

1 A bill to be entitled
2 An act relating to behavioral health services;
3 creating the Florida Priority Care Project; directing
4 the Department of Children and Families, in
5 consultation with the Agency for Health Care
6 Administration and the Department of Corrections, to
7 develop a behavioral health services pilot project in
8 two areas in the state; providing purpose; providing
9 duties of a managing entity; providing duties of a
10 case manager; amending s. 394.4655, F.S.; establishing
11 criteria for involuntary placement in assisted
12 outpatient treatment; providing procedures for
13 admitting a person for assisted outpatient treatment;
14 providing responsibilities of providers of assisted
15 outpatient treatment services; providing conditions
16 for funding of services; providing for delivery of
17 services by a managing entity or a managed care plan
18 in the case of a Medicaid recipient; providing for a
19 petition for assisted outpatient treatment; requiring
20 the appointment of counsel; providing for a
21 continuance of hearing; providing procedures for the
22 hearing on assisted outpatient treatment; providing a
23 procedure for continued assisted outpatient treatment;
24 amending s. 394.9082, F.S.; requiring the department
25 to establish a mental health treatment bed registry
26 website; defining the term "receiving facility";

27 requiring public and private mental health facilities
28 to participate in the registry; specifying information
29 contained in the registry; specifying entities with
30 authorized access to the registry website; amending
31 ss. 394.455, 394.4598, 394.4615, 394.463, 394.467, and
32 790.065, F.S.; conforming provisions to changes made
33 by the act; providing an effective date.

34
35 Be It Enacted by the Legislature of the State of Florida:

36
37 Section 1. Florida Priority Care Project.—

38 (1) The Department of Children and Families, in
39 consultation with the Agency for Health Care Administration and
40 the Department of Corrections and within current resources,
41 shall establish a workgroup, which shall include managing
42 entities, Medicaid managed care plans, stakeholders, and
43 behavioral health advocates, for the purpose of developing a 4-
44 year pilot project entitled the "Florida Priority Care Project."
45 The workgroup shall act as a policy advisory group for the pilot
46 project. The department, in consultation with the agency and
47 within current resources, shall establish the pilot project in
48 the southeast region and the northeast region of the state. The
49 managing entity contracted by the department in each region
50 shall manage the pilot project for its respective region. The
51 agency shall coordinate with the department to make any needed
52 changes to contracts with Medicaid managed care plans to help

53 accomplish the goals of and ensure the realignment of resources
54 associated with the pilot project for the provision of state-
55 funded behavioral health services. It is the goal of the Florida
56 Priority Care Project to create access to a system of care based
57 upon stable housing environments coupled with the provision of
58 stable services. This goal shall be accomplished within current
59 resources through the realignment of funds both through the
60 managing entity and the Medicaid managed care plans. This
61 realignment shall be for the purpose of placing a higher public
62 priority on targeting the needs of adults who have a serious
63 mental illness and who have a history that indicates a high
64 probability that they could pose a threat to public safety.

65 (2) The pilot project shall:

66 (a) Include a legal guardianship program.

67 (b) Include a benefit specialist, who shall determine
68 existing obstacles to the delivery of services that have been
69 identified by intensive case managers and develop solutions
70 based on the available resources and networks accessible through
71 the managed care plans.

72 (c) Use genetic testing to help establish the correct
73 medication regimes to be used to manage and treat a client's
74 symptoms.

75 (d) Have a volunteer coordinator, who shall recruit
76 mentors and volunteers and encourage community involvement to
77 foster greater integration of community services.

78 (e) Coordinate a client's medical and psychiatric

79 appointments, and all services provided, with treating
 80 physicians.

81 (f) Establish cooperative housing agreements with a range
 82 of housing providers, including licensed assisted living
 83 facilities, adult family care homes, mental health residential
 84 treatment facilities, and department-approved supportive housing
 85 programs. Each housing arrangement must demonstrate an ability
 86 to ensure appropriate levels of residential supervision.

87 (g) Establish a professional development support program
 88 that ensures that the staff who work with persons enrolled in
 89 the pilot project have specialized training in meeting the needs
 90 of adults who have forensic mental health needs and have been
 91 involved with the criminal justice system. The pilot project in
 92 each region shall provide routine access to online training and
 93 classroom instruction to ensure that staff are using best
 94 practices and that training is uniform throughout the system of
 95 care.

96 (h) Work with the Department of Corrections which shall be
 97 the lead agency for enrolled persons who are also on probation
 98 or parole.

99 (i) Coordinate and oversee enrolled persons who are also
 100 under the supervision of a court.

101 (j) Provide a forensic specialist and an intensive case
 102 manager for each enrolled person.

103 (3) The managing entity in each pilot project region
 104 shall:

105 (a) Enter into agreements with the managed care plans for
106 Medicaid-eligible residents who are enrolled in the pilot
107 project and ensure that care and services are provided in a
108 manner that is consistent with pilot project policies and
109 objectives.

110 (b) Be authorized to reallocate funds within appropriation
111 limits and to realign resources among funding categories to meet
112 the goals of the pilot project.

113 (c) Work with the department, the agency, and managed care
114 plans to create a uniform database for tracking client
115 information and monitoring compliance with project guidelines.

116 (4) To qualify for enrollment in the pilot project, a
117 person must have a serious and persistent mental illness and:

118 (a) Been involuntarily committed for treatment under the
119 Baker Act more than seven times within a 2-year period;

120 (b) Been admitted to a state mental health treatment
121 facility more than three times within a 5-year period;

122 (c) Been placed on conditional release for a felony;

123 (d) Violated a condition of probation 3 times; or

124 (e) Been arrested for a misdemeanor more than five times
125 within a 2-year period.

126 (5) A person, whether Medicaid eligible or not, who is
127 enrolled in the pilot project shall be assigned to a case
128 manager within an intensive case management unit under contract
129 with the managing entity operating in the pilot project region.

