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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/25/2015	.	
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The Committee on Appropriations (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 2816 - 3242  
and insert:

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

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

Section 19. The Division of Law Revision and Information is directed to rename part IV of chapter 765, Florida Statutes, as



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11 "Mental Health and Substance Abuse Advance Directives."

12 Section 20. Section 765.4015, Florida Statutes, is created  
13 to read:

14 765.4015 Short title.—Sections 765.402-765.411 may be cited  
15 as the "Jennifer Act."

16 Section 21. Section 765.402, Florida Statutes, is created  
17 to read:

18 765.402 Legislative findings.—

19 (1) The Legislature recognizes that an individual with  
20 capacity has the ability to control decisions relating to his or  
21 her own mental health care or substance abuse treatment. The  
22 Legislature finds that:

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

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

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

30 (d) Individuals with substance abuse impairment or mental  
31 illness need an established procedure to express their  
32 instructions and preferences for treatment and provide advance  
33 consent to or refusal of treatment. This procedure should be  
34 less expensive and less restrictive than guardianship.

35 (2) The Legislature further recognizes that:

36 (a) A mental health or substance abuse treatment advance  
37 directive must provide the individual with a full range of  
38 choices.

39 (b) For a mental health or substance abuse directive to be



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40 an effective tool, individuals must be able to choose how they  
41 want their directives to be applied, including the right of  
42 revocation, during periods when they are incompetent to consent  
43 to treatment.

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

46 Section 22. Section 765.403, Florida Statutes, is created  
47 to read:

48 765.403 Definitions.—As used in this section, the term:

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

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

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

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

58 (a) Unable to understand the nature, character, and  
59 anticipated results of proposed treatment or alternatives or the  
60 recognized serious possible risks, complications, and  
61 anticipated benefits of treatments and alternatives, including  
62 nontreatment;

63 (b) Physically or mentally unable to communicate a willful  
64 and knowing decision about mental health care or substance abuse  
65 treatment;

66 (c) Unable to communicate his or her understanding or  
67 treatment decisions; or

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



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69       (5) "Informed consent" means consent voluntarily given by a  
70 person after a sufficient explanation and disclosure of the  
71 subject matter involved to enable that person to have a general  
72 understanding of the treatment or procedure and the medically  
73 acceptable alternatives, including the substantial risks and  
74 hazards inherent in the proposed treatment or procedures or  
75 nontreatment, and to make knowing mental health care or  
76 substance abuse treatment decisions without coercion or undue  
77 influence.

78       (6) "Interested person" means, for the purposes of this  
79 chapter, any person who may reasonably be expected to be  
80 affected by the outcome of the particular proceeding involved,  
81 including anyone interested in the welfare of an incapacitated  
82 person.

83       (7) "Mental health or substance abuse treatment advance  
84 directive" means a written document in which the principal makes  
85 a declaration of instructions or preferences or appoints a  
86 surrogate to make decisions on behalf of the principal regarding  
87 the principal's mental health or substance abuse treatment, or  
88 both.

89       (8) "Mental health professional" means a psychiatrist,  
90 psychologist, psychiatric nurse, or social worker, and such  
91 other mental health professionals licensed pursuant to chapter  
92 458, chapter 464, chapter 490, or chapter 491.

93       (9) "Principal" means a competent adult who executes a  
94 mental health or substance abuse treatment advance directive and  
95 on whose behalf mental health care or substance abuse treatment  
96 decisions are to be made.

97       (10) "Surrogate" means any competent adult expressly



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98 designated by a principal to make mental health care or  
99 substance abuse treatment decisions on behalf of the principal  
100 as set forth in the principal's mental health or substance abuse  
101 treatment advance directive or self-binding arrangement as those  
102 terms are defined in this part.

103 Section 23. Section 765.405, Florida Statutes, is created  
104 to read:

105 765.405 Mental health or substance abuse treatment advance  
106 directive; execution; allowable provisions.—

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

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

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

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

118 (b) Consent to specific types of mental health or substance  
119 abuse treatment.

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

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

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



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

129       (4) A directive may be combined with or be independent of a  
130 nomination of a guardian, other durable power of attorney, or  
131 other advance directive.

132       Section 24. Section 765.406, Florida Statutes, is created  
133 to read:

134       765.406 Execution of a mental health or substance abuse  
135 advance directive; effective date; expiration.-

136       (1) A directive must:

137       (a) Be in writing.

