

1                   A bill to be entitled  
2           An act relating to involuntary commitment; amending s.  
3           393.11, F.S.; revising the composition of the  
4           petitioning commission; requiring the Agency for  
5           Persons with Disabilities to provide certain notice of  
6           eligibility determinations; requiring the court to  
7           conduct annual hearings on the continued need for  
8           involuntary placement in residential services;  
9           revising duties of the court in hearings for  
10          involuntary admission; providing for participation of  
11          a guardian or guardian advocate in placement  
12          determinations; amending s. 916.301, F.S.; revising  
13          provisions relating to court appointment of certain  
14          qualified experts to evaluate a defendant's mental  
15          condition; amending s. 916.3012, F.S.; revising  
16          provisions governing acceptable recommended training  
17          for a defendant determined incompetent to proceed;  
18          amending s. 916.302, F.S.; requiring the court to hold  
19          a competency hearing within a specified timeframe when  
20          a defendant is competent to proceed; providing for  
21          referral of dually diagnosed defendants to the  
22          Department of Children and Families or the agency for  
23          placement in a facility; providing for transferring a  
24          defendant between the department and the agency under  
25          certain circumstances; amending s. 916.3025, F.S.;

26 providing for the court to retain jurisdiction over  
27 certain defendants found nonrestorable to competency;  
28 amending s. 916.303, F.S.; revising provisions  
29 governing the dismissal of charges against a defendant  
30 found to be incompetent to proceed and who does not  
31 have a guardian or guardian advocate; amending s.  
32 916.304, F.S.; providing a limitation on conditional  
33 release for community-based competency training for a  
34 defendant who is incompetent to proceed; providing an  
35 effective date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Section 393.11, Florida Statutes, is amended to  
40 read:

41 393.11 Involuntary admission to residential services.—

42 (1) JURISDICTION.—If a person has an intellectual  
43 disability or autism and requires involuntary admission to  
44 residential services provided by the agency, the circuit court  
45 of the county in which the person resides has jurisdiction to  
46 conduct a hearing and enter an order involuntarily admitting the  
47 person in order for the person to receive the care, treatment,  
48 habilitation, and rehabilitation that the person needs. For the  
49 purpose of identifying intellectual disability or autism,  
50 diagnostic capability shall be established by the agency. Except

51 as otherwise specified, the proceedings under this section are  
52 governed by the Florida Rules of Civil Procedure.

53 (2) PETITION.—

54 (a) A petition for involuntary admission to residential  
55 services shall ~~may~~ be executed by a petitioning commission  
56 unless the petition is filed pursuant to s. 916.303.

57 (b) The petitioning commission shall consist of three  
58 persons. One of these persons shall be a physician licensed and  
59 practicing under chapter 458 or chapter 459 or a psychologist  
60 licensed under chapter 490.

61 (c) The petition shall be verified and must:

62 1. State the name, age, and present address of the  
63 commissioners and their relationship to the person who has an  
64 intellectual disability or autism;

65 2. State the name, age, county of residence, and present  
66 address of the person who has an intellectual disability or  
67 autism;

68 3. Allege that the commission believes that the person  
69 needs involuntary residential services and specify the factual  
70 information on which the belief is based;

71 4. Allege that the person lacks sufficient capacity to  
72 give express and informed consent to a voluntary application for  
73 services pursuant to s. 393.065, does not have a guardian or  
74 guardian advocate to consent to services on his or her behalf,  
75 and lacks the basic survival and self-care skills to provide for

76 | the person's well-being, or the person is likely to physically  
77 | injure others if allowed to remain at liberty; and

78 |       5. State whether a secure or nonsecure ~~which~~ residential  
79 | setting is the least restrictive and most appropriate  
80 | alternative and specify the factual information on which the  
81 | belief is based.

82 |       (d) The petition must be filed in the circuit court of the  
83 | county in which the person who has the intellectual disability  
84 | or autism resides.

85 |       (3) NOTICE.—

86 |       (a) Notice of the filing of the petition shall be given to  
87 | the individual and his or her legal guardian. The notice shall  
88 | be given both verbally and in writing in the language of the  
89 | client, or in other modes of communication of the client, and in  
90 | English. Notice shall also be given to the agency and such other  
91 | persons as the court may direct. The petition for involuntary  
92 | admission to residential services shall be served with the  
93 | notice.