130 The case manager must:

- 131 (a) Hold a bachelor's degree, have at least 3 years'
132 experience, and have completed specialized training in forensic
133 mental health.
- 134 (b) Be assigned no more than 15 clients.
- 135 (c) Conduct face-to-face meetings weekly with each client.
- 136 (d) Be allocated the resources as available to meet the
137 clients' emergency medication needs.
- 138 (e) Coordinate treatment plans and monitoring of
139 compliance with the forensic specialist, if one is assigned, the
140 probation and parole officer, if one is assigned, or the court,
141 if the client is under the supervision of a court.
- 142 (f) Coordinate supportive education and employment
143 programs for the client.
- 144 (g) Place a client under the supervision of a court in
145 assisted outpatient treatment, when appropriate.
- 146 (h) Place a client under supervision of a court or the
147 Department of Corrections in medication-assisted treatment, when
148 appropriate.
- 149 (i) Submit monthly reports on client compliance with
150 treatment and care recommendations to the managing entity, the
151 court, or the probation officer, as appropriate.
- 152 (j) Report all evidence of noncompliance with treatment
153 plans to the managing entity for inclusion in the database
154 pursuant to paragraph (3) (c).
- 155 (k) Monitor a client's housing arrangements for compliance
156 with supervision and program standards.

157 (1) Be on call to respond to the needs of the client; law
158 enforcement, probation, and parole officers; forensic
159 specialists; family members; housing providers; and treatment
160 professionals after normal working hours and during holidays and
161 weekends.

162 Section 2. Section 394.4655, Florida Statutes, is amended
163 to read:

164 394.4655 Involuntary ~~outpatient~~ placement in assisted
165 outpatient treatment.—

166 (1) CRITERIA FOR INVOLUNTARY ~~OUTPATIENT~~ PLACEMENT IN
167 ASSISTED OUTPATIENT TREATMENT.—A person may be ordered to
168 assisted outpatient treatment ~~involuntary outpatient placement~~
169 upon a finding of the court that by clear and convincing
170 evidence:

171 (a) The person is 18 years of age or older;

172 (b) The person has a mental illness;

173 (c) The person is unlikely to survive safely in the
174 community without supervision, based on a clinical
175 determination;

176 (d) The person has a history of lack of compliance with
177 treatment for mental illness;

178 (e) The person has:

179 1. At least twice within the immediately preceding 36
180 months been involuntarily admitted to a receiving or treatment
181 facility as defined in s. 394.455, or has received mental health
182 services in a forensic or correctional facility. The 36-month

183 period does not include any period during which the person was
 184 admitted or incarcerated; or

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

188 (f) The person is, as a result of his or her mental
 189 illness, unlikely to voluntarily participate in the recommended
 190 treatment plan and either he or she has refused voluntary
 191 ~~placement for~~ treatment after sufficient and conscientious
 192 explanation and disclosure of the purpose of ~~placement for~~
 193 treatment or he or she is unable to determine for himself or
 194 herself whether treatment ~~placement~~ is necessary;

195 (g) In view of the person's treatment history and current
 196 behavior, the person is in need of court-ordered assisted
 197 ~~involuntary~~ outpatient treatment ~~placement~~ in order to prevent a
 198 relapse or deterioration that would be likely to result in
 199 serious bodily harm to himself or herself or others, or a
 200 substantial harm to his or her well-being as set forth in s.
 201 394.463(1);

202 (h) It is likely that the person will benefit from
 203 assisted ~~involuntary~~ outpatient treatment ~~placement~~; and

204 (i) Participation in the assisted outpatient treatment
 205 program would be the least restrictive placement necessary to
 206 ensure the person's recovery and stability. All available, less
 207 ~~restrictive alternatives that would offer an opportunity for~~
 208 ~~improvement of his or her condition have been judged to be~~

209 ~~inappropriate or unavailable.~~

210 (2) SERVICE REQUIREMENTS FOR ASSISTED OUTPATIENT
 211 TREATMENT.—

212 (a) Subject to the availability of funds, the department
 213 shall distribute funds for the provision of services under this
 214 section to managing entities under contract with the department.
 215 Services shall be available to adults who have a mental illness,
 216 meet the eligibility criteria specified in subsection (1), and
 217 reside in a judicial circuit that has implemented assisted
 218 outpatient treatment.

219 (b) Funding shall be provided at sufficient levels to
 220 ensure that managing entities can provide each adult served
 221 under this section with the medically necessary mental health
 222 services, medications, and supportive services set forth in the
 223 applicable treatment plan.

224 (c) The funding shall cover only the portions of those
 225 costs of services that cannot be paid for with other funds,
 226 including public and private insurance, and other local, state,
 227 and federal funds.

228 (d) Each managing entity shall provide for services as
 229 defined in this chapter and chapter 397.

230 (e) Planning for provision of services shall be consistent
 231 with the philosophy, principles, and practices of a recovery
 232 oriented system of care.

233 (f) The department may adopt rules establishing minimum
 234 standards for services provided in assisted outpatient treatment

235 and procedures for reporting performance outcomes.

236 (3)-(2) ASSISTED INVOLUNTARY OUTPATIENT TREATMENT
237 PLACEMENT.—

238 (a)1. A person ~~patient~~ who is being recommended for
239 assisted involuntary outpatient treatment placement by the
240 administrator of the receiving facility where the person ~~patient~~
241 has been examined may be retained by the facility after
242 adherence to the notice procedures provided in s. 394.4599. The
243 recommendation must be supported by the opinion of a
244 psychiatrist and the second opinion of a clinical psychologist
245 or another psychiatrist, both of whom have personally examined
246 the person ~~patient~~ within the preceding 72 hours, that the
247 criteria for involuntary outpatient placement are met. However,
248 in a county having a population of fewer than 50,000, if the
249 administrator certifies that a psychiatrist or clinical
250 psychologist is not available to provide the second opinion, the
251 second opinion may be provided by a licensed physician who has
252 postgraduate training and experience in diagnosis and treatment
253 of mental and nervous disorders or by a psychiatric nurse. Any
254 second opinion authorized in this subparagraph may be conducted
255 through a face-to-face examination, in person or by electronic
256 means. Such recommendation must be entered on an assisted
257 involuntary outpatient treatment placement certificate that
258 authorizes the receiving facility to retain the person ~~patient~~
259 pending completion of a hearing. The certificate shall be made a
260 part of the person's ~~patient's~~ clinical record.