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

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

143       (d) Be witnessed by two adults, each of whom must declare  
144 that he or she personally knows the principal and was present  
145 when the principal dated and signed the directive, and that the  
146 principal did not appear to be incapacitated or acting under  
147 fraud, undue influence, or duress. The person designated as the  
148 surrogate may not act as a witness to the execution of the  
149 document designating the mental health or substance abuse care  
150 treatment surrogate. At least one person who acts as a witness  
151 must be neither the principal's spouse nor his or her blood  
152 relative.

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



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156       (3) A directive may:  
157       (a) Be revoked, in whole or in part, pursuant to s.  
158 765.407; or  
159       (b) Expire under its own terms.  
160       (4) A directive does not or may not:  
161       (a) Create an entitlement to mental health, substance  
162 abuse, or medical treatment or supersede a determination of  
163 medical necessity.  
164       (b) Obligate any health care provider, professional person,  
165 or health care facility to pay the costs associated with the  
166 treatment requested.  
167       (c) Obligate a health care provider, professional person,  
168 or health care facility to be responsible for the nontreatment  
169 or personal care of the principal or the principal's personal  
170 affairs outside the scope of services the facility normally  
171 provides.  
172       (d) Replace or supersede any will or testamentary document  
173 or supersede the provision of intestate succession.  
174       (e) Be revoked by an incapacitated principal unless that  
175 principal selected the option to permit revocation while  
176 incapacitated at the time his or her directive was executed.  
177       Section 25. Section 765.407, Florida Statutes, is created  
178 to read:  
179       765.407 Revocation; waiver.—  
180       (1) A principal with capacity may, by written statement of  
181 the principal or at the principal's direction in the principal's  
182 presence, revoke a directive in whole or in part.  
183       (2) The principal shall provide a copy of his or her  
184 written statement of revocation to his or her agent, if any, and



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185 to each health care provider, professional person, or health  
186 care facility that received a copy of the directive from the  
187 principal.

188 (3) The written statement of revocation is effective as to  
189 a health care provider, professional person, or health care  
190 facility upon receipt. The professional person, health care  
191 provider, or health care facility, or persons acting under their  
192 direction, shall make the statement of revocation part of the  
193 principal's medical record.

194 (4) A directive also may:

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

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

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

206 2. The advance directive is ambiguous, or the individual  
207 has changed his or her mind after execution of the advance  
208 directive;

209 3. The surrogate was improperly designated or appointed, or  
210 the designation of the surrogate is no longer effective or has  
211 been revoked;

212 4. The surrogate has failed to discharge duties, or  
213 incapacity or illness renders the surrogate incapable of



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214 discharging duties;

215 5. The surrogate has abused powers; or

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

218 (5) A directive that would have otherwise expired but is  
219 effective because the principal is incapacitated remains  
220 effective until the principal is no longer incapacitated unless  
221 the principal elected to be able to revoke while incapacitated  
222 and has revoked the directive.

223 (6) When a principal with capacity consents to treatment  
224 that differs from, or refuses treatment consented to in, his or  
225 her directive, the consent or refusal constitutes a waiver of a  
226 particular provision and does not constitute a revocation of the  
227 provision or the directive unless that principal also revokes  
228 the provision or directive.

229 Section 26. Section 765.410, Florida Statutes, is created  
230 to read:

231 765.410 Immunity from liability; weight of proof;  
232 presumption.-

233 (1) A health care facility, provider, or other person who  
234 acts under the direction of a health care facility or provider  
235 is not subject to criminal prosecution or civil liability, and  
236 may not be deemed to have engaged in unprofessional conduct, as  
237 a result of carrying out a mental health care or substance abuse  
238 treatment decision made in accordance with this section. The  
239 surrogate who makes a mental health care or substance abuse  
240 treatment decision on a principal's behalf, pursuant to this  
241 section, is not subject to criminal prosecution or civil  
242 liability for such action.



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

247       Section 27. Section 765.411, Florida Statutes, is created  
248 to read:

249       765.411 Recognition of mental health and substance abuse  
250 treatment advance directive executed in another state.—A mental  
251 health or substance abuse treatment advance directive executed  
252 in another state in compliance with the law of that state is  
253 validly executed for the purposes of this chapter.

254       Section 28. Section 916.185, Florida Statutes, is created  
255 to read:

256       916.185 Forensic Hospital Diversion Pilot Program.—

257       (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
258 that many jail inmates who have serious mental illnesses and who  
259 are committed to state forensic mental health treatment  
260 facilities for restoration of competency to proceed could be  
261 served more effectively and at less cost in community-based  
262 alternative programs. The Legislature further finds that many  
263 individuals who have serious mental illnesses and who have been  
264 discharged from state forensic mental health treatment  
265 facilities could avoid recidivism in the criminal justice and  
266 forensic mental health systems if they received specialized  
267 treatment in the community. Therefore, it is the intent of the  
268 Legislature to create the Forensic Hospital Diversion Pilot  
269 Program to serve individuals who have mental illnesses or co-  
270 occurring mental illnesses and substance use disorders and who  
271 are admitted to or are at risk of entering state forensic mental



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272 health treatment facilities, prisons, jails, or state civil  
273 mental health treatment facilities.

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

275 (a) "Best practices" means treatment services that  
276 incorporate the most effective and acceptable interventions  
277 available in the care and treatment of individuals who are  
278 diagnosed as having mental illnesses or co-occurring mental  
279 illnesses and substance use disorders.

280 (b) "Community forensic system" means the community mental  
281 health and substance use forensic treatment system, including  
282 the comprehensive set of services and supports provided to  
283 individuals involved in or at risk of becoming involved in the  
284 criminal justice system.

285 (c) "Evidence-based practices" means interventions and  
286 strategies that, based on the best available empirical research,  
287 demonstrate effective and efficient outcomes in the care and  
288 treatment of individuals who are diagnosed as having mental  
289 illnesses or co-occurring mental illnesses and substance use  
290 disorders.

291 (3) CREATION.—There is created a Forensic Hospital  
292 Diversion Pilot Program to provide, when appropriate,  
293 competency-restoration and community-reintegration services in  
294 locked residential treatment facilities, based on considerations  
295 of public safety, the needs of the individual, and available  
296 resources.

297 (a) The department shall implement a Forensic Hospital  
298 Diversion Pilot Program in Alachua, Escambia, Hillsborough, and  
299 Miami-Dade Counties, in conjunction with the Eighth Judicial  
300 Circuit, the First Judicial Circuit, the Thirteenth Judicial



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301 Circuit, and the Eleventh Judicial Circuit, respectively, which  
302 shall be modeled after the Miami-Dade Forensic Alternative  
303 Center, taking into account local needs and subject to the  
304 availability of local resources.

305 (b) In creating and implementing the program, the  
306 department shall include a comprehensive continuum of care and  
307 services which uses evidence-based practices and best practices  
308 to treat individuals who have mental health and co-occurring  
309 substance use disorders.

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

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

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

316 (b) Are charged with a felony of the second degree or a  
317 felony of the third degree;

318 (c) Do not have a significant history of violent criminal  
319 offenses;

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

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

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

327 (5) TRAINING.—The Legislature encourages the Florida  
328 Supreme Court, in consultation and cooperation with the Task  
329 Force on Substance Abuse and Mental Health Issues in the Courts,



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330 to develop educational training on the community forensic system  
331 for judges in the pilot program areas.

332 (6) RULEMAKING.—The department may adopt rules to  
333 administer this section.

334 (7) REPORT.—The Office of Program Policy Analysis and  
335 Government Accountability shall review and evaluate the Forensic  
336 Hospital Diversion Pilot Program and submit a report to the  
337 Governor, the President of the Senate, and the Speaker of the  
338 House of Representatives by December 31, 2016. The report shall  
339 examine the efficiency and cost-effectiveness of providing  
340 forensic mental health services in secure, outpatient,  
341 community-based settings. In addition, the report shall examine  
342 the impact of the Forensic Hospital Diversion Pilot Program on  
343 public health and safety.

344 Section 29. Paragraph (a) of subsection (3) of section  
345 39.407, Florida Statutes, is amended to read:

346 39.407 Medical, psychiatric, and psychological examination  
347 and treatment of child; physical, mental, or substance abuse  
348 examination of person with or requesting child custody.—

349 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.  
350 or paragraph (e), before the department provides psychotropic  
351 medications to a child in its custody, the prescribing physician  
352 shall attempt to obtain express and informed consent, as defined  
353 in s. 394.455(13) ~~s. 394.455(9)~~ and as described in s.  
354 394.459(3) (a), from the child's parent or legal guardian. The  
355 department must take steps necessary to facilitate the inclusion  
356 of the parent in the child's consultation with the physician.  
357 However, if the parental rights of the parent have been  
358 terminated, the parent's location or identity is unknown or



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359 cannot reasonably be ascertained, or the parent declines to give  
360 express and informed consent, the department may, after  
361 consultation with the prescribing physician, seek court  
362 authorization to provide the psychotropic medications to the  
363 child. Unless parental rights have been terminated and if it is  
364 possible to do so, the department shall continue to involve the  
365 parent in the decisionmaking process regarding the provision of  
366 psychotropic medications. If, at any time, a parent whose  
367 parental rights have not been terminated provides express and  
368 informed consent to the provision of a psychotropic medication,  
369 the requirements of this section that the department seek court  
370 authorization do not apply to that medication until such time as  
371 the parent no longer consents.

372 2. Any time the department seeks a medical evaluation to  
373 determine the need to initiate or continue a psychotropic  
374 medication for a child, the department must provide to the  
375 evaluating physician all pertinent medical information known to  
376 the department concerning that child.

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

379 394.4612 Integrated adult mental health crisis  
380 stabilization and addictions receiving facilities.—

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

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

387 (b) An adult meeting the criteria for involuntary



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388 examination for mental illness under s. 394.463.

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

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

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

395 394.495 Child and adolescent mental health system of care;  
396 programs and services.—

397 (3) Assessments must be performed by:

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

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

404

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

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

410 394.496 Service planning.—

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

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



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417           394.499 Integrated children's crisis stabilization  
418 unit/juvenile addictions receiving facility services.—

419           (2) Children eligible to receive integrated children's  
420 crisis stabilization unit/juvenile addictions receiving facility  
421 services include:

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

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

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

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

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

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



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

449 ~~(d) A person under 18 years of age who meets the criteria~~  
450 ~~for involuntary admission because there is good faith reason to~~  
451 ~~believe the person is substance abuse impaired pursuant to s.~~  
452 ~~397.675 and, because of such impairment:~~

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

455 ~~2.a. Has inflicted, or threatened or attempted to inflict,~~  
456 ~~or unless admitted is likely to inflict, physical harm on~~  
457 ~~himself or herself or another; or~~

458 ~~b. Is in need of substance abuse services and, by reason of~~  
459 ~~substance abuse impairment, his or her judgment has been so~~  
460 ~~impaired that the person is incapable of appreciating his or her~~  
461 ~~need for such services and of making a rational decision in~~  
462 ~~regard thereto; however, mere refusal to receive such services~~  
463 ~~does not constitute evidence of lack of judgment with respect to~~  
464 ~~his or her need for such services.~~

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

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

471 394.67 Definitions.—As used in this part, the term:

472 (18) "Person who is experiencing an acute substance abuse  
473 crisis" means a child, adolescent, or adult who is experiencing  
474 a medical or emotional crisis because of the use of alcoholic



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475 beverages or any psychoactive or mood-altering substance. ~~The~~  
476 ~~term includes an individual who meets the criteria for~~  
477 ~~involuntary admission specified in s. 397.675.~~

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

480 394.674 Eligibility for publicly funded substance abuse and  
481 mental health services; fee collection requirements.—

482 (2) Crisis services, as defined in s. 394.67, must, within  
483 the limitations of available state and local matching resources,  
484 be available to each person who is eligible for services under  
485 subsection (1), regardless of the person's ability to pay for  
486 such services. A person who is experiencing a mental health  
487 crisis and who does not meet the criteria for involuntary  
488 examination under s. 394.463(1), ~~or a person who is experiencing~~  
489 ~~a substance abuse crisis and who does not meet the involuntary~~  
490 ~~admission criteria in s. 397.675,~~ must contribute to the cost of  
491 his or her care and treatment pursuant to the sliding fee scale  
492 developed under subsection (4), unless charging a fee is  
493 contraindicated because of the crisis situation.

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

496 394.9085 Behavioral provider liability.—

497 (6) For purposes of this section, the terms "detoxification  
498 services," "addictions receiving facility," and "receiving  
499 facility" have the same meanings as those provided in ss.  
500 397.311(18)(a)4., 397.311(18)(a)1., and 394.455(27) ~~394.455(26)~~,  
501 respectively.

502 Section 37. Paragraph (d) of subsection (1) of section  
503 395.0197, Florida Statutes, is amended to read:



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504 395.0197 Internal risk management program.-

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

508 (d) A system for informing a patient or an individual  
509 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~ that the  
510 patient was the subject of an adverse incident, as defined in  
511 subsection (5). Such notice shall be given by an appropriately  
512 trained person designated by the licensed facility as soon as  
513 practicable to allow the patient an opportunity to minimize  
514 damage or injury.

515 Section 38. Section 395.1051, Florida Statutes, is amended  
516 to read:

517 395.1051 Duty to notify patients.-An appropriately trained  
518 person designated by each licensed facility shall inform each  
519 patient, or an individual identified pursuant to s. 765.311(1)  
520 ~~s. 765.401(1)~~, in person about adverse incidents that result in  
521 serious harm to the patient. Notification of outcomes of care  
522 that result in harm to the patient under this section shall not  
523 constitute an acknowledgment or admission of liability, nor can  
524 it be introduced as evidence.

525 Section 39. Subsection (11) and paragraph (a) of subsection  
526 (18) of section 397.311, Florida Statutes, are amended to read:

527 397.311 Definitions.-As used in this chapter, except part  
528 VIII, the term:

529 (11) "Habitual abuser" means a person who is brought to the  
530 attention of law enforcement for being substance impaired, ~~who~~  
531 ~~meets the criteria for involuntary admission in s. 397.675,~~ and  
532 who has been taken into custody for such impairment three or



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533 more times during the preceding 12 months.

534 (18) Licensed service components include a comprehensive  
535 continuum of accessible and quality substance abuse prevention,  
536 intervention, and clinical treatment services, including the  
537 following services:

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

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

550 2. "Day or night treatment" is a service provided in a  
551 nonresidential environment, with a structured schedule of  
552 treatment and rehabilitative services.

553 3. "Day or night treatment with community housing" means a  
554 program intended for individuals who can benefit from living  
555 independently in peer community housing while participating in  
556 treatment services for a minimum of 5 hours a day for a minimum  
557 of 25 hours per week.

558 4. "Detoxification" is a service involving subacute care  
559 that is provided on an inpatient or an outpatient basis to  
560 assist individuals to withdraw from the physiological and  
561 psychological effects of substance abuse and who meet the



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562 placement criteria for this component.

563         5. "Intensive inpatient treatment" includes a planned  
564 regimen of evaluation, observation, medical monitoring, and  
565 clinical protocols delivered through an interdisciplinary team  
566 approach provided 24-hours-per-day ~~24 hours per day~~, 7-days-per-  
567 week ~~7 days per week~~, in a highly structured, live-in  
568 environment.

569         6. "Intensive outpatient treatment" is a service that  
570 provides individual or group counseling in a more structured  
571 environment, is of higher intensity and duration than outpatient  
572 treatment, and is provided to individuals who meet the placement  
573 criteria for this component.

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

579         8. "Outpatient treatment" is a service that provides  
580 individual, group, or family counseling by appointment during  
581 scheduled operating hours for individuals who meet the placement  
582 criteria for this component.

583         9. "Residential treatment" is a service provided in a  
584 structured live-in environment within a nonhospital setting on a  
585 24-hours-per-day, 7-days-per-week basis, and is intended for  
586 individuals who meet the placement criteria for this component.

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

589         397.431 Individual responsibility for cost of substance  
590 abuse impairment services.-



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591 (3) The parent, legal guardian, or legal custodian of a  
592 minor is not liable for payment for any substance abuse services  
593 provided to the minor without parental consent ~~pursuant to s.~~  
594 ~~397.601(4)~~, unless the parent, legal guardian, or legal  
595 custodian participates or is ordered to participate in the  
596 services, and only for the substance abuse services rendered. If  
597 the minor is receiving services as a juvenile offender, the  
598 obligation to pay is governed by the law relating to juvenile  
599 offenders.

600 Section 41. Paragraph (b) of subsection (2) of section  
601 397.702, Florida Statutes, is amended to read:

602 397.702 Authorization of local ordinances for treatment of  
603 habitual abusers in licensed secure facilities.-

604 (2) Ordinances for the treatment of habitual abusers must  
605 provide:

606 (b) That when seeking treatment of a habitual abuser, the  
607 county or municipality, through an officer or agent specified in  
608 the ordinance, must file with the court a petition which alleges  
609 the following information about the alleged habitual abuser (the  
610 respondent):

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

612 2. The name of any spouse, adult child, other relative, or  
613 guardian of the respondent, if known to the petitioner, and the  
614 efforts, if any, by the petitioner, ~~if any~~, to ascertain this  
615 information.

616 3. The name of the petitioner, the name of the person who  
617 has physical custody of the respondent, and the current location  
618 of the respondent.

619 4. That the respondent has been taken into custody for



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620 impairment in a public place, or has been arrested for an  
621 offense committed while impaired, three or more times during the  
622 preceding 12 months.

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

625 ~~5.6.~~ Whether the respondent was advised of his or her right  
626 to be represented by counsel and to request that the court  
627 appoint an attorney if he or she is unable to afford one, and  
628 whether the respondent indicated to petitioner his or her desire  
629 to have an attorney appointed.

630 Section 42. Paragraph (a) of subsection (1) of section  
631 397.94, Florida Statutes, is amended to read:

632 397.94 Children's substance abuse services; information and  
633 referral network.—

634 (1) The substate entity shall determine the most cost-  
635 effective method for delivering this service and may select a  
636 new provider or utilize an existing provider or providers with a  
637 record of success in providing information and referral  
638 services.

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

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

645 ~~1.2.~~ Hours of operation and hours during which services are  
646 provided.

647 ~~2.3.~~ Ages of persons served.

648 ~~3.4.~~ Description of services.



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649        ~~4.5.~~ Eligibility requirements.

650        ~~5.6.~~ Fee schedules.

651            Section 43. Section 402.3057, Florida Statutes, is amended  
652 to read:

653            402.3057 Persons not required to be refingerprinted or  
654 rescreened.—Any provision of law to the contrary  
655 notwithstanding, human resource personnel who have been  
656 fingerprinted or screened pursuant to chapters 393, 394, 397,  
657 402, and 409, and teachers and noninstructional personnel who  
658 have been fingerprinted pursuant to chapter 1012, who have not  
659 been unemployed for more than 90 days thereafter, and who under  
660 the penalty of perjury attest to the completion of such  
661 fingerprinting or screening and to compliance with the  
662 provisions of this section and the standards for good moral  
663 character as contained in such provisions as ss. 110.1127(2)(c),  
664 393.0655(1), ~~394.457(6)~~, 397.451, 402.305(2), and 409.175(6),  
665 shall not be required to be refingerprinted or rescreened in  
666 order to comply with any caretaker screening or fingerprinting  
667 requirements.

668            Section 44. Section 409.1757, Florida Statutes, is amended  
669 to read:

670            409.1757 Persons not required to be refingerprinted or  
671 rescreened.—Any law to the contrary notwithstanding, human  
672 resource personnel who have been fingerprinted or screened  
673 pursuant to chapters 393, 394, 397, 402, and this chapter,  
674 teachers who have been fingerprinted pursuant to chapter 1012,  
675 and law enforcement officers who meet the requirements of s.  
676 943.13, who have not been unemployed for more than 90 days  
677 thereafter, and who under the penalty of perjury attest to the



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678 completion of such fingerprinting or screening and to compliance  
679 with this section and the standards for good moral character as  
680 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),  
681 ~~394.457(6)~~, 397.451, 402.305(2), 409.175(6), and 943.13(7), are  
682 not required to be refingerprinted or rescreened in order to  
683 comply with any caretaker screening or fingerprinting  
684 requirements.

685 Section 45. Paragraph (b) of subsection (1) of section  
686 409.972, Florida Statutes, is amended to read:

687 409.972 Mandatory and voluntary enrollment.—

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

692 (b) Medicaid recipients residing in residential commitment  
693 facilities operated through the Department of Juvenile Justice  
694 or mental health treatment facilities as defined by s.  
695 394.455(47) ~~s. 394.455(32)~~.

696 Section 46. Section 456.0575, Florida Statutes, is amended  
697 to read:

698 456.0575 Duty to notify patients.—Every licensed health  
699 care practitioner shall inform each patient, or an individual  
700 identified pursuant to s. 765.311(1) ~~s. 765.401(1)~~, in person  
701 about adverse incidents that result in serious harm to the  
702 patient. Notification of outcomes of care that result in harm to  
703 the patient under this section shall not constitute an  
704 acknowledgment of admission of liability, nor can such  
705 notifications be introduced as evidence.

706 Section 47. Subsection (7) of section 744.704, Florida



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707 Statutes, is amended to read:

708 744.704 Powers and duties.—

709 (7) A public guardian shall not commit a ward to a mental  
710 health treatment facility, as defined in s. 394.455(47) ~~s.~~  
711 ~~394.455(32)~~, without an involuntary placement proceeding as  
712 provided by law.

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

715 765.101 Definitions.—As used in this chapter:

716 (15) “Proxy” means a competent adult who has not been  
717 expressly designated to make health care decisions for a  
718 particular incapacitated individual, but who, nevertheless, is  
719 authorized pursuant to s. 765.311 ~~s. 765.401~~ to make health care  
720 decisions for such individual.

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

723 765.104 Amendment or revocation.—

724 (4) Any patient for whom a medical proxy has been  
725 recognized under s. 765.311 ~~s. 765.401~~ and for whom any previous  
726 legal disability that precluded the patient’s ability to consent  
727 is removed may amend or revoke the recognition of the medical  
728 proxy and any uncompleted decision made by that proxy. The  
729 amendment or revocation takes effect when it is communicated to  
730 the proxy, the health care provider, or the health care facility  
731 in writing or, if communicated orally, in the presence of a  
732 third person.

733

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

735 And the title is amended as follows:



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736 Delete lines 113 - 128  
737 and insert:  
738 of beds in crisis stabilization units; transferring  
739 and renumbering s. 765.401, F.S.; transferring and  
740 renumbering s. 765.404, F.S.; providing a directive to  
741 the Division of Law Revision and Information; creating  
742 s. 765.4015, F.S.; providing a short title; creating  
743 s. 765.402, F.S.; providing legislative findings;  
744 creating s. 765.403, F.S.; defining terms; creating s.  
745 765.405, F.S.; authorizing an adult with capacity to  
746 execute a mental health or substance abuse treatment  
747 advance directive; providing a presumption of validity  
748 if certain requirements are met; specifying provisions  
749 that an advance directive may include; creating s.  
750 765.406, F.S.; providing for execution of the mental  
751 health or substance abuse treatment advance directive;  
752 establishing requirements for a valid mental health or  
753 substance abuse treatment advance directive; providing  
754 that a mental health or substance abuse treatment  
755 advance directive is valid upon execution even if a  
756 part of the advance directive takes effect at a later  
757 date; allowing a mental health or substance abuse  
758 treatment advance directive to be revoked, in whole or  
759 in part, or to expire under its own terms; specifying  
760 that a mental health or substance abuse treatment  
761 advance directive does not or may not serve specified  
762 purposes; creating s. 765.407, F.S.; providing  
763 circumstances under which a mental health or substance  
764 abuse treatment advance directive may be revoked;



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765 providing circumstances under which a principal may  
766 waive specific directive provisions without revoking  
767 the advance directive; creating s. 765.410, F.S.;  
768 prohibiting criminal prosecution of a health care  
769 facility, provider, or surrogate who acts pursuant to  
770 a mental health or substance abuse treatment decision;  
771 creating s. 765.411, F.S.; providing for recognition  
772 of a mental health and substance abuse treatment  
773 advance directive executed in another state if it  
774 complies with the laws of this state; creating s.  
775 916.185, F.S.; providing legislative findings and  
776 intent; defining terms; creating the Forensic Hospital  
777 Diversion Pilot Program; requiring the Department of  
778 Children and Families to implement a Forensic Hospital  
779 Diversion Pilot Program in four specified judicial  
780 circuits; providing eligibility criteria for  
781 participation in the pilot program; providing  
782 legislative intent concerning the training of judges;  
783 authorizing the department to adopt rules; directing  
784 the Office of Program Policy Analysis and Government  
785 Accountability to submit a report to the Governor and  
786 the Legislature; amending ss. 39.407, 394.4612,  
787 394.495, 394.496, 394.499, 394.67, 394.674, 394.9085,  
788 395.0197, 395.1051, 397.311, 397.431, 397.702, 397.94,  
789 402.3057, 409.1757, 409.972, 456.0575, 744.704,  
790 765.101, 765.104 and 790.065, F.S.; conforming cross-