. Unless otherwise limited
1556 by the court, a guardian advocate with authority to consent to
1557 medical treatment shall have the same authority to make health
1558 care decisions and be subject to the same restrictions as a
1559 proxy appointed under part IV of chapter 765. Unless the
1560 guardian advocate has sought and received express court approval
1561 in proceeding separate from the proceeding to determine the
1562 competence of the patient to consent to medical treatment, the
1563 guardian advocate may not consent to:

- 1564 (a) Abortion.
- 1565 (b) Sterilization.
- 1566 (c) Electroconvulsive treatment.

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1567 (d) Psychosurgery.

1568 (e) Experimental treatments that have not been approved by
1569 a federally approved institutional review board in accordance
1570 with 45 C.F.R. part 46 or 21 C.F.R. part 56.

1571
1572 In making a medical treatment decision under this subsection,
1573 the court shall ~~must~~ base its decision on evidence that the
1574 treatment or procedure is essential to the care of the
1575 individual patient and that the treatment does not present an
1576 unreasonable risk of serious, hazardous, or irreversible side
1577 effects. The court shall follow the procedures set forth in
1578 subsection (1) of this section.

1579 ~~(8)-(7)~~ The guardian advocate shall be discharged when the
1580 individual for whom he or she is appointed patient is discharged
1581 from an order for involuntary outpatient ~~placement~~ or
1582 involuntary inpatient placement or when the individual patient
1583 is transferred from involuntary to voluntary status. The court
1584 ~~or a hearing officer~~ shall consider the competence of the
1585 individual patient pursuant to subsection (1) and may consider
1586 an involuntarily placed individual's patient's competence to
1587 consent to treatment at any hearing. Upon sufficient evidence,
1588 the court may restore, or the magistrate or administrative law
1589 judge hearing officer may recommend that the court restore, the
1590 individual's patient's competence. A copy of the order restoring
1591 competence or the certificate of discharge containing the
1592 restoration of competence shall be provided to the individual
1593 ~~patient~~ and the guardian advocate.

1594 Section 9. Section 394.4599, Florida Statutes, is amended
1595 to read:

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1596 394.4599 Notice.—

1597 (1) VOLUNTARY ADMISSION PATIENTS.—Notice of an individual's
1598 a voluntary ~~patient's~~ admission shall ~~only~~ be given only at the
1599 request of the individual patient, except that, in an emergency,
1600 notice shall be given as determined by the facility.

1601 (2) INVOLUNTARY ADMISSION PATIENTS.—

1602 (a) Whenever notice is required to be given under this
1603 part, such notice shall be given to the individual patient and
1604 the individual's patient's guardian, guardian advocate, health
1605 care surrogate or proxy, attorney, and representative.

1606 1. When notice is required to be given to an individual a
1607 patient, it shall be given both orally and in writing, in the
1608 language and terminology that the individual patient can
1609 understand, and, if needed, the facility shall provide an
1610 interpreter for the individual patient.

1611 2. Notice to an individual's a patient's guardian, guardian
1612 advocate, health care surrogate or proxy, attorney, and
1613 representative shall be given by ~~United States mail and by~~
1614 ~~registered or certified~~ mail with the date, time, and method of
1615 notice delivery documented in receipts attached to the patient's
1616 clinical record. Hand delivery by a facility employee may be
1617 used as an alternative, with the date and time of delivery
1618 documented in the clinical record. If notice is given by a state
1619 attorney or an attorney for the department, a certificate of
1620 service is ~~shall be~~ sufficient to document service.

1621 (b) A receiving facility shall give prompt notice of the
1622 whereabouts of an individual a patient who is being
1623 involuntarily held for examination to the individual's guardian,
1624 guardian advocate, health care surrogate or proxy, attorney or

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1625 representative, by telephone or in person within 24 hours after
1626 the individual's ~~patient's~~ arrival at the facility, ~~unless the~~
1627 ~~patient requests that no notification be made.~~ Contact attempts
1628 shall be documented in the individual's ~~patient's~~ clinical
1629 record and shall begin as soon as reasonably possible after the
1630 individual's ~~patient's~~ arrival. ~~Notice that a patient is being~~
1631 ~~admitted as an involuntary patient shall be given to the Florida~~
1632 ~~local advocacy council no later than the next working day after~~
1633 ~~the patient is admitted.~~

1634 (c)1. A receiving facility shall give notice of the
1635 whereabouts of a minor who is being involuntarily held for
1636 examination pursuant to s. 394.463 to the minor's parent,
1637 guardian, caregiver, or guardian advocate, in person or by
1638 telephone or other form of electronic communication, immediately
1639 after the minor's arrival at the facility. The facility may
1640 delay notification for no more than 24 hours after the minor's
1641 arrival if the facility has submitted a report to the central
1642 abuse hotline, pursuant to s. 39.201, based upon knowledge or
1643 suspicion of abuse, abandonment, or neglect and if the facility
1644 deems a delay in notification to be in the minor's best
1645 interest.

1646 2. The receiving facility shall attempt to notify the
1647 minor's parent, guardian, caregiver, or guardian advocate until
1648 the receiving facility receives confirmation from the parent,
1649 guardian, caregiver, or guardian advocate, verbally, by
1650 telephone or other form of electronic communication, or by
1651 recorded message, that notification has been received. Attempts
1652 to notify the parent, guardian, caregiver, or guardian advocate
1653 must be repeated at least once every hour during the first 12

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1654 hours after the minor's arrival and once every 24 hours
1655 thereafter and must continue until such confirmation is
1656 received, unless the minor is released at the end of the 72-hour
1657 examination period, or until a petition for involuntary
1658 placement is filed with the court pursuant to s. 394.463(2)(i).
1659 The receiving facility may seek assistance from a law
1660 enforcement agency to notify the minor's parent, guardian,
1661 caregiver, or guardian advocate if the facility has not received
1662 within the first 24 hours after the minor's arrival a
1663 confirmation by the parent, guardian, caregiver, or guardian
1664 advocate that notification has been received. The receiving
1665 facility must document notification attempts in the minor's
1666 clinical record.

1667 (d)~~(e)~~ The written notice of the filing of the petition for
1668 involuntary placement of an individual being held must contain
1669 the following:

1670 1. Notice that the petition has been filed with the circuit
1671 court in the county in which the individual ~~patient~~ is
1672 hospitalized and the address of such court.

1673 2. Notice that the office of the public defender has been
1674 appointed to represent the individual ~~patient~~ in the proceeding,
1675 if the individual ~~patient~~ is not otherwise represented by
1676 counsel.

1677 3. The date, time, and place of the hearing and the name of
1678 each examining expert and every other person expected to testify
1679 in support of continued detention.

1680 4. Notice that the individual ~~patient~~, the individual's
1681 ~~patient's~~ guardian, guardian advocate, health care surrogate or
1682 proxy, or representative, or the administrator may apply for a

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1683 change of venue for the convenience of the parties or witnesses
1684 or because of the condition of the individual patient.

1685 5. Notice that the individual patient is entitled to an
1686 independent expert examination and, if the individual patient
1687 cannot afford such an examination, that the court will provide
1688 for one.

1689 ~~(e)~~ (d) A treatment facility shall provide notice of an
1690 individual's ~~a patient's~~ involuntary admission on the next
1691 regular working day after the individual's ~~patient's~~ arrival at
1692 the facility.

1693 ~~(f)~~ (e) When an individual ~~a patient~~ is to be transferred
1694 from one facility to another, notice shall be given by the
1695 facility where the individual patient is located before ~~prior to~~
1696 the transfer.

1697 Section 10. Subsections (1), (2), (3), and (10) of section
1698 394.4615, Florida Statutes, are amended to read:

1699 394.4615 Clinical records; confidentiality.—

1700 (1) A clinical record shall be maintained for each
1701 individual held for examination or admitted for treatment under
1702 this part patient. The record shall include data pertaining to
1703 admission and such other information as may be required under
1704 rules of the department. A clinical record is confidential and
1705 exempt from ~~the provisions of~~ s. 119.07(1). Unless waived by
1706 express and informed consent of the individual, by the patient
1707 or his or her the patient's guardian, or guardian advocate,
1708 health care surrogate or proxy, or, if the individual patient is
1709 deceased, by his or her guardian, guardian advocate, health care
1710 surrogate or proxy, by his or her the patient's personal
1711 representative or the family member who stands next in line of

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1712 intestate succession, the confidential status of the clinical
1713 record shall not be lost by either authorized or unauthorized
1714 disclosure to any person, organization, or agency.

1715 (2) The clinical record of an individual held for
1716 examination or admitted for treatment under this part shall be
1717 released if when:

1718 (a) The individual patient or the individual's patient's
1719 guardian, guardian advocate, health care surrogate or proxy, or
1720 representative authorizes the release. The guardian, ~~or~~ guardian
1721 advocate, health care surrogate or proxy shall be provided
1722 access to the appropriate clinical records ~~of the patient~~. The
1723 individual patient or the patient's guardian, ~~or~~ guardian
1724 advocate, health care surrogate or proxy may authorize the
1725 release of information and clinical records to appropriate
1726 persons to ensure the continuity of the individual's patient's
1727 health ~~care~~ or mental health or substance abuse care.

1728 (b) The individual patient is represented by counsel and
1729 the records are needed by the individual's patient's counsel for
1730 adequate representation.

1731 (c) A petition for involuntary inpatient placement is filed
1732 and the records are needed by the state attorney to evaluate the
1733 allegations set forth in the petition or to prosecute the
1734 petition. However, the state attorney may not use clinical
1735 records obtained under this part for the purpose of criminal
1736 investigation or prosecution, or for any other purpose not
1737 authorized by this part.

1738 (d)~~(e)~~ The court orders such release. In determining
1739 whether there is good cause for disclosure, the court shall
1740 weigh the need for the information to be disclosed against the

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1741 possible harm of disclosure to the individual ~~person~~ to whom
1742 such information pertains.

1743 ~~(e)(d)~~ The individual ~~patient~~ is committed to, or is to be
1744 returned to, the Department of Corrections ~~from the Department~~
1745 ~~of Children and Families,~~ and the Department of Corrections
1746 requests such records. These records shall be furnished without
1747 charge to the Department of Corrections.

1748 (3) Information from the clinical record may be released in
1749 the following circumstances:

1750 (a) When a patient has declared an intention to harm other
1751 persons. When such declaration has been made, the administrator
1752 may authorize the release of sufficient information to provide
1753 adequate warning to law enforcement agencies and to the person
1754 threatened with harm by the patient.

1755 (b) When the administrator of the facility or secretary of
1756 the department deems release to a qualified researcher as
1757 defined in administrative rule, an aftercare treatment provider,
1758 or an employee or agent of the department is necessary for
1759 treatment of the patient, maintenance of adequate records,
1760 compilation of treatment data, aftercare planning, or evaluation
1761 of programs.

1762

1763 For the purpose of determining whether a person meets the
1764 criteria for involuntary outpatient placement or for preparing
1765 the proposed treatment plan pursuant to s. 394.4655, the
1766 clinical record may be released to the state attorney, the
1767 public defender or the patient's private legal counsel, the
1768 court, and to the appropriate mental health professionals,
1769 including the service provider identified in s. 394.4655(7)(b)

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1770 s. ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

1771 (10) An individual held for examination or admitted for
 1772 treatment ~~Patients~~ shall have reasonable access to his or her
 1773 ~~their~~ clinical records, unless such access is determined by the
 1774 individual's ~~patient's~~ physician to be harmful to the individual
 1775 ~~patient~~. If the individual's ~~patient's~~ right to inspect his or
 1776 her clinical record is restricted by the facility, written
 1777 notice of such restriction shall be given to the individual
 1778 ~~patient~~ and the individual's ~~patient's~~ guardian, guardian
 1779 advocate, health care surrogate or proxy, or attorney, and
 1780 representative. In addition, the restriction shall be recorded
 1781 in the clinical record, together with the reasons for it. The
 1782 restriction of an individual's ~~a patient's~~ right to inspect his
 1783 or her clinical record shall expire after 7 days but may be
 1784 renewed, after review, for subsequent 7-day periods.

1785 Section 11. Paragraphs (a) through (m) of subsection (1) of
 1786 section 394.462, Florida Statutes, are amended, and paragraph
 1787 (n) is added to that subsection, to read:

1788 394.462 Transportation.—

1789 (1) TRANSPORTATION TO A RECEIVING OR DETOXIFICATION
 1790 FACILITY.—

1791 (a) Each county shall designate a single law enforcement
 1792 agency within the county, or portions thereof, to take an
 1793 individual ~~a person~~ into custody upon the entry of an ex parte
 1794 order or the execution of a certificate for involuntary
 1795 examination by an authorized professional and to transport that
 1796 individual ~~person~~ to the nearest receiving facility for
 1797 examination. The designated law enforcement agency may decline
 1798 to transport the individual ~~person~~ to a receiving or

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1799 detoxification facility only if:

1800 1. The county or jurisdiction designated by the county has
1801 contracted ~~on an annual basis~~ with an emergency medical
1802 transport service or private transport company for
1803 transportation of individuals ~~persons~~ to receiving facilities
1804 ~~pursuant to this section at the sole cost of the county;~~ and

1805 2. The law enforcement agency and the emergency medical
1806 transport service or private transport company agree that the
1807 continued presence of law enforcement personnel is not necessary
1808 for the safety of the individuals being transported ~~person~~ or
1809 others.

1810 3. The jurisdiction designated by the county may seek
1811 reimbursement for transportation expenses. The party responsible
1812 for payment for such transportation is the person receiving the
1813 transportation. The county shall seek reimbursement from the
1814 following sources in the following order:

1815 a. From an insurance company, health care corporation, or
1816 other source, if the individual being transported ~~person~~
1817 ~~receiving the transportation~~ is covered by an insurance policy
1818 or subscribes to a health care corporation or other source for
1819 payment of such expenses.

1820 b. From the individual being transported ~~person receiving~~
1821 ~~the transportation~~.

1822 c. From a financial settlement for medical care, treatment,
1823 hospitalization, or transportation payable or accruing to the
1824 injured party.

1825 (b) Any company that transports a patient pursuant to this
1826 subsection is considered an independent contractor and is solely
1827 liable for the safe and dignified transportation of the patient.

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1828 Such company must be insured and provide no less than \$100,000
1829 in liability insurance with respect to the transportation of
1830 patients.

1831 (c) Any company that contracts with a governing board of a
1832 county to transport patients shall comply with the applicable
1833 rules of the department to ensure the safety and dignity of the
1834 patients.

1835 (d) When a law enforcement officer takes custody of a
1836 person pursuant to this part, the officer may request assistance
1837 from emergency medical personnel if such assistance is needed
1838 for the safety of the officer or the person in custody.

1839 (e) When a member of a mental health overlay program or a
1840 mobile crisis response service is a professional authorized to
1841 initiate an involuntary examination pursuant to s. 394.463 and
1842 that professional evaluates a person and determines that
1843 transportation to a receiving facility is needed, the service,
1844 at its discretion, may transport the person to the facility or
1845 may call on the law enforcement agency or other transportation
1846 arrangement best suited to the needs of the patient.

1847 (f) When a ~~any~~ law enforcement officer has custody of a
1848 person, based on either noncriminal or minor criminal behavior,
1849 a misdemeanor, or a felony other than a forcible felony as
1850 defined in s. 776.08, who ~~that~~ meets the statutory guidelines
1851 for involuntary examination under this part, the law enforcement
1852 officer shall transport the individual ~~person~~ to the nearest
1853 receiving facility for examination.

1854 (g) When any law enforcement officer has arrested a person
1855 for a forcible felony as defined in s. 776.08 and it appears
1856 that the person meets the criteria ~~statutory guidelines~~ for

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1857 involuntary examination ~~or placement~~ under this part, such
1858 person shall first be processed in the same manner as any other
1859 criminal suspect. The law enforcement agency shall thereafter
1860 immediately notify the nearest public receiving facility, which
1861 shall be responsible for promptly arranging for the examination
1862 and treatment of the person. A receiving facility may not ~~is not~~
1863 ~~required to~~ admit a person charged with a forcible felony as
1864 defined in s. 776.08 ~~crime~~ for whom the facility determines and
1865 documents that it is unable to provide adequate security, but
1866 shall provide ~~mental health~~ examination and treatment to the
1867 person at the location where he or she is held.

1868 (h) If the appropriate law enforcement officer believes
1869 that a person has an emergency medical condition as defined in
1870 s. 395.002, the person may be first transported to a hospital
1871 for emergency medical treatment, regardless of whether the
1872 hospital is a designated receiving facility.

1873 (i) The costs of transportation, evaluation,
1874 hospitalization, and treatment incurred under this subsection by
1875 persons who have been arrested for violations of any state law
1876 or county or municipal ordinance may be recovered as provided in
1877 s. 901.35.

1878 (j) The nearest receiving facility must accept persons
1879 brought by law enforcement officers for involuntary examination.

1880 (k) Each law enforcement agency shall develop a memorandum
1881 of understanding with each receiving facility within the law
1882 enforcement agency's jurisdiction which reflects a single set of
1883 protocols for the safe and secure transportation of the person
1884 and transfer of custody of the person. These protocols must also
1885 address crisis intervention measures.

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1886 (l) When a jurisdiction has entered into a contract with an
 1887 emergency medical transport service or a private transport
 1888 company for transportation of persons to receiving facilities,
 1889 such service or company shall be given preference for
 1890 transportation of persons from nursing homes, assisted living
 1891 facilities, adult day care centers, or adult family-care homes,
 1892 unless the behavior of the person being transported is such that
 1893 transportation by a law enforcement officer is necessary.

1894 (m) Nothing in this section shall be construed to limit
 1895 emergency examination and treatment of incapacitated persons
 1896 provided in accordance with the provisions of s. 401.445.

1897 (n) Upon the request of an individual who appears to meet
 1898 criteria for voluntary admission under s. 394.4625(1)(a), a law
 1899 enforcement officer may transport him or her to a mental health
 1900 receiving facility, addictions receiving facility, or
 1901 detoxification facility.