261 2. If the person ~~patient~~ has been stabilized and no longer
 262 meets the criteria for involuntary examination pursuant to s.
 263 394.463(1), the person ~~patient~~ must be released from the
 264 receiving facility while awaiting the hearing for assisted
 265 ~~involuntary~~ outpatient treatment ~~placement~~. Before filing a
 266 petition for assisted ~~involuntary~~ outpatient treatment, the
 267 administrator of a receiving facility must coordinate the
 268 treatment plan with a managing entity or a managed care plan
 269 representative who is responsible for the coordination of the
 270 person's care to ~~or a designated department representative must~~
 271 identify the service provider that will have primary
 272 responsibility for service provision under an order for assisted
 273 ~~involuntary~~ outpatient placement. ~~If, unless~~ the person is
 274 otherwise participating in outpatient ~~psychiatric~~ treatment, he
 275 ~~or she and is not in need of public financing for that~~
 276 ~~treatment, in which case the individual, if eligible, may be~~
 277 ordered to assisted outpatient ~~involuntary~~ treatment pursuant to
 278 the existing outpatient ~~psychiatric~~ treatment relationship.

279 3. The service provider shall prepare a written proposed
 280 treatment plan in consultation with the person ~~patient~~ or the
 281 person's ~~patient's~~ guardian advocate, if appointed, for the
 282 court's consideration for inclusion in the assisted ~~involuntary~~
 283 outpatient treatment ~~placement~~ order. The service provider shall
 284 also provide a copy of the proposed treatment plan to the person
 285 ~~patient~~ and the administrator of the receiving facility. The
 286 treatment plan must specify the nature and extent of the

287 patient's mental illness, address the reduction of symptoms that
288 necessitate assisted ~~involuntary~~ outpatient treatment ~~placement~~,
289 and include measurable goals and objectives for the services ~~and~~
290 ~~treatment~~ that are provided to treat the person's mental illness
291 and assist the person in living and functioning in the community
292 or to prevent a relapse or deterioration. Service providers may
293 select and coordinate with ~~supervise~~ other qualified individuals
294 to implement specific aspects of the treatment plan. The
295 services in the treatment plan must be deemed clinically
296 appropriate by a physician, clinical psychologist, psychiatric
297 nurse, mental health counselor, marriage and family therapist,
298 or clinical social worker who consults with, or is employed or
299 contracted by, the service provider. The service provider must
300 certify to the court in the proposed treatment plan whether
301 sufficient services for improvement and stabilization are
302 currently available and whether the service provider agrees to
303 provide those services. If the service provider certifies that
304 the services in the proposed treatment plan are not available,
305 the petitioner may not file the petition.

306 (b) If a person ~~patient~~ in involuntary inpatient placement
307 meets the criteria for assisted ~~involuntary~~ outpatient treatment
308 ~~placement~~, the administrator of the treatment facility may,
309 before the expiration of the period during which the treatment
310 facility is authorized to retain the patient, recommend assisted
311 ~~involuntary~~ outpatient treatment ~~placement~~. The recommendation
312 must be supported by the opinion of a psychiatrist and the

313 second opinion of a clinical psychologist or another
314 psychiatrist, both of whom have personally examined the person
315 ~~patient~~ within the preceding 72 hours, that the criteria for
316 assisted involuntary outpatient treatment placement are met.
317 However, in a county having a population of fewer than 50,000,
318 if the administrator certifies that a psychiatrist or clinical
319 psychologist is not available to provide the second opinion, the
320 second opinion may be provided by a licensed physician who has
321 postgraduate training and experience in diagnosis and treatment
322 of mental and nervous disorders or by a psychiatric nurse. Any
323 second opinion authorized in this subparagraph may be conducted
324 through a face-to-face examination, in person or by electronic
325 means. Such recommendation must be entered on an assisted
326 involuntary outpatient treatment placement certificate, and the
327 certificate must be made a part of the person's ~~patient's~~
328 clinical record.

329 (c)1. The administrator of the treatment facility shall
330 provide a copy of the assisted involuntary outpatient treatment
331 ~~placement~~ certificate and a copy of the state mental health
332 discharge form to a managing entity ~~department~~ representative in
333 the county where the patient will be residing or a managed care
334 plan representative, if the person is covered under Medicaid.
335 For persons who are leaving a state mental health treatment
336 facility, the petition for assisted involuntary outpatient
337 treatment placement must be filed in the county where the
338 patient will be residing.

339 2. The service provider that will have primary
 340 responsibility for service provision shall be identified by the
 341 designated managing entity or managed care plan ~~department~~
 342 representative prior to the order for assisted ~~involuntary~~
 343 outpatient treatment ~~placement~~ and must, prior to filing a
 344 petition for assisted ~~involuntary~~ outpatient treatment
 345 ~~placement~~, certify to the court whether the services recommended
 346 in the person's ~~patient's~~ discharge plan are available in the
 347 local community and whether the service provider agrees to
 348 provide those services. The service provider must develop with
 349 the person ~~patient~~, or the person's ~~patient's~~ guardian advocate,
 350 if appointed, a treatment or service plan that addresses the
 351 needs identified in the discharge plan. The plan must be deemed
 352 to be clinically appropriate by a physician, clinical
 353 psychologist, psychiatric nurse, mental health counselor,
 354 marriage and family therapist, or clinical social worker, as
 355 defined in this chapter, who consults with, or is employed or
 356 contracted by, the service provider.

357 3. If the service provider certifies that the services in
 358 the proposed treatment or service plan are not available, the
 359 petitioner may not file the petition.

360 (4) ~~(3)~~ PETITION FOR ASSISTED ~~INVOLUNTARY~~ OUTPATIENT
 361 TREATMENT ~~PLACEMENT~~.—

362 (a) A petition for assisted ~~involuntary~~ outpatient
 363 treatment ~~placement~~ may be filed by:

- 364 1. The administrator of a receiving facility; or

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365 2. The administrator of a treatment facility.

366 (b) Each required criterion for assisted ~~involuntary~~
367 outpatient treatment ~~placement~~ must be alleged and substantiated
368 in the petition for assisted ~~involuntary~~ outpatient treatment
369 ~~placement~~. A copy of the certificate recommending assisted
370 ~~involuntary~~ outpatient treatment ~~placement~~ completed by a
371 qualified professional specified in subsection (3) ~~(2)~~ must be
372 attached to the petition. A copy of the proposed treatment plan
373 must be attached to the petition. Before the petition is filed,
374 the service provider shall certify that the services in the
375 proposed treatment plan are available. If the necessary services
376 are not available in the person's ~~patient's~~ local community to
377 respond to the person's individual needs, the petition may not
378 be filed.

379 (c) The petition for assisted ~~involuntary~~ outpatient
380 treatment ~~placement~~ must be filed in the county where the person
381 ~~patient~~ is located, unless the person ~~patient~~ is being placed
382 from a state treatment facility, in which case the petition must
383 be filed in the county where the person ~~patient~~ will reside.
384 When the petition has been filed, the clerk of the court shall
385 provide copies of the petition and the proposed treatment plan
386 to the person, the person's ~~department, the patient, the~~
387 ~~patient's~~ guardian or representative, the state attorney, and
388 the public defender or the person's ~~patient's~~ private counsel. A
389 fee may not be charged for filing a petition under this
390 subsection.

391 (5)~~(4)~~ APPOINTMENT OF COUNSEL.—Within 1 court working day
 392 after the filing of a petition for assisted ~~involuntary~~
 393 outpatient treatment placement, the court shall appoint the
 394 public defender to represent the person who is the subject of
 395 the petition, unless the person is otherwise represented by
 396 counsel. The clerk of the court shall immediately notify the
 397 public defender of the appointment. The public defender shall
 398 represent the person until the petition is dismissed, the court
 399 order expires, or the person ~~patient~~ is discharged from assisted
 400 ~~involuntary~~ outpatient treatment placement. An attorney who
 401 represents the person ~~patient~~ shall have access to the person
 402 ~~patient~~, witnesses, and records relevant to the presentation of
 403 the person's ~~patient's~~ case and shall represent the interests of
 404 the person ~~patient~~, regardless of the source of payment to the
 405 attorney.

406 (6)~~(5)~~ CONTINUANCE OF HEARING.—The person ~~patient~~ is
 407 entitled, with the concurrence of the person's ~~patient's~~
 408 counsel, to at least one continuance of the hearing. The
 409 continuance shall be for a period of up to 4 weeks.

410 (7)~~(6)~~ HEARING ON ASSISTED ~~INVOLUNTARY~~ OUTPATIENT
 411 TREATMENT ~~PLACEMENT~~.—

412 (a)1. The court shall hold the hearing on assisted
 413 ~~involuntary~~ outpatient treatment placement within 5 working days
 414 after the filing of the petition, unless a continuance is
 415 granted. The hearing shall be held in the county where the
 416 petition is filed, shall be as convenient to the person ~~patient~~

417 as is consistent with orderly procedure, and shall be conducted
418 in physical settings not likely to be injurious to the person's
419 ~~patient's~~ condition. If the court finds that the person's
420 ~~patient's~~ attendance at the hearing is not consistent with the
421 best interests of the person ~~patient~~ and if the person's
422 ~~patient's~~ counsel does not object, the court may waive the
423 presence of the person ~~patient~~ from all or any portion of the
424 hearing. The state attorney for the circuit in which the person
425 ~~patient~~ is located shall represent the state, rather than the
426 petitioner, as the real party in interest in the proceeding.

427 2. The court may appoint a master to preside at the
428 hearing. One of the professionals who executed the assisted
429 ~~involuntary~~ outpatient treatment ~~placement~~ certificate shall be
430 a witness. The person ~~patient~~ and the person's ~~patient's~~
431 guardian or representative shall be informed by the court of the
432 right to an independent expert examination. If the person
433 ~~patient~~ cannot afford such an examination, the court shall
434 provide for one. The independent expert's report shall be
435 confidential and not discoverable, unless the expert is to be
436 called as a witness for the person ~~patient~~ at the hearing. The
437 court shall allow testimony from individuals, including family
438 members, deemed by the court to be relevant under state law,
439 regarding the person's prior history and how that prior history
440 relates to the person's current condition. The testimony in the
441 hearing must be given under oath, and the proceedings must be
442 recorded. The person ~~patient~~ may refuse to testify at the

443 hearing.

444 (b)1. If the court concludes that the person ~~patient~~ meets
445 the criteria for assisted involuntary outpatient treatment
446 ~~placement~~ pursuant to subsection (1), the court shall issue an
447 order for assisted involuntary outpatient treatment placement.
448 The court order shall be for a period of up to 6 months. The
449 order must specify the nature and extent of the person's
450 ~~patient's~~ mental illness. The order of the court and the
451 treatment plan shall be made part of the person's ~~patient's~~
452 clinical record. The service provider shall discharge a person
453 ~~patient~~ from assisted involuntary outpatient treatment placement
454 when the order expires or any time the person ~~patient~~ no longer
455 meets the criteria for assisted outpatient treatment involuntary
456 ~~placement~~. Upon discharge, the service provider shall send a
457 certificate of discharge to the court.

458 2. The court may not order the department or the service
459 provider to provide services if the program or service is not
460 available in the person's ~~patient's~~ local community, if there is
461 no space available in the program or service for the person
462 ~~patient~~, or if funding is not available for the program or
463 service. A copy of the order must be sent to the Agency for
464 Health Care Administration by the service provider within 1
465 working day after it is received from the court. After the
466 treatment placement order is issued, the service provider and
467 the person ~~patient~~ may modify provisions of the treatment plan.
468 For any material modification of the treatment plan to which the

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469 person ~~patient~~ or the person's ~~patient's~~ guardian advocate, if
470 appointed, does agree, the service provider shall send notice of
471 the modification to the court. Any material modifications of the
472 treatment plan which are contested by the person ~~patient~~ or the
473 person's ~~patient's~~ guardian advocate, if appointed, must be
474 approved or disapproved by the court consistent with subsection
475 (3) ~~(2)~~.

476 3. If, in the clinical judgment of a physician, the person
477 ~~patient~~ has failed or has refused to comply with the treatment
478 ordered by the court, and, in the clinical judgment of the
479 physician, efforts were made to solicit compliance and the
480 person ~~patient~~ may meet the criteria for involuntary
481 examination, a person may be brought to a receiving facility
482 pursuant to s. 394.463. If, after examination, the person
483 ~~patient~~ does not meet the criteria for involuntary inpatient
484 placement pursuant to s. 394.467, the person ~~patient~~ must be
485 discharged from the receiving facility. The assisted ~~involuntary~~
486 outpatient treatment ~~placement~~ order shall remain in effect
487 unless the service provider determines that the person ~~patient~~
488 no longer meets the criteria for assisted ~~involuntary~~ outpatient
489 treatment ~~placement~~ or until the order expires. The service
490 provider must determine whether modifications should be made to
491 the existing treatment plan and must attempt to continue to
492 engage the person ~~patient~~ in treatment. For any material
493 modification of the treatment plan to which the person ~~patient~~
494 or the person's ~~patient's~~ guardian advocate, if appointed, does

495 | agree, the service provider shall send notice of the
496 | modification to the court. Any material modifications of the
497 | treatment plan which are contested by the person patient or the
498 | person's patient's guardian advocate, if appointed, must be
499 | approved or disapproved by the court consistent with subsection
500 | (3) ~~(2)~~.

501 | (c) If, at any time before the conclusion of the initial
502 | hearing on assisted involuntary outpatient treatment placement,
503 | it appears to the court that the person does not meet the
504 | criteria for assisted involuntary outpatient treatment placement
505 | under this section but, instead, meets the criteria for
506 | involuntary inpatient placement, the court may order the person
507 | admitted for involuntary inpatient examination under s. 394.463.
508 | If the person instead meets the criteria for involuntary
509 | assessment, protective custody, or involuntary admission
510 | pursuant to s. 397.675, the court may order the person to be
511 | admitted for involuntary assessment for a period of 5 days
512 | pursuant to s. 397.6811. Thereafter, all proceedings shall be
513 | governed by chapter 397.

514 | (d) At the hearing on assisted involuntary outpatient
515 | treatment placement, the court shall consider testimony and
516 | evidence regarding the person's patient's competence to consent
517 | to treatment. If the court finds that the person patient is
518 | incompetent to consent to treatment, it shall appoint a guardian
519 | advocate as provided in s. 394.4598. The guardian advocate shall
520 | be appointed or discharged in accordance with s. 394.4598.

521 (e) The administrator of the receiving facility or the
522 designated managing entity or managed care plan ~~department~~
523 representative shall provide a copy of the court order and
524 adequate documentation of a person's ~~patient's~~ mental illness to
525 the service provider for assisted ~~involuntary~~ outpatient
526 treatment ~~placement~~. Such documentation must include any advance
527 directives made by the person ~~patient~~, a psychiatric evaluation
528 of the person ~~patient~~, and any evaluations of the person ~~patient~~
529 performed by the receiving facility ~~a clinical psychologist or a~~
530 ~~clinical social worker~~.

531 (8) ~~(7)~~ PROCEDURE FOR CONTINUED ASSISTED ~~INVOLUNTARY~~
532 OUTPATIENT TREATMENT ~~PLACEMENT~~.—

533 (a)1. If the person continues to meet the criteria for
534 assisted ~~involuntary~~ outpatient treatment ~~placement~~, the service
535 provider shall, before the expiration of the period during which
536 the treatment is ordered for the person, file in the circuit
537 court a petition for continued assisted ~~involuntary~~ outpatient
538 treatment ~~placement~~.

539 2. The existing assisted ~~involuntary~~ outpatient treatment
540 ~~placement~~ order remains in effect until disposition on the
541 petition for continued assisted ~~involuntary~~ outpatient treatment
542 ~~placement~~.

543 3. A certificate shall be attached to the petition which
544 includes a statement from the person's physician or clinical
545 psychologist justifying the request, a brief description of the
546 person's ~~patient's~~ treatment during the time he or she was

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547 involuntarily placed, and an individualized plan of continued
548 treatment.

549 4. The service provider shall develop the individualized
550 plan of continued treatment in consultation with the person
551 ~~patient~~ or the person's ~~patient's~~ guardian advocate, if
552 appointed. When the petition has been filed, the clerk of the
553 court shall provide copies of the certificate and the
554 individualized plan of continued treatment to the department,
555 the person ~~patient~~, the person's ~~patient's~~ guardian advocate,
556 the state attorney, and the person's ~~patient's~~ private counsel
557 or the public defender.

558 (b) Within 1 court working day after the filing of a
559 petition for continued assisted ~~involuntary~~ outpatient treatment
560 ~~placement~~, the court shall appoint the public defender to
561 represent the person who is the subject of the petition, unless
562 the person is otherwise represented by counsel. The clerk of the
563 court shall immediately notify the public defender of such
564 appointment. The public defender shall represent the person
565 until the petition is dismissed or the court order expires or
566 the person ~~patient~~ is discharged from assisted ~~involuntary~~
567 outpatient treatment ~~placement~~. Any attorney representing the
568 person ~~patient~~ shall have access to the person ~~patient~~,
569 witnesses, and records relevant to the presentation of the
570 person's ~~patient's~~ case and shall represent the interests of the
571 person ~~patient~~, regardless of the source of payment to the
572 attorney.

