

By the Committee on Children, Families, and Elder Affairs; and
Senator Book

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1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 394.455, F.S.; conforming a cross-
4 reference; revising the definition of the term "mental
5 illness"; defining the terms "neglect or refuse to
6 care for himself or herself" and "real and present
7 threat of substantial harm"; amending s. 394.459,
8 F.S.; requiring that respondents with a serious mental
9 illness be informed of the essential elements of
10 recovery and be provided assistance with accessing a
11 continuum of care regimen; authorizing the Department
12 of Children and Families to adopt certain rules;
13 amending s. 394.4598, F.S.; conforming a cross-
14 reference; amending s. 394.4599, F.S.; conforming
15 provisions to changes made by the act; amending s.
16 394.461, F.S.; authorizing the state to establish that
17 a transfer evaluation was performed by providing the
18 court with a copy of the evaluation before the close
19 of the state's case in chief; prohibiting the court
20 from considering substantive information in the
21 transfer evaluation unless the evaluator testifies at
22 the hearing; amending s. 394.4615, F.S.; conforming
23 provisions to changes made by the act; amending s.
24 394.462, F.S.; conforming cross-references; amending
25 s. 394.4625, F.S.; providing requirements relating to
26 the voluntariness of admissions to a facility for
27 examination and treatment; providing requirements for
28 verifying the assent of a minor admitted to a
29 facility; requiring the appointment of a public

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30 defender to review the voluntariness of a minor's
31 admission to a facility; requiring the filing of a
32 petition for involuntary placement or release of a
33 minor to his or her parent or legal guardian under
34 certain circumstances; conforming provisions to
35 changes made by the act; amending s. 394.463, F.S.;
36 revising the requirements for when a person may be
37 taken to a receiving facility for involuntary
38 examination; requiring a facility to inform the
39 department of certain persons who have been examined
40 or committed under certain circumstances; conforming
41 provisions to changes made by the act; providing
42 criminal and civil penalties; amending s. 394.4655,
43 F.S.; revising the requirements for involuntary
44 outpatient treatment; amending s. 394.467, F.S.;
45 revising the requirements for when a person may be
46 ordered for involuntary inpatient placement; revising
47 requirements for continuances of hearings; revising
48 the conditions under which a court may waive the
49 requirement for a patient to be present at an
50 involuntary inpatient placement hearing; authorizing
51 the court to permit all witnesses to remotely attend
52 and testify at the hearing through certain means;
53 authorizing the state attorney to access certain
54 persons and records for certain purposes; specifying
55 such records remain confidential; revising when the
56 court may appoint a magistrate; revising the amount of
57 time a court may require a patient to receive
58 services; providing an exception to the prohibition on

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59 a court ordering certain individuals to be
60 involuntarily placed in a state treatment facility;
61 conforming a cross-reference; amending ss. 394.495 and
62 394.496, F.S.; conforming cross-references; amending
63 s. 394.499, F.S.; making technical and conforming
64 changes; amending s. 394.9085, F.S.; conforming cross-
65 references; amending s. 397.305, F.S.; revising the
66 purposes of ch. 397, F.S.; amending s. 397.311, F.S.;
67 revising the definition of the terms "impaired" and
68 "substance abuse impaired"; defining the terms
69 "involuntary treatment services," "neglect or refuse
70 to care for himself or herself," and "real and present
71 threat of substantial harm"; amending s. 397.416,
72 F.S.; conforming a cross-reference; amending s.
73 397.501, F.S.; requiring that respondents with serious
74 substance abuse addictions be informed of the
75 essential elements of recovery and provided assistance
76 with accessing a continuum of care regimen;
77 authorizing the department to adopt certain rules;
78 amending s. 397.675, F.S.; revising the criteria for
79 involuntary admissions; amending s. 397.6751, F.S.;
80 revising the responsibilities of a service provider;
81 amending s. 397.681, F.S.; requiring that the state
82 attorney represent the state as the real party of
83 interest in an involuntary proceeding, subject to
84 legislative appropriation; authorizing the state
85 attorney to access certain persons and records;
86 conforming provisions to changes made by the act;
87 repealing s. 397.6811, F.S., relating to involuntary

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88 assessment and stabilization; repealing s. 397.6814,
89 F.S., relating to petitions for involuntary assessment
90 and stabilization; repealing s. 397.6815, F.S.,
91 relating to involuntary assessment and stabilization
92 procedures; repealing s. 397.6818, F.S., relating to
93 court determinations for petitions for involuntary
94 assessment and stabilization; repealing s. 397.6819,
95 F.S., relating to the responsibilities of licensed
96 service providers with regard to involuntary
97 assessment and stabilization; repealing s. 397.6821,
98 F.S., relating to extensions of time for completion of
99 involuntary assessment and stabilization; repealing s.
100 397.6822, F.S., relating to the disposition of
101 individuals after involuntary assessments; amending s.
102 397.693, F.S.; revising the circumstances under which
103 a person is eligible for court-ordered involuntary
104 treatment; amending s. 397.695, F.S.; authorizing the
105 court or clerk of the court to waive or prohibit any
106 service of process fees for an indigent petitioner;
107 amending s. 397.6951, F.S.; revising the requirements
108 for the contents of a petition for involuntary
109 treatment services; providing that a petitioner may
110 include a certificate or report of a qualified
111 professional with the petition; requiring the
112 certificate or report to contain certain information;
113 requiring that certain additional information must be
114 included if an emergency exists; amending s. 397.6955,
115 F.S.; requiring the clerk of the court to notify the
116 state attorney's office upon the receipt of a petition

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117 filed for involuntary treatment services; revising
118 when a hearing must be held on the petition; providing
119 requirements for when a petitioner asserts that
120 emergency circumstances exist or the court determines
121 that an emergency exists; amending s. 397.6957, F.S.;
122 expanding the exemption from the requirement that a
123 respondent be present at a hearing on a petition for
124 involuntary treatment services; authorizing the court
125 to order drug tests and permit all witnesses to
126 remotely attend and testify at the hearing through
127 certain means; deleting a provision requiring the
128 court to appoint a guardian advocate under certain
129 circumstances; prohibiting a respondent from being
130 involuntarily ordered into treatment unless certain
131 requirements are met; providing requirements relating
132 to involuntary assessment and stabilization orders;
133 providing requirements relating to involuntary
134 treatment hearings; requiring that the assessment of a
135 respondent occur before a specified time unless
136 certain requirements are met; requiring the service
137 provider to discharge the respondent after a specified
138 time unless certain requirements are met; requiring a
139 qualified professional to provide copies of his or her
140 report to the court and all relevant parties and
141 counsel; providing requirements for the report;
142 authorizing certain entities to take specified actions
143 based upon the involuntary assessment; authorizing a
144 court to order certain persons to take a respondent
145 into custody and transport him or her to or from

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146 certain service providers and the court; revising the
147 petitioner's burden of proof in the hearing;
148 authorizing the court to initiate involuntary
149 proceedings under certain circumstances; requiring
150 that, if a treatment order is issued, it must include
151 certain findings; amending s. 397.697, F.S.; requiring
152 that an individual meet certain requirements to
153 qualify for involuntary outpatient treatment;
154 specifying that certain hearings may be set by the
155 motion of a party or under the court's own authority;
156 specifying that a service provider's authority is
157 separate and distinct from the court's jurisdiction;
158 amending s. 397.6971, F.S.; conforming provisions to
159 changes made by the act; amending s. 397.6975, F.S.;
160 authorizing certain entities to file a petition for
161 renewal of involuntary treatment; revising the
162 timeframe during which the court is required to
163 schedule a hearing; conforming provisions to changes
164 made by the act; amending s. 397.6977, F.S.;
165 conforming provisions to changes made by the act;
166 repealing s. 397.6978, F.S., relating to the
167 appointment of guardian advocates; amending ss.
168 409.972, 464.012, 744.2007, and 790.065, F.S.;
169 conforming cross-references; providing an effective
170 date.

171

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

173

174 Section 1. Present subsections (31) through (38) and (39)

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175 through (48) of section 394.455, Florida Statutes, are
176 redesignated as subsections (32) through (39) and (41) through
177 (50), respectively, subsections (22) and (28) of that section
178 are amended, and new subsections (31) and (40) are added to that
179 section, to read:

180 394.455 Definitions.—As used in this part, the term:

181 (22) "Involuntary examination" means an examination
182 performed under s. 394.463, s. 397.6772, s. 397.679, s.
183 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
184 person qualifies for involuntary services.

185 (28) "Mental illness" means an impairment of the mental or
186 emotional processes that exercise conscious control of one's
187 actions or of the ability to perceive or understand reality,
188 which impairment substantially interferes with the person's
189 ability to meet the ordinary demands of living. For the purposes
190 of this part, the term does not include a developmental
191 disability as defined in chapter 393, dementia, traumatic brain
192 injury, intoxication, or conditions manifested only by
193 antisocial behavior or substance abuse.

194 (31) "Neglect or refuse to care for himself or herself"
195 includes, but is not limited to, evidence that a person:

196 (a) Is unable to satisfy basic needs for nourishment,
197 clothing, medical care, shelter, or safety in a manner that
198 creates a substantial probability of imminent death, serious
199 physical debilitation, or disease; or

200 (b) Is substantially unable to make an informed treatment
201 choice and needs care or treatment to prevent deterioration.

202 (40) "Real and present threat of substantial harm"
203 includes, but is not limited to, evidence of a substantial

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204 probability that the untreated person will:

205 (a) Lack, refuse, or not receive services for health and
206 safety that are actually available in the community; or

207 (b) Suffer severe mental, emotional, or physical harm that
208 will result in the loss of his or her ability to function in the
209 community or the loss of cognitive or volitional control over
210 thoughts or actions.

211 Section 2. Subsection (13) is added to section 394.459,
212 Florida Statutes, to read:

213 394.459 Rights of patients.—

214 (13) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a
215 respondent with a serious mental illness must be informed of the
216 essential elements of recovery and provided assistance with
217 accessing a continuum of care regimen. The department may adopt
218 rules specifying the services that may be provided to such
219 respondents.

220 Section 3. Subsection (1) of section 394.4598, Florida
221 Statutes, is amended to read:

222 394.4598 Guardian advocate.—

223 (1) The administrator may petition the court for the
224 appointment of a guardian advocate based upon the opinion of a
225 psychiatrist that the patient is incompetent to consent to
226 treatment. If the court finds that a patient is incompetent to
227 consent to treatment and has not been adjudicated incapacitated
228 and a guardian with the authority to consent to mental health
229 treatment appointed, it shall appoint a guardian advocate. The
230 patient has the right to have an attorney represent him or her
231 at the hearing. If the person is indigent, the court shall
232 appoint the office of the public defender to represent him or

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233 her at the hearing. The patient has the right to testify, cross-
 234 examine witnesses, and present witnesses. The proceeding shall
 235 be recorded either electronically or stenographically, and
 236 testimony shall be provided under oath. One of the professionals
 237 authorized to give an opinion in support of a petition for
 238 involuntary placement, as described in ~~s. 394.4655~~ or s.
 239 394.467, must testify. A guardian advocate must meet the
 240 qualifications of a guardian contained in part IV of chapter
 241 744, except that a professional referred to in this part, an
 242 employee of the facility providing direct services to the
 243 patient under this part, a departmental employee, a facility
 244 administrator, or member of the Florida local advocacy council
 245 may ~~shall~~ not be appointed. A person who is appointed as a
 246 guardian advocate must agree to the appointment.