94 |       (b) If a motion or petition has been filed pursuant to s.  
95 | 916.303 to dismiss criminal charges against a defendant who has  
96 | an intellectual disability or autism, and a petition is filed to  
97 | involuntarily admit the defendant to residential services under  
98 | this section, the notice of the filing of the petition must also  
99 | be given to the defendant's attorney, the state attorney of the  
100 | circuit from which the defendant was committed, and the agency.

101 (c) The notice must state that a hearing shall be set to  
102 inquire into the need of the person who has an intellectual  
103 disability or autism for involuntary residential services. The  
104 notice must also state the date of the hearing on the petition.

105 (d) The notice must state that the individual who has an  
106 intellectual disability or autism has the right to be  
107 represented by counsel of his or her own choice and that, if the  
108 person cannot afford an attorney, the court shall appoint one.

109 (4) AGENCY PARTICIPATION.—

110 (a) Upon receiving the petition, the court shall  
111 immediately order the agency to examine the person being  
112 considered for involuntary admission to residential services to  
113 determine if the person is eligible for agency services.

114 (b) Following examination, the agency shall file a written  
115 report with the court at least 10 working days before the date  
116 of the hearing. The report must be served on the petitioner, the  
117 person who has the intellectual disability or autism and his or  
118 her guardian or guardian advocate if one has been appointed, and  
119 the person's attorney at the time the report is filed with the  
120 court.

121 (c) The report must contain the findings of the agency's  
122 evaluation, any recommendations deemed appropriate, and a  
123 determination of whether the person is eligible for services  
124 under this chapter. If the agency determines the person is not  
125 eligible for agency services, the agency shall provide written

126 notification of its eligibility determination to the person or  
 127 his or her attorney, and the person shall have a right to appeal  
 128 that determination under the Medicaid fair hearing process in s.  
 129 393.125. The agency must also notify the person or his or her  
 130 attorney that the person may appeal the agency determination  
 131 under the procedures in s. 393.125. In such circumstance, the  
 132 proceeding for the petition of involuntary admission to  
 133 residential services under this section shall be stayed pending  
 134 the outcome of any appellate proceeding.

135 (5) EXAMINING COMMITTEE.—

136 (a) If the agency examination determines the person is  
 137 eligible for agency services ~~Upon receiving the petition, the~~  
 138 court shall immediately appoint an examining committee to  
 139 examine the person being considered for involuntary admission to  
 140 residential services provided by the agency.

141 (b) The court shall appoint at least two, but no more than  
 142 three, qualified experts who must be disinterested in the  
 143 outcome of the proceeding and who meet the requirements for a  
 144 qualified evaluator as defined in paragraph (15)(d) ~~three~~  
 145 ~~disinterested experts who have demonstrated to the court an~~  
 146 ~~expertise in the diagnosis, evaluation, and treatment of persons~~  
 147 ~~who have intellectual disabilities or autism. The committee must~~  
 148 ~~include at least one licensed and qualified physician, one~~  
 149 ~~licensed and qualified psychologist, and one qualified~~  
 150 ~~professional who, at a minimum, has a master's degree in social~~

151 ~~work, special education, or vocational rehabilitation~~  
152 ~~counseling,~~ to examine the person and to testify at the hearing  
153 on the involuntary admission to residential services.

154 (c) Counsel for the person who is being considered for  
155 involuntary admission to residential services, ~~and~~ counsel for  
156 the petition commission, counsel from the state attorney in  
157 cases arising out of chapter 916, and counsel for the agency has  
158 the right to challenge the qualifications of those appointed to  
159 the examining committee.

160 (d) Members of the committee may not be employees of the  
161 agency or be associated with each other in practice or in  
162 employer-employee relationships. Members of the committee may  
163 not have served as members of the petitioning commission.  
164 Members of the committee may not be employees of the members of  
165 the petitioning commission or be associated in practice with  
166 members of the commission.

167 (e) Each member of the committee shall prepare a written  
168 report for the court. Each ~~The~~ report must explicitly document  
169 the extent that the person meets the criteria for involuntary  
170 admission. Each ~~The~~ report, and expert testimony, must include,  
171 but not be limited to:

172 ~~1. The degree of the person's intellectual disability or~~  
173 ~~autism and whether, using diagnostic capabilities established by~~  
174 ~~the agency, the person is eligible for agency services;~~

175 ~~1.2.~~ Whether, because of the person's degree of

176 intellectual disability or autism, the person:

177 a. Lacks sufficient capacity to give express and informed  
178 consent to a voluntary application for services pursuant to s.  
179 393.065, does not have a guardian or guardian advocate to  
180 consent to services on his or her behalf, and lacks basic  
181 survival and self-care skills to such a degree that close  
182 supervision and habilitation in a residential setting is  
183 necessary and, if not provided, would result in a threat of  
184 substantial harm to the person's well-being; or

185 b. Is likely to physically injure others if allowed to  
186 remain at liberty.

187 ~~2.3.~~ The purpose to be served by residential services.  
188 ~~care;~~

189 ~~3.4.~~ A recommendation on the type of residential placement  
190 which would be the most appropriate and least restrictive for  
191 the person, including an assessment of the need for secure  
192 placement if, in the opinion of the examining committee members,  
193 the person presents a danger to others.; and

194 ~~4.5.~~ The appropriate care, habilitation, and treatment for  
195 the person with the intellectual disability or autism which is  
196 within the agency's responsibilities under this chapter.

197 (f) Each ~~The~~ committee member shall file the report with  
198 the court at least 10 working days before the date of the  
199 hearing. The report must be served on the petitioner, the person  
200 who has the intellectual disability or autism and his or her



201 guardian or guardian advocate if one has been appointed, the  
202 person's attorney at the time the report is filed with the  
203 court, and the agency.

204 (g) Members of the examining committee shall receive a  
205 reasonable fee to be determined by the court. The fees shall be  
206 paid from the general revenue fund of the county in which the  
207 person who has the intellectual disability or autism resided  
208 when the petition was filed.

209 (6) COUNSEL; GUARDIAN AD LITEM.—

210 (a) The person who has the intellectual disability or  
211 autism must be represented by counsel at all stages of the  
212 judicial proceeding, including annual hearings under subsection  
213 (15) which require a court to determine the continued need for a  
214 person's involuntary placement resulting from an involuntary  
215 admission to residential services. If the person is indigent and  
216 cannot afford counsel, the court shall appoint a public defender  
217 at least 20 working days before the scheduled hearing. The  
218 person's counsel shall have full access to the records of the  
219 service provider and the agency. In all cases, the attorney  
220 shall represent the rights and legal interests of the person,  
221 regardless of who initiates the proceedings or pays the attorney  
222 fee.

223 (b) If the attorney, during the course of his or her  
224 representation, reasonably believes that the person who has the  
225 intellectual disability or autism cannot adequately act in his

226 or her own interest, the attorney may seek the appointment of a  
227 guardian ad litem. A prior finding of incapacity ~~incompetency~~ is  
228 not required before a guardian ad litem is appointed pursuant to  
229 this section.

230 (7) HEARING.—

231 (a) The hearing for involuntary admission shall be  
232 conducted, and the order shall be entered, in the county in  
233 which the petition is filed. The hearing shall be conducted in a  
234 physical setting not likely to be injurious to the person's  
235 condition. When a petition for involuntary admission to  
236 residential services is considered at a hearing, the court must  
237 consider whether there is an alternative to involuntary  
238 commitment under this section that will sufficiently address the  
239 person's need for residential services. The court shall use the  
240 least restrictive means available to assist a person who is  
241 subject to a petition for involuntary admission to residential  
242 services. The court shall determine if the person has a guardian  
243 or guardian advocate and the scope of the authorized powers of  
244 the guardian or guardian advocate to make decisions regarding  
245 the residence, medical treatment, or other services necessary to  
246 sufficiently address the needs of the person.

247 (b) A hearing on the petition must be held as soon as  
248 practicable after the petition is filed, but reasonable delay  
249 for the purpose of investigation, discovery, or procuring  
250 counsel or witnesses shall be granted.

251 (c) The court may appoint a general or special magistrate  
252 to preside. Except as otherwise specified, the magistrate's  
253 proceeding shall be governed by the Florida Rules of Civil  
254 Procedure.

255 (d) The person who has the intellectual disability or  
256 autism must be ~~physically~~ present, either in person or by  
257 contemporaneous video communication technology, throughout the  
258 entire initial proceeding on the petition for involuntary  
259 admission to residential services. In accordance with Rule  
260 1.451, Florida Rules of Civil Procedure, the court may authorize  
261 testimony at the hearing by contemporaneous audio or video  
262 communication technology upon agreement of the parties or for  
263 good cause shown by written request of one party and by giving  
264 reasonable notice to all other parties. If the person's attorney  
265 believes that the person's presence at the hearing is not in his  
266 or her best interest, the person's presence may be waived once  
267 the court has seen the person and the hearing has commenced.

268 (e) The person has the right to present evidence and to  
269 cross-examine all witnesses and other evidence alleging the  
270 appropriateness of the person's admission to residential  
271 services care. Other relevant and material evidence regarding  
272 the appropriateness of the person's admission to residential  
273 services; the most appropriate, least restrictive residential  
274 placement; and the appropriate care, treatment, and habilitation  
275 of the person, including written or oral reports, may be

276 introduced at the hearing by any interested person.

277 (f) The petitioning commission may be represented by  
278 counsel at the hearing. The petitioning commission shall have  
279 the right to call witnesses, present evidence, cross-examine  
280 witnesses, and present argument on behalf of the petitioning  
281 commission.

282 (g) All evidence shall be presented according to chapter  
283 90. The burden of proof shall be on the party alleging the  
284 appropriateness of the person's admission to residential  
285 services. The burden of proof shall be by clear and convincing  
286 evidence.

287 (h) All stages of each proceeding shall be recorded  
288 ~~stenographically reported~~.

289 (8) ORDER.—

290 (a) In all cases, the court shall issue written findings  
291 of fact and conclusions of law to support its decision. The  
292 order must state the basis for the findings of fact.

293 (b) An order of involuntary admission to residential  
294 services may not be entered unless the court finds that:

295 1. The person is intellectually disabled or autistic;

296 2. Placement in a residential setting is the least  
297 restrictive and most appropriate alternative to meet the  
298 person's needs and the order specifies whether the recommended  
299 placement must be secure or nonsecure; and

300 3. Because of the person's degree of intellectual

301 disability or autism, the person:

302 a. Lacks sufficient capacity to give express and informed  
303 consent to a voluntary application for services pursuant to s.  
304 393.065, does not have a guardian or guardian advocate to  
305 consent to services on his or her behalf, and lacks basic  
306 survival and self-care skills to such a degree that close  
307 supervision and habilitation in a residential setting is  
308 necessary and, if not provided, would result in a real and  
309 present threat of substantial harm to the person's well-being;  
310 or

311 b. Is likely to physically injure others if allowed to  
312 remain at liberty.

313 (c) If the evidence presented to the court is not  
314 sufficient to warrant involuntary admission to residential  
315 services, but the court feels that residential services would be  
316 beneficial, the court may recommend that the person seek  
317 voluntary admission.

318 (d) If an order of involuntary admission to residential  
319 services provided by the agency is entered by the court, a copy  
320 of the written order shall be served upon the person and his or  
321 her guardian or guardian advocate if one has been appointed, the  
322 person's counsel, the agency, and the state attorney and the  
323 person's defense counsel, if applicable. The order of  
324 involuntary admission sent to the agency shall also be  
325 accompanied by a copy of the examining committee's report and

326 other reports contained in the court file.

327       (e) The court may also order special provisions for  
328 residential services and adequate supervision of the person,  
329 when recommended by the agency, in order to ensure that the  
330 person is placed and maintained in the least restrictive, most  
331 appropriate setting. Special provisions may include auxiliary  
332 services that the agency provides to reduce risk and that the  
333 person must comply with to maintain community safety. ~~Upon~~  
334 ~~receiving the order, the agency shall, within 45 days, provide~~  
335 ~~the court with a copy of the person's family or individual~~  
336 ~~support plan and copies of all examinations and evaluations,~~  
337 ~~outlining the treatment and rehabilitative programs. The agency~~  
338 ~~shall document that the person has been placed in the most~~  
339 ~~appropriate, least restrictive and cost-beneficial residential~~  
340 ~~setting. A copy of the family or individual support plan and~~  
341 ~~other examinations and evaluations shall be served upon the~~  
342 ~~person and the person's counsel at the same time the documents~~  
343 ~~are filed with the court.~~

344       (9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO  
345 RESIDENTIAL SERVICES.—

346       (a) An order authorizing an admission to residential  
347 services ~~care~~ may not be considered an adjudication of mental  
348 incapacity ~~incompetency~~. A person is not presumed incapacitated  
349 ~~incompetent~~ solely by reason of the person's involuntary  
350 admission to residential services. A person may not be denied

351 the full exercise of all legal rights guaranteed to citizens of  
352 this state and of the United States.

353 (b) Any minor involuntarily admitted to residential  
354 services shall be evaluated pursuant to subsection (15) and,  
355 within the 6 months before ~~upon~~ reaching majority, be given a  
356 hearing to determine the continued appropriateness of his or her  
357 involuntary admission.

358 (10) CAPACITY ~~COMPETENCY~~.—

359 (a) The issue of capacity ~~competency~~ is separate and  
360 distinct from a determination of the appropriateness of  
361 involuntary admission to residential services due to  
362 intellectual disability or autism.

363 (b) The issue of the capacity ~~competency~~ of a person who  
364 has an intellectual disability or autism for purposes of  
365 assigning guardianship shall be determined in a separate  
366 proceeding according to the procedures and requirements of  
367 chapter 744.

368 (11) COMPETENCY.—The issue of the competency of a person  
369 who has an intellectual disability or autism for purposes of  
370 determining whether the person is competent to proceed in a  
371 criminal trial shall be determined in accordance with chapter  
372 916.

373 (12) ~~(11)~~ CONTINUING JURISDICTION.—The court that ~~which~~  
374 issues the initial order for involuntary admission to  
375 residential services under this section has continuing

376 jurisdiction to enter further orders to ensure that the person  
377 is receiving adequate care, treatment, habilitation, and  
378 rehabilitation, as recommended in the person's individualized  
379 support plan ~~including psychotropic medication and behavioral~~  
380 ~~programming~~. Upon request, the court may transfer the continuing  
381 jurisdiction to the court where a client resides if it is  
382 different from where the original involuntary admission order  
383 was issued. A person may not be released from an order for  
384 involuntary admission to residential services except by the  
385 order of the court.

386 (13) ~~(12)~~ APPEAL.—

387 (a) Any party to the proceeding who is affected by an  
388 order of the court, including the agency, may appeal to the  
389 appropriate district court of appeal within the time and in the  
390 manner prescribed by the Florida Rules of Appellate Procedure.

391 (b) The filing of an appeal by the person who has an  
392 intellectual disability or autism stays admission of the person  
393 into residential services ~~care~~. The stay remains in effect  
394 during the pendency of all review proceedings in Florida courts  
395 until a mandate issues.

396 (14) ~~(13)~~ HABEAS CORPUS.—At any time and without notice,  
397 any person involuntarily admitted into residential services  
398 ~~care~~, or the person's parent or legal guardian in his or her  
399 behalf, is entitled to file a petition for a writ of habeas  
400 corpus to question the cause, legality, and appropriateness of



401 the person's involuntary admission. Each person, or the person's  
402 parent or legal guardian, shall receive specific written notice  
403 of the right to petition for a writ of habeas corpus at the time  
404 of his or her involuntary placement.

405 (15)~~(14)~~ REVIEW OF CONTINUED INVOLUNTARY ADMISSION TO  
406 RESIDENTIAL SERVICES.—

407 (a) If a person is involuntarily admitted to residential  
408 services provided by the agency, the agency shall employ or, if  
409 necessary, contract with a qualified evaluator to conduct a  
410 review annually, unless otherwise ordered, to determine the  
411 propriety of the person's continued involuntary admission to  
412 residential services based on the criteria in paragraph (8) (b).  
413 The review shall include an assessment of the most appropriate  
414 and least restrictive type of residential placement for the  
415 person. If the person was committed under the criteria in sub-  
416 subparagraph (8) (b) 3.a., the review must also address whether  
417 the person has had a guardian or guardian advocate appointed  
418 since the commitment.