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573 (c) Hearings on petitions for continued assisted
574 ~~involuntary~~ outpatient treatment placement shall be before the
575 circuit court. The court may appoint a master to preside at the
576 hearing. The procedures for obtaining an order pursuant to this
577 paragraph shall be in accordance with subsection (7) ~~(6)~~, except
578 that the time period included in paragraph (1)(e) is not
579 applicable in determining the appropriateness of additional
580 periods of assisted ~~involuntary~~ outpatient treatment placement.

581 (d) Notice of the hearing shall be provided as set forth
582 in s. 394.4599. The person ~~patient~~ and the person's ~~patient's~~
583 attorney may agree to a period of continued outpatient placement
584 without a court hearing.

585 (e) The same procedure shall be repeated before the
586 expiration of each additional period the person ~~patient~~ is
587 placed in treatment.

588 (f) If the person ~~patient~~ has previously been found
589 incompetent to consent to treatment, the court shall consider
590 testimony and evidence regarding the person's ~~patient's~~
591 competence. Section 394.4598 governs the discharge of the
592 guardian advocate if the person's ~~patient's~~ competency to
593 consent to treatment has been restored.

594 Section 3. Subsections (34) and (35) of section 394.455,
595 Florida Statutes, are amended to read:

596 394.455 Definitions.—As used in this part, unless the
597 context clearly requires otherwise, the term:

598 (34) "Involuntary examination" means an examination

599 performed under s. 394.463 to determine if an individual
 600 qualifies for involuntary inpatient treatment under s.
 601 394.467(1) or assisted ~~involuntary~~ outpatient treatment under s.
 602 394.4655(1).

603 (35) "Involuntary placement" means either assisted
 604 ~~involuntary~~ outpatient treatment pursuant to s. 394.4655 or
 605 involuntary inpatient treatment pursuant to s. 394.467.

606 Section 4. Subsection (7) of section 394.4598, Florida
 607 Statutes, is amended to read:

608 394.4598 Guardian advocate.—

609 (7) The guardian advocate shall be discharged when the
 610 patient is discharged from an order for assisted ~~involuntary~~
 611 outpatient treatment ~~placement~~ or involuntary inpatient
 612 placement or when the patient is transferred from involuntary to
 613 voluntary status. The court or a hearing officer shall consider
 614 the competence of the patient pursuant to subsection (1) and may
 615 consider an involuntarily placed patient's competence to consent
 616 to treatment at any hearing. Upon sufficient evidence, the court
 617 may restore, or the hearing officer may recommend that the court
 618 restore, the patient's competence. A copy of the order restoring
 619 competence or the certificate of discharge containing the
 620 restoration of competence shall be provided to the patient and
 621 the guardian advocate.

622 Section 5. Subsection (3) of section 394.4615, Florida
 623 Statutes, is amended to read:

624 394.4615 Clinical records; confidentiality.—

625 (3) Information from the clinical record may be released
 626 in the following circumstances:

627 (a) When a patient has declared an intention to harm other
 628 persons. When such declaration has been made, the administrator
 629 may authorize the release of sufficient information to provide
 630 adequate warning to the person threatened with harm by the
 631 patient.

632 (b) When the administrator of the facility or secretary of
 633 the department deems release to a qualified researcher as
 634 defined in administrative rule, an aftercare treatment provider,
 635 or an employee or agent of the department is necessary for
 636 treatment of the patient, maintenance of adequate records,
 637 compilation of treatment data, aftercare planning, or evaluation
 638 of programs.

639
 640 For the purpose of determining whether a person meets the
 641 criteria for assisted ~~involuntary~~ outpatient treatment ~~placement~~
 642 or for preparing the proposed treatment plan pursuant to s.
 643 394.4655, the clinical record may be released to the state
 644 attorney, the public defender or the person's ~~patient's~~ private
 645 legal counsel, the court, and to the appropriate mental health
 646 professionals, including the service provider identified in s.
 647 394.4655(7)(b)2. ~~394.4655(6)(b)2.~~, in accordance with state and
 648 federal law.

649 Section 6. Paragraphs (e), (g), and (i) of subsection (2)
 650 of section 394.463, Florida Statutes, are amended to read:

651 394.463 Involuntary examination.—

652 (2) INVOLUNTARY EXAMINATION.—

653 (e) The Agency for Health Care Administration shall
654 receive and maintain the copies of ex parte orders, assisted
655 ~~involuntary~~ outpatient treatment placement orders issued
656 pursuant to s. 394.4655, involuntary inpatient placement orders
657 issued pursuant to s. 394.467, professional certificates, and
658 law enforcement officers' reports. These documents shall be
659 considered part of the clinical record, governed by the
660 provisions of s. 394.4615. The agency shall prepare annual
661 reports analyzing the data obtained from these documents,
662 without information identifying patients, and shall provide
663 copies of reports to the department, the President of the
664 Senate, the Speaker of the House of Representatives, and the
665 minority leaders of the Senate and the House of Representatives.

666 (g) A person for whom an involuntary examination has been
667 initiated who is being evaluated or treated at a hospital for an
668 emergency medical condition specified in s. 395.002 must be
669 examined by a receiving facility within 72 hours. The 72-hour
670 period begins when the person ~~patient~~ arrives at the hospital
671 and ceases when the attending physician documents that the
672 person ~~patient~~ has an emergency medical condition. If the person
673 ~~patient~~ is examined at a hospital providing emergency medical
674 services by a professional qualified to perform an involuntary
675 examination and is found as a result of that examination not to
676 meet the criteria for assisted ~~involuntary~~ outpatient treatment

677 ~~placement~~ pursuant to s. 394.4655(1) or involuntary inpatient
678 placement pursuant to s. 394.467(1), the person ~~patient~~ may be
679 offered voluntary placement, if appropriate, or released
680 directly from the hospital providing emergency medical services.
681 The finding by the professional that the person ~~patient~~ has been
682 examined and does not meet the criteria for involuntary
683 inpatient placement or assisted ~~involuntary~~ outpatient treatment
684 ~~placement~~ must be entered into the person's ~~patient's~~ clinical
685 record. Nothing in this paragraph is intended to prevent a
686 hospital providing emergency medical services from appropriately
687 transferring a person ~~patient~~ to another hospital prior to
688 stabilization, provided the requirements of s. 395.1041(3)(c)
689 have been met.

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

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

697 2. The person ~~patient~~ shall be released, subject to the
698 provisions of subparagraph 1., for assisted ~~voluntary~~ outpatient
699 treatment;

700 3. The person ~~patient~~, unless he or she is charged with a
701 crime, shall be asked to give express and informed consent to
702 placement as a voluntary patient, and, if such consent is given,

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703 the person ~~patient~~ shall be admitted as a voluntary patient; or
704 4. A petition for assisted treatment or involuntary
705 placement shall be filed in the circuit court when outpatient or
706 inpatient treatment is deemed necessary. When inpatient
707 treatment is deemed necessary, the least restrictive treatment
708 consistent with the optimum improvement of the patient's
709 condition shall be made available. When a petition is to be
710 filed for assisted involuntary outpatient treatment placement,
711 it shall be filed by one of the petitioners specified in s.
712 394.4655(4)(a) ~~394.4655(3)(a)~~. A petition for involuntary
713 inpatient placement shall be filed by the facility
714 administrator.

715 Section 7. Paragraph (c) of subsection (6) of section
716 394.467, Florida Statutes, is amended to read:

717 394.467 Involuntary inpatient placement.—

718 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

719 (c) If at any time prior to the conclusion of the hearing
720 on involuntary inpatient placement it appears to the court that
721 the person does not meet the criteria for involuntary inpatient
722 placement under this section, but instead meets the criteria for
723 assisted involuntary outpatient treatment placement, the court
724 may order the person evaluated for assisted involuntary
725 outpatient treatment placement pursuant to s. 394.4655. The
726 petition and hearing procedures set forth in s. 394.4655 shall
727 apply. If the person instead meets the criteria for involuntary
728 assessment, protective custody, or involuntary admission

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729 pursuant to s. 397.675, then the court may order the person to
730 be admitted for involuntary assessment for a period of 5 days
731 pursuant to s. 397.6811. Thereafter, all proceedings shall be
732 governed by chapter 397.

733 Section 8. Subsections (10) and (11) of section 394.9082,
734 Florida Statutes, are renumbered as subsections (11) and (12),
735 respectively, and a new subsection (10) is added to that
736 section, to read:

737 394.9082 Behavioral health managing entities.—

738 (10) MENTAL HEALTH TREATMENT BED REGISTRY WEBSITE.—The
739 department shall develop, implement, and administer a website
740 that collects, aggregates, and publishes utilization data
741 regarding available mental health treatment beds from all public
742 and private mental health receiving facilities. As used in this
743 subsection, the term "receiving facility" means an entity that
744 meets the licensure requirements of and is designated by the
745 department to operate as a receiving facility under s. 394.875
746 and that is operating as a licensed crisis stabilization unit.
747 Each public and private mental health receiving facility shall
748 participate in the registry website and designate employees
749 responsible for receiving, submitting, and updating registry
750 information. The website shall:

751 (a) Include descriptive and contact information for each
752 facility.

753 (b) Provide real-time information about the number of beds
754 available at each facility and, for each available bed, the type

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755 of patient who may be admitted, the level of security provided,
756 and any other information that may be necessary to determine
757 appropriate placement for an individual who meets the criteria
758 for temporary detention under this part.

759 (c) Be accessible to and searchable by facility
760 administrators, service providers, health care providers, and
761 designated county law enforcement agencies.

762 Section 9. Paragraph (a) of subsection (2) of section
763 790.065, Florida Statutes, is amended to read:

764 790.065 Sale and delivery of firearms.—

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

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

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

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

774 3. Has had adjudication of guilt withheld or imposition of
775 sentence suspended on any felony or misdemeanor crime of
776 domestic violence unless 3 years have elapsed since probation or
777 any other conditions set by the court have been fulfilled or
778 expunction has occurred; or

779 4. Has been adjudicated mentally defective or has been
780 committed to a mental institution by a court or as provided in

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781 sub-sub-subparagraph b.(II), and as a result is prohibited by
782 state or federal law from purchasing a firearm.

783 a. As used in this subparagraph, "adjudicated mentally
784 defective" means a determination by a court that a person, as a
785 result of marked subnormal intelligence, or mental illness,
786 incompetency, condition, or disease, is a danger to himself or
787 herself or to others or lacks the mental capacity to contract or
788 manage his or her own affairs. The phrase includes a judicial
789 finding of incapacity under s. 744.331(6)(a), an acquittal by
790 reason of insanity of a person charged with a criminal offense,
791 and a judicial finding that a criminal defendant is not
792 competent to stand trial.

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

795 (I) Involuntary commitment, commitment for mental
796 defectiveness or mental illness, and commitment for substance
797 abuse. The phrase includes involuntary inpatient placement as
798 defined in s. 394.467, assisted ~~involuntary~~ outpatient treatment
799 ~~placement~~ as defined in s. 394.4655, involuntary assessment and
800 stabilization under s. 397.6818, and involuntary substance abuse
801 treatment under s. 397.6957, but does not include a person in a
802 mental institution for observation or discharged from a mental
803 institution based upon the initial review by the physician or a
804 voluntary admission to a mental institution; or

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

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807 treatment of a person who had an involuntary examination under
808 s. 394.463, where each of the following conditions have been
809 met:

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

812 (B) The examining physician certified that if the person
813 did not agree to voluntary treatment, a petition for assisted
814 ~~involuntary~~ outpatient or involuntary inpatient treatment would
815 have been filed under s. 394.463(2)(i)4., or the examining
816 physician certified that a petition was filed and the person
817 subsequently agreed to voluntary treatment prior to a court
818 hearing on the petition.

819 (C) Before agreeing to voluntary treatment, the person
820 received written notice of that finding and certification, and
821 written notice that as a result of such finding, he or she may
822 be prohibited from purchasing a firearm, and may not be eligible
823 to apply for or retain a concealed weapon or firearms license
824 under s. 790.06 and the person acknowledged such notice in
825 writing, in substantially the following form:

826 "I understand that the doctor who examined me believes I am a
827 danger to myself or to others. I understand that if I do not
828 agree to voluntary treatment, a petition will be filed in court
829 to require me to receive involuntary treatment. I understand
830 that if that petition is filed, I have the right to contest it.
831 In the event a petition has been filed, I understand that I can
832 subsequently agree to voluntary treatment prior to a court

833 hearing. I understand that by agreeing to voluntary treatment in
834 either of these situations, I may be prohibited from buying
835 firearms and from applying for or retaining a concealed weapons
836 or firearms license until I apply for and receive relief from
837 that restriction under Florida law."

838 (D) A judge or a magistrate has, pursuant to sub-sub-
839 subparagraph c.(II), reviewed the record of the finding,
840 certification, notice, and written acknowledgment classifying
841 the person as an imminent danger to himself or herself or
842 others, and ordered that such record be submitted to the
843 department.

844 c. In order to check for these conditions, the department
845 shall compile and maintain an automated database of persons who
846 are prohibited from purchasing a firearm based on court records
847 of adjudications of mental defectiveness or commitments to
848 mental institutions.

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

856 (II) For persons committed to a mental institution
857 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
858 the person's agreement to voluntary admission, a record of the

859 finding, certification, notice, and written acknowledgment must
860 be filed by the administrator of the receiving or treatment
861 facility, as defined in s. 394.455, with the clerk of the court
862 for the county in which the involuntary examination under s.
863 394.463 occurred. No fee shall be charged for the filing under
864 this sub-sub-subparagraph. The clerk must present the records to
865 a judge or magistrate within 24 hours after receipt of the
866 records. A judge or magistrate is required and has the lawful
867 authority to review the records ex parte and, if the judge or
868 magistrate determines that the record supports the classifying
869 of the person as an imminent danger to himself or herself or
870 others, to order that the record be submitted to the department.
871 If a judge or magistrate orders the submittal of the record to
872 the department, the record must be submitted to the department
873 within 24 hours.

874 d. A person who has been adjudicated mentally defective or
875 committed to a mental institution, as those terms are defined in
876 this paragraph, may petition the circuit court that made the
877 adjudication or commitment, or the court that ordered that the
878 record be submitted to the department pursuant to sub-sub-
879 subparagraph c.(II), for relief from the firearm disabilities
880 imposed by such adjudication or commitment. A copy of the
881 petition shall be served on the state attorney for the county in
882 which the person was adjudicated or committed. The state
883 attorney may object to and present evidence relevant to the
884 relief sought by the petition. The hearing on the petition may

885 | be open or closed as the petitioner may choose. The petitioner
886 | may present evidence and subpoena witnesses to appear at the
887 | hearing on the petition. The petitioner may confront and cross-
888 | examine witnesses called by the state attorney. A record of the
889 | hearing shall be made by a certified court reporter or by court-
890 | approved electronic means. The court shall make written findings
891 | of fact and conclusions of law on the issues before it and issue
892 | a final order. The court shall grant the relief requested in the
893 | petition if the court finds, based on the evidence presented
894 | with respect to the petitioner's reputation, the petitioner's
895 | mental health record and, if applicable, criminal history
896 | record, the circumstances surrounding the firearm disability,
897 | and any other evidence in the record, that the petitioner will
898 | not be likely to act in a manner that is dangerous to public
899 | safety and that granting the relief would not be contrary to the
900 | public interest. If the final order denies relief, the
901 | petitioner may not petition again for relief from firearm
902 | disabilities until 1 year after the date of the final order. The
903 | petitioner may seek judicial review of a final order denying
904 | relief in the district court of appeal having jurisdiction over
905 | the court that issued the order. The review shall be conducted
906 | de novo. Relief from a firearm disability granted under this
907 | sub-subparagraph has no effect on the loss of civil rights,
908 | including firearm rights, for any reason other than the
909 | particular adjudication of mental defectiveness or commitment to
910 | a mental institution from which relief is granted.

911 e. Upon receipt of proper notice of relief from firearm
912 disabilities granted under sub-subparagraph d., the department
913 shall delete any mental health record of the person granted
914 relief from the automated database of persons who are prohibited
915 from purchasing a firearm based on court records of
916 adjudications of mental defectiveness or commitments to mental
917 institutions.

918 f. The department is authorized to disclose data collected
919 pursuant to this subparagraph to agencies of the Federal
920 Government and other states for use exclusively in determining
921 the lawfulness of a firearm sale or transfer. The department is
922 also authorized to disclose this data to the Department of
923 Agriculture and Consumer Services for purposes of determining
924 eligibility for issuance of a concealed weapons or concealed
925 firearms license and for determining whether a basis exists for
926 revoking or suspending a previously issued license pursuant to
927 s. 790.06(10). When a potential buyer or transferee appeals a
928 nonapproval based on these records, the clerks of court and
929 mental institutions shall, upon request by the department,
930 provide information to help determine whether the potential
931 buyer or transferee is the same person as the subject of the
932 record. Photographs and any other data that could confirm or
933 negate identity must be made available to the department for
934 such purposes, notwithstanding any other provision of state law
935 to the contrary. Any such information that is made confidential
936 or exempt from disclosure by law shall retain such confidential

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937 | or exempt status when transferred to the department.

938 | Section 10. This act shall take effect July 1, 2015.