247 Section 4. Paragraph (d) of subsection (2) of section
 248 394.4599, Florida Statutes, is amended to read:

249 394.4599 Notice.—

250 (2) INVOLUNTARY ADMISSION.—

251 (d) The written notice of the filing of the petition for
 252 involuntary services for an individual being held must contain
 253 the following:

254 1. Notice that the petition for:

255 a. Involuntary inpatient treatment pursuant to s. 394.467
 256 has been filed with the circuit court in the county in which the
 257 individual is hospitalized and the address of such court; or

258 b. Involuntary outpatient services pursuant to s. 394.4655
 259 has been filed with the criminal county court, ~~as defined in s.~~
 260 ~~394.4655(1)~~, or the circuit court, as applicable, in the county
 261 in which the individual is hospitalized and the address of such

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262 court.

263 2. Notice that the office of the public defender has been
264 appointed to represent the individual in the proceeding, if the
265 individual is not otherwise represented by counsel.

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

269 4. Notice that the individual, the individual's guardian,
270 guardian advocate, health care surrogate or proxy, or
271 representative, or the administrator may apply for a change of
272 venue for the convenience of the parties or witnesses or because
273 of the condition of the individual.

274 5. Notice that the individual is entitled to an independent
275 expert examination and, if the individual cannot afford such an
276 examination, that the court will provide for one.

277 Section 5. Subsection (2) of section 394.461, Florida
278 Statutes, is amended to read:

279 394.461 Designation of receiving and treatment facilities
280 and receiving systems.—The department is authorized to designate
281 and monitor receiving facilities, treatment facilities, and
282 receiving systems and may suspend or withdraw such designation
283 for failure to comply with this part and rules adopted under
284 this part. Unless designated by the department, facilities are
285 not permitted to hold or treat involuntary patients under this
286 part.

287 (2) TREATMENT FACILITY.—The department may designate any
288 state-owned, state-operated, or state-supported facility as a
289 state treatment facility. A civil patient must ~~shall~~ not be
290 admitted to a state treatment facility without previously

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291 undergoing a transfer evaluation. Before the close of the
292 state's case in chief in a court hearing for involuntary
293 placement in a state treatment facility, the state may establish
294 that the transfer evaluation was performed and the document
295 properly executed by providing the court with a copy of the
296 transfer evaluation. The court may not ~~shall receive and~~
297 consider the substantive information documented in the transfer
298 evaluation unless the evaluator testifies at the hearing. Any
299 other facility, including a private facility or a federal
300 facility, may be designated as a treatment facility by the
301 department, provided that such designation is agreed to by the
302 appropriate governing body or authority of the facility.

303 Section 6. Subsection (3) of section 394.4615, Florida
304 Statutes, is amended to read:

305 394.4615 Clinical records; confidentiality.—

306 (3) Information from the clinical record may be released in
307 the following circumstances:

308 (a) When a patient has communicated to a service provider a
309 specific threat to cause serious bodily injury or death to an
310 identified or a readily available person, if the service
311 provider reasonably believes, or should reasonably believe
312 according to the standards of his or her profession, that the
313 patient has the apparent intent and ability to imminently or
314 immediately carry out such threat. When such communication has
315 been made, the administrator may authorize the release of
316 sufficient information to provide adequate warning to the person
317 threatened with harm by the patient.

318 (b) When the administrator of the facility or secretary of
319 the department deems release to a qualified researcher as

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320 defined in administrative rule, an aftercare treatment provider,
321 or an employee or agent of the department is necessary for
322 treatment of the patient, maintenance of adequate records,
323 compilation of treatment data, aftercare planning, or evaluation
324 of programs.

325

326 For the purpose of determining whether a person meets the
327 criteria for involuntary outpatient placement ~~or for preparing~~
328 ~~the proposed treatment plan~~ pursuant to s. 394.4655, the
329 clinical record may be released to the state attorney, the
330 public defender or the patient's private legal counsel, the
331 court, and to the appropriate mental health professionals,
332 ~~including the service provider identified in s.~~
333 ~~394.4655(7)(b)2.~~, in accordance with state and federal law.

334 Section 7. Section 394.462, Florida Statutes, is amended to
335 read:

336 394.462 Transportation.—A transportation plan shall be
337 developed and implemented by each county in collaboration with
338 the managing entity in accordance with this section. A county
339 may enter into a memorandum of understanding with the governing
340 boards of nearby counties to establish a shared transportation
341 plan. When multiple counties enter into a memorandum of
342 understanding for this purpose, the counties shall notify the
343 managing entity and provide it with a copy of the agreement. The
344 transportation plan shall describe methods of transport to a
345 facility within the designated receiving system for individuals
346 subject to involuntary examination under s. 394.463 or
347 involuntary admission under s. 397.6772, s. 397.679, s.
348 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify

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349 responsibility for other transportation to a participating
350 facility when necessary and agreed to by the facility. The plan
351 may rely on emergency medical transport services or private
352 transport companies, as appropriate. The plan shall comply with
353 the transportation provisions of this section and ss. 397.6772,
354 397.6795, ~~397.6822~~, and 397.697.

355 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

356 (a) Each county shall designate a single law enforcement
357 agency within the county, or portions thereof, to take a person
358 into custody upon the entry of an ex parte order or the
359 execution of a certificate for involuntary examination by an
360 authorized professional and to transport that person to the
361 appropriate facility within the designated receiving system
362 pursuant to a transportation plan.

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

365 a. The jurisdiction designated by the county has contracted
366 on an annual basis with an emergency medical transport service
367 or private transport company for transportation of persons to
368 receiving facilities pursuant to this section at the sole cost
369 of the county; and

370 b. The law enforcement agency and the emergency medical
371 transport service or private transport company agree that the
372 continued presence of law enforcement personnel is not necessary
373 for the safety of the person or others.

374 2. The entity providing transportation may seek
375 reimbursement for transportation expenses. The party responsible
376 for payment for such transportation is the person receiving the
377 transportation. The county shall seek reimbursement from the

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378 following sources in the following order:

379 a. From a private or public third-party payor, if the
380 person receiving the transportation has applicable coverage.

381 b. From the person receiving the transportation.

382 c. From a financial settlement for medical care, treatment,
383 hospitalization, or transportation payable or accruing to the
384 injured party.

385 (c) A company that transports a patient pursuant to this
386 subsection is considered an independent contractor and is solely
387 liable for the safe and dignified transport of the patient. Such
388 company must be insured and provide no less than \$100,000 in
389 liability insurance with respect to the transport of patients.

390 (d) Any company that contracts with a governing board of a
391 county to transport patients shall comply with the applicable
392 rules of the department to ensure the safety and dignity of
393 patients.

394 (e) When a law enforcement officer takes custody of a
395 person pursuant to this part, the officer may request assistance
396 from emergency medical personnel if such assistance is needed
397 for the safety of the officer or the person in custody.

398 (f) When a member of a mental health overlay program or a
399 mobile crisis response service is a professional authorized to
400 initiate an involuntary examination pursuant to s. 394.463 or s.
401 397.675 and that professional evaluates a person and determines
402 that transportation to a receiving facility is needed, the
403 service, at its discretion, may transport the person to the
404 facility or may call on the law enforcement agency or other
405 transportation arrangement best suited to the needs of the
406 patient.

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407 (g) When any law enforcement officer has custody of a
408 person based on either noncriminal or minor criminal behavior
409 that meets the statutory guidelines for involuntary examination
410 pursuant to s. 394.463, the law enforcement officer shall
411 transport the person to the appropriate facility within the
412 designated receiving system pursuant to a transportation plan.
413 Persons who meet the statutory guidelines for involuntary
414 admission pursuant to s. 397.675 may also be transported by law
415 enforcement officers to the extent resources are available and
416 as otherwise provided by law. Such persons shall be transported
417 to an appropriate facility within the designated receiving
418 system pursuant to a transportation plan.

419 (h) When any law enforcement officer has arrested a person
420 for a felony and it appears that the person meets the statutory
421 guidelines for involuntary examination or placement under this
422 part, such person must first be processed in the same manner as
423 any other criminal suspect. The law enforcement agency shall
424 thereafter immediately notify the appropriate facility within
425 the designated receiving system pursuant to a transportation
426 plan. The receiving facility shall be responsible for promptly
427 arranging for the examination and treatment of the person. A
428 receiving facility is not required to admit a person charged
429 with a crime for whom the facility determines and documents that
430 it is unable to provide adequate security, but shall provide
431 examination and treatment to the person where he or she is held.

432 (i) If the appropriate law enforcement officer believes
433 that a person has an emergency medical condition as defined in
434 s. 395.002, the person may be first transported to a hospital
435 for emergency medical treatment, regardless of whether the

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436 hospital is a designated receiving facility.

437 (j) The costs of transportation, evaluation,
438 hospitalization, and treatment incurred under this subsection by
439 persons who have been arrested for violations of any state law
440 or county or municipal ordinance may be recovered as provided in
441 s. 901.35.

442 (k) The appropriate facility within the designated
443 receiving system pursuant to a transportation plan must accept
444 persons brought by law enforcement officers, or an emergency
445 medical transport service or a private transport company
446 authorized by the county, for involuntary examination pursuant
447 to s. 394.463.

448 (l) The appropriate facility within the designated
449 receiving system pursuant to a transportation plan must provide
450 persons brought by law enforcement officers, or an emergency
451 medical transport service or a private transport company
452 authorized by the county, pursuant to s. 397.675, a basic
453 screening or triage sufficient to refer the person to the
454 appropriate services.

455 (m) Each law enforcement agency designated pursuant to
456 paragraph (a) shall establish a policy that reflects a single
457 set of protocols for the safe and secure transportation and
458 transfer of custody of the person. Each law enforcement agency
459 shall provide a copy of the protocols to the managing entity.

460 (n) When a jurisdiction has entered into a contract with an
461 emergency medical transport service or a private transport
462 company for transportation of persons to facilities within the
463 designated receiving system, such service or company shall be
464 given preference for transportation of persons from nursing

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465 homes, assisted living facilities, adult day care centers, or
466 adult family-care homes, unless the behavior of the person being
467 transported is such that transportation by a law enforcement
468 officer is necessary.

469 (o) This section may not be construed to limit emergency
470 examination and treatment of incapacitated persons provided in
471 accordance with s. 401.445.

472 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

473 (a) If neither the patient nor any person legally obligated
474 or responsible for the patient is able to pay for the expense of
475 transporting a voluntary or involuntary patient to a treatment
476 facility, the transportation plan established by the governing
477 board of the county or counties must specify how the
478 hospitalized patient will be transported to, from, and between
479 facilities in a safe and dignified manner.

480 (b) A company that transports a patient pursuant to this
481 subsection is considered an independent contractor and is solely
482 liable for the safe and dignified transportation of the patient.
483 Such company must be insured and provide no less than \$100,000
484 in liability insurance with respect to the transport of
485 patients.

486 (c) A company that contracts with one or more counties to
487 transport patients in accordance with this section shall comply
488 with the applicable rules of the department to ensure the safety
489 and dignity of patients.

490 (d) County or municipal law enforcement and correctional
491 personnel and equipment may not be used to transport patients
492 adjudicated incapacitated or found by the court to meet the
493 criteria for involuntary placement pursuant to s. 394.467,

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494 except in small rural counties where there are no cost-efficient
495 alternatives.

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

500 Section 8. Subsection (1) of section 394.4625, Florida
501 Statutes, is amended to read:

502 394.4625 Voluntary admissions.—

503 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
504 PATIENTS.—

505 (a) In order to be admitted to a facility on a voluntary
506 basis, a person must show evidence of a mental illness and be
507 suitable for treatment by the facility.

508 1. If the person is an adult, he or she must be competent
509 to provide his or her express and informed consent in writing to
510 the facility.

511 2. A minor may only be admitted to a facility on the basis
512 of the express and informed consent of the minor's parent or
513 legal guardian in conjunction with the minor's assent.

514 a. The minor's assent is an affirmative agreement by the
515 minor to remain at the facility for examination and treatment.
516 The minor's failure to object is not assent for purposes of this
517 subparagraph.

518 b. The minor's assent must be verified through a clinical
519 assessment that is documented in the minor's clinical record and
520 conducted within 12 hours after arrival at the facility by a
521 licensed professional authorized to initiate an involuntary
522 examination under s. 394.463.

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523 c. In verifying the minor's assent, the examining
524 professional must first provide the minor with an explanation as
525 to why the minor will be examined and treated, what the minor
526 can expect while in the facility, and when the minor may expect
527 to be released, using language that is appropriate to the
528 minor's age, experience, maturity, and condition. The examining
529 professional must determine and document that the minor is able
530 to understand this information.

531 d. The facility must advise the minor of his or her right
532 to request and have access to legal counsel.

533 e. The facility administrator must file with the court a
534 notice of a minor's voluntary placement within 1 court working
535 day after the minor's admission to the facility.

536 f. The court shall appoint a public defender who may review
537 the voluntariness of the minor's admission to the facility and
538 further verify his or her assent. The public defender may
539 interview and represent the minor and shall have access to all
540 relevant witnesses and records. If the public defender does not
541 review the voluntariness of the admission, the clinical
542 assessment of the minor's assent shall serve as verification of
543 assent.

544 g. Unless the minor's assent is verified pursuant to this
545 subparagraph, a petition for involuntary placement must be filed
546 with the court or the minor must be released to his or her
547 parent or legal guardian within 24 hours after arriving at the
548 facility ~~A facility may receive for observation, diagnosis, or~~
549 ~~treatment any person 18 years of age or older making application~~
550 ~~by express and informed consent for admission or any person age~~
551 ~~17 or under for whom such application is made by his or her~~

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552 ~~guardian. If found to show evidence of mental illness, to be~~
553 ~~competent to provide express and informed consent, and to be~~
554 ~~suitable for treatment, such person 18 years of age or older may~~
555 ~~be admitted to the facility. A person age 17 or under may be~~
556 ~~admitted only after a hearing to verify the voluntariness of the~~
557 ~~consent.~~

558 (b) A mental health overlay program or a mobile crisis
559 response service or a licensed professional who is authorized to
560 initiate an involuntary examination pursuant to s. 394.463 and
561 is employed by a community mental health center or clinic must,
562 pursuant to district procedure approved by the respective
563 district administrator, conduct an initial assessment of the
564 ability of the following persons to give express and informed
565 consent to treatment before such persons may be admitted
566 voluntarily:

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

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

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

576 (c) When an initial assessment of the ability of a person
577 to give express and informed consent to treatment is required
578 under this section, and a mobile crisis response service does
579 not respond to the request for an assessment within 2 hours
580 after the request is made or informs the requesting facility

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581 that it will not be able to respond within 2 hours after the
582 request is made, the requesting facility may arrange for
583 assessment by any licensed professional authorized to initiate
584 an involuntary examination pursuant to s. 394.463 who is not
585 employed by or under contract with, and does not have a
586 financial interest in, either the facility initiating the
587 transfer or the receiving facility to which the transfer may be
588 made.

589 (d) A facility may not admit as a voluntary patient a
590 person who has been adjudicated incapacitated, unless the
591 condition of incapacity has been judicially removed. If a
592 facility admits as a voluntary patient a person who is later
593 determined to have been adjudicated incapacitated, and the
594 condition of incapacity had not been removed by the time of the
595 admission, the facility must either discharge the patient or
596 transfer the patient to involuntary status.

597 (e) The health care surrogate or proxy of a voluntary
598 patient may not consent to the provision of mental health
599 treatment for the patient. A voluntary patient who is unwilling
600 or unable to provide express and informed consent to mental
601 health treatment must either be discharged or transferred to
602 involuntary status.

603 (f) Within 24 hours after admission of a voluntary patient,
604 the admitting physician shall document in the patient's clinical
605 record that the patient is able to give express and informed
606 consent for admission. If the patient is not able to give
607 express and informed consent for admission, the facility shall
608 either discharge the patient or transfer the patient to
609 involuntary status pursuant to subsection (5).

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610 Section 9. Subsection (1) and paragraphs (a), (g), and (h)
611 of subsection (2) of section 394.463, Florida Statutes, are
612 amended, and subsection (5) is added to that section, to read:

613 394.463 Involuntary examination.—

614 (1) CRITERIA.—A person may be taken to a receiving facility
615 for involuntary examination if there is reason to believe that
616 the person has a mental illness and because of his or her mental
617 illness:

618 (a)1. The person has refused voluntary examination after
619 conscientious explanation and disclosure of the purpose of the
620 examination; or

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

623 (b)1. Without care or treatment, the person is likely to
624 suffer from neglect or refuse to care for himself or herself;
625 such neglect or refusal poses a real and present threat of
626 substantial harm to his or her well-being; and it is not
627 apparent that such harm may be avoided through the help of
628 willing, able, and responsible family members or friends or the
629 provision of other services; or

630 2. There is a substantial likelihood that in the near
631 future and without care or treatment, the person will inflict
632 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or
633 others ~~in the near future~~, as evidenced by acts, omissions, or
634 ~~recent~~ behavior causing, attempting, or threatening such harm,
635 which includes, but is not limited to, significant property
636 damage.

637 (2) INVOLUNTARY EXAMINATION.—

638 (a) An involuntary examination may be initiated by any one

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639 of the following means:

640 1. A circuit or county court may enter an ex parte order
641 stating that a person appears to meet the criteria for
642 involuntary examination and specifying the findings on which
643 that conclusion is based. The ex parte order for involuntary
644 examination must be based on written or oral sworn testimony
645 that includes specific facts that support the findings. If other
646 less restrictive means are not available, such as voluntary
647 appearance for outpatient evaluation, a law enforcement officer,
648 or other designated agent of the court, shall take the person
649 into custody and deliver him or her to an appropriate, or the
650 nearest, facility within the designated receiving system
651 pursuant to s. 394.462 for involuntary examination. The order of
652 the court shall be made a part of the patient's clinical record.
653 A fee may not be charged for the filing of an order under this
654 subsection. A facility accepting the patient based on this order
655 must send a copy of the order to the department within 5 working
656 days. The order may be submitted electronically through existing
657 data systems, if available. The order shall be valid only until
658 the person is delivered to the facility or for the period
659 specified in the order itself, whichever comes first. If no time
660 limit is specified in the order, the order shall be valid for 7
661 days after the date that the order was signed.

662 2. A law enforcement officer may ~~shall~~ take a person who
663 appears to meet the criteria for involuntary examination into
664 custody and deliver the person or have him or her delivered to
665 an appropriate, or the nearest, facility within the designated
666 receiving system pursuant to s. 394.462 for examination. The
667 officer shall execute a written report detailing the

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668 circumstances under which the person was taken into custody,
669 which must be made a part of the patient's clinical record. Any
670 facility accepting the patient based on this report must send a
671 copy of the report to the department within 5 working days.

672 3. A physician, clinical psychologist, psychiatric nurse,
673 mental health counselor, marriage and family therapist, or
674 clinical social worker may execute a certificate stating that he
675 or she has examined a person within the preceding 48 hours and
676 finds that the person appears to meet the criteria for
677 involuntary examination and stating the observations upon which
678 that conclusion is based. If other less restrictive means, such
679 as voluntary appearance for outpatient evaluation, are not
680 available, a law enforcement officer shall take into custody the
681 person named in the certificate and deliver him or her to the
682 appropriate, or nearest, facility within the designated
683 receiving system pursuant to s. 394.462 for involuntary
684 examination. The law enforcement officer shall execute a written
685 report detailing the circumstances under which the person was
686 taken into custody. The report and certificate shall be made a
687 part of the patient's clinical record. Any facility accepting
688 the patient based on this certificate must send a copy of the
689 certificate to the department within 5 working days. The
690 document may be submitted electronically through existing data
691 systems, if applicable.

692
693 When sending the order, report, or certificate to the
694 department, a facility shall, at a minimum, provide information
695 about which action was taken regarding the patient under
696 paragraph (g), which information shall also be made a part of

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697 the patient's clinical record.

698 (g) The examination period must be for up to 72 hours. For
699 a minor, the examination shall be initiated within 12 hours
700 after the patient's arrival at the facility. The facility must
701 inform the department of any person who has been examined or
702 committed three or more times under this chapter within a 12-
703 month period. Within the examination period or, if the
704 examination period ends on a weekend or holiday, no later than
705 the next working day thereafter, one of the following actions
706 must be taken, based on the individual needs of the patient:

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

710 2. The patient shall be released, subject to subparagraph
711 1., for voluntary outpatient treatment;

712 3. The patient, unless he or she is charged with a crime,
713 shall be asked to give express and informed consent to placement
714 as a voluntary patient and, if such consent is given, the
715 patient shall be admitted as a voluntary patient; or

716 4. A petition for involuntary services shall be filed in
717 the circuit court ~~if inpatient treatment is deemed necessary~~ or
718 with a ~~the~~ criminal county court, as described in s. 394.4655
719 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient
720 treatment is deemed necessary, the least restrictive treatment
721 consistent with the optimum improvement of the patient's
722 condition shall be made available. The petition ~~When a petition~~
723 ~~is to be filed for involuntary outpatient placement, it shall be~~
724 ~~filed by one of the petitioners specified in s. 394.4655(4)(a).~~
725 ~~A petition for involuntary inpatient placement shall be filed by~~

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726 the facility administrator.

727 (h) A person for whom an involuntary examination has been
728 initiated who is being evaluated or treated at a hospital for an
729 emergency medical condition specified in s. 395.002 must be
730 examined by a facility within the examination period specified
731 in paragraph (g). The examination period begins when the patient
732 arrives at the hospital and ceases when the attending physician
733 documents that the patient has an emergency medical condition.
734 If the patient is examined at a hospital providing emergency
735 medical services by a professional qualified to perform an
736 involuntary examination and is found as a result of that
737 examination not to meet the criteria for involuntary outpatient
738 services pursuant to s. 394.4655 ~~s. 394.4655(2)~~ or involuntary
739 inpatient placement pursuant to s. 394.467(1), the patient may
740 be offered voluntary services or placement, if appropriate, or
741 released directly from the hospital providing emergency medical
742 services. The finding by the professional that the patient has
743 been examined and does not meet the criteria for involuntary
744 inpatient services or involuntary outpatient placement must be
745 entered into the patient's clinical record. This paragraph is
746 not intended to prevent a hospital providing emergency medical
747 services from appropriately transferring a patient to another
748 hospital before stabilization if the requirements of s.
749 395.1041(3)(c) have been met.

750 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND
751 TREATMENT; PENALTIES.-

752 (a) Knowingly furnishing false information for the purpose
753 of obtaining emergency or other involuntary admission for any
754 person is a misdemeanor of the first degree, punishable as

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755 provided in s. 775.082 and by a fine not exceeding \$5,000.

756 (b) Causing or otherwise securing, conspiring with or
757 assisting another to cause or secure, without reason for
758 believing a person to be impaired, any emergency or other
759 involuntary procedure for the person is a misdemeanor of the
760 first degree, punishable as provided in s. 775.082 and by a fine
761 not exceeding \$5,000.

762 (c) Causing, or conspiring with or assisting another to
763 cause, the denial to any person of any right accorded pursuant
764 to this chapter is a misdemeanor of the first degree, punishable
765 as provided in s. 775.082 by a fine not exceeding \$5,000.

766 Section 10. Section 394.4655, Florida Statutes, is amended
767 to read:

768 (Substantial rewording of section. See
769 s. 394.4655, F.S., for present text.)

770 394.4655 Involuntary outpatient services.-

771 (1) (a) The court may order a respondent into outpatient
772 treatment for up to 6 months if, during a hearing under s.
773 394.467, it is established that the respondent meets involuntary
774 placement criteria and:

775 1. Has been jailed or incarcerated, has been involuntarily
776 admitted to a receiving or treatment facility as defined in s.
777 394.455, or has received mental health services in a forensic or
778 correctional facility at least twice during the last 36 months;

779 2. The outpatient treatment is provided in the county in
780 which the respondent resides or, if being placed from a state
781 treatment facility, will reside; and

782 3. The respondent's treating physician certifies, within a
783 reasonable degree of medical probability, that the respondent:

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784 a. Can be appropriately treated on an outpatient basis; and

785 b. Can follow a prescribed treatment plan.

786 (b) For the duration of his or her treatment, the
787 respondent must be supported by a social worker or case manager
788 of the outpatient provider, or a willing, able, and responsible
789 individual appointed by the court who must inform the court,
790 state attorney, and public defender of any failure by the
791 respondent to comply with his or her outpatient program.

792 (2) The court shall retain jurisdiction over the case and
793 parties for the entry of such further orders after a hearing, as
794 the circumstances may require. Such jurisdiction includes, but
795 is not limited to, ordering inpatient treatment to stabilize a
796 respondent who decompensates during his or her up to 6-month
797 period of court-ordered treatment and meets the commitment
798 criteria of s. 394.467.

799 (3) A criminal county court exercising its original
800 jurisdiction in a misdemeanor case under s. 34.01 may order a
801 person who meets the commitment criteria into involuntary
802 outpatient services.

803 Section 11. Subsections (1) and (5) and paragraphs (a),
804 (b), and (c) of subsection (6) of section 394.467, Florida
805 Statutes, are amended to read:

806 394.467 Involuntary inpatient placement.—

807 (1) CRITERIA.—A person may be ordered for involuntary
808 inpatient placement for treatment upon a finding of the court by
809 clear and convincing evidence that:

810 (a) He or she has a mental illness and because of his or
811 her mental illness:

812 1.a. He or she has refused voluntary inpatient placement

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813 for treatment after sufficient and conscientious explanation and
814 disclosure of the purpose of inpatient placement for treatment;
815 or

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

818 2.a. He or she is incapable of surviving alone or with the
819 help of willing, able, and responsible family or friends,
820 including available alternative services, and, without
821 treatment, is likely to suffer from neglect or refuse to care
822 for himself or herself, and such neglect or refusal poses a real
823 and present threat of substantial harm to his or her well-being;
824 or

825 b. There is substantial likelihood that in the near future
826 and without services he or she will inflict serious ~~bodily~~ harm
827 to ~~on~~ self or others, as evidenced by acts, omissions, or recent
828 behavior causing, attempting, or threatening such harm, which
829 includes, but is not limited to, significant property damage;
830 and

831 (b) All available less restrictive treatment alternatives
832 that would offer an opportunity for improvement of his or her
833 condition have been judged to be inappropriate.

834 (5) CONTINUANCE OF HEARING.—The patient and the state are
835 independently entitled ~~is entitled, with the concurrence of the~~
836 ~~patient's counsel,~~ to at least one continuance of the hearing.
837 The patient's continuance may be for a period of ~~for~~ up to 4
838 weeks and requires the concurrence of his or her counsel. The
839 state's continuance may be for a period of up to 5 court working
840 days and requires a showing of good cause and due diligence by
841 the state before requesting the continuance. The state's failure

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842 to timely review any readily available document or failure to
843 attempt to contact a known witness does not warrant a
844 continuance.

845 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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

849 2. Except for good cause documented in the court file, the
850 hearing must be held in the county or the facility, as
851 appropriate, where the patient is located, must be as convenient
852 to the patient as is consistent with orderly procedure, and
853 shall be conducted in physical settings not likely to be
854 injurious to the patient's condition. If the court finds that
855 the patient's attendance at the hearing is not consistent with
856 the best interests of, or is likely to be injurious to, the
857 patient, or the patient knowingly, intelligently, and
858 voluntarily waives his or her right to be present, and the
859 patient's counsel does not object, the court may waive the
860 presence of the patient from all or any portion of the hearing.
861 Absent a showing of good cause, such as specific symptoms of the
862 respondent's condition, the court may permit all witnesses,
863 including, but not limited to, any medical professionals or
864 personnel who are or have been involved with the patient's
865 treatment, to remotely attend and testify at the hearing under
866 oath via the most appropriate and convenient technological
867 method of communication available to the court, including, but
868 not limited to, teleconference. Any witness intending to
869 remotely attend and testify at the hearing must provide the
870 parties with all relevant documents in advance of the hearing.

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871 The state attorney for the circuit in which the patient is
872 located shall represent the state, rather than the petitioning
873 facility administrator, as the real party in interest in the
874 proceeding. In order to evaluate and prepare its case before the
875 hearing, the state attorney may access, by subpoena if
876 necessary, the patient, witnesses, and all relevant records.
877 Such records include, but are not limited to, any social media,
878 school records, clinical files, and reports documenting contact
879 the patient may have had with law enforcement officers or other
880 state agencies. However, these records shall remain
881 confidential, and the state attorney may not use any records
882 obtained under this part for criminal investigation or
883 prosecution purposes, or for any purpose other than the
884 patient's civil commitment under this chapter.

885 3. The court may appoint a magistrate to preside at the
886 hearing on the petition and any ancillary proceedings thereto,
887 which include, but are not limited to, writs of habeas corpus
888 issued pursuant to s. 394.459(8). One of the professionals who
889 executed the petition for involuntary inpatient placement
890 certificate shall be a witness. The patient and the patient's
891 guardian or representative shall be informed by the court of the
892 right to an independent expert examination. If the patient
893 cannot afford such an examination, the court shall ensure that
894 one is provided, as otherwise provided for by law. The
895 independent expert's report is confidential and not
896 discoverable, unless the expert is to be called as a witness for
897 the patient at the hearing. The testimony in the hearing must be
898 given under oath, and the proceedings must be recorded. The
899 patient may refuse to testify at the hearing.

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900 (b) If the court concludes that the patient meets the
901 criteria for involuntary inpatient placement, it may order that
902 the patient be transferred to a treatment facility or, if the
903 patient is at a treatment facility, that the patient be retained
904 there or be treated at any other appropriate facility, or that
905 the patient receive services, on an involuntary basis, for up to
906 ~~90 days. However, any order for involuntary mental health~~
907 ~~services in a treatment facility may be for up to 6 months.~~ The
908 order shall specify the nature and extent of the patient's
909 mental illness and, unless the patient has transferred to a
910 voluntary status, the facility must discharge the patient at any
911 time he or she no longer meets the criteria for involuntary
912 inpatient treatment. The court may not order an individual with
913 a developmental disability as defined in s. 393.063, traumatic
914 brain injury, or dementia who lacks a co-occurring mental
915 illness to be involuntarily placed in a state treatment
916 facility. Such individuals must be referred to the Agency for
917 Persons with Disabilities or the Department of Elderly Affairs
918 for further evaluation and the provision of appropriate services
919 for their individual needs. In addition, if it reasonably
920 appears that the individual would be found incapacitated under
921 chapter 744 and the individual does not already have a legal
922 guardian, the facility must inform any known next of kin and
923 initiate guardianship proceedings. The facility may hold the
924 individual until the petition to appoint a guardian is heard by
925 the court and placement is secured. ~~The facility shall discharge~~
926 ~~a patient any time the patient no longer meets the criteria for~~
927 ~~involuntary inpatient placement, unless the patient has~~
928 ~~transferred to voluntary status.~~

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929 (c) If at any time before the conclusion of the involuntary
930 placement hearing ~~on involuntary inpatient placement~~ it appears
931 to the court that the person does not meet the criteria of ~~for~~
932 ~~involuntary inpatient placement~~ under this section, but instead
933 meets the criteria for involuntary ~~outpatient services~~, the
934 court may order the person evaluated for involuntary outpatient
935 services pursuant to s. 394.4655. The petition and hearing
936 procedures set forth in s. 394.4655 shall apply. If the person
937 instead meets the criteria for involuntary assessment,
938 ~~protective custody, or involuntary admission or treatment~~
939 pursuant to s. 397.675, ~~then~~ the court may order the person to
940 be admitted for involuntary assessment ~~for a period of 5 days~~
941 pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all proceedings
942 are governed by chapter 397.

943 Section 12. Subsection (3) of section 394.495, Florida
944 Statutes, is amended to read:

945 394.495 Child and adolescent mental health system of care;
946 programs and services.—

947 (3) Assessments must be performed by:

948 (a) A clinical psychologist, clinical social worker,
949 physician, psychiatric nurse, or psychiatrist as those terms are
950 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
951 ~~(7), (32), (35), or (36);~~

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

953 (c) A person who is under the direct supervision of a
954 clinical psychologist, clinical social worker, physician,
955 psychiatric nurse, or psychiatrist as those terms are defined in
956 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~
957 ~~(7), (32), (35), or (36)~~ or a professional licensed under

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958 chapter 491.

959 Section 13. Subsection (5) of section 394.496, Florida
960 Statutes, is amended to read:

961 394.496 Service planning.—

962 (5) A clinical psychologist, clinical social worker,
963 physician, psychiatric nurse, or psychiatrist as those terms are
964 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
965 ~~(7), (32), (35), or (36)~~ or a professional licensed under
966 chapter 491 must be included among those persons developing the
967 services plan.

968 Section 14. Paragraph (a) of subsection (2) of section
969 394.499, Florida Statutes, is amended to read:

970 394.499 Integrated children's crisis stabilization
971 unit/juvenile addictions receiving facility services.—

972 (2) Children eligible to receive integrated children's
973 crisis stabilization unit/juvenile addictions receiving facility
974 services include:

975 (a) A person under 18 years of age for whom voluntary
976 application is made by his or her parent or legal guardian, if
977 such person is found to show evidence of mental illness and to
978 be suitable for treatment pursuant to s. 394.4625. A person
979 under 18 years of age may be admitted for integrated facility
980 services only after a hearing to verify that the consent to
981 admission is voluntary is conducted pursuant to s. 394.4625.

982 Section 15. Subsection (6) of section 394.9085, Florida
983 Statutes, is amended to read:

984 394.9085 Behavioral provider liability.—

985 (6) For purposes of this section, the terms "detoxification
986 services," "addictions receiving facility," and "receiving

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987 facility" have the same meanings as those provided in ss.
988 397.311(26)(a)4., 397.311(26)(a)1., and 394.455 ~~394.455(39)~~,
989 respectively.

990 Section 16. Subsection (3) of section 397.305, Florida
991 Statutes, is amended to read:

992 397.305 Legislative findings, intent, and purpose.—

993 (3) It is the purpose of this chapter to provide for a
994 comprehensive continuum of accessible and quality substance
995 abuse prevention, intervention, clinical treatment, and recovery
996 support services in the most appropriate and least restrictive
997 environment which promotes long-term recovery while protecting
998 and respecting the rights of individuals, primarily through
999 community-based private not-for-profit providers working with
1000 local governmental programs involving a wide range of agencies
1001 from both the public and private sectors.

1002 Section 17. Present subsections (29) through (36) and (37)
1003 through (50) of section 397.311, Florida Statutes, are
1004 redesignated as subsections (30) through (37) and (39) through
1005 (52), respectively, new subsections (29) and (38) are added to
1006 that section, and subsections (19) and (23) are amended, to
1007 read:

1008 397.311 Definitions.—As used in this chapter, except part
1009 VIII, the term:

1010 (19) "Impaired" or "substance abuse impaired" means having
1011 a substance use disorder or a condition involving the use of
1012 alcoholic beverages, illicit or prescription drugs, or any
1013 psychoactive or mood-altering substance in such a manner as to
1014 induce mental, emotional, or physical problems or ~~and~~ cause
1015 socially dysfunctional behavior.

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1016 (23) "Involuntary treatment services" means an array of
1017 behavioral health services that may be ordered by the court for
1018 persons with substance abuse impairment or co-occurring
1019 substance abuse impairment and mental health disorders.

1020 (29) "Neglect or refuse to care for himself or herself"
1021 includes, but is not limited to, evidence that a person:

1022 (a) Is unable to satisfy basic needs for nourishment,
1023 clothing, medical care, shelter, or safety in a manner that
1024 creates a substantial probability of imminent death, serious
1025 physical debilitation, or disease; or

1026 (b) Is substantially unable to make an informed treatment
1027 choice and needs care or treatment to prevent deterioration.

1028 (38) "Real and present threat of substantial harm"
1029 includes, but is not limited to, evidence of a substantial
1030 probability that the untreated person will:

1031 (a) Lack, refuse, or not receive services for health and
1032 safety that are actually available in the community; or

1033 (b) Suffer severe mental, emotional, or physical harm that
1034 will result in the loss of ability to function in the community
1035 or the loss of cognitive or volitional control over thoughts or
1036 actions.

1037 Section 18. Section 397.416, Florida Statutes, is amended
1038 to read:

1039 397.416 Substance abuse treatment services; qualified
1040 professional.—Notwithstanding any other provision of law, a
1041 person who was certified through a certification process
1042 recognized by the former Department of Health and Rehabilitative
1043 Services before January 1, 1995, may perform the duties of a
1044 qualified professional with respect to substance abuse treatment

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1045 services as defined in this chapter, and need not meet the
1046 certification requirements contained in s. 397.311(36) ~~s.~~
1047 ~~397.311(35)~~.

1048 Section 19. Subsection (11) is added to section 397.501,
1049 Florida Statutes, to read:

1050 397.501 Rights of individuals.—Individuals receiving
1051 substance abuse services from any service provider are
1052 guaranteed protection of the rights specified in this section,
1053 unless otherwise expressly provided, and service providers must
1054 ensure the protection of such rights.

1055 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a
1056 respondent with a serious substance abuse addiction must be
1057 informed of the essential elements of recovery and provided
1058 assistance with accessing a continuum of care regimen. The
1059 department may adopt rules specifying the services that may be
1060 provided to such respondents.

1061 Section 20. Section 397.675, Florida Statutes, is amended
1062 to read:

1063 397.675 Criteria for involuntary admissions, including
1064 protective custody, emergency admission, and other involuntary
1065 assessment, involuntary treatment, and alternative involuntary
1066 assessment for minors, for purposes of assessment and
1067 stabilization, and for involuntary treatment.—A person meets the
1068 criteria for involuntary admission if there is good faith reason
1069 to believe that the person is substance abuse impaired, has a
1070 substance use disorder, or has a substance use disorder and a
1071 co-occurring mental health disorder and, because of such
1072 impairment or disorder:

1073 (1) Has lost the power of self-control with respect to

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1074 substance abuse, or has a history of noncompliance with
1075 substance abuse treatment with continued substance use; and

1076 (2)~~(a)~~ Is in need of substance abuse services and, by
1077 reason of substance abuse impairment, his or her judgment has
1078 been so impaired that he or she is refusing voluntary care after
1079 a sufficient and conscientious explanation and disclosure of the
1080 purpose for such services, or is incapable of appreciating his
1081 or her need for such services and of making a rational decision
1082 in that regard, although mere refusal to receive such services
1083 does not constitute evidence of lack of judgment with respect to
1084 his or her need for such services; and ~~or~~

1085 (3) (a)~~(b)~~ Without care or treatment, is likely to suffer
1086 from neglect or refuse to care for himself or herself; that such
1087 neglect or refusal poses a real and present threat of
1088 substantial harm to his or her well-being; and that it is not
1089 apparent that such harm may be avoided through the help of
1090 willing, able, and responsible family members or friends or the
1091 provision of other services; or

1092 (b) There is substantial likelihood that in the near future
1093 and without services, the person will inflict serious harm to
1094 self or others, as evidenced by acts, omissions, or behavior
1095 causing, attempting, or threatening such harm, which includes,
1096 but is not limited to, significant property damage ~~has~~
1097 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
1098 ~~admitted, is likely to inflict, physical harm on himself,~~
1099 ~~herself, or another.~~

1100 Section 21. Subsection (1) of section 397.6751, Florida
1101 Statutes, is amended to read:

1102 397.6751 Service provider responsibilities regarding

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1103 involuntary admissions.—

1104 (1) It is the responsibility of the service provider to:

1105 (a) Ensure that a person who is admitted to a licensed
1106 service component meets the admission criteria specified in s.
1107 397.675;

1108 (b) Ascertain whether the medical and behavioral conditions
1109 of the person, as presented, are beyond the safe management
1110 capabilities of the service provider;

1111 (c) Provide for the admission of the person to the service
1112 component that represents the most appropriate and least
1113 restrictive available setting that is responsive to the person's
1114 treatment needs;

1115 (d) Verify that the admission of the person to the service
1116 component does not result in a census in excess of its licensed
1117 service capacity;

1118 (e) Determine whether the cost of services is within the
1119 financial means of the person or those who are financially
1120 responsible for the person's care; and

1121 (f) Take all necessary measures to ensure that each
1122 individual in treatment is provided with a safe environment, and
1123 to ensure that each individual whose medical condition or
1124 behavioral problem becomes such that he or she cannot be safely
1125 managed by the service component is discharged and referred to a
1126 more appropriate setting for care.

1127 Section 22. Section 397.681, Florida Statutes, is amended
1128 to read:

1129 397.681 Involuntary petitions; general provisions; court
1130 jurisdiction and right to counsel.—

1131 (1) JURISDICTION.—The courts have jurisdiction of

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1132 ~~involuntary assessment and stabilization petitions and~~
1133 involuntary treatment petitions for substance abuse impaired
1134 persons, and such petitions must be filed with the clerk of the
1135 court in the county where the person is located. The clerk of
1136 the court may not charge a fee for the filing of a petition
1137 under this section. The chief judge may appoint a general or
1138 special magistrate to preside over all or part of the
1139 proceedings. The alleged impaired person is named as the
1140 respondent.

1141 (2) RIGHT TO COUNSEL.—A respondent has the right to counsel
1142 at every stage of a proceeding relating to a petition for his or
1143 her ~~involuntary assessment and a petition for his or her~~
1144 involuntary treatment for substance abuse impairment. A
1145 respondent who desires counsel and is unable to afford private
1146 counsel has the right to court-appointed counsel and to the
1147 benefits of s. 57.081. If the court believes that the respondent
1148 needs the assistance of counsel, the court shall appoint such
1149 counsel for the respondent without regard to the respondent's
1150 wishes. If the respondent is a minor not otherwise represented
1151 in the proceeding, the court shall immediately appoint a
1152 guardian ad litem to act on the minor's behalf.

1153 (3) STATE REPRESENTATIVE.—Subject to legislative
1154 appropriation, for all court-involved involuntary proceedings
1155 under this chapter in which the petitioner has not retained
1156 private counsel, the state attorney for the circuit in which the
1157 respondent is located shall represent the state rather than the
1158 petitioner as the real party of interest in the proceeding, but
1159 the state attorney must be respectful of the petitioner's
1160 interests and concerns. In order to evaluate and prepare its

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1161 case before the hearing, the state attorney may access, by
1162 subpoena if necessary, the respondent, the witnesses, and all
1163 relevant records. Such records include, but are not limited to,
1164 any social media, school records, clinical files, and reports
1165 documenting contact the respondent may have had with law
1166 enforcement officers or other state agencies. However, these
1167 records shall remain confidential, and the petitioner may not
1168 access any records obtained by the state attorney unless such
1169 records are entered into the court file. In addition, the state
1170 attorney may not use any records obtained under this part for
1171 criminal investigation or prosecution purposes, or for any
1172 purpose other than the respondent's civil commitment under this
1173 chapter.

1174 Section 23. Section 397.6811, Florida Statutes, is
1175 repealed.

1176 Section 24. Section 397.6814, Florida Statutes, is
1177 repealed.

1178 Section 25. Section 397.6815, Florida Statutes, is
1179 repealed.

1180 Section 26. Section 397.6818, Florida Statutes, is
1181 repealed.

1182 Section 27. Section 397.6819, Florida Statutes, is
1183 repealed.

1184 Section 28. Section 397.6821, Florida Statutes, is
1185 repealed.

1186 Section 29. Section 397.6822, Florida Statutes, is
1187 repealed.

1188 Section 30. Section 397.693, Florida Statutes, is amended
1189 to read:

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1190 397.693 Involuntary treatment.—A person may be the subject
1191 of a petition for court-ordered involuntary treatment pursuant
1192 to this part, ~~if~~ if that person:

1193 (1) Reasonably appears to meet ~~meets~~ the criteria for
1194 involuntary admission provided in s. 397.675; ~~and:~~

1195 (2) ~~(1)~~ Has been placed under protective custody pursuant to
1196 s. 397.677 within the previous 10 days;

1197 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
1198 to s. 397.679 within the previous 10 days; or

1199 (4) ~~(3)~~ Has been assessed by a qualified professional within
1200 30 ~~5~~ days;

1201 ~~(4) Has been subject to involuntary assessment and~~
1202 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
1203 ~~days; or~~

1204 ~~(5) Has been subject to alternative involuntary admission~~
1205 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1206 Section 31. Section 397.695, Florida Statutes, is amended
1207 to read:

1208 397.695 Involuntary treatment services; persons who may
1209 petition.—

1210 (1) If the respondent is an adult, a petition for
1211 involuntary treatment services may be filed by the respondent's
1212 spouse or legal guardian, any relative, a service provider, or
1213 an adult who has direct personal knowledge of the respondent's
1214 substance abuse impairment and his or her prior course of
1215 assessment and treatment.

1216 (2) If the respondent is a minor, a petition for
1217 involuntary treatment may be filed by a parent, legal guardian,
1218 or service provider.

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1219 (3) The court or the clerk of the court may waive or
1220 prohibit any service of process fees if a petitioner is
1221 determined to be indigent under s. 57.082.

1222 Section 32. Section 397.6951, Florida Statutes, is amended
1223 to read:

1224 397.6951 Contents of petition for involuntary treatment
1225 services.-

1226 (1) A petition for involuntary treatment services must
1227 contain the name of the respondent; the name of the petitioner
1228 or petitioners; the relationship between the respondent and the
1229 petitioner; the name of the respondent's attorney, if known; ~~the~~
1230 ~~findings and recommendations of the assessment performed by the~~
1231 ~~qualified professional;~~ and the factual allegations presented by
1232 the petitioner establishing the need for involuntary ~~outpatient~~
1233 services for substance abuse impairment. The factual allegations
1234 must demonstrate the reason for the petitioner's belief that the
1235 respondent:

1236 ~~(1) The reason for the petitioner's belief that the~~
1237 ~~respondent is substance abuse impaired;~~

1238 ~~(a)(2) The reason for the petitioner's belief that because~~
1239 ~~of such impairment the respondent Has lost the power of self-~~
1240 ~~control with respect to substance abuse, or has a history of~~
1241 ~~noncompliance with substance abuse treatment with continued~~
1242 ~~substance use; and~~

1243 (b) Needs substance abuse services, but his or her judgment
1244 is so impaired by substance abuse that he or she either is
1245 refusing voluntary care after a sufficient and conscientious
1246 explanation and disclosure of the purpose of such services, or
1247 is incapable of appreciating his or her need for such services

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1248 and of making a rational decision in that regard; and

1249 (c)1. Without services, is likely to suffer from neglect or
1250 refuse to care for himself or herself; that the neglect or
1251 refusal poses a real and present threat of substantial harm to
1252 his or her well-being; and that it is not apparent that the harm
1253 may be avoided through the help of willing, able, and
1254 responsible family members or friends or the provision of other
1255 services; or

1256 2. There is a substantial likelihood that in the near
1257 future and without services, the respondent will inflict serious
1258 harm to self or others, as evidenced by acts, omissions, or
1259 behavior causing, attempting, or threatening such harm, which
1260 includes, but is not limited to, significant property damage

1261 ~~(3)(a) The reason the petitioner believes that the~~
1262 ~~respondent has inflicted or is likely to inflict physical harm~~
1263 ~~on himself or herself or others unless the court orders the~~
1264 ~~involuntary services; or~~

1265 ~~(b) The reason the petitioner believes that the~~
1266 ~~respondent's refusal to voluntarily receive care is based on~~
1267 ~~judgment so impaired by reason of substance abuse that the~~
1268 ~~respondent is incapable of appreciating his or her need for care~~
1269 ~~and of making a rational decision regarding that need for care.~~

1270 (2) The petition may be accompanied by a certificate or
1271 report of a qualified professional or a licensed physician who
1272 has examined the respondent within 30 days before the petition's
1273 submission. This certificate or report must include the
1274 qualified professional or physician's findings relating to his
1275 or her assessment of the patient and his or her treatment
1276 recommendations. If the respondent was not assessed before the

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1277 filing of a treatment petition or refused to submit to an
1278 evaluation, the lack of assessment or refusal must be noted in
1279 the petition.

1280 (3) If there is an emergency, the petition must also
1281 describe the respondent's exigent circumstances and include a
1282 request for an ex parte assessment and stabilization order that
1283 must be executed pursuant to s. 397.6955(4).

1284 Section 33. Section 397.6955, Florida Statutes, is amended
1285 to read:

1286 397.6955 Duties of court upon filing of petition for
1287 involuntary treatment services.-

1288 (1) Upon the filing of a petition for involuntary treatment
1289 services for a substance abuse impaired person with the clerk of
1290 the court that does not indicate the petitioner has retained
1291 private counsel, the clerk must notify the state attorney's
1292 office. In addition, the court shall immediately determine
1293 whether the respondent is represented by an attorney or whether
1294 the appointment of counsel for the respondent is appropriate.
1295 If, based on the contents of the petition, the court appoints
1296 counsel for the person, the clerk of the court shall immediately
1297 notify the office of criminal conflict and civil regional
1298 counsel, created pursuant to s. 27.511, of the appointment. The
1299 office of criminal conflict and civil regional counsel shall
1300 represent the person until the petition is dismissed, the court
1301 order expires, or the person is discharged from involuntary
1302 treatment services. An attorney that represents the person named
1303 in the petition shall have access to the person, witnesses, and
1304 records relevant to the presentation of the person's case and
1305 shall represent the interests of the person, regardless of the

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1306 source of payment to the attorney.

1307 (2) The court shall schedule a hearing to be held on the
1308 petition within 10 court working ~~5~~ days unless a continuance is
1309 granted. The court may appoint a magistrate to preside at the
1310 hearing.

1311 (3) A copy of the petition and notice of the hearing must
1312 be provided to the respondent; the respondent's parent,
1313 guardian, or legal custodian, in the case of a minor; the
1314 respondent's attorney, if known; the petitioner; the
1315 respondent's spouse or guardian, if applicable; and such other
1316 persons as the court may direct. If the respondent is a minor, a
1317 copy of the petition and notice of the hearing must be
1318 personally delivered to the respondent. The court shall also
1319 issue a summons to the person whose admission is sought.

1320 (4) (a) When the petitioner asserts that emergency
1321 circumstances exist, or when upon review of the petition the
1322 court determines that an emergency exists, the court may rely
1323 solely on the contents of the petition and, without the
1324 appointment of an attorney, enter an ex parte order for the
1325 respondent's involuntary assessment and stabilization which must
1326 be executed during the period that the hearing on the petition
1327 for treatment is pending. The court may further order a law
1328 enforcement officer or other designated agent of the court to:

1329 1. Take the respondent into custody and deliver him or her
1330 to the nearest appropriate licensed service provider to be
1331 evaluated; and

1332 2. Serve the respondent with the notice of hearing and a
1333 copy of the petition.

1334 (b) The service provider must promptly inform the court and

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1335 parties of the respondent's arrival and may not hold the
1336 respondent for longer than 72 hours of observation thereafter,
1337 unless:

1338 1. The service provider seeks additional time under s.
1339 397.6957(1)(c) and the court, after a hearing, grants that
1340 motion;

1341 2. The respondent shows signs of withdrawal, or a need to
1342 be either detoxified or treated for a medical condition, which
1343 shall extend the amount of time the respondent may be held for
1344 observation until the issue is resolved; or

1345 3. The original or extended observation period ends on a
1346 weekend or holiday, in which case the provider may hold the
1347 respondent until the next court working day.

1348 (c) If the ex parte order was not executed by the initial
1349 hearing date, it shall be deemed void. However, should the
1350 respondent not appear at the hearing for any reason, including
1351 lack of service, and upon reviewing the petition, testimony, and
1352 evidence presented, the court reasonably believes the respondent
1353 meets this chapter's commitment criteria and that a substance
1354 abuse emergency exists, the court may issue or reissue an ex
1355 parte assessment and stabilization order that is valid for 90
1356 days. If the respondent's location is known at the time of the
1357 hearing, the court:

1358 1. Shall continue the case for no more than 10 court
1359 working days; and

1360 2. May order a law enforcement officer or other designated
1361 agent of the court to:

1362 a. Take the respondent into custody and deliver him or her
1363 to the nearest appropriate licensed service provider to be

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1364 evaluated; and

1365 b. If a hearing date is set, serve the respondent with
1366 notice of the rescheduled hearing and a copy of the involuntary
1367 treatment petition if the respondent has not already been
1368 served.

1369
1370 Otherwise, the petitioner and the service provider must promptly
1371 inform the court that the respondent has been assessed so that
1372 the court may schedule a hearing. The service provider must
1373 serve the respondent, before his or her discharge, with the
1374 notice of hearing and a copy of the petition. However, if the
1375 respondent has not been assessed after 90 days, the court must
1376 dismiss the case.

1377 Section 34. Section 397.6957, Florida Statutes, is amended
1378 to read:

1379 397.6957 Hearing on petition for involuntary treatment
1380 services.-

1381 (1) (a) The respondent must be present at a hearing on a
1382 petition for involuntary treatment services unless he or she
1383 knowingly, intelligently, and voluntarily waives his or her
1384 right to be present or, upon receiving proof of service and
1385 evaluating the circumstances of the case, the court finds that
1386 his or her presence is inconsistent with his or her best
1387 interests or is likely to be injurious to himself or herself or
1388 others. ~~7~~ The court shall hear and review all relevant evidence,
1389 including testimony from individuals such as family members
1390 familiar with the respondent's prior history and how it relates
1391 to his or her current condition, and the ~~review of~~ results of
1392 the assessment completed by the qualified professional in

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1393 connection with this chapter. The court may also order drug
1394 tests. Absent a showing of good cause, such as specific symptoms
1395 of the respondent's condition, the court may permit all
1396 witnesses, such as any medical professionals or personnel who
1397 are or have been involved with the respondent's treatment, to
1398 remotely attend and testify at the hearing under oath via the
1399 most appropriate and convenient technological method of
1400 communication available to the court, including, but not limited
1401 to, teleconference. Any witness intending to remotely attend and
1402 testify at the hearing must provide the parties with all
1403 relevant documents in advance of the hearing ~~the respondent's~~
1404 ~~protective custody, emergency admission, involuntary assessment,~~
1405 ~~or alternative involuntary admission~~. The respondent must be
1406 present unless the court finds that his or her presence is
1407 likely to be injurious to himself or herself or others, in which
1408 event the court must appoint a guardian advocate to act in
1409 behalf of the respondent throughout the proceedings.

1410 (b) A respondent cannot be involuntarily ordered into
1411 treatment under this chapter without a clinical assessment being
1412 performed unless he or she is present in court and expressly
1413 waives the assessment. In nonemergency situations, if the
1414 respondent was not, or had previously refused to be, assessed by
1415 a qualified professional and, based on the petition, testimony,
1416 and evidence presented, it reasonably appears that the
1417 respondent qualifies for involuntary treatment services, the
1418 court shall issue an involuntary assessment and stabilization
1419 order to determine the appropriate level of treatment the
1420 respondent requires. Additionally, in cases where an assessment
1421 was attached to the petition, the respondent may request, or the

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1422 court on its own motion may order, an independent assessment by
1423 a court-appointed physician or an otherwise agreed-upon
1424 physician. If an assessment order is issued, it is valid for 90
1425 days, and if the respondent is present or there is either proof
1426 of service or his or her location is known, the involuntary
1427 treatment hearing shall be continued for no more than 10 court
1428 working days. Otherwise, the petitioner and the service provider
1429 must promptly inform the court that the respondent has been
1430 assessed so that the court may schedule a hearing. The service
1431 provider shall then serve the respondent, before his or her
1432 discharge, with the notice of hearing and a copy of the
1433 petition. The assessment must occur before the new hearing date,
1434 and if there is evidence indicating that the respondent will not
1435 voluntarily appear at the forthcoming hearing, or is a danger to
1436 self or others, the court may enter a preliminary order
1437 committing the respondent to an appropriate treatment facility
1438 for further evaluation until the date of the rescheduled
1439 hearing. However, if after 90 days the respondent remains
1440 unassessed, the court shall dismiss the case.

1441 (c)1. The respondent's assessment by a qualified
1442 professional must occur within 72 hours after his or her arrival
1443 at a licensed service provider unless he or she shows signs of
1444 withdrawal or a need to be either detoxified or treated for a
1445 medical condition, which shall extend the amount of time the
1446 respondent may be held for observation until that issue is
1447 resolved. If the person conducting the assessment is not a
1448 licensed physician, the assessment must be reviewed by a
1449 licensed physician within the 72-hour period. If the respondent
1450 is a minor, such assessment must be initiated within the first

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1451 12 hours after the minor's admission to the facility. The
1452 service provider may also move to extend the 72 hours of
1453 observation by petitioning the court in writing for additional
1454 time. The service provider must furnish copies of such motion to
1455 all parties in accordance with applicable confidentiality
1456 requirements and, after a hearing, the court may grant
1457 additional time or expedite the respondent's involuntary
1458 treatment hearing. The involuntary treatment hearing, however,
1459 may only be expedited by agreement of the parties on the hearing
1460 date, or if there is notice and proof of service as provided in
1461 s. 397.6955 (1) and (3). If the court grants the service
1462 provider's petition, the service provider may hold the
1463 respondent until its extended assessment period expires or until
1464 the expedited hearing date. However, if the original or extended
1465 observation period ends on a weekend or holiday, the provider
1466 may hold the respondent until the next court working day.

1467 2. Upon the completion of his or her report, the qualified
1468 professional, in accordance with applicable confidentiality
1469 requirements, shall provide copies to the court and all relevant
1470 parties and counsel. This report must contain a recommendation
1471 on the level, if any, of substance abuse and, if applicable, co-
1472 occurring mental health treatment the respondent requires. The
1473 qualified professional's failure to include a treatment
1474 recommendation, much like a recommendation of no treatment,
1475 shall result in the petition's dismissal.

1476 (d) The court may order a law enforcement officer or other
1477 designated agent of the court to take the respondent into
1478 custody and transport him or her to or from the treating or
1479 assessing service provider and the court for his or her hearing.

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1480 (2) The petitioner has the burden of proving by clear and
1481 convincing evidence that:

1482 (a) The respondent is substance abuse impaired, has lost
1483 the power of self-control with respect to substance abuse, or
1484 ~~and~~ has a history of lack of compliance with treatment for
1485 substance abuse with continued substance use; and

1486 (b) Because of such impairment, the respondent is unlikely
1487 to voluntarily participate in the recommended services after
1488 sufficient and conscientious explanation and disclosure of their
1489 purpose, or is unable to determine for himself or herself
1490 whether services are necessary and make a rational decision in
1491 that regard; and:

1492 (c)1. Without services, the respondent is likely to suffer
1493 from neglect or refuse to care for himself or herself; that such
1494 neglect or refusal poses a real and present threat of
1495 substantial harm to his or her well-being; and that it is not
1496 apparent that such harm may be avoided through the help of
1497 willing, able, and responsible family members or friends or the
1498 provision of other services; or

1499 2. There is a substantial likelihood that in the near
1500 future and without services, the respondent will inflict serious
1501 harm to self or others, as evidenced by acts, omissions, or
1502 behavior causing, attempting, or threatening such harm, which
1503 includes, but is not limited to, significant property damage
1504 ~~cause serious bodily harm to himself, herself, or another in the~~
1505 ~~near future, as evidenced by recent behavior; or~~

1506 ~~2. The respondent's refusal to voluntarily receive care is~~
1507 ~~based on judgment so impaired by reason of substance abuse that~~
1508 ~~the respondent is incapable of appreciating his or her need for~~

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1509 ~~care and of making a rational decision regarding that need for~~
1510 ~~care.~~

1511 ~~(3) One of the qualified professionals who executed the~~
1512 ~~involuntary services certificate must be a witness. The court~~
1513 ~~shall allow testimony from individuals, including family~~
1514 ~~members, deemed by the court to be relevant under state law,~~
1515 ~~regarding the respondent's prior history and how that prior~~
1516 ~~history relates to the person's current condition. The Testimony~~
1517 ~~in the hearing must be taken under oath, and the proceedings~~
1518 ~~must be recorded. The respondent patient may refuse to testify~~
1519 ~~at the hearing.~~

1520 ~~(4) If at any point during the hearing the court has reason~~
1521 ~~to believe that the respondent, due to mental illness other than~~
1522 ~~or in addition to substance abuse impairment, is likely to~~
1523 ~~injure himself or herself or another if allowed to remain at~~
1524 ~~liberty, or otherwise meets the involuntary commitment~~
1525 ~~provisions of part I of chapter 394, the court may initiate~~
1526 ~~involuntary proceedings under such provisions.~~

1527 ~~(5) (4) At the conclusion of the hearing,~~ the court shall
1528 either dismiss the petition or order the respondent to receive
1529 involuntary treatment services from his or her chosen licensed
1530 service provider if possible and appropriate. Any treatment
1531 order must include findings regarding the respondent's need for
1532 treatment and the appropriateness of other lesser restrictive
1533 alternatives.

1534 Section 35. Section 397.697, Florida Statutes, is amended
1535 to read:

1536 397.697 Court determination; effect of court order for
1537 involuntary treatment services.-

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1538 (1) (a) When the court finds that the conditions for
1539 involuntary treatment services have been proved by clear and
1540 convincing evidence, it may order the respondent to receive
1541 involuntary treatment services from a publicly funded licensed
1542 service provider for a period not to exceed 90 days. The court
1543 may also order a respondent to undergo treatment through a
1544 privately funded licensed service provider if the respondent has
1545 the ability to pay for the treatment, or if any person on the
1546 respondent's behalf voluntarily demonstrates a willingness and
1547 an ability to pay for the treatment. If the court finds it
1548 necessary, it may direct the sheriff to take the respondent into
1549 custody and deliver him or her to the licensed service provider
1550 specified in the court order, or to the nearest appropriate
1551 licensed service provider, for involuntary treatment services.
1552 When the conditions justifying involuntary treatment services no
1553 longer exist, the individual must be released as provided in s.
1554 397.6971. When the conditions justifying involuntary treatment
1555 services are expected to exist after 90 days of treatment
1556 services, a renewal of the involuntary treatment services order
1557 may be requested pursuant to s. 397.6975 before the end of the
1558 90-day period.

1559 (b) To qualify for involuntary outpatient treatment, an
1560 individual must be supported by a social worker or case manager
1561 of a licensed service provider or a willing, able, and
1562 responsible individual appointed by the court who shall inform
1563 the court and parties if the respondent fails to comply with his
1564 or her outpatient program. In addition, unless the respondent
1565 has been involuntarily ordered into inpatient treatment under
1566 this chapter at least twice during the last 36 months, or

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1567 demonstrates the ability to substantially comply with the
1568 outpatient treatment while waiting for residential placement to
1569 become available, he or she must receive an assessment from a
1570 qualified professional or licensed physician expressly
1571 recommending outpatient services, such services must be
1572 available in the county in which the respondent is located, and
1573 it must appear likely that the respondent will follow a
1574 prescribed outpatient care plan.

1575 (2) In all cases resulting in an order for involuntary
1576 treatment services, the court shall retain jurisdiction over the
1577 case and the parties for the entry of such further orders as the
1578 circumstances may require, including, but not limited to,
1579 monitoring compliance with treatment, changing the treatment
1580 modality, or initiating contempt of court proceedings for
1581 violating any valid order issued pursuant to this chapter.

1582 Hearings under this section may be set by motion of the parties
1583 or under the court's own authority, and the motion and notice of
1584 hearing for these ancillary proceedings, which include, but are
1585 not limited to, civil contempt, must be served in accordance
1586 with relevant court procedural rules. The court's requirements
1587 for notification of proposed release must be included in the
1588 original order.

1589 (3) An involuntary treatment services order also authorizes
1590 the licensed service provider to require the individual to
1591 receive treatment services that will benefit him or her,
1592 including treatment services at any licensable service component
1593 of a licensed service provider. While subject to the court's
1594 oversight, the service provider's authority under this section
1595 is separate and distinct from the court's broad continuing

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1596 jurisdiction under subsection (2). Such oversight includes, but
1597 is not limited to, submitting reports regarding the respondent's
1598 progress or compliance with treatment as required by the court.

1599 (4) If the court orders involuntary treatment services, a
1600 copy of the order must be sent to the managing entity within 1
1601 working day after it is received from the court. Documents may
1602 be submitted electronically through ~~though~~ existing data
1603 systems, if applicable.

1604 Section 36. Section 397.6971, Florida Statutes, is amended
1605 to read:

1606 397.6971 Early release from involuntary treatment
1607 services.—

1608 (1) At any time before the end of the 90-day involuntary
1609 treatment services period, or before the end of any extension
1610 granted pursuant to s. 397.6975, an individual receiving
1611 involuntary treatment services may be determined eligible for
1612 discharge to the most appropriate referral or disposition for
1613 the individual when any of the following apply:

1614 (a) The individual no longer meets the criteria for
1615 involuntary admission and has given his or her informed consent
1616 to be transferred to voluntary treatment status.

1617 (b) If the individual was admitted on the grounds of
1618 likelihood of infliction of ~~physical~~ harm upon himself or
1619 herself or others, such likelihood no longer exists.

1620 (c) If the individual was admitted on the grounds of need
1621 for assessment and stabilization or treatment, accompanied by
1622 inability to make a determination respecting such need:

- 1623 1. Such inability no longer exists; or
1624 2. It is evident that further treatment will not bring

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1625 about further significant improvements in the individual's
1626 condition.

1627 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
1628 services.

1629 (e) The director of the service provider determines that
1630 the individual is beyond the safe management capabilities of the
1631 provider.

1632 (2) Whenever a qualified professional determines that an
1633 individual admitted for involuntary treatment services qualifies
1634 for early release under subsection (1), the service provider
1635 shall immediately discharge the individual and must notify all
1636 persons specified by the court in the original treatment order.

1637 Section 37. Section 397.6975, Florida Statutes, is amended
1638 to read:

1639 397.6975 Extension of involuntary treatment services
1640 period.—

1641 (1) Whenever a service provider believes that an individual
1642 who is nearing the scheduled date of his or her release from
1643 involuntary care services continues to meet the criteria for
1644 involuntary treatment services in s. 397.693 or s. 397.6957, a
1645 petition for renewal of the involuntary treatment services order
1646 must ~~may~~ be filed with the court ~~at least 10 days~~ before the
1647 expiration of the court-ordered services period. The petition
1648 may be filed by the service provider or by the person who filed
1649 the petition for the initial treatment order if the petition is
1650 accompanied by supporting documentation from the service
1651 provider. The court shall ~~immediately~~ schedule a hearing within
1652 10 court working ~~to be held not more than 15~~ days after filing
1653 of the petition and. ~~The court shall~~ provide the copy of the

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1654 petition for renewal and the notice of the hearing to all
1655 parties and counsel to the proceeding. The hearing is conducted
1656 pursuant to ss. 397.697 and 397.6957 and must be before the
1657 circuit court unless referred to a magistrate s. 397.6957.

1658 (2) If the court finds that the petition for renewal of ~~the~~
1659 involuntary treatment services ~~order~~ should be granted, it may
1660 order the respondent to receive involuntary treatment services
1661 for a period not to exceed an additional 90 days. When the
1662 conditions justifying involuntary treatment services no longer
1663 exist, the individual must be released as provided in s.
1664 397.6971. When the conditions justifying involuntary treatment
1665 services continue to exist after an additional 90 days of
1666 treatment service, a new petition requesting renewal of the
1667 involuntary treatment services order may be filed pursuant to
1668 this section.

1669 ~~(3) Within 1 court working day after the filing of a~~
1670 ~~petition for continued involuntary services, the court shall~~
1671 ~~appoint the office of criminal conflict and civil regional~~
1672 ~~counsel to represent the respondent, unless the respondent is~~
1673 ~~otherwise represented by counsel. The clerk of the court shall~~
1674 ~~immediately notify the office of criminal conflict and civil~~
1675 ~~regional counsel of such appointment. The office of criminal~~
1676 ~~conflict and civil regional counsel shall represent the~~
1677 ~~respondent until the petition is dismissed or the court order~~
1678 ~~expires or the respondent is discharged from involuntary~~
1679 ~~services. Any attorney representing the respondent shall have~~
1680 ~~access to the respondent, witnesses, and records relevant to the~~
1681 ~~presentation of the respondent's case and shall represent the~~
1682 ~~interests of the respondent, regardless of the source of payment~~

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1683 ~~to the attorney.~~

1684 ~~(4) Hearings on petitions for continued involuntary~~
1685 ~~services shall be before the circuit court. The court may~~
1686 ~~appoint a magistrate to preside at the hearing. The procedures~~
1687 ~~for obtaining an order pursuant to this section shall be in~~
1688 ~~accordance with s. 397.697.~~

1689 ~~(5) Notice of hearing shall be provided to the respondent~~
1690 ~~or his or her counsel. The respondent and the respondent's~~
1691 ~~counsel may agree to a period of continued involuntary services~~
1692 ~~without a court hearing.~~

1693 ~~(6) The same procedure shall be repeated before the~~
1694 ~~expiration of each additional period of involuntary services.~~

1695 ~~(7) If the respondent has previously been found incompetent~~
1696 ~~to consent to treatment, the court shall consider testimony and~~
1697 ~~evidence regarding the respondent's competence.~~

1698 Section 38. Section 397.6977, Florida Statutes, is amended
1699 to read:

1700 397.6977 Disposition of individual upon completion of
1701 involuntary treatment services.—At the conclusion of the 90-day
1702 period of court-ordered involuntary treatment services, the
1703 respondent is automatically discharged unless a motion for
1704 renewal of the involuntary treatment services order has been
1705 filed with the court pursuant to s. 397.6975.

1706 Section 39. Section 397.6978, Florida Statutes, is
1707 repealed.

1708 Section 40. Paragraph (b) of subsection (1) of section
1709 409.972, Florida Statutes, is amended to read:

1710 409.972 Mandatory and voluntary enrollment.—

1711 (1) The following Medicaid-eligible persons are exempt from

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1712 mandatory managed care enrollment required by s. 409.965, and
1713 may voluntarily choose to participate in the managed medical
1714 assistance program:

1715 (b) Medicaid recipients residing in residential commitment
1716 facilities operated through the Department of Juvenile Justice
1717 or a treatment facility as defined in s. 394.455 ~~s. 394.455(47)~~.

1718 Section 41. Paragraph (e) of subsection (4) of section
1719 464.012, Florida Statutes, is amended to read:

1720 464.012 Licensure of advanced practice registered nurses;
1721 fees; controlled substance prescribing.—

1722 (4) In addition to the general functions specified in
1723 subsection (3), an advanced practice registered nurse may
1724 perform the following acts within his or her specialty:

1725 (e) A psychiatric nurse, who meets the requirements in s.
1726 394.455(36) ~~s. 394.455(35)~~, within the framework of an
1727 established protocol with a psychiatrist, may prescribe
1728 psychotropic controlled substances for the treatment of mental
1729 disorders.

1730 Section 42. Subsection (7) of section 744.2007, Florida
1731 Statutes, is amended to read:

1732 744.2007 Powers and duties.—

1733 (7) A public guardian may not commit a ward to a treatment
1734 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
1735 involuntary placement proceeding as provided by law.

1736 Section 43. Paragraph (a) of subsection (2) of section
1737 790.065, Florida Statutes, is amended to read:

1738 790.065 Sale and delivery of firearms.—

1739 (2) Upon receipt of a request for a criminal history record
1740 check, the Department of Law Enforcement shall, during the

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1741 licensee's call or by return call, forthwith:

1742 (a) Review any records available to determine if the
1743 potential buyer or transferee:

1744 1. Has been convicted of a felony and is prohibited from
1745 receipt or possession of a firearm pursuant to s. 790.23;

1746 2. Has been convicted of a misdemeanor crime of domestic
1747 violence, and therefore is prohibited from purchasing a firearm;

1748 3. Has had adjudication of guilt withheld or imposition of
1749 sentence suspended on any felony or misdemeanor crime of
1750 domestic violence unless 3 years have elapsed since probation or
1751 any other conditions set by the court have been fulfilled or
1752 expunction has occurred; or

1753 4. Has been adjudicated mentally defective or has been
1754 committed to a mental institution by a court or as provided in
1755 sub-sub-subparagraph b.(II), and as a result is prohibited by
1756 state or federal law from purchasing a firearm.

1757 a. As used in this subparagraph, "adjudicated mentally
1758 defective" means a determination by a court that a person, as a
1759 result of marked subnormal intelligence, or mental illness,
1760 incompetency, condition, or disease, is a danger to himself or
1761 herself or to others or lacks the mental capacity to contract or
1762 manage his or her own affairs. The phrase includes a judicial
1763 finding of incapacity under s. 744.331(6)(a), an acquittal by
1764 reason of insanity of a person charged with a criminal offense,
1765 and a judicial finding that a criminal defendant is not
1766 competent to stand trial.

1767 b. As used in this subparagraph, "committed to a mental
1768 institution" means:

1769 (I) Involuntary commitment, commitment for mental

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1770 defectiveness or mental illness, and commitment for substance
1771 abuse. The phrase includes involuntary inpatient placement under
1772 ~~as defined in s. 394.467~~, involuntary outpatient placement as
1773 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
1774 ~~under s. 397.6818~~, and involuntary substance abuse treatment
1775 under s. 397.6957, but does not include a person in a mental
1776 institution for observation or discharged from a mental
1777 institution based upon the initial review by the physician or a
1778 voluntary admission to a mental institution; or

1779 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
1780 admission to a mental institution for outpatient or inpatient
1781 treatment of a person who had an involuntary examination under
1782 s. 394.463, where each of the following conditions have been
1783 met:

1784 (A) An examining physician found that the person is an
1785 imminent danger to himself or herself or others.

1786 (B) The examining physician certified that if the person
1787 did not agree to voluntary treatment, a petition for involuntary
1788 outpatient or inpatient treatment would have been filed under s.
1789 394.463(2)(g)4., or the examining physician certified that a
1790 petition was filed and the person subsequently agreed to
1791 voluntary treatment prior to a court hearing on the petition.

1792 (C) Before agreeing to voluntary treatment, the person
1793 received written notice of that finding and certification, and
1794 written notice that as a result of such finding, he or she may
1795 be prohibited from purchasing a firearm, and may not be eligible
1796 to apply for or retain a concealed weapon or firearms license
1797 under s. 790.06 and the person acknowledged such notice in
1798 writing, in substantially the following form:

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1799

1800 "I understand that the doctor who examined me believes I am a
1801 danger to myself or to others. I understand that if I do not
1802 agree to voluntary treatment, a petition will be filed in court
1803 to require me to receive involuntary treatment. I understand
1804 that if that petition is filed, I have the right to contest it.
1805 In the event a petition has been filed, I understand that I can
1806 subsequently agree to voluntary treatment prior to a court
1807 hearing. I understand that by agreeing to voluntary treatment in
1808 either of these situations, I may be prohibited from buying
1809 firearms and from applying for or retaining a concealed weapons
1810 or firearms license until I apply for and receive relief from
1811 that restriction under Florida law."

1812

1813 (D) A judge or a magistrate has, pursuant to sub-sub-
1814 subparagraph c.(II), reviewed the record of the finding,
1815 certification, notice, and written acknowledgment classifying
1816 the person as an imminent danger to himself or herself or
1817 others, and ordered that such record be submitted to the
1818 department.

1819

1820 c. In order to check for these conditions, the department
1821 shall compile and maintain an automated database of persons who
1822 are prohibited from purchasing a firearm based on court records
1823 of adjudications of mental defectiveness or commitments to
1824 mental institutions.

1824

1825 (I) Except as provided in sub-sub-subparagraph (II), clerks
1826 of court shall submit these records to the department within 1
1827 month after the rendition of the adjudication or commitment.
Reports shall be submitted in an automated format. The reports

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1828 must, at a minimum, include the name, along with any known alias
1829 or former name, the sex, and the date of birth of the subject.

1830 (II) For persons committed to a mental institution pursuant
1831 to sub-sub-subparagraph b.(II), within 24 hours after the
1832 person's agreement to voluntary admission, a record of the
1833 finding, certification, notice, and written acknowledgment must
1834 be filed by the administrator of the receiving or treatment
1835 facility, as defined in s. 394.455, with the clerk of the court
1836 for the county in which the involuntary examination under s.
1837 394.463 occurred. No fee shall be charged for the filing under
1838 this sub-sub-subparagraph. The clerk must present the records to
1839 a judge or magistrate within 24 hours after receipt of the
1840 records. A judge or magistrate is required and has the lawful
1841 authority to review the records ex parte and, if the judge or
1842 magistrate determines that the record supports the classifying
1843 of the person as an imminent danger to himself or herself or
1844 others, to order that the record be submitted to the department.
1845 If a judge or magistrate orders the submittal of the record to
1846 the department, the record must be submitted to the department
1847 within 24 hours.

1848 d. A person who has been adjudicated mentally defective or
1849 committed to a mental institution, as those terms are defined in
1850 this paragraph, may petition the court that made the
1851 adjudication or commitment, or the court that ordered that the
1852 record be submitted to the department pursuant to sub-sub-
1853 subparagraph c.(II), for relief from the firearm disabilities
1854 imposed by such adjudication or commitment. A copy of the
1855 petition shall be served on the state attorney for the county in
1856 which the person was adjudicated or committed. The state

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1857 attorney may object to and present evidence relevant to the
1858 relief sought by the petition. The hearing on the petition may
1859 be open or closed as the petitioner may choose. The petitioner
1860 may present evidence and subpoena witnesses to appear at the
1861 hearing on the petition. The petitioner may confront and cross-
1862 examine witnesses called by the state attorney. A record of the
1863 hearing shall be made by a certified court reporter or by court-
1864 approved electronic means. The court shall make written findings
1865 of fact and conclusions of law on the issues before it and issue
1866 a final order. The court shall grant the relief requested in the
1867 petition if the court finds, based on the evidence presented
1868 with respect to the petitioner's reputation, the petitioner's
1869 mental health record and, if applicable, criminal history
1870 record, the circumstances surrounding the firearm disability,
1871 and any other evidence in the record, that the petitioner will
1872 not be likely to act in a manner that is dangerous to public
1873 safety and that granting the relief would not be contrary to the
1874 public interest. If the final order denies relief, the
1875 petitioner may not petition again for relief from firearm
1876 disabilities until 1 year after the date of the final order. The
1877 petitioner may seek judicial review of a final order denying
1878 relief in the district court of appeal having jurisdiction over
1879 the court that issued the order. The review shall be conducted
1880 de novo. Relief from a firearm disability granted under this
1881 sub-subparagraph has no effect on the loss of civil rights,
1882 including firearm rights, for any reason other than the
1883 particular adjudication of mental defectiveness or commitment to
1884 a mental institution from which relief is granted.

1885 e. Upon receipt of proper notice of relief from firearm

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1886 disabilities granted under sub-subparagraph d., the department
1887 shall delete any mental health record of the person granted
1888 relief from the automated database of persons who are prohibited
1889 from purchasing a firearm based on court records of
1890 adjudications of mental defectiveness or commitments to mental
1891 institutions.

1892 f. The department is authorized to disclose data collected
1893 pursuant to this subparagraph to agencