

Tab 1	SB 12 by Garcia (CO-INTRODUCERS) Galvano ; (Compare to CS/H 0439) Mental Health and Substance Abuse
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Tab 2	SB 670 by Gaetz ; (Identical to H 0715) Child Protection Teams						
185600	A	S	L	FAV	CF, Ring	Delete L.54:	01/14 01:27 PM

Tab 3	SB 750 by Hutson, Bean ; (Similar to H 0563) Temporary Cash Assistance Program						
648412	D	S			CF, Hutson	Delete everything after	01/13 09:49 AM

Tab 4	SB 860 by Detert ; (Identical to H 0657) Foster Families						
235082	A	S		FAV	CF, Detert	Delete L.52 - 53: (1) T	01/14 01:27 PM

Tab 5	SPB 7048 by CF ; OGSR/Client Records and Donor Information Collected by Regional Autism Centers						
157534	A	S		FAV	CF, Altman	Delete L.41 - 49:	01/14 01:28 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS

Senator Sobel, Chair
Senator Altman, Vice Chair

MEETING DATE: Thursday, January 14, 2016

TIME: 10:00 a.m.—12:00 noon

PLACE: 301 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Altman, Vice Chair; Senators Dean, Detert, Garcia, Hutson, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 12 Garcia (Compare CS/H 439, H 977, H 979, S 1250, S 1336)	Mental Health and Substance Abuse; Including services provided to treatment-based mental health programs within case management funded from state revenues as an element of the state courts system; specifying certain persons who are prohibited from being appointed as a person's guardian advocate; authorizing county or circuit courts to enter ex parte orders for involuntary examinations; revising the criteria for involuntary admissions due to substance abuse or co-occurring mental health disorders, etc. CF 01/14/2016 Favorable AHS AP	Favorable Yeas 7 Nays 0
2	SB 670 Gaetz (Identical H 715)	Child Protection Teams; Revising the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in certain actions, to include any member of a child protection team, in certain circumstances, etc. CF 01/14/2016 Fav/CS JU AP	Fav/CS Yeas 6 Nays 1
3	SB 750 Hutson / Bean (Similar H 563)	Temporary Cash Assistance Program; Adding a requirement of proof of application for employment to eligibility requirements for receiving services or temporary cash assistance; decreasing the lifetime cumulative total time limit for which an applicant or current participant may receive temporary cash assistance; adding proof of application for employment to the work activity requirements for a participant in the temporary cash assistance program, etc. CF 01/14/2016 Temporarily Postponed AHS AP	Temporarily Postponed
4	SB 860 Detert (Identical H 657)	Foster Families; Designating the second week of February of each year as "Foster Family Appreciation Week", etc. CF 01/14/2016 Fav/CS RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Thursday, January 14, 2016, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Consideration of proposed bill:		
5	SPB 7048	OGSR/Client Records and Donor Information Collected by Regional Autism Centers; Amending provisions which provide an exemption from public records requirements for information relating to client records and donor information collected by regional autism centers; removing the scheduled repeal of the exemption, etc.	Submitted as Committee Bill Yeas 4 Nays 0
6	Review of State Mental Health Treatment Facilities John Bryant, Assistant Secretary for Substance Abuse and Mental Health, Department of Children and Families		Discussed
	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 12

INTRODUCER: Senator Garcia

SUBJECT: Mental Health and Substance Abuse

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.			AHS	
3.			AP	

I. SUMMARY:

SB 12 addresses the current system of behavioral health services which is fragmented and inefficient and makes it difficult for persons with complex, persistent and co-occurring disorders pertaining to mental illness and substance use disorder to obtain needed services.

The bill provides for mental health services for children, parents and others seeking custody of children involved in dependency court proceedings. The bill creates a coordinated system of care to be provided either by a community or a region for those suffering from mental illness or substance use disorder through a “No Wrong Door” system of single access points. The Agency for Health Care Administration (“the agency” or “AHCA”) and the Department of Children and Families (“the department” or “DCF”) are directed to modify licensure requirements to create an option for a single, consolidated license to provide both mental health and substance use disorder services. Additionally, the agency and the department are to develop a plan to increase federal funding for behavioral health care.

The bill directs that a transportation plan be developed and implemented in each county or group of counties. The plan must specify methods of transport to a facility within the designated receiving system and may delegate responsibility for other transportation to a participating facility when necessary and agreed to by the facility.

To the extent possible, the bill aligns the legal processes, timelines and processes for assessment, evaluation and receipt of available services of the Baker Act (Mental Illness) and Marchman Act (Substance Abuse) to assist individuals in recovery and reduce readmission to the system.

The duties and responsibilities of the department are revised and updated to include designation of facilities within the receiving system; specify data reporting and use of shared data systems within the system; set performance measures and standards for managing entities and enter into contracts with the managing entities that support efficient and effective administration of the behavioral health system and ensure accountability for performance.

The duties and responsibilities of the managing entities are revised and updated. Each managing entity is to conduct a community behavioral health care needs assessment in their geographic region which must include the information needed by the department for its annual report to the Governor and the Legislature. Additionally, the managing entities are to provide assistance to counties to develop a designated receiving system and transportation plan; enter into cooperative agreements with local homeless councils and organizations to share data and other information that is useful in addressing the homelessness of persons suffering from a behavioral health crisis; develop a comprehensive network of qualified providers to deliver behavioral health services; provide or contract for case management services; collaborate with local criminal and juvenile justice systems to divert persons with mental illness, substance use disorder, or both from the criminal justice system; collaborate with local court systems to develop procedures to maximize the use of involuntary outpatient services, reduce involuntary inpatient treatment and increase diversion from the criminal justice system; and promote integration of behavioral health with primary care.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Mental Health and Substance Abuse

Mental illness creates enormous social and economic costs.¹ Unemployment rates for persons with mental disorders are high relative to the overall population.² People with severe mental illness have exceptionally high rates of unemployment, between 60 percent and 100 percent.³ Mental illness increases a person's risk of homelessness in America threefold.⁴ Studies show that approximately 33 percent of our nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are not receiving treatment.⁵ Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future re-offenses.⁶

According to the National Alliance on Mental Illness (NAMI), approximately 50 percent of individuals with severe mental health disorders are affected by substance abuse.⁷ NAMI also estimates that 29 percent of all people diagnosed as mentally ill abuse alcohol or other drugs.⁸ When mental health disorders are left untreated, substance abuse is likely to increase. When substance abuse increases, mental health symptoms often increase as well or new symptoms may be triggered. This could also be due to discontinuation of taking prescribed medications or the

¹ Mental Illness: The Invisible Menace, *Economic Impact* <http://www.mentalmenace.com/economicimpact.php>

² Mental Illness: The Invisible Menace, *More impacts and facts* <http://www.mentalmenace.com/impactsfacts.php>

³ *Id.*

⁴ Family Guidance Center, *How does Mental Illness Impact Rates of Homelessness?* (February 4, 2014) available at <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>

⁵ *Id.*

⁶ *Id.*

⁷ Donna M. White, LPCI, CACP, Psych Central.com, *Living with Co-Occurring Mental & Substance Abuse Disorders*, (October 2, 2013) available at <http://psychcentral.com/blog/archives/2013/10/02/living-with-co-occurring-mental-substance-abuse-disorders/>

⁸ *Id.*

contraindications for substance abuse and mental health medications. When taken with other medications, mental health medications can become less effective.⁹

Behavioral Health Managing Entities

In 2008, the Legislature required the department to implement a system of behavioral health managing entities that would serve as regional agencies to manage and pay for mental health and substance abuse services.¹⁰ Prior to this time, the department, through its regional offices, contracted directly with behavioral health service providers. The Legislature found that a management structure that places the responsibility for publicly-financed behavioral health treatment and prevention services within a single private, nonprofit entity at the local level, would promote improved access to care, promote service continuity, and provide for more efficient and effective delivery of substance abuse and mental health services. There are currently seven managing entities across the state.¹¹

Baker Act

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.¹² The Act authorized treatment programs for mental, emotional, and behavioral disorders. The Baker Act required programs to include comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment to facilitate recovery. Additionally, the Baker Act provides protections and rights to individuals examined or treated for mental illness. Legal procedures are addressed for mental health examination and treatment, including voluntary admission, involuntary admission, involuntary inpatient treatment, and involuntary outpatient treatment.

Mental illness creates enormous social and economic costs.¹³ Unemployment rates for persons having mental disorders are high relative to the overall population.¹⁴ Rates of unemployment for people having a severe mental illness range between 60 percent and 100 percent.¹⁵ Mental illness increases a person's risk of homelessness in America threefold.¹⁶ Approximately 33 percent of the nation's homeless live with a serious mental disorder, such as schizophrenia, for which they are untreated.¹⁷ Often the combination of homelessness and mental illness leads to incarceration, which further decreases a person's chance of receiving proper treatment and leads to future recidivism.¹⁸

⁹ *Id.*

¹⁰ See s. 394.9082, F.S., as created by Chapter 2008-243, Laws of Fla.

¹¹ Department of Children and Families website, <http://www.myflfamilies.com/service-programs/substance-abuse/managing-entities>, (last visited Jan. 11, 2016).

¹² Chapter 71-131, Laws of Fla.; The Baker Act is contained in ch. 394, F.S.

¹³ MentalMenace.com, *Mental Illness: The Invisible Menace; Economic Impact*, <http://www.mentalmenace.com/economicimpact.php> (last visited Jan. 11, 2016).

¹⁴ MentalMenace.com, *Mental Illness: The Invisible Menace: More impacts and facts*, <http://www.mentalmenace.com/impactsfacts.php> (last visited Jan. 11, 2016).

¹⁵ *Id.*

¹⁶ Family Guidance Center for Behavioral Health Care, *How does Mental Illness Impact Rates of Homelessness?*, (February 4, 2014), <http://www.familyguidance.org/how-does-mental-illness-impact-rates-of-homelessness/>.

¹⁷ *Id.*

¹⁸ *Id.*

Marchman Act

In 1993, the Legislature adopted the Hal S. Marchman Alcohol and Other Drug Services Act. The Marchman Act provides a comprehensive continuum of accessible and quality substance abuse prevention, intervention, clinical treatment, and recovery support services. Services must be provided in the least restrictive environment to promote long-term recovery. The Marchman Act includes various protections and rights of patients served.

Transportation to a Facility

The Marchman Act authorizes an applicant seeking to have a person admitted to a facility, the person's spouse or guardian, a law enforcement officer, or a health officer to transport the individual for an emergency assessment and stabilization.¹⁹

The Baker Act requires each county to designate a single law enforcement agency to transfer the person in need of services. If the person is in custody based on noncriminal or minor criminal behavior, the law enforcement officer will transport the person to the nearest receiving facility. If, however, the person is arrested for a felony the person must first be processed in the same manner as any other criminal suspect. The law enforcement officer must then transport the person to the nearest facility, unless the facility is unable to provide adequate security.²⁰

The Marchman Act allows law enforcement officers, however, to temporarily detain substance-impaired persons in a jail setting. An adult not charged with a crime may be detained for his or her own protection in a municipal or county jail or other appropriate detention facility. Detention in jail is not considered to be an arrest, is temporary, and requires the detention facility to provide if necessary transfer of the detainee to an appropriate licensed service provider with an available bed.²¹ However, the Baker Act prohibits the detention in jail of a mentally ill person if he or she has not been charged with a crime.²²

Involuntary Admission to a Facility

Criteria for Involuntary Admission

The Marchman Act provides that a person meets the criteria for involuntary admission if good faith reason exists that the person is substance abuse impaired and because of the impairment:

- Has lost the power of self-control with respect to substance abuse; and either
- Has inflicted, threatened to or attempted to inflict self-harm; or
- Is in need of services and due to the impairment, judgment is so impaired that the person is incapable of appreciating the need for services.²³

¹⁹ Section 397.6795, F.S.

²⁰ Section 394.462(1)(f) and (g), F.S.

²¹ Section 397.6772(1), F.S.

²² Section 394.459(1), F.S.

²³ Section 397.675, F.S.

Protective Custody

A person who meets the criteria for involuntary admission under the Marchman Act may be taken into protective custody by a law enforcement officer.²⁴ The person may consent to have the law enforcement officer transport the person to his or her home, a hospital, or a licensed detoxification or addictions receiving facility.²⁵ If the person does not consent, the law enforcement officer may transport the person without using unreasonable force.²⁶

Time Limits

A critical 72-hour period applies under both the Marchman and the Baker Act. Under the Marchman Act, a person may only be held in protective custody for a 72-hour period, unless a petition for involuntary assessment or treatment has been timely filed with the court within that timeframe to extend protective custody.²⁷ The Baker Act provides that a person cannot be held in a receiving facility for involuntary examination for more than 72 hours.²⁸ Within that 72-hour examination period, or, if the 72 hours ends on a weekend or holiday, no later than the next working day, one of the following must happen:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will resume custody;
- The patient must be released into voluntary outpatient treatment;
- The patient must be asked to give consent to be placed as a voluntary patient if placement is recommended; or
- A petition for involuntary placement must be filed in circuit court for outpatient or inpatient treatment.²⁹

Under the Marchman Act, if the court grants the petition for involuntary admission, the person may be admitted for a period of five days to a facility for involuntary assessment and stabilization.³⁰ If the facility needs more time, the facility may request a seven-day extension from the court.³¹ Based on the involuntary assessment, the facility may retain the person pending a court decision on a petition for involuntary treatment.³²

Under the Baker Act, the court must hold a hearing on involuntary inpatient or outpatient placement within five working days after a petition for involuntary placement is filed.³³ The petitioner must show, by clear and convincing evidence all available less restrictive treatment alternatives are inappropriate and that the individual:

- Is mentally ill and because of the illness has refused voluntary placement for treatment or is unable to determine the need for placement; and

²⁴ Section 397.677, F.S.

²⁵ Section 397.6771, F.S.

²⁶ Section 397.6772(1), F.S.

²⁷ Section 397.6773(1) and (2), F.S.

²⁸ Section 394.463(2)(f), F.S.

²⁹ Section 394.463(2)(i)4., F.S.

³⁰ Section 397.6811, F.S.

³¹ Section 397.6821, F.S.

³² Section 397.6822, F.S.

³³ Sections 394.4655(6) and 394.467(6), F.S.

- Is manifestly incapable of surviving alone or with the help of willing and responsible family and friends, and without treatment is likely suffer neglect to such an extent that it poses a real and present threat of substantial harm to his or her well-being, or substantial likelihood exists that in the near future he or she will inflict serious bodily harm on himself or herself or another person.³⁴

III. Effect of Proposed Changes:

Section 1 amends s. 29.004, F.S., to allow courts to use state revenue to provide case management services such as service referral, monitoring and tracking for mental health programs under s. 394, F.S.

Section 2 amends s. 39.001(6), F.S., to include mental health treatment in dependency court services and directs the state to contract with mental health service providers for such services.

Section 3 amends s. 39.507(10), F.S., to allow the dependency court to order a person requesting custody of a child to submit to a mental health or substance abuse disorder assessment or evaluation, require participation of such person in a mental health program or a treatment-based drug court program and to oversee the progress and compliance with treatment by the person who has custody or is requesting custody of a child.

Section 4 amends s. 39.521(1)(b), F.S., to allow a court, with jurisdiction of a child that has been adjudicated dependent, to require the person who has custody or is requesting custody of the child to submit to a mental illness or substance abuse disorder assessment or evaluation, to require the person to participate in and comply with the mental health program or drug court program and to oversee the progress and compliance by the person who has custody or is requesting custody of a child.

Section 5 amends s. 394.455, F.S., to add, update or revise definitions as appropriate.

Section 6 amends s. 394.4573, F.S., to create a coordinated system of care in the context of the No Wrong Door model which is defined as a delivery system of health care services to persons with mental health or substance abuse disorders, or both, which optimizes access to care, regardless of the entry point to the system.

This section also defines a coordinated system of care to mean the full array of behavioral and related services in a region or community offered by all service providers whether under contract with the managing entity or another method of community partnership or mutual agreement.

Additionally, the department is required to submit, on or before October 1 of each year, an annual assessment of the behavioral health services in the state to the Governor and the Legislature. The assessment must include comparison of the status and performance of behavioral health systems, the capacity of contracted services providers to meet estimated needs, the degree to which services are offered in the least restrictive and most appropriate therapeutic

³⁴ Section 394.467(1), F.S.

environment; and the scope of systemwide accountability activities used to monitor patient outcomes and measure continuous improvement of the behavioral health system.

This section allows the department, subject to a specific appropriation by the Legislature, to award system improvement grants to managing entities based on the submission of detailed plans to enhance services, coordination, or performance measurement in accordance with the No Wrong Door model. The grants must be awarded through a performance-based contract that links payments to documented and measurable system improvements.

The essential elements of a coordinated system of care in this section are to include community interventions, a designated receiving system that consists of one or more facilities serving a defined geographic area which may be organized in different ways to fit the needs of the geographic area so long as it functions as a No Wrong Door model, transportation, crisis services, case management, including intensive case management, and various other services including specific service for recovery support.

Section 7 amends s. 394.4597(2)(d) and (e), F.S., to specify those persons who are prohibited from being named as a patient's representative, when the receiving or treatment facility is selecting the representative.

Section 8 amends s. 394.4598(2) through (7), F.S., to specify those persons who are prohibited from appointment as a patient's guardian advocate when a court has determined that a person is incompetent to consent to treatment but the person has not been adjudicated incapacitated. This section also sets out the training requirements for persons appointed as guardian advocates.

Section 9 amends s. 394.462, F.S., to direct that a transportation plan must be developed and implemented in each county or, if applicable, counties that intend to share a transportation plan. The plan must specify methods of transport to a facility within the designated receiving system and may delegate responsibility for other transportation to a participating facility when necessary and agreed to by the facility. The plan must ensure that persons meeting the criteria for involuntary assessment and evaluation pursuant to s. 394.463 and 397.675 will be transported. For the transportation of a voluntary or involuntary patient to a treatment facility, the plan established by the county or counties must specify how the hospitalized patient will be transported to, from, and between facilities.

Section 10 amends s. 394.463(2), F.S., to allow a circuit or county court to enter an ex parte order stating that a person appears to meet the criteria for involuntary examination. The ex parte order must be based on written or oral sworn testimony that includes specific facts supporting the findings. Facilities accepting patients based on ex parte orders must send a copy of the order to the department and the managing entity in its region the next working day. A facility admitting a person for involuntary examination who is not accompanied by an ex parte order shall notify the department and the managing entity the next working day.

This section also adds language that a person may not be held for involuntary examination for more than 72 hours without specified actions being taken.

Section 11 amends s. 394.4655, F.S., to allow a court to order a person to involuntary outpatient services, upon a finding by clear and convincing evidence, that the person meets the criteria specified. The recommendation by the administrator of a facility of a person for involuntary outpatient services must be supported by two qualified professionals, both of whom have personally examined the person within the preceding 72 hours. A court may not order services in a proposed treatment plan which are not available. The service provider must document its inquiry with the department and the managing entity as to the availability of the requested services and the managing entity must document its efforts to obtain the requested services.

Section 12 amends s. 394.467, F.S., to add to the criteria for involuntary inpatient placement for mental illness the present threat of substantial physical or mental harm to a person's well-being.

Section 13 amends s. 394.46715, F.S., to provide the department rulemaking authority.

Section 14 creates s. 394.761, F.S., to direct the agency and the department to develop a plan to obtain federal approval for increasing availability of federal funding for behavioral health care. Increased funding is to be used to advance the goal of improved integration of behavioral health and primary care services. The plan is to be submitted to the President of the Senate and the Speaker of the House of Representatives by November 1, 2016.

Section 15 creates ss. (11) to s. 394.875, F.S., to direct the department, by January 1, 2017, to modify licensure rules and procedures to create an option for a single, consolidated license for a provider who offers multiple types of mental health and substance abuse services regulated under ch. 394 and ch. 397.

Section 16 amends s. 394.9082, F.S., to revise and update the duties and responsibilities of the managing entities and the department; to provide definitions; contracting requirements and accountability.

The department's duties and responsibilities are revised to include the designation of facilities into the receiving system developed by one or more counties; contract with the managing entities; specify data reporting and use of shared data systems; develop strategies to divert persons with mental illness or substance abuse disorders from the criminal and juvenile justice system; support the development and implementation of a coordinated system of care to require providers receiving state funds through a direct contract with the department to work with the managing entity to coordinate the provision of behavioral health services; set performance measures and standards for managing entities; to develop a unique identifier for clients receiving services; and to coordinate procedures for referral and admission of patients to, and discharge from, state treatment facilities.

This section sets out the department's duties regarding its contracts with the managing entities. The contracts must support efficient and effective administration of the behavioral health system and ensure accountability for performance. The managing entities' contracts are subject to performance review beginning July 1, 2018, which review must include, analysis of the managing entities' performance measures; the results of the department's contract monitoring and related performance and compliance issues. Based on a satisfactory performance review, the department may negotiate with the managing entity for a 4 year contract pursuant to s.

287.057(3)(e), F.S. If a managing entity does not meet the requirements of the performance review, the department must create a corrective action plan. If the corrective action plan is not satisfactorily completed by the managing entity, the department will terminate the contract at the end of the contract term and initiate a competitive procurement process to select a new managing entity.

The revised and updated duties and responsibilities of the managing entities are provided in this section which include conducting an assessment of community behavioral health care needs in its geographic area. The assessment must be updated annually and include, at a minimum, the information the department needs for its annual report to the Governor and Legislature. The managing entities must also develop local resources by pursuing third-party payments for services, applying for grants, and other methods to ensure services are available and accessible; provide assistance to counties to develop a designated receiving system and a transportation plan; enter into cooperative agreements with local homeless councils and organizations to address the homelessness of persons suffering from a behavioral health crisis; provide or contract for case management; collaborate with local criminal and juvenile justice systems to divert persons with mental illness or substance abuse disorders, or both, from the criminal and juvenile justice systems.

Section 17 amends s. 397.311, F.S., to create a definition for involuntary services, and revise the definition of qualified professional.

Section 18 amends s. 397.675, F.S., to revise the criteria for assessment, stabilization and involuntary treatment for persons with a substance abuse or co-occurring mental health disorder to include that without care or treatment, the person is likely to suffer from neglect or to refuse to care for himself or herself and that neglect or refusal poses a real and present threat of substantial harm to his or her well-being.

Section 19 amends s. 397.679, F.S., to expand the professionals who may execute a certificate for application for emergency admission of a person to a hospital or licensed detoxification facility to include a physician, an advanced registered nurse practitioner, a clinical psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed mental health counselor, a physician assistant working under the scope of practice of the supervising physician or a master's level certified addictions professional, if the certificate is specific to substance abuse disorders.

Section 20 amends s. 397.6791, F.S., to expand the professionals who may initiate a certificate for emergency assessment or admission of a person who may meet the criteria for substance abuse disorder to include a physician, an advanced registered nurse practitioner, a clinical psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed mental health counselor, a physician assistant working under the scope of practice of the supervising physician or a master's level certified addictions professional, if the certificate is specific to substance abuse disorders

Section 21 amends s. 397.6793, F.S., to revise the criteria for a person to be examined or assessed to include a reasonable belief that without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself and that such neglect or refusal poses a

real and present threat of substantial harm to his or her well-being. The professional's certificate authorizing the involuntary admission of a person is valid for 7 days after issuance.

Section 22 amends s. 397.6795, F.S., to allow a person's spouse or guardian, or a law enforcement officer to deliver a person named in a professional's certificate for emergency admission to a hospital or licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization.

Section 23 amends s. 397.681, F.S., to specify that a court may not charge a filing fee for the filing of a petition for involuntary assessment and stabilization.

Section 24 amends s. 397.6811(1), F.S., to allow a petition for assessment and stabilization to be filed by a person who has direct personal knowledge of a person's substance abuse disorder.

Section 25 amends s. 397.6814, F.S., to remove the requirement that a petition for involuntary assessment and stabilization contain a statement regarding the person's ability to afford an attorney. This section also directs that a fee may not be charged for the filing of a petition pursuant to this section.

Section 26 amends s. 397.6819, F.S., to allow a licensed service provider to admit a person for a period not to exceed 5 days unless a petition for involuntary outpatient services has been initiated pending further order of the court.

Section 27 amends s. 397.695, F.S., to provide for the filing of a petition for involuntary outpatient services and the professionals that must support the recommendation for such outpatient services. If the person has been stabilized and no longer meets the criteria for involuntary assessment and stabilization they must be released while waiting for the hearing. This section provides the service provider to prepare certain reports and a treatment plan, including certification to the court that the recommended services are available. If the services are unavailable, the petition may not be filed with the court.

Section 28 amends s. 397.6951, F.S., to amend the content requirements of the petition for involuntary outpatient services to include the person's history of failure to comply with treatment requirements, is unlikely to voluntarily participate in the recommended services and the person is in need of the involuntary outpatient services.

Section 29 amends s. 397.6955, F.S., updating the duties of the court upon the filing of a petition for involuntary outpatient services to include the requirement to schedule a hearing within 5 days unless a continuance is granted.

Section 30 amends s. 397.6957, F.S., to update the requirements of the court to hear and review all relevant evidence at a hearing for involuntary outpatient services, including the requirement that the petitioner has the burden of proving by clear and convincing evidence that the respondent has a history of lack of compliance with treatment for substance abuse, is unlikely to voluntarily participate in the recommended treatment and without services is likely to suffer from neglect or refuse to care for himself or herself. One of the qualified professionals that executed the involuntary outpatient services certificate must be a witness at the hearing.

Section 31 amends s. 397.697, F.S., to allow courts to order involuntary outpatient services when it finds the conditions have been proven by clear and convincing evidence; however, the court cannot order involuntary outpatient services if the recommended services are not available.

Section 32 amends s. 397.6971, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 33 amends s. 397.6975, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 34 amends s. 397.6977, F.S., to reflect the change in terminology from involuntary outpatient treatment to involuntary outpatient services.

Section 35 creates s. 397.6978, F.S., to allow for the appointment of a guardian advocate for a person determined incompetent to consent to treatment. This section lists the persons prohibited from being appointed the patient's guardian advocate.

Section 36 amends s. 39.407, F.S., to correct cross-references.

Section 37 amends s. 212.055, F.S., to correct cross-references.

Section 38 amends s. 394.4599, F.S., to correct cross-references.

Section 39 amends s. 394.495(3), F.S., to correct cross-references.

Section 40 amends s. 394.496(5), F.S., to correct cross-references.

Section 41 amends s. 394.9085(6), F.S., to correct cross-references.

Section 42 amends s. 397.405(8), F.S., to correct cross-references.

Section 43 amends s. 397.407(1) and (5), F.S., to correct cross-references.

Section 44 amends s. 397.416, F.S., to correct cross-references.

Section 45 amends s. 409.972(1)(b), F.S., to correct cross-references.

Section 46 amends s. 440.102(1)(d),(g), F.S., to correct cross-references.

Section 47 amends s. 744.704(7), F.S., to correct cross-references.

Section 48 amends s. 790.065(2)(a), F.S., to correct cross-references.

Section 49 provides an effective date of July 1, 2016.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill prohibits a filing fee being charged for Marchman Act petitions; however, this does not create a fiscal impact on the clerks of court or the state court system, as no fees are currently assessed.³⁵

B. Private Sector Impact:

Persons appointed by the court as guardian advocates for individuals in need of behavioral health services will have increased training requirements under the bill.

Behavioral health managing entities that have satisfactory contract performance will benefit from the provisions that allow the department to negotiate a new 4 year contract using the exemption provided in s. 287.057(3)(e), F.S.

C. Government Sector Impact:**State**

To the extent that the bill encourages the use of involuntary outpatient services rather than inpatient placement, the state would experience a positive fiscal impact. The cost of care in state treatment facilities is more expensive than community based behavioral health care.

The department has revised duties to review local behavioral health care plans, write or revise rules, and award any grants for implementation of the No Wrong Door policy created in the bill. Similar administrative duties are currently performed by the department so these revised duties are not expected to create a fiscal impact.

³⁵ E-mail received from Florida Court Clerks & Comptroller, Nov. 6, 2015, and on file in the Senate Committee on Children, Families & Elder Affairs.

Local

Local governments must revise their transportation plans for acute behavioral health care under the Baker Act and Marchman Act. The bill requires that as part of the transportation plan for the No Wrong Door policy, transportation be provided between the single point of entry for behavioral health care and other treatment providers or settings as appropriate. This may create a fiscal impact as such services are not currently provided in all areas of the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 29.004, 39.001, 39.507, 39.521, 394.455, 394.4573, 394.4597, 394.4598, 394.462, 394.463, 394.4655, 394.467, 394.46715, 394.761, 394.875, 394.9082, 397.311, 397.675, 397.679, 397.6791, 397.6793, 397.6795, 397.681, 397.6811, 397.6814, 397.6819, 397.695, 397.6951, 397.6955, 397.6957, 397.697, 397.6971, 397.6975, 397.6977, 397.6978, 39.407, 212.055, 394.4599, 394.495, 394.496, 394.9085, 397.405, 397.407, 397.416, 409.972, 440.102, 744.704, 790.065

This bill creates the following sections of the Florida Statutes: 394.761, 394.875(11), 397.6978

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Garcia

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A bill to be entitled

1 An act relating to mental health and substance abuse;
 2 amending s. 29.004, F.S.; including services provided
 3 to treatment-based mental health programs within case
 4 management funded from state revenues as an element of
 5 the state courts system; amending s. 39.001, F.S.;
 6 providing legislative intent regarding mental illness
 7 for purposes of the child welfare system; amending s.
 8 39.507, F.S.; providing for consideration of mental
 9 health issues and involvement in treatment-based
 10 mental health programs in adjudicatory hearings and
 11 orders; amending s. 39.521, F.S.; providing for
 12 consideration of mental health issues and involvement
 13 in treatment-based mental health programs in
 14 disposition hearings; amending s. 394.455, F.S.;
 15 defining terms; revising definitions; amending s.
 16 394.4573, F.S.; requiring the Department of Children
 17 and Families to submit a certain assessment to the
 18 Governor and the Legislature by a specified date;
 19 redefining terms; providing essential elements of a
 20 coordinated system of care; providing requirements for
 21 the department's annual assessment; authorizing the
 22 department to award certain grants; deleting duties
 23 and measures of the department regarding continuity of
 24 care management systems; amending s. 394.4597, F.S.;
 25 revising the prioritization of health care surrogates
 26 to be selected for involuntary patients; specifying
 27 certain persons who are prohibited from being selected
 28 as an individual's representative; amending s.
 29 394.4598, F.S.; specifying certain persons who are
 30 prohibited from being appointed as a person's guardian
 31 advocate; amending s. 394.462, F.S.; requiring that
 32

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33 counties develop and implement transportation plans;
 34 providing requirements for the plans; revising
 35 requirements for transportation to a receiving
 36 facility and treatment facility; deleting exceptions
 37 to such requirements; amending s. 394.463, F.S.;
 38 authorizing county or circuit courts to enter ex parte
 39 orders for involuntary examinations; requiring a
 40 facility to provide copies of ex parte orders,
 41 reports, and certifications to managing entities and
 42 the department, rather than the Agency for Health Care
 43 Administration; requiring the managing entity and
 44 department to receive certain orders, certificates,
 45 and reports; requiring the department to provide such
 46 documents to the Agency for Health Care
 47 Administration; requiring certain individuals to be
 48 released to law enforcement custody; providing
 49 exceptions; amending s. 394.4655, F.S.; providing for
 50 involuntary outpatient services; requiring a service
 51 provider to document certain inquiries; requiring the
 52 managing entity to document certain efforts; making
 53 technical changes; amending s. 394.467, F.S.; revising
 54 criteria for involuntary inpatient placement;
 55 requiring a facility filing a petition for involuntary
 56 inpatient placement to send a copy to the department
 57 and managing entity; revising criteria for a hearing
 58 on involuntary inpatient placement; revising criteria
 59 for a procedure for continued involuntary inpatient
 60 services; specifying requirements for a certain waiver
 61 of the patient's attendance at a hearing; requiring

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62 the court to consider certain testimony and evidence
 63 regarding a patient's incompetence; amending s.
 64 394.46715, F.S.; revising rulemaking authority of the
 65 department; creating s. 394.761, F.S.; authorizing the
 66 agency and the department to develop a plan for
 67 revenue maximization; requiring the plan to be
 68 submitted to the Legislature by a certain date;
 69 amending s. 394.875, F.S.; requiring the department to
 70 modify licensure rules and procedures to create an
 71 option for a single, consolidated license for certain
 72 providers by a specified date; amending s. 394.9082,
 73 F.S.; providing a purpose for behavioral health
 74 managing entities; revising definitions; providing
 75 duties of the department; requiring the department to
 76 revise its contracts with managing entities; providing
 77 duties for managing entities; deleting provisions
 78 relating to legislative findings and intent, service
 79 delivery strategies, essential elements, reporting
 80 requirements, and rulemaking authority; amending s.
 81 397.311, F.S.; defining the term "involuntary
 82 services"; revising the definition of the term
 83 "qualified professional"; conforming a cross-
 84 reference; amending s. 397.675, F.S.; revising the
 85 criteria for involuntary admissions due to substance
 86 abuse or co-occurring mental health disorders;
 87 amending s. 397.679, F.S.; specifying the licensed
 88 professionals who may complete a certificate for the
 89 involuntary admission of an individual; amending s.
 90 397.6791, F.S.; providing a list of professionals

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91 authorized to initiate a certificate for an emergency
 92 assessment or admission of a person with a substance
 93 abuse disorder; amending s. 397.6793, F.S.; revising
 94 the criteria for initiation of a certificate for an
 95 emergency admission for a person who is substance
 96 abuse impaired; amending s. 397.6795, F.S.; revising
 97 the list of persons who may deliver a person for an
 98 emergency assessment; amending s. 397.681, F.S.;
 99 prohibiting the court from charging a fee for
 100 involuntary petitions; amending s. 397.6811, F.S.;
 101 revising the list of persons who may file a petition
 102 for an involuntary assessment and stabilization;
 103 amending s. 397.6814, F.S.; prohibiting a fee from
 104 being charged for the filing of a petition for
 105 involuntary assessment and stabilization; amending s.
 106 397.6819, F.S.; revising the responsibilities of
 107 service providers who admit an individual for an
 108 involuntary assessment and stabilization; amending s.
 109 397.695, F.S.; authorizing certain persons to file a
 110 petition for involuntary outpatient services of an
 111 individual; providing procedures and requirements for
 112 such petitions; amending s. 397.6951, F.S.; requiring
 113 that certain additional information be included in a
 114 petition for involuntary outpatient services; amending
 115 s. 397.6955, F.S.; requiring a court to fulfill
 116 certain additional duties upon the filing of petition
 117 for involuntary outpatient services; amending s.
 118 397.6957, F.S.; providing additional requirements for
 119 a hearing on a petition for involuntary outpatient

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120 services; amending s. 397.697, F.S.; authorizing a
 121 court to make a determination of involuntary
 122 outpatient services; prohibiting a court from ordering
 123 involuntary outpatient services under certain
 124 circumstances; requiring the service provider to
 125 document certain inquiries; requiring the managing
 126 entity to document certain efforts; requiring a copy
 127 of the court's order to be sent to the department and
 128 managing entity; providing procedures for
 129 modifications to such orders; amending s. 397.6971,
 130 F.S.; establishing the requirements for an early
 131 release from involuntary outpatient services; amending
 132 s. 397.6975, F.S.; requiring the court to appoint
 133 certain counsel; providing requirements for hearings
 134 on petitions for continued involuntary outpatient
 135 services; requiring notice of such hearings; amending
 136 s. 397.6977, F.S.; conforming provisions to changes
 137 made by the act; creating s. 397.6978, F.S.; providing
 138 for the appointment of guardian advocates if an
 139 individual is found incompetent to consent to
 140 treatment; providing a list of persons prohibited from
 141 being appointed as an individual's guardian advocate;
 142 providing requirements for a facility requesting the
 143 appointment of a guardian advocate; requiring a
 144 training course for guardian advocates; providing
 145 requirements for the training course; providing
 146 requirements for the prioritization of individuals to
 147 be selected as guardian advocates; authorizing certain
 148 guardian advocates to consent to medical treatment;

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149 providing exceptions; providing procedures for the
 150 discharge of a guardian advocate; amending ss. 39.407,
 151 212.055, 394.4599, 394.495, 394.496, 394.9085,
 152 397.405, 397.407, 397.416, 409.972, 440.102, 744.704,
 153 and 790.065, F.S.; conforming cross-references;
 154 providing an effective date.
 155

156 Be It Enacted by the Legislature of the State of Florida:
 157

158 Section 1. Paragraph (e) is added to subsection (10) of
 159 section 29.004, Florida Statutes, to read:

160 29.004 State courts system.—For purposes of implementing s.
 161 14, Art. V of the State Constitution, the elements of the state
 162 courts system to be provided from state revenues appropriated by
 163 general law are as follows:

164 (10) Case management. Case management includes:

165 (e) Service referral, coordination, monitoring, and
 166 tracking for mental health programs under chapter 394.
 167

168 Case management may not include costs associated with the
 169 application of therapeutic jurisprudence principles by the
 170 courts. Case management also may not include case intake and
 171 records management conducted by the clerk of court.

172 Section 2. Subsection (6) of section 39.001, Florida
 173 Statutes, is amended to read:

174 39.001 Purposes and intent; personnel standards and
 175 screening.—

176 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

177 (a) The Legislature recognizes that early referral and

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178 comprehensive treatment can help combat mental illness and
 179 substance abuse disorders in families and that treatment is
 180 cost-effective.

181 (b) The Legislature establishes the following goals for the
 182 state related to mental illness and substance abuse treatment
 183 services in the dependency process:

184 1. To ensure the safety of children.

185 2. To prevent and remediate the consequences of mental
 186 illness and substance abuse disorders on families involved in
 187 protective supervision or foster care and reduce the occurrences
 188 of mental illness and substance abuse disorders, including
 189 alcohol abuse or other related disorders, for families who are
 190 at risk of being involved in protective supervision or foster
 191 care.

192 3. To expedite permanency for children and reunify healthy,
 193 intact families, when appropriate.

194 4. To support families in recovery.

195 (c) The Legislature finds that children in the care of the
 196 state's dependency system need appropriate health care services,
 197 that the impact of mental illnesses and substance abuse on
 198 health indicates the need for health care services to include
 199 treatment for mental health and substance abuse disorders for
 200 ~~services to~~ children and parents where appropriate, and that it
 201 is in the state's best interest that such children be provided
 202 the services they need to enable them to become and remain
 203 independent of state care. In order to provide these services,
 204 the state's dependency system must have the ability to identify
 205 and provide appropriate intervention and treatment for children
 206 with personal or family-related mental illness and substance

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207 abuse problems.

208 (d) It is the intent of the Legislature to encourage the
 209 use of the mental health programs established under chapter 394
 210 and the drug court program model established under ~~by~~ s. 397.334
 211 and authorize courts to assess children and persons who have
 212 custody or are requesting custody of children where good cause
 213 is shown to identify and address mental illnesses and substance
 214 abuse disorders ~~problems~~ as the court deems appropriate at every
 215 stage of the dependency process. Participation in treatment,
 216 including a treatment-based mental health court program or a
 217 treatment-based drug court program, may be required by the court
 218 following adjudication. Participation in assessment and
 219 treatment ~~before~~ ~~prior to~~ adjudication is ~~shall be~~ voluntary,
 220 except as provided in s. 39.407(16).

221 (e) It is therefore the purpose of the Legislature to
 222 provide authority for the state to contract with mental health
 223 service providers and community substance abuse treatment
 224 providers for the development and operation of specialized
 225 support and overlay services for the dependency system, which
 226 will be fully implemented and used as resources permit.

227 (f) Participation in a treatment-based mental health court
 228 program or a ~~the~~ treatment-based drug court program does not
 229 divest any public or private agency of its responsibility for a
 230 child or adult, but is intended to enable these agencies to
 231 better meet their needs through shared responsibility and
 232 resources.

233 Section 3. Subsection (10) of section 39.507, Florida
 234 Statutes, is amended to read:

235 39.507 Adjudicatory hearings; orders of adjudication.—

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236 (10) After an adjudication of dependency, or a finding of
 237 dependency where adjudication is withheld, the court may order a
 238 person who has custody or is requesting custody of the child to
 239 submit to a mental health or substance abuse disorder assessment
 240 or evaluation. The assessment or evaluation must be administered
 241 by a qualified professional, as defined in s. 397.311. The court
 242 may also require such person to participate in and comply with
 243 treatment and services identified as necessary, including, when
 244 appropriate and available, participation in and compliance with
 245 a mental health program established under chapter 394 or a
 246 treatment-based drug court program established under s. 397.334.
 247 In addition to supervision by the department, the court,
 248 including a treatment-based mental health court program or a the
 249 treatment-based drug court program, may oversee the progress and
 250 compliance with treatment by a person who has custody or is
 251 requesting custody of the child. The court may impose
 252 appropriate available sanctions for noncompliance upon a person
 253 who has custody or is requesting custody of the child or make a
 254 finding of noncompliance for consideration in determining
 255 whether an alternative placement of the child is in the child's
 256 best interests. Any order entered under this subsection may be
 257 made only upon good cause shown. This subsection does not
 258 authorize placement of a child with a person seeking custody,
 259 other than the parent or legal custodian, who requires mental
 260 health or substance abuse disorder treatment.

261 Section 4. Paragraph (b) of subsection (1) of section
 262 39.521, Florida Statutes, is amended to read:

263 39.521 Disposition hearings; powers of disposition.-

264 (1) A disposition hearing shall be conducted by the court,

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265 if the court finds that the facts alleged in the petition for
 266 dependency were proven in the adjudicatory hearing, or if the
 267 parents or legal custodians have consented to the finding of
 268 dependency or admitted the allegations in the petition, have
 269 failed to appear for the arraignment hearing after proper
 270 notice, or have not been located despite a diligent search
 271 having been conducted.

272 (b) When any child is adjudicated by a court to be
 273 dependent, the court having jurisdiction of the child has the
 274 power by order to:

275 1. Require the parent and, when appropriate, the legal
 276 custodian and the child to participate in treatment and services
 277 identified as necessary. The court may require the person who
 278 has custody or who is requesting custody of the child to submit
 279 to a mental illness or substance abuse disorder assessment or
 280 evaluation. The assessment or evaluation must be administered by
 281 a qualified professional, as defined in s. 397.311. The court
 282 may also require such person to participate in and comply with
 283 treatment and services identified as necessary, including, when
 284 appropriate and available, participation in and compliance with
 285 a mental health program established under chapter 394 or a
 286 treatment-based drug court program established under s. 397.334.
 287 In addition to supervision by the department, the court,
 288 including a treatment-based mental health court program or a the
 289 treatment-based drug court program, may oversee the progress and
 290 compliance with treatment by a person who has custody or is
 291 requesting custody of the child. The court may impose
 292 appropriate available sanctions for noncompliance upon a person
 293 who has custody or is requesting custody of the child or make a

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294 finding of noncompliance for consideration in determining
 295 whether an alternative placement of the child is in the child's
 296 best interests. Any order entered under this subparagraph may be
 297 made only upon good cause shown. This subparagraph does not
 298 authorize placement of a child with a person seeking custody of
 299 the child, other than the child's parent or legal custodian, who
 300 requires mental health or substance abuse treatment.

301 2. Require, if the court deems necessary, the parties to
 302 participate in dependency mediation.

303 3. Require placement of the child either under the
 304 protective supervision of an authorized agent of the department
 305 in the home of one or both of the child's parents or in the home
 306 of a relative of the child or another adult approved by the
 307 court, or in the custody of the department. Protective
 308 supervision continues until the court terminates it or until the
 309 child reaches the age of 18, whichever date is first. Protective
 310 supervision shall be terminated by the court whenever the court
 311 determines that permanency has been achieved for the child,
 312 whether with a parent, another relative, or a legal custodian,
 313 and that protective supervision is no longer needed. The
 314 termination of supervision may be with or without retaining
 315 jurisdiction, at the court's discretion, and shall in either
 316 case be considered a permanency option for the child. The order
 317 terminating supervision by the department ~~must shall~~ set forth
 318 the powers of the custodian of the child and ~~shall~~ include the
 319 powers ordinarily granted to a guardian of the person of a minor
 320 unless otherwise specified. Upon the court's termination of
 321 supervision by the department, ~~no~~ further judicial reviews are
 322 not required if, so long as permanency has been established for

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323 the child.

324 Section 5. Section 394.455, Florida Statutes, is amended to
 325 read:

326 394.455 Definitions.—As used in this part, ~~unless the~~
 327 ~~context clearly requires otherwise~~, the term:

328 (1) "Access center" or "drop-off center" means a facility
 329 staffed by medical, behavioral, and substance abuse
 330 professionals which provides emergency screening and evaluation
 331 for mental health or substance abuse disorders and may provide
 332 transportation to an appropriate facility if an individual is in
 333 need of more intensive services.

334 (2) "Addictions receiving facility" means a secure, acute
 335 care facility that, at a minimum, provides emergency screening,
 336 evaluation, and short-term stabilization services; is operated
 337 24 hours per day, 7 days per week; and is designated by the
 338 department to serve individuals found to have substance abuse
 339 impairment who qualify for services under this part.

340 (3) ~~(1)~~ "Administrator" means the chief administrative
 341 officer of a receiving or treatment facility or his or her
 342 designee.

343 (4) "Adult" means an individual who is 18 years of age or
 344 older or who has had the disability of nonage removed under
 345 chapter 743.

346 (5) "Advanced registered nurse practitioner" means any
 347 person licensed in this state to practice professional nursing
 348 who is certified in advanced or specialized nursing practice
 349 under s. 464.012.

350 ~~(2) "Clinical psychologist" means a psychologist as defined~~
 351 ~~in s. 490.003(7) with 3 years of postdoctoral experience in the~~

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352 ~~practice of clinical psychology, inclusive of the experience~~
 353 ~~required for licensure, or a psychologist employed by a facility~~
 354 ~~operated by the United States Department of Veterans Affairs~~
 355 ~~that qualifies as a receiving or treatment facility under this~~
 356 ~~part.~~

357 (6)(3) "Clinical record" means all parts of the record
 358 required to be maintained and includes all medical records,
 359 progress notes, charts, and admission and discharge data, and
 360 all other information recorded by a facility staff which
 361 pertains to the patient's hospitalization or treatment.

362 (7)(4) "Clinical social worker" means a person licensed as
 363 a clinical social worker under s. 491.005 or s. 491.006 ~~chapter~~
 364 ~~491.~~

365 (8)(5) "Community facility" means a any community service
 366 provider that contracts ~~contracting~~ with the department to
 367 furnish substance abuse or mental health services under part IV
 368 of this chapter.

369 (9)(6) "Community mental health center or clinic" means a
 370 publicly funded, not-for-profit center that ~~which~~ contracts with
 371 the department for the provision of inpatient, outpatient, day
 372 treatment, or emergency services.

373 (10)(7) "Court," unless otherwise specified, means the
 374 circuit court.

375 (11)(8) "Department" means the Department of Children and
 376 Families.

377 (12) "Designated receiving facility" means a facility
 378 approved by the department which provides, at a minimum,
 379 emergency screening, evaluation, and short-term stabilization
 380 for mental health or substance abuse disorders, and which may

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381 have an agreement with a corresponding facility for
 382 transportation and services.

383 (13) "Detoxification facility" means a facility licensed to
 384 provide detoxification services under chapter 397.

385 (14) "Electronic means" is a form of telecommunication
 386 which requires all parties to maintain visual as well as audio
 387 communication.

388 (15)(9) "Express and informed consent" means consent
 389 voluntarily given ~~in writing~~, by a competent person, after
 390 sufficient explanation and disclosure of the subject matter
 391 involved to enable the person to make a knowing and willful
 392 decision without any element of force, fraud, deceit, duress, or
 393 other form of constraint or coercion.

394 (16)(10) "Facility" means any hospital, community facility,
 395 public or private facility, or receiving or treatment facility
 396 providing for the evaluation, diagnosis, care, treatment,
 397 training, or hospitalization of persons who appear to have a
 398 ~~mental illness~~ or who have been diagnosed as having a mental
 399 illness or substance abuse impairment. The term "Facility" does
 400 not include a any program or an entity licensed under pursuant
 401 ~~to~~ chapter 400 or chapter 429.

402 (17) "Governmental facility" means a facility owned,
 403 operated, or administered by the Department of Corrections or
 404 the United States Department of Veterans Affairs.

405 (18)(11) "Guardian" means the natural guardian of a minor,
 406 or a person appointed by a court to act on behalf of a ward's
 407 person if the ward is a minor or has been adjudicated
 408 incapacitated.

409 (19)(12) "Guardian advocate" means a person appointed by a

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410 court to make decisions regarding mental health or substance
 411 abuse treatment on behalf of a patient who has been found
 412 incompetent to consent to treatment pursuant to this part. ~~The~~
 413 ~~guardian advocate may be granted specific additional powers by~~
 414 ~~written order of the court, as provided in this part.~~

415 ~~(20)(13)~~ "Hospital" means a hospital ~~facility as defined in~~
 416 ~~s. 395.002 and licensed under chapter 395 and part II of chapter~~
 417 408.

418 ~~(21)(14)~~ "Incapacitated" means that a person has been
 419 adjudicated incapacitated pursuant to part V of chapter 744 and
 420 a guardian of the person has been appointed.

421 ~~(22)(15)~~ "Incompetent to consent to treatment" means a
 422 state in which ~~that~~ a person's judgment is so affected by a his
 423 ~~or her~~ mental illness, a substance abuse impairment, or any
 424 medical or organic cause that he or she ~~the person~~ lacks the
 425 capacity to make a well-reasoned, willful, and knowing decision
 426 concerning his or her medical, ~~or~~ mental health, or substance
 427 abuse treatment.

428 ~~(23)~~ "Involuntary examination" means an examination
 429 performed under s. 394.463 or s. 397.675 to determine whether a
 430 person qualifies for involuntary outpatient services or
 431 involuntary inpatient placement.

432 ~~(24)~~ "Involuntary services" means court-ordered outpatient
 433 services or inpatient placement for mental health treatment
 434 pursuant to s. 394.4655 or s. 394.467.

435 ~~(25)(16)~~ "Law enforcement officer" has the same meaning as
 436 provided means a law enforcement officer as defined in s.
 437 943.10.

438 ~~(26)~~ "Marriage and family therapist" means a person

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439 licensed to practice marriage and family therapy under s.
 440 491.005 or s. 491.006.

441 ~~(27)~~ "Mental health counselor" means a person licensed to
 442 practice mental health counseling under s. 491.005 or s.
 443 491.006.

444 ~~(28)(17)~~ "Mental health overlay program" means a mobile
 445 service that which provides an independent examination for
 446 voluntary admission ~~admissions~~ and a range of supplemental
 447 onsite services to persons with a mental illness in a
 448 residential setting such as a nursing home, an assisted living
 449 facility, or an adult family-care home, or a nonresidential
 450 setting such as an adult day care center. Independent
 451 examinations provided ~~pursuant to this part~~ through a mental
 452 health overlay program must only be provided under contract with
 453 the department ~~for this service~~ or be attached to a public
 454 receiving facility that is also a community mental health
 455 center.

456 ~~(29)(18)~~ "Mental illness" means an impairment of the mental
 457 or emotional processes that exercise conscious control of one's
 458 actions or of the ability to perceive or understand reality,
 459 which impairment substantially interferes with the person's
 460 ability to meet the ordinary demands of living. For the purposes
 461 of this part, the term does not include a developmental
 462 disability as defined in chapter 393, intoxication, or
 463 conditions manifested only by antisocial behavior or substance
 464 abuse impairment.

465 ~~(30)~~ "Minor" means an individual who is 17 years of age or
 466 younger and who has not had the disability of nonage removed
 467 pursuant to s. 743.01 or s. 743.015.

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468 ~~(31)(19)~~ "Mobile crisis response service" means a
 469 nonresidential crisis service ~~attached to a public receiving~~
 470 ~~facility and available 24 hours a day, 7 days a week, through~~
 471 which provides immediate intensive assessments and
 472 interventions, including screening for admission into a mental
 473 health receiving facility, an addictions receiving facility, or
 474 a detoxification facility, take place for the purpose of
 475 identifying appropriate treatment services.

476 ~~(32)(20)~~ "Patient" means any person who is held or accepted
 477 for mental health or substance abuse treatment.

478 ~~(33)(21)~~ "Physician" means a medical practitioner licensed
 479 under chapter 458 or chapter 459 ~~who has experience in the~~
 480 ~~diagnosis and treatment of mental and nervous disorders~~ or a
 481 physician employed by a facility operated by the United States
 482 Department of Veterans Affairs or the United States Department
 483 of Defense which qualifies as a receiving or treatment facility
 484 under this part.

485 ~~(34)~~ "Physician assistant" means a person licensed under
 486 chapter 458 or chapter 459 who has experience in the diagnosis
 487 and treatment of mental disorders.

488 ~~(35)(22)~~ "Private facility" means any hospital or facility
 489 operated by a for-profit or not-for-profit corporation or
 490 association which that provides mental health or substance abuse
 491 services and is not a public facility.

492 ~~(36)(23)~~ "Psychiatric nurse" means an advanced registered
 493 nurse practitioner certified under s. 464.012 who has a master's
 494 or doctoral degree in psychiatric nursing, holds a national
 495 advanced practice certification as a psychiatric mental health
 496 advanced practice nurse, and has 2 years of post-master's

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497 clinical experience under the supervision of a physician.

498 ~~(37)(24)~~ "Psychiatrist" means a medical practitioner
 499 licensed under chapter 458 or chapter 459 ~~who has primarily~~
 500 ~~diagnosed and treated mental and nervous disorders for at least~~
 501 ~~a period of not less than 3 years, inclusive of psychiatric~~
 502 ~~residency.~~

503 ~~(38)~~ "Psychologist" has the same meaning as provided in s.
 504 490.003 or means a psychologist employed by a facility operated
 505 by the United States Department of Veterans Affairs which
 506 qualifies as a receiving or treatment facility under this part.

507 ~~(39)(25)~~ "Public facility" means a ~~any~~ facility that has
 508 contracted with the department to provide mental health or
 509 substance abuse services to all persons, regardless of ~~their~~
 510 ability to pay, and is receiving state funds for such purpose.

511 ~~(40)~~ "Qualified professional" means a physician or a
 512 physician assistant licensed under chapter 458 or chapter 459; a
 513 professional licensed under chapter 490 or chapter 491; a
 514 psychiatrist licensed under chapter 458 or chapter 459; or a
 515 psychiatric nurse as defined in subsection (36).

516 ~~(41)(26)~~ "Receiving facility" means any public or private
 517 facility designated by the department to receive and hold or
 518 refer, as appropriate, involuntary patients under emergency
 519 conditions ~~or~~ for mental health or substance abuse psychiatric
 520 evaluation and to provide short-term treatment or transportation
 521 to the appropriate service provider. The term does not include a
 522 county jail.

523 ~~(42)(27)~~ "Representative" means a person selected to
 524 receive notice of proceedings during the time a patient is held
 525 in or admitted to a receiving or treatment facility.

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526 ~~(43)(28) (a) "Restraint" means: a physical device, method,~~
 527 ~~or drug used to control behavior.~~

528 (a) A physical restraint, including is any manual method or
 529 physical or mechanical device, material, or equipment attached
 530 or adjacent to an the individual's body so that he or she cannot
 531 easily remove the restraint and which restricts freedom of
 532 movement or normal access to one's body. Physical restraint
 533 includes the physical holding of a person during a procedure to
 534 forcibly administer psychotropic medication. Physical restraint
 535 does not include physical devices such as orthopedically
 536 prescribed appliances, surgical dressings and bandages,
 537 supportive body bands, or other physical holding when necessary
 538 for routine physical examinations and tests or for purposes of
 539 orthopedic, surgical, or other similar medical treatment, when
 540 used to provide support for the achievement of functional body
 541 position or proper balance, or when used to protect a person
 542 from falling out of bed.

543 ~~(b) A drug or used as a restraint is a medication used to~~
 544 ~~control a the person's behavior or to restrict his or her~~
 545 ~~freedom of movement which and is not part of the standard~~
 546 ~~treatment regimen of a person with a diagnosed mental illness~~
 547 ~~who is a client of the department. Physically holding a person~~
 548 ~~during a procedure to forcibly administer psychotropic~~
 549 ~~medication is a physical restraint.~~

550 ~~(c) Restraint does not include physical devices, such as~~
 551 ~~orthopedically prescribed appliances, surgical dressings and~~
 552 ~~bandages, supportive body bands, or other physical holding when~~
 553 ~~necessary for routine physical examinations and tests; or for~~
 554 ~~purposes of orthopedic, surgical, or other similar medical~~

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555 ~~treatment, when used to provide support for the achievement of~~
 556 ~~functional body position or proper balance; or when used to~~
 557 ~~protect a person from falling out of bed.~~

558 (44) "School psychologist" has the same meaning as in s.
 559 490.003.

560 ~~(45)(29) "Seclusion" means the physical segregation of a~~
 561 ~~person in any fashion or involuntary isolation of a person in a~~
 562 ~~room or area from which the person is prevented from leaving.~~
 563 ~~The prevention may be by physical barrier or by a staff member~~
 564 ~~who is acting in a manner, or who is physically situated, so as~~
 565 ~~to prevent the person from leaving the room or area. For~~
 566 ~~purposes of this part chapter, the term does not mean isolation~~
 567 ~~due to a person's medical condition or symptoms.~~

568 ~~(46)(30) "Secretary" means the Secretary of Children and~~
 569 ~~Families.~~

570 (47) "Service provider" means a receiving facility, any
 571 facility licensed under chapter 397, a treatment facility, an
 572 entity under contract with the department to provide mental
 573 health or substance abuse services, a community mental health
 574 center or clinic, a psychologist, a clinical social worker, a
 575 marriage and family therapist, a mental health counselor, a
 576 physician, a psychiatrist, an advanced registered nurse
 577 practitioner, a psychiatric nurse, or a qualified professional
 578 as defined in this section.

579 (48) "Substance abuse impairment" means a condition
 580 involving the use of alcoholic beverages or any psychoactive or
 581 mood-altering substance in such a manner as to induce mental,
 582 emotional, or physical problems and cause socially dysfunctional
 583 behavior.

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584 ~~(49)(31)~~ "Transfer evaluation" means the process by which
 585 ~~as approved by the appropriate district office of the~~
 586 ~~department, whereby~~ a person who is being considered for
 587 placement in a state treatment facility is ~~first~~ evaluated for
 588 appropriateness of admission to a state treatment ~~the~~ facility
 589 ~~by a community-based public receiving facility or by a community~~
 590 ~~mental health center or clinic if the public receiving facility~~
 591 ~~is not a community mental health center or clinic.~~

592 ~~(50)(32)~~ "Treatment facility" means a ~~any~~ state-owned,
 593 state-operated, or state-supported hospital, center, or clinic
 594 designated by the department for extended treatment and
 595 hospitalization, beyond that provided for by a receiving
 596 facility, of persons who have a mental illness or substance
 597 abuse disorders, including facilities of the United States
 598 Government, and any private facility designated by the
 599 department when rendering such services to a person pursuant to
 600 the provisions of this part. Patients treated in facilities of
 601 the United States Government shall be solely those whose care is
 602 the responsibility of the United States Department of Veterans
 603 Affairs.

604 ~~(51)~~ "Triage center" means a facility that is staffed by
 605 medical, behavioral, and substance abuse professionals who
 606 provide emergency screening and evaluation of individuals
 607 transported to the center by a law enforcement officer.

608 ~~(33)~~ "Service provider" means ~~any public or private~~
 609 ~~receiving facility, an entity under contract with the Department~~
 610 ~~of Children and Families to provide mental health services, a~~
 611 ~~clinical psychologist, a clinical social worker, a marriage and~~
 612 ~~family therapist, a mental health counselor, a physician, a~~

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613 ~~psychiatric nurse as defined in subsection (23), or a community~~
 614 ~~mental health center or clinic as defined in this part.~~

615 ~~(34)~~ "Involuntary examination" means ~~an examination~~
 616 ~~performed under s. 394.463 to determine if an individual~~
 617 ~~qualifies for involuntary inpatient treatment under s.~~
 618 ~~394.467(1) or involuntary outpatient treatment under s.~~
 619 ~~394.4655(1).~~

620 ~~(35)~~ "Involuntary placement" means ~~either involuntary~~
 621 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
 622 ~~inpatient treatment pursuant to s. 394.467.~~

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

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

627 ~~(38)~~ "Electronic means" means ~~a form of telecommunication~~
 628 ~~that requires all parties to maintain visual as well as audio~~
 629 ~~communication.~~

630 Section 6. Section 394.4573, Florida Statutes, is amended
 631 to read:

632 394.4573 Coordinated system of care; annual assessment;
 633 essential elements Continuity of care management system;
 634 measures of performance; system improvement grants; reports.—On
 635 or before October 1 of each year, the department shall submit to
 636 the Governor, the President of the Senate, and the Speaker of
 637 the House of Representatives an assessment of the behavioral
 638 health services in this state in the context of the No-Wrong-
 639 Door model and standards set forth in this section. The
 640 department's assessment shall be based on both quantitative and
 641 qualitative data and must identify any significant regional

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642 variations. The assessment must include information gathered
 643 from managing entities, service providers, law enforcement,
 644 judicial officials, local governments, behavioral health
 645 consumers and their family members, and the public.

646 (1) ~~As used in For the purposes of~~ this section:

647 (a) "Case management" means those direct services provided
 648 to a client in order to assess his or her activities aimed at
 649 assessing client needs, plan or arrange planning services,
 650 coordinate service providers, monitor linking the service system
 651 to a client, coordinating the various system components,
 652 monitoring service delivery, and evaluate patient outcomes
 653 evaluating the effect of service delivery.

654 (b) "Case manager" means an individual who works with
 655 clients, and their families and significant others, to provide
 656 case management.

657 (c) "Client manager" means an employee of the managing
 658 entity or entity under contract with the managing entity
 659 department who is assigned to specific provider agencies and
 660 geographic areas to ensure that the full range of needed
 661 services is available to clients.

662 (d) "Coordinated system ~~Continuity of care management~~
 663 ~~system"~~ means a ~~system that assures, within available resources,~~
 664 ~~that clients have access to~~ the full array of behavioral and
 665 related services in a region or community offered by all service
 666 providers, whether participating under contract with the
 667 managing entity or another method of community partnership or
 668 mutual agreement within the mental health services delivery
 669 system.

670 (e) "No-Wrong-Door model" means a model for the delivery of

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671 health care services to persons who have mental health or
 672 substance abuse disorders, or both, which optimizes access to
 673 care, regardless of the entry point to the behavioral health
 674 care system.

675 (2) The essential elements of a coordinated system of care
 676 include:

677 (a) Community interventions, such as prevention, primary
 678 care for behavioral health needs, therapeutic and supportive
 679 services, crisis response services, and diversion programs.

680 (b) A designated receiving system consisting of one or more
 681 facilities serving a defined geographic area and responsible for
 682 assessment and evaluation, both voluntary and involuntary, and
 683 treatment or triage for patients who present with mental
 684 illness, substance abuse disorder, or co-occurring disorders.
 685 The system must be authorized by each county or by several
 686 counties, planned through an inclusive process, approved by the
 687 managing entity, and documented through written memoranda of
 688 agreement or other binding arrangements. The designated
 689 receiving system may be organized in any of the following ways
 690 so long as it functions as a No-Wrong-Door model that responds
 691 to individual needs and integrates services among various
 692 providers:

693 1. A central receiving system, which consists of a
 694 designated central receiving facility that serves as a single
 695 entry point for persons with mental health or substance abuse
 696 disorders, or both. The designated receiving facility must be
 697 capable of assessment, evaluation, and triage or treatment for
 698 various conditions and circumstances.

699 2. A coordinated receiving system, which consists of

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700 multiple entry points that are linked by shared data systems,
 701 formal referral agreements, and cooperative arrangements for
 702 care coordination and case management. Each entry point must be
 703 a designated receiving facility and must provide or arrange for
 704 necessary services following an initial assessment and
 705 evaluation.

706 3. A tiered receiving system, which consists of multiple
 707 entry points, some of which offer only specialized or limited
 708 services. Each service provider participating in the tiered
 709 receiving system must be classified as a designated receiving
 710 facility, a triage center, or an access center. All
 711 participating service providers must be linked by shared data
 712 systems, formal referral agreements, and cooperative
 713 arrangements for care coordination and case management. An
 714 accurate inventory of the participating service providers which
 715 specifies the capabilities and limitations of each provider must
 716 be maintained and made available at all times to all first
 717 responders in the service area.

718 (c) Transportation in accordance with a plan developed
 719 under s. 394.462.

720 (d) Crisis services, including mobile response teams,
 721 crisis stabilization units, addiction receiving facilities, and
 722 detoxification facilities.

723 (e) Case management, including intensive case management
 724 for individuals determined to be high-need or high-utilization
 725 individuals under s. 394.9082(2)(e).

726 (f) Outpatient services.

727 (g) Residential services.

728 (h) Hospital inpatient care.

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729 (i) Aftercare and other post-discharge services.

730 (j) Medication assistance and management.

731 (k) Recovery support, including housing assistance and
 732 support for competitive employment, educational attainment,
 733 independent living skills development, family support and
 734 education, and wellness management and self-care.

735 (3) The department's annual assessment must compare the
 736 status and performance of the extant behavioral health system
 737 with the following standards and any other standards or measures
 738 that the department determines to be applicable.

739 (a) The capacity of the contracted service providers to
 740 meet estimated need when such estimates are based on credible
 741 evidence and sound methodologies.

742 (b) The extent to which the behavioral health system uses
 743 evidence-based practices and broadly disseminates the results of
 744 quality improvement activities to all service providers.

745 (c) The degree to which services are offered in the least
 746 restrictive and most appropriate therapeutic environment.

747 (d) The scope of systemwide accountability activities used
 748 to monitor patient outcomes and measure continuous improvement
 749 in the behavioral health system.

750 (4) Subject to a specific appropriation by the Legislature,
 751 the department may award system improvement grants to managing
 752 entities based on the submission of a detailed plan to enhance
 753 services, coordination, or performance measurement in accordance
 754 with the model and standards specified in this section. Such a
 755 grant must be awarded through a performance-based contract that
 756 links payments to the documented and measurable achievement of
 757 system improvements ~~The department is directed to implement a~~

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758 ~~continuity of care management system for the provision of mental~~
 759 ~~health care, through the provision of client and case~~
 760 ~~management, including clients referred from state treatment~~
 761 ~~facilities to community mental health facilities. Such system~~
 762 ~~shall include a network of client managers and case managers~~
 763 ~~throughout the state designed to:~~

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

766 ~~(b) Provide for the creation or designation of an agency in~~
 767 ~~each county to provide single intake services for each person~~
 768 ~~seeking mental health services. Such agency shall provide~~
 769 ~~information and referral services necessary to ensure that~~
 770 ~~clients receive the most appropriate and least restrictive form~~
 771 ~~of care, based on the individual needs of the person seeking~~
 772 ~~treatment. Such agency shall have a single telephone number,~~
 773 ~~operating 24 hours per day, 7 days per week, where practicable,~~
 774 ~~at a central location, where each client will have a central~~
 775 ~~record.~~

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

779 ~~(d) Require that any public receiving facility initiating a~~
 780 ~~patient transfer to a licensed hospital for acute care mental~~
 781 ~~health services not accessible through the public receiving~~
 782 ~~facility shall notify the hospital of such transfer and send all~~
 783 ~~records relating to the emergency psychiatric or medical~~
 784 ~~condition.~~

785 ~~(3) The department is directed to develop and include in~~
 786 ~~contracts with service providers measures of performance with~~

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787 ~~regard to goals and objectives as specified in the state plan.~~
 788 ~~Such measures shall use, to the extent practical, existing data~~
 789 ~~collection methods and reports and shall not require, as a~~
 790 ~~result of this subsection, additional reports on the part of~~
 791 ~~service providers. The department shall plan monitoring visits~~
 792 ~~of community mental health facilities with other state, federal,~~
 793 ~~and local governmental and private agencies charged with~~
 794 ~~monitoring such facilities.~~

795 Section 7. Paragraphs (d) and (e) of subsection (2) of
 796 section 394.4597, Florida Statutes, are amended to read:

797 394.4597 Persons to be notified; patient's representative.-

798 (2) INVOLUNTARY PATIENTS.-

799 (d) When the receiving or treatment facility selects a
 800 representative, first preference shall be given to a health care
 801 surrogate, if one has been previously selected by the patient.
 802 If the patient has not previously selected a health care
 803 surrogate, the selection, except for good cause documented in
 804 the patient's clinical record, shall be made from the following
 805 list in the order of listing:

- 806 1. The patient's spouse.
- 807 2. An adult child of the patient.
- 808 3. A parent of the patient.
- 809 4. The adult next of kin of the patient.
- 810 5. An adult friend of the patient.

811 ~~6. The appropriate Florida local advocacy council as~~
 812 ~~provided in s. 402.166.~~

813 (e) The following persons are prohibited from selection as
 814 a patient's representative:

- 815 1. A professional providing clinical services to the

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816 patient under this part.

817 2. The licensed professional who initiated the involuntary
 818 examination of the patient, if the examination was initiated by
 819 professional certificate.

820 3. An employee, an administrator, or a board member of the
 821 facility providing the examination of the patient.

822 4. An employee, an administrator, or a board member of a
 823 treatment facility providing treatment for the patient.

824 5. A person providing any substantial professional services
 825 to the patient, including clinical and nonclinical services.

826 6. A creditor of the patient.

827 7. A person subject to an injunction for protection against
 828 domestic violence under s. 741.30, whether the order of
 829 injunction is temporary or final, and for which the patient was
 830 the petitioner.

831 8. A person subject to an injunction for protection against
 832 repeat violence, sexual violence, or dating violence under s.
 833 784.046, whether the order of injunction is temporary or final,
 834 and for which the patient was the petitioner ~~A licensed~~
 835 ~~professional providing services to the patient under this part,~~
 836 ~~an employee of a facility providing direct services to the~~
 837 ~~patient under this part, a department employee, a person~~
 838 ~~providing other substantial services to the patient in a~~
 839 ~~professional or business capacity, or a creditor of the patient~~
 840 ~~shall not be appointed as the patient's representative.~~

841 Section 8. Present subsections (2) through (7) of section
 842 394.4598, Florida Statutes, are redesignated as subsections (3)
 843 through (8), respectively, a new subsection (2) is added to that
 844 section, and present subsections (3) and (4) of that section are

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845 amended, to read:

846 394.4598 Guardian advocate.—

847 (2) The following persons are prohibited from appointment
 848 as a patient's guardian advocate:

849 (a) A professional providing clinical services to the
 850 patient under this part.

851 (b) The licensed professional who initiated the involuntary
 852 examination of the patient, if the examination was initiated by
 853 professional certificate.

854 (c) An employee, an administrator, or a board member of the
 855 facility providing the examination of the patient.

856 (d) An employee, an administrator, or a board member of a
 857 treatment facility providing treatment of the patient.

858 (e) A person providing any substantial professional
 859 services to the patient, including clinical and nonclinical
 860 services.

861 (f) A creditor of the patient.

862 (g) A person subject to an injunction for protection
 863 against domestic violence under s. 741.30, whether the order of
 864 injunction is temporary or final, and for which the patient was
 865 the petitioner.

866 (h) A person subject to an injunction for protection
 867 against repeat violence, sexual violence, or dating violence
 868 under s. 784.046, whether the order of injunction is temporary
 869 or final, and for which the patient was the petitioner.

870 ~~(4)(3)~~ In lieu of the training required of guardians
 871 appointed pursuant to chapter 744, ~~Prior to~~ a guardian advocate
 872 must attend at least a 4-hour training course approved by the
 873 court before exercising his or her authority, ~~the guardian~~

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874 ~~advocate shall attend a training course approved by the court.~~
 875 ~~At a minimum, this training course, of not less than 4 hours,~~
 876 ~~must include, at minimum, information about the patient rights,~~
 877 ~~psychotropic medications, the diagnosis of mental illness, the~~
 878 ~~ethics of medical decisionmaking, and duties of guardian~~
 879 ~~advocates. This training course shall take the place of the~~
 880 ~~training required for guardians appointed pursuant to chapter~~
 881 ~~744.~~

882 (5)(4) The required training course and the information to
 883 be supplied to prospective guardian advocates before prior to
 884 their appointment and the training course for guardian advocates
 885 must be developed and completed through a course developed by
 886 the department, and approved by the chief judge of the circuit
 887 court, and taught by a court-approved organization, which-
 888 Court-approved organizations may include, but is are not limited
 889 to, a community college ecommunity or junior colleges, a
 890 guardianship organization guardianship organizations, a and the
 891 local bar association, or The Florida Bar. The court may, in its
 892 discretion, waive some or all of the training requirements for
 893 guardian advocates or impose additional requirements. The court
 894 shall make its decision on a case-by-case basis and, in making
 895 its decision, shall consider the experience and education of the
 896 guardian advocate, the duties assigned to the guardian advocate,
 897 and the needs of the patient.

898 Section 9. Section 394.462, Florida Statutes, is amended to
 899 read:

900 394.462 Transportation.-A transportation plan must be
 901 developed and implemented in each county in accordance with this
 902 section. A county may enter into a memorandum of understanding

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903 with the governing boards of nearby counties to establish a
 904 shared transportation plan. When multiple counties enter into a
 905 memorandum of understanding for this purpose, the managing
 906 entity must be notified and provided a copy of the agreement.
 907 The transportation plan must specify methods of transport to a
 908 facility within the designated receiving system and may delegate
 909 responsibility for other transportation to a participating
 910 facility when necessary and agreed to by the facility. The plan
 911 must ensure that individuals who meet the criteria for
 912 involuntary assessment and evaluation pursuant to ss. 394.463
 913 and 397.675 will be transported. The plan may rely on emergency
 914 medical transport services or private transport companies as
 915 appropriate.

916 (1) TRANSPORTATION TO A RECEIVING FACILITY.-

917 (a) Each county shall designate a single law enforcement
 918 agency within the county, or portions thereof, to take a person
 919 into custody upon the entry of an ex parte order or the
 920 execution of a certificate for involuntary examination by an
 921 authorized professional and to transport that person to an
 922 appropriate facility within the designated receiving system the
 923 nearest receiving facility for examination.

924 (b)1. The designated law enforcement agency may decline to
 925 transport the person to a receiving facility only if:

926 a.1- The jurisdiction designated by the county has
 927 contracted on an annual basis with an emergency medical
 928 transport service or private transport company for
 929 transportation of persons to receiving facilities pursuant to
 930 this section at the sole cost of the county; and

931 b.2- The law enforcement agency and the emergency medical

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932 transport service or private transport company agree that the
 933 continued presence of law enforcement personnel is not necessary
 934 for the safety of the person or others.

935 ~~2.3-~~ The entity providing transportation jurisdiction
 936 ~~designated by the county~~ may seek reimbursement for
 937 transportation expenses. The party responsible for payment for
 938 such transportation is the person receiving the transportation.
 939 The county shall seek reimbursement from the following sources
 940 in the following order:

941 a. From a private or public third-party payor an insurancee
 942 ~~company, health care corporation, or other source,~~ if the person
 943 receiving the transportation has applicable coverage is covered
 944 ~~by an insurance policy or subscribes to a health care~~
 945 ~~corporation or other source for payment of such expenses.~~

946 b. From the person receiving the transportation.

947 c. From a financial settlement for medical care, treatment,
 948 hospitalization, or transportation payable or accruing to the
 949 injured party.

950 ~~(c)(b)~~ A Any company that transports a patient pursuant to
 951 this subsection is considered an independent contractor and is
 952 solely liable for the safe and dignified transport
 953 ~~transportation~~ of the patient. Such company must be insured and
 954 provide no less than \$100,000 in liability insurance with
 955 respect to the transport transportation of patients.

956 ~~(d)(e)~~ Any company that contracts with a governing board of
 957 a county to transport patients shall comply with the applicable
 958 rules of the department to ensure the safety and dignity of ~~the~~
 959 patients.

960 ~~(e)(d)~~ When a law enforcement officer takes custody of a

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961 person pursuant to this part, the officer may request assistance
 962 from emergency medical personnel if such assistance is needed
 963 for the safety of the officer or the person in custody.

964 ~~(f)(e)~~ When a member of a mental health overlay program or
 965 a mobile crisis response service is a professional authorized to
 966 initiate an involuntary examination pursuant to s. 394.463 or s.
 967 397.675 and that professional evaluates a person and determines
 968 that transportation to a receiving facility is needed, the
 969 service, at its discretion, may transport the person to the
 970 facility or may call on the law enforcement agency or other
 971 transportation arrangement best suited to the needs of the
 972 patient.

973 ~~(g)(f)~~ When any law enforcement officer has custody of a
 974 person based on either noncriminal or minor criminal behavior
 975 that meets the statutory guidelines for involuntary examination
 976 under this part, the law enforcement officer shall transport the
 977 person to an appropriate the nearest receiving facility within
 978 the designated receiving system for examination.

979 ~~(h)(g)~~ When any law enforcement officer has arrested a
 980 person for a felony and it appears that the person meets the
 981 statutory guidelines for involuntary examination or placement
 982 under this part, such person must shall first be processed in
 983 the same manner as any other criminal suspect. The law
 984 enforcement agency shall thereafter immediately notify the
 985 appropriate nearest public receiving facility within the
 986 designated receiving system, which shall be responsible for
 987 promptly arranging for the examination and treatment of the
 988 person. A receiving facility is not required to admit a person
 989 charged with a crime for whom the facility determines and

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990 documents that it is unable to provide adequate security, but
 991 shall provide ~~mental health~~ examination and treatment to the
 992 person where he or she is held.

993 ~~(i)(h)~~ If the appropriate law enforcement officer believes
 994 that a person has an emergency medical condition as defined in
 995 s. 395.002, the person may be first transported to a hospital
 996 for emergency medical treatment, regardless of whether the
 997 hospital is a designated receiving facility.

998 ~~(j)(i)~~ The costs of transportation, evaluation,
 999 hospitalization, and treatment incurred under this subsection by
 1000 persons who have been arrested for violations of any state law
 1001 or county or municipal ordinance may be recovered as provided in
 1002 s. 901.35.

1003 ~~(k)(j)~~ The ~~nearest receiving~~ facility within the designated
 1004 receiving system must accept persons brought by law enforcement
 1005 officers, an emergency medical transport service, or a private
 1006 transport company for involuntary examination.

1007 ~~(l)(k)~~ Each law enforcement agency designated pursuant to
 1008 paragraph (a) shall establish a policy that develop a memorandum
 1009 of understanding with each receiving facility within the law
 1010 enforcement agency's jurisdiction which reflects a single set of
 1011 protocols approved by the managing entity for the safe and
 1012 secure transportation ~~of the person~~ and transfer of custody of
 1013 the person. ~~These protocols must also address crisis~~
 1014 ~~intervention measures.~~

1015 ~~(m)(l)~~ When a jurisdiction has entered into a contract with
 1016 an emergency medical transport service or a private transport
 1017 company for transportation of persons to ~~receiving~~ facilities
 1018 within the designated receiving system, such service or company

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1019 shall be given preference for transportation of persons from
 1020 nursing homes, assisted living facilities, adult day care
 1021 centers, or adult family-care homes, unless the behavior of the
 1022 person being transported is such that transportation by a law
 1023 enforcement officer is necessary.

1024 ~~(n)(m)~~ ~~Nothing in~~ This section may not ~~shall~~ be construed
 1025 to limit emergency examination and treatment of incapacitated
 1026 persons provided in accordance with ~~the provisions of~~ s.
 1027 401.445.

1028 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

1029 (a) If neither the patient nor any person legally obligated
 1030 or responsible for the patient is able to pay for the expense of
 1031 transporting a voluntary or involuntary patient to a treatment
 1032 facility, the transportation plan established by the governing
 1033 board of the county or counties must specify how in which the
 1034 hospitalized patient will be transported to, from, and between
 1035 facilities in a is hospitalized shall arrange for such required
 1036 transportation and shall ensure the safe and dignified manner
 1037 transportation of the patient. The governing board of each
 1038 county is authorized to contract with private transport
 1039 companies for the transportation of such patients to and from a
 1040 treatment facility.

1041 (b) A Any company that transports a patient pursuant to
 1042 this subsection is considered an independent contractor and is
 1043 solely liable for the safe and dignified transportation of the
 1044 patient. Such company must be insured and provide no less than
 1045 \$100,000 in liability insurance with respect to the transport
 1046 transportation of patients.

1047 (c) A Any company that contracts with one or more counties

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1048 ~~the governing board of a county to transport patients in~~
 1049 ~~accordance with this section~~ shall comply with the applicable
 1050 rules of the department to ensure the safety and dignity of the
 1051 patients.

1052 (d) County or municipal law enforcement and correctional
 1053 personnel and equipment ~~may shall~~ not be used to transport
 1054 patients adjudicated incapacitated or found by the court to meet
 1055 the criteria for involuntary placement pursuant to s. 394.467,
 1056 except in small rural counties where there are no cost-efficient
 1057 alternatives.

1058 (3) TRANSFER OF CUSTODY.—Custody of a person who is
 1059 transported pursuant to this part, along with related
 1060 documentation, shall be relinquished to a responsible individual
 1061 at the appropriate receiving or treatment facility.

1062 ~~(4) EXCEPTIONS.—An exception to the requirements of this~~
 1063 ~~section may be granted by the secretary of the department for~~
 1064 ~~the purposes of improving service coordination or better meeting~~
 1065 ~~the special needs of individuals. A proposal for an exception~~
 1066 ~~must be submitted by the district administrator after being~~
 1067 ~~approved by the governing boards of any affected counties, prior~~
 1068 ~~to submission to the secretary.~~

1069 ~~(a) A proposal for an exception must identify the specific~~
 1070 ~~provision from which an exception is requested; describe how the~~
 1071 ~~proposal will be implemented by participating law enforcement~~
 1072 ~~agencies and transportation authorities; and provide a plan for~~
 1073 ~~the coordination of services such as case management.~~

1074 ~~(b) The exception may be granted only for:~~

1075 ~~1. An arrangement centralizing and improving the provision~~
 1076 ~~of services within a district, which may include an exception to~~

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1077 ~~the requirement for transportation to the nearest receiving~~
 1078 ~~facility;~~

1079 ~~2. An arrangement by which a facility may provide, in~~
 1080 ~~addition to required psychiatric services, an environment and~~
 1081 ~~services which are uniquely tailored to the needs of an~~
 1082 ~~identified group of persons with special needs, such as persons~~
 1083 ~~with hearing impairments or visual impairments, or elderly~~
 1084 ~~persons with physical frailties; or~~

1085 ~~3. A specialized transportation system that provides an~~
 1086 ~~efficient and humane method of transporting patients to~~
 1087 ~~receiving facilities, among receiving facilities, and to~~
 1088 ~~treatment facilities.~~

1089 ~~(c) Any exception approved pursuant to this subsection~~
 1090 ~~shall be reviewed and approved every 5 years by the secretary.~~

1091 Section 10. Subsection (2) of section 394.463, Florida
 1092 Statutes, is amended to read:

1093 394.463 Involuntary examination.—

1094 (2) INVOLUNTARY EXAMINATION.—

1095 (a) An involuntary examination may be initiated by any one
 1096 of the following means:

1097 1. A circuit or county court may enter an ex parte order
 1098 stating that a person appears to meet the criteria for
 1099 involuntary examination and specifying, ~~giving~~ the findings on
 1100 which that conclusion is based. The ex parte order for
 1101 involuntary examination must be based on written or oral sworn
 1102 testimony that includes specific facts that support the
 1103 findings, ~~written or oral~~. If other, less restrictive, means are
 1104 not available, such as voluntary appearance for outpatient
 1105 evaluation, a law enforcement officer, or other designated agent

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1106 of the court, shall take the person into custody and deliver him
 1107 or her to an appropriate ~~the nearest receiving~~ facility within
 1108 the designated receiving system for involuntary examination. The
 1109 order of the court shall be made a part of the patient's
 1110 clinical record. ~~A No fee may not shall~~ be charged for the
 1111 filing of an order under this subsection. Any ~~receiving~~ facility
 1112 accepting the patient based on this order must send a copy of
 1113 the order to the managing entity in the region and to the
 1114 department ~~Agency for Health Care Administration~~ on the next
 1115 working day. The order shall be valid only until the person is
 1116 delivered to the appropriate facility ~~executed or, if not~~
 1117 ~~executed~~, for the period specified in the order itself,
 1118 whichever comes first. If no time limit is specified in the
 1119 order, the order shall be valid for 7 days after the date that
 1120 the order was signed.

1121 2. A law enforcement officer shall take a person who
 1122 appears to meet the criteria for involuntary examination into
 1123 custody and deliver the person or have him or her delivered to
 1124 the appropriate nearest receiving facility within the designated
 1125 receiving system for examination. The officer shall execute a
 1126 written report detailing the circumstances under which the
 1127 person was taken into custody, which must ~~and the report shall~~
 1128 be made a part of the patient's clinical record. Any ~~receiving~~
 1129 facility accepting the patient based on this report must send a
 1130 copy of the report to the department and the managing entity
 1131 ~~Agency for Health Care Administration~~ on the next working day.

1132 3. A physician, ~~clinical~~ psychologist, psychiatric nurse,
 1133 mental health counselor, marriage and family therapist, or
 1134 clinical social worker may execute a certificate stating that he

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1135 or she has examined a person within the preceding 48 hours and
 1136 finds that the person appears to meet the criteria for
 1137 involuntary examination and stating the observations upon which
 1138 that conclusion is based. If other, less restrictive means, such
 1139 as voluntary appearance for outpatient evaluation, are not
 1140 available, ~~such as voluntary appearance for outpatient~~
 1141 ~~evaluation~~, a law enforcement officer shall take into custody
 1142 the person named in the certificate ~~into custody~~ and deliver him
 1143 or her to the appropriate nearest receiving facility within the
 1144 designated receiving system for involuntary examination. The law
 1145 enforcement officer shall execute a written report detailing the
 1146 circumstances under which the person was taken into custody. The
 1147 report and certificate shall be made a part of the patient's
 1148 clinical record. Any ~~receiving~~ facility accepting the patient
 1149 based on this certificate must send a copy of the certificate to
 1150 the managing entity and the department ~~Agency for Health Care~~
 1151 ~~Administration~~ on the next working day.

1152 (b) A person ~~may shall~~ not be removed from any program or
 1153 residential placement licensed under chapter 400 or chapter 429
 1154 and transported to a receiving facility for involuntary
 1155 examination unless an ex parte order, a professional
 1156 certificate, or a law enforcement officer's report is first
 1157 prepared. If the condition of the person is such that
 1158 preparation of a law enforcement officer's report is not
 1159 practicable before removal, the report shall be completed as
 1160 soon as possible after removal, but in any case before the
 1161 person is transported to a receiving facility. A ~~receiving~~
 1162 facility admitting a person for involuntary examination who is
 1163 not accompanied by the required ex parte order, professional

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1164 certificate, or law enforcement officer's report shall notify
 1165 the ~~managing entity and the department Agency for Health Care~~
 1166 ~~Administration~~ of such admission by certified mail or by
 1167 electronic means if available, by no later than the next working
 1168 day. The provisions of this paragraph do not apply when
 1169 transportation is provided by the patient's family or guardian.

1170 (c) A law enforcement officer acting in accordance with an
 1171 ex parte order issued pursuant to this subsection may serve and
 1172 execute such order on any day of the week, at any time of the
 1173 day or night.

1174 (d) A law enforcement officer acting in accordance with an
 1175 ex parte order issued pursuant to this subsection may use such
 1176 reasonable physical force as is necessary to gain entry to the
 1177 premises, and any dwellings, buildings, or other structures
 1178 located on the premises, and to take custody of the person who
 1179 is the subject of the ex parte order.

1180 (e) The ~~managing entity and the department Agency for~~
 1181 ~~Health Care Administration~~ shall receive and maintain the copies
 1182 of ex parte petitions and orders, involuntary outpatient
 1183 services placement orders issued pursuant to s. 394.4655,
 1184 involuntary inpatient placement orders issued pursuant to s.
 1185 394.467, professional certificates, and law enforcement
 1186 officers' reports. These documents shall be considered part of
 1187 the clinical record, governed by the provisions of s. 394.4615.
 1188 These documents shall be provided by the department to the
 1189 Agency for Health Care Administration and used by the agency to
 1190 ~~The agency shall~~ prepare annual reports analyzing the data
 1191 obtained from these documents, without information identifying
 1192 patients, and shall provide copies of reports to the department,

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1193 the President of the Senate, the Speaker of the House of
 1194 Representatives, and the minority leaders of the Senate and the
 1195 House of Representatives.

1196 (f) A patient shall be examined by a physician ~~or~~ a
 1197 psychologist ~~clinical psychologist~~, or by a psychiatric nurse
 1198 performing within the framework of an established protocol with
 1199 a psychiatrist at a ~~receiving~~ facility without unnecessary delay
 1200 to determine if the criteria for involuntary services are met.
 1201 Emergency treatment may be provided and may, upon the order of a
 1202 physician, if the physician determines ~~be given emergency~~
 1203 ~~treatment if it is determined~~ that such treatment is necessary
 1204 for the safety of the patient or others. The patient may not be
 1205 released by the receiving facility or its contractor without the
 1206 documented approval of a psychiatrist or a psychologist ~~clinical~~
 1207 ~~psychologist or, if the receiving facility is owned or operated~~
 1208 ~~by a hospital or health system, the release may also be approved~~
 1209 ~~by a psychiatric nurse performing within the framework of an~~
 1210 ~~established protocol with a psychiatrist, or an attending~~
 1211 ~~emergency department physician with experience in the diagnosis~~
 1212 ~~and treatment of mental illness and nervous disorders and after~~
 1213 ~~completion of an involuntary examination pursuant to this~~
 1214 ~~subsection. A psychiatric nurse may not approve the release of a~~
 1215 ~~patient if the involuntary examination was initiated by a~~
 1216 ~~psychiatrist unless the release is approved by the initiating~~
 1217 ~~psychiatrist. However, a patient may not be held in a receiving~~
 1218 ~~facility for involuntary examination longer than 72 hours.~~

1219 (g) A person may not be held for involuntary examination
 1220 for more than 72 hours from the time of his or her arrival at
 1221 the facility. Based on the person's needs, one of the following

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1222 actions must be taken within the involuntary examination period:

1223 1. The person must be released with the approval of a
 1224 physician, psychiatrist, psychiatric nurse, or psychologist.
 1225 However, if the examination is conducted in a hospital, an
 1226 attending emergency department physician with experience in the
 1227 diagnosis and treatment of mental illness may approve the
 1228 release. The professional approving the release must have
 1229 personally conducted the involuntary examination.

1230 2. The person must be asked to give express and informed
 1231 consent for voluntary admission if a physician, psychiatrist,
 1232 psychiatric nurse, or psychologist has determined that the
 1233 individual is competent to consent to treatment.

1234 3. A petition for involuntary services must be completed
 1235 and filed in the circuit court by the facility administrator. If
 1236 electronic filing of the petition is not available in the county
 1237 and the 72-hour period ends on a weekend or legal holiday, the
 1238 petition must be filed by the next working day. If involuntary
 1239 services are deemed necessary, the least restrictive treatment
 1240 consistent with the optimum improvement of the person's
 1241 condition must be made available.

1242 (h) An individual discharged from a facility on a voluntary
 1243 or an involuntary basis who is currently charged with a crime
 1244 shall be released to the custody of a law enforcement officer,
 1245 unless the individual has been released from law enforcement
 1246 custody by posting of a bond, by a pretrial conditional release,
 1247 or by other judicial release.

1248 (i) ~~(g)~~ A person for whom an involuntary examination has
 1249 been initiated who is being evaluated or treated at a hospital
 1250 for an emergency medical condition specified in s. 395.002 must

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1251 be examined by an appropriate ~~a receiving~~ facility within 72
 1252 hours. The 72-hour period begins when the patient arrives at the
 1253 hospital and ceases when the attending physician documents that
 1254 the patient has an emergency medical condition. If the patient
 1255 is examined at a hospital providing emergency medical services
 1256 by a professional qualified to perform an involuntary
 1257 examination and is found as a result of that examination not to
 1258 meet the criteria for involuntary outpatient ~~services placement~~
 1259 pursuant to s. 394.4655(1) or involuntary inpatient placement
 1260 pursuant to s. 394.467(1), the patient may be offered voluntary
 1261 placement, if appropriate, or released directly from the
 1262 hospital providing emergency medical services. The finding by
 1263 the professional that the patient has been examined and does not
 1264 meet the criteria for involuntary inpatient placement or
 1265 involuntary outpatient ~~services placement~~ must be entered into
 1266 the patient's clinical record. ~~Nothing in~~ This paragraph is not
 1267 intended to prevent a hospital providing emergency medical
 1268 services from appropriately transferring a patient to another
 1269 hospital before ~~prior to~~ stabilization if, provided the
 1270 requirements of s. 395.1041(3)(c) have been met.

1271 (j) ~~(h)~~ One of the following must occur within 12 hours
 1272 after the patient's attending physician documents that the
 1273 patient's medical condition has stabilized or that an emergency
 1274 medical condition does not exist:

1275 1. The patient must be examined by an appropriate ~~a~~
 1276 ~~designated receiving~~ facility and released; or

1277 2. The patient must be transferred to a designated
 1278 ~~receiving~~ facility in which appropriate medical treatment is
 1279 available. However, the ~~receiving~~ facility must be notified of

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1280 the transfer within 2 hours after the patient's condition has
 1281 been stabilized or after determination that an emergency medical
 1282 condition does not exist.

1283 ~~(i) Within the 72-hour examination period or, if the 72~~
 1284 ~~hours ends on a weekend or holiday, no later than the next~~
 1285 ~~working day thereafter, one of the following actions must be~~
 1286 ~~taken, based on the individual needs of the patient:~~

1287 ~~1. The patient shall be released, unless he or she is~~
 1288 ~~charged with a crime, in which case the patient shall be~~
 1289 ~~returned to the custody of a law enforcement officer;~~

1290 ~~2. The patient shall be released, subject to the provisions~~
 1291 ~~of subparagraph 1., for voluntary outpatient treatment;~~

1292 ~~3. The patient, unless he or she is charged with a crime,~~
 1293 ~~shall be asked to give express and informed consent to placement~~
 1294 ~~as a voluntary patient, and, if such consent is given, the~~
 1295 ~~patient shall be admitted as a voluntary patient; or~~

1296 ~~4. A petition for involuntary placement shall be filed in~~
 1297 ~~the circuit court when outpatient or inpatient treatment is~~
 1298 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
 1299 ~~the least restrictive treatment consistent with the optimum~~
 1300 ~~improvement of the patient's condition shall be made available.~~
 1301 ~~When a petition is to be filed for involuntary outpatient~~
 1302 ~~placement, it shall be filed by one of the petitioners specified~~
 1303 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
 1304 ~~placement shall be filed by the facility administrator.~~

1305 Section 11. Section 394.4655, Florida Statutes, is amended
 1306 to read:

1307 394.4655 Involuntary outpatient services placement.

1308 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES

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1309 ~~PLACEMENT~~.—A person may be ordered to involuntary outpatient
 1310 services placement upon a finding of the court, by clear and
 1311 convincing evidence, that the person meets all of the following
 1312 criteria by clear and convincing evidence:

1313 (a) The person is 18 years of age or older.†

1314 (b) The person has a mental illness.†

1315 (c) The person is unlikely to survive safely in the
 1316 community without supervision, based on a clinical
 1317 determination.†

1318 (d) The person has a history of lack of compliance with
 1319 treatment for mental illness.†

1320 (e) The person has:

1321 1. At least twice within the immediately preceding 36
 1322 months been involuntarily admitted to a receiving or treatment
 1323 facility as defined in s. 394.455, or has received mental health
 1324 services in a forensic or correctional facility. The 36-month
 1325 period does not include any period during which the person was
 1326 admitted or incarcerated; or

1327 2. Engaged in one or more acts of serious violent behavior
 1328 toward self or others, or attempts at serious bodily harm to
 1329 himself or herself or others, within the preceding 36 months.†

1330 (f) The person is, as a result of his or her mental
 1331 illness, unlikely to voluntarily participate in the recommended
 1332 treatment plan and either he or she has refused voluntary
 1333 services placement for treatment after sufficient and
 1334 conscientious explanation and disclosure of why the services are
 1335 necessary purpose of placement for treatment or he or she is
 1336 unable to determine for himself or herself whether services are
 1337 placement is necessary.†

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1338 (g) In view of the person's treatment history and current
 1339 behavior, the person is in need of involuntary outpatient
 1340 ~~services placement~~ in order to prevent a relapse or
 1341 deterioration that would be likely to result in serious bodily
 1342 harm to himself or herself or others, or a substantial harm to
 1343 his or her well-being as set forth in s. 394.463(1).~~7~~

1344 (h) It is likely that the person will benefit from
 1345 involuntary outpatient ~~services, placement, and~~

1346 (i) All available, less restrictive alternatives that would
 1347 offer an opportunity for improvement of his or her condition
 1348 have been judged to be inappropriate or unavailable.

1349 (2) INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—

1350 (a)1. A patient who is being recommended for involuntary
 1351 outpatient ~~services placement~~ by the administrator of the
 1352 ~~receiving~~ facility where the patient has been examined may be
 1353 retained by the facility after adherence to the notice
 1354 procedures provided in s. 394.4599. The recommendation must be
 1355 supported by the opinion of two qualified professionals ~~a~~
 1356 ~~psychiatrist and the second opinion of a clinical psychologist~~
 1357 ~~or another psychiatrist~~, both of whom have personally examined
 1358 the patient within the preceding 72 hours, that the criteria for
 1359 involuntary outpatient ~~services placement~~ are met. However, in a
 1360 county having a population of fewer than 50,000, if the
 1361 administrator certifies that a qualified professional
 1362 ~~psychiatrist or clinical psychologist~~ is not available to
 1363 provide the second opinion, the second opinion may be provided
 1364 by a ~~licensed~~ physician who has postgraduate training and
 1365 experience in diagnosis and treatment of mental ~~and nervous~~
 1366 disorders or by a psychiatric nurse. Any second opinion

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1367 authorized in this subparagraph may be conducted through a face-
 1368 to-face examination, in person or by electronic means, including
 1369 telemedicine. Such recommendation must be entered on an
 1370 involuntary outpatient ~~services placement~~ certificate that
 1371 authorizes the ~~receiving~~ facility to retain the patient pending
 1372 completion of a hearing. The certificate must ~~shall~~ be made a
 1373 part of the patient's clinical record.

1374 2. If the patient has been stabilized and no longer meets
 1375 the criteria for involuntary examination pursuant to s.
 1376 394.463(1), the patient must be released from the ~~receiving~~
 1377 facility while awaiting the hearing for involuntary outpatient
 1378 ~~services placement~~. Before filing a petition for involuntary
 1379 outpatient services treatment, the administrator of the ~~a~~
 1380 ~~receiving~~ facility or a designated department representative
 1381 must identify the service provider that will have primary
 1382 responsibility for service provision under an order for
 1383 involuntary outpatient services placement, unless the person is
 1384 otherwise participating in outpatient psychiatric treatment and
 1385 is not in need of public financing for that treatment, in which
 1386 case the individual, if eligible, may be ordered to involuntary
 1387 treatment pursuant to the existing psychiatric treatment
 1388 relationship.

1389 3. The service provider shall prepare a written proposed
 1390 treatment plan in consultation with the patient or the patient's
 1391 guardian advocate, if appointed, for the court's consideration
 1392 for inclusion in the involuntary outpatient services placement
 1393 order. The service provider shall also provide a copy of the
 1394 proposed treatment plan to the patient and the administrator of
 1395 the ~~receiving~~ facility. The treatment plan must specify the

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1396 nature and extent of the patient's mental illness, address the
 1397 reduction of symptoms that necessitate involuntary outpatient
 1398 services placement, and include measurable goals and objectives
 1399 for the services ~~and treatment~~ that are provided to treat the
 1400 person's mental illness and assist the person in living and
 1401 functioning in the community or to prevent a relapse or
 1402 deterioration. Service providers may select and supervise other
 1403 individuals to implement specific aspects of the treatment plan.
 1404 The services in the ~~treatment~~ plan must be deemed clinically
 1405 appropriate by a physician, ~~clinical~~ psychologist, psychiatric
 1406 nurse, mental health counselor, marriage and family therapist,
 1407 or clinical social worker who consults with, or is employed or
 1408 contracted by, the service provider. The service provider must
 1409 certify to the court in the proposed treatment plan whether
 1410 sufficient services for improvement and stabilization are
 1411 currently available and whether the service provider agrees to
 1412 provide those services. If the service provider certifies that
 1413 the services in the proposed treatment plan are not available,
 1414 the petitioner may not file the petition. The service provider
 1415 must document its inquiry with the department and the managing
 1416 entity as to the availability of the requested services. The
 1417 managing entity must document such efforts to obtain the
 1418 requested services.

1419 (b) If a patient in involuntary inpatient placement meets
 1420 the criteria for involuntary outpatient services placement, the
 1421 administrator of the ~~treatment~~ facility may, before the
 1422 expiration of the period during which the ~~treatment~~ facility is
 1423 authorized to retain the patient, recommend involuntary
 1424 outpatient services placement. The recommendation must be

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1425 supported by the opinion of two qualified professionals a
 1426 ~~psychiatrist and the second opinion of a clinical psychologist~~
 1427 ~~or another psychiatrist~~, both of whom have personally examined
 1428 the patient within the preceding 72 hours, that the criteria for
 1429 involuntary outpatient services placement are met. However, in a
 1430 county having a population of fewer than 50,000, if the
 1431 administrator certifies that a qualified professional
 1432 ~~psychiatrist or clinical psychologist~~ is not available to
 1433 provide the second opinion, the second opinion may be provided
 1434 by a ~~licensed~~ physician who has postgraduate training and
 1435 experience in diagnosis and treatment of mental ~~and nervous~~
 1436 disorders or by a psychiatric nurse. Any second opinion
 1437 authorized in this paragraph ~~subparagraph~~ may be conducted
 1438 through a face-to-face examination, in person or by electronic
 1439 means including telemedicine. Such recommendation must be
 1440 entered on an involuntary outpatient services placement
 1441 certificate, and the certificate must be made a part of the
 1442 patient's clinical record.

1443 (c)1. The administrator of the ~~treatment~~ facility shall
 1444 provide a copy of the involuntary outpatient services placement
 1445 certificate and a copy of the state mental health discharge form
 1446 to a department representative in the county where the patient
 1447 will be residing. For persons who are leaving a state mental
 1448 health treatment facility, the petition for involuntary
 1449 outpatient services placement must be filed in the county where
 1450 the patient will be residing.

1451 2. The service provider that will have primary
 1452 responsibility for service provision shall be identified by the
 1453 designated department representative before ~~prior to~~ the order

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1454 for involuntary outpatient services placement and must, before
 1455 ~~prior to~~ filing a petition for involuntary outpatient services
 1456 ~~placement~~, certify to the court whether the services recommended
 1457 in the patient's discharge plan are available ~~in the local~~
 1458 ~~community~~ and whether the service provider agrees to provide
 1459 those services. The service provider must develop with the
 1460 patient, or the patient's guardian advocate, if appointed, a
 1461 treatment or service plan that addresses the needs identified in
 1462 the discharge plan. The plan must be deemed to be clinically
 1463 appropriate by a physician, ~~clinical~~ psychologist, psychiatric
 1464 nurse, mental health counselor, marriage and family therapist,
 1465 or clinical social worker, as defined in this chapter, who
 1466 consults with, or is employed or contracted by, the service
 1467 provider.

1468 3. If the service provider certifies that the services in
 1469 the proposed treatment or service plan are not available, the
 1470 petitioner may not file the petition. The service provider must
 1471 document its inquiry with the department and the managing entity
 1472 as to the availability of the requested services. The managing
 1473 entity must document such efforts to obtain the requested
 1474 services.

1475 (3) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES
 1476 ~~PLACEMENT.~~-

1477 (a) A petition for involuntary outpatient services
 1478 ~~placement~~ may be filed by:

- 1479 1. The administrator of a receiving facility; or
- 1480 2. The administrator of a treatment facility.

1481 (b) Each required criterion for involuntary outpatient
 1482 services placement must be alleged and substantiated in the

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1483 petition for involuntary outpatient services placement. A copy
 1484 of the certificate recommending involuntary outpatient services
 1485 ~~placement~~ completed by two a qualified professionals
 1486 ~~professional specified in subsection (2)~~ must be attached to the
 1487 petition. A copy of the proposed treatment plan must be attached
 1488 to the petition. Before the petition is filed, the service
 1489 provider shall certify that the services in the proposed
 1490 treatment plan are available. If the necessary services are not
 1491 available ~~in the patient's local community to respond to the~~
 1492 ~~person's individual needs~~, the petition may not be filed. The
 1493 service provider must document its inquiry with the department
 1494 and the managing entity as to the availability of the requested
 1495 services. The managing entity must document such efforts to
 1496 obtain the requested services.

1497 (c) The petition for involuntary outpatient services
 1498 ~~placement~~ must be filed in the county where the patient is
 1499 located, unless the patient is being placed from a state
 1500 treatment facility, in which case the petition must be filed in
 1501 the county where the patient will reside. When the petition has
 1502 been filed, the clerk of the court shall provide copies of the
 1503 petition and the proposed treatment plan to the department, the
 1504 managing entity, the patient, the patient's guardian or
 1505 representative, the state attorney, and the public defender or
 1506 the patient's private counsel. A fee may not be charged for
 1507 filing a petition under this subsection.

1508 (4) APPOINTMENT OF COUNSEL.-Within 1 court working day
 1509 after the filing of a petition for involuntary outpatient
 1510 services placement, the court shall appoint the public defender
 1511 to represent the person who is the subject of the petition,

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1512 unless the person is otherwise represented by counsel. The clerk
 1513 of the court shall immediately notify the public defender of the
 1514 appointment. The public defender shall represent the person
 1515 until the petition is dismissed, the court order expires, or the
 1516 patient is discharged from involuntary outpatient services
 1517 ~~placement~~. An attorney who represents the patient must be
 1518 ~~provided shall have~~ access to the patient, witnesses, and
 1519 records relevant to the presentation of the patient's case and
 1520 shall represent the interests of the patient, regardless of the
 1521 source of payment to the attorney.

1522 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
 1523 the concurrence of the patient's counsel, to at least one
 1524 continuance of the hearing. The continuance shall be for a
 1525 period of up to 4 weeks.

1526 (6) HEARING ON INVOLUNTARY OUTPATIENT SERVICES PLACEMENT.—

1527 (a)1. The court shall hold the hearing on involuntary
 1528 outpatient services placement within 5 working days after the
 1529 filing of the petition, unless a continuance is granted. The
 1530 hearing must shall be held in the county where the petition is
 1531 filed, must shall be as convenient to the patient as is
 1532 consistent with orderly procedure, and must shall be conducted
 1533 in physical settings not likely to be injurious to the patient's
 1534 condition. If the court finds that the patient's attendance at
 1535 the hearing is not consistent with the best interests of the
 1536 patient and if the patient's counsel does not object, the court
 1537 may waive the presence of the patient from all or any portion of
 1538 the hearing. The state attorney for the circuit in which the
 1539 patient is located shall represent the state, rather than the
 1540 petitioner, as the real party in interest in the proceeding.

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1541 2. The court may appoint a general or special master to
 1542 preside at the hearing. One of the professionals who executed
 1543 the involuntary outpatient services placement certificate shall
 1544 be a witness. The patient and the patient's guardian or
 1545 representative shall be informed by the court of the right to an
 1546 independent expert examination. If the patient cannot afford
 1547 such an examination, the court shall ensure that one is
 1548 provided, as otherwise provided by law ~~provide for one~~. The
 1549 independent expert's report is shall be confidential and not
 1550 discoverable, unless the expert is to be called as a witness for
 1551 the patient at the hearing. The court shall allow testimony from
 1552 individuals, including family members, deemed by the court to be
 1553 relevant under state law, regarding the person's prior history
 1554 and how that prior history relates to the person's current
 1555 condition. The testimony in the hearing must be given under
 1556 oath, and the proceedings must be recorded. The patient may
 1557 refuse to testify at the hearing.

1558 (b)1. If the court concludes that the patient meets the
 1559 criteria for involuntary outpatient services placement pursuant
 1560 to subsection (1), the court shall issue an order for
 1561 involuntary outpatient services placement. The court order shall
 1562 be for a period of up to 90 days 6 months. However, an order for
 1563 involuntary services in a state treatment facility may be for up
 1564 to 6 months. The order must specify the nature and extent of the
 1565 patient's mental illness. The order of the court and the
 1566 treatment plan must shall be made part of the patient's clinical
 1567 record. The service provider shall discharge a patient from
 1568 involuntary outpatient services placement when the order expires
 1569 or any time the patient no longer meets the criteria for

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1570 involuntary services ~~placement~~. Upon discharge, the service
1571 provider shall send a certificate of discharge to the court.

1572 2. The court may not order the department or the service
1573 provider to provide services if the program or service is not
1574 available in the patient's local community, if there is no space
1575 available in the program or service for the patient, or if
1576 funding is not available for the program or service. The service
1577 provider must document its inquiry with the department and the
1578 managing entity as to the availability of the requested
1579 services. The managing entity must document such efforts to
1580 obtain the requested services. A copy of the order must be sent
1581 to the department and the managing entity Agency for Health Care
1582 Administration by the service provider within 1 working day
1583 after it is received from the court. After the ~~placement~~ order
1584 for involuntary services is issued, the service provider and the
1585 patient may modify ~~provisions~~ of the treatment plan. For any
1586 material modification of the treatment plan to which the patient
1587 or, if one is appointed, the patient's guardian advocate agrees,
1588 ~~if appointed, does agree~~, the service provider shall send notice
1589 of the modification to the court. Any material modifications of
1590 the treatment plan which are contested by the patient or the
1591 patient's guardian advocate, if applicable appointed, must be
1592 approved or disapproved by the court consistent with subsection
1593 (2).

1594 3. If, in the clinical judgment of a physician, the patient
1595 has failed or ~~has~~ refused to comply with the treatment ordered
1596 by the court, and, in the clinical judgment of the physician,
1597 efforts were made to solicit compliance and the patient may meet
1598 the criteria for involuntary examination, a person may be

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1599 brought to a receiving facility pursuant to s. 394.463. If,
1600 after examination, the patient does not meet the criteria for
1601 involuntary inpatient placement pursuant to s. 394.467, the
1602 patient must be discharged from the ~~receiving~~ facility. The
1603 involuntary outpatient services ~~placement~~ order shall remain in
1604 effect unless the service provider determines that the patient
1605 no longer meets the criteria for involuntary outpatient services
1606 ~~placement~~ or until the order expires. The service provider must
1607 determine whether modifications should be made to the existing
1608 treatment plan and must attempt to continue to engage the
1609 patient in treatment. For any material modification of the
1610 treatment plan to which the patient or the patient's guardian
1611 advocate, if applicable appointed, agrees does agree, the
1612 service provider shall send notice of the modification to the
1613 court. Any material modifications of the treatment plan which
1614 are contested by the patient or the patient's guardian advocate,
1615 if applicable appointed, must be approved or disapproved by the
1616 court consistent with subsection (2).

1617 (c) If, at any time before the conclusion of the initial
1618 hearing on involuntary outpatient services ~~placement~~, it appears
1619 to the court that the person does not meet the criteria for
1620 involuntary outpatient services ~~placement~~ under this section
1621 but, instead, meets the criteria for involuntary inpatient
1622 placement, the court may order the person admitted for
1623 involuntary inpatient examination under s. 394.463. If the
1624 person instead meets the criteria for involuntary assessment,
1625 protective custody, or involuntary admission pursuant to s.
1626 397.675, the court may order the person to be admitted for
1627 involuntary assessment for a period of 5 days pursuant to s.

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1628 397.6811. Thereafter, all proceedings ~~are shall be~~ governed by
1629 chapter 397.

1630 (d) At the hearing on involuntary outpatient services
1631 ~~placement~~, the court shall consider testimony and evidence
1632 regarding the patient's competence to consent to treatment. If
1633 the court finds that the patient is incompetent to consent to
1634 treatment, it shall appoint a guardian advocate as provided in
1635 s. 394.4598. The guardian advocate shall be appointed or
1636 discharged in accordance with s. 394.4598.

1637 (e) The administrator of the receiving facility or the
1638 designated department representative shall provide a copy of the
1639 court order and adequate documentation of a patient's mental
1640 illness to the service provider for involuntary outpatient
1641 services placement. Such documentation must include any advance
1642 directives made by the patient, a psychiatric evaluation of the
1643 patient, and any evaluations of the patient performed by a
1644 ~~clinical~~ psychologist or a clinical social worker.

1645 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES
1646 PLACEMENT.-

1647 (a)1. If the person continues to meet the criteria for
1648 involuntary outpatient services placement, the service provider
1649 shall, at least 10 days before the expiration of the period
1650 during which the treatment is ordered for the person, file in
1651 the county or circuit court a petition for continued involuntary
1652 outpatient services placement. The court shall immediately
1653 schedule a hearing on the petition to be held within 15 days
1654 after the petition is filed.

1655 2. The existing involuntary outpatient services placement
1656 order remains in effect until disposition on the petition for

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1657 continued involuntary outpatient services placement.

1658 3. A certificate shall be attached to the petition which
1659 includes a statement from the person's physician or ~~clinical~~
1660 psychologist justifying the request, a brief description of the
1661 patient's treatment during the time he or she was receiving
1662 involuntarily services placed, and an individualized plan of
1663 continued treatment.

1664 4. The service provider shall develop the individualized
1665 plan of continued treatment in consultation with the patient or
1666 the patient's guardian advocate, if applicable appointed. When
1667 the petition has been filed, the clerk of the court shall
1668 provide copies of the certificate and the individualized plan of
1669 continued treatment to the department, the patient, the
1670 patient's guardian advocate, the state attorney, and the
1671 patient's private counsel or the public defender.

1672 (b) Within 1 court working day after the filing of a
1673 petition for continued involuntary outpatient services
1674 placement, the court shall appoint the public defender to
1675 represent the person who is the subject of the petition, unless
1676 the person is otherwise represented by counsel. The clerk of the
1677 court shall immediately notify the public defender of such
1678 appointment. The public defender shall represent the person
1679 until the petition is dismissed or the court order expires or
1680 the patient is discharged from involuntary outpatient services
1681 placement. Any attorney representing the patient shall have
1682 access to the patient, witnesses, and records relevant to the
1683 presentation of the patient's case and shall represent the
1684 interests of the patient, regardless of the source of payment to
1685 the attorney.

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1686 (c) Hearings on petitions for continued involuntary
 1687 outpatient services must ~~placement shall~~ be before the circuit
 1688 court. The court may appoint a general or special master to
 1689 preside at the hearing. The procedures for obtaining an order
 1690 pursuant to this paragraph must meet the requirements of ~~shall~~
 1691 ~~be in accordance with~~ subsection (6), except that the time
 1692 period included in paragraph (1) (e) does not apply when is not
 1693 ~~applicable in~~ determining the appropriateness of additional
 1694 periods of involuntary outpatient services placement.

1695 (d) Notice of the hearing must ~~shall~~ be provided as set
 1696 forth in s. 394.4599. The patient and the patient's attorney may
 1697 agree to a period of continued outpatient services placement
 1698 without a court hearing.

1699 (e) The same procedure must ~~shall~~ be repeated before the
 1700 expiration of each additional period the patient is placed in
 1701 treatment.

1702 (f) If the patient has previously been found incompetent to
 1703 consent to treatment, the court shall consider testimony and
 1704 evidence regarding the patient's competence. Section 394.4598
 1705 governs the discharge of the guardian advocate if the patient's
 1706 competency to consent to treatment has been restored.

1707 Section 12. Section 394.467, Florida Statutes, is amended
 1708 to read:

1709 394.467 Involuntary inpatient placement.—

1710 (1) CRITERIA.—A person may be ordered for ~~placed in~~
 1711 involuntary inpatient placement for treatment upon a finding of
 1712 the court by clear and convincing evidence that:

1713 (a) He or she has a mental illness ~~is mentally ill~~ and
 1714 because of his or her mental illness:

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1715 1.a. He or she has refused voluntary inpatient placement
 1716 for treatment after sufficient and conscientious explanation and
 1717 disclosure of the purpose of inpatient placement for treatment;
 1718 or

1719 b. He or she is unable to determine for himself or herself
 1720 whether inpatient placement is necessary; and

1721 2.a. He or she is ~~manifestly~~ incapable of surviving alone
 1722 or with the help of willing and responsible family or friends,
 1723 including available alternative services, and, without
 1724 treatment, is likely to suffer from neglect or refuse to care
 1725 for himself or herself, and such neglect or refusal poses a real
 1726 and present threat of substantial physical or mental harm to his
 1727 or her well-being; or

1728 b. There is substantial likelihood that in the near future
 1729 he or she will inflict serious bodily harm on self or others
 1730 ~~himself or herself or another person~~, as evidenced by recent
 1731 behavior causing, attempting, or threatening such harm; and

1732 (b) All available, less restrictive treatment alternatives
 1733 that which would offer an opportunity for improvement of his or
 1734 her condition have been judged to be inappropriate.

1735 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
 1736 retained by a ~~receiving~~ facility or involuntarily placed in a
 1737 treatment facility upon the recommendation of the administrator
 1738 of the ~~receiving~~ facility where the patient has been examined
 1739 and after adherence to the notice and hearing procedures
 1740 provided in s. 394.4599. The recommendation must be supported by
 1741 the opinion of a psychiatrist and the second opinion of a
 1742 psychiatric nurse, clinical psychologist, or another
 1743 psychiatrist, both of whom have personally examined the patient

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1744 within the preceding 72 hours, that the criteria for involuntary
 1745 inpatient placement are met. However, in a county that has a
 1746 population of fewer than 50,000, if the administrator certifies
 1747 that a psychiatrist, psychiatric nurse, or ~~clinical~~ psychologist
 1748 is not available to provide the second opinion, the second
 1749 opinion may be provided by a ~~licensed~~ physician who has
 1750 postgraduate training and experience in diagnosis and treatment
 1751 of mental ~~illness and nervous disorders~~ or by a psychiatric
 1752 nurse. Any second opinion authorized in this subsection may be
 1753 conducted through a face-to-face examination, in person or by
 1754 electronic means, including telemedicine. Such recommendation
 1755 shall be entered on a petition for an involuntary inpatient
 1756 placement certificate that authorizes the ~~receiving~~ facility to
 1757 retain the patient pending transfer to a treatment facility or
 1758 completion of a hearing.

(3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

1759 (a) The administrator of the facility shall file a petition
 1760 for involuntary inpatient placement in the court in the county
 1761 where the patient is located. Upon filing, the clerk of the
 1762 court shall provide copies to the department, the patient, the
 1763 patient's guardian or representative, and the state attorney and
 1764 public defender of the judicial circuit in which the patient is
 1765 located. ~~A No fee may not shall~~ be charged for the filing of a
 1766 petition under this subsection.

1767 (b) A facility filing a petition under this subsection for
 1768 involuntary inpatient placement shall send a copy of the
 1769 petition to the department and the managing entity in its area.

1770 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
 1771 after the filing of a petition for involuntary inpatient
 1772

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1773 placement, the court shall appoint the public defender to
 1774 represent the person who is the subject of the petition, unless
 1775 the person is otherwise represented by counsel. The clerk of the
 1776 court shall immediately notify the public defender of such
 1777 appointment. Any attorney representing the patient shall have
 1778 access to the patient, witnesses, and records relevant to the
 1779 presentation of the patient's case and shall represent the
 1780 interests of the patient, regardless of the source of payment to
 1781 the attorney.

1782 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
 1783 the concurrence of the patient's counsel, to at least one
 1784 continuance of the hearing. ~~The continuance shall be for a~~
 1785 ~~period of~~ up to 4 weeks.

(6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

1786 (a)1. The court shall hold the hearing on involuntary
 1787 inpatient placement within 5 court working days, unless a
 1788 continuance is granted.

1789 2. Except for good cause documented in the court file, the
 1790 hearing ~~must shall~~ be held in the county or the facility, as
 1791 appropriate, where the patient is located, must and shall be as
 1792 convenient to the patient as is may be consistent with orderly
 1793 procedure, and shall be conducted in physical settings not
 1794 likely to be injurious to the patient's condition. If the court
 1795 finds that the patient's attendance at the hearing is not
 1796 consistent with the best interests of the patient, and the
 1797 patient's counsel does not object, the court may waive the
 1798 presence of the patient from all or any portion of the hearing.
 1799 The state attorney for the circuit in which the patient is
 1800 located shall represent the state, rather than the petitioning
 1801

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1802 facility administrator, as the real party in interest in the
1803 proceeding.

1804 ~~3.2-~~ The court may appoint a general or special magistrate
1805 to preside at the hearing. One of the two professionals who
1806 executed the petition for involuntary inpatient placement
1807 certificate shall be a witness. The patient and the patient's
1808 guardian or representative shall be informed by the court of the
1809 right to an independent expert examination. If the patient
1810 cannot afford such an examination, the court shall ensure that
1811 one is provided, as otherwise provided for by law ~~provide for~~
1812 ~~one~~. The independent expert's report is is ~~shall be~~ confidential
1813 and not discoverable, unless the expert is to be called as a
1814 witness for the patient at the hearing. The testimony in the
1815 hearing must be given under oath, and the proceedings must be
1816 recorded. The patient may refuse to testify at the hearing.

1817 (b) If the court concludes that the patient meets the
1818 criteria for involuntary inpatient placement, it may ~~shall~~ order
1819 that the patient be transferred to a treatment facility or, if
1820 the patient is at a treatment facility, that the patient be
1821 retained there or be treated at any other appropriate ~~receiving~~
1822 ~~or treatment~~ facility, or that the patient receive services from
1823 such a receiving or treatment facility or service provider, on
1824 an involuntary basis, for a period of up to 90 days ~~6 months~~.
1825 However, any order for involuntary mental health services in a
1826 state treatment facility may be for up to 6 months. The order
1827 shall specify the nature and extent of the patient's mental
1828 illness. The facility shall discharge a patient any time the
1829 patient no longer meets the criteria for involuntary inpatient
1830 placement, unless the patient has transferred to voluntary

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1831 status.

1832 (c) If at any time ~~before~~ prior to the conclusion of the
1833 hearing on involuntary inpatient placement it appears to the
1834 court that the person does not meet the criteria for involuntary
1835 inpatient placement under this section, but instead meets the
1836 criteria for involuntary outpatient services ~~placement~~, the
1837 court may order the person evaluated for involuntary outpatient
1838 services ~~placement~~ pursuant to s. 394.4655. The petition and
1839 hearing procedures set forth in s. 394.4655 shall apply. If the
1840 person instead meets the criteria for involuntary assessment,
1841 protective custody, or involuntary admission pursuant to s.
1842 397.675, then the court may order the person to be admitted for
1843 involuntary assessment for a period of 5 days pursuant to s.
1844 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1845 chapter 397.

1846 (d) At the hearing on involuntary inpatient placement, the
1847 court shall consider testimony and evidence regarding the
1848 patient's competence to consent to treatment. If the court finds
1849 that the patient is incompetent to consent to treatment, it
1850 shall appoint a guardian advocate as provided in s. 394.4598.

1851 (e) The administrator of the petitioning ~~receiving~~ facility
1852 shall provide a copy of the court order and adequate
1853 documentation of a patient's mental illness to the administrator
1854 of a treatment facility if the ~~whenever~~ a patient is ordered for
1855 involuntary inpatient placement, whether by civil or criminal
1856 court. The documentation must ~~shall~~ include any advance
1857 directives made by the patient, a psychiatric evaluation of the
1858 patient, and any evaluations of the patient performed by a
1859 clinical psychologist, a marriage and family therapist, a mental

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1860 health counselor, or a clinical social worker. The administrator
 1861 of a treatment facility may refuse admission to any patient
 1862 directed to its facilities on an involuntary basis, whether by
 1863 civil or criminal court order, who is not accompanied ~~at the~~
 1864 ~~same time~~ by adequate orders and documentation.

1865 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
 1866 PLACEMENT.—

1867 (a) Hearings on petitions for continued involuntary
 1868 inpatient placement of an individual placed at any state
 1869 treatment facility ~~shall be~~ administrative hearings and must
 1870 ~~shall be~~ conducted in accordance with ~~the provisions of~~ s.

1871 120.57(1), except that any order entered by the administrative
 1872 law judge ~~is shall be~~ final and subject to judicial review in
 1873 accordance with s. 120.68. Orders concerning patients committed
 1874 after successfully pleading not guilty by reason of insanity are
 1875 ~~shall be~~ governed by ~~the provisions of~~ s. 916.15.

1876 (b) If the patient continues to meet the criteria for
 1877 involuntary inpatient placement and is being treated at a state
 1878 treatment facility, the administrator shall, before ~~prior to~~ the
 1879 expiration of the period ~~during which~~ the state treatment
 1880 facility is authorized to retain the patient, file a petition
 1881 requesting authorization for continued involuntary inpatient
 1882 placement. The request ~~must shall~~ be accompanied by a statement
 1883 from the patient's physician, psychiatrist, psychiatric nurse,
 1884 or ~~clinical~~ psychologist justifying the request, a brief
 1885 description of the patient's treatment during the time he or she
 1886 was involuntarily placed, and an individualized plan of
 1887 continued treatment. Notice of the hearing must shall be
 1888 provided as provided set forth in s. 394.4599. If a patient's

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1889 attendance at the hearing is voluntarily waived, the
 1890 administrative law judge must determine that the waiver is
 1891 knowing and voluntary before waiving the presence of the patient
 1892 from all or a portion of the hearing. Alternatively, if at the
 1893 hearing the administrative law judge finds that attendance at
 1894 the hearing is not consistent with the best interests of the
 1895 patient, the administrative law judge may waive the presence of
 1896 the patient from all or any portion of the hearing, unless the
 1897 patient, through counsel, objects to the waiver of presence. The
 1898 testimony in the hearing must be under oath, and the proceedings
 1899 must be recorded.

1900 (c) Unless the patient is otherwise represented or is
 1901 ineligible, he or she shall be represented at the hearing on the
 1902 petition for continued involuntary inpatient placement by the
 1903 public defender of the circuit in which the facility is located.

1904 (d) If at a hearing it is shown that the patient continues
 1905 to meet the criteria for involuntary inpatient placement, the
 1906 administrative law judge shall sign the order for continued
 1907 involuntary inpatient placement for a period of up to 90 days
 1908 ~~not to exceed 6 months. However, any order for involuntary~~
 1909 mental health services in a state treatment facility may be for
 1910 up to 6 months ~~The same procedure shall be repeated prior to the~~
 1911 ~~expiration of each additional period the patient is retained.~~

1912 (e) If continued involuntary inpatient placement is
 1913 necessary for a patient admitted while serving a criminal
 1914 sentence, but his or her ~~whose~~ sentence is about to expire, or
 1915 for a minor patient involuntarily placed, ~~while a minor~~ but who
 1916 is about to reach the age of 18, the administrator shall
 1917 petition the administrative law judge for an order authorizing

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1918 continued involuntary inpatient placement.

1919 (f) If the patient has been previously found incompetent to
 1920 consent to treatment, the administrative law judge shall
 1921 consider testimony and evidence regarding the patient's
 1922 competence. If the administrative law judge finds evidence that
 1923 the patient is now competent to consent to treatment, the
 1924 administrative law judge may issue a recommended order to the
 1925 court that found the patient incompetent to consent to treatment
 1926 that the patient's competence be restored and that any guardian
 1927 advocate previously appointed be discharged.

1928 (g) If the patient has been ordered to undergo involuntary
 1929 inpatient placement and has previously been found incompetent to
 1930 consent to treatment, the court shall consider testimony and
 1931 evidence regarding the patient's incompetence. If the patient's
 1932 competency to consent to treatment is restored, the discharge of
 1933 the guardian advocate shall be governed by the provisions of s.
 1934 394.4598.

1935
 1936 The procedure required in this subsection must be followed
 1937 before the expiration of each additional period the patient is
 1938 involuntarily receiving services.

1939 (8) RETURN TO FACILITY OF PATIENTS.-If a patient
 1940 involuntarily held ~~When a patient~~ at a treatment facility under
 1941 this part leaves the facility without the administrator's
 1942 authorization, the administrator may authorize a search for the
 1943 patient and his or her ~~the return of the patient~~ to the
 1944 facility. The administrator may request the assistance of a law
 1945 enforcement agency in this regard ~~the search for and return of~~
 1946 ~~the patient.~~

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1947 Section 13. Section 394.46715, Florida Statutes, is amended
 1948 to read:

1949 394.46715 Rulemaking authority.-The department may adopt
 1950 rules to administer this part ~~Department of Children and~~
 1951 ~~Families shall have rulemaking authority to implement the~~
 1952 ~~provisions of ss. 394.455, 394.4598, 394.4615, 394.463,~~
 1953 ~~394.4655, and 394.467 as amended or created by this act. These~~
 1954 ~~rules shall be for the purpose of protecting the health, safety,~~
 1955 ~~and well-being of persons examined, treated, or placed under~~
 1956 ~~this act.~~

1957 Section 14. Section 394.761, Florida Statutes, is created
 1958 to read:

1959 394.761 Revenue maximization.-The agency and the department
 1960 shall develop a plan to obtain federal approval for increasing
 1961 the availability of federal Medicaid funding for behavioral
 1962 health care. Increased funding shall be used to advance the goal
 1963 of improved integration of behavioral health and primary care
 1964 services through development and effective implementation of
 1965 coordinated care as described in s. 394.9082. The agency and the
 1966 department shall submit the written plan to the President of the
 1967 Senate and the Speaker of the House of Representatives by
 1968 November 1, 2016. The plan shall identify the amount of general
 1969 revenue funding appropriated for mental health and substance
 1970 abuse services which is eligible to be used as state Medicaid
 1971 match. The plan must evaluate alternative uses of increased
 1972 Medicaid funding, including expansion of Medicaid eligibility
 1973 for the severely and persistently mentally ill; increased
 1974 reimbursement rates for behavioral health services; adjustments
 1975 to the capitation rate for Medicaid enrollees with chronic

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 1976 mental illness and substance abuse disorders; supplemental
 1977 payments to mental health and substance abuse providers through
 1978 a designated state health program or other mechanism; and
 1979 innovative programs for incentivizing improved outcomes for
 1980 behavioral health conditions. The plan must identify the
 1981 advantages and disadvantages of each alternative and assess the
 1982 potential of each for achieving improved integration of
 1983 services. The plan must identify the federal approvals necessary
 1984 to implement each alternative and project a timeline for
 1985 implementation.

1986 Section 15. Subsection (11) is added to section 394.875,
 1987 Florida Statutes, to read:

1988 394.875 Crisis stabilization units, residential treatment
 1989 facilities, and residential treatment centers for children and
 1990 adolescents; authorized services; license required.-

1991 (11) By January 1, 2017, the department shall modify
 1992 licensure rules and procedures to create an option for a single,
 1993 consolidated license for a provider who offers multiple types of
 1994 mental health and substance abuse services regulated under this
 1995 chapter and chapter 397. Providers eligible for a consolidated
 1996 license shall operate these services through a single corporate
 1997 entity and a unified management structure. Any provider serving
 1998 adults and children must meet department standards for separate
 1999 facilities and other requirements necessary to ensure children's
 2000 safety and promote therapeutic efficacy.

2001 Section 16. Section 394.9082, Florida Statutes, is amended
 2002 to read:

2003 (Substantial rewording of section. See
 2004 s. 394.9082, F.S., for present text.)

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 2005 394.9082 Behavioral health managing entities' purpose;
 2006 definitions; duties; contracting; accountability.-
 2007 (1) PURPOSE.-The purpose of the behavioral health managing
 2008 entities is to plan for and coordinate the delivery of community
 2009 mental health and substance abuse services, to improve access to
 2010 care, to promote service continuity, and to support efficient
 2011 and effective delivery of services.
 2012 (2) DEFINITIONS.-As used in this section, the term:
 2013 (a) "Behavioral health services" means mental health
 2014 services and substance abuse prevention and treatment services
 2015 as described in this chapter and chapter 397.
 2016 (b) "Case management" means those direct services provided
 2017 to a client in order to assess needs, plan or arrange services,
 2018 coordinate service providers, monitor service delivery, and
 2019 evaluate outcomes.
 2020 (c) "Coordinated system of care" means the full array of
 2021 behavioral health and related services in a region or a
 2022 community offered by all service providers, whether
 2023 participating under contract with the managing entity or through
 2024 another method of community partnership or mutual agreement.
 2025 (d) "Geographic area" means one or more contiguous
 2026 counties, circuits, or regions as described in s. 409.966 or s.
 2027 381.0406.
 2028 (e) "High-need or high-utilization individual" means a
 2029 recipient who meets one or more of the following criteria and
 2030 may be eligible for intensive case management services:
 2031 1. Has resided in a state mental health facility for at
 2032 least 6 months in the last 36 months;
 2033 2. Has had two or more admissions to a state mental health

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2034 facility in the last 36 months; or

2035 3. Has had three or more admissions to a crisis
 2036 stabilization unit, an addictions receiving facility, a short-
 2037 term residential facility, or an inpatient psychiatric unit
 2038 within the last 12 months.

2039 (f) "Managing entity" means a corporation designated or
 2040 filed as a nonprofit organization under s. 501(c)(3) of the
 2041 Internal Revenue Code which is selected by, and is under
 2042 contract with, the department to manage the daily operational
 2043 delivery of behavioral health services through a coordinated
 2044 system of care.

2045 (g) "Provider network" means the group of direct service
 2046 providers, facilities, and organizations under contract with a
 2047 managing entity to provide a comprehensive array of emergency,
 2048 acute care, residential, outpatient, recovery support, and
 2049 consumer support services.

2050 (h) "Receiving facility" means any public or private
 2051 facility designated by the department to receive and hold or to
 2052 refer, as appropriate, involuntary patients under emergency
 2053 conditions for mental health or substance abuse evaluation and
 2054 to provide treatment or transportation to the appropriate
 2055 service provider. County jails may not be used or designated as
 2056 a receiving facility, a triage center, or an access center.

2057 (3) DEPARTMENT DUTIES.—The department shall:

2058 (a) Designate, with input from the managing entity,
 2059 facilities that meet the definitions in s. 394.455(1), (2),
 2060 (12), and (41) and the receiving system developed by one or more
 2061 counties pursuant to s. 394.4573(2)(b).

2062 (b) Contract with organizations to serve as the managing

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2063 entity in accordance with the requirements of this section.

2064 (c) Specify the geographic area served.

2065 (d) Specify data reporting and use of shared data systems.

2066 (e) Develop strategies to divert persons with mental
 2067 illness or substance abuse disorders from the criminal and
 2068 juvenile justice systems.

2069 (f) Support the development and implementation of a
 2070 coordinated system of care by requiring each provider that
 2071 receives state funds for behavioral health services through a
 2072 direct contract with the department to work with the managing
 2073 entity in the provider's service area to coordinate the
 2074 provision of behavioral health services, as part of the contract
 2075 with the department.

2076 (g) Set performance measures and performance standards for
 2077 managing entities based on nationally recognized standards, such
 2078 as those developed by the National Quality Forum, the National
 2079 Committee for Quality Assurance, or similar credible sources.
 2080 Performance standards must include all of the following:

2081 1. Annual improvement in the extent to which the need for
 2082 behavioral health services is met by the coordinated system of
 2083 care in the geographic area served.

2084 2. Annual improvement in the percentage of patients who
 2085 receive services through the coordinated system of care and who
 2086 achieve improved functional status as indicated by health
 2087 condition, employment status, and housing stability.

2088 3. Annual reduction in the rates of readmissions to acute
 2089 care facilities, jails, prisons, and forensic facilities.

2090 4. Annual improvement in consumer and family satisfaction.

2091 (h) Provide technical assistance to the managing entities.

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- 2092 (i) Promote the integration of behavioral health care and
 2093 primary care.
- 2094 (j) Facilitate the coordination between the managing entity
 2095 and other payors of behavioral health care.
- 2096 (k) Develop and provide a unique identifier for clients
 2097 receiving services under the managing entity to coordinate care.
- 2098 (l) Coordinate procedures for the referral and admission of
 2099 patients to, and the discharge of patients from, state treatment
 2100 facilities and their return to the community.
- 2101 (m) Ensure that managing entities comply with state and
 2102 federal laws, rules, and regulations.
- 2103 (n) Develop rules for the operations of, and the
 2104 requirements that must be met by, the managing entity, if
 2105 necessary.
- 2106 (4) CONTRACT WITH MANAGING ENTITIES.—
- 2107 (a) The department's contracts with managing entities must
 2108 support efficient and effective administration of the behavioral
 2109 health system and ensure accountability for performance.
- 2110 (b) Beginning July 1, 2018, managing entities under
 2111 contract with the department are subject to a contract
 2112 performance review. The review must include:
- 2113 1. Analysis of the duties and performance measures
 2114 described in this section;
- 2115 2. The results of contract monitoring compiled during the
 2116 term of the contract; and
- 2117 3. Related compliance and performance issues.
- 2118 (c) For the managing entities whose performance is
 2119 determined satisfactory after completion of the review pursuant
 2120 to paragraph (b), and before the end of the term of the

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- 2121 contract, the department may negotiate and enter into a contract
 2122 with the managing entity for a period of 4 years pursuant to s.
 2123 287.057(3)(e).
- 2124 (d) The performance review must be completed by the
 2125 beginning of the third year of the 4-year contract. In the event
 2126 the managing entity does not meet the requirements of the
 2127 performance review, a corrective action plan must be created by
 2128 the department. The managing entity must complete the corrective
 2129 action plan before the beginning of the fourth year of the
 2130 contract. If the corrective action plan is not satisfactorily
 2131 completed, the department shall provide notice to the managing
 2132 entity that the contract will be terminated at the end of the
 2133 contract term and the department shall initiate a competitive
 2134 procurement process to select a new managing entity pursuant to
 2135 s. 287.057.
- 2136 (5) MANAGING ENTITIES DUTIES.—A managing entity shall:
- 2137 (a) Maintain a board of directors that is representative of
 2138 the community and that, at a minimum, includes consumers and
 2139 family members, community stakeholders and organizations, and
 2140 providers of mental health and substance abuse services,
 2141 including public and private receiving facilities.
- 2142 (b) Conduct a community behavioral health care needs
 2143 assessment in the geographic area served by the managing entity.
 2144 The needs assessment must be updated annually and provided to
 2145 the department. The assessment must include, at a minimum, the
 2146 information the department needs for its annual report to the
 2147 Governor and Legislature pursuant to s. 394.4573.
- 2148 (c) Develop local resources by pursuing third-party
 2149 payments for services, applying for grants, securing local

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- 2150 matching funds and in-kind services, and any other methods
 2151 needed to ensure services are available and accessible.
 2152 (d) Provide assistance to counties to develop a designated
 2153 receiving system pursuant to s. 394.4573(2)(b) and a
 2154 transportation plan pursuant to s. 394.462.
 2155 (e) Promote the development and effective implementation of
 2156 a coordinated system of care pursuant to s. 394.4573.
 2157 (f) Develop a comprehensive network of qualified providers
 2158 to deliver behavioral health services. The managing entity is
 2159 not required to competitively procure network providers, but
 2160 must have a process in place to publicize opportunities to join
 2161 the network and to evaluate providers in the network to
 2162 determine if they can remain in the network. These processes
 2163 must be published on the website of the managing entity. The
 2164 managing entity must ensure continuity of care for clients if a
 2165 provider ceases to provide a service or leaves the network.
 2166 (g) Enter into cooperative agreements with local homeless
 2167 councils and organizations to allow the sharing of available
 2168 resource information, shared client information, client referral
 2169 services, and any other data or information that may be useful
 2170 in addressing the homelessness of persons suffering from a
 2171 behavioral health crisis.
 2172 (h) Monitor network providers' performance and their
 2173 compliance with contract requirements and federal and state
 2174 laws, rules, and regulations.
 2175 (i) Provide or contract for case management services.
 2176 (j) Manage and allocate funds for services to meet the
 2177 requirements of law or rule.
 2178 (k) Promote integration of behavioral health with primary

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- 2179 care.
 2180 (l) Implement shared data systems necessary for the
 2181 delivery of coordinated care and integrated services, the
 2182 assessment of managing entity performance and provider
 2183 performance, and the reporting of outcomes and costs of
 2184 services.
 2185 (m) Operate in a transparent manner, providing public
 2186 access to information, notice of meetings, and opportunities for
 2187 public participation in managing entity decisionmaking.
 2188 (n) Establish and maintain effective relationships with
 2189 community stakeholders, including local governments and other
 2190 organizations that serve individuals with behavioral health
 2191 needs.
 2192 (o) Collaborate with local criminal and juvenile justice
 2193 systems to divert persons with mental illness or substance abuse
 2194 disorders, or both, from the criminal and juvenile justice
 2195 systems.
 2196 (p) Collaborate with the local court system to develop
 2197 procedures to maximize the use of involuntary outpatient
 2198 services; reduce involuntary inpatient treatment; and increase
 2199 diversion from the criminal and juvenile justice systems.
 2200 (6) FUNDING FOR MANAGING ENTITIES.—
 2201 (a) A contract established between the department and a
 2202 managing entity under this section must be funded by general
 2203 revenue, other applicable state funds, or applicable federal
 2204 funding sources. A managing entity may carry forward documented
 2205 unexpended state funds from one fiscal year to the next, but the
 2206 cumulative amount carried forward may not exceed 8 percent of
 2207 the total value of the contract. Any unexpended state funds in

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2208 excess of that percentage must be returned to the department.
 2209 The funds carried forward may not be used in a way that would
 2210 increase future recurring obligations or for any program or
 2211 service that was not authorized as of July 1, 2016, under the
 2212 existing contract with the department. Expenditures of funds
 2213 carried forward must be separately reported to the department.
 2214 Any unexpended funds that remain at the end of the contract
 2215 period must be returned to the department. Funds carried forward
 2216 may be retained through contract renewals and new contract
 2217 procurements as long as the same managing entity is retained by
 2218 the department.

2219 (b) The method of payment for a fixed-price contract with a
 2220 managing entity must provide for a 2-month advance payment at
 2221 the beginning of each fiscal year and equal monthly payments
 2222 thereafter.

2223 (7) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—The
 2224 department shall develop, implement, and maintain standards
 2225 under which a managing entity shall collect utilization data
 2226 from all public receiving facilities situated within its
 2227 geographic service area. As used in this subsection, the term
 2228 “public receiving facility” means an entity that meets the
 2229 licensure requirements of, and is designated by, the department
 2230 to operate as a public receiving facility under s. 394.875 and
 2231 that is operating as a licensed crisis stabilization unit.

2232 (a) The department shall develop standards and protocols
 2233 for managing entities and public receiving facilities to be used
 2234 for data collection, storage, transmittal, and analysis. The
 2235 standards and protocols must allow for compatibility of data and
 2236 data transmittal between public receiving facilities, managing

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2237 entities, and the department for the implementation and
 2238 requirements of this subsection.

2239 (b) A managing entity shall require a public receiving
 2240 facility within its provider network to submit data, in real
 2241 time or at least daily, to the managing entity for:

2242 1. All admissions and discharges of clients receiving
 2243 public receiving facility services who qualify as indigent, as
 2244 defined in s. 394.4787; and

2245 2. The current active census of total licensed beds, the
 2246 number of beds purchased by the department, the number of
 2247 clients qualifying as indigent who occupy those beds, and the
 2248 total number of unoccupied licensed beds regardless of funding.

2249 (c) A managing entity shall require a public receiving
 2250 facility within its provider network to submit data, on a
 2251 monthly basis, to the managing entity which aggregates the daily
 2252 data submitted under paragraph (b). The managing entity shall
 2253 reconcile the data in the monthly submission to the data
 2254 received by the managing entity under paragraph (b) to check for
 2255 consistency. If the monthly aggregate data submitted by a public
 2256 receiving facility under this paragraph are inconsistent with
 2257 the daily data submitted under paragraph (b), the managing
 2258 entity shall consult with the public receiving facility to make
 2259 corrections necessary to ensure accurate data.

2260 (d) A managing entity shall require a public receiving
 2261 facility within its provider network to submit data, on an
 2262 annual basis, to the managing entity which aggregates the data
 2263 submitted and reconciled under paragraph (c). The managing
 2264 entity shall reconcile the data in the annual submission to the
 2265 data received and reconciled by the managing entity under

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2266 paragraph (c) to check for consistency. If the annual aggregate
 2267 data submitted by a public receiving facility under this
 2268 paragraph are inconsistent with the data received and reconciled
 2269 under paragraph (c), the managing entity shall consult with the
 2270 public receiving facility to make corrections necessary to
 2271 ensure accurate data.

2272 (e) After ensuring the accuracy of data pursuant to
 2273 paragraphs (c) and (d), the managing entity shall submit the
 2274 data to the department on a monthly and an annual basis. The
 2275 department shall create a statewide database for the data
 2276 described under paragraph (b) and submitted under this paragraph
 2277 for the purpose of analyzing the payments for and the use of
 2278 crisis stabilization services funded by the Baker Act on a
 2279 statewide basis and on an individual public receiving facility
 2280 basis.

2281 Section 17. Present subsections (20) through (45) of
 2282 section 397.311, Florida Statutes, are redesignated as
 2283 subsections (21) through (46), respectively, a new subsection
 2284 (20) is added to that section, and present subsections (30) and
 2285 (38) of that section are amended, to read:

2286 397.311 Definitions.—As used in this chapter, except part
 2287 VIII, the term:

2288 (20) "Involuntary services" means court-ordered outpatient
 2289 services or treatment for substance abuse disorders or services
 2290 provided in an inpatient placement in a receiving facility or
 2291 treatment facility.

2292 (31)(30) "Qualified professional" means a physician or a
 2293 physician assistant licensed under chapter 458 or chapter 459; a
 2294 professional licensed under chapter 490 or chapter 491; an

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2295 advanced registered nurse practitioner ~~having a specialty in~~
 2296 ~~psychiatry~~ licensed under part I of chapter 464; or a person who
 2297 is certified through a department-recognized certification
 2298 process for substance abuse treatment services and who holds, at
 2299 a minimum, a bachelor's degree. A person who is certified in
 2300 substance abuse treatment services by a state-recognized
 2301 certification process in another state at the time of employment
 2302 with a licensed substance abuse provider in this state may
 2303 perform the functions of a qualified professional as defined in
 2304 this chapter but must meet certification requirements contained
 2305 in this subsection no later than 1 year after his or her date of
 2306 employment.

2307 (39)(38) "Service component" or "component" means a
 2308 discrete operational entity within a service provider which is
 2309 subject to licensing as defined by rule. Service components
 2310 include prevention, intervention, and clinical treatment
 2311 described in subsection (23) (22).

2312 Section 18. Section 397.675, Florida Statutes, is amended
 2313 to read:

2314 397.675 Criteria for involuntary admissions, including
 2315 protective custody, emergency admission, and other involuntary
 2316 assessment, involuntary treatment, and alternative involuntary
 2317 assessment for minors, for purposes of assessment and
 2318 stabilization, and for involuntary treatment.—A person meets the
 2319 criteria for involuntary admission if there is good faith reason
 2320 to believe that the person has a substance abuse or co-occurring
 2321 mental health disorder is substance abuse impaired and, because
 2322 of such disorder impairment:

2323 (1) Has lost the power of self-control with respect to

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2324 substance ~~abuse use~~; and ~~either~~

2325 (2) (a) Without care or treatment, is likely to suffer from
 2326 neglect or to refuse to care for himself or herself, that such
 2327 neglect or refusal poses a real and present threat of
 2328 substantial harm to his or her well-being and that it is not
 2329 apparent that such harm may be avoided through the help of
 2330 willing family members or friends or the provision of other
 2331 services, or there is substantial likelihood that the person has
 2332 inflicted, or threatened to or attempted to inflict, or, unless
 2333 admitted, is likely to inflict, physical harm on himself, or
 2334 herself, or another; or

2335 (b) Is in need of substance abuse services and, by reason
 2336 of substance abuse impairment, his or her judgment has been so
 2337 impaired that he or she ~~the person~~ is incapable of appreciating
 2338 his or her need for such services and of making a rational
 2339 decision in that regard, although thereto, however, mere refusal
 2340 to receive such services does not constitute evidence of lack of
 2341 judgment with respect to his or her need for such services.

2342 Section 19. Section 397.679, Florida Statutes, is amended
 2343 to read:

2344 397.679 Emergency admission; circumstances justifying.—A
 2345 person who meets the criteria for involuntary admission in s.
 2346 397.675 may be admitted to a hospital or to a licensed
 2347 detoxification facility or addictions receiving facility for
 2348 emergency assessment and stabilization, or to a less intensive
 2349 component of a licensed service provider for assessment only,
 2350 upon receipt by the facility of a ~~the physician's~~ certificate by
 2351 a physician, an advanced registered nurse practitioner, a
 2352 clinical psychologist, a licensed clinical social worker, a

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2353 licensed marriage and family therapist, a licensed mental health
 2354 counselor, a physician assistant working under the scope of
 2355 practice of the supervising physician, or a master's-level-
 2356 certified addictions professional, if the certificate is
 2357 specific to substance abuse disorders, and the completion of an
 2358 application for emergency admission.

2359 Section 20. Section 397.6791, Florida Statutes, is amended
 2360 to read:

2361 397.6791 Emergency admission; persons who may initiate.—The
 2362 following professionals ~~persons~~ may request a certificate for an
 2363 emergency assessment or admission:

2364 (1) In the case of an adult, physicians, advanced
 2365 registered nurse practitioners, clinical psychologists, licensed
 2366 clinical social workers, licensed marriage and family
 2367 therapists, licensed mental health counselors, physician
 2368 assistants working under the scope of practice of the
 2369 supervising physician, and a master's-level-certified addictions
 2370 professional, if the certificate is specific to substance abuse
 2371 disorders ~~the certifying physician,~~ the person's spouse or legal
 2372 guardian, any relative of the person, or any other responsible
 2373 adult who has personal knowledge of the person's substance abuse
 2374 impairment.

2375 (2) In the case of a minor, the minor's parent, legal
 2376 guardian, or legal custodian.

2377 Section 21. Section 397.6793, Florida Statutes, is amended
 2378 to read:

2379 397.6793 Professional's Physician's ~~Physician's~~ certificate for
 2380 emergency admission.—

2381 (1) The professional's ~~physician's~~ certificate must include

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2382 the name of the person to be admitted, the relationship between
 2383 the person and the professional executing the certificate
 2384 ~~physician~~, the relationship between the applicant and the
 2385 professional physician, any relationship between the
 2386 professional physician and the licensed service provider, ~~and~~ a
 2387 statement that the person has been examined and assessed within
 2388 the preceding 5 days of the application date, and must include
 2389 factual allegations with respect to the need for emergency
 2390 admission, including:

2391 (a) The reason for the ~~physician's~~ belief that the person
 2392 is substance abuse impaired; and

2393 (b) The reason for the ~~physician's~~ belief that because of
 2394 such impairment the person has lost the power of self-control
 2395 with respect to substance abuse; and ~~either~~

2396 (c)1. The reason for the belief physician believes that,
 2397 without care or treatment, the person is likely to suffer from
 2398 neglect or refuse to care for himself or herself; that such
 2399 neglect or refusal poses a real and present threat of
 2400 substantial harm to his or her well-being; and that it is not
 2401 apparent that such harm may be avoided through the help of
 2402 willing family members or friends or the provision of other
 2403 services or there is substantial likelihood that the person has
 2404 inflicted or is likely to inflict physical harm on himself or
 2405 herself or others unless admitted; or

2406 2. The reason for the belief physician believes that the
 2407 person's refusal to voluntarily receive care is based on
 2408 judgment so impaired by reason of substance abuse that the
 2409 person is incapable of appreciating his or her need for care and
 2410 of making a rational decision regarding his or her need for

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2411 care.

2412 (2) The ~~professional's physician's~~ certificate must
 2413 recommend the least restrictive type of service that is
 2414 appropriate for the person. The certificate must be signed by
 2415 the professional physician. If other less restrictive means are
 2416 not available, such as voluntary appearance for outpatient
 2417 evaluation, a law enforcement officer shall take the person
 2418 named in the certificate into custody and deliver him or her to
 2419 the appropriate facility for involuntary examination.

2420 (3) A signed copy of the ~~professional's physician's~~
 2421 certificate shall accompany the person, and shall be made a part
 2422 of the person's clinical record, together with a signed copy of
 2423 the application. The application and the professional's
 2424 ~~physician's~~ certificate authorize the involuntary admission of
 2425 the person pursuant to, and subject to the provisions of, ss.
 2426 397.679-397.6797.

2427 (4) The professional's certificate is valid for 7 days
 2428 after issuance.

2429 (5) The ~~professional's physician's~~ certificate must
 2430 indicate whether the person requires transportation assistance
 2431 for delivery for emergency admission and specify, pursuant to s.
 2432 397.6795, the type of transportation assistance necessary.

2433 Section 22. Section 397.6795, Florida Statutes, is amended
 2434 to read:

2435 397.6795 Transportation-assisted delivery of persons for
 2436 emergency assessment.—An applicant for a person's emergency
 2437 admission, ~~or~~ the person's spouse or guardian, or a law
 2438 enforcement officer, ~~or a health officer~~ may deliver a person
 2439 named in the professional's physician's certificate for

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2440 emergency admission to a hospital or a licensed detoxification
2441 facility or addictions receiving facility for emergency
2442 assessment and stabilization.

2443 Section 23. Subsection (1) of section 397.681, Florida
2444 Statutes, is amended to read:

2445 397.681 Involuntary petitions; general provisions; court
2446 jurisdiction and right to counsel.—

2447 (1) JURISDICTION.—The courts have jurisdiction of
2448 involuntary assessment and stabilization petitions and
2449 involuntary treatment petitions for substance abuse impaired
2450 persons, and such petitions must be filed with the clerk of the
2451 court in the county where the person is located. The court may
2452 not charge a fee for the filing of a petition under this
2453 section. The chief judge may appoint a general or special
2454 magistrate to preside over all or part of the proceedings. The
2455 alleged impaired person is named as the respondent.

2456 Section 24. Subsection (1) of section 397.6811, Florida
2457 Statutes, is amended to read:

2458 397.6811 Involuntary assessment and stabilization.—A person
2459 determined by the court to appear to meet the criteria for
2460 involuntary admission under s. 397.675 may be admitted for a
2461 period of 5 days to a hospital or to a licensed detoxification
2462 facility or addictions receiving facility, for involuntary
2463 assessment and stabilization or to a less restrictive component
2464 of a licensed service provider for assessment only upon entry of
2465 a court order or upon receipt by the licensed service provider
2466 of a petition. Involuntary assessment and stabilization may be
2467 initiated by the submission of a petition to the court.

2468 (1) If the person upon whose behalf the petition is being

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2469 filed is an adult, a petition for involuntary assessment and
2470 stabilization may be filed by the respondent's spouse ~~or~~, legal
2471 guardian, any relative, a private practitioner, the director of
2472 a licensed service provider or the director's designee, or any
2473 individual ~~three adults~~ who has direct ~~have~~ personal knowledge
2474 of the respondent's substance abuse impairment.

2475 Section 25. Section 397.6814, Florida Statutes, is amended
2476 to read:

2477 397.6814 Involuntary assessment and stabilization; contents
2478 of petition.—A petition for involuntary assessment and
2479 stabilization must contain the name of the respondent, + the name
2480 of the applicant or applicants, + the relationship between the
2481 respondent and the applicant, and ~~+~~ the name of the respondent's
2482 attorney, if known, ~~and a statement of the respondent's ability~~
2483 ~~to afford an attorney;~~ and must state facts to support the need
2484 for involuntary assessment and stabilization, including:

2485 (1) The reason for the petitioner's belief that the
2486 respondent is substance abuse impaired; ~~and~~

2487 (2) The reason for the petitioner's belief that because of
2488 such impairment the respondent has lost the power of self-
2489 control with respect to substance abuse; and ~~either~~

2490 (3) (a) The reason the petitioner believes that the
2491 respondent has inflicted or is likely to inflict physical harm
2492 on himself or herself or others unless admitted; or

2493 (b) The reason the petitioner believes that the
2494 respondent's refusal to voluntarily receive care is based on
2495 judgment so impaired by reason of substance abuse that the
2496 respondent is incapable of appreciating his or her need for care
2497 and of making a rational decision regarding that need for care.

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2498 If the respondent has refused to submit to an assessment, such
2499 refusal must be alleged in the petition.

2500

2501 A fee may not be charged for the filing of a petition pursuant
2502 to this section.

2503 Section 26. Section 397.6819, Florida Statutes, is amended
2504 to read:

2505 397.6819 Involuntary assessment and stabilization;
2506 responsibility of licensed service provider.—A licensed service
2507 provider may admit an individual for involuntary assessment and
2508 stabilization for a period not to exceed 5 days unless a
2509 petition for involuntary outpatient services has been initiated
2510 which authorizes the licensed service provider to retain
2511 physical custody of the person pending further order of the
2512 court pursuant to s. 397.6822. The individual must be assessed
2513 within 24 hours without unnecessary delay by a qualified
2514 professional. The person may not be held pursuant to this
2515 section beyond the 24-hour assessment period unless the
2516 assessment has been reviewed and authorized by a licensed
2517 physician as necessary for continued stabilization. If an
2518 assessment is performed by a qualified professional who is not a
2519 physician, the assessment must be reviewed by a physician before
2520 the end of the assessment period.

2521 Section 27. Section 397.695, Florida Statutes, is amended
2522 to read:

2523 397.695 Involuntary outpatient services ~~treatment~~; persons
2524 who may petition.—

2525 (1) (a) If the respondent is an adult, a petition for
2526 involuntary outpatient services ~~treatment~~ may be filed by the

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2527 respondent's spouse or legal guardian, any relative, a service
2528 provider, or any individual ~~three adults~~ who has direct ~~have~~
2529 personal knowledge of the respondent's substance abuse
2530 impairment and his or her prior course of assessment and
2531 treatment.

2532 (b) The administrator of a receiving facility, a crisis
2533 stabilization unit, or an addictions receiving facility where
2534 the patient has been examined may retain the patient at the
2535 facility after adherence to the notice procedures provided in s.
2536 397.6955. The recommendation for involuntary outpatient services
2537 must be supported by the opinion of a qualified professional as
2538 defined in s. 397.311(31) or a master's-level-certified
2539 addictions professional and by the second opinion of a
2540 psychologist, a physician, or an advanced registered nurse
2541 practitioner licensed under chapter 464, both of whom have
2542 personally examined the patient within the preceding 72 hours,
2543 that the criteria for involuntary outpatient services are met.
2544 However, in a county having a population of fewer than 50,000,
2545 if the administrator of the facility certifies that a qualified
2546 professional is not available to provide the second opinion, the
2547 second opinion may be provided by a physician who has
2548 postgraduate training and experience in the diagnosis and
2549 treatment of substance abuse disorders. Any second opinion
2550 authorized in this section may be conducted through face-to-face
2551 examination, in person, or by electronic means, including
2552 telemedicine. Such recommendation must be entered on an
2553 involuntary outpatient certificate that authorizes the facility
2554 to retain the patient pending completion of a hearing. The
2555 certificate must be made a part of the patient's clinical

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2556 record.

2557 (c) If the patient has been stabilized and no longer meets
 2558 the criteria for involuntary assessment and stabilization
 2559 pursuant to s. 397.6811, the patient must be released from the
 2560 facility while awaiting the hearing for involuntary outpatient
 2561 services. Before filing a petition for involuntary outpatient
 2562 services, the administrator of the facility must identify the
 2563 service provider that will have responsibility for service
 2564 provision under the order for involuntary outpatient services,
 2565 unless the person is otherwise participating in outpatient
 2566 substance abuse disorder services and is not in need of public
 2567 financing of the services, in which case the person, if
 2568 eligible, may be ordered to involuntary outpatient services
 2569 pursuant to the existing provision-of-services relationship he
 2570 or she has for substance abuse disorder services.

2571 (d) The service provider shall prepare a written proposed
 2572 treatment plan in consultation with the patient or the patient's
 2573 guardian advocate, if applicable, for the order for outpatient
 2574 services and provide a copy of the proposed treatment plan to
 2575 the patient and the administrator of the facility. The treatment
 2576 plan must specify the nature and extent of the patient's
 2577 substance abuse disorder, address the reduction of symptoms that
 2578 necessitate involuntary outpatient services, and include
 2579 measurable goals and objectives for the services and treatment
 2580 that are provided to treat the person's substance abuse disorder
 2581 and to assist the person in living and functioning in the
 2582 community or prevent relapse or further deterioration. Service
 2583 providers may coordinate, select, and supervise other
 2584 individuals to implement specific aspects of the treatment plan.

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2585 The services in the treatment plan must be deemed clinically
 2586 appropriate by a qualified professional who consults with, or is
 2587 employed by, the service provider. The service provider must
 2588 certify that the recommended services in the treatment plan are
 2589 available for the stabilization and improvement of the patient.
 2590 If the service provider certifies that the recommended services
 2591 in the proposed treatment plan are not available, the petition
 2592 may not be filed. The service provider must document its inquiry
 2593 with the department and the managing entity as to the
 2594 availability of the requested services. The managing entity must
 2595 document such efforts to obtain the requested services.

2596 (e) If a patient in involuntary inpatient placement meets
 2597 the criteria for involuntary outpatient services, the
 2598 administrator of the treatment facility may, before the
 2599 expiration of the period during which the treatment facility is
 2600 authorized to retain the patient, recommend involuntary
 2601 outpatient services. The recommendation must be supported by the
 2602 opinion of a qualified professional as defined in s. 397.311(31)
 2603 or a master's-level-certified addictions professional and by the
 2604 second opinion of a psychologist, a physician, an advanced
 2605 registered nurse practitioner licensed under chapter 464, or a
 2606 mental health professional licensed under chapter 491, both of
 2607 whom have personally examined the patient within the preceding
 2608 72 hours, that the criteria for involuntary outpatient services
 2609 are met. However, in a county having a population of fewer than
 2610 50,000, if the administrator of the facility certifies that a
 2611 qualified professional is not available to provide the second
 2612 opinion, the second opinion may be provided by a physician who
 2613 has postgraduate training and experience in the diagnosis and

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2614 treatment of substance abuse disorders. Any second opinion
 2615 authorized in this section may be conducted through face-to-face
 2616 examination, in person, or by electronic means, including
 2617 telemedicine. Such recommendation must be entered on an
 2618 involuntary outpatient certificate that authorizes the facility
 2619 to retain the patient pending completion of a hearing. The
 2620 certificate must be made a part of the patient's clinical
 2621 record.

2622 (f) The service provider who is responsible for providing
 2623 services under the order for involuntary outpatient services
 2624 must be identified before the entry of the order for outpatient
 2625 services. The service provider shall certify to the court that
 2626 the recommended services in the treatment plan are available for
 2627 the stabilization and improvement of the patient. If the service
 2628 provider certifies that the recommended services in the proposed
 2629 treatment plan are not available, the petition may not be filed.
 2630 The service provider must document its inquiry with the
 2631 department and the managing entity as to the availability of the
 2632 requested services. The managing entity must document such
 2633 efforts to obtain the requested services.

2634 (2) If the respondent is a minor, a petition for
 2635 involuntary treatment may be filed by a parent, legal guardian,
 2636 or service provider.

2637 Section 28. Section 397.6951, Florida Statutes, is amended
 2638 to read:

2639 397.6951 Contents of petition for involuntary outpatient
 2640 services treatment.—A petition for involuntary outpatient
 2641 services treatment must contain the name of the respondent ~~to be~~
 2642 ~~admitted~~; the name of the petitioner or petitioners; the

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2643 relationship between the respondent and the petitioner; the name
 2644 of the respondent's attorney, if known, ~~and a statement of the~~
 2645 ~~petitioner's knowledge of the respondent's ability to afford an~~
 2646 ~~attorney~~; the findings and recommendations of the assessment
 2647 performed by the qualified professional; and the factual
 2648 allegations presented by the petitioner establishing the need
 2649 for involuntary outpatient services. The factual allegations
 2650 must demonstrate treatment, including:

2651 (1) The reason for the petitioner's belief that the
 2652 respondent is substance abuse impaired; ~~and~~

2653 (2) The respondent's history of failure to comply with
 2654 requirements for treatment for substance abuse and that the
 2655 respondent has been involuntarily admitted to a receiving or
 2656 treatment facility at least twice within the immediately
 2657 preceding 36 months; The reason for the petitioner's belief that
 2658 because of such impairment the respondent has lost the power of
 2659 self-control with respect to substance abuse; and either

2660 (3) That the respondent is, as a result of his or her
 2661 substance abuse disorder, unlikely to voluntarily participate in
 2662 the recommended services after sufficient and conscientious
 2663 explanation and disclosure of the purpose of the services or he
 2664 or she is unable to determine for himself or herself whether
 2665 outpatient services are necessary;

2666 (4) That, in view of the person's treatment history and
 2667 current behavior, the person is in need of involuntary
 2668 outpatient services; that without services, the person is likely
 2669 to suffer from neglect or to refuse to care for himself or
 2670 herself; that such neglect or refusal poses a real and present
 2671 threat of substantial harm to his or her well-being; and that

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2672 there is a substantial likelihood that without services the
 2673 person will cause serious bodily harm to himself, herself, or
 2674 others in the near future, as evidenced by recent behavior; and

2675 (5) That it is likely that the person will benefit from
 2676 involuntary outpatient services.

2677 ~~(3)(a) The reason the petitioner believes that the~~
 2678 ~~respondent has inflicted or is likely to inflict physical harm~~
 2679 ~~on himself or herself or others unless admitted; or~~

2680 ~~(b) The reason the petitioner believes that the~~
 2681 ~~respondent's refusal to voluntarily receive care is based on~~
 2682 ~~judgment so impaired by reason of substance abuse that the~~
 2683 ~~respondent is incapable of appreciating his or her need for care~~
 2684 ~~and of making a rational decision regarding that need for care.~~

2685 Section 29. Section 397.6955, Florida Statutes, is amended
 2686 to read:

2687 397.6955 Duties of court upon filing of petition for
 2688 involuntary outpatient services treatment.-

2689 (1) Upon the filing of a petition for the involuntary
 2690 outpatient services for treatment of a substance abuse impaired
 2691 person with the clerk of the court, the court shall immediately
 2692 determine whether the respondent is represented by an attorney
 2693 or whether the appointment of counsel for the respondent is
 2694 appropriate. If the court appoints counsel for the person, the
 2695 clerk of the court shall immediately notify the regional
 2696 conflict counsel, created pursuant to s. 27.511, of the
 2697 appointment. The regional conflict counsel shall represent the
 2698 person until the petition is dismissed, the court order expires,
 2699 or the person is discharged from involuntary outpatient
 2700 services. An attorney that represents the person named in the

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2701 petition shall have access to the person, witnesses, and records
 2702 relevant to the presentation of the person's case and shall
 2703 represent the interests of the person, regardless of the source
 2704 of payment to the attorney.

2705 (2) The court shall schedule a hearing to be held on the
 2706 petition within 5 ~~10~~ days unless a continuance is granted. The
 2707 court may appoint a general or special master to preside at the
 2708 hearing.

2709 (3) A copy of the petition and notice of the hearing must
 2710 be provided to the respondent; the respondent's parent,
 2711 guardian, or legal custodian, in the case of a minor; the
 2712 respondent's attorney, if known; the petitioner; the
 2713 respondent's spouse or guardian, if applicable; and such other
 2714 persons as the court may direct. If the respondent is a minor, a
 2715 copy of the petition and notice of the hearing must be ~~and have~~
 2716 such petition and order personally delivered to the respondent
 2717 if he or she is a minor. The court shall also issue a summons to
 2718 the person whose admission is sought.

2719 Section 30. Section 397.6957, Florida Statutes, is amended
 2720 to read:

2721 397.6957 Hearing on petition for involuntary outpatient
 2722 services treatment.-

2723 (1) At a hearing on a petition for involuntary outpatient
 2724 services treatment, the court shall hear and review all relevant
 2725 evidence, including the review of results of the assessment
 2726 completed by the qualified professional in connection with the
 2727 respondent's protective custody, emergency admission,
 2728 involuntary assessment, or alternative involuntary admission.
 2729 The respondent must be present unless the court finds that his

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2730 or her presence is likely to be injurious to himself or herself
2731 or others, in which event the court must appoint a guardian
2732 advocate to act in behalf of the respondent throughout the
2733 proceedings.

2734 (2) The petitioner has the burden of proving by clear and
2735 convincing evidence that:

2736 (a) The respondent is substance abuse impaired and has a
2737 history of lack of compliance with treatment for substance
2738 abuse; ~~and~~

2739 (b) Because of such impairment the respondent is unlikely
2740 to voluntarily participate in the recommended treatment or is
2741 unable to determine for himself or herself whether outpatient
2742 services are necessary the respondent has lost the power of
2743 self-control with respect to substance abuse; and either

2744 1. Without services, the respondent is likely to suffer
2745 from neglect or to refuse to care for himself or herself; that
2746 such neglect or refusal poses a real and present threat of
2747 substantial harm to his or her well-being; and that there is a
2748 substantial likelihood that without services the respondent will
2749 cause serious bodily harm to himself or herself or others in the
2750 near future, as evidenced by recent behavior ~~The respondent has~~
2751 ~~inflicted or is likely to inflict physical harm on himself or~~
2752 ~~herself or others unless admitted; or~~

2753 2. The respondent's refusal to voluntarily receive care is
2754 based on judgment so impaired by reason of substance abuse that
2755 the respondent is incapable of appreciating his or her need for
2756 care and of making a rational decision regarding that need for
2757 care.

2758 (3) One of the qualified professionals who executed the

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2759 involuntary outpatient services certificate must be a witness.
2760 The court shall allow testimony from individuals, including
2761 family members, deemed by the court to be relevant under state
2762 law, regarding the respondent's prior history and how that prior
2763 history relates to the person's current condition. The testimony
2764 in the hearing must be under oath, and the proceedings must be
2765 recorded. The patient may refuse to testify at the hearing.

2766 ~~(4)(3)~~ At the conclusion of the hearing the court shall
2767 either dismiss the petition or order the respondent to receive
2768 undergo involuntary outpatient services from his or her
2769 substance abuse treatment, with the respondent's chosen licensed
2770 service provider if to deliver the involuntary substance abuse
2771 treatment where possible and appropriate.

2772 Section 31. Section 397.697, Florida Statutes, is amended
2773 to read:

2774 397.697 Court determination; effect of court order for
2775 involuntary outpatient services ~~substance abuse treatment.~~

2776 (1) When the court finds that the conditions for
2777 involuntary outpatient services ~~substance abuse treatment~~ have
2778 been proved by clear and convincing evidence, it may order the
2779 respondent to receive ~~undergo~~ involuntary outpatient services
2780 from treatment by a licensed service provider for a period not
2781 to exceed 60 days. If the court finds it necessary, it may
2782 direct the sheriff to take the respondent into custody and
2783 deliver him or her to the licensed service provider specified in
2784 the court order, or to the nearest appropriate licensed service
2785 provider, for involuntary outpatient services ~~treatment~~. When
2786 the conditions justifying involuntary outpatient services
2787 ~~treatment~~ no longer exist, the individual must be released as

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2788 provided in s. 397.6971. When the conditions justifying
 2789 involuntary outpatient services ~~treatment~~ are expected to exist
 2790 after 60 days of services ~~treatment~~, a renewal of the
 2791 involuntary outpatient services ~~treatment~~ order may be requested
 2792 pursuant to s. 397.6975 before ~~prior to~~ the end of the 60-day
 2793 period.

2794 (2) In all cases resulting in an order for involuntary
 2795 outpatient services ~~substance abuse treatment~~, the court shall
 2796 retain jurisdiction over the case and the parties for the entry
 2797 of such further orders as the circumstances may require. The
 2798 court's requirements for notification of proposed release must
 2799 be included in the original ~~treatment~~ order.

2800 (3) An involuntary outpatient services ~~treatment~~ order
 2801 authorizes the licensed service provider to require the
 2802 individual to receive services that ~~undergo such treatment as~~
 2803 will benefit him or her, including services ~~treatment~~ at any
 2804 licensable service component of a licensed service provider.

2805 (4) The court may not order involuntary outpatient services
 2806 if the service provider certifies to the court that the
 2807 recommended services are not available. The service provider
 2808 must document its inquiry with the department and the managing
 2809 entity as to the availability of the requested services. The
 2810 managing entity must document such efforts to obtain the
 2811 requested services.

2812 (5) If the court orders involuntary outpatient services, a
 2813 copy of the order must be sent to the department and the
 2814 managing entity within 1 working day after it is received from
 2815 the court. After the order for outpatient services is issued,
 2816 the service provider and the patient may modify provisions of

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2817 the treatment plan. For any material modification of the
 2818 treatment plan to which the patient or the patient's guardian
 2819 advocate, if appointed, agrees, the service provider shall send
 2820 notice of the modification to the court. Any material
 2821 modification of the treatment plan which is contested by the
 2822 patient or the guardian advocate, if applicable, must be
 2823 approved or disapproved by the court.

2824 Section 32. Section 397.6971, Florida Statutes, is amended
 2825 to read:

2826 397.6971 Early release from involuntary outpatient services
 2827 substance abuse treatment.-

2828 (1) At any time before ~~prior to~~ the end of the 60-day
 2829 involuntary outpatient services ~~treatment~~ period, or prior to
 2830 the end of any extension granted pursuant to s. 397.6975, an
 2831 individual receiving ~~admitted for~~ involuntary outpatient
 2832 services ~~treatment~~ may be determined eligible for discharge to
 2833 the most appropriate referral or disposition for the individual
 2834 when any of the following apply:

2835 (a) The individual no longer meets the criteria for
 2836 involuntary admission and has given his or her informed consent
 2837 to be transferred to voluntary treatment status_#

2838 (b) If the individual was admitted on the grounds of
 2839 likelihood of infliction of physical harm upon himself or
 2840 herself or others, such likelihood no longer exists_#-#

2841 (c) If the individual was admitted on the grounds of need
 2842 for assessment and stabilization or treatment, accompanied by
 2843 inability to make a determination respecting such need, ~~either:~~

- 2844 1. Such inability no longer exists; or
- 2845 2. It is evident that further treatment will not bring

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2846 about further significant improvements in the individual's
2847 condition.

2848 (d) The individual is no longer in need of services.

2849 (e) The director of the service provider determines that
2850 the individual is beyond the safe management capabilities of the
2851 provider.

2852 (2) Whenever a qualified professional determines that an
2853 individual admitted for involuntary outpatient services
2854 qualifies treatment is ready for early release under ~~for any of~~
2855 ~~the reasons listed in~~ subsection (1), the service provider shall
2856 immediately discharge the individual, and must notify all
2857 persons specified by the court in the original treatment order.

2858 Section 33. Section 397.6975, Florida Statutes, is amended
2859 to read:

2860 397.6975 Extension of involuntary outpatient services
2861 ~~substance abuse treatment~~ period.-

2862 (1) Whenever a service provider believes that an individual
2863 who is nearing the scheduled date of his or her release from
2864 involuntary outpatient services treatment continues to meet the
2865 criteria for involuntary outpatient services treatment in s.
2866 397.693, a petition for renewal of the involuntary outpatient
2867 services treatment order may be filed with the court at least 10
2868 days before the expiration of the court-ordered outpatient
2869 services treatment period. The court shall immediately schedule
2870 a hearing to be held not more than 15 days after filing of the
2871 petition. The court shall provide the copy of the petition for
2872 renewal and the notice of the hearing to all parties to the
2873 proceeding. The hearing is conducted pursuant to s. 397.6957.

2874 (2) If the court finds that the petition for renewal of the

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2875 involuntary outpatient services treatment order should be
2876 granted, it may order the respondent to receive ~~undergo~~
2877 involuntary outpatient services treatment for a period not to
2878 exceed an additional 90 days. When the conditions justifying
2879 involuntary outpatient services treatment no longer exist, the
2880 individual must be released as provided in s. 397.6971. When the
2881 conditions justifying involuntary outpatient services treatment
2882 continue to exist after an additional 90 days of service
2883 ~~additional treatment~~, a new petition requesting renewal of the
2884 involuntary outpatient services treatment order may be filed
2885 pursuant to this section.

2886 (3) Within 1 court working day after the filing of a
2887 petition for continued involuntary outpatient services, the
2888 court shall appoint the regional conflict counsel to represent
2889 the respondent, unless the respondent is otherwise represented
2890 by counsel. The clerk of the court shall immediately notify the
2891 regional conflict counsel of such appointment. The regional
2892 conflict counsel shall represent the respondent until the
2893 petition is dismissed or the court order expires or the
2894 respondent is discharged from involuntary outpatient services.
2895 Any attorney representing the respondent shall have access to
2896 the respondent, witnesses, and records relevant to the
2897 presentation of the respondent's case and shall represent the
2898 interests of the respondent, regardless of the source of payment
2899 to the attorney.

2900 (4) Hearings on petitions for continued involuntary
2901 outpatient services shall be before the circuit court. The court
2902 may appoint a general or special master to preside at the
2903 hearing. The procedures for obtaining an order pursuant to this

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2904 section shall be in accordance with s. 397.697.

2905 (5) Notice of hearing shall be provided to the respondent
 2906 or his or her counsel. The respondent and the respondent's
 2907 counsel may agree to a period of continued outpatient services
 2908 without a court hearing.

2909 (6) The same procedure shall be repeated before the
 2910 expiration of each additional period of outpatient services.

2911 (7) If the respondent has previously been found incompetent
 2912 to consent to treatment, the court shall consider testimony and
 2913 evidence regarding the respondent's competence.

2914 Section 34. Section 397.6977, Florida Statutes, is amended
 2915 to read:

2916 397.6977 Disposition of individual upon completion of
 2917 involuntary outpatient services ~~substance abuse treatment.~~—At
 2918 the conclusion of the 60-day period of court-ordered involuntary
 2919 outpatient services ~~treatment~~, the respondent individual is
 2920 automatically discharged unless a motion for renewal of the
 2921 involuntary outpatient services ~~treatment~~ order has been filed
 2922 with the court pursuant to s. 397.6975.

2923 Section 35. Section 397.6978, Florida Statutes, is created
 2924 to read:

2925 397.6978 Guardian advocate; patient incompetent to consent;
 2926 substance abuse disorder.—

2927 (1) The administrator of a receiving facility or addictions
 2928 receiving facility may petition the court for the appointment of
 2929 a guardian advocate based upon the opinion of a qualified
 2930 professional that the patient is incompetent to consent to
 2931 treatment. If the court finds that a patient is incompetent to
 2932 consent to treatment and has not been adjudicated incapacitated

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2933 and that a guardian with the authority to consent to mental
 2934 health treatment has not been appointed, it shall appoint a
 2935 guardian advocate. The patient has the right to have an attorney
 2936 represent him or her at the hearing. If the person is indigent,
 2937 the court shall appoint the office of the regional conflict
 2938 counsel to represent him or her at the hearing. The patient has
 2939 the right to testify, cross-examine witnesses, and present
 2940 witnesses. The proceeding shall be recorded electronically or
 2941 stenographically, and testimony must be provided under oath. One
 2942 of the qualified professionals authorized to give an opinion in
 2943 support of a petition for involuntary placement, as described in
 2944 s. 397.675 or s. 397.6981, must testify. A guardian advocate
 2945 must meet the qualifications of a guardian contained in part IV
 2946 of chapter 744. The person who is appointed as a guardian
 2947 advocate must agree to the appointment.

2948 (2) The following persons are prohibited from appointment
 2949 as a patient's guardian advocate:

2950 (a) A professional providing clinical services to the
 2951 individual under this part.

2952 (b) The qualified professional who initiated the
 2953 involuntary examination of the individual, if the examination
 2954 was initiated by a qualified professional's certificate.

2955 (c) An employee, an administrator, or a board member of the
 2956 facility providing the examination of the individual.

2957 (d) An employee, an administrator, or a board member of the
 2958 treatment facility providing treatment of the individual.

2959 (e) A person providing any substantial professional
 2960 services to the individual, including clinical and nonclinical
 2961 services.

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2962 (f) A creditor of the individual.

2963 (g) A person subject to an injunction for protection
 2964 against domestic violence under s. 741.30, whether the order of
 2965 injunction is temporary or final, and for which the individual
 2966 was the petitioner.

2967 (h) A person subject to an injunction for protection
 2968 against repeat violence, sexual violence, or dating violence
 2969 under s. 784.046, whether the order of injunction is temporary
 2970 or final, and for which the individual was the petitioner.

2971 (3) A facility requesting appointment of a guardian
 2972 advocate must, before the appointment, provide the prospective
 2973 guardian advocate with information about the duties and
 2974 responsibilities of guardian advocates, including information
 2975 about the ethics of medical decisionmaking. Before asking a
 2976 guardian advocate to give consent to treatment for a patient,
 2977 the facility must provide to the guardian advocate sufficient
 2978 information so that the guardian advocate can decide whether to
 2979 give express and informed consent to the treatment. Such
 2980 information must include information that demonstrates that the
 2981 treatment is essential to the care of the patient and does not
 2982 present an unreasonable risk of serious, hazardous, or
 2983 irreversible side effects. If possible, before giving consent to
 2984 treatment, the guardian advocate must personally meet and talk
 2985 with the patient and the patient's physician. If that is not
 2986 possible, the discussion may be conducted by telephone. The
 2987 decision of the guardian advocate may be reviewed by the court,
 2988 upon petition of the patient's attorney, the patient's family,
 2989 or the facility administrator.

2990 (4) In lieu of the training required for guardians

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2991 appointed pursuant to chapter 744, a guardian advocate shall
 2992 attend at least a 4-hour training course approved by the court
 2993 before exercising his or her authority. At a minimum, the
 2994 training course must include information about patient rights,
 2995 the diagnosis of substance abuse disorders, the ethics of
 2996 medical decisionmaking, and the duties of guardian advocates.

2997 (5) The required training course and the information to be
 2998 supplied to prospective guardian advocates before their
 2999 appointment must be developed by the department, approved by the
 3000 chief judge of the circuit court, and taught by a court-approved
 3001 organization, which may include, but need not be limited to, a
 3002 community college, a guardianship organization, a local bar
 3003 association, or The Florida Bar. The court may waive some or all
 3004 of the training requirements for guardian advocates or impose
 3005 additional requirements. The court shall make its decision on a
 3006 case-by-case basis and, in making its decision, shall consider
 3007 the experience and education of the guardian advocate, the
 3008 duties assigned to the guardian advocate, and the needs of the
 3009 patient.

3010 (6) In selecting a guardian advocate, the court shall give
 3011 preference to the patient's health care surrogate, if one has
 3012 already been designated by the patient. If the patient has not
 3013 previously designated a health care surrogate, the selection
 3014 shall be made, except for good cause documented in the court
 3015 record, from among the following persons, listed in order of
 3016 priority:

3017 (a) The patient's spouse.

3018 (b) An adult child of the patient.

3019 (c) A parent of the patient.

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3020 (d) The adult next of kin of the patient.
 3021 (e) An adult friend of the patient.
 3022 (f) An adult trained and willing to serve as the guardian
 3023 advocate for the patient.
 3024 (7) If a guardian with the authority to consent to medical
 3025 treatment has not already been appointed, or if the patient has
 3026 not already designated a health care surrogate, the court may
 3027 authorize the guardian advocate to consent to medical treatment
 3028 as well as substance abuse disorder treatment. Unless otherwise
 3029 limited by the court, a guardian advocate with authority to
 3030 consent to medical treatment has the same authority to make
 3031 health care decisions and is subject to the same restrictions as
 3032 a proxy appointed under part IV of chapter 765. Unless the
 3033 guardian advocate has sought and received express court approval
 3034 in a proceeding separate from the proceeding to determine the
 3035 competence of the patient to consent to medical treatment, the
 3036 guardian advocate may not consent to:
 3037 (a) Abortion.
 3038 (b) Sterilization.
 3039 (c) Electroshock therapy.
 3040 (d) Psychosurgery.
 3041 (e) Experimental treatments that have not been approved by
 3042 a federally approved institutional review board in accordance
 3043 with 45 C.F.R. part 46 or 21 C.F.R. part 56.
 3044 The court must base its authorization on evidence that the
 3045 treatment or procedure is essential to the care of the patient
 3046 and that the treatment does not present an unreasonable risk of
 3047 serious, hazardous, or irreversible side effects. In complying
 3048

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3049 with this subsection, the court shall follow the procedures set
 3050 forth in subsection (1).
 3051 (8) The guardian advocate shall be discharged when the
 3052 patient is discharged from an order for involuntary outpatient
 3053 services or involuntary inpatient placement or when the patient
 3054 is transferred from involuntary to voluntary status. The court
 3055 or a hearing officer shall consider the competence of the
 3056 patient as provided in subsection (1) and may consider an
 3057 involuntarily placed patient's competence to consent to
 3058 treatment at any hearing. Upon sufficient evidence, the court
 3059 may restore, or the hearing officer may recommend that the court
 3060 restore, the patient's competence. A copy of the order restoring
 3061 competence or the certificate of discharge containing the
 3062 restoration of competence shall be provided to the patient and
 3063 the guardian advocate.
 3064 Section 36. Paragraph (a) of subsection (3) of section
 3065 39.407, Florida Statutes, is amended to read:
 3066 39.407 Medical, psychiatric, and psychological examination
 3067 and treatment of child; physical, mental, or substance abuse
 3068 examination of person with or requesting child custody.-
 3069 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
 3070 or paragraph (e), before the department provides psychotropic
 3071 medications to a child in its custody, the prescribing physician
 3072 shall attempt to obtain express and informed consent, as defined
 3073 in s. 394.455(15) ~~s. 394.455(9)~~ and as described in s.
 3074 394.459(3) (a), from the child's parent or legal guardian. The
 3075 department must take steps necessary to facilitate the inclusion
 3076 of the parent in the child's consultation with the physician.
 3077 However, if the parental rights of the parent have been

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3078 terminated, the parent's location or identity is unknown or
 3079 cannot reasonably be ascertained, or the parent declines to give
 3080 express and informed consent, the department may, after
 3081 consultation with the prescribing physician, seek court
 3082 authorization to provide the psychotropic medications to the
 3083 child. Unless parental rights have been terminated and if it is
 3084 possible to do so, the department shall continue to involve the
 3085 parent in the decisionmaking process regarding the provision of
 3086 psychotropic medications. If, at any time, a parent whose
 3087 parental rights have not been terminated provides express and
 3088 informed consent to the provision of a psychotropic medication,
 3089 the requirements of this section that the department seek court
 3090 authorization do not apply to that medication until such time as
 3091 the parent no longer consents.

3092 2. Any time the department seeks a medical evaluation to
 3093 determine the need to initiate or continue a psychotropic
 3094 medication for a child, the department must provide to the
 3095 evaluating physician all pertinent medical information known to
 3096 the department concerning that child.

3097 Section 37. Paragraph (e) of subsection (5) of section
 3098 212.055, Florida Statutes, is amended to read:

3099 212.055 Discretionary sales surtaxes; legislative intent;
 3100 authorization and use of proceeds.—It is the legislative intent
 3101 that any authorization for imposition of a discretionary sales
 3102 surtax shall be published in the Florida Statutes as a
 3103 subsection of this section, irrespective of the duration of the
 3104 levy. Each enactment shall specify the types of counties
 3105 authorized to levy; the rate or rates which may be imposed; the
 3106 maximum length of time the surtax may be imposed, if any; the

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3107 procedure which must be followed to secure voter approval, if
 3108 required; the purpose for which the proceeds may be expended;
 3109 and such other requirements as the Legislature may provide.
 3110 Taxable transactions and administrative procedures shall be as
 3111 provided in s. 212.054.

3112 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 3113 s. 125.011(1) may levy the surtax authorized in this subsection
 3114 pursuant to an ordinance either approved by extraordinary vote
 3115 of the county commission or conditioned to take effect only upon
 3116 approval by a majority vote of the electors of the county voting
 3117 in a referendum. In a county as defined in s. 125.011(1), for
 3118 the purposes of this subsection, "county public general
 3119 hospital" means a general hospital as defined in s. 395.002
 3120 which is owned, operated, maintained, or governed by the county
 3121 or its agency, authority, or public health trust.

3122 (e) A governing board, agency, or authority shall be
 3123 chartered by the county commission upon this act becoming law.
 3124 The governing board, agency, or authority shall adopt and
 3125 implement a health care plan for indigent health care services.
 3126 The governing board, agency, or authority shall consist of no
 3127 more than seven and no fewer than five members appointed by the
 3128 county commission. The members of the governing board, agency,
 3129 or authority shall be at least 18 years of age and residents of
 3130 the county. No member may be employed by or affiliated with a
 3131 health care provider or the public health trust, agency, or
 3132 authority responsible for the county public general hospital.
 3133 The following community organizations shall each appoint a
 3134 representative to a nominating committee: the South Florida
 3135 Hospital and Healthcare Association, the Miami-Dade County

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3136 Public Health Trust, the Dade County Medical Association, the
 3137 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 3138 County. This committee shall nominate between 10 and 14 county
 3139 citizens for the governing board, agency, or authority. The
 3140 slate shall be presented to the county commission and the county
 3141 commission shall confirm the top five to seven nominees,
 3142 depending on the size of the governing board. Until such time as
 3143 the governing board, agency, or authority is created, the funds
 3144 provided for in subparagraph (d)2. shall be placed in a
 3145 restricted account set aside from other county funds and not
 3146 disbursed by the county for any other purpose.

3147 1. The plan shall divide the county into a minimum of four
 3148 and maximum of six service areas, with no more than one
 3149 participant hospital per service area. The county public general
 3150 hospital shall be designated as the provider for one of the
 3151 service areas. Services shall be provided through participants'
 3152 primary acute care facilities.

3153 2. The plan and subsequent amendments to it shall fund a
 3154 defined range of health care services for both indigent persons
 3155 and the medically poor, including primary care, preventive care,
 3156 hospital emergency room care, and hospital care necessary to
 3157 stabilize the patient. For the purposes of this section,
 3158 "stabilization" means stabilization as defined in s. 397.311(42)
 3159 ~~s. 397.311(41)~~. Where consistent with these objectives, the plan
 3160 may include services rendered by physicians, clinics, community
 3161 hospitals, and alternative delivery sites, as well as at least
 3162 one regional referral hospital per service area. The plan shall
 3163 provide that agreements negotiated between the governing board,
 3164 agency, or authority and providers shall recognize hospitals

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3165 that render a disproportionate share of indigent care, provide
 3166 other incentives to promote the delivery of charity care to draw
 3167 down federal funds where appropriate, and require cost
 3168 containment, including, but not limited to, case management.
 3169 From the funds specified in subparagraphs (d)1. and 2. for
 3170 indigent health care services, service providers shall receive
 3171 reimbursement at a Medicaid rate to be determined by the
 3172 governing board, agency, or authority created pursuant to this
 3173 paragraph for the initial emergency room visit, and a per-member
 3174 per-month fee or capitation for those members enrolled in their
 3175 service area, as compensation for the services rendered
 3176 following the initial emergency visit. Except for provisions of
 3177 emergency services, upon determination of eligibility,
 3178 enrollment shall be deemed to have occurred at the time services
 3179 were rendered. The provisions for specific reimbursement of
 3180 emergency services shall be repealed on July 1, 2001, unless
 3181 otherwise reenacted by the Legislature. The capitation amount or
 3182 rate shall be determined before ~~prior to~~ program implementation
 3183 by an independent actuarial consultant. In no event shall such
 3184 reimbursement rates exceed the Medicaid rate. The plan must also
 3185 provide that any hospitals owned and operated by government
 3186 entities on or after the effective date of this act must, as a
 3187 condition of receiving funds under this subsection, afford
 3188 public access equal to that provided under s. 286.011 as to any
 3189 meeting of the governing board, agency, or authority the subject
 3190 of which is budgeting resources for the retention of charity
 3191 care, as that term is defined in the rules of the Agency for
 3192 Health Care Administration. The plan shall also include
 3193 innovative health care programs that provide cost-effective

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3194 alternatives to traditional methods of service and delivery
3195 funding.

3196 3. The plan's benefits shall be made available to all
3197 county residents currently eligible to receive health care
3198 services as indigents or medically poor as defined in paragraph
3199 (4) (d).

3200 4. Eligible residents who participate in the health care
3201 plan shall receive coverage for a period of 12 months or the
3202 period extending from the time of enrollment to the end of the
3203 current fiscal year, per enrollment period, whichever is less.

3204 5. At the end of each fiscal year, the governing board,
3205 agency, or authority shall prepare an audit that reviews the
3206 budget of the plan, delivery of services, and quality of
3207 services, and makes recommendations to increase the plan's
3208 efficiency. The audit shall take into account participant
3209 hospital satisfaction with the plan and assess the amount of
3210 poststabilization patient transfers requested, and accepted or
3211 denied, by the county public general hospital.

3212 Section 38. Paragraph (c) of subsection (2) of section
3213 394.4599, Florida Statutes, is amended to read:

3214 394.4599 Notice.—

3215 (2) INVOLUNTARY ADMISSION.—

3216 (c)1. A receiving facility shall give notice of the
3217 whereabouts of a minor who is being involuntarily held for
3218 examination pursuant to s. 394.463 to the minor's parent,
3219 guardian, caregiver, or guardian advocate, in person or by
3220 telephone or other form of electronic communication, immediately
3221 after the minor's arrival at the facility. The facility may
3222 delay notification for no more than 24 hours after the minor's

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3223 arrival if the facility has submitted a report to the central
3224 abuse hotline, pursuant to s. 39.201, based upon knowledge or
3225 suspicion of abuse, abandonment, or neglect and if the facility
3226 deems a delay in notification to be in the minor's best
3227 interest.

3228 2. The receiving facility shall attempt to notify the
3229 minor's parent, guardian, caregiver, or guardian advocate until
3230 the receiving facility receives confirmation from the parent,
3231 guardian, caregiver, or guardian advocate, verbally, by
3232 telephone or other form of electronic communication, or by
3233 recorded message, that notification has been received. Attempts
3234 to notify the parent, guardian, caregiver, or guardian advocate
3235 must be repeated at least once every hour during the first 12
3236 hours after the minor's arrival and once every 24 hours
3237 thereafter and must continue until such confirmation is
3238 received, unless the minor is released at the end of the 72-hour
3239 examination period, or until a petition for involuntary services
3240 ~~placement~~ is filed with the court pursuant to s. 394.463(2) (g)
3241 ~~s. 394.463(2) (i)~~. The receiving facility may seek assistance
3242 from a law enforcement agency to notify the minor's parent,
3243 guardian, caregiver, or guardian advocate if the facility has
3244 not received within the first 24 hours after the minor's arrival
3245 a confirmation by the parent, guardian, caregiver, or guardian
3246 advocate that notification has been received. The receiving
3247 facility must document notification attempts in the minor's
3248 clinical record.

3249 Section 39. Subsection (3) of section 394.495, Florida
3250 Statutes, is amended to read:

3251 394.495 Child and adolescent mental health system of care;

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3252 programs and services.—

3253 (3) Assessments must be performed by:

3254 (a) A professional as defined in s. 394.455(7), (33), (36),
 3255 (37), or (38) s. 394.455(2), (4), (21), (23), or (24);

3256 (b) A professional licensed under chapter 491; or

3257 (c) A person who is under the direct supervision of a
 3258 professional as defined in s. 394.455(7), (33), (36), (37), or
 3259 (38) s. 394.455(2), (4), (21), (23), or (24) or a professional
 3260 licensed under chapter 491.

3261 Section 40. Subsection (5) of section 394.496, Florida
 3262 Statutes, is amended to read:

3263 394.496 Service planning.—

3264 (5) A professional as defined in s. 394.455(7), (33), (36),
 3265 (37), or (38) s. 394.455(2), (4), (21), (23), or (24) or a
 3266 professional licensed under chapter 491 must be included among
 3267 those persons developing the services plan.

3268 Section 41. Subsection (6) of section 394.9085, Florida
 3269 Statutes, is amended to read:

3270 394.9085 Behavioral provider liability.—

3271 (6) For purposes of this section, the terms "detoxification
 3272 services," "addictions receiving facility," and "receiving
 3273 facility" have the same meanings as those provided in ss.
 3274 397.311(23)(a)4., 397.311(23)(a)1., and 394.455(41) s.
 3275 397.311(22)(a)4., 397.311(22)(a)1., and 394.455(26),
 3276 respectively.

3277 Section 42. Subsection (8) of section 397.405, Florida
 3278 Statutes, is amended to read:

3279 397.405 Exemptions from licensure.—The following are exempt
 3280 from the licensing provisions of this chapter:

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3281 (8) A legally cognizable church or nonprofit religious
 3282 organization or denomination providing substance abuse services,
 3283 including prevention services, which are solely religious,
 3284 spiritual, or ecclesiastical in nature. A church or nonprofit
 3285 religious organization or denomination providing any of the
 3286 licensed service components itemized under s. 397.311(23) s.
 3287 397.311(22) is not exempt from substance abuse licensure but
 3288 retains its exemption with respect to all services which are
 3289 solely religious, spiritual, or ecclesiastical in nature.

3290
 3291 The exemptions from licensure in this section do not apply to
 3292 any service provider that receives an appropriation, grant, or
 3293 contract from the state to operate as a service provider as
 3294 defined in this chapter or to any substance abuse program
 3295 regulated pursuant to s. 397.406. Furthermore, this chapter may
 3296 not be construed to limit the practice of a physician or
 3297 physician assistant licensed under chapter 458 or chapter 459, a
 3298 psychologist licensed under chapter 490, a psychotherapist
 3299 licensed under chapter 491, or an advanced registered nurse
 3300 practitioner licensed under part I of chapter 464, who provides
 3301 substance abuse treatment, so long as the physician, physician
 3302 assistant, psychologist, psychotherapist, or advanced registered
 3303 nurse practitioner does not represent to the public that he or
 3304 she is a licensed service provider and does not provide services
 3305 to individuals pursuant to part V of this chapter. Failure to
 3306 comply with any requirement necessary to maintain an exempt
 3307 status under this section is a misdemeanor of the first degree,
 3308 punishable as provided in s. 775.082 or s. 775.083.

3309 Section 43. Subsections (1) and (5) of section 397.407,

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3310 Florida Statutes, are amended to read:

3311 397.407 Licensure process; fees.-

3312 (1) The department shall establish the licensure process to
 3313 include fees and categories of licenses and must prescribe a fee
 3314 range that is based, at least in part, on the number and
 3315 complexity of programs listed in s. 397.311(23) ~~s. 397.311(22)~~
 3316 which are operated by a licensee. The fees from the licensure of
 3317 service components are sufficient to cover at least 50 percent
 3318 of the costs of regulating the service components. The
 3319 department shall specify a fee range for public and privately
 3320 funded licensed service providers. Fees for privately funded
 3321 licensed service providers must exceed the fees for publicly
 3322 funded licensed service providers.

3323 (5) The department may issue probationary, regular, and
 3324 interim licenses. The department shall issue one license for
 3325 each service component that is operated by a service provider
 3326 and defined pursuant to s. 397.311(23) ~~s. 397.311(22)~~. The
 3327 license is valid only for the specific service components listed
 3328 for each specific location identified on the license. The
 3329 licensed service provider shall apply for a new license at least
 3330 60 days before the addition of any service components or 30 days
 3331 before the relocation of any of its service sites. Provision of
 3332 service components or delivery of services at a location not
 3333 identified on the license may be considered an unlicensed
 3334 operation that authorizes the department to seek an injunction
 3335 against operation as provided in s. 397.401, in addition to
 3336 other sanctions authorized by s. 397.415. Probationary and
 3337 regular licenses may be issued only after all required
 3338 information has been submitted. A license may not be

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3339 transferred. As used in this subsection, the term "transfer"
 3340 includes, but is not limited to, the transfer of a majority of
 3341 the ownership interest in the licensed entity or transfer of
 3342 responsibilities under the license to another entity by
 3343 contractual arrangement.

3344 Section 44. Section 397.416, Florida Statutes, is amended
 3345 to read:

3346 397.416 Substance abuse treatment services; qualified
 3347 professional.-Notwithstanding any other provision of law, a
 3348 person who was certified through a certification process
 3349 recognized by the former Department of Health and Rehabilitative
 3350 Services before January 1, 1995, may perform the duties of a
 3351 qualified professional with respect to substance abuse treatment
 3352 services as defined in this chapter, and need not meet the
 3353 certification requirements contained in s. 397.311(31) ~~s.~~
 3354 ~~397.311(30)~~.

3355 Section 45. Paragraph (b) of subsection (1) of section
 3356 409.972, Florida Statutes, is amended to read:

3357 409.972 Mandatory and voluntary enrollment.-

3358 (1) The following Medicaid-eligible persons are exempt from
 3359 mandatory managed care enrollment required by s. 409.965, and
 3360 may voluntarily choose to participate in the managed medical
 3361 assistance program:

3362 (b) Medicaid recipients residing in residential commitment
 3363 facilities operated through the Department of Juvenile Justice
 3364 or a mental health treatment facility facilities as defined in
 3365 by s. 394.455(50) ~~s. 394.455(32)~~.

3366 Section 46. Paragraphs (d) and (g) of subsection (1) of
 3367 section 440.102, Florida Statutes, are amended to read:

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3368 440.102 Drug-free workplace program requirements.—The
 3369 following provisions apply to a drug-free workplace program
 3370 implemented pursuant to law or to rules adopted by the Agency
 3371 for Health Care Administration:

3372 (1) DEFINITIONS.—Except where the context otherwise
 3373 requires, as used in this act:

3374 (d) “Drug rehabilitation program” means a service provider,
 3375 established pursuant to s. 397.311(40) ~~s. 397.311(39)~~, that
 3376 provides confidential, timely, and expert identification,
 3377 assessment, and resolution of employee drug abuse.

3378 (g) “Employee assistance program” means an established
 3379 program capable of providing expert assessment of employee
 3380 personal concerns; confidential and timely identification
 3381 services with regard to employee drug abuse; referrals to
 3382 employees for appropriate diagnosis, treatment, and assistance;
 3383 and followup services for employees who participate in the
 3384 program or require monitoring after returning to work. If, in
 3385 addition to the above activities, an employee assistance program
 3386 provides diagnostic and treatment services, these services shall
 3387 in all cases be provided by service providers pursuant to s.
 3388 397.311(40) ~~s. 397.311(39)~~.

3389 Section 47. Subsection (7) of section 744.704, Florida
 3390 Statutes, is amended to read:

3391 744.704 Powers and duties.—

3392 (7) A public guardian ~~may shall~~ not commit a ward to a
 3393 ~~mental health~~ treatment facility, as defined in s. 394.455(50)
 3394 ~~s. 394.455(32)~~, without an involuntary placement proceeding as
 3395 provided by law.

3396 Section 48. Paragraph (a) of subsection (2) of section

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3397 790.065, Florida Statutes, is amended to read:

3398 790.065 Sale and delivery of firearms.—

3399 (2) Upon receipt of a request for a criminal history record
 3400 check, the Department of Law Enforcement shall, during the
 3401 licensee’s call or by return call, forthwith:

3402 (a) Review any records available to determine if the
 3403 potential buyer or transferee:

3404 1. Has been convicted of a felony and is prohibited from
 3405 receipt or possession of a firearm pursuant to s. 790.23;

3406 2. Has been convicted of a misdemeanor crime of domestic
 3407 violence, and therefore is prohibited from purchasing a firearm;

3408 3. Has had adjudication of guilt withheld or imposition of
 3409 sentence suspended on any felony or misdemeanor crime of
 3410 domestic violence unless 3 years have elapsed since probation or
 3411 any other conditions set by the court have been fulfilled or
 3412 expunction has occurred; or

3413 4. Has been adjudicated mentally defective or has been
 3414 committed to a mental institution by a court or as provided in
 3415 sub-sub-subparagraph b.(II), and as a result is prohibited by
 3416 state or federal law from purchasing a firearm.

3417 a. As used in this subparagraph, “adjudicated mentally
 3418 defective” means a determination by a court that a person, as a
 3419 result of marked subnormal intelligence, or mental illness,
 3420 incompetency, condition, or disease, is a danger to himself or
 3421 herself or to others or lacks the mental capacity to contract or
 3422 manage his or her own affairs. The phrase includes a judicial
 3423 finding of incapacity under s. 744.331(6) (a), an acquittal by
 3424 reason of insanity of a person charged with a criminal offense,
 3425 and a judicial finding that a criminal defendant is not

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3426 competent to stand trial.

3427 b. As used in this subparagraph, "committed to a mental
3428 institution" means:

3429 (I) Involuntary commitment, commitment for mental
3430 defectiveness or mental illness, and commitment for substance
3431 abuse. The phrase includes involuntary inpatient placement as
3432 defined in s. 394.467, involuntary outpatient services placement
3433 as defined in s. 394.4655, involuntary assessment and
3434 stabilization under s. 397.6818, and involuntary substance abuse
3435 treatment under s. 397.6957, but does not include a person in a
3436 mental institution for observation or discharged from a mental
3437 institution based upon the initial review by the physician or a
3438 voluntary admission to a mental institution; or

3439 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3440 admission to a mental institution for outpatient or inpatient
3441 treatment of a person who had an involuntary examination under
3442 s. 394.463, where each of the following conditions have been
3443 met:

3444 (A) An examining physician found that the person is an
3445 imminent danger to himself or herself or others.

3446 (B) The examining physician certified that if the person
3447 did not agree to voluntary treatment, a petition for involuntary
3448 outpatient or inpatient services treatment would have been filed
3449 under s. 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining
3450 physician certified that a petition was filed and the person
3451 subsequently agreed to voluntary treatment before ~~prior to~~ a
3452 court hearing on the petition.

3453 (C) Before agreeing to voluntary treatment, the person
3454 received written notice of that finding and certification, and

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3455 written notice that as a result of such finding, he or she may
3456 be prohibited from purchasing a firearm, and may not be eligible
3457 to apply for or retain a concealed weapon or firearms license
3458 under s. 790.06 and the person acknowledged such notice in
3459 writing, in substantially the following form:

3460
3461 "I understand that the doctor who examined me believes
3462 I am a danger to myself or to others. I understand
3463 that if I do not agree to voluntary treatment, a
3464 petition will be filed in court to require me to
3465 receive involuntary treatment. I understand that if
3466 that petition is filed, I have the right to contest
3467 it. In the event a petition has been filed, I
3468 understand that I can subsequently agree to voluntary
3469 treatment prior to a court hearing. I understand that
3470 by agreeing to voluntary treatment in either of these
3471 situations, I may be prohibited from buying firearms
3472 and from applying for or retaining a concealed weapons
3473 or firearms license until I apply for and receive
3474 relief from that restriction under Florida law."

3475
3476 (D) A judge or a magistrate has, pursuant to sub-sub-
3477 subparagraph c.(II), reviewed the record of the finding,
3478 certification, notice, and written acknowledgment classifying
3479 the person as an imminent danger to himself or herself or
3480 others, and ordered that such record be submitted to the
3481 department.

3482 c. In order to check for these conditions, the department
3483 shall compile and maintain an automated database of persons who

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3484 are prohibited from purchasing a firearm based on court records
3485 of adjudications of mental defectiveness or commitments to
3486 mental institutions.

3487 (I) Except as provided in sub-sub-subparagraph (II), clerks
3488 of court shall submit these records to the department within 1
3489 month after the rendition of the adjudication or commitment.
3490 Reports shall be submitted in an automated format. The reports
3491 must, at a minimum, include the name, along with any known alias
3492 or former name, the sex, and the date of birth of the subject.

3493 (II) For persons committed to a mental institution pursuant
3494 to sub-sub-subparagraph b.(II), within 24 hours after the
3495 person's agreement to voluntary admission, a record of the
3496 finding, certification, notice, and written acknowledgment must
3497 be filed by the administrator of the receiving or treatment
3498 facility, as defined in s. 394.455, with the clerk of the court
3499 for the county in which the involuntary examination under s.
3500 394.463 occurred. No fee shall be charged for the filing under
3501 this sub-sub-subparagraph. The clerk must present the records to
3502 a judge or magistrate within 24 hours after receipt of the
3503 records. A judge or magistrate is required and has the lawful
3504 authority to review the records ex parte and, if the judge or
3505 magistrate determines that the record supports the classifying
3506 of the person as an imminent danger to himself or herself or
3507 others, to order that the record be submitted to the department.
3508 If a judge or magistrate orders the submittal of the record to
3509 the department, the record must be submitted to the department
3510 within 24 hours.

3511 d. A person who has been adjudicated mentally defective or
3512 committed to a mental institution, as those terms are defined in

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3513 this paragraph, may petition the circuit court that made the
3514 adjudication or commitment, or the court that ordered that the
3515 record be submitted to the department pursuant to sub-sub-
3516 subparagraph c.(II), for relief from the firearm disabilities
3517 imposed by such adjudication or commitment. A copy of the
3518 petition shall be served on the state attorney for the county in
3519 which the person was adjudicated or committed. The state
3520 attorney may object to and present evidence relevant to the
3521 relief sought by the petition. The hearing on the petition may
3522 be open or closed as the petitioner may choose. The petitioner
3523 may present evidence and subpoena witnesses to appear at the
3524 hearing on the petition. The petitioner may confront and cross-
3525 examine witnesses called by the state attorney. A record of the
3526 hearing shall be made by a certified court reporter or by court-
3527 approved electronic means. The court shall make written findings
3528 of fact and conclusions of law on the issues before it and issue
3529 a final order. The court shall grant the relief requested in the
3530 petition if the court finds, based on the evidence presented
3531 with respect to the petitioner's reputation, the petitioner's
3532 mental health record and, if applicable, criminal history
3533 record, the circumstances surrounding the firearm disability,
3534 and any other evidence in the record, that the petitioner will
3535 not be likely to act in a manner that is dangerous to public
3536 safety and that granting the relief would not be contrary to the
3537 public interest. If the final order denies relief, the
3538 petitioner may not petition again for relief from firearm
3539 disabilities until 1 year after the date of the final order. The
3540 petitioner may seek judicial review of a final order denying
3541 relief in the district court of appeal having jurisdiction over

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3542 the court that issued the order. The review shall be conducted
 3543 de novo. Relief from a firearm disability granted under this
 3544 sub-subparagraph has no effect on the loss of civil rights,
 3545 including firearm rights, for any reason other than the
 3546 particular adjudication of mental defectiveness or commitment to
 3547 a mental institution from which relief is granted.

3548 e. Upon receipt of proper notice of relief from firearm
 3549 disabilities granted under sub-subparagraph d., the department
 3550 shall delete any mental health record of the person granted
 3551 relief from the automated database of persons who are prohibited
 3552 from purchasing a firearm based on court records of
 3553 adjudications of mental defectiveness or commitments to mental
 3554 institutions.

3555 f. The department is authorized to disclose data collected
 3556 pursuant to this subparagraph to agencies of the Federal
 3557 Government and other states for use exclusively in determining
 3558 the lawfulness of a firearm sale or transfer. The department is
 3559 also authorized to disclose this data to the Department of
 3560 Agriculture and Consumer Services for purposes of determining
 3561 eligibility for issuance of a concealed weapons or concealed
 3562 firearms license and for determining whether a basis exists for
 3563 revoking or suspending a previously issued license pursuant to
 3564 s. 790.06(10). When a potential buyer or transferee appeals a
 3565 nonapproval based on these records, the clerks of court and
 3566 mental institutions shall, upon request by the department,
 3567 provide information to help determine whether the potential
 3568 buyer or transferee is the same person as the subject of the
 3569 record. Photographs and any other data that could confirm or
 3570 negate identity must be made available to the department for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

38-01698B-16

201612__

3571 such purposes, notwithstanding any other provision of state law
 3572 to the contrary. Any such information that is made confidential
 3573 or exempt from disclosure by law shall retain such confidential
 3574 or exempt status when transferred to the department.

3575 Section 49. This act shall take effect July 1, 2016.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 670

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Gaetz

SUBJECT: Child Protection Teams

DATE: January 14, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 670 bill provides sovereign immunity protections of the state to any physician in this state who is a medical director for or a member of a child protection team, when they are carrying out duties as a team member. Child protection teams (CPT) are medically directed, multidisciplinary teams that supplement the child protective investigation efforts of the Department of Children and Families (DCF or department) and local sheriffs' offices in cases of child abuse and neglect

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Child Protection Teams

A child protection team is a medically directed, multidisciplinary team that supplements the child protective investigation efforts of the department and local sheriffs' offices in cases of child abuse and neglect.¹ They are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect, assessing risk and protective factors, and provide

¹ Florida Department of Health, Children's Medical Services. Child Protection Teams, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited December 29, 2015).

recommendations for interventions to protect children and to enhance a caregiver's capacity to provide a safer environment when possible.²

Child abuse, abandonment and neglect reports to the DCF central abuse hotline that must be referred to child protection teams include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child five years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.³

Once a referral from DCF or law enforcement has been accepted, the CPT may provide one or more of the following services:

- Medical diagnosis and evaluation,
- Nursing assessments,
- Child and family assessments,
- Multidisciplinary staffing,
- Psychological and psychiatric evaluations,
- Specialized and forensic interviews, or
- Expert court testimony⁴

The Department of Health currently contracts with a variety of community-based organizations to provide CPT services statewide. Employees of the 22 CPTs are independent contractors and are not covered by section 768.28, F.S., which provides sovereign immunity in tort actions and limits financial recoveries. The teams are medically directed by one board certified pediatrician and in the case of a large geographical areas, some may have an associate medical director to ensure adequate coverage.⁵

Some CPTs employ individuals to provide services while others provide these services through subcontractors. The total number of all CPT members statewide is approximately 388. These 388 positions do not include the 20 CPT Medical Directors and the two interim CPT Statewide Medical Directors, who are all employees of the state and have liability protection when acting in

² *Id.*

³ Section 39.303, F.S.

⁴ Florida Department of Health, Children's Medical Services. Child Protection Teams, *available at* http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited December 29, 2015).

⁵ Florida Department of Health, 2016 Agency Legislative Bill Analysis, SB 670. November 3, 2015. On file with the Senate Committee on Children, Families and Elder Affairs.

the scope of their employment. Of the 388 positions, 92 are employed by the University of Florida (Gainesville and Jacksonville) and the University of South Florida and are currently covered by sovereign immunity. The CPT employees are employed as physicians, registered nurses (RN), advanced registered nurse practitioner (ARNP), physician assistants (PA), medical assistants, team coordinator or supervisor, case coordinator or other staff (administrative or data).

Sovereign Immunity

Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived. Article X, Section 13, of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive such immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state will not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function.

Instead, the state steps in as the party litigant and defends against the claim. The recovery by any one person is limited to \$200,000 for one incident and the total for all recoveries related to one incident is limited to \$300,000.⁶ The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff cannot recover the excess damages without action by the Legislature.⁷ However, personal liability may result from actions in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.⁸

Whether sovereign immunity applies depends on the degree of control of the agent of the state retained by the state.⁹ In *Stoll v. Noel*, the Florida Supreme Court held that independent contractor physicians may be agents of the state for purposes of sovereign immunity. The court examined the employment contract between the physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did.¹⁰

The *Stoll* court explained that whether the Children's Medical Services (CMS) physician consultants are agents of the state turns on the degree of control retained or exercised by CMS. The manuals and guides given to physician consultants demonstrated that CMS had final authority over all care and treatment provided to CMS patients, and that CMS could refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons.¹¹ Furthermore, the court's conclusion was supported by the state's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and the state acknowledged full financial responsibility for the physicians' actions.

⁶ Section 768.28(5), F.S.

⁷ *Id.*

⁸ Section 768.28(9)(a), F.S.

⁹ *Stoll v. Noel*, 694 So. 2d 701, 703 (Fla. 1997).

¹⁰ *Id.*

¹¹ *Id.*

The court stated that the state's interpretation of its manual is entitled to judicial deference and great weight.¹²

A memorandum from the Deputy State Health Officer for Children's Medical Services (CMS) to all CMS physicians stated:

In *Stoll v. Noel*, the Florida Supreme Court established the principal that in appropriate factual circumstances contract physician providers for CMS may be deemed agents of the state for purposes of liability protection under section 768.28, Florida Statutes. Application of that principle, however, does not establish a bright line legal test to determine when a CMS contracted physician will be deemed to be an agent of the state as a matter of law.

As a matter of sound legal practice the public policy the Department cannot make any definitive statement of when contract physicians, individually or collectively, may be deemed an agent of the state for purposes of liability protection.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 768.28(9)(b), F.S., adding a physician licensed in this state who is a medical director for or member of a child protection team, as defined in s. 39.01, F.S., when carrying out his or her duties as a team member" to the definition of "officer, employee or agent." This explicitly includes CPT members as falling under the sovereign immunity protections of the state.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² *Id.*

¹³ Florida Department of Health. Memorandum from Dennis Cookro, Interim Deputy Secretary for Health and Deputy State Health Officer for CMS to all CMS physicians. February 6, 2013. On file with the Senate Committee on Children, Families and Elder Affairs.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Physicians who are licensed in this state who are medical directors for or members of a child protection team would be provided sovereign immunity.

C. Government Sector Impact:

The Department of Health reports that the Department of Financial Services (DFS) provided a rough estimate of the state's general liability premium with the Child Protection Team staff added. The estimate is based upon the data for FY2015-2016 general liability premium allocation, but revised to include the additional 388 FTEs identified by DOH. The result is an increase of \$1,683 in the general liability premium based on this year's costs. DFS indicated they cannot guarantee the estimate will not materially differ. Because the total revenue generated each fiscal year by casualty premiums is established by the Legislature, premiums are the result of an allocation process and are not developed independently from other covered agencies and universities.¹⁴

The Department of Health also reports that 92 of the 388 CPT employees are already covered by sovereign immunity so the number of employees needing protection may only be 296.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The current definition of the term "Child protection team" in s. 39.01, F.S., is outdated.

VIII. Statutes Affected:

This bill substantially amends s. 768.28 of the Florida Statutes.

¹⁴ Florida Department of Health, 2016 Agency Legislative Bill Analysis, SB 670. November 3, 2015. On file with the Senate Committee on Children, Families and Elder Affairs.

¹⁵ Florida Department of Health, email communication, Office of Legislative Planning, December 30, 2015. On file with the Senate Committee on Children, Families and Elder Affairs.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on January 14, 2016:

The committee substitute limits individuals being granted sovereign immunity under the bill to physicians licensed in this state who are medical directors for or members of a child protection team, when carrying out his or her duties as a team member.

- B. **Amendments:**

None.



185600

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2016	.	
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	.	

The Committee on Children, Families, and Elder Affairs (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete line 54

and insert:

~~and~~ an investigator; and any physician licensed in this state who is a medical director for or member of a child protection team,

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

And the title is amended as follows:

Delete line 6



185600

11 and insert:
12 to include licensed physicians who are medical
13 directors for or members of a child protection team,
14 in

By Senator Gaetz

1-00826-16

2016670__

1 A bill to be entitled
 2 An act relating to child protection teams; amending s.
 3 768.28, F.S.; revising the definition of the term
 4 "officer, employee, or agent," as it applies to
 5 immunity from personal liability in certain actions,
 6 to include any member of a child protection team, in
 7 certain circumstances; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraphs (a) and (b) of subsection (9) of
 12 section 768.28, Florida Statutes, are amended to read:
 13 768.28 Waiver of sovereign immunity in tort actions;
 14 recovery limits; limitation on attorney fees; statute of
 15 limitations; exclusions; indemnification; risk management
 16 programs.-
 17 (9) (a) An ~~Ne~~ officer, employee, or agent of the state or of
 18 any of its subdivisions may not ~~shall~~ be held personally liable
 19 in tort or named as a party defendant in any action for any
 20 injury or damage suffered as a result of any act, event, or
 21 omission of action in the scope of her or his employment or
 22 function, unless such officer, employee, or agent acted in bad
 23 faith or with malicious purpose or in a manner exhibiting wanton
 24 and willful disregard of human rights, safety, or property.
 25 However, such officer, employee, or agent shall be considered an
 26 adverse witness in a tort action for any injury or damage
 27 suffered as a result of any act, event, or omission of action in
 28 the scope of her or his employment or function. The exclusive
 29 remedy for injury or damage suffered as a result of an act,

Page 1 of 2

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1-00826-16

2016670__

30 event, or omission of an officer, employee, or agent of the
 31 state or any of its subdivisions or constitutional officers is
 32 ~~shall be~~ by action against the governmental entity, or the head
 33 of such entity in her or his official capacity, or the
 34 constitutional officer of which the officer, employee, or agent
 35 is an employee, unless such act or omission was committed in bad
 36 faith or with malicious purpose or in a manner exhibiting wanton
 37 and willful disregard of human rights, safety, or property. The
 38 state or its subdivisions are ~~shall~~ not be liable in tort for
 39 the acts or omissions of an officer, employee, or agent
 40 committed while acting outside the course and scope of her or
 41 his employment or committed in bad faith or with malicious
 42 purpose or in a manner exhibiting wanton and willful disregard
 43 of human rights, safety, or property.
 44 (b) As used in this subsection, the term:
 45 1. "Employee" includes any volunteer firefighter.
 46 2. "Officer, employee, or agent" includes, but is not
 47 limited to, any health care provider when providing services
 48 pursuant to s. 766.1115; any nonprofit independent college or
 49 university located and chartered in this state which owns or
 50 operates an accredited medical school, and its employees or
 51 agents, when providing patient services pursuant to paragraph
 52 (10)(f); ~~and~~ any public defender or her or his employee or
 53 agent, including, ~~among others,~~ an assistant public defender or
 54 ~~and~~ an investigator; and any member of a child protection team,
 55 as defined in s. 39.01, when carrying out her or his duties as a
 56 team member.
 57 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



185600

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete line 54

and insert:

~~and~~ an investigator; and any physician licensed in this state who is a medical director for or member of a child protection team,

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

And the title is amended as follows:

Delete line 6



185600

11 and insert:
12 to include licensed physicians who are medical
13 directors for or members of a child protection team,
14 in

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 750

INTRODUCER: Senators Hutson and Bean

SUBJECT: Temporary Cash Assistance Program

DATE: January 13, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

I. Summary:

SB 750 makes changes to the state’s main economic assistance program for families in poverty, Temporary Assistance for Needy Families, administered by the Department of Children and Families. The program supports families in poverty by providing cash assistance. The bill requires clients to apply for three jobs prior to receiving benefits, reduces the length of time one can receive benefits from 48 to 30 months, and changes the way income from noncitizen parents is counted in determining eligibility.

The bill would have a positive fiscal impact to the state and has an effective date of July 1, 2016.

II. Present Situation:

The Temporary Assistance for Needy Families (TANF) is a block grant that provides federal funding to states for a wide range of benefits and activities to support indigent families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work Opportunity Reconciliation Act.¹ In Florida, the 1996 legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform.

The purpose of TANF is to:

- provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- to end the dependency of needy parents on government benefits through work, job preparation, and marriage;
- to reduce the incidence of out-of-wedlock pregnancies; and

¹ Temporary Assistance for Needy Families, An Overview of Program Requirements. June 2015. Department of Children and Families, see <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited Dec. 18, 2015).

- to promote the formation and maintenance of two-parent families.²

Eligibility

Florida law specifies two major categories of families who are eligible for TANF cash assistance, those families that are work-eligible, and those child-only cases.³ While many of the basic eligibility requirements apply to all of these categories, there are some distinctions between the categories in terms of requirements and restrictions.

Work-Eligible Cases

Within the TANF work-eligible cases, there are single parent families and two-parent families. Single parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below including the work requirements and time limits. Single parents with a child under age six meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours or 55 hours if child care is subsidized) than required for single-parent families (30 hours).

Child-Only Cases

There are two child-only types of TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.⁴ In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

The second type of child-only TANF case is called the Relative Caregiver case where the child has been adjudicated dependent due to the original parents' inability to care for the child and the child has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving Relative Caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of

² U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited Dec. 18, 2015).

³ s. 414.045(1), Florida Statutes.

⁴ Temporary Assistance for Needy Families, An Overview of Program Requirements. June 2015. Department of Children and Families. <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited Dec. 18, 2015).

Florida. Children under age 5 must be current with childhood immunizations and children age 6 to 18 must attend school and parents or caretakers must participate in school conferences. Countable assets must be \$2,000 or less and licensed vehicles needed for individuals subject to the work requirement may not exceed \$8,500.

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an illegal noncitizen or ineligible noncitizen.⁵ This means that a portion of the income that an illegal citizen parent contributes to the family is not counted towards in the family’s income for TANF eligibility.

Work requirements

Adults in families receiving cash assistance must work or participate in work related activities for a specified number of hours per week depending on the number of work-eligible adults in the family and the age of children.⁶

Type of Family	Work participation Hours Required
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, including 9 that are “core” activities in that they may be used to satisfy any of the average weekly participation requirements and 3 that are “supplemental” in that they may only be used to satisfy the work activity requirement after the “core” requirement is met.

Core Activities include:

- Unsubsidized employment
- Subsidized private sector employment
- Subsidized public sector employment
- Job search and job readiness (limited to not more than 6 weeks in a federal fiscal year with not more than 4 weeks consecutive).
- Community service
- Work experience
- On-the-job training
- Vocational educational training (limited to 12 months for an individual), and

⁵ s. 414.095(3)(d), F.S.

⁶ Id

- Caring for a child of a recipient in community service.⁷

Supplemental Activities include:

- Job skills training directly related to employment
- Education directly related to employment (for those without a high school or equivalent degree), and
- Completion of a secondary school program.⁸

The Department of Children and Families (referred to as the department) works with CareerSource Florida, Inc., known locally as the regional workforce boards to serve the families defined as work-eligible. Workforce boards assist the client in employment training and securing employment. The boards also document whether the client meets the work requirements under TANF and reports this information to the department. If a client does not meet his or her work requirements, the department will sanction the client by reducing or eliminating cash assistance.

Amount of Assistance

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing. The following monthly amounts are specified in s. 414.095(10), F.S.

Family Size	No Obligation To Pay for Shelter	Shelter Costs Less than \$50	Shelter Costs Greater than \$50
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardship.

III. Effect of Proposed Changes:

Section 1 amends s. 414.095, F.S., to make changes to the eligibility for TANF. The first change is to require the client to provide proof that he or she has applied for employment with three employers prior to receiving TANF. The second change is to delete the requirement that the department pro-rate a share of income provided by a parent that is an illegal or ineligible noncitizen in determining family income eligibility for TANF. This change would allow the department to consider the total family income regardless of whether one parent is a noncitizen.

⁷ Id

⁸ Id

Lastly, this section clarifies the age for children whose income is not included in the family income for eligibility for TANF if they are students under the age of 19. This matches the definition in s. 414.0252(8), F.S.

Section 2 amends s. 414.105, F.S., to limit the number of months that a client can receive TANF in his or her lifetime to 30 months. Currently, federal law allows clients to receive TANF for 60 months and Florida law allows clients to receive TANF for 48 months.

Section 3 amends s. 445.024, F.S., to conform to the requirement that a person apply for employment with three employers to be eligible for TANF in section 1 of the bill.

Section 4 reenacts s. 414.065, F.S., to incorporate the amendments to s. 414.105, F.S., by the bill.

Section 5 reenacts s. 445.051, F.S., to incorporate the amendments to s. 414.105, F.S., by the bill.

Section 6 reenacts s. 445.045, F.S., to incorporate the amendments to ss. 414.095 and 414.105, F.S., by the bill.

Section 7 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill would have a positive fiscal impact on the state due to fewer clients receiving TANF benefits. The department estimates that considering all the income of noncitizen parents in determining TANF eligibility would reduce program costs by \$239,518 each year.⁹

The bill could also have a positive fiscal impact by reducing the lifetime limit on TANF benefits from 48 to 30 months. The department however, expects that such families would seek and receive a hardship exemption. If no exemptions were granted, the bill would impact 755 families and save \$2,530,844 each year.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 414.095, 414.105, and 445.024.

This bill reenacts the following sections of the Florida Statutes: 414.065, 445.051, and 414.045.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁹ Department of Children and Families Bill Analysis for SB 750, dated Nov. 5, 2015. On file with the Senate Committee on Children, Families, and Elder Affairs.

¹⁰ Id.



648412

LEGISLATIVE ACTION

Senate

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House

The Committee on Children, Families, and Elder Affairs (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) of subsection (3), and subsection
(11) of section 414.095, Florida Statutes, are amended to read:
414.095 Determining eligibility for temporary cash
assistance.—

(3) ELIGIBILITY FOR NONCITIZENS.—A “qualified noncitizen”
is an individual who is admitted to the United States as a



648412

11 | refugee under s. 207 of the Immigration and Nationality Act or
12 | who is granted asylum under s. 208 of the Immigration and
13 | Nationality Act; a noncitizen whose deportation is withheld
14 | under s. 243(h) or s. 241(b)(3) of the Immigration and
15 | Nationality Act; a noncitizen who is paroled into the United
16 | States under s. 212(d)(5) of the Immigration and Nationality
17 | Act, for at least 1 year; a noncitizen who is granted
18 | conditional entry pursuant to s. 203(a)(7) of the Immigration
19 | and Nationality Act as in effect prior to April 1, 1980; a Cuban
20 | or Haitian entrant; or a noncitizen who has been admitted as a
21 | permanent resident. In addition, a "qualified noncitizen"
22 | includes an individual who, or an individual whose child or
23 | parent, has been battered or subject to extreme cruelty in the
24 | United States by a spouse, a parent, or other household member
25 | under certain circumstances, and has applied for or received
26 | protection under the federal Violence Against Women Act of 1994,
27 | Pub. L. No. 103-322, if the need for benefits is related to the
28 | abuse and the batterer no longer lives in the household. A
29 | "nonqualified noncitizen" is a nonimmigrant noncitizen,
30 | including a tourist, business visitor, foreign student, exchange
31 | visitor, temporary worker, or diplomat. In addition, a
32 | "nonqualified noncitizen" includes an individual paroled into
33 | the United States for less than 1 year. A qualified noncitizen
34 | who is otherwise eligible may receive temporary cash assistance
35 | to the extent permitted by federal law. The income or resources
36 | of a sponsor and the sponsor's spouse shall be included in
37 | determining eligibility to the maximum extent permitted by
38 | federal law.

39 | (d) The income of an illegal noncitizen or ineligible



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40 noncitizen who is a mandatory member of a family, ~~less a pro~~
41 ~~rata share for the illegal noncitizen or ineligible noncitizen,~~
42 counts in full in determining a family's eligibility to
43 participate in the program.

44 (11) DISREGARDS.—

45 (a) As an incentive to employment, the first \$200 plus one-
46 half of the remainder of earned income shall be disregarded. In
47 order to be eligible for earned income to be disregarded, the
48 individual must be:

- 49 1. A current participant in the program; or
- 50 2. Eligible for participation in the program without the
51 earnings disregard.

52 (b) A child's earned income shall be disregarded if the
53 child is a family member, attends high school or the equivalent,
54 and is less than 19 years of age ~~or younger~~.

55 Section 2. For the purpose of incorporating the amendments
56 made by this act to sections 414.095, Florida Statutes, in
57 references thereto, subsection (1) of section 414.045, Florida
58 Statutes, is reenacted to read:

59 414.045 Cash assistance program.—Cash assistance families
60 include any families receiving cash assistance payments from the
61 state program for temporary assistance for needy families as
62 defined in federal law, whether such funds are from federal
63 funds, state funds, or commingled federal and state funds. Cash
64 assistance families may also include families receiving cash
65 assistance through a program defined as a separate state
66 program.

67 (1) For reporting purposes, families receiving cash
68 assistance shall be grouped into the following categories. The



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69 department may develop additional groupings in order to comply
70 with federal reporting requirements, to comply with the data-
71 reporting needs of the board of directors of CareerSource
72 Florida, Inc., or to better inform the public of program
73 progress.

74 (a) *Work-eligible cases.*—Work-eligible cases shall include:

75 1. Families containing an adult or a teen head of
76 household, as defined by federal law. These cases are generally
77 subject to the work activity requirements provided in s. 445.024
78 and the time limitations on benefits provided in s. 414.105.

79 2. Families with a parent where the parent's needs have
80 been removed from the case due to sanction or disqualification
81 shall be considered work-eligible cases to the extent that such
82 cases are considered in the calculation of federal participation
83 rates or would be counted in such calculation in future months.

84 3. Families participating in transition assistance
85 programs.

86 4. Families otherwise eligible for temporary cash
87 assistance which receive diversion services, a severance
88 payment, or participate in the relocation program.

89 (b) *Child-only cases.*—Child-only cases include cases that
90 do not have an adult or teen head of household as defined in
91 federal law. Such cases include:

92 1. Children in the care of caretaker relatives, if the
93 caretaker relatives choose to have their needs excluded in the
94 calculation of the amount of cash assistance.

95 2. Families in the Relative Caregiver Program as provided
96 in s. 39.5085.

97 3. Families in which the only parent in a single-parent



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98 family or both parents in a two-parent family receive
99 supplemental security income (SSI) benefits under Title XVI of
100 the Social Security Act, as amended. To the extent permitted by
101 federal law, individuals receiving SSI shall be excluded as
102 household members in determining the amount of cash assistance,
103 and such cases shall not be considered families containing an
104 adult. Parents or caretaker relatives who are excluded from the
105 cash assistance group due to receipt of SSI may choose to
106 participate in work activities. An individual whose ability to
107 participate in work activities is limited who volunteers to
108 participate in work activities shall be assigned to work
109 activities consistent with such limitations. An individual who
110 volunteers to participate in a work activity may receive child
111 care or support services consistent with such participation.

112 4. Families in which the only parent in a single-parent
113 family or both parents in a two-parent family are not eligible
114 for cash assistance due to immigration status or other
115 limitation of federal law. To the extent required by federal
116 law, such cases shall not be considered families containing an
117 adult.

118 5. To the extent permitted by federal law and subject to
119 appropriations, special needs children who have been adopted
120 pursuant to s. 409.166 and whose adopting family qualifies as a
121 needy family under the state program for temporary assistance
122 for needy families. Notwithstanding any provision to the
123 contrary in s. 414.075, s. 414.085, or s. 414.095, a family
124 shall be considered a needy family if:

125 a. The family is determined by the department to have an
126 income below 200 percent of the federal poverty level;



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127 b. The family meets the requirements of s. 414.095(2) and
128 (3) related to residence, citizenship, or eligible noncitizen
129 status; and

130 c. The family provides any information that may be
131 necessary to meet federal reporting requirements specified under
132 Part A of Title IV of the Social Security Act.

133
134 Families described in subparagraph 1., subparagraph 2., or
135 subparagraph 3. may receive child care assistance or other
136 supports or services so that the children may continue to be
137 cared for in their own homes or in the homes of relatives. Such
138 assistance or services may be funded from the temporary
139 assistance for needy families block grant to the extent
140 permitted under federal law and to the extent funds have been
141 provided in the General Appropriations Act.

142 Section 3. This act shall take effect July 1, 2016.

143
144 ===== T I T L E A M E N D M E N T =====

145 And the title is amended as follows:

146 Delete everything before the enacting clause
147 and insert:

148 A bill to be entitled
149 An act relating to the temporary cash assistance
150 program; amending s. 414.095, F.S.; revising the
151 consideration of income from illegal noncitizen or
152 ineligible noncitizen family members in determining
153 eligibility for temporary cash assistance; reenacting
154 s. 414.045, F.S., incorporate the amendments made to
155 s. 414.095, F.S., in references thereto;; providing an



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156

effective date.

By Senator Hutson

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A bill to be entitled

An act relating to the temporary cash assistance program; amending s. 414.095, F.S.; adding a requirement of proof of application for employment to eligibility requirements for receiving services or temporary cash assistance; amending s. 414.105, F.S.; decreasing the lifetime cumulative total time limit for which an applicant or current participant may receive temporary cash assistance; conforming provisions to changes made by the act; amending s. 445.024, F.S.; adding proof of application for employment to the work activity requirements for a participant in the temporary cash assistance program; reenacting ss. 414.065(4)(b) and (c) and 445.051(4)(a), F.S., relating to noncompliance with work requirements and individual development accounts, respectively, to incorporate the amendment made to s. 414.105, F.S., in references thereto; reenacting s. 414.045(1), F.S., relating to the cash assistance program, to incorporate the amendments made to ss. 414.095 and 414.105, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (1), paragraph (d) of subsection (3), and subsection (11) of section 414.095, Florida Statutes, are amended to read:

414.095 Determining eligibility for temporary cash

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assistance.—

(1) ELIGIBILITY.—An applicant must meet eligibility requirements of this section before receiving services or temporary cash assistance under this chapter, except that an applicant shall be required to register for work, provide proof of application for employment with three employers, and engage in work activities in accordance with s. 445.024, as designated by the regional workforce board, and may receive support services or child care assistance in conjunction with such requirements ~~requirement~~. The department shall make a determination of eligibility based on the criteria listed in this chapter. The department shall monitor continued eligibility for temporary cash assistance through periodic reviews consistent with the food assistance eligibility process. Benefits shall not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135. To be eligible under this section, an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in this chapter, the state opts out of the provision of Pub. L. No. 104-193, s. 115, that eliminates eligibility for temporary cash assistance and food assistance for any individual convicted of a controlled substance felony.

(3) ELIGIBILITY FOR NONCITIZENS.—A "qualified noncitizen" is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld

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59 under s. 243(h) or s. 241(b) (3) of the Immigration and
 60 Nationality Act; a noncitizen who is paroled into the United
 61 States under s. 212(d) (5) of the Immigration and Nationality
 62 Act, for at least 1 year; a noncitizen who is granted
 63 conditional entry pursuant to s. 203(a) (7) of the Immigration
 64 and Nationality Act as in effect prior to April 1, 1980; a Cuban
 65 or Haitian entrant; or a noncitizen who has been admitted as a
 66 permanent resident. In addition, a "qualified noncitizen"
 67 includes an individual who, or an individual whose child or
 68 parent, has been battered or subject to extreme cruelty in the
 69 United States by a spouse, a parent, or other household member
 70 under certain circumstances, and has applied for or received
 71 protection under the federal Violence Against Women Act of 1994,
 72 Pub. L. No. 103-322, if the need for benefits is related to the
 73 abuse and the batterer no longer lives in the household. A
 74 "nonqualified noncitizen" is a nonimmigrant noncitizen,
 75 including a tourist, business visitor, foreign student, exchange
 76 visitor, temporary worker, or diplomat. In addition, a
 77 "nonqualified noncitizen" includes an individual paroled into
 78 the United States for less than 1 year. A qualified noncitizen
 79 who is otherwise eligible may receive temporary cash assistance
 80 to the extent permitted by federal law. The income or resources
 81 of a sponsor and the sponsor's spouse shall be included in
 82 determining eligibility to the maximum extent permitted by
 83 federal law.

84 (d) The income of an illegal noncitizen or ineligible
 85 noncitizen who is a mandatory member of a family, ~~less a pro~~
 86 ~~rata share for the illegal noncitizen or ineligible noncitizen,~~
 87 counts in full in determining a family's eligibility to

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88 participate in the program.

89 (11) DISREGARDS.-

90 (a) As an incentive to employment, the first \$200 plus one-
 91 half of the remainder of earned income shall be disregarded. In
 92 order to be eligible for earned income to be disregarded, the
 93 individual must be:

94 1. A current participant in the program; or

95 2. Eligible for participation in the program without the
 96 earnings disregard.

97 (b) A child's earned income shall be disregarded if the
 98 child is a family member, attends high school or the equivalent,
 99 and is less than 19 years of age ~~or younger~~.

100 Section 2. Section 414.105, Florida Statutes, is amended to
 101 read:

102 414.105 Time limitations of temporary cash assistance.-
 103 Except as otherwise provided in this section, an applicant or
 104 current participant shall receive temporary cash assistance for
 105 no more than a lifetime cumulative total of 30 ~~48~~ months, unless
 106 otherwise provided by law.

107 (1) Hardship exemptions from the time limitations provided
 108 in this section may not exceed 20 percent of the average monthly
 109 caseload, as determined by the department in cooperation with
 110 CareerSource Florida, Inc. Criteria for hardship exemptions
 111 include:

112 (a) Diligent participation in activities, combined with
 113 inability to obtain employment.

114 (b) Diligent participation in activities, combined with
 115 extraordinary barriers to employment, including the conditions
 116 which may result in an exemption to work requirements.

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117 (c) Significant barriers to employment, combined with a
118 need for additional time.

119 (d) Diligent participation in activities and a need by teen
120 parents for an exemption in order to have 24 months of
121 eligibility beyond receipt of the high school diploma or
122 equivalent.

123 (e) A recommendation of extension for a minor child of a
124 participating family that has reached the end of the eligibility
125 period for temporary cash assistance. The recommendation must be
126 the result of a review that determines that the termination of
127 the child's temporary cash assistance would be likely to result
128 in the child being placed into emergency shelter or foster care.

129 (2) A victim of domestic violence may be granted a hardship
130 exemption if the effects of such domestic violence delay or
131 otherwise interrupt or adversely affect the individual's
132 participation in the program.

133 (3) The department, in cooperation with CareerSource
134 Florida, Inc., shall establish a procedure for approving
135 hardship exemptions and for reviewing hardship cases at least
136 once every 2 years. Regional workforce boards may assist in
137 making these determinations.

138 (4) For individuals who have moved from another state, the
139 months in which temporary cash assistance was received under a
140 block grant program that provided temporary assistance for needy
141 families in any state shall count towards the cumulative 30-
142 month ~~48-month~~ benefit limit for temporary cash assistance.

143 (5) For individuals subject to a time limitation under the
144 Family Transition Act of 1993, that time limitation shall
145 continue to apply. Months in which temporary cash assistance was

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146 received through the family transition program shall count
147 towards the time limitations under this section.

148 (6) Except when temporary cash assistance was received
149 through the family transition program, the calculation of the
150 time limitation for temporary cash assistance shall begin with
151 the first month of receipt of temporary cash assistance after
152 the effective date of this act.

153 (7) Child-only cases are not subject to time limitations,
154 and temporary cash assistance received while an individual is a
155 minor child shall not count towards time limitations.

156 (8) An individual who receives benefits under the
157 Supplemental Security Income (SSI) program or the Social
158 Security Disability Insurance (SSDI) program is not subject to
159 time limitations. An individual who has applied for supplemental
160 security income (SSI) or supplemental security disability income
161 (SSDI) but has not yet received a determination must be granted
162 an extension of time limits until the individual receives a
163 final determination on the SSI or SSDI application.
164 Determination shall be considered final once all appeals have
165 been exhausted, benefits have been received, or denial has been
166 accepted without any appeal. While awaiting a final
167 determination, the individual must continue to meet all program
168 requirements assigned to the participant based on medical
169 ability to comply. If a final determination results in the
170 denial of benefits for supplemental security income (SSI) or
171 supplemental security disability income (SSDI), any period
172 during which the recipient received assistance under this
173 section shall be counted in the recipient's 30-month ~~48-month~~
174 lifetime limit.

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175 (9) A person who is totally responsible for the personal
 176 care of a disabled family member is not subject to time
 177 limitations if the need for the care is verified and alternative
 178 care is not available for the family member. The department
 179 shall annually evaluate an individual's qualifications for this
 180 exemption.

181 (10) A member of the staff of the regional workforce board
 182 shall interview and assess the employment prospects and barriers
 183 of each participant who is within 6 months of reaching the 30-
 184 month ~~48-month~~ time limit. The staff member shall assist the
 185 participant in identifying actions necessary to become employed
 186 prior to reaching the benefit time limit for temporary cash
 187 assistance and, if appropriate, shall refer the participant for
 188 services that could facilitate employment.

189 Section 3. Subsection (2) of section 445.024, Florida
 190 Statutes, is amended to read:

191 445.024 Work requirements.—

192 (2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not
 193 otherwise exempt from work activity requirements must provide
 194 proof of application for employment with three employers and
 195 participate in a work activity for the maximum number of hours
 196 allowable under federal law; however, a participant may not be
 197 required to work more than 40 hours per week. The maximum number
 198 of hours each month that a family may be required to participate
 199 in community service or work experience programs is the number
 200 of hours that would result from dividing the family's monthly
 201 amount for temporary cash assistance and food assistance by the
 202 applicable minimum wage. However, the maximum hours required per
 203 week for community service or work experience may not exceed 40

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204 hours.

205 (a) A participant in a work activity may also be required
 206 to enroll in and attend a course of instruction designed to
 207 increase literacy skills to a level necessary for obtaining or
 208 retaining employment if the instruction plus the work activity
 209 does not require more than 40 hours per week.

210 (b) Program funds may be used, as available, to support the
 211 efforts of a participant who meets the work activity
 212 requirements and who wishes to enroll in or continue enrollment
 213 in an adult general education program or other training
 214 programs.

215 Section 4. For the purpose of incorporating the amendment
 216 made by this act to section 414.105, Florida Statutes, in
 217 references thereto, paragraphs (b) and (c) of subsection (4) of
 218 section 414.065, Florida Statutes, are reenacted to read:

219 414.065 Noncompliance with work requirements.—

220 (4) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—Unless otherwise
 221 provided, the situations listed in this subsection shall
 222 constitute exceptions to the penalties for noncompliance with
 223 participation requirements, except that these situations do not
 224 constitute exceptions to the applicable time limit for receipt
 225 of temporary cash assistance:

226 (b) *Noncompliance related to domestic violence.*—An
 227 individual who is determined to be unable to comply with the
 228 work requirements because such compliance would make it probable
 229 that the individual would be unable to escape domestic violence
 230 shall be exempt from work requirements. However, the individual
 231 shall comply with a plan that specifies alternative requirements
 232 that prepare the individual for self-sufficiency while providing

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233 for the safety of the individual and the individual's
 234 dependents. A participant who is determined to be out of
 235 compliance with the alternative requirement plan shall be
 236 subject to the penalties under subsection (1). An exception
 237 granted under this paragraph does not automatically constitute
 238 an exception to the time limitations on benefits specified under
 239 s. 414.105.

240 (c) *Noncompliance related to treatment or remediation of*
 241 *past effects of domestic violence.*—An individual who is
 242 determined to be unable to comply with the work requirements
 243 under this section due to mental or physical impairment related
 244 to past incidents of domestic violence may be exempt from work
 245 requirements, except that such individual shall comply with a
 246 plan that specifies alternative requirements that prepare the
 247 individual for self-sufficiency while providing for the safety
 248 of the individual and the individual's dependents. A participant
 249 who is determined to be out of compliance with the alternative
 250 requirement plan shall be subject to the penalties under
 251 subsection (1). The plan must include counseling or a course of
 252 treatment necessary for the individual to resume participation.
 253 The need for treatment and the expected duration of such
 254 treatment must be verified by a physician licensed under chapter
 255 458 or chapter 459; a psychologist licensed under s. 490.005(1),
 256 s. 490.006, or the provision identified as s. 490.013(2) in s.
 257 1, chapter 81-235, Laws of Florida; a therapist as defined in s.
 258 491.003(2) or (6); or a treatment professional who is registered
 259 under s. 39.905(1)(g), is authorized to maintain confidentiality
 260 under s. 90.5036(1)(d), and has a minimum of 2 years experience
 261 at a certified domestic violence center. An exception granted

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262 under this paragraph does not automatically constitute an
 263 exception from the time limitations on benefits specified under
 264 s. 414.105.

265 Section 5. For the purpose of incorporating the amendment
 266 made by this act to section 414.105, Florida Statutes, in a
 267 reference thereto, paragraph (a) of subsection (4) of section
 268 445.051, Florida Statutes, is reenacted to read:

269 445.051 Individual development accounts.—

270 (4)(a) Any family subject to time limits and fully
 271 complying with work requirements of the temporary cash
 272 assistance program, pursuant to ss. 414.045, 414.065, 414.095,
 273 414.105, and 445.024, which enters into an agreement with an
 274 approved fiduciary organization is eligible to participate in an
 275 individual development account.

276 Section 6. For the purpose of incorporating the amendments
 277 made by this act to sections 414.095 and 414.105, Florida
 278 Statutes, in references thereto, subsection (1) of section
 279 414.045, Florida Statutes, is reenacted to read:

280 414.045 Cash assistance program.—Cash assistance families
 281 include any families receiving cash assistance payments from the
 282 state program for temporary assistance for needy families as
 283 defined in federal law, whether such funds are from federal
 284 funds, state funds, or commingled federal and state funds. Cash
 285 assistance families may also include families receiving cash
 286 assistance through a program defined as a separate state
 287 program.

288 (1) For reporting purposes, families receiving cash
 289 assistance shall be grouped into the following categories. The
 290 department may develop additional groupings in order to comply

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291 with federal reporting requirements, to comply with the data-
 292 reporting needs of the board of directors of CareerSource
 293 Florida, Inc., or to better inform the public of program
 294 progress.

295 (a) *Work-eligible cases.*—Work-eligible cases shall include:

296 1. Families containing an adult or a teen head of
 297 household, as defined by federal law. These cases are generally
 298 subject to the work activity requirements provided in s. 445.024
 299 and the time limitations on benefits provided in s. 414.105.

300 2. Families with a parent where the parent's needs have
 301 been removed from the case due to sanction or disqualification
 302 shall be considered work-eligible cases to the extent that such
 303 cases are considered in the calculation of federal participation
 304 rates or would be counted in such calculation in future months.

305 3. Families participating in transition assistance
 306 programs.

307 4. Families otherwise eligible for temporary cash
 308 assistance which receive diversion services, a severance
 309 payment, or participate in the relocation program.

310 (b) *Child-only cases.*—Child-only cases include cases that
 311 do not have an adult or teen head of household as defined in
 312 federal law. Such cases include:

313 1. Children in the care of caretaker relatives, if the
 314 caretaker relatives choose to have their needs excluded in the
 315 calculation of the amount of cash assistance.

316 2. Families in the Relative Caregiver Program as provided
 317 in s. 39.5085.

318 3. Families in which the only parent in a single-parent
 319 family or both parents in a two-parent family receive

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320 supplemental security income (SSI) benefits under Title XVI of
 321 the Social Security Act, as amended. To the extent permitted by
 322 federal law, individuals receiving SSI shall be excluded as
 323 household members in determining the amount of cash assistance,
 324 and such cases shall not be considered families containing an
 325 adult. Parents or caretaker relatives who are excluded from the
 326 cash assistance group due to receipt of SSI may choose to
 327 participate in work activities. An individual whose ability to
 328 participate in work activities is limited who volunteers to
 329 participate in work activities shall be assigned to work
 330 activities consistent with such limitations. An individual who
 331 volunteers to participate in a work activity may receive child
 332 care or support services consistent with such participation.

333 4. Families in which the only parent in a single-parent
 334 family or both parents in a two-parent family are not eligible
 335 for cash assistance due to immigration status or other
 336 limitation of federal law. To the extent required by federal
 337 law, such cases shall not be considered families containing an
 338 adult.

339 5. To the extent permitted by federal law and subject to
 340 appropriations, special needs children who have been adopted
 341 pursuant to s. 409.166 and whose adopting family qualifies as a
 342 needy family under the state program for temporary assistance
 343 for needy families. Notwithstanding any provision to the
 344 contrary in s. 414.075, s. 414.085, or s. 414.095, a family
 345 shall be considered a needy family if:

346 a. The family is determined by the department to have an
 347 income below 200 percent of the federal poverty level;

348 b. The family meets the requirements of s. 414.095(2) and

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349 (3) related to residence, citizenship, or eligible noncitizen
350 status; and

351 c. The family provides any information that may be
352 necessary to meet federal reporting requirements specified under
353 Part A of Title IV of the Social Security Act.

354
355 Families described in subparagraph 1., subparagraph 2., or
356 subparagraph 3. may receive child care assistance or other
357 supports or services so that the children may continue to be
358 cared for in their own homes or in the homes of relatives. Such
359 assistance or services may be funded from the temporary
360 assistance for needy families block grant to the extent
361 permitted under federal law and to the extent funds have been
362 provided in the General Appropriations Act.

363 Section 7. This act shall take effect July 1, 2016.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 860

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Detert

SUBJECT: Foster Families

DATE: January 14, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 860 designates the second week of February of each year as “Foster Family Appreciation Week,” to recognize the enduring and invaluable contributions that foster parents provide to the children in their care and, thus, to the future of the state.

The bill has no fiscal impact on state or local government.

The bill provides an effective day of upon becoming law.

II. Present Situation:

Chapter 683, F.S., contains provisions relating to legal holidays and observances. There are currently 21 legal holidays designated in s. 683.01, F.S.¹ The chapter provides that whenever reference is made to “legal holidays” in contracts to be performed by the state, the term includes the holidays designated in s. 683.01, F.S., and such others as may be designated by law.²

Designation of a day as a legal holiday does not necessarily make that day a paid holiday for

¹ The legal holidays named in s. 683.01, F.S., are: (a) Sunday; (b) New Year’s Day; (c) Birthday of Martin Luther King, Jr.; (d) Birthday of Robert E. Lee; (e) Lincoln’s Birthday; (f) Susan B. Anthony’s Birthday; (g) Washington’s Birthday; (h) Good Friday; (i) Pascua Florida Day; (j) Confederate Memorial Day; (k) Memorial Day; (l) Birthday of Jefferson Davis; (m) Flag Day; (n) Independence Day; (o) Labor Day; (p) Columbus Day and Farmers’ Day; (q) Veterans’ Day; (r) General Election Day; (s) Thanksgiving Day; (t) Christmas Day; and (u) Shrove Tuesday, in certain counties.

² See s. 683.02, F.S.

public employees. Presently, there are nine paid holidays for state employees, all of which are listed in s. 110.117, F.S.³

Additional holidays such as Gasparilla Day and Rosh Hashanah are designated as legal holidays in certain counties or judicial circuits.⁴

Chapter 683, F.S., additionally designates days of special observance that are not legal holidays. These include, but are not limited to, Law Enforcement Memorial Day, Teacher's Day, Florida Alzheimer's Disease Day, Patriots' Day, Florida Missing Children's Day, and Homeless Persons' Memorial Day.⁵ Currently, the state does not officially celebrate the contributions of foster families with a day of observance.

While Florida law does not define the terms "foster parent" or "foster family," these individuals and families play a key role in the child welfare system that provides services to children who must live away from their family of origin when that family cannot provide a safe environment or meet the special needs of the children. The role of the foster parents is to provide the foster child with a safe and healthy environment in a family home, on a temporary basis, until the child can be reunited with his/her family, be placed in another permanent setting, or moved into independent living.

III. Effect of Proposed Changes:

Section 1 designates the second week of February each year as "Foster Family Appreciation Week." The purpose of the week is to recognize the enduring and invaluable contributions that foster parents provide to the children in their care and, thus, to the future of the state. The Department of Children and Families, local governments, and other agencies are encouraged to sponsor events to promote awareness of the contributions made by foster families to the vitality of the state.

Section 2 provides an effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³ The following holidays are paid holidays observed by all state branches and agencies: (a) New Year's Day; (b) Birthday of Martin Luther King, Jr.; (c) Memorial Day; (d) Independence Day; (e) Labor Day; (f) Veterans' Day; (g) Thanksgiving Day; (h) Friday after Thanksgiving; and (i) Christmas Day.

⁴ See ss. 683.08, 683.09, 683.12 and 683.19, F.S.

⁵ For a full list of special observances in the state and legal holidays in specific counties, see ss. 683.04 through 683.332, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates s. 683.333 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on January 14, 2016:

The Committee Substitute removes an unnecessary date.

B. Amendments:

None.



235082

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment

Delete lines 52 - 53
and insert: (1) The second week of February of each year is designated as "Foster Family Appreciation Week" to

By Senator Detert

28-00979-16

2016860__

1 A bill to be entitled
 2 An act relating to foster families; creating s.
 3 683.333, F.S.; designating the second week of February
 4 of each year as "Foster Family Appreciation Week";
 5 providing an effective date.
 6
 7 WHEREAS, the family is the very foundation of our
 8 communities, state, and country, and
 9 WHEREAS, parents serve as a child's primary source of love,
 10 attachment, identity, self-esteem, and support, and
 11 WHEREAS, foster parents open their homes and hearts to
 12 children whose families are in crisis and play a vital role in
 13 helping children heal, reconnect, grow, and flourish, and
 14 WHEREAS, foster parents are professional parents and full
 15 partners in the commitment to ensuring the well-being of
 16 children in foster care, and
 17 WHEREAS, many of the children adopted in this state have
 18 been provided a permanent home by their foster parents, and
 19 WHEREAS, foster parents play a critical role in the Quality
 20 Parenting Initiative, which places a priority on quality
 21 parenting, putting the needs of children first, advocating for
 22 children in their care, and supporting and mentoring birth
 23 families, and
 24 WHEREAS, in this state, more than 6,000 children and youth
 25 in foster care have a safe, secure, and stable family foster
 26 home, and
 27 WHEREAS, compassionate individuals, faith-based
 28 communities, and public and private organizations work to
 29 increase public awareness of the enduring and valuable

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

28-00979-16

2016860__

30 contributions of foster parents and the needs of children in
 31 foster care, and
 32 WHEREAS, those families who are able to serve as foster
 33 parents should be wholeheartedly encouraged to do so, and
 34 WHEREAS, the Governor's Office of Adoption and Child
 35 Protection, the Legislature, the Department of Children and
 36 Families, community-based care lead agencies, the guardian ad
 37 litem program, the Florida State Foster/Adoptive Parent
 38 Association, and state and local agencies and organizations all
 39 provide support for foster families, and
 40 WHEREAS, to continue to commend and support foster families
 41 in the years ahead, the people of this state are called upon to
 42 recognize the positive impact that foster parents have on
 43 children in foster care and to consider providing a loving,
 44 supportive home for children in need by becoming foster parents,
 45 NOW, THEREFORE,
 46
 47 Be It Enacted by the Legislature of the State of Florida:
 48
 49 Section 1. Section 683.333, Florida Statutes, is created to
 50 read:
 51 683.333 Foster Family Appreciation Week.-
 52 (1) The second week of February of each year, beginning in
 53 2016, is designated as "Foster Family Appreciation Week" to
 54 recognize the enduring and invaluable contributions that foster
 55 parents provide to the children in their care and, thus, to the
 56 future of this state.
 57 (2) The Department of Children and Families, local
 58 governments, and other agencies are encouraged to sponsor events

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

28-00979-16

2016860__

59 to promote awareness of the contributions made by foster
60 families to the vitality of the state.

61 Section 2. This act shall take effect upon becoming a law.



235082

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment

Delete lines 52 - 53
and insert: (1) The second week of February of each year is designated as "Foster Family Appreciation Week" to

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 7048

INTRODUCER: Children, Families, and Elder Affairs Committee

SUBJECT: OGSR/Client Records and Donor Information Collected by Regional Autism Centers

DATE: January 15, 2016 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Crosier</u>	<u>Hendon</u>	_____	CA Submitted as a Committee Bill

I. Summary:

SB 7048 the Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Legislature has established seven regional autism centers (centers) throughout the state. The centers are tasked with providing nonresidential resources and training services to persons of all ages and all levels of intellectual functioning who have autism, an autistic-like disability, a dual sensory impairment, a sensory impairment with other handicapping conditions, or a pervasive developmental disorder that is not otherwise specified. Each center must provide services within its geographical region of the state, be operationally and fiscally independent, and coordinate services within and between state agencies, local agencies, and school districts.

Current law provides two public record exemptions for the centers. The first exemption provides that all records relating to a client of a center who receives the services of a center or participates in center activities, and all records relating to the client's family, are confidential and exempt from public record requirements. Confidential and exempt client records may be released in certain instances. The second exemption provides that personal identifying information of a donor or prospective donor to the center who desires to remain anonymous is confidential and exempt from public record requirements.

The bill reenacts the public record exemptions, which will repeal on October 2, 2016, if this bill does not become law.

The bill does not appear to have a fiscal impact on the state or local governments.

II. Present Situation:

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹ sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.²

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.³

If, and only if, in reenacting an exemption that will repeal and the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.⁴ If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created⁵ then a public necessity statement and a two-thirds vote for passage are not required.

Regional Autism Centers

In 2002 the Legislature established six regional autism centers⁶ (center) throughout the state, adding a seventh in 2005.⁷ The seven centers are located at the:

- College of Medicine at Florida State University;⁸
- College of Medicine at the University of Florida;⁹

¹ Section 119.15, F.S.

² Section 119.15(3), F.S.

³ Section 119.15(6)(b), F.S.

⁴ Section 24(c), Art. I, FLA. CONST.

⁵ An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

⁶ Chapter 2002-387, L.O.F.

⁷ Chapter 2005-49, L.O.F.

⁸ The College of Medicine at Florida State University serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties. Section 1004.55(1)(a), F.S.

⁹ The College of Medicine at the University of Florida serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties. Section 1004.55(1)(b), F.S.

- University of Florida Health Science Center at Jacksonville;¹⁰
- Louis de la Parte Florida Mental Health Institute at the University of South Florida;¹¹
- Mailman Center for Child Development and the Department of Psychology at the University of Miami;¹²
- College of Health and Public Affairs at the University of Central Florida;¹³ and
- Department of Exceptional Student Education at Florida Atlantic University.¹⁴

Current law requires the centers to provide nonresidential resources and training services to persons of all ages and all levels of intellectual functioning who have autism,¹⁵ an autistic-like disability, a dual sensory impairment, a sensory impairment with other handicapping conditions, or a pervasive developmental disorder that is not otherwise specified.¹⁶ Each center must be operationally and fiscally independent and provide services within its geographical region of the state.¹⁷ Additionally, each center must coordinate services within and between state agencies, local agencies, and school districts. However, services offered by the center may not be duplicative of those offered by the agencies or school districts.¹⁸

Each center must provide expertise in autism, autistic-like behaviors, and sensory impairments; individual and direct family assistance; technical assistance and consultation services; professional training programs; public education programs; coordination and dissemination of local and regional information regarding available resources; and support to state agencies in the development of training for early child care providers and educators with respect to developmental disabilities.¹⁹

Public Record Exemptions under Review

In 2011, the Legislature created public record exemptions for the centers.²⁰ All records that relate to the client of a center who receives the center's services or participates in center

¹⁰ The University of Florida Health Science Center at Jacksonville serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties. Section 1004.55(1)(c), F.S.

¹¹ The Louis de la Parte Florida Mental Health Institute at the University of South Florida serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. Section 1004.55(1)(d), F.S.

¹² The Mailman Center for Child Development and the Department of Psychology at the University of Miami services Broward, Miami-Dade, and Monroe Counties, Section 1004.55(1)(e), F.S.

¹³ The College of Health and Public Affairs at the University of Central Florida services Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties. Section 1004.55(1)(f), F.S.

¹⁴ The Department of Exceptional Student Education at Florida Atlantic University services Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties. Section 1004.55(1)(g), F.S.

¹⁵ Section 393.063(3), F.S., defines "autism" as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.

¹⁶ Section 1004.55(1), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 1004.55(4), F.S.

²⁰ Chapter 2011-22, L.O.F.; codified as s. 1004.55(6), F.S.

activities are confidential and exempt²¹ from public record requirements. The public record exemption also applies to records that relate to the client's family. In addition, personal identifying information of a donor or prospective donor to a center who desires to remain anonymous is confidential and exempt from public record requirements.²²

Upon request, the center must provide a copy of the client's individual record to the client, if he or she is competent, or to the client's parent or legal guardian, if he or she is incompetent.²³

A center may release the confidential and exempt records relating to a client or the client's family as follows:

- To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.²⁴
- In response to a subpoena or to persons authorized by order of the court.²⁵
- To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of a client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

The center may release information contained in the confidential and exempt records in the following instances, provided that personal identifying information of the client or the client's family is removed:

- To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the center, maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential and exempt information obtained.²⁶
- By the director of the center or the director's designee for statistical and research purposes provided that any confidential and exempt information is removed in the reporting of such statistical or research data.²⁷

The 2011 public necessity statement provides that the public record exemption for records relating to a client or the client's family is a public necessity because:

Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal

²¹ There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See *WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-692 (1985). ²² Section 1004.55(6)(a)1., F.S.

²² Section 1004.55(6)(a)1, F.S.

²³ Section 1004.55(6)(b), F.S.

²⁴ Section 1004.55(6)(a)2., F.S.

²⁵ Section 1004.55(6)(a)3.a., F.S.

²⁶ Section 1004.55(6)(a)3.b., F.S.

²⁷ Section 1004.55(6)(a)3.a., F.S.

health matters pervades both the public and private health care sectors. For these reasons, the individual's expectation of and right to privacy in all matters regarding his or her personal health necessitates this exemption.²⁸

The public necessity statement further provides that release of records relating to a client or the client's family could be defamatory or could cause unwarranted damage to the name or reputation of the client or the client's family. It also provides that:

Protecting such records ensures an environment in which the discussion of the condition of autism or related disorders can be conducted in a free and open manner, thus enabling individuals with autism and their families to receive appropriate diagnostic and treatment information and cope more effectively with the enormous challenges posed by neurodevelopmental disorders and sensory impairments.²⁹

With regard to the public record exemption for personal identifying information of a donor or prospective donor to the center, the 2011 public necessity statement provides that:

If the identity of a prospective or actual donor who desires to remain anonymous is subject to disclosure, there is a chilling effect on donations because donors are concerned about disclosure of personal information leading to theft and, in particular, identity theft, including personal safety and security.³⁰

Pursuant to the Open Government Sunset Review Act, the public record exemptions will repeal on October 2, 2016, unless reenacted by the Legislature.³¹

Staff Review of the Exemptions

During the 2015 interim, subcommittee staff sent questionnaires to each center as part of the Open Government Sunset Review process. All respondents recommended reenactment of the exemption without changes.³² The centers indicated that the public record exemption for records relating to a client or the client's family provides the clients of the centers with the security of knowing that sensitive information about themselves or their child is protected from a public records request. This ensures the integrity of the relationship between the client and the center.³³ In addition, a center's response provided that the public record exemption for donor information is important because many of the donors are clients or are family member of clients.³⁴

²⁸ Section 1004.55(6)(a)4.a., F.S.

²⁹ Section 1004.55(6)(a)4.b., F.S.

³⁰ Section 2, ch. 2011-221, L.O.F.

³¹ *Id.*

³² Section 1004.55(6)(c), F.S.

³³ *Id.* at question 11.

³⁴ *Id.* at question 12.

III. Effect of Proposed Changes:

Section 1 amends s. 1004.55, F.S., to save from repeal the public record exemptions for regional autism centers. The bill removes the scheduled repeal of the public records exemptions, thereby reenacting:

- The public record exemption for all records relating to a client of the center or the client's family; and
- The public record exemption for personal identifying information of a donor or prospective donor to the center who desires to remain anonymous.

Section 2 provides an effective date of October 1, 2016.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1004.55(6), of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



157534

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2016	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

Senate Amendment

Delete lines 41 - 49
and insert:
confidential and exempt records ~~as follows~~:

(a) to a person engaged in a bona fide research if that person agrees to sign a confidentiality agreement with the regional autism center, agrees to maintain the confidentiality of the information received, and to the extent permitted by law and after the research has concluded, destroy any confidential



157534

11 information obtained.

12 5. ~~(b)~~ The director of the center or his or her designee
13 may release information for statistical and research purposes ~~by~~
14 ~~the director of the center or designee~~, provided that any
15 confidential and

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-01821-16

20167048pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 1004.55, F.S., which provides an exemption from public records requirements for information relating to client records and donor information collected by regional autism centers; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (6) of section 1004.55, Florida Statutes, is amended to read:

1004.55 Regional autism centers; public record exemptions.-

(6) (a) *Client records*.-

1. All records that relate to a client of a regional autism center who receives the services of a center or participates in center activities, and all records that relate to the client's family, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. A client who receives the services of a center, if competent, or the client's parent or legal guardian if the client is incompetent, shall be provided with a copy of the client's individual record upon request.

3. A regional autism center may release the confidential and exempt records as follows:

a. To physicians, attorneys, or governmental entities having need of the confidential and exempt information to aid a client, as authorized by the client, if competent, or the client's parent or legal guardian if the client is incompetent.

b. In response to a subpoena or to persons authorized by

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

586-01821-16

20167048pb

order of court.

c. To the State Board of Education or the Board of Governors of the State University System when the director of the center deems it necessary for the treatment of the client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Provided that personal identifying information of a client or the client's family has been removed, a regional autism center may release information contained in the confidential and exempt records as follows:

a. To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the regional autism center, agrees to maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential information obtained.

b. For statistical and research purposes by the director of the center or designee, provided that any confidential and exempt information is removed in the reporting of such statistical or research data.

(b) *Donor information*.-Personal identifying information of a donor or prospective donor to a regional autism center who desires to remain anonymous is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(c) *Review and repeal*.-This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



Presentation to Senate Children, Families, and Elder Affairs Committee

**John N. Bryant, Assistant Secretary for Substance Abuse
and Mental Health**

January 14, 2016

State Mental Health Treatment Facilities

Mission & Vision

Mission

The mission of Florida's State Mental Health Treatment Facilities is to provide the highest quality mental health treatment, services, and supports to empower individuals to be actively involved in their recovery and to ensure their timely and successful return to the community or courts.

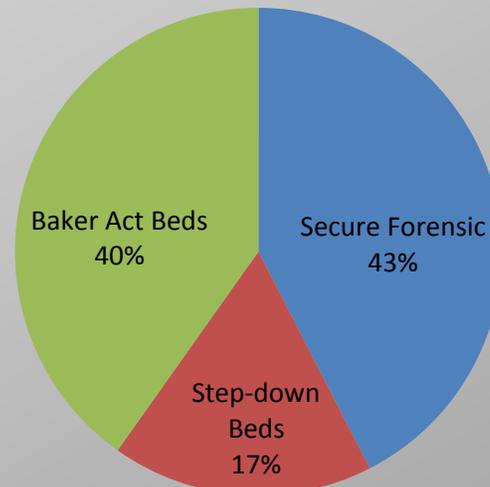
Vision

Individuals admitted to our Mental Health Treatment Facilities will receive the **best** clinical and rehabilitative services available, focusing on reducing severity of psychiatric symptoms, early return to the community or other appropriate placement, and continuing recovery in order for each individual to resume meaningful life roles.



Operating Capacities

Facility	Type	Licensure	Accreditation	Bed Capacity FY2015-16
Florida State Hospital, Chattahoochee	Secure Forensic	Chapter 395	CARF	469
North Florida Evaluation and Treatment Center		N/A	CARF	193
South Florida Evaluation and Treatment Center		Chapter 395	Joint Commission	238
Treasure Coast Forensic Treatment Center		N/A	Joint Commission	224
Sub-Total Secure Forensic				1,124
Florida State Hospital	Forensic Step-Down	Chapter 395	CARF	250
Northeast Florida State Hospital, Macclenny		Chapter 395	CARF	140
South Florida State Hospital, Pembroke Pines		Chapter 395	Joint Commission	70
Sub-Total Step-down Beds				460
Total Forensic Designated Beds				1,584
Florida State Hospital, Chattahoochee	Civil	Chapter 395	CARF	240
Northeast Florida State Hospital, Macclenny		Chapter 395	CARF	473
South Florida State Hospital, Pembroke Pines		Chapter 395	Joint Commission	271
West Florida Community Care Center, Milton		Chapter 395	CARF	80
Sub-Total Baker Act Beds				1,064
Total Beds				2,648



Bed Utilization as of December 31, 2015

Facility	Bed Type	Utilization
Florida State Hospital	Civil	101%
Northeast Florida State Hospital	Civil	96%
South Florida State Hospital	Civil	98%
West Florida Community Care Center	Civil	86%
Florida State Hospital Forensic	Secure Forensic	105%
North Florida Evaluation & Treatment Center	Secure Forensic	102%
South Florida Evaluation & Treatment Center	Secure Forensic	103%
Treasure Coast Forensic Treatment Center	Secure Forensic	106%
Florida State Hospital	Stepdown	99%
Northeast Florida State Hospital	Stepdown	105%
South Florida State Hospital	Stepdown	101%

As of January 5, 2016, there were 48 persons on the secure forensic admission waiting list.

As of December 31, 2015, there were 116 persons on the civil admissions waiting list.

Population Served

1. **Secure Forensic** - Criteria for commitment under Chapter 916, F.S.
 - Person is charged with a felony offense and is either Incompetent to Proceed or Not Guilty by Reason of Insanity
 - Less restrictive alternatives are judged inappropriate
 - Must be 18 years of age or older or a juvenile adjudicated as an adult

2. **Step-down Forensic**
 - Same criteria as above, however, the recovery team has determined that a civil facility is appropriate and is in the resident's best interest

3. **Civil** - Criteria for placement under Chapter 394, F.S., (Baker Act):
 - May be voluntary or involuntary. Voluntary must be competent and able to give express and informed consent
 - Less restrictive placement in the community is not available
 - Must be 18 years of age or older
 - Person is incapable of surviving alone or with the willing help of others
 - Likely to suffer from neglect, or refuse to care for themselves, **and**
 - Likely to inflict serious bodily harm to self or others

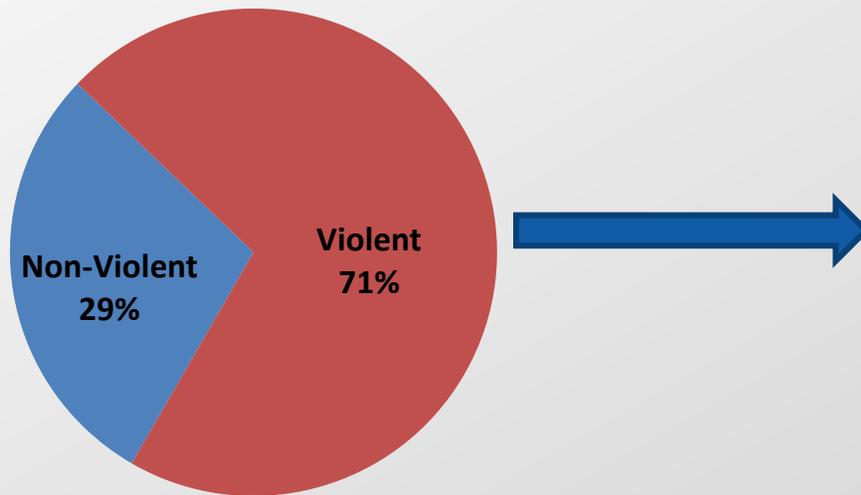
Relationship between Beds and Persons Served



Characteristics of Forensic Persons Served

(1,586 residents as of October 30)

Nature of Charges for Forensic Commitments



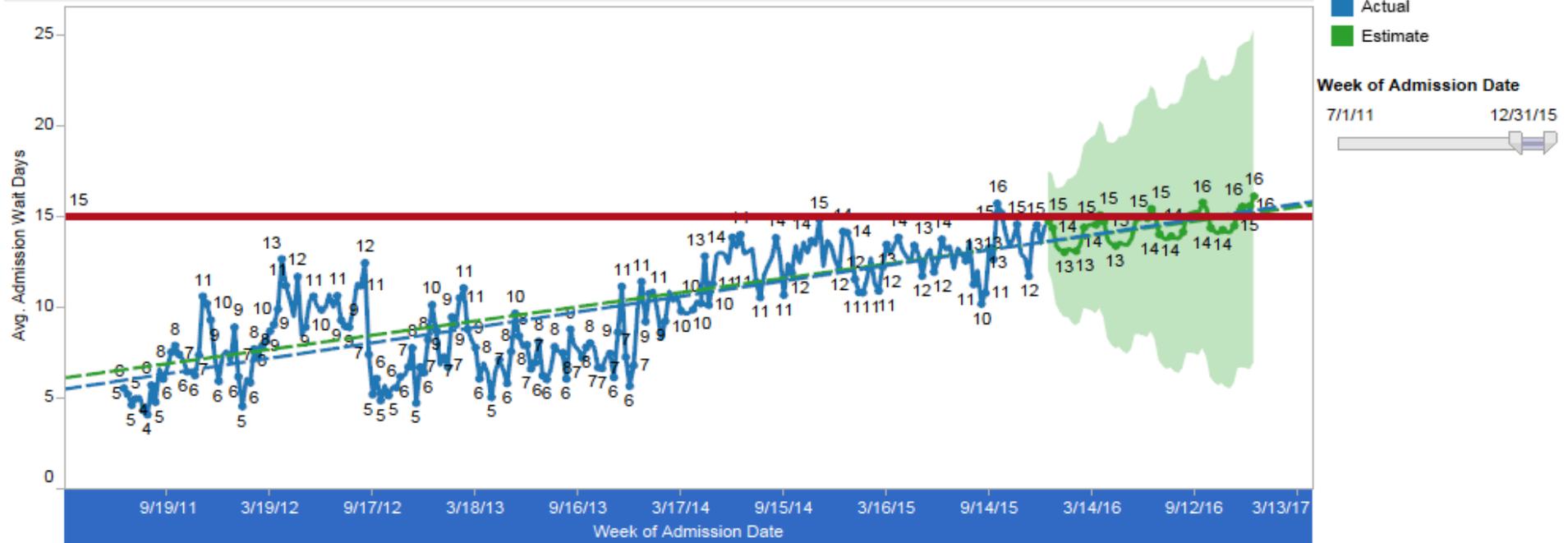
CHARGE	PERCENT
BATTERY ON A LEO/FIREFIGHTER/EMT/OFFICER	26%
AGGRAVATED ASSAULT	17%
BATTERY, NOT INCLUDING SEXUAL/ELDERLY/LEO	16%
AGGRAVATED BATTERY	16%
RESISTING OFFICER WITH VIOLENCE	14%
MURDER	13%
ROBBERY	8%
ATTEMPTED MURDER	8%
BATTERY ON A PERSON 65 YEARS OR OLDER	6%
SEXUAL BATTERY	4%

NUMBERS ARE NOT ADDITIVE AS AN INDIVIDUAL CAN BE CHARGED WITH MORE THAN ONE OFFENSE



Forensic Waiting List

Admission Waitlist Days by Time as of 1/6/2016 6:03:46 AM



Admission Wait Days Overall

Year of Admissio..	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
2010	0%	11%	20%	10%	15%	17%	11%	8%	3%	1%	1%	0%	1%	1%	0%	0%
2011	0%	3%	11%	9%	9%	15%	19%	14%	7%	4%	2%	2%	2%	1%	1%	0%
2012	0%	1%	5%	5%	4%	8%	14%	13%	8%	6%	6%	6%	8%	9%	6%	2%
2013	1%	1%	4%	5%	4%	11%	14%	17%	13%	6%	5%	5%	6%	5%	3%	1%
2014	0%	0%	1%	0%	1%	1%	2%	6%	5%	5%	7%	6%	9%	20%	22%	15%
2015	0%	0%	0%	0%	0%	2%	4%	5%	3%	2%	3%	4%	7%	14%	26%	29%



Improvement Initiatives Underway

- Governor Scott's Executive Order 15-175
- Governor Scott's Budget Recommendations
- Resident and Staff Safety Monitoring
- Workforce Enhancements
- Programmatic Improvements



Audit of State Mental Health Treatment Facilities

- Examine availability and effectiveness of institutional care
- Conduct analysis and evaluation of performance trends:
 - Outcomes for patient care and well-being
 - Staff safety and security
 - Staff training and productivity
 - Adequacy of current technology
 - General organizational structure
 - Review of physical plants
- SMHTF staffing analysis - contracted



Audit of State Mental Health Treatment Facilities (cont.)

Goal of Audit

- Short and long term recommendations to achieve optimum performance by the state's mental health treatment facilities
- Strategic plan addressing findings of the audit
 - Improved care and treatment
 - Client/employee safety
 - Physical plant requirements



Resident and Staff Safety

- Video surveillance system
- Personal body alarms
- MANDT Training
- Wellness Scorecard
- Quarterly Performance Reviews
- Development of Improved Facility Incident Tracking System



Wellness Scorecard

7/1/2015 to 11/30/2015

Measures	Good Arrow	Florida State Hospital Civil		Northeast Florida State Hospital		South Florida State Hospital		West Florida Community Care Center		Civil Service	
		YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events
		Assaults per 1,000 patient days	↓	3.52	264	2.44	229	4.31	225	0.16	2
Elopements or Escapes per 1,000 patient days	↓	0.03	1	0.03	1	0.08	0	0.00	0	0.04	2
Emergency Medical Contact per 1,000 patient days		0.12	9	0.09	8	0.16	8	0.45	5	0.13	30
Law Enforcement Contacts per 1,000 patient days		0.27	20	0.09	8	0.19	10	0.18	2	0.18	40
Percent of WC Reports Classified as a Near Miss per 1,000 patient days	↑	39%	324	44%	114	0		0		40%	438
Overtime hours per 1,000 bed days	↓	17.89	37,129	8.91	50,395	0		0		12.90	87,524
Property damage due to behavioral events	↓	0.00		0.00		0.00		0.00		0.00	0
Seclusion and restraint duration within limits	↑	86%	76	91%	44	98%	66	85%	34	90%	220
Seclusion and restraint events per 1,000 patient days	↓	1.02	76	0.48	44	1.28	66	3.06	34	0.96	220
Significant injuries per 1,000 patient days	↓	0.01	1	0.02	2	0.02	1	0.00	0	0.02	4
Suicide attempts per 1,000 patient days	↓	0.01	1	0.01	1	0.00	0	0.00	0	0.01	2
Verified abuse/ neglect findings per 1,000 patient days	↓	0.03	2	0.02	2	0.06	3	0.00	0	0.03	7
Workers compensation events per 1,000 bed days	↓	3.67	324	1.04	114	0		0		2.21	438
OVERALL WELLNESS		8						6		5.75	

Measures	Good Arrow	Florida State Hospital Forensic		North Florida Evaluation and Treatment Center		South Florida Evaluation and Treatment Center		Treasure Coast Forensic Treatment Center		Forensic Service	
		YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events	YTD Result	YTD Events
		Assaults per 1,000 patient days	↓	3.61	259	1.83	54	2.69	98	2.71	93
Elopements or Escapes per 1,000 patient days	↓	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0
Emergency Medical Contact per 1,000 patient days		0.07	5	0.03	1	0.00	0	0.00	0	0.03	6
Law Enforcement Contacts per 1,000 patient days		0.28	20	0.07	2	0.00	0	0.12	4	0.15	26
Percent of WC Reports Classified as a Near Miss per 1,000 patient days	↑	100%	2	34%	34	0		0		39%	36
Overtime hours per 1,000 bed days	↓	19.22	39,914	29.30	23,833	0		0		22.16	63,747
Property damage due to behavioral events	↓	0		0		0		0		0	0
Seclusion and restraint duration within limits	↑	85%	132	73%	124	88%	8	100%	15	81%	279
Seclusion and restraint events per 1,000 patient days	↓	1.82	132	4.10	124	0.22	8	0.44	15	1.61	279
Significant injuries per 1,000 patient days	↓	0.01	1	0.10	3	0.03	1	0.06	2	0.04	7
Suicide attempts per 1,000 patient days	↓	0.01	1	0.00	0	0.00	0	0.00	0	0.01	1
Verified abuse/ neglect findings per 1,000 patient days	↓	0.12	9	0.00	0	0.05	2	0.00	0	0.06	11
Workers compensation events per 1,000 bed days	↓	0.03	2	0.98	34	0		0		0.31	36
OVERALL WELLNESS		6									

DATA COLLECTION BEGAN Q2 2015.



Workforce Enhancements

- Staffing Project Teams
 - Overtime
 - Turnover
 - Worker's Compensation
- Leadership Conducting Town Hall Meetings to address:
 - Communication
 - Leadership
 - Teamwork
 - Work Environment
 - Performance Management
- Improved screening of personnel



Programmatic Improvements

- Departmental Priority of Effort:
 - Enhance quality and performance of state mental health treatment facilities
 - Improve care coordination for individuals being admitted to or discharged from a SMHTF
 - Reduce days for civil admission
 - Reduce days to civil discharge
 - Reduce number of people on the forensic waiting list and the number of days for forensic admission



John N. Bryant
Assistant Secretary

(850) 921-8461

John.Bryant@myflfamilies.com



THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

14 Jan. 2016
Meeting Date

Bill Number (if applicable)

Topic Review of State Mental Health Treatment Facilities Amendment Barcode (if applicable) _____

Name John Bryant

Job Title Assistant Secretary

Address 1317 Winewood Blvd

Phone 850 487 1111

Street

Tallahassee

FL

32399

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Department of Children & Families

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

Bill Number (if applicable)

Topic Family

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr
Street

Phone

Largo
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

For

SB 670

Bill Number (if applicable)

Amendment Barcode (if applicable)

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/16
Meeting Date

Topic Sovereign Immunity

Name Lynn M. Keefe, MD

Job Title CPT Medical Director, Pediatrician

Address 15 Country Club Rd
Street

Phone 850-678-9005

Shalman FL
City State

32579
Zip

Email LKeefeMD@car.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL AAP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Against

14 JAN 2016
Meeting Date

670
Bill Number (if applicable)

Topic SOVEREIGN IMMUNITY

Amendment Barcode (if applicable)

Name PAUL JESS

Job Title _____

Address 218 S. MONROE ST

Phone 850-224-9403

TALLAHASSEE FL 32301
City State Zip

Email press@floridajusticeassociation.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waived

1/14/16
Meeting Date

860
Bill Number (if applicable)

Topic FOSTER FAMILY Appreciation Week

Amendment Barcode (if applicable)

Name ALAN ABRAMOWITZ

Job Title Executive Director

Address 600 Calhoun
Street

Phone 850-241-5252

Tallahassee, FL 32311
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GUARDIAN AD LITEM Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waived

1/14/16
Meeting Date

860
Bill Number (if applicable)

Topic Foster Care

Amendment Barcode (if applicable)

Name Thomas Croon, PhD

Job Title Board Member

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida State Foster Adoptive Parent Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16

Meeting Date

860

Bill Number (if applicable)

Topic Foster Care

Amendment Barcode (if applicable)

Name Thomas Croom, Ph.D.

Job Title CEO/President

Address 113 S. Monroe St

Phone _____

Street

Tallahassee, FL 32301

Email tcroom@goofoster.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Go Foster!

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

FOV
SB 12
Bill Number (if applicable)

Topic Mental Health Substance Abuse

Amendment Barcode (if applicable)

Name Dr. Jay Reene

Job Title CEO, Apalachee Center

Address 2434 Capital Circle NE
Street

Phone 850/523-3333

Tallahassee FL 32308
City State Zip

Email jreene@apalachee.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Florida Council Community Mental Health

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

FOR

1/14/15

Meeting Date

SB 12

Bill Number (if applicable)

Topic MENTAL HEALTH / SUBSTANCE ABUSE

Amendment Barcode (if applicable)

Name LINDA MCKINNON

Job Title CEO

Address 719 US 301
Street

Phone (813) 740-4811

Tampa FL 33619
City State Zip

Email LMCKINNON@CFBHN.ORG

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

For

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Bill Number (if applicable) _____

Topic MENTAL HEALTH

Amendment Barcode (if applicable) _____

Name MARK SPILSA

Job Title CIRCUIT COURT JUDGE

Address BROWARD COUNTY

Phone _____

Street

FT LAUDERDALE

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

Gov

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

14 Jan 2016
Meeting Date

12
Bill Number (if applicable)

Topic SAMH Services

Amendment Barcode (if applicable)

Name Mark Fontaine

Job Title Executive Director

Address 2808 Mahan Dr

Phone 850 878 2140

Street

Tallahassee FL 32308

City

State

Zip

Email mfontaine@fadaa.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Alcohol & Drug Abuse Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

FO

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 14 2016

Meeting Date

12

Bill Number (if applicable)

Topic Mental Health

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title Chair Advocacy Committee

Address 319 E Park

Phone 850 570 1967

Street

Tallahassee

FL

32301

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Big Bend Mental Health Coalition, Tallahassee NAMI

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

?

Meeting Date _____

12
Bill Number (if applicable)

Topic Maternal Mental Health

Amendment Barcode (if applicable) _____

Name Dr. Heather Flynn

Job Title Professor FSU College of Medicine

Address Behavioral Sciences
Street

Phone _____

City _____

State _____

Zip _____

Email heather.flynn@med.fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

For

12

Meeting Date _____

Bill Number (if applicable) _____

Topic MENTAL HEALTH SUBSTANCE ABUSE Amendment Barcode (if applicable) _____

Name Rocky Rodriguez

Job Title VICE CHAIR BBHC

Address 1700 NE 18 ST

Phone 954 494 2626

Street

FT LAUD FL 33305

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Broward Behavioral Health Coalition

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

860
Bill Number (if applicable)

Topic FOSTER Family Appreciation Week

Amendment Barcode (if applicable)

Name ALAN ABRAMOWITZ

Job Title Executive Director

Address 600 Calhoun Street

Phone 850-671-5232

Tallahassee, FL 32399
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GUARDIAN AD LITEM Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16
Meeting Date

860
Bill Number (if applicable)

Topic Foster Care

Amendment Barcode (if applicable)

Name Thomas Creon, PhD

Job Title Board Member

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida State Foster Adoptive Parent Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14/16

Meeting Date

860

Bill Number (if applicable)

Topic Foster Care

Amendment Barcode (if applicable)

Name Thomas Croom, Ph.D.

Job Title CEO/President

Address 113 S. Monroe St
Street

Phone _____

Tallahassee, FL 32301
City State Zip

Email tcroom@goFoster.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Go Foster!

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)