419 (b) A placement resulting from an involuntary admission to  
420 residential services must be reviewed by the court at a hearing  
421 annually, unless a shorter review period is ordered at a  
422 previous hearing. The agency shall provide to the court the  
423 completed review ~~reviews~~ by the qualified evaluator. The ~~review~~  
424 ~~and~~ hearing must occur within 30 days after the court receives  
425 the review and determines ~~determine~~ whether the person continues

426 | to be eligible for agency services and meets ~~meet~~ the criteria  
 427 | in paragraph (8)(b) and, if so, whether the person still  
 428 | requires involuntary placement in a residential setting and  
 429 | whether the person is receiving adequate care, treatment,  
 430 | habilitation, and rehabilitation in the residential setting.

431 | (c) The agency shall provide a copy of the review and  
 432 | reasonable notice of the hearing to the appropriate state  
 433 | attorney, if applicable, the person, the person's attorney, and  
 434 | the person's guardian or guardian advocate, if appointed.

435 | (d) For purposes of this section, the term "qualified  
 436 | evaluator" means a psychiatrist licensed under chapter 458 or  
 437 | chapter 459, or a psychologist licensed under chapter 490, who  
 438 | has demonstrated to the court an expertise in the diagnosis,  
 439 | evaluation, and treatment of persons who have an intellectual  
 440 | disability or autism ~~disabilities~~.

441 | Section 2. Section 916.301, Florida Statutes, is amended  
 442 | to read:

443 | 916.301 Appointment of experts.-

444 | (1) All evaluations ordered by the court under this part  
 445 | must be conducted by a qualified expert ~~experts~~ who meets the  
 446 | requirements for a qualified evaluator as defined in s. 393.11  
 447 | ~~have expertise in evaluating persons who have an intellectual~~  
 448 | ~~disability or autism. The agency shall maintain and provide the~~  
 449 | ~~courts annually with a list of available professionals who are~~  
 450 | ~~appropriately licensed and qualified to perform evaluations of~~

451 ~~defendants alleged to be incompetent to proceed due to~~  
452 ~~intellectual disability or autism. The courts may use~~  
453 ~~professionals from this list when appointing experts and~~  
454 ~~ordering evaluations under this part.~~

455 (2) If a defendant's suspected mental condition is  
456 intellectual disability or autism, the court shall appoint the  
457 agency to select an expert to evaluate whether the defendant  
458 meets the definition of intellectual disability or autism and,  
459 if so, whether the defendant is competent to proceed due to  
460 intellectual disability or autism. following:

461 ~~(a) At least one, or~~ At the request of any party, the  
462 court may appoint an additional expert or direct the agency to  
463 select an additional expert ~~two experts~~ to evaluate whether the  
464 defendant meets the definition of intellectual disability or  
465 autism and, if so, whether the defendant is competent to  
466 proceed; ~~and~~

467 ~~(b) A psychologist selected by the agency who is licensed~~  
468 ~~or authorized by law to practice in this state, with experience~~  
469 ~~in evaluating persons suspected of having an intellectual~~  
470 ~~disability or autism, and a social service professional, with~~  
471 ~~experience in working with persons who have an intellectual~~  
472 ~~disability or autism.~~

473 ~~1. The psychologist shall evaluate whether the defendant~~  
474 ~~meets the definition of intellectual disability or autism and,~~  
475 ~~if so, whether the defendant is incompetent to proceed due to~~

476 ~~intellectual disability or autism.~~

477 ~~2. The social service professional shall provide a social~~  
478 ~~and developmental history of the defendant.~~

479 (3) The experts may examine the defendant in jail, in  
480 another appropriate local facility, in a facility of the  
481 Department of Corrections, or on an outpatient basis.

482 (4) Experts appointed by the court, including experts  
483 selected by the agency, to evaluate the mental condition of a  
484 defendant in a criminal case shall be allowed reasonable fees  
485 for services rendered as evaluators and as witnesses, which  
486 shall be paid by the court. State employees shall be paid  
487 expenses pursuant to s. 112.061. The fees shall be taxed as  
488 costs in the case. In order for the experts to be paid for the  
489 services rendered, the reports and testimony must explicitly  
490 address each of the factors and follow the procedures set out in  
491 this chapter and in the Florida Rules of Criminal Procedure.

492 Section 3. Subsection (4) of section 916.3012, Florida  
493 Statutes, is amended to read:

494 916.3012 Mental competence to proceed.—

495 (4) If the experts find that the defendant is incompetent  
496 to proceed, the experts shall report on any recommended training  
497 for the defendant to attain competence to proceed. In  
498 considering the issues relating to training, the examining  
499 experts shall specifically report on:

500 (a) The intellectual disability or autism causing the

501 incompetence.~~†~~

502 (b) The training appropriate for the intellectual  
 503 disability or autism of the defendant and whether that training  
 504 should occur in the community or in a forensic facility. ~~an~~  
 505 ~~explanation of each of the possible training alternatives in~~  
 506 ~~order of choices;~~

507 ~~(c) The availability of acceptable training and, if~~  
 508 ~~training is available in the community, the expert shall so~~  
 509 ~~state in the report; and~~

510 (c)~~(d)~~ The likelihood of the defendant's attaining  
 511 competence under the training recommended, an assessment of the  
 512 probable duration of the training required to restore  
 513 competence, and the probability that the defendant will attain  
 514 competence to proceed in the foreseeable future.

515 Section 4. Subsection (3) of section 916.302, Florida  
 516 Statutes, is amended, and paragraphs (e) and (f) are added to  
 517 subsection (2) of that section, to read:

518 916.302 Involuntary commitment of defendant determined to  
 519 be incompetent to proceed.—

520 (2) ADMISSION TO A FACILITY.—

521 (e) A competency hearing shall be held within 30 days  
 522 after the court receives notification that the defendant is  
 523 competent to proceed or no longer meets the criteria for  
 524 continued commitment. The defendant must be discharged from the  
 525 forensic facility and transported to the committing court's

526 | jurisdiction for the hearing.

527 |       (f) If recommended by the expert, the court may order  
 528 | maintenance competency training to occur in the jail while the  
 529 | defendant awaits trial.

530 |       (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.—

531 |       (a) If a defendant has both an intellectual disability or  
 532 | autism and a mental illness, evaluations must address which  
 533 | condition is primarily affecting the defendant's competency to  
 534 | proceed. Referral of the defendant shall ~~should~~ be made to the  
 535 | department or the agency for placement in an appropriate  
 536 | facility ~~a civil or forensic facility most appropriate~~ to  
 537 | address the symptoms that are the cause of the defendant's  
 538 | incompetence.

539 |       (b) Transfer between the department and the agency ~~from~~  
 540 | ~~one civil or forensic facility to another civil or forensic~~  
 541 | ~~facility~~ may occur when, in the department's and agency's  
 542 | judgment, it is in the defendant's best treatment or training  
 543 | interests. The department and agency shall submit an evaluation  
 544 | and justification for the transfer to the court. The court may  
 545 | consult with an outside expert if necessary. Transfer requires  
 546 | ~~will require~~ an amended order from the committing court.

547 |       Section 5. Subsection (3) of section 916.3025, Florida  
 548 | Statutes, is amended to read:

549 |       916.3025 Jurisdiction of committing court.—

550 |       (3) The committing court shall consider a petition to

551 | involuntarily admit a defendant who has been deemed  
 552 | nonrestorable to competency by the court ~~whose charges have been~~  
 553 | ~~dismissed~~ to residential services provided by the agency and,  
 554 | when applicable, to continue secure placement of such person as  
 555 | provided in s. 916.303. The committing court shall retain  
 556 | jurisdiction over such person so long as he or she remains in  
 557 | secure placement or is on conditional release as provided in s.  
 558 | 916.304. However, upon request, the court may transfer  
 559 | continuing jurisdiction to the court in the circuit where the  
 560 | defendant resides. The defendant may not be released from an  
 561 | order for secure placement except by order of the court.

562 | Section 6. Subsections (2) and (3) of section 916.303,  
 563 | Florida Statutes, are amended to read:

564 | 916.303 Determination of incompetency; dismissal of  
 565 | charges.—

566 | (2) If the charges are dismissed and ~~if~~ the defendant is  
 567 | considered to lack sufficient capacity to give express and  
 568 | informed consent to a voluntary application for services, does  
 569 | not have a guardian or guardian advocate to consent to services  
 570 | on his or her behalf, and lacks the basic survival and self-care  
 571 | skills to provide for his or her well-being, or the defendant is  
 572 | likely to physically injure himself or herself or others if  
 573 | allowed to remain at liberty, the agency, the state attorney, or  
 574 | the defendant's attorney may file a petition in ~~shall apply to~~  
 575 | the committing court to involuntarily admit the defendant to

576 residential services pursuant to s. 393.11 in lieu of a petition  
577 for involuntary admission to residential services executed by a  
578 petitioning commission.

579 ~~(3) If the defendant is considered to need involuntary~~  
580 ~~residential services for reasons described in subsection (2)~~  
581 ~~and, further, there is a substantial likelihood that the~~  
582 ~~defendant will injure another person or continues to present a~~  
583 ~~danger of escape, and all available less restrictive~~  
584 ~~alternatives, including services in community residential~~  
585 ~~facilities or other community settings, which would offer an~~  
586 ~~opportunity for improvement of the condition have been judged to~~  
587 ~~be inappropriate, the agency, the state attorney, or the~~  
588 ~~defendant's counsel may request the committing court to continue~~  
589 ~~the defendant's placement in a secure facility pursuant to this~~  
590 ~~part. Any placement so continued must be reviewed by the court~~  
591 ~~at least annually at a hearing. The annual review and hearing~~  
592 ~~must determine whether the defendant continues to meet the~~  
593 ~~criteria described in this subsection and, if so, whether the~~  
594 ~~defendant still requires involuntary placement in a secure~~  
595 ~~facility and whether the defendant is receiving adequate care,~~  
596 ~~treatment, habilitation, and rehabilitation, including~~  
597 ~~psychotropic medication and behavioral programming. Notice of~~  
598 ~~the annual review and review hearing shall be given to the state~~  
599 ~~attorney and the defendant's attorney. A defendant's placement~~  
600 ~~in a secure facility may not exceed the maximum sentence for the~~



601 ~~crime for which the defendant was charged.~~

602 Section 7. Subsection (1) of section 916.304, Florida  
603 Statutes, is amended to read:

604 916.304 Conditional release.—

605 (1) Except for an inmate currently serving a prison  
606 sentence, the committing court may order a conditional release  
607 of any defendant who has been found to be incompetent to proceed  
608 due to intellectual disability or autism, based on an approved  
609 plan for providing community-based competency training. The  
610 conditional release for community-based competency training may  
611 not exceed 2 years. If the defendant remains incompetent after  
612 receiving competency training for 2 years, the provisions of s.  
613 916.303 apply ~~The committing criminal court may order a~~  
614 ~~conditional release of any defendant to a civil facility in lieu~~  
615 ~~of an involuntary commitment to a forensic facility pursuant to~~  
616 ~~s. 916.302.~~

617 (a) Upon a recommendation that community-based competency  
618 training for the defendant is appropriate, a written plan for  
619 community-based competency training, including recommendations  
620 from qualified professionals, may be filed with the court, with  
621 copies to all parties. Such a plan may also be submitted by the  
622 defendant and filed with the court, with copies to all parties.  
623 If the agency has determined the defendant is eligible for  
624 agency services, the plan must include:

625 (a) special provisions for the defendant to receive

626 residential services ~~care~~ and adequate supervision ~~of the~~  
627 ~~defendant~~, including recommended location of placement.

628 ~~(b) Recommendations for auxiliary services such as~~  
629 ~~vocational training, psychological training, educational~~  
630 ~~services, leisure services, and special medical care.~~

631 (b) In its order of conditional release, the court shall  
632 specify the conditions of release based upon the release plan  
633 and shall direct the appropriate agencies or persons to submit  
634 periodic reports to the courts regarding the defendant's  
635 compliance with the conditions of the release and progress in  
636 training, with copies to all parties. A defendant who the agency  
637 has determined is ineligible for agency services may be ordered  
638 to receive community-based competency training by the agency,  
639 but may not be ordered to receive any residential services and  
640 supervision by the agency.

641 Section 8. This act shall take effect July 1, 2018.