1902 Section 12. Subsections (1), (2), (4), and (5) of section
 1903 394.4625, Florida Statutes, are amended to read:

1904 394.4625 Voluntary admissions.—

1905 (1) EXAMINATION AND TREATMENT ~~AUTHORITY TO RECEIVE~~
 1906 ~~PATIENTS.—~~

1907 (a) In order to be voluntarily admitted to a facility A
 1908 facility may receive for observation, diagnosis, or treatment:
 1909 ~~any person 18 years of age or older making application by~~
 1910 ~~express and informed consent for admission or any person age 17~~
 1911 ~~or under for whom such application is made by his or her~~
 1912 ~~guardian. If found to~~

1913 1. An individual must show evidence of mental illness or
 1914 substance abuse impairment, ~~to be competent to provide express~~

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1915 ~~and informed consent, and to be suitable for treatment, such~~
1916 ~~person 18 years of age or older may be admitted to the facility.~~
1917 ~~A person age 17 or under may be admitted only after a hearing to~~
1918 ~~verify the voluntariness of the consent.~~

1919 2. An individual must be suitable for treatment by the
1920 facility.

1921 3. An adult must provide, and be competent to provide,
1922 express and informed consent.

1923 4. A minor's guardian must provide express and informed
1924 consent, in conjunction with the consent of the minor. However,
1925 a minor may be admitted to an addictions receiving facility or
1926 detoxification facility by his or her own consent without his or
1927 her guardian's consent, if a physician documents in the clinical
1928 record that the minor has a substance abuse impairment. If the
1929 minor is admitted by his or her own consent and without the
1930 consent of his or her guardian, the facility must request the
1931 minor's permission to notify an adult family member or friend of
1932 the minor's voluntary admission into the facility.

1933 a. The consent of the minor is an affirmative agreement by
1934 the minor to remain at the facility for examination or
1935 treatment, and failure to object does not constitute consent.

1936 b. The minor's consent must be verified through a clinical
1937 assessment that is documented in the clinical record and
1938 conducted within 12 hours after arrival at the facility by a
1939 licensed professional authorized to initiate an involuntary
1940 examination pursuant to s. 394.463.

1941 c. In verifying the minor's consent, and using language
1942 that is appropriate to the minor's age, experience, maturity,
1943 and condition, the examining professional must provide the minor

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1944 with an explanation as to why the minor will be examined and
1945 treated, what the minor can expect while in the facility, and
1946 when the minor may expect to be released. The examining
1947 professional must determine and document that the minor is able
1948 to understand the information.

1949 d. Unless the minor's consent is verified pursuant to this
1950 section, a petition for involuntary inpatient placement shall be
1951 filed with the court within 1 court working day after his or her
1952 arrival or the minor must be released to his or her guardian.

1953 (b) A mental health overlay program or a mobile crisis
1954 response service or a licensed professional who is authorized to
1955 initiate an involuntary examination pursuant to s. 394.463 and
1956 is employed by a community mental health center or clinic must,
1957 pursuant to district procedure approved by the respective
1958 district administrator, conduct an initial assessment of the
1959 ability of the following persons to give express and informed
1960 consent to treatment before such persons may be admitted
1961 voluntarily:

1962 1. A person 60 years of age or older for whom transfer is
1963 being sought from a nursing home, assisted living facility,
1964 adult day care center, or adult family-care home, when such
1965 person has been diagnosed as suffering from dementia.

1966 2. A person 60 years of age or older for whom transfer is
1967 being sought from a nursing home pursuant to s. 400.0255(12).

1968 3. A person for whom all decisions concerning medical
1969 treatment are currently being lawfully made by the health care
1970 surrogate or proxy designated under chapter 765.

1971 (c) When an initial assessment of the ability of a person
1972 to give express and informed consent to treatment is required

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1973 under this section, and a mobile crisis response service does
1974 not respond to the request for an assessment within 2 hours
1975 after the request is made or informs the requesting facility
1976 that it will not be able to respond within 2 hours after the
1977 request is made, the requesting facility may arrange for
1978 assessment by any licensed professional authorized to initiate
1979 an involuntary examination pursuant to s. 394.463 who is not
1980 employed by or under contract with, and does not have a
1981 financial interest in, either the facility initiating the
1982 transfer or the receiving facility to which the transfer may be
1983 made.

1984 (d) A facility may not admit as a voluntary patient a
1985 person who has been adjudicated incapacitated, unless the
1986 condition of incapacity has been judicially removed. If a
1987 facility admits as a voluntary patient a person who is later
1988 determined to have been adjudicated incapacitated, and the
1989 condition of incapacity had not been removed by the time of the
1990 admission, the facility must either discharge the patient or
1991 transfer the patient to involuntary status.

1992 (e) The health care surrogate or proxy of an individual on
1993 a voluntary status ~~patient~~ may not consent to the provision of
1994 mental health treatment or substance abuse treatment for that
1995 individual ~~the patient~~. An individual on voluntary status ~~A~~
1996 ~~voluntary patient~~ who is unwilling or unable to provide express
1997 and informed consent to mental health treatment must ~~either~~ be
1998 discharged or transferred to involuntary status.

1999 (f) Within 24 hours after admission of a voluntary patient,
2000 the admitting physician shall document in the patient's clinical
2001 record that the patient is able to give express and informed

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2002 consent for admission. If the patient is not able to give
2003 express and informed consent for admission, the facility shall
2004 either discharge the patient or transfer the patient to
2005 involuntary status pursuant to subsection (5).

2006 (2) RELEASE OR DISCHARGE ~~OF VOLUNTARY PATIENTS.~~

2007 (a) A facility shall discharge a voluntary patient:

2008 1. Who has sufficiently improved so that retention in the
2009 facility is no longer desirable. A patient may also be
2010 discharged to the care of a community facility.

2011 2. Who revokes consent to admission or requests discharge.
2012 A voluntary patient or a relative, friend, or attorney of the
2013 patient may request discharge either orally or in writing at any
2014 time following admission to the facility. The patient must be
2015 discharged within 24 hours of the request, unless the request is
2016 rescinded or the patient is transferred to involuntary status
2017 pursuant to this section. The 24-hour time period may be
2018 extended by a treatment facility when necessary for adequate
2019 discharge planning, but shall not exceed 3 days exclusive of
2020 weekends and holidays. If the patient, or another on the
2021 patient's behalf, makes an oral request for discharge to a staff
2022 member, such request shall be immediately entered in the
2023 patient's clinical record. If the request for discharge is made
2024 by a person other than the patient, the discharge may be
2025 conditioned upon the express and informed consent of the
2026 patient.

2027 (b) A voluntary patient who has been admitted to a facility
2028 and who refuses to consent to or revokes consent to treatment
2029 shall be discharged within 24 hours after such refusal or
2030 revocation, unless transferred to involuntary status pursuant to

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2031 this section or unless the refusal or revocation is freely and
2032 voluntarily rescinded by the patient.

2033 (c) An individual on voluntary status who is currently
2034 charged with a crime shall be returned to the custody of a law
2035 enforcement officer upon release or discharge from a facility,
2036 unless the individual has been released from law enforcement
2037 custody by posting of a bond, by a pretrial conditional release,
2038 or by other judicial release.

2039 (4) TRANSFER TO VOLUNTARY STATUS.—An individual on
2040 involuntary status ~~patient~~ who has been assessed and certified
2041 by a physician or psychologist as competent to provide express
2042 and informed consent and who applies to be transferred to
2043 voluntary status shall be transferred to voluntary status
2044 immediately, unless the individual ~~patient~~ ~~has been charged with~~
2045 ~~a crime, or~~ has been involuntarily placed for treatment by a
2046 court pursuant to s. 394.467 and continues to meet the criteria
2047 for involuntary placement. When transfer to voluntary status
2048 occurs, notice shall be given as provided in s. 394.4599.

2049 (5) TRANSFER TO INVOLUNTARY STATUS.—If an individual on
2050 ~~When a~~ voluntary status ~~patient~~, or an authorized person on the
2051 individual's ~~patient's~~ behalf, makes a request for discharge,
2052 the request for discharge, unless freely and voluntarily
2053 rescinded, must be communicated to a physician, ~~clinical~~
2054 psychologist, or psychiatrist as quickly as possible within, ~~but~~
2055 ~~not later than~~ 12 hours after the request is made. If the
2056 individual ~~patient~~ meets the criteria for involuntary placement,
2057 the individual must be transferred to a designated receiving
2058 facility and the administrator of the receiving facility where
2059 the individual is held must file with the court a petition for

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2060 involuntary placement, within 2 court working days after the
2061 request ~~for discharge~~ is made. If the petition is not filed
2062 within 2 court working days, the individual must ~~patient shall~~
2063 be discharged. Pending the filing of the petition, the
2064 individual patient may be held and emergency mental health
2065 treatment rendered in the least restrictive manner, upon the
2066 written order of a physician, if it is determined that such
2067 treatment is necessary for the safety of the individual patient
2068 or others.

2069 Section 13. Section 394.463, Florida Statutes, is amended
2070 to read:

2071 394.463 Involuntary examination.—

2072 (1) CRITERIA.—A person may be subject to an ~~taken to a~~
2073 ~~receiving facility for~~ involuntary examination if there is
2074 reason to believe that he or she ~~the person~~ has a mental illness
2075 or substance abuse impairment and because of this ~~his or her~~
2076 mental illness or substance abuse impairment:

2077 (a)1. The person has refused voluntary examination after
2078 conscientious explanation and disclosure of the purpose of the
2079 examination; or

2080 2. The person is unable to determine for himself or herself
2081 whether examination is necessary; and

2082 (b)1. Without care or treatment, the person is likely to
2083 suffer from neglect or refuse to care for himself or herself;
2084 such neglect or refusal poses a real and present threat of
2085 substantial harm to his or her well-being; and it is not
2086 apparent that such harm may be avoided through the help of
2087 willing family members or friends or the provision of other
2088 services; or

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2089 2. There is a substantial likelihood that without care or
2090 treatment the person will cause serious bodily harm to himself
2091 or herself or others in the near future, as evidenced by recent
2092 behavior.

2093 (2) INVOLUNTARY EXAMINATION.—

2094 (a) An involuntary examination may be initiated by any one
2095 of the following means:

2096 1. A court may enter an ex parte order stating that an
2097 individual ~~a person~~ appears to meet the criteria for involuntary
2098 examination, giving the findings on which that conclusion is
2099 based. The ex parte order for involuntary examination must be
2100 based on sworn testimony, written or oral, which includes
2101 specific facts that support the finding that the criteria have
2102 been met. Any behavior relied on for the issuance of an ex parte
2103 order must have occurred within the preceding 7 calendar days.
2104 The order must specify whether the individual must be taken to a
2105 mental health facility, detoxification facility, or addictions
2106 receiving facility. If other less restrictive means are not
2107 available, such as voluntary appearance for outpatient
2108 evaluation, A law enforcement officer, or other designated agent
2109 of the court, shall take the individual person into custody and
2110 deliver him or her to the nearest receiving facility of the type
2111 specified in the order for involuntary examination. However, if
2112 the county in which the individual is taken into custody has a
2113 transportation exception plan specifying a central receiving
2114 facility, the law enforcement officer shall transport the
2115 individual to the central receiving facility pursuant to the
2116 plan. The order of the court order must shall be made a part of
2117 the patient's clinical record. A No fee may not shall be charged

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2118 for the filing of an order under this subsection. Any ~~receiving~~
2119 facility accepting the individual patient based on the court's
2120 ~~this~~ order must send a copy of the order to the Agency for
2121 Health Care Administration on the next working day. The order is
2122 ~~shall be~~ valid only until executed or, if not executed, for the
2123 period specified in the order itself. If no time limit is
2124 specified in the order, the order is ~~shall be~~ valid for 7 days
2125 after the date it ~~that the order~~ was signed.

2126 2. A law enforcement officer shall take a person who
2127 appears to meet the criteria for involuntary examination into
2128 custody and deliver ~~the person or have~~ him or her ~~delivered~~ to
2129 the nearest mental health receiving facility, addictions
2130 receiving facility, or detoxification facility, whichever the
2131 officer determines is most appropriate for examination. However,
2132 if the county in which the individual taken into custody has a
2133 transportation exception plan specifying a central receiving
2134 facility, the law enforcement officer shall transport the
2135 individual to the central receiving facility pursuant to the
2136 plan. The officer shall complete ~~execute~~ a written report
2137 detailing the circumstances under which the individual person
2138 was taken into custody., ~~and~~ The report shall be made a part of
2139 the patient's clinical record. Any receiving facility or
2140 detoxification facility accepting the individual patient based
2141 on the ~~this~~ report must send a copy of the report to the Agency
2142 for Health Care Administration on the next working day.

2143 3. A physician, physician assistant, clinical psychologist,
2144 advanced registered nurse practitioner certified pursuant to s.
2145 464.012, psychiatric nurse, mental health counselor, marriage
2146 and family therapist, or clinical social worker may execute a

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2147 certificate stating that he or she has examined the individual a
2148 ~~person~~ within the preceding 48 hours and finds that the
2149 individual ~~person~~ appears to meet the criteria for involuntary
2150 examination and stating the observations upon which that
2151 conclusion is based. The certificate must specify whether the
2152 individual is to be taken to a mental health receiving facility,
2153 an addictions receiving facility, or a detoxification facility,
2154 and must include specific facts supporting the conclusion that
2155 the individual would benefit from services provided by the type
2156 of facility specified. ~~If other less restrictive means are not~~
2157 available, such as voluntary appearance for outpatient
2158 evaluation, A law enforcement officer shall take the individual
2159 ~~person~~ named in the certificate into custody and deliver him or
2160 her to the nearest ~~receiving~~ facility of the type specified in
2161 the certificate for involuntary examination. However, if the
2162 county in which the individual is taken into custody has a
2163 transportation exception plan specifying a central receiving
2164 facility, the law enforcement officer shall transport the
2165 individual to the central receiving facility pursuant to the
2166 plan. A law enforcement officer may only take an individual into
2167 custody on the basis of a certificate within 7 calendar days
2168 after execution of the certificate. The law enforcement officer
2169 shall complete ~~execute~~ a written report detailing the
2170 circumstances under which the individual ~~person~~ was taken into
2171 custody. The report and certificate shall be made a part of the
2172 ~~patient's~~ clinical record. Any ~~receiving~~ facility accepting the
2173 individual ~~patient~~ based on the ~~this~~ certificate must send a
2174 copy of the certificate to the Agency for Health Care
2175 Administration on the next working day.

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2176 (b) An individual may ~~A person shall~~ not be removed from a
2177 ~~any~~ program or residential placement licensed under chapter 400
2178 or chapter 429 and transported to a receiving facility for
2179 involuntary examination unless an ex parte order, a professional
2180 certificate, or a law enforcement officer's report is first
2181 prepared. If the condition of the individual ~~person~~ is such that
2182 preparation of a law enforcement officer's report is not
2183 practicable before removal, the report must ~~shall~~ be completed
2184 as soon as possible after removal, but ~~in any case~~ before the
2185 individual ~~person~~ is transported to a receiving facility. A
2186 receiving facility admitting an individual ~~a person~~ for
2187 involuntary examination who is not accompanied by the required
2188 ex parte order, professional certificate, or law enforcement
2189 officer's report must ~~shall~~ notify the Agency for Health Care
2190 Administration of such admission by certified mail by ~~no later~~
2191 ~~than~~ the next working day. ~~The provisions of this paragraph do~~
2192 ~~not apply when transportation is provided by the patient's~~
2193 ~~family or guardian.~~

2194 (c) A law enforcement officer acting in accordance with an
2195 ex parte order issued pursuant to this subsection may serve and
2196 execute such order on any day of the week, at any time of the
2197 day or night.

2198 (d) A law enforcement officer acting in accordance with an
2199 ex parte order issued pursuant to this subsection may use such
2200 reasonable physical force as is necessary to gain entry to the
2201 premises, and any dwellings, buildings, or other structures
2202 located on the premises, and to take custody of the person who
2203 is the subject of the ex parte order.

2204 (e) Petitions and ~~The Agency for Health Care Administration~~

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2205 ~~shall receive and maintain the copies of ex parte orders,~~
2206 ~~involuntary outpatient placement orders, involuntary outpatient~~
2207 ~~placement petitions and orders issued pursuant to s. 394.4655,~~
2208 ~~involuntary inpatient placement petitions and orders issued~~
2209 ~~pursuant to s. 394.467, professional certificates, and law~~
2210 ~~enforcement officers' reports are. These documents shall be~~
2211 ~~considered part of the clinical record, governed by the~~
2212 ~~provisions of s. 394.4615. The agency shall prepare annual~~
2213 ~~reports analyzing the data obtained from these documents,~~
2214 ~~without information identifying individuals held for examination~~
2215 ~~or admitted for mental health and substance abuse treatment~~
2216 ~~patients, and shall provide copies of reports to the department,~~
2217 ~~the President of the Senate, the Speaker of the House of~~
2218 ~~Representatives, and the minority leaders of the Senate and the~~
2219 ~~House of Representatives.~~

2220 (f) An individual held for examination ~~A patient~~ shall be
2221 examined by a physician, a or clinical psychologist, or a
2222 psychiatric nurse performing within the framework of an
2223 established protocol with a psychiatrist at a receiving facility
2224 without unnecessary delay and may, upon the order of a
2225 physician, be given emergency mental health or substance abuse
2226 treatment if it is determined that such treatment is necessary
2227 for the safety of the individual patient or others. ~~The patient~~
2228 ~~may not be released by the receiving facility or its contractor~~
2229 ~~without the documented approval of a psychiatrist, a clinical~~
2230 ~~psychologist, or, if the receiving facility is a hospital, the~~
2231 ~~release may also be approved by an attending emergency~~
2232 ~~department physician with experience in the diagnosis and~~
2233 ~~treatment of mental and nervous disorders and after completion~~

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2234 ~~of an involuntary examination pursuant to this subsection.~~
2235 ~~However, a patient may not be held in a receiving facility for~~
2236 ~~involuntary examination longer than 72 hours.~~

2237 (g) An individual may not be held for involuntary
2238 examination for more than 72 hours from the time of the
2239 individual's arrival at the facility, except that this period
2240 may be extended by 48 hours if a physician documents in the
2241 clinical record that the individual has ongoing symptoms of
2242 substance intoxication or substance withdrawal and the
2243 individual would likely experience significant clinical benefit
2244 from detoxification services. This determination must be made
2245 based on a face-to-face examination conducted by the physician
2246 no less than 48 hours and not more than 72 hours after the
2247 individual's arrival at the facility. Based on the individual's
2248 needs, one of the following actions must be taken within the
2249 involuntary examination period:

2250 1. The individual shall be released after consultation with
2251 the admitting professional and the approval of a psychiatrist,
2252 psychiatric nurse, psychologist, or substance abuse
2253 professional. However, if the examination is conducted in a
2254 hospital, an emergency department physician may approve the
2255 release or a psychiatric nurse performing within the framework
2256 of an established protocol with a psychiatrist may also approve
2257 the release, except when the involuntary examination has been
2258 initiated by a psychiatrist and the release has not also been
2259 approved by the initiating psychiatrist. If the examination is
2260 conducted in an addictions receiving facility or detoxification
2261 facility, a physician or substance abuse professional may
2262 approve the release. The professional approving the release must

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2263 have personally conducted the involuntary examination;

2264 2. The individual shall be asked to provide express and
2265 informed consent for voluntary admission if a physician or
2266 psychologist has determined that the individual is competent to
2267 consent to treatment; or

2268 3. A petition for involuntary placement shall be completed
2269 and filed in the circuit court by the receiving facility
2270 administrator if involuntary outpatient or inpatient placement
2271 is deemed necessary. If the 72-hour period ends on a weekend or
2272 legal holiday, the petition must be filed by the next working
2273 day. If inpatient placement is deemed necessary, the least
2274 restrictive treatment consistent with the optimum improvement of
2275 the individual's condition must be made available.

2276 (h) An individual released from a receiving or treatment
2277 facility on a voluntary or involuntary basis who is currently
2278 charged with a crime shall be returned to the custody of law
2279 enforcement, unless the individual has been released from law
2280 enforcement custody by posting of a bond, by a pretrial
2281 conditional release, or by other judicial release.

2282 (i) If an individual ~~A person~~ for whom an involuntary
2283 examination has been initiated ~~who~~ is being evaluated or treated
2284 at a hospital for an emergency medical condition specified in s.
2285 395.002 ~~the involuntary examination period must be examined by a~~
2286 ~~receiving facility within 72 hours. The 72-hour period begins~~
2287 when the individual ~~patient~~ arrives at the hospital and ceases
2288 when ~~a the attending~~ physician documents that the individual
2289 patient ~~has an emergency medical condition. The 72-hour period~~
2290 resumes when the physician documents that the emergency medical
2291 condition has stabilized or does not exist. ~~If the patient is~~

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2292 ~~examined at a hospital providing emergency medical services by a~~
2293 ~~professional qualified to perform an involuntary examination and~~
2294 ~~is found as a result of that examination not to meet the~~
2295 ~~criteria for involuntary outpatient placement pursuant to s.~~
2296 ~~394.4655(1) or involuntary inpatient placement pursuant to s.~~
2297 ~~394.467(1), the patient may be offered voluntary placement, if~~
2298 ~~appropriate, or released directly from the hospital providing~~
2299 ~~emergency medical services. The finding by the professional that~~
2300 ~~the patient has been examined and does not meet the criteria for~~
2301 ~~involuntary inpatient placement or involuntary outpatient~~
2302 ~~placement must be entered into the patient's clinical record.~~
2303 ~~Nothing in this paragraph is intended to prevent A hospital~~
2304 ~~providing emergency medical services may transfer an individual~~
2305 ~~from appropriately transferring a patient to another hospital~~
2306 ~~before prior to stabilization if, provided the requirements of~~
2307 ~~s. 395.1041(3)(c) are have been met. One of the following~~
2308 ~~actions must occur within 12 hours after a physician documents~~
2309 ~~that the individual's emergency medical condition has stabilized~~
2310 ~~or does not exist:~~

2311 ~~(h) One of the following must occur within 12 hours after~~
2312 ~~the patient's attending physician documents that the patient's~~
2313 ~~medical condition has stabilized or that an emergency medical~~
2314 ~~condition does not exist:~~

2315 ~~1. The individual shall be examined by a physician,~~
2316 ~~psychiatric nurse or psychologist and, if found not to meet the~~
2317 ~~criteria for involuntary examination pursuant to s. 394.463,~~
2318 ~~shall be released directly from the hospital providing the~~
2319 ~~emergency medical services. The results of the examination,~~
2320 ~~including the final disposition, shall be entered into the~~

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2321 clinical records; or

2322 2. The individual shall be transferred to a receiving
2323 facility for examination if appropriate medical and mental
2324 health treatment is available. However, the receiving facility
2325 must be notified of the transfer within 2 hours after the
2326 individual's condition has been stabilized or after
2327 determination that an emergency medical condition does not
2328 exist. The patient must be examined by a designated receiving
2329 facility and released; or

2330 ~~2. The patient must be transferred to a designated~~
2331 ~~receiving facility in which appropriate medical treatment is~~
2332 ~~available. However, the receiving facility must be notified of~~
2333 ~~the transfer within 2 hours after the patient's condition has~~
2334 ~~been stabilized or after determination that an emergency medical~~
2335 ~~condition does not exist.~~

2336 ~~(i) Within the 72-hour examination period or, if the 72~~
2337 ~~hours ends on a weekend or holiday, no later than the next~~
2338 ~~working day thereafter, one of the following actions must be~~
2339 ~~taken, based on the individual needs of the patient:~~

2340 ~~1. The patient shall be released, unless he or she is~~
2341 ~~charged with a crime, in which case the patient shall be~~
2342 ~~returned to the custody of a law enforcement officer;~~

2343 ~~2. The patient shall be released, subject to the provisions~~
2344 ~~of subparagraph 1., for voluntary outpatient treatment;~~

2345 ~~3. The patient, unless he or she is charged with a crime,~~
2346 ~~shall be asked to give express and informed consent to placement~~
2347 ~~as a voluntary patient, and, if such consent is given, the~~
2348 ~~patient shall be admitted as a voluntary patient; or~~

2349 ~~4. A petition for involuntary placement shall be filed in~~

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2350 ~~the circuit court when outpatient or inpatient treatment is~~
2351 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
2352 ~~the least restrictive treatment consistent with the optimum~~
2353 ~~improvement of the patient's condition shall be made available.~~
2354 ~~When a petition is to be filed for involuntary outpatient~~
2355 ~~placement, it shall be filed by one of the petitioners specified~~
2356 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
2357 ~~placement shall be filed by the facility administrator.~~

2358 (3) NOTICE OF RELEASE.—Notice of the release shall be given
2359 to the individual's ~~patient's~~ guardian, health care surrogate or
2360 proxy, or representative, to any person who executed a
2361 certificate admitting the individual ~~patient~~ to the receiving
2362 facility, and to any court that ~~which~~ ordered the individual's
2363 examination ~~patient's~~ evaluation.

2364 Section 14. Section 394.4655, Florida Statutes, is amended
2365 to read:

2366 394.4655 Involuntary outpatient placement.—

2367 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT PLACEMENT.—An
2368 individual ~~A person~~ may be ordered to involuntary outpatient
2369 placement upon a finding of the court ~~that~~ by clear and
2370 convincing evidence that:

2371 (a) The individual is an adult ~~person is 18 years of age or~~
2372 ~~older;~~

2373 (b) The individual ~~person~~ has a mental illness or substance
2374 abuse impairment;

2375 (c) The individual ~~person~~ is unlikely to survive safely in
2376 the community without supervision, based on a clinical
2377 determination;

2378 (d) The individual ~~person~~ has a history of lack of

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2379 compliance with treatment for mental illness or substance abuse
2380 impairment;

2381 (e) The individual ~~person~~ has:

2382 1. Within ~~At least twice within~~ the immediately preceding
2383 36 months, been involuntarily admitted to a receiving or
2384 treatment facility ~~as defined in s. 394.455~~, or has received
2385 mental health or substance abuse services in a forensic or
2386 correctional facility. The 36-month period does not include any
2387 period during which the individual ~~person~~ was admitted or
2388 incarcerated; or

2389 2. Engaged in one or more acts of serious violent behavior
2390 toward self or others, or attempts at serious bodily harm to
2391 himself or herself or others, within the preceding 36 months;

2392 (f) Due to ~~The person is, as a result of~~ his or her mental
2393 illness or substance abuse impairment, the individual is,
2394 unlikely to voluntarily participate in the recommended treatment
2395 plan and ~~either he or she~~ has refused voluntary placement for
2396 treatment after sufficient and conscientious explanation and
2397 disclosure of the purpose of placement for treatment or ~~he or~~
2398 ~~she~~ is unable to determine for himself or herself whether
2399 placement is necessary;

2400 (g) In view of the individual's ~~person's~~ treatment history
2401 and current behavior, the individual ~~person~~ is in need of
2402 involuntary outpatient placement in order to prevent a relapse
2403 or deterioration that would be likely to result in serious
2404 bodily harm to self ~~himself or herself~~ or others, or a
2405 substantial harm to his or her well-being as set forth in s.
2406 394.463(1);

2407 (h) It is likely that the individual ~~person~~ will benefit

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2408 from involuntary outpatient placement; and

2409 (i) All available, less restrictive alternatives that ~~would~~
2410 offer an opportunity for improvement of his or her condition
2411 have been judged to be inappropriate or unavailable.

2412 (2) INVOLUNTARY OUTPATIENT PLACEMENT.—

2413 (a) ~~1.~~ An individual ~~A patient~~ who is being recommended for
2414 involuntary outpatient placement by the administrator of the
2415 receiving facility where he or she ~~the patient~~ has been examined
2416 may be retained by the facility after adherence to the notice
2417 procedures provided in s. 394.4599.

2418 1. The recommendation must be supported by the opinion of a
2419 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2420 or another psychiatrist, both of whom have personally examined
2421 the individual ~~patient~~ within the preceding 72 hours, that the
2422 criteria for involuntary outpatient placement are met. However,
2423 in a county having a population of fewer than 50,000, if the
2424 administrator certifies that a psychiatrist or clinical
2425 psychologist is not available to provide the second opinion, the
2426 second opinion may be provided by a ~~licensed~~ physician who has
2427 postgraduate training and experience in diagnosis and treatment
2428 of mental and nervous disorders or by a psychiatric nurse. Any
2429 second opinion authorized in this subparagraph may be conducted
2430 through a face-to-face examination, in person or by electronic
2431 means. Such recommendation must be entered on an involuntary
2432 outpatient placement certificate that authorizes the receiving
2433 facility to retain the individual ~~patient~~ pending completion of
2434 a hearing. The certificate shall be made a part of the patient's
2435 clinical record.

2436 2. If the individual ~~patient~~ has been stabilized and no

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2437 longer meets the criteria for involuntary examination pursuant
2438 to s. 394.463(1), he or she ~~the patient~~ must be released from
2439 the receiving facility while awaiting the hearing for
2440 involuntary outpatient placement.

2441 3. Before filing a petition for involuntary outpatient
2442 treatment, the administrator of the ~~a~~ receiving facility or a
2443 designated department representative must identify the service
2444 provider that will have primary responsibility for service
2445 provision under an order for involuntary outpatient placement,
2446 unless the individual ~~person~~ is otherwise participating in
2447 outpatient psychiatric treatment and is not in need of public
2448 financing for that treatment, in which case the individual, if
2449 eligible, may be ordered to involuntary treatment pursuant to
2450 the existing psychiatric treatment relationship.

2451 4.3- The service provider shall prepare a written proposed
2452 treatment plan in consultation with the individual being held
2453 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2454 appointed, for the court's consideration for inclusion in the
2455 involuntary outpatient placement order. The service provider
2456 shall ~~also~~ provide a copy of the proposed treatment plan to the
2457 individual ~~patient~~ and the administrator of the receiving
2458 facility. The treatment plan must specify the nature and extent
2459 of the individual's ~~patient's~~ mental illness or substance abuse
2460 impairment, address the reduction of symptoms that necessitate
2461 involuntary outpatient placement, and include measurable goals
2462 and objectives for the services and treatment that are provided
2463 to treat the individual's ~~person's~~ mental illness or substance
2464 abuse impairment and assist the individual ~~person~~ in living and
2465 functioning in the community or to prevent a relapse or

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2466 deterioration. Service providers may select and supervise other
2467 providers ~~individuals~~ to implement specific aspects of the
2468 treatment plan. The services in the treatment plan must be
2469 deemed clinically appropriate by a physician, ~~clinical~~
2470 psychologist, psychiatric nurse, mental health counselor,
2471 marriage and family therapist, or clinical social worker who
2472 consults with, or is employed or contracted by, the service
2473 provider. The service provider must certify to the court in the
2474 proposed treatment plan whether sufficient services for
2475 improvement and stabilization are currently available and
2476 whether the service provider agrees to provide those services.
2477 If the service provider certifies that the services in the
2478 proposed treatment plan are not available, the petitioner may
2479 not file the petition.

2480 (b) If an individual ~~a patient~~ in involuntary inpatient
2481 placement meets the criteria for involuntary outpatient
2482 placement, the administrator of the treatment facility may,
2483 before the expiration of the period during which the treatment
2484 facility is authorized to retain the individual ~~patient~~,
2485 recommend involuntary outpatient placement.

2486 1. The recommendation must be supported by the opinion of a
2487 psychiatrist and the second opinion of a ~~clinical~~ psychologist
2488 or another psychiatrist, both of whom have personally examined
2489 the individual ~~patient~~ within the preceding 72 hours, that the
2490 criteria for involuntary outpatient placement are met. However,
2491 in a county having a population of fewer than 50,000, if the
2492 administrator certifies that a psychiatrist or ~~clinical~~
2493 psychologist is not available to provide the second opinion, the
2494 second opinion may be provided by a licensed physician who has

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2495 postgraduate training and experience in diagnosis and treatment
2496 of mental and nervous disorders or by a psychiatric nurse. Any
2497 second opinion authorized in this subparagraph may be conducted
2498 through a face-to-face examination, in person or by electronic
2499 means. Such recommendation must be entered on an involuntary
2500 outpatient placement certificate, and the certificate must be
2501 made a part of the individual's ~~patient's~~ clinical record.

2502 ~~2.(e)1.~~ The administrator of the treatment facility shall
2503 provide a copy of the involuntary outpatient placement
2504 certificate and a copy of the state mental health discharge form
2505 to a department representative in the county where the
2506 individual ~~patient~~ will be residing. ~~For persons who are leaving~~
2507 ~~a state mental health treatment facility, the petition for~~
2508 ~~involuntary outpatient placement must be filed in the county~~
2509 ~~where the patient will be residing.~~

2510 ~~3.2.~~ The service provider that will have primary
2511 responsibility for service provision shall be identified by the
2512 designated department representative prior to the order for
2513 involuntary outpatient placement and must, before ~~prior to~~
2514 filing a petition for involuntary outpatient placement, certify
2515 to the court whether the services recommended in the
2516 individual's ~~patient's~~ discharge plan are available in the local
2517 community and whether the service provider agrees to provide
2518 those services. The service provider must develop with the
2519 individual ~~patient~~, or the patient's guardian advocate, if one
2520 is appointed, a treatment or service plan that addresses the
2521 needs identified in the discharge plan. The plan must be deemed
2522 to be clinically appropriate by a physician, ~~clinical~~
2523 psychologist, psychiatric nurse, mental health counselor,

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2524 marriage and family therapist, or clinical social worker, ~~as~~
 2525 ~~defined in this chapter,~~ who consults with, or is employed or
 2526 contracted by, the service provider.

2527 ~~3. If the service provider certifies that the services in~~
 2528 ~~the proposed treatment or service plan are not available, the~~
 2529 ~~petitioner may not file the petition.~~

2530 (3) PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

2531 (a) A petition for involuntary outpatient placement may be
 2532 filed by:

2533 1. The administrator of a mental health receiving facility,
 2534 an addictions receiving facility, or a detoxification facility;
 2535 or

2536 2. The administrator of a treatment facility.

2537 (b) Each required criterion for involuntary outpatient
 2538 placement must be alleged and substantiated in the petition for
 2539 involuntary outpatient placement. A copy of the certificate
 2540 recommending involuntary outpatient placement completed by a
 2541 qualified professional specified in subsection (2) must be
 2542 attached to the petition. A copy of the proposed treatment plan
 2543 must be attached to the petition. Before the petition is filed,
 2544 the service provider shall certify that the services in the
 2545 proposed treatment plan are available. If the necessary services
 2546 are not available in the ~~patient's~~ local community where the
 2547 individual will reside ~~to respond to the person's individual~~
 2548 ~~needs,~~ the petition may not be filed.

2549 (c) ~~A~~ The petition for involuntary outpatient placement
 2550 must be filed in the county where the individual who is the
 2551 subject of the petition ~~patient~~ is located, unless the
 2552 individual ~~patient~~ is being placed from a state treatment

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2553 facility, in which case the petition must be filed in the county
2554 where the individual ~~patient~~ will reside. When the petition is
2555 ~~has been~~ filed, the clerk of the court shall provide copies of
2556 the petition and the proposed treatment plan to the department,
2557 the individual ~~patient~~, the individual's ~~patient's~~ guardian,
2558 guardian advocate, health care surrogate or proxy, or
2559 representative, the state attorney, and the public defender or
2560 the individual's ~~patient's~~ private counsel. A fee may not be
2561 charged for filing a petition under this subsection.

2562 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2563 after ~~the~~ filing of a petition for involuntary outpatient
2564 placement, the court shall appoint the public defender to
2565 represent the individual ~~person~~ who is the subject of the
2566 petition, unless the individual ~~person~~ is otherwise represented
2567 by counsel. The clerk of the court shall immediately notify the
2568 public defender of the appointment. The public defender shall
2569 represent the individual ~~person~~ until the petition is dismissed,
2570 the court order expires, or the individual ~~patient~~ is discharged
2571 from involuntary outpatient placement. An attorney who
2572 represents the individual ~~patient~~ shall have access to the
2573 individual ~~patient~~, witnesses, and records relevant to the
2574 presentation of the individual's ~~patient's~~ case and shall
2575 represent the interests of the individual ~~patient~~, regardless of
2576 the source of payment to the attorney. An attorney representing
2577 an individual in proceedings under this part shall advocate the
2578 individual's expressed desires and must be present and actively
2579 participate in all hearings on involuntary placement. If the
2580 individual is unable or unwilling to express his or her desires
2581 to the attorney, the attorney shall proceed as though the

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2582 individual expressed a desire for liberty, opposition to
2583 involuntary placement and, if placement is ordered, a preference
2584 for the least restrictive treatment possible.

2585 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
2586 the concurrence of the patient's counsel, to at least one
2587 continuance of the hearing. The continuance shall be for a
2588 period of up to 4 weeks.

2589 (6) HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

2590 (a) ~~1.~~ The court shall hold the hearing on involuntary
2591 outpatient placement within 5 court working days after the
2592 filing of the petition, unless a continuance is granted. The
2593 hearing shall be held in the county where the petition is filed,
2594 ~~shall~~ be as convenient to the individual who is the subject of
2595 the petition ~~patient~~ as is consistent with orderly procedure,
2596 and ~~shall~~ be conducted in physical settings not likely to be
2597 injurious to the individual's ~~patient's~~ condition. If the court
2598 finds that the individual's ~~patient's~~ attendance at the hearing
2599 is not consistent with the best interests of the individual
2600 ~~patient~~ and if the individual's ~~patient's~~ counsel does not
2601 object, the court may waive the presence of the individual
2602 ~~patient~~ from all or any portion of the hearing. The state
2603 attorney for the circuit in which the individual ~~patient~~ is
2604 located shall represent the state, rather than the petitioner,
2605 as the real party in interest in the proceeding. The state
2606 attorney shall have access to the individual's clinical record
2607 and witnesses and shall independently evaluate and confirm the
2608 allegations set forth in the petition for involuntary placement.
2609 If the allegations are substantiated, the state attorney shall
2610 prosecute the petition. If the allegations are not

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2611 substantiated, the state attorney shall withdraw the petition.

2612 (b)2. The court may appoint a magistrate ~~master~~ to preside
 2613 at the hearing. One of the professionals who executed the
 2614 involuntary outpatient placement certificate shall be a witness.
 2615 The individual who is the subject of the petition ~~patient~~ and
 2616 his or her ~~the patient's~~ guardian, guardian advocate, health
 2617 care surrogate or proxy, or representative shall be informed by
 2618 the court of the right to an independent expert examination. If
 2619 the individual ~~patient~~ cannot afford such an examination, the
 2620 court shall provide ~~for~~ one. The independent expert's report is
 2621 ~~shall be~~ confidential and not discoverable, unless the expert is
 2622 ~~to be~~ called as a witness for the individual ~~patient~~ at the
 2623 hearing. The court shall allow testimony from persons
 2624 individuals, including family members, deemed by the court to be
 2625 relevant ~~under state law,~~ regarding the individual's ~~person's~~
 2626 prior history and how that ~~prior~~ history relates to the
 2627 individual's ~~person's~~ current condition. The testimony in the
 2628 hearing must be ~~given~~ under oath, and the proceedings must be
 2629 recorded. The individual ~~patient~~ may refuse to testify at the
 2630 hearing.

2631 (c) The court shall consider testimony and evidence
 2632 regarding the competence of the individual being held to consent
 2633 to treatment. If the court finds that the individual is
 2634 incompetent to consent, it shall appoint a guardian advocate as
 2635 provided in s. 394.4598.

2636 (7) COURT ORDER.-

2637 (a) ~~(b)1.~~ If the court concludes that the individual who is
 2638 the subject of the petition ~~patient~~ meets the criteria for
 2639 involuntary outpatient placement under ~~pursuant to~~ subsection

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2640 (1), the court shall issue an order for involuntary outpatient
2641 placement. The court order may ~~shall~~ be for a ~~period of~~ up to 6
2642 months. The order must specify the nature and extent of the
2643 individual's ~~patient's~~ mental illness or substance abuse
2644 impairment. The court order ~~of the court~~ and the treatment plan
2645 must ~~shall~~ be made part of the individual's ~~patient's~~ clinical
2646 record. The service provider shall discharge an individual ~~a~~
2647 ~~patient~~ from involuntary outpatient placement when the order
2648 expires or any time the individual ~~patient~~ no longer meets the
2649 criteria for involuntary placement. Upon discharge, the service
2650 provider shall send a certificate of discharge to the court.

2651 (b)~~2~~. The court may not order the department or the service
2652 provider to provide services if the program or service is not
2653 available in the ~~patient's~~ local community of the individual
2654 being served, if there is no space available in the program or
2655 service for the individual ~~patient~~, or if funding is not
2656 available for the program or service. A copy of the order must
2657 be sent to the Agency for Health Care Administration by the
2658 service provider within 1 working day after it is received from
2659 the court. After the placement order is issued, the service
2660 provider and the individual ~~patient~~ may modify ~~provisions of~~ the
2661 treatment plan. For any material modification of the treatment
2662 plan to which the individual ~~patient~~ or the individual's
2663 ~~patient's~~ guardian advocate, if appointed, does agree, the
2664 service provider shall send notice of the modification to the
2665 court. Any material modifications of the treatment plan which
2666 are contested by the individual ~~patient~~ or the individual's
2667 ~~patient's~~ guardian advocate, if appointed, must be approved or
2668 disapproved by the court consistent with the requirements of

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2669 subsection (2).

2670 ~~(c)3.~~ If, in the clinical judgment of a physician, the
2671 individual being served ~~patient~~ has failed or has refused to
2672 comply with the treatment ordered by the court, and, in the
2673 clinical judgment of the physician, efforts were made to solicit
2674 compliance and the individual ~~patient~~ may meet the criteria for
2675 involuntary examination, the individual ~~a person~~ may be brought
2676 to a receiving facility pursuant to s. 394.463 for involuntary
2677 examination. If, after examination, the individual ~~patient~~ does
2678 not meet the criteria for involuntary inpatient placement
2679 pursuant to s. 394.467, the individual ~~patient~~ must be
2680 discharged from the receiving facility. The involuntary
2681 outpatient placement order remains ~~shall remain~~ in effect unless
2682 the service provider determines that the individual ~~patient~~ no
2683 longer meets the criteria for involuntary outpatient placement
2684 or until the order expires. The service provider must determine
2685 whether modifications should be made to the existing treatment
2686 plan and must attempt to continue to engage the individual
2687 ~~patient~~ in treatment. For any material modification of the
2688 treatment plan to which the individual ~~patient~~ or the
2689 individual's ~~patient's~~ guardian advocate, if appointed, agrees
2690 ~~does agree~~, the service provider shall send notice of the
2691 modification to the court. Any material modifications of the
2692 treatment plan which are contested by the individual ~~patient~~ or
2693 the individual's ~~patient's~~ guardian advocate, if appointed, must
2694 be approved or disapproved by the court consistent with the
2695 requirements of subsection (2).

2696 ~~(d)(e)~~ If, at any time before the conclusion of the initial
2697 hearing on involuntary outpatient placement, it appears to the

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2698 court that the individual ~~person~~ does not meet the criteria for
2699 involuntary outpatient placement under this section but,
2700 ~~instead,~~ meets the criteria for involuntary inpatient placement,
2701 the court may order the individual ~~person~~ admitted for
2702 involuntary inpatient examination under s. 394.463. ~~If the~~
2703 ~~person instead meets the criteria for involuntary assessment,~~
2704 ~~protective custody, or involuntary admission pursuant to s.~~
2705 ~~397.675, the court may order the person to be admitted for~~
2706 ~~involuntary assessment for a period of 5 days pursuant to s.~~
2707 ~~397.6811. Thereafter, all proceedings shall be governed by~~
2708 ~~chapter 397.~~

2709 ~~(d) At the hearing on involuntary outpatient placement, the~~
2710 ~~court shall consider testimony and evidence regarding the~~
2711 ~~patient's competence to consent to treatment. If the court finds~~
2712 ~~that the patient is incompetent to consent to treatment, it~~
2713 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~
2714 ~~The guardian advocate shall be appointed or discharged in~~
2715 ~~accordance with s. 394.4598.~~

2716 (e) The administrator of the receiving facility, the
2717 detoxification facility, or the designated department
2718 representative shall provide a copy of the court order and
2719 adequate documentation of an individual's ~~a patient's~~ mental
2720 illness or substance abuse impairment to the service provider
2721 for involuntary outpatient placement. Such documentation must
2722 include any advance directives made by the individual ~~patient,~~ a
2723 psychiatric evaluation of the individual ~~patient,~~ and any
2724 evaluations of the individual ~~patient~~ performed by a ~~elinical~~
2725 psychologist or a clinical social worker.

2726 (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT

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2727 PLACEMENT.—

2728 (a)~~1.~~ If the individual ~~person~~ continues to meet the
2729 criteria for involuntary outpatient placement, the service
2730 provider shall, before the expiration of the period during which
2731 the placement treatment is ordered ~~for the person~~, file in the
2732 circuit court a petition for continued involuntary outpatient
2733 placement.

2734 ~~1.2.~~ The existing involuntary outpatient placement order
2735 remains in effect until disposition of ~~on~~ the petition for
2736 continued involuntary outpatient placement.

2737 ~~2.3.~~ A certificate must ~~shall~~ be attached to the petition
2738 which includes a statement from the individual's ~~person's~~
2739 physician or ~~clinical~~ psychologist justifying the request, a
2740 brief description of the individual's ~~patient's~~ treatment during
2741 the time he or she was involuntarily placed, and a personalized
2742 ~~an individualized~~ plan of continued treatment.

2743 ~~3.4.~~ The service provider shall develop the ~~individualized~~
2744 plan of continued treatment in consultation with the individual
2745 ~~patient~~ or his or her ~~the patient's~~ guardian advocate, if
2746 appointed. When the petition has been filed, the clerk of the
2747 court shall provide copies of the certificate and the
2748 ~~individualized~~ plan of continued treatment to the department,
2749 the individual ~~patient~~, the individual's ~~patient's~~ guardian
2750 advocate, the state attorney, and the individual's ~~patient's~~
2751 private counsel or the public defender.

2752 (b) Within 1 court working day after the filing of a
2753 petition for continued involuntary outpatient placement, the
2754 court shall appoint the public defender to represent the
2755 individual ~~person~~ who is the subject of the petition, unless the

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2756 individual person is otherwise represented by counsel. The clerk
2757 of the court shall immediately notify the public defender of
2758 such appointment. The public defender shall represent the
2759 individual person until the petition is dismissed, ~~or~~ the court
2760 order expires, or the individual patient is discharged from
2761 involuntary outpatient placement. Any attorney representing the
2762 individual patient shall have access to the individual patient,
2763 witnesses, and records relevant to the presentation of the
2764 individual's patient's case and shall represent the interests of
2765 the individual patient, regardless of the source of payment to
2766 the attorney.

2767 (c) The court shall inform the individual who is the
2768 subject of the petition and his or her guardian, guardian
2769 advocate, health care surrogate or proxy, or representative of
2770 the individual's right to an independent expert examination. If
2771 the individual cannot afford such an examination, the court
2772 shall provide one.

2773 (d) ~~(e)~~ Hearings on petitions for continued involuntary
2774 outpatient placement are ~~shall be~~ before the circuit court. The
2775 court may appoint a magistrate ~~master~~ to preside at the hearing.
2776 The procedures for obtaining an order pursuant to this paragraph
2777 must ~~shall~~ be in accordance with subsection (6), except that the
2778 time period included in paragraph (1)(e) is not applicable in
2779 determining the appropriateness of additional periods of
2780 involuntary outpatient placement.

2781 (e) ~~(d)~~ Notice of the hearing shall be provided in
2782 accordance with as set forth in s. 394.4599. The individual
2783 being served patient and the individual's patient's attorney may
2784 agree to a period of continued outpatient placement without a

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2785 court hearing.

2786 (f)~~(e)~~ The same procedure shall be repeated before the
2787 expiration of each additional period the individual being served
2788 ~~patient~~ is placed in treatment.

2789 (g)~~(f)~~ If the individual in involuntary outpatient
2790 placement ~~patient~~ has previously been found incompetent to
2791 consent to treatment, the court shall consider testimony and
2792 evidence regarding the individual's ~~patient's~~ competence.
2793 Section 394.4598 governs the discharge of the guardian advocate
2794 if the individual's ~~patient's~~ competency to consent to treatment
2795 has been restored.

2796 Section 15. Section 394.467, Florida Statutes, is amended
2797 to read:

2798 394.467 Involuntary inpatient placement.—

2799 (1) CRITERIA.—An individual ~~A person~~ may be placed in
2800 involuntary inpatient placement for treatment upon a finding of
2801 the court by clear and convincing evidence that:

2802 (a) He or she has a mental illness or substance abuse
2803 impairment ~~is mentally ill~~ and because of his or her mental
2804 illness or substance abuse impairment:

2805 1.a. He or she has refused voluntary placement for
2806 treatment after sufficient and conscientious explanation and
2807 disclosure of the purpose of placement for treatment; or

2808 b. He or she is unable to determine for himself or herself
2809 whether placement is necessary; and

2810 2.a. He or she is manifestly incapable of surviving alone
2811 or with the help of willing and responsible family or friends,
2812 including available alternative services, and, without
2813 treatment, is likely to suffer from neglect or refuse to care

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2814 for himself or herself, and such neglect or refusal poses a real
2815 and present threat of substantial harm to his or her well-being;
2816 or

2817 b. There is substantial likelihood that in the near future
2818 he or she will inflict serious bodily harm on self or others
2819 ~~himself or herself or another person~~, as evidenced by recent
2820 behavior causing, attempting, or threatening such harm; and

2821 (b) All available less restrictive treatment alternatives
2822 that ~~which would~~ offer an opportunity for improvement of his or
2823 her condition have been judged to be inappropriate.

2824 (2) ADMISSION TO A TREATMENT FACILITY.—An individual ~~A~~
2825 ~~patient~~ may be retained by a mental health receiving facility,
2826 an addictions receiving facility, or a detoxification facility,
2827 or involuntarily placed in a treatment facility upon the
2828 recommendation of the administrator of the receiving facility
2829 where the individual ~~patient~~ has been examined and after
2830 adherence to the notice and hearing procedures provided in s.
2831 394.4599. The recommendation must be supported by the opinion of
2832 a psychiatrist and the second opinion of a ~~clinical~~ psychologist
2833 or another psychiatrist, both of whom have personally examined
2834 the individual ~~patient~~ within the preceding 72 hours, that the
2835 criteria for involuntary inpatient placement are met. However,
2836 in a county that has a population of fewer than 50,000, if the
2837 administrator certifies that a psychiatrist or ~~clinical~~
2838 psychologist is not available to provide the second opinion, the
2839 second opinion may be provided by a licensed physician who has
2840 postgraduate training and experience in diagnosis and treatment
2841 of mental and nervous disorders or by a psychiatric nurse. If
2842 the petition seeks placement for treatment of substance abuse

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2843 impairment only, and the individual is examined by an addictions
2844 receiving facility or detoxification facility, the first opinion
2845 may be provided by a physician and the second opinion may be
2846 provided by a substance abuse qualified professional. Any second
2847 opinion authorized in this subsection may be conducted through a
2848 face-to-face examination, in person or by electronic means. Such
2849 recommendation must ~~shall~~ be entered on an involuntary inpatient
2850 placement certificate that authorizes the receiving facility to
2851 retain the individual being held ~~patient~~ pending transfer to a
2852 treatment facility or completion of a hearing.

2853 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—The
2854 administrator of the mental health facility, addictions
2855 receiving facility, or detoxification facility shall file a
2856 petition for involuntary inpatient placement in the court in the
2857 county where the individual ~~patient~~ is located. Upon filing, the
2858 clerk of the court shall provide copies to the department, the
2859 individual ~~patient~~, the individual's ~~patient's~~ guardian,
2860 guardian advocate, health care surrogate or proxy, or
2861 representative, and the state attorney and public defender of
2862 the judicial circuit in which the individual ~~patient~~ is located.
2863 A ~~No~~ fee may not ~~shall~~ be charged for the filing of a petition
2864 under this subsection.

2865 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
2866 after the filing of a petition for involuntary inpatient
2867 placement, the court shall appoint the public defender to
2868 represent the individual ~~person~~ who is the subject of the
2869 petition, unless the individual ~~person~~ is otherwise represented
2870 by counsel. The clerk of the court shall immediately notify the
2871 public defender of such appointment. Any attorney representing

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2872 the individual ~~patient~~ shall have access to the individual
2873 ~~patient~~, witnesses, and records relevant to the presentation of
2874 the individual's ~~patient's~~ case and shall represent the
2875 interests of the individual ~~patient~~, regardless of the source of
2876 payment to the attorney.

2877 (a) An attorney representing an individual in proceedings
2878 under this part shall advocate the individual's expressed
2879 desires and must be present and actively participate in all
2880 hearings on involuntary placement. If the individual is unable
2881 or unwilling to express his or her desires to the attorney, the
2882 attorney shall proceed as though the individual expressed a
2883 desire for liberty, opposition to involuntary placement, and, if
2884 placement is ordered, a preference for the least restrictive
2885 treatment possible.

2886 (b) The state attorney for the circuit in which the
2887 individual is located shall represent the state rather than the
2888 petitioning facility administrator as the real party in interest
2889 in the proceeding. The state attorney shall have access to the
2890 individual's clinical record and witnesses and shall
2891 independently evaluate and confirm the allegations set forth in
2892 the petition for involuntary placement. If the allegations are
2893 substantiated, the state attorney shall prosecute the petition.
2894 If the allegations are not substantiated, the state attorney
2895 shall withdraw the petition.

2896 (5) CONTINUANCE OF HEARING.—The individual ~~patient~~ is
2897 entitled, with the concurrence of the individual's ~~patient's~~
2898 counsel, to at least one continuance of the hearing. The
2899 continuance shall be for ~~a period of~~ up to 4 weeks.

2900 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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2901 (a)~~1~~. The court shall hold the hearing on involuntary
2902 inpatient placement within 5 court working days after the
2903 petition is filed, unless a continuance is granted.

2904 1. The hearing shall be held in the county where the
2905 individual patient is located and shall be as convenient to the
2906 individual patient as may be consistent with orderly procedure
2907 and shall be conducted in physical settings not likely to be
2908 injurious to the individual's patient's condition. If the
2909 individual wishes to waive his or her ~~court finds that the~~
2910 ~~patient's~~ attendance at the hearing, the court must determine
2911 that the waiver is knowingly, intelligently, and voluntarily
2912 being waived and is not consistent with the best interests of
2913 ~~the patient, and the patient's counsel does not object, the~~
2914 ~~court~~ may waive the presence of the individual patient from all
2915 or any portion of the hearing. ~~The state attorney for the~~
2916 ~~circuit in which the patient is located shall represent the~~
2917 ~~state, rather than the petitioning facility administrator, as~~
2918 ~~the real party in interest in the proceeding.~~

2919 2. The court may appoint a general or special magistrate to
2920 preside at the hearing. One of the two professionals who
2921 executed the involuntary inpatient placement certificate shall
2922 be a witness. The individual patient and the individual's
2923 patient's guardian, guardian advocate, health care surrogate or
2924 proxy, or representative shall be informed by the court of the
2925 right to an independent expert examination. If the individual
2926 ~~patient~~ cannot afford such an examination, the court shall
2927 provide for one. The independent expert's report is ~~shall be~~
2928 confidential and not discoverable, unless the expert is to be
2929 called as a witness for the individual patient at the hearing.

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2930 The testimony in the hearing must be given under oath, and the
2931 proceedings must be recorded. The individual ~~patient~~ may refuse
2932 to testify at the hearing.

2933 3. The court shall allow testimony from persons, including
2934 family members, deemed by the court to be relevant regarding the
2935 individual's prior history and how that prior history relates to
2936 the individual's current condition.

2937 (b) If the court concludes that the individual ~~patient~~
2938 meets the criteria for involuntary inpatient placement, it shall
2939 order that the individual ~~patient~~ be transferred to a treatment
2940 facility or, if the individual ~~patient~~ is at a treatment
2941 facility, that the individual ~~patient~~ be retained there or be
2942 treated at any other appropriate mental health receiving
2943 facility, addictions receiving facility, detoxification
2944 facility, or treatment facility, or that the individual ~~patient~~
2945 receive services from such a facility ~~a receiving or treatment~~
2946 ~~facility, on an involuntary basis, for up to 90 days a period of~~
2947 ~~up to 6 months~~. The order shall specify the nature and extent of
2948 the individual's ~~patient's~~ mental illness or substance abuse
2949 impairment. The facility shall discharge the individual at a
2950 ~~patient~~ any time the individual ~~patient~~ no longer meets the
2951 criteria for involuntary inpatient placement, unless the
2952 individual ~~patient~~ has transferred to voluntary status.

2953 (c) If at any time before ~~prior to~~ the conclusion of the
2954 hearing on involuntary inpatient placement it appears to the
2955 court that the individual ~~person~~ does not meet the criteria for
2956 involuntary inpatient placement under this section, but instead
2957 meets the criteria for involuntary outpatient placement, the
2958 court may order the individual ~~person~~ evaluated for involuntary

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2959 outpatient placement pursuant to s. 394.4655, and the petition
2960 and hearing procedures set forth in s. 394.4655 ~~shall~~ apply. ~~If~~
2961 ~~the person instead meets the criteria for involuntary~~
2962 ~~assessment, protective custody, or involuntary admission~~
2963 ~~pursuant to s. 397.675, then the court may order the person to~~
2964 ~~be admitted for involuntary assessment for a period of 5 days~~
2965 ~~pursuant to s. 397.6811. Thereafter, all proceedings shall be~~
2966 ~~governed by chapter 397.~~

2967 (d) At the hearing on involuntary inpatient placement, the
2968 court shall consider testimony and evidence regarding the
2969 individual's ~~patient's~~ competence to consent to treatment. If
2970 the court finds that the individual ~~patient~~ is incompetent to
2971 consent to treatment, it shall appoint a guardian advocate as
2972 provided in s. 394.4598.

2973 (e) The administrator of the petitioning ~~receiving~~ facility
2974 shall provide a copy of the court order and adequate
2975 documentation of the individual's ~~a patient's~~ mental illness or
2976 substance abuse impairment to the administrator of a treatment
2977 facility if the individual ~~whenever a patient~~ is ordered for
2978 involuntary inpatient placement, whether by civil or criminal
2979 court. The documentation must ~~shall~~ include any advance
2980 directives made by the individual ~~patient~~, a psychiatric
2981 evaluation of the individual ~~patient~~, and any evaluations of the
2982 individual ~~patient~~ performed by a ~~clinical~~ psychologist, a
2983 marriage and family therapist, a mental health counselor, a
2984 substance abuse qualified professional or a clinical social
2985 worker. The administrator of a treatment facility may refuse
2986 admission to an individual ~~any patient~~ directed to its
2987 facilities on an involuntary basis, whether by civil or criminal

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2988 court order, who is not accompanied at the same time by adequate
2989 orders and documentation.

2990 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
2991 PLACEMENT.—

2992 (a) Hearings on petitions for continued involuntary
2993 inpatient placement shall be administrative hearings and shall
2994 be conducted in accordance with ~~the provisions of~~ s. 120.57(1),
2995 except that an ~~any~~ order entered by an ~~the~~ administrative law
2996 judge is ~~shall be~~ final and subject to judicial review in
2997 accordance with s. 120.68. Orders concerning an individual
2998 ~~patients~~ committed after successfully pleading not guilty by
2999 reason of insanity are ~~shall be~~ governed by ~~the provisions of~~ s.
3000 916.15.

3001 (b) If the individual patient continues to meet the
3002 criteria for involuntary inpatient placement, the administrator
3003 shall, before ~~prior~~ to the expiration of the period ~~during which~~
3004 the ~~treatment~~ facility is authorized to retain the individual
3005 ~~patient~~, file a petition requesting authorization for continued
3006 involuntary inpatient placement. The request must ~~shall~~ be
3007 accompanied by a statement from the individual's patient's
3008 physician or ~~clinical~~ psychologist justifying the request, a
3009 brief description of the individual's patient's treatment during
3010 the time he or she was involuntarily placed, and a personalized
3011 ~~an individualized~~ plan of continued treatment. Notice of the
3012 hearing must ~~shall~~ be provided as set forth in s. 394.4599. If
3013 at the hearing the administrative law judge finds that
3014 attendance at the hearing is not consistent with the
3015 individual's best interests ~~of the patient~~, the administrative
3016 law judge may waive the presence of the individual patient from

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3017 all or any portion of the hearing, unless the individual
3018 ~~patient~~, through counsel, objects to the waiver of presence. The
3019 testimony in the hearing must be under oath, and the proceedings
3020 must be recorded.

3021 (c) Unless the individual patient is otherwise represented
3022 or is ineligible, he or she shall be represented at the hearing
3023 on the petition for continued involuntary inpatient placement by
3024 the public defender of the circuit in which the facility is
3025 located.

3026 (d) The Division of Administrative Hearings shall inform
3027 the individual and his or her guardian, guardian advocate,
3028 health care surrogate or proxy, or representative of the right
3029 to an independent expert examination. If the individual cannot
3030 afford such an examination, the court shall provide one.

3031 (e) ~~(d)~~ If at a hearing it is shown that the individual
3032 ~~patient~~ continues to meet the criteria for involuntary inpatient
3033 placement, the administrative law judge shall sign the order for
3034 continued involuntary inpatient placement for a period of up to
3035 90 days ~~not to exceed 6 months~~. The same procedure ~~must~~ shall be
3036 repeated prior to the expiration of each additional period the
3037 individual patient is retained.

3038 (f) ~~(e)~~ If continued involuntary inpatient placement is
3039 necessary for an individual ~~a patient~~ admitted while serving a
3040 criminal sentence, but whose sentence is about to expire, or for
3041 a minor patient involuntarily placed ~~while a minor~~ but who is
3042 about to reach the age of 18, the administrator shall petition
3043 the administrative law judge for an order authorizing continued
3044 involuntary inpatient placement.

3045 (g) ~~(f)~~ If the individual previously patient has been

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3046 ~~previously~~ found incompetent to consent to treatment, the
 3047 administrative law judge shall consider testimony and evidence
 3048 regarding the individual's ~~patient's~~ competence. If the
 3049 administrative law judge finds evidence that the individual
 3050 ~~patient~~ is now competent to consent to treatment, the
 3051 ~~administrative law~~ judge may issue a recommended order to the
 3052 court that found the individual ~~patient~~ incompetent to consent
 3053 to treatment that the individual's ~~patient's~~ competence be
 3054 restored and that any guardian advocate previously appointed be
 3055 discharged.

3056 (8) RETURN TO FACILITY OF PATIENTS. ~~If an individual held~~
 3057 ~~When a patient~~ at a ~~treatment~~ facility involuntarily under this
 3058 part leaves the facility without the administrator's
 3059 authorization, the administrator may authorize a search for, ~~the~~
 3060 ~~patient~~ and the return of, the individual ~~patient~~ to the
 3061 facility. The administrator may request the assistance of a law
 3062 enforcement agency ~~in the search for and return of the patient.~~

3063 Section 16. Section 394.4672, Florida Statutes, is amended
 3064 to read:

3065 394.4672 Procedure for placement of veteran with federal
 3066 agency.—

3067 (1) A facility owned, operated, or administered by the
 3068 United States Department of Veterans Affairs which provides
 3069 mental health services has authority as granted by the
 3070 Department of Veterans' Affairs to:

3071 (a) Initiate and conduct involuntary examinations pursuant
 3072 to s. 394.463.

3073 (b) Provide voluntary treatment pursuant to s. 394.4625.

3074 (c) Petition for involuntary inpatient placement pursuant

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3075 to s. 394.467.

3076 (d) Provide involuntary inpatient placement pursuant to
3077 this part.

3078 (2)~~(1)~~ If a ~~Whenever it is determined by the court~~
3079 determines that an individual ~~a person~~ meets the criteria for
3080 involuntary placement and he or she ~~it appears that such person~~
3081 is eligible for care or treatment by the United States
3082 Department of Veterans Affairs or another ~~other~~ agency of the
3083 United States Government, the court, upon receipt of a
3084 certificate from the United States Department of Veterans
3085 Affairs or such other agency showing that facilities are
3086 available and that the individual ~~person~~ is eligible for care or
3087 treatment therein, may place that individual ~~person~~ with the
3088 United States Department of Veterans Affairs or other federal
3089 agency. The individual ~~person whose placement is sought~~ shall be
3090 personally served with notice of the pending placement
3091 proceeding in the manner as provided in this part., ~~and nothing~~
3092 ~~in~~ This section does not ~~shall~~ affect the individual's ~~his or~~
3093 ~~her~~ right to appear and be heard in the proceeding. Upon
3094 placement, the individual is ~~person shall be~~ subject to the
3095 ~~rules and~~ regulations of the United States Department of
3096 Veterans Affairs or other federal agency.

3097 (3)~~(2)~~ The judgment or order of placement issued by a court
3098 of competent jurisdiction of another state or of the District of
3099 Columbia which places an individual, ~~placing a person~~ with the
3100 United States Department of Veterans Affairs or other federal
3101 agency for care or treatment has, ~~shall have~~ the same force and
3102 effect in this state as in the jurisdiction of the court
3103 entering the judgment or making the order., ~~and~~ The courts of

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3104 the placing state or of the District of Columbia shall retain ~~be~~
3105 ~~deemed to have retained~~ jurisdiction of the individual ~~person~~ ~~so~~
3106 placed. Consent is hereby given to the application of the law of
3107 the placing state or district with respect to the authority of
3108 the chief officer of any facility of the United States
3109 Department of Veterans Affairs or other federal agency operated
3110 in this state to retain custody or to transfer, parole, or
3111 discharge the individual ~~person~~.

3112 (4)~~(3)~~ Upon receipt of a certificate of the United States
3113 Department of Veterans Affairs or another ~~such other~~ federal
3114 agency that facilities are available for the care or treatment
3115 of individuals who have mental illness or substance abuse
3116 impairment ~~mentally ill persons~~ and that an individual ~~the~~
3117 ~~person~~ is eligible for that care or treatment, the administrator
3118 of the receiving or treatment facility may ~~cause the~~ transfer ~~of~~
3119 that individual ~~person~~ to the United States Department of
3120 Veterans Affairs or other federal agency. Upon ~~effecting~~ such
3121 transfer, the committing court shall be notified by the
3122 transferring agency. An individual may not ~~No person shall~~ be
3123 transferred ~~to the United States Department of Veterans Affairs~~
3124 ~~or other federal agency~~ if he or she is confined pursuant to the
3125 conviction of any felony or misdemeanor or if he or she has been
3126 acquitted of the charge solely on the ground of insanity, unless
3127 prior to transfer the court placing the individual ~~such person~~
3128 enters an order for the transfer after appropriate motion and
3129 hearing and without objection by the United States Department of
3130 Veterans Affairs.

3131 (5)~~(4)~~ An individual ~~Any person~~ transferred as provided in
3132 this section ~~is shall be~~ deemed to be placed with the United

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3133 States Department of Veterans Affairs or other federal agency
3134 pursuant to the original placement.

3135 Section 17. Paragraph (a) of subsection (1) of section
3136 394.875, Florida Statutes, is amended to read:

3137 394.875 Crisis stabilization units, residential treatment
3138 facilities, and residential treatment centers for children and
3139 adolescents; authorized services; license required.—

3140 (1) (a) The purpose of a crisis stabilization unit is to
3141 stabilize and redirect a client to the most appropriate and
3142 least restrictive community setting available, consistent with
3143 the client's needs. Crisis stabilization units may screen,
3144 assess, and admit for stabilization persons who present
3145 themselves to the unit and persons who are brought to the unit
3146 under s. 394.463. Clients may be provided 24-hour observation,
3147 medication prescribed by a physician or psychiatrist, and other
3148 appropriate services. Crisis stabilization units shall provide
3149 services regardless of the client's ability to pay ~~and shall be~~
3150 ~~limited in size to a maximum of 30 beds.~~

3151 Section 18. Section 765.401, Florida Statutes, is
3152 transferred and renumbered as section 765.311, Florida Statutes.

3153 Section 19. Section 765.404, Florida Statutes, is
3154 transferred and renumbered as section 765.312, Florida Statutes.

3155 Section 20. The Division of Law Revision and Information is
3156 directed to rename part IV of chapter 765, Florida Statutes, as
3157 "Mental Health and Substance Abuse Advance Directives."

3158 Section 21. Section 765.4015, Florida Statutes, is created
3159 to read:

3160 765.4015 Short title.—Sections 765.402–765.411 may be cited
3161 as the "Jennifer Act."

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3162 Section 22. Section 765.402, Florida Statutes, is created
3163 to read:

3164 765.402 Legislative findings.-

3165 (1) The Legislature recognizes that an individual with
3166 capacity has the ability to control decisions relating to his or
3167 her own mental health care or substance abuse treatment. The
3168 Legislature finds that:

3169 (a) Substance abuse and some mental illnesses cause
3170 individuals to fluctuate between capacity and incapacity;

3171 (b) During periods when an individual's capacity is
3172 unclear, the individual may be unable to provide informed
3173 consent necessary to access needed treatment;

3174 (c) Early treatment may prevent an individual from becoming
3175 so ill that involuntary treatment is necessary; and

3176 (d) Individuals with substance abuse impairment or mental
3177 illness need an established procedure to express their
3178 instructions and preferences for treatment and provide advance
3179 consent to or refusal of treatment. This procedure should be
3180 less expensive and less restrictive than guardianship.

3181 (2) The Legislature further recognizes that:

3182 (a) A mental health or substance abuse treatment advance
3183 directive must provide the individual with a full range of
3184 choices.

3185 (b) For a mental health or substance abuse directive to be
3186 an effective tool, individuals must be able to choose how they
3187 want their directives to be applied, including the right of
3188 revocation, during periods when they are incompetent to consent
3189 to treatment.

3190 (c) There must be a clear process so that treatment

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3191 providers can abide by an individual's treatment choices.

3192 Section 23. Section 765.403, Florida Statutes, is created
3193 to read:

3194 765.403 Definitions.—As used in this part, the term:

3195 (1) "Adult" means any individual who has attained the age
3196 of majority or is an emancipated minor.

3197 (2) "Capacity" means that an adult has not been found to be
3198 incapacitated pursuant to s. 394.463.

3199 (3) "Health care facility" means a hospital, nursing home,
3200 hospice, home health agency, or health maintenance organization
3201 licensed in this state, or any facility subject to part I of
3202 chapter 394.

3203 (4) "Incapacity" or "incompetent" means an adult who is:

3204 (a) Unable to understand the nature, character, and
3205 anticipated results of proposed treatment or alternatives or the
3206 recognized serious possible risks, complications, and
3207 anticipated benefits of treatments and alternatives, including
3208 nontreatment;

3209 (b) Physically or mentally unable to communicate a willful
3210 and knowing decision about mental health care or substance abuse
3211 treatment;

3212 (c) Unable to communicate his or her understanding or
3213 treatment decisions; or

3214 (d) Determined incompetent pursuant to s. 394.463.

3215 (5) "Informed consent" means consent voluntarily given by a
3216 person after a sufficient explanation and disclosure of the
3217 subject matter involved to enable that person to have a general
3218 understanding of the treatment or procedure and the medically
3219 acceptable alternatives, including the substantial risks and

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3220 hazards inherent in the proposed treatment or procedures or
3221 nontreatment, and to make knowing mental health care or
3222 substance abuse treatment decisions without coercion or undue
3223 influence.

3224 (6) "Interested person" means, for the purposes of this
3225 chapter, any person who may reasonably be expected to be
3226 affected by the outcome of the particular proceeding involved,
3227 including anyone interested in the welfare of an incapacitated
3228 person.

3229 (7) "Mental health or substance abuse treatment advance
3230 directive" means a written document in which the principal makes
3231 a declaration of instructions or preferences or appoints a
3232 surrogate to make decisions on behalf of the principal regarding
3233 the principal's mental health or substance abuse treatment, or
3234 both.

3235 (8) "Mental health professional" means a psychiatrist,
3236 psychologist, psychiatric nurse, or social worker, and such
3237 other mental health professionals licensed pursuant to chapter
3238 458, chapter 459, chapter 464, chapter 490, or chapter 491.

3239 (9) "Principal" means a competent adult who executes a
3240 mental health or substance abuse treatment advance directive and
3241 on whose behalf mental health care or substance abuse treatment
3242 decisions are to be made.

3243 (10) "Surrogate" means any competent adult expressly
3244 designated by a principal to make mental health care or
3245 substance abuse treatment decisions on behalf of the principal
3246 as set forth in the principal's mental health or substance abuse
3247 treatment advance directive or self-binding arrangement as those
3248 terms are defined in this part.

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3249 Section 24. Section 765.405, Florida Statutes, is created
3250 to read:

3251 765.405 Mental health or substance abuse treatment advance
3252 directive; execution; allowable provisions.-

3253 (1) An adult with capacity may execute a mental health or
3254 substance abuse treatment advance directive.

3255 (2) A directive executed in accordance with this section is
3256 presumed to be valid. The inability to honor one or more
3257 provisions of a directive does not affect the validity of the
3258 remaining provisions.

3259 (3) A directive may include any provision relating to
3260 mental health or substance abuse treatment or the care of the
3261 principal. Without limitation, a directive may include:

3262 (a) The principal's preferences and instructions for mental
3263 health or substance abuse treatment.

3264 (b) Consent to specific types of mental health or substance
3265 abuse treatment.

3266 (c) Refusal to consent to specific types of mental health
3267 or substance abuse treatment.

3268 (d) Descriptions of situations that may cause the principal
3269 to experience a mental health or substance abuse crisis.

3270 (e) Suggested alternative responses that may supplement or
3271 be in lieu of direct mental health or substance abuse treatment,
3272 such as treatment approaches from other providers.

3273 (f) The principal's nomination of a guardian, limited
3274 guardian, or guardian advocate as provided chapter 744.

3275 (4) A directive may be combined with or be independent of a
3276 nomination of a guardian, other durable power of attorney, or
3277 other advance directive.

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3278 Section 25. Section 765.406, Florida Statutes, is created
3279 to read:

3280 765.406 Execution of a mental health or substance abuse
3281 advance directive; effective date; expiration.-

3282 (1) A directive must:

3283 (a) Be in writing.

3284 (b) Contain language that clearly indicates that the
3285 principal intends to create a directive.

3286 (c) Be dated and signed by the principal or, if the
3287 principal is unable to sign, at the principal's direction in the
3288 principal's presence.

3289 (d) Be witnessed by two adults, each of whom must declare
3290 that he or she personally knows the principal and was present
3291 when the principal dated and signed the directive, and that the
3292 principal did not appear to be incapacitated or acting under
3293 fraud, undue influence, or duress. The person designated as the
3294 surrogate may not act as a witness to the execution of the
3295 document designating the mental health or substance abuse care
3296 treatment surrogate. At least one person who acts as a witness
3297 must be neither the principal's spouse nor his or her blood
3298 relative.

3299 (2) A directive is valid upon execution, but all or part of
3300 the directive may take effect at a later date as designated by
3301 the principal in the directive.

3302 (3) A directive may:

3303 (a) Be revoked, in whole or in part, pursuant to s.
3304 765.407; or

3305 (b) Expire under its own terms.

3306 (4) A directive does not or may not:

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3307 (a) Create an entitlement to mental health, substance
3308 abuse, or medical treatment or supersede a determination of
3309 medical necessity.

3310 (b) Obligate any health care provider, professional person,
3311 or health care facility to pay the costs associated with the
3312 treatment requested.

3313 (c) Obligate a health care provider, professional person,
3314 or health care facility to be responsible for the nontreatment
3315 or personal care of the principal or the principal's personal
3316 affairs outside the scope of services the facility normally
3317 provides.

3318 (d) Replace or supersede any will or testamentary document
3319 or supersede the provision of intestate succession.

3320 (e) Be revoked by an incapacitated principal unless that
3321 principal selected the option to permit revocation while
3322 incapacitated at the time his or her directive was executed.

3323 Section 26. Section 765.407, Florida Statutes, is created
3324 to read:

3325 765.407 Revocation; waiver.—

3326 (1) A principal with capacity may, by written statement of
3327 the principal or at the principal's direction in the principal's
3328 presence, revoke a directive in whole or in part.

3329 (2) The principal shall provide a copy of his or her
3330 written statement of revocation to his or her agent, if any, and
3331 to each health care provider, professional person, or health
3332 care facility that received a copy of the directive from the
3333 principal.

3334 (3) The written statement of revocation is effective as to
3335 a health care provider, professional person, or health care

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3336 facility upon receipt. The professional person, health care
3337 provider, or health care facility, or persons acting under their
3338 direction, shall make the statement of revocation part of the
3339 principal's medical record.

3340 (4) A directive also may:

3341 (a) Be revoked, in whole or in part, expressly or to the
3342 extent of any inconsistency, by a subsequent directive; or

3343 (b) Be superseded or revoked by a court order, including
3344 any order entered in a criminal matter. The individual's family,
3345 the health care facility, the attending physician, or any other
3346 interested person who may be directly affected by the
3347 surrogate's decision concerning any health care may seek
3348 expedited judicial intervention pursuant to rule 5.900 of the
3349 Florida Probate Rules, if that person believes:

3350 1. The surrogate's decision is not in accord with the
3351 individual's known desires;

3352 2. The advance directive is ambiguous, or the individual
3353 has changed his or her mind after execution of the advance
3354 directive;

3355 3. The surrogate was improperly designated or appointed, or
3356 the designation of the surrogate is no longer effective or has
3357 been revoked;

3358 4. The surrogate has failed to discharge duties, or
3359 incapacity or illness renders the surrogate incapable of
3360 discharging duties;

3361 5. The surrogate has abused powers; or

3362 6. The individual has sufficient capacity to make his or
3363 her own health care decisions.

3364 (5) A directive that would have otherwise expired but is

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3365 effective because the principal is incapacitated remains
3366 effective until the principal is no longer incapacitated unless
3367 the principal elected to be able to revoke while incapacitated
3368 and has revoked the directive.

3369 (6) When a principal with capacity consents to treatment
3370 that differs from, or refuses treatment consented to in, his or
3371 her directive, the consent or refusal constitutes a waiver of a
3372 particular provision and does not constitute a revocation of the
3373 provision or the directive unless that principal also revokes
3374 the provision or directive.

3375 Section 27. Section 765.410, Florida Statutes, is created
3376 to read:

3377 765.410 Immunity from liability; weight of proof;
3378 presumption.-

3379 (1) A health care facility, provider, or other person who
3380 acts under the direction of a health care facility or provider
3381 is not subject to criminal prosecution or civil liability, and
3382 may not be deemed to have engaged in unprofessional conduct, as
3383 a result of carrying out a mental health care or substance abuse
3384 treatment decision made in accordance with this section. The
3385 surrogate who makes a mental health care or substance abuse
3386 treatment decision on a principal's behalf, pursuant to this
3387 section, is not subject to criminal prosecution or civil
3388 liability for such action.

3389 (2) This section applies unless it is shown by a
3390 preponderance of the evidence that the person authorizing or
3391 carrying out a mental health or substance abuse treatment
3392 decision did not, in good faith, comply with this section.

3393 Section 28. Section 765.411, Florida Statutes, is created

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3394 to read:

3395 765.411 Recognition of mental health and substance abuse
3396 treatment advance directive executed in another state.—A mental
3397 health or substance abuse treatment advance directive executed
3398 in another state in compliance with the law of that state is
3399 validly executed for the purposes of this chapter.

3400 Section 29. Section 916.185, Florida Statutes, is created
3401 to read:

3402 916.185 Forensic Hospital Diversion Pilot Program.—

3403 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
3404 that many jail inmates who have serious mental illnesses and who
3405 are committed to state forensic mental health treatment
3406 facilities for restoration of competency to proceed could be
3407 served more effectively and at less cost in community-based
3408 alternative programs. The Legislature further finds that many
3409 individuals who have serious mental illnesses and who have been
3410 discharged from state forensic mental health treatment
3411 facilities could avoid recidivism in the criminal justice and
3412 forensic mental health systems if they received specialized
3413 treatment in the community. Therefore, it is the intent of the
3414 Legislature to create the Forensic Hospital Diversion Pilot
3415 Program to serve individuals who have mental illnesses or co-
3416 occurring mental illnesses and substance use disorders and who
3417 are admitted to or are at risk of entering state forensic mental
3418 health treatment facilities, prisons, jails, or state civil
3419 mental health treatment facilities.

3420 (2) DEFINITIONS.—As used in this section, the term:

3421 (a) "Best practices" means treatment services that
3422 incorporate the most effective and acceptable interventions

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3423 available in the care and treatment of individuals who are
3424 diagnosed as having mental illnesses or co-occurring mental
3425 illnesses and substance use disorders.

3426 (b) "Community forensic system" means the community mental
3427 health and substance use forensic treatment system, including
3428 the comprehensive set of services and supports provided to
3429 individuals involved in or at risk of becoming involved in the
3430 criminal justice system.

3431 (c) "Evidence-based practices" means interventions and
3432 strategies that, based on the best available empirical research,
3433 demonstrate effective and efficient outcomes in the care and
3434 treatment of individuals who are diagnosed as having mental
3435 illnesses or co-occurring mental illnesses and substance use
3436 disorders.

3437 (3) CREATION.—There is created a Forensic Hospital
3438 Diversion Pilot Program to provide, when appropriate,
3439 competency-restoration and community-reintegration services in
3440 locked residential treatment facilities, based on considerations
3441 of public safety, the needs of the individual, and available
3442 resources.

3443 (a) The department shall implement a Forensic Hospital
3444 Diversion Pilot Program in Alachua, Broward, Escambia,
3445 Hillsborough, and Miami-Dade Counties, in conjunction with the
3446 Eighth Judicial Circuit, the Seventeenth Judicial Circuit, the
3447 First Judicial Circuit, the Thirteenth Judicial Circuit, and the
3448 Eleventh Judicial Circuit, respectively, which shall be modeled
3449 after the Miami-Dade Forensic Alternative Center, taking into
3450 account local needs and subject to the availability of local
3451 resources.

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3452 (b) In creating and implementing the program, the
3453 department shall include a comprehensive continuum of care and
3454 services which uses evidence-based practices and best practices
3455 to treat individuals who have mental health and co-occurring
3456 substance use disorders.

3457 (c) The department and the respective judicial circuits
3458 shall implement this section within available resources. State
3459 funding may be made available through a specific appropriation.

3460 (4) ELIGIBILITY.—Participation in the Forensic Hospital
3461 Diversion Pilot Program is limited to individuals who:

3462 (a) Are 18 years of age or older;

3463 (b) Are charged with a felony of the second degree or a
3464 felony of the third degree;

3465 (c) Do not have a significant history of violent criminal
3466 offenses;

3467 (d) Have been adjudicated incompetent to proceed to trial
3468 or not guilty by reason of insanity under this part;

3469 (e) Meet public safety and treatment criteria established
3470 by the department for placement in a community setting; and

3471 (f) Would be admitted to a state mental health treatment
3472 facility if not for the availability of the Forensic Hospital
3473 Diversion Pilot Program.

3474 (5) TRAINING.—The Legislature encourages the Florida
3475 Supreme Court, in consultation and cooperation with the Task
3476 Force on Substance Abuse and Mental Health Issues in the Courts,
3477 to develop educational training on the community forensic system
3478 for judges in the pilot program areas.

3479 (6) RULEMAKING.—The department may adopt rules to
3480 administer this section.

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3481 (7) REPORT.—The Office of Program Policy Analysis and
3482 Government Accountability shall review and evaluate the Forensic
3483 Hospital Diversion Pilot Program and submit a report to the
3484 Governor, the President of the Senate, and the Speaker of the
3485 House of Representatives by December 31, 2016. The report shall
3486 examine the efficiency and cost-effectiveness of providing
3487 forensic mental health services in secure, outpatient,
3488 community-based settings. In addition, the report shall examine
3489 the impact of the Forensic Hospital Diversion Pilot Program on
3490 public health and safety.

3491 Section 30. Section 944.805, Florida Statutes, is created
3492 to read:

3493 944.805 Nonviolent offender reentry program.—

3494 (1) As used in this section, the term:

3495 (a) "Department" means the Department of Corrections.

3496 (b) "Nonviolent offender" means an offender whose primary
3497 offense is a felony of the third degree, who is not the subject
3498 of a domestic violence injunction currently in force, and who
3499 has never been convicted of:

3500 1. A forcible felony as defined in s. 776.08;

3501 2. An offense specified in s. 775.082(9)(a)1.r., regardless
3502 of prior incarceration or release;

3503 3. An offense described in chapter 847;

3504 4. An offense under chapter 827;

3505 5. Any offense specified in s. 784.07, s. 784.074, s.
3506 784.075, s. 784.076, s. 784.08, s. 784.083, or s. 784.085;

3507 6. Any offense involving the possession or use of a
3508 firearm;

3509 7. A capital felony or a felony of the first or second

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3510 degree;

3511 8. Any offense that requires a person to register as a
3512 sexual offender pursuant to s. 943.0435.

3513 (2) (a) The department shall develop and administer a
3514 reentry program for nonviolent offenders. The reentry program
3515 must include prison-based substance abuse treatment, general
3516 education development and adult basic education courses,
3517 vocational training, training in decisionmaking and personal
3518 development, and other rehabilitation programs.

3519 (b) The reentry program is intended to divert nonviolent
3520 offenders from long periods of incarceration when a reduced
3521 period of incarceration supplemented by participation in
3522 intensive substance abuse treatment and rehabilitative
3523 programming could produce the same deterrent effect, protect the
3524 public, rehabilitate the offender, and reduce recidivism.

3525 (c) The nonviolent offender must serve at least 6 months in
3526 the reentry program. The offender may not count any portion of
3527 his or her sentence served before placement in the reentry
3528 program as progress toward program completion.

3529 (d) A reentry program may be operated in a secure area in
3530 or adjacent to a correctional institution.

3531 (3) The department shall screen offenders committed to the
3532 department for eligibility to participate in the reentry program
3533 using the criteria in this section. To be eligible, an offender
3534 must be a nonviolent offender, must have served at least one-
3535 half of his or her original sentence, and must have been
3536 identified as needing substance abuse treatment.

3537 (4) In addition, the department must consider the following
3538 factors when selecting participants for the reentry program:

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- 3539 (a) The offender's history of disciplinary reports.
- 3540 (b) The offender's criminal history.
- 3541 (c) The severity of the offender's addiction.
- 3542 (d) The offender's history of criminal behavior related to
3543 substance abuse.
- 3544 (e) Whether the offender has participated or requested to
3545 participate in any general educational development certificate
3546 program or other educational, technical, work, vocational, or
3547 self-rehabilitation program.
- 3548 (f) The results of any risk assessment of the offender.
- 3549 (g) The outcome of all past participation of the offender
3550 in substance abuse treatment programs.
- 3551 (h) The possible rehabilitative benefits that substance
3552 abuse treatment, educational programming, vocational training,
3553 and other rehabilitative programming might have on the offender.
- 3554 (i) The likelihood that the offender's participation in the
3555 program will produce the same deterrent effect, protect the
3556 public, save taxpayer dollars, and prevent or delay recidivism
3557 to an equal or greater extent than completion of the sentence
3558 previously imposed.
- 3559 (5) (a) If an offender volunteers to participate in the
3560 reentry program, meets the eligibility criteria, and is selected
3561 by the department based on the considerations in subsection (4)
3562 and if space is available in the reentry program, the department
3563 may request the sentencing court to approve the offender's
3564 participation in the reentry program. The request must be made
3565 in writing, must include a brief summation of the department's
3566 evaluation under subsection (4), and must identify the documents
3567 or other information upon which the evaluation is based. The

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3568 request and all accompanying documents may be delivered to the
3569 sentencing court electronically.

3570 (b)1. The department shall notify the state attorney that
3571 the offender is being considered for placement in the reentry
3572 program. The notice must include a copy of all documents
3573 provided with the request to the court. The notice and all
3574 accompanying documents may be delivered to the state attorney
3575 electronically and may take the form of a copy of an electronic
3576 delivery made to the sentencing court.

3577 2. The notice must also state that the state attorney may
3578 notify the sentencing court in writing of any objection he or
3579 she may have to placement of the nonviolent offender in the
3580 reentry program. Such notification must be made within 15 days
3581 after receipt of the notice by the state attorney from the
3582 department. Regardless of whether an objection is raised, the
3583 state attorney may provide the sentencing court with any
3584 information supplemental or contrary to the information provided
3585 by the department which may assist the court in its
3586 determination.

3587 (c) In determining whether to approve a nonviolent offender
3588 for participation in the reentry program, the sentencing court
3589 may consider any facts that the court considers relevant,
3590 including, but not limited to, the criteria listed in subsection
3591 (4); the original sentencing report and any evidence admitted in
3592 a previous sentencing proceeding; the offender's record of
3593 arrests without conviction for crimes; any other evidence of
3594 allegations of unlawful conduct or the use of violence by the
3595 offender; the offender's family ties, length of residence in the
3596 community, employment history, and mental condition; the

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3597 likelihood that participation in the program will produce the
3598 same deterrent effect, rehabilitate the offender, and prevent or
3599 delay recidivism to an equal or greater extent than completion
3600 of the sentence previously imposed; and the likelihood that the
3601 offender will engage again in criminal conduct.

3602 (d) The sentencing court shall notify the department in
3603 writing of the court's decision to approve or disapprove the
3604 requested placement of the nonviolent offender no later than 30
3605 days after the court receives the department's request to place
3606 the offender in the reentry program. If the court approves the
3607 placement, the notification must list the factors upon which the
3608 court relied in making its determination.

3609 (6) After the nonviolent offender is admitted to the
3610 reentry program, he or she shall undergo a complete substance
3611 abuse assessment to determine his or her substance abuse
3612 treatment needs. The offender shall also receive an educational
3613 assessment, which must be accomplished using the Test of Adult
3614 Basic Education or any other testing instrument approved by the
3615 Department of Education. Each offender who has not obtained a
3616 high school diploma shall be enrolled in an adult education
3617 program designed to aid the offender in improving his or her
3618 academic skills and earning a high school diploma. Additional
3619 assessments of the offender's vocational skills and future
3620 career education shall be provided to the offender as needed. A
3621 periodic reevaluation shall be made to assess the progress of
3622 each offender.

3623 (7) (a) If a nonviolent offender in the reentry program
3624 becomes unmanageable, the department may revoke the offender's
3625 gain-time and place the offender in disciplinary confinement in

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3626 accordance with department rule. Except as provided in paragraph
3627 (b), the offender shall be readmitted to the reentry program
3628 after completing the ordered discipline. Any period during which
3629 the offender cannot participate in the reentry program must be
3630 excluded from the specified time requirements in the reentry
3631 program.

3632 (b) The department may terminate an offender from the
3633 reentry program if:

3634 1. The offender commits or threatens to commit a violent
3635 act;

3636 2. The department determines that the offender cannot
3637 participate in the reentry program because of the offender's
3638 medical condition;

3639 3. The offender's sentence is modified or expires;

3640 4. The department reassigns the offender's classification
3641 status; or

3642 5. The department determines that removing the offender
3643 from the reentry program is in the best interest of the offender
3644 or the security of the reentry program facility.

3645 (8) (a) The department shall submit a report to the
3646 sentencing court at least 30 days before the nonviolent offender
3647 is scheduled to complete the reentry program. The report must
3648 describe the offender's performance in the reentry program and
3649 certify whether the performance is satisfactory. The court may
3650 schedule a hearing to consider any modification to the imposed
3651 sentence. Notwithstanding the eligibility criteria contained in
3652 s. 948.20, if the offender's performance is satisfactory to the
3653 department and the court, the court shall issue an order
3654 modifying the sentence imposed and placing the offender on drug

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3655 offender probation, as described in s. 948.20(2), subject to the
3656 department's certification of the offender's successful
3657 completion of the remainder of the reentry program. The term of
3658 drug offender probation must not be less than the remaining time
3659 the offender would have served in prison had he or she not
3660 participated in the program. A condition of drug offender
3661 probation may include electronic monitoring or placement in a
3662 community residential or nonresidential licensed substance abuse
3663 treatment facility under the jurisdiction of the department or
3664 the Department of Children and Families or any public or private
3665 entity providing such services. The order must include findings
3666 that the offender's performance is satisfactory, that the
3667 requirements for resentencing under this section are satisfied,
3668 and that public safety will not be compromised. If the
3669 nonviolent offender violates the conditions of drug offender
3670 probation, the court may revoke probation and impose any
3671 sentence that it might have originally imposed. An offender may
3672 not be released from the custody of the department under this
3673 section except pursuant to a judicial order modifying his or her
3674 sentence.

3675 (b) If an offender released pursuant to paragraph (a)
3676 intends to reside in a county that has established a
3677 postadjudicatory drug court program as described in s. 397.334,
3678 the sentencing court may require the offender to successfully
3679 complete the postadjudicatory drug court program as a condition
3680 of drug offender probation. The original sentencing court shall
3681 relinquish jurisdiction of the offender's case to the
3682 postadjudicatory drug court program until the offender is no
3683 longer active in the program, the case is returned to the

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3684 sentencing court due to the offender's termination from the
3685 program for failure to comply with the terms of the program, or
3686 the offender's sentence is completed. An offender who is
3687 transferred to a postadjudicatory drug court program shall
3688 comply with all conditions and orders of the program.

3689 (9) The department shall implement the reentry program to
3690 the fullest extent feasible within available resources.

3691 (10) The department may enter into performance-based
3692 contracts with qualified individuals, agencies, or corporations
3693 for the provision of any or all of the services for the reentry
3694 program. However, an offender may not be released from the
3695 custody of the department under this section except pursuant to
3696 a judicial order modifying a sentence.

3697 (11) A nonviolent offender in the reentry program is
3698 subject to rules of conduct established by the department and
3699 may have sanctions imposed, including loss of privileges,
3700 restrictions, disciplinary confinement, alteration of release
3701 plans, or other program modifications in keeping with the nature
3702 and gravity of the program violation. Administrative or
3703 protective confinement, as necessary, may be imposed.

3704 (12) This section does not create or confer any right to
3705 any offender to placement in the reentry program or any right to
3706 placement or early release under supervision of any type. An
3707 inmate does not have a cause of action under this section
3708 against the department, a court, or the state attorney related
3709 to the reentry program.

3710 (13) The department may establish a system of incentives
3711 within the reentry program which the department may use to
3712 promote participation in rehabilitative programs and the orderly

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3713 operation of institutions and facilities.

3714 (14) The department shall develop a system for tracking
3715 recidivism, including, but not limited to, rearrests and
3716 recommitment of nonviolent offenders who successfully complete
3717 the reentry program, and shall report the recidivism rate in the
3718 annual report required under this section.

3719 (15) The department shall submit an annual report to the
3720 Governor, the President of the Senate, and the Speaker of the
3721 House of Representatives detailing the extent of implementation
3722 of the reentry program and the number of participants who are
3723 selected by the department, the number of participants who are
3724 approved by the court, and the number of participants who
3725 successfully complete the program. The report must include a
3726 reasonable estimate or description of the additional public
3727 costs incurred and any public funds saved with respect to each
3728 participant, a brief description of each sentence modification,
3729 and a brief description of the subsequent criminal history, if
3730 any, of each participant following any modification of sentence
3731 under this section. The report must also include future goals
3732 and any recommendations that the department has for future
3733 legislative action.

3734 (16) The department shall adopt rules as necessary to
3735 administer the reentry program.

3736 (17) Nothing in this section is severable from the
3737 remaining provisions of this section. If any subsection of this
3738 section is determined by any state or federal court to be not
3739 fully enforceable, this section shall stand repealed in its
3740 entirety.

3741 Section 31. Paragraph (1) is added to subsection (3) of

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3742 section 1002.20, Florida Statutes, to read:

3743 1002.20 K-12 student and parent rights.—Parents of public
3744 school students must receive accurate and timely information
3745 regarding their child's academic progress and must be informed
3746 of ways they can help their child to succeed in school. K-12
3747 students and their parents are afforded numerous statutory
3748 rights including, but not limited to, the following:

3749 (3) HEALTH ISSUES.—

3750 (1) Notification of involuntary examinations.—The public
3751 school principal or the principal's designee shall immediately
3752 notify the parent of a student who is removed from school,
3753 school transportation, or a school-sponsored activity and taken
3754 to a receiving facility for an involuntary examination pursuant
3755 to s. 394.463. The principal or the principal's designee may
3756 delay notification for no more than 24 hours after the student
3757 is removed from school if the principal or designee deems the
3758 delay to be in the student's best interest and if a report has
3759 been submitted to the central abuse hotline, pursuant to s.
3760 39.201, based upon knowledge or suspicion of abuse, abandonment,
3761 or neglect. Each district school board shall develop a policy
3762 and procedures for notification under this paragraph.

3763 Section 32. Paragraph (q) is added to subsection (9) of
3764 section 1002.33, Florida Statutes, to read:

3765 1002.33 Charter schools.—

3766 (9) CHARTER SCHOOL REQUIREMENTS.—

3767 (q) The charter school principal or the principal's
3768 designee shall immediately notify the parent of a student who is
3769 removed from school, school transportation, or a school-
3770 sponsored activity and taken to a receiving facility for an

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3771 involuntary examination pursuant to s. 394.463. The principal or
3772 the principal's designee may delay notification for no more than
3773 24 hours after the student is removed from school if the
3774 principal or designee deems the delay to be in the student's
3775 best interest and if a report has been submitted to the central
3776 abuse hotline, pursuant to s. 39.201, based upon knowledge or
3777 suspicion of abuse, abandonment, or neglect. Each charter school
3778 governing board shall develop a policy and procedures for
3779 notification under this paragraph.

3780 Section 33. Paragraph (a) of subsection (3) of section
3781 39.407, Florida Statutes, is amended to read:

3782 39.407 Medical, psychiatric, and psychological examination
3783 and treatment of child; physical, mental, or substance abuse
3784 examination of person with or requesting child custody.—

3785 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
3786 or paragraph (e), before the department provides psychotropic
3787 medications to a child in its custody, the prescribing physician
3788 shall attempt to obtain express and informed consent, as defined
3789 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.
3790 394.459(4) (a) ~~s. 394.459(3) (a)~~, from the child's parent or legal
3791 guardian. The department must take steps necessary to facilitate
3792 the inclusion of the parent in the child's consultation with the
3793 physician. However, if the parental rights of the parent have
3794 been terminated, the parent's location or identity is unknown or
3795 cannot reasonably be ascertained, or the parent declines to give
3796 express and informed consent, the department may, after
3797 consultation with the prescribing physician, seek court
3798 authorization to provide the psychotropic medications to the
3799 child. Unless parental rights have been terminated and if it is

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3800 possible to do so, the department shall continue to involve the
3801 parent in the decisionmaking process regarding the provision of
3802 psychotropic medications. If, at any time, a parent whose
3803 parental rights have not been terminated provides express and
3804 informed consent to the provision of a psychotropic medication,
3805 the requirements of this section that the department seek court
3806 authorization do not apply to that medication until such time as
3807 the parent no longer consents.

3808 2. Any time the department seeks a medical evaluation to
3809 determine the need to initiate or continue a psychotropic
3810 medication for a child, the department must provide to the
3811 evaluating physician all pertinent medical information known to
3812 the department concerning that child.

3813 Section 34. Subsection (2) of section 394.4612, Florida
3814 Statutes, is amended to read:

3815 394.4612 Integrated adult mental health crisis
3816 stabilization and addictions receiving facilities.—

3817 (2) An integrated mental health crisis stabilization unit
3818 and addictions receiving facility may provide services under
3819 this section to adults who are 18 years of age or older and who
3820 fall into one ~~or more~~ of the following categories:

3821 (a) An adult meeting the requirements for voluntary
3822 admission for mental health treatment under s. 394.4625.

3823 (b) An adult meeting the criteria for involuntary
3824 examination for mental illness under s. 394.463.

3825 ~~(c) An adult qualifying for voluntary admission for
3826 substance abuse treatment under s. 397.601.~~

3827 ~~(d) An adult meeting the criteria for involuntary admission
3828 for substance abuse impairment under s. 397.675.~~

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3829 Section 35. Paragraphs (a) and (c) of subsection (3) of
3830 section 394.495, Florida Statutes, are amended to read:

3831 394.495 Child and adolescent mental health system of care;
3832 programs and services.—

3833 (3) Assessments must be performed by:

3834 (a) A professional as defined in s. 394.455(6), (31), (34),
3835 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~;

3836 (c) A person who is under the direct supervision of a
3837 professional as defined in s. 394.455(6), (31), (34), (35), or
3838 (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
3839 licensed under chapter 491.

3840

3841 The department shall adopt by rule statewide standards for
3842 mental health assessments, which must be based on current
3843 relevant professional and accreditation standards.

3844 Section 36. Subsection (6) of section 394.496, Florida
3845 Statutes, is amended to read:

3846 394.496 Service planning.—

3847 (6) A professional as defined in s. 394.455(6), (31), (34),
3848 (35), or (36) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a
3849 professional licensed under chapter 491 must be included among
3850 those persons developing the services plan.

3851 Section 37. Subsection (2) of section 394.499, Florida
3852 Statutes, is amended to read:

3853 394.499 Integrated children's crisis stabilization
3854 unit/juvenile addictions receiving facility services.—

3855 (2) Children eligible to receive integrated children's
3856 crisis stabilization unit/juvenile addictions receiving facility
3857 services include:

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3858 (a) A person under 18 years of age for whom voluntary
3859 application is made by his or her guardian, if such person is
3860 found to show evidence of mental illness and to be suitable for
3861 treatment pursuant to s. 394.4625. A person under 18 years of
3862 age may be admitted for integrated facility services only after
3863 a hearing to verify that the consent to admission is voluntary.

3864 (b) A person under 18 years of age who may be taken to a
3865 receiving facility for involuntary examination, if there is
3866 reason to believe that he or she is mentally ill and because of
3867 his or her mental illness, pursuant to s. 394.463:

3868 1. Has refused voluntary examination after conscientious
3869 explanation and disclosure of the purpose of the examination; or

3870 2. Is unable to determine for himself or herself whether
3871 examination is necessary; and

3872 a. Without care or treatment is likely to suffer from
3873 neglect or refuse to care for himself or herself; such neglect
3874 or refusal poses a real and present threat of substantial harm
3875 to his or her well-being; and it is not apparent that such harm
3876 may be avoided through the help of willing family members or
3877 friends or the provision of other services; or

3878 b. There is a substantial likelihood that without care or
3879 treatment he or she will cause serious bodily harm to himself or
3880 herself or others in the near future, as evidenced by recent
3881 behavior.

3882 ~~(c) A person under 18 years of age who wishes to enter~~
3883 ~~treatment for substance abuse and applies to a service provider~~
3884 ~~for voluntary admission, pursuant to s. 397.601.~~

3885 ~~(d) A person under 18 years of age who meets the criteria~~
3886 ~~for involuntary admission because there is good faith reason to~~

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3887 ~~believe the person is substance abuse impaired pursuant to s.~~
3888 ~~397.675 and, because of such impairment:~~

3889 ~~1. Has lost the power of self-control with respect to~~
3890 ~~substance use; and~~

3891 ~~2.a. Has inflicted, or threatened or attempted to inflict,~~
3892 ~~or unless admitted is likely to inflict, physical harm on~~
3893 ~~himself or herself or another; or~~

3894 ~~b. Is in need of substance abuse services and, by reason of~~
3895 ~~substance abuse impairment, his or her judgment has been so~~
3896 ~~impaired that the person is incapable of appreciating his or her~~
3897 ~~need for such services and of making a rational decision in~~
3898 ~~regard thereto; however, mere refusal to receive such services~~
3899 ~~does not constitute evidence of lack of judgment with respect to~~
3900 ~~his or her need for such services.~~

3901 ~~(c)(e)~~ A person under 18 years of age who meets the
3902 criteria for examination or admission under paragraph (b) ~~or~~
3903 ~~paragraph (d)~~ and has a coexisting mental health and substance
3904 abuse disorder.

3905 Section 38. Subsection (18) of section 394.67, Florida
3906 Statutes, is amended to read:

3907 394.67 Definitions.—As used in this part, the term:

3908 (18) "Person who is experiencing an acute substance abuse
3909 crisis" means a child, adolescent, or adult who is experiencing
3910 a medical or emotional crisis because of the use of alcoholic
3911 beverages or any psychoactive or mood-altering substance. ~~The~~
3912 ~~term includes an individual who meets the criteria for~~
3913 ~~involuntary admission specified in s. 397.675.~~

3914 Section 39. Subsection (2) of section 394.674, Florida
3915 Statutes, is amended to read:

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3916 394.674 Eligibility for publicly funded substance abuse and
3917 mental health services; fee collection requirements.-

3918 (2) Crisis services, as defined in s. 394.67, must, within
3919 the limitations of available state and local matching resources,
3920 be available to each person who is eligible for services under
3921 subsection (1), regardless of the person's ability to pay for
3922 such services. A person who is experiencing a mental health
3923 crisis and who does not meet the criteria for involuntary
3924 examination under s. 394.463(1), ~~or a person who is experiencing~~
3925 ~~a substance abuse crisis and who does not meet the involuntary~~
3926 ~~admission criteria in s. 397.675,~~ must contribute to the cost of
3927 his or her care and treatment pursuant to the sliding fee scale
3928 developed under subsection (4), unless charging a fee is
3929 contraindicated because of the crisis situation.

3930 Section 40. Subsection (6) of section 394.9085, Florida
3931 Statutes, is amended to read:

3932 394.9085 Behavioral provider liability.-

3933 (6) For purposes of this section, the terms "detoxification
3934 services," "addictions receiving facility," and "receiving
3935 facility" have the same meanings as those provided in ss.
3936 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,
3937 respectively.

3938 Section 41. Paragraph (d) of subsection (1) of section
3939 395.0197, Florida Statutes, is amended to read:

3940 395.0197 Internal risk management program.-

3941 (1) Every licensed facility shall, as a part of its
3942 administrative functions, establish an internal risk management
3943 program that includes all of the following components:

3944 (d) A system for informing a patient or an individual

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3945 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~ that the
3946 patient was the subject of an adverse incident, as defined in
3947 subsection (5). Such notice shall be given by an appropriately
3948 trained person designated by the licensed facility as soon as
3949 practicable to allow the patient an opportunity to minimize
3950 damage or injury.

3951 Section 42. Section 395.1051, Florida Statutes, is amended
3952 to read:

3953 395.1051 Duty to notify patients.—An appropriately trained
3954 person designated by each licensed facility shall inform each
3955 patient, or an individual identified pursuant to s. 765.311(1)
3956 ~~s. 765.401(1)~~, in person about adverse incidents that result in
3957 serious harm to the patient. Notification of outcomes of care
3958 that result in harm to the patient under this section shall not
3959 constitute an acknowledgment or admission of liability, nor can
3960 it be introduced as evidence.

3961 Section 43. Subsection (11) and paragraph (a) of subsection
3962 (18) of section 397.311, Florida Statutes, are amended to read:

3963 397.311 Definitions.—As used in this chapter, except part
3964 VIII, the term:

3965 (11) "Habitual abuser" means a person who is brought to the
3966 attention of law enforcement for being substance impaired, ~~who~~
3967 ~~meets the criteria for involuntary admission in s. 397.675,~~ and
3968 who has been taken into custody for such impairment three or
3969 more times during the preceding 12 months.

3970 (18) Licensed service components include a comprehensive
3971 continuum of accessible and quality substance abuse prevention,
3972 intervention, and clinical treatment services, including the
3973 following services:

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3974 (a) "Clinical treatment" means a professionally directed,
3975 deliberate, and planned regimen of services and interventions
3976 that are designed to reduce or eliminate the misuse of drugs and
3977 alcohol and promote a healthy, drug-free lifestyle. As defined
3978 by rule, "clinical treatment services" include, but are not
3979 limited to, the following licensable service components:

3980 1. "Addictions receiving facility" is a secure, acute care
3981 facility that provides, at a minimum, detoxification and
3982 stabilization services and is operated 24 hours per day, 7 days
3983 per week; and is designated by the department to serve
3984 individuals found to be substance use impaired ~~as described in~~
3985 ~~s. 397.675~~ who meet the placement criteria for this component.

3986 2. "Day or night treatment" is a service provided in a
3987 nonresidential environment, with a structured schedule of
3988 treatment and rehabilitative services.

3989 3. "Day or night treatment with community housing" means a
3990 program intended for individuals who can benefit from living
3991 independently in peer community housing while participating in
3992 treatment services for a minimum of 5 hours a day for a minimum
3993 of 25 hours per week.

3994 4. "Detoxification" is a service involving subacute care
3995 that is provided on an inpatient or an outpatient basis to
3996 assist individuals to withdraw from the physiological and
3997 psychological effects of substance abuse and who meet the
3998 placement criteria for this component.

3999 5. "Intensive inpatient treatment" includes a planned
4000 regimen of evaluation, observation, medical monitoring, and
4001 clinical protocols delivered through an interdisciplinary team
4002 approach provided 24-hours-per-day ~~24 hours per day~~, 7-days-per-

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4003 week ~~7 days per week~~, in a highly structured, live-in
4004 environment.

4005 6. "Intensive outpatient treatment" is a service that
4006 provides individual or group counseling in a more structured
4007 environment, is of higher intensity and duration than outpatient
4008 treatment, and is provided to individuals who meet the placement
4009 criteria for this component.

4010 7. "Medication-assisted treatment for opiate addiction" is
4011 a service that uses methadone or other medication as authorized
4012 by state and federal law, in combination with medical,
4013 rehabilitative, and counseling services in the treatment of
4014 individuals who are dependent on opioid drugs.

4015 8. "Outpatient treatment" is a service that provides
4016 individual, group, or family counseling by appointment during
4017 scheduled operating hours for individuals who meet the placement
4018 criteria for this component.

4019 9. "Residential treatment" is a service provided in a
4020 structured live-in environment within a nonhospital setting on a
4021 24-hours-per-day, 7-days-per-week basis, and is intended for
4022 individuals who meet the placement criteria for this component.

4023 Section 44. Subsection (3) of section 397.431, Florida
4024 Statutes, is amended to read:

4025 397.431 Individual responsibility for cost of substance
4026 abuse impairment services.—

4027 (3) The parent, legal guardian, or legal custodian of a
4028 minor is not liable for payment for any substance abuse services
4029 provided to the minor without parental consent ~~pursuant to s.~~
4030 ~~397.601(4)~~, unless the parent, legal guardian, or legal
4031 custodian participates or is ordered to participate in the

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4032 services, and only for the substance abuse services rendered. If
4033 the minor is receiving services as a juvenile offender, the
4034 obligation to pay is governed by the law relating to juvenile
4035 offenders.

4036 Section 45. Paragraph (b) of subsection (2) of section
4037 397.702, Florida Statutes, is amended to read:

4038 397.702 Authorization of local ordinances for treatment of
4039 habitual abusers in licensed secure facilities.—

4040 (2) Ordinances for the treatment of habitual abusers must
4041 provide:

4042 (b) That when seeking treatment of a habitual abuser, the
4043 county or municipality, through an officer or agent specified in
4044 the ordinance, must file with the court a petition which alleges
4045 the following information about the alleged habitual abuser (the
4046 respondent):

4047 1. The name, address, age, and gender of the respondent.

4048 2. The name of any spouse, adult child, other relative, or
4049 guardian of the respondent, if known to the petitioner, and the
4050 efforts, if any, by the petitioner, ~~if any~~, to ascertain this
4051 information.

4052 3. The name of the petitioner, the name of the person who
4053 has physical custody of the respondent, and the current location
4054 of the respondent.

4055 4. That the respondent has been taken into custody for
4056 impairment in a public place, or has been arrested for an
4057 offense committed while impaired, three or more times during the
4058 preceding 12 months.

4059 ~~5. Specific facts indicating that the respondent meets the~~
4060 ~~criteria for involuntary admission in s. 397.675.~~

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4061 ~~5.6.~~ Whether the respondent was advised of his or her right
4062 to be represented by counsel and to request that the court
4063 appoint an attorney if he or she is unable to afford one, and
4064 whether the respondent indicated to petitioner his or her desire
4065 to have an attorney appointed.

4066 Section 46. Paragraph (a) of subsection (1) of section
4067 397.94, Florida Statutes, is amended to read:

4068 397.94 Children's substance abuse services; information and
4069 referral network.—

4070 (1) The substate entity shall determine the most cost-
4071 effective method for delivering this service and may select a
4072 new provider or utilize an existing provider or providers with a
4073 record of success in providing information and referral
4074 services.

4075 (a) The plan must provide assurances that the information
4076 and referral network will include a resource directory that
4077 contains information regarding the children's substance abuse
4078 services available, including, but not limited to:

4079 ~~1. Public and private resources by service component,
4080 including resources for involuntary admissions under s. 397.675.~~

4081 ~~1.2.~~ Hours of operation and hours during which services are
4082 provided.

4083 ~~2.3.~~ Ages of persons served.

4084 ~~3.4.~~ Description of services.

4085 ~~4.5.~~ Eligibility requirements.

4086 ~~5.6.~~ Fee schedules.

4087 Section 47. Section 402.3057, Florida Statutes, is amended
4088 to read:

4089 402.3057 Persons not required to be refingerprinted or

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4090 rescreened.—Any provision of law to the contrary
4091 notwithstanding, human resource personnel who have been
4092 fingerprinted or screened pursuant to chapters 393, 394, 397,
4093 402, and 409, and teachers and noninstructional personnel who
4094 have been fingerprinted pursuant to chapter 1012, who have not
4095 been unemployed for more than 90 days thereafter, and who under
4096 the penalty of perjury attest to the completion of such
4097 fingerprinting or screening and to compliance with the
4098 provisions of this section and the standards for good moral
4099 character as contained in such provisions as ss. 110.1127(2)(c),
4100 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),
4101 shall not be required to be refingerprinted or rescreened in
4102 order to comply with any caretaker screening or fingerprinting
4103 requirements.

4104 Section 48. Section 409.1757, Florida Statutes, is amended
4105 to read:

4106 409.1757 Persons not required to be refingerprinted or
4107 rescreened.—Any law to the contrary notwithstanding, human
4108 resource personnel who have been fingerprinted or screened
4109 pursuant to chapters 393, 394, 397, 402, and this chapter,
4110 teachers who have been fingerprinted pursuant to chapter 1012,
4111 and law enforcement officers who meet the requirements of s.
4112 943.13, who have not been unemployed for more than 90 days
4113 thereafter, and who under the penalty of perjury attest to the
4114 completion of such fingerprinting or screening and to compliance
4115 with this section and the standards for good moral character as
4116 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
4117 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are
4118 not required to be refingerprinted or rescreened in order to

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4119 comply with any caretaker screening or fingerprinting
4120 requirements.

4121 Section 49. Paragraph (b) of subsection (1) of section
4122 409.972, Florida Statutes, is amended to read:

4123 409.972 Mandatory and voluntary enrollment.—

4124 (1) The following Medicaid-eligible persons are exempt from
4125 mandatory managed care enrollment required by s. 409.965, and
4126 may voluntarily choose to participate in the managed medical
4127 assistance program:

4128 (b) Medicaid recipients residing in residential commitment
4129 facilities operated through the Department of Juvenile Justice
4130 or mental health treatment facilities as defined by s.
4131 394.455(47) ~~s. 394.455(32)~~.

4132 Section 50. Section 456.0575, Florida Statutes, is amended
4133 to read:

4134 456.0575 Duty to notify patients.—Every licensed health
4135 care practitioner shall inform each patient, or an individual
4136 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~, in person
4137 about adverse incidents that result in serious harm to the
4138 patient. Notification of outcomes of care that result in harm to
4139 the patient under this section shall not constitute an
4140 acknowledgment of admission of liability, nor can such
4141 notifications be introduced as evidence.

4142 Section 51. Subsection (7) of section 744.704, Florida
4143 Statutes, is amended to read:

4144 744.704 Powers and duties.—

4145 (7) A public guardian shall not commit a ward to a mental
4146 health treatment facility, as defined in s. 394.455(47) ~~s.~~
4147 ~~394.455(32)~~, without an involuntary placement proceeding as

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4148 provided by law.

4149 Section 52. Subsection (15) of section 765.101, Florida
4150 Statutes, is amended to read:

4151 765.101 Definitions.—As used in this chapter:

4152 (15) "Proxy" means a competent adult who has not been
4153 expressly designated to make health care decisions for a
4154 particular incapacitated individual, but who, nevertheless, is
4155 authorized pursuant to s. 765.311 ~~s. 765.401~~ to make health care
4156 decisions for such individual.

4157 Section 53. Subsection (4) of section 765.104, Florida
4158 Statutes, is amended to read:

4159 765.104 Amendment or revocation.—

4160 (4) Any patient for whom a medical proxy has been
4161 recognized under s. 765.311 ~~s. 765.401~~ and for whom any previous
4162 legal disability that precluded the patient's ability to consent
4163 is removed may amend or revoke the recognition of the medical
4164 proxy and any uncompleted decision made by that proxy. The
4165 amendment or revocation takes effect when it is communicated to
4166 the proxy, the health care provider, or the health care facility
4167 in writing or, if communicated orally, in the presence of a
4168 third person.

4169 Section 54. Paragraph (a) of subsection (2) of section
4170 790.065, Florida Statutes, is amended to read:

4171 790.065 Sale and delivery of firearms.—

4172 (2) Upon receipt of a request for a criminal history record
4173 check, the Department of Law Enforcement shall, during the
4174 licensee's call or by return call, forthwith:

4175 (a) Review any records available to determine if the
4176 potential buyer or transferee:

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4177 1. Has been convicted of a felony and is prohibited from
4178 receipt or possession of a firearm pursuant to s. 790.23;

4179 2. Has been convicted of a misdemeanor crime of domestic
4180 violence, and therefore is prohibited from purchasing a firearm;

4181 3. Has had adjudication of guilt withheld or imposition of
4182 sentence suspended on any felony or misdemeanor crime of
4183 domestic violence unless 3 years have elapsed since probation or
4184 any other conditions set by the court have been fulfilled or
4185 expunction has occurred; or

4186 4. Has been adjudicated mentally defective or has been
4187 committed to a mental institution by a court or as provided in
4188 sub-sub-subparagraph b.(II), and as a result is prohibited by
4189 state or federal law from purchasing a firearm.

4190 a. As used in this subparagraph, "adjudicated mentally
4191 defective" means a determination by a court that a person, as a
4192 result of marked subnormal intelligence, or mental illness,
4193 incompetency, condition, or disease, is a danger to himself or
4194 herself or to others or lacks the mental capacity to contract or
4195 manage his or her own affairs. The phrase includes a judicial
4196 finding of incapacity under s. 744.331(6)(a), an acquittal by
4197 reason of insanity of a person charged with a criminal offense,
4198 and a judicial finding that a criminal defendant is not
4199 competent to stand trial.

4200 b. As used in this subparagraph, "committed to a mental
4201 institution" means:

4202 (I) Involuntary commitment, commitment for mental
4203 defectiveness or mental illness, and commitment for substance
4204 abuse. The phrase includes involuntary inpatient placement as
4205 defined in s. 394.467~~7~~ or involuntary outpatient placement as

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4206 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
4207 ~~under s. 397.6818, and involuntary substance abuse treatment~~
4208 ~~under s. 397.6957~~, but does not include a person in a mental
4209 institution for observation or discharged from a mental
4210 institution based upon the initial review by the physician or a
4211 voluntary admission to a mental institution; or

4212 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
4213 admission to a mental institution for outpatient or inpatient
4214 treatment of a person who had an involuntary examination under
4215 s. 394.463, where each of the following conditions have been
4216 met:

4217 (A) An examining physician found that the person is an
4218 imminent danger to himself or herself or others.

4219 (B) The examining physician certified that if the person
4220 did not agree to voluntary treatment, a petition for involuntary
4221 outpatient or inpatient treatment would have been filed under s.
4222 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining physician
4223 certified that a petition was filed and the person subsequently
4224 agreed to voluntary treatment prior to a court hearing on the
4225 petition.

4226 (C) Before agreeing to voluntary treatment, the person
4227 received written notice of that finding and certification, and
4228 written notice that as a result of such finding, he or she may
4229 be prohibited from purchasing a firearm, and may not be eligible
4230 to apply for or retain a concealed weapon or firearms license
4231 under s. 790.06 and the person acknowledged such notice in
4232 writing, in substantially the following form:

4233
4234 "I understand that the doctor who examined me believes I am

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4235 a danger to myself or to others. I understand that if I do not
4236 agree to voluntary treatment, a petition will be filed in court
4237 to require me to receive involuntary treatment. I understand
4238 that if that petition is filed, I have the right to contest it.
4239 In the event a petition has been filed, I understand that I can
4240 subsequently agree to voluntary treatment prior to a court
4241 hearing. I understand that by agreeing to voluntary treatment in
4242 either of these situations, I may be prohibited from buying
4243 firearms and from applying for or retaining a concealed weapons
4244 or firearms license until I apply for and receive relief from
4245 that restriction under Florida law.”

4246

4247 (D) A judge or a magistrate has, pursuant to sub-sub-
4248 subparagraph c.(II), reviewed the record of the finding,
4249 certification, notice, and written acknowledgment classifying
4250 the person as an imminent danger to himself or herself or
4251 others, and ordered that such record be submitted to the
4252 department.

4253 c. In order to check for these conditions, the department
4254 shall compile and maintain an automated database of persons who
4255 are prohibited from purchasing a firearm based on court records
4256 of adjudications of mental defectiveness or commitments to
4257 mental institutions.

4258 (I) Except as provided in sub-sub-subparagraph (II), clerks
4259 of court shall submit these records to the department within 1
4260 month after the rendition of the adjudication or commitment.
4261 Reports shall be submitted in an automated format. The reports
4262 must, at a minimum, include the name, along with any known alias
4263 or former name, the sex, and the date of birth of the subject.

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4264 (II) For persons committed to a mental institution pursuant
4265 to sub-sub-subparagraph b.(II), within 24 hours after the
4266 person's agreement to voluntary admission, a record of the
4267 finding, certification, notice, and written acknowledgment must
4268 be filed by the administrator of the receiving or treatment
4269 facility, as defined in s. 394.455, with the clerk of the court
4270 for the county in which the involuntary examination under s.
4271 394.463 occurred. No fee shall be charged for the filing under
4272 this sub-sub-subparagraph. The clerk must present the records to
4273 a judge or magistrate within 24 hours after receipt of the
4274 records. A judge or magistrate is required and has the lawful
4275 authority to review the records ex parte and, if the judge or
4276 magistrate determines that the record supports the classifying
4277 of the person as an imminent danger to himself or herself or
4278 others, to order that the record be submitted to the department.
4279 If a judge or magistrate orders the submittal of the record to
4280 the department, the record must be submitted to the department
4281 within 24 hours.

4282 d. A person who has been adjudicated mentally defective or
4283 committed to a mental institution, as those terms are defined in
4284 this paragraph, may petition the circuit court that made the
4285 adjudication or commitment, or the court that ordered that the
4286 record be submitted to the department pursuant to sub-sub-
4287 subparagraph c.(II), for relief from the firearm disabilities
4288 imposed by such adjudication or commitment. A copy of the
4289 petition shall be served on the state attorney for the county in
4290 which the person was adjudicated or committed. The state
4291 attorney may object to and present evidence relevant to the
4292 relief sought by the petition. The hearing on the petition may

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4293 be open or closed as the petitioner may choose. The petitioner
4294 may present evidence and subpoena witnesses to appear at the
4295 hearing on the petition. The petitioner may confront and cross-
4296 examine witnesses called by the state attorney. A record of the
4297 hearing shall be made by a certified court reporter or by court-
4298 approved electronic means. The court shall make written findings
4299 of fact and conclusions of law on the issues before it and issue
4300 a final order. The court shall grant the relief requested in the
4301 petition if the court finds, based on the evidence presented
4302 with respect to the petitioner's reputation, the petitioner's
4303 mental health record and, if applicable, criminal history
4304 record, the circumstances surrounding the firearm disability,
4305 and any other evidence in the record, that the petitioner will
4306 not be likely to act in a manner that is dangerous to public
4307 safety and that granting the relief would not be contrary to the
4308 public interest. If the final order denies relief, the
4309 petitioner may not petition again for relief from firearm
4310 disabilities until 1 year after the date of the final order. The
4311 petitioner may seek judicial review of a final order denying
4312 relief in the district court of appeal having jurisdiction over
4313 the court that issued the order. The review shall be conducted
4314 de novo. Relief from a firearm disability granted under this
4315 sub-subparagraph has no effect on the loss of civil rights,
4316 including firearm rights, for any reason other than the
4317 particular adjudication of mental defectiveness or commitment to
4318 a mental institution from which relief is granted.

4319 e. Upon receipt of proper notice of relief from firearm
4320 disabilities granted under sub-subparagraph d., the department
4321 shall delete any mental health record of the person granted

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4322 relief from the automated database of persons who are prohibited
4323 from purchasing a firearm based on court records of
4324 adjudications of mental defectiveness or commitments to mental
4325 institutions.

4326 f. The department is authorized to disclose data collected
4327 pursuant to this subparagraph to agencies of the Federal
4328 Government and other states for use exclusively in determining
4329 the lawfulness of a firearm sale or transfer. The department is
4330 also authorized to disclose this data to the Department of
4331 Agriculture and Consumer Services for purposes of determining
4332 eligibility for issuance of a concealed weapons or concealed
4333 firearms license and for determining whether a basis exists for
4334 revoking or suspending a previously issued license pursuant to
4335 s. 790.06(10). When a potential buyer or transferee appeals a
4336 nonapproval based on these records, the clerks of court and
4337 mental institutions shall, upon request by the department,
4338 provide information to help determine whether the potential
4339 buyer or transferee is the same person as the subject of the
4340 record. Photographs and any other data that could confirm or
4341 negate identity must be made available to the department for
4342 such purposes, notwithstanding any other provision of state law
4343 to the contrary. Any such information that is made confidential
4344 or exempt from disclosure by law shall retain such confidential
4345 or exempt status when transferred to the department.

4346 Section 55. Part IV of chapter 397, Florida Statutes,
4347 consisting of s. 397.601, Florida Statutes, is repealed.

4348 Section 56. Part V of chapter 397, Florida Statutes,
4349 consisting of ss. 397.675-397.6977, Florida Statutes, is
4350 repealed.

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4351 Section 57. For the purpose of incorporating the amendment
4352 made by this act to section 394.4599, Florida Statutes, in a
4353 reference thereto, subsection (1) of section 394.4685, Florida
4354 Statutes, is reenacted to read:

4355 394.4685 Transfer of patients among facilities.—

4356 (1) TRANSFER BETWEEN PUBLIC FACILITIES.—

4357 (a) A patient who has been admitted to a public receiving
4358 facility, or the family member, guardian, or guardian advocate
4359 of such patient, may request the transfer of the patient to
4360 another public receiving facility. A patient who has been
4361 admitted to a public treatment facility, or the family member,
4362 guardian, or guardian advocate of such patient, may request the
4363 transfer of the patient to another public treatment facility.
4364 Depending on the medical treatment or mental health treatment
4365 needs of the patient and the availability of appropriate
4366 facility resources, the patient may be transferred at the
4367 discretion of the department. If the department approves the
4368 transfer of an involuntary patient, notice according to the
4369 provisions of s. 394.4599 shall be given prior to the transfer
4370 by the transferring facility. The department shall respond to
4371 the request for transfer within 2 working days after receipt of
4372 the request by the facility administrator.

4373 (b) When required by the medical treatment or mental health
4374 treatment needs of the patient or the efficient utilization of a
4375 public receiving or public treatment facility, a patient may be
4376 transferred from one receiving facility to another, or one
4377 treatment facility to another, at the department's discretion,
4378 or, with the express and informed consent of the patient or the
4379 patient's guardian or guardian advocate, to a facility in

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4380 another state. Notice according to the provisions of s. 394.4599
4381 shall be given prior to the transfer by the transferring
4382 facility. If prior notice is not possible, notice of the
4383 transfer shall be provided as soon as practicable after the
4384 transfer.

4385 Section 58. For the purpose of incorporating the amendment
4386 made by this act to section 394.4599, Florida Statutes, in a
4387 reference thereto, subsection (2) of section 394.469, Florida
4388 Statutes, is reenacted to read:

4389 394.469 Discharge of involuntary patients.—

4390 (2) NOTICE.—Notice of discharge or transfer of a patient
4391 shall be given as provided in s. 394.4599.

4392 Section 59. This act shall take effect July 1, 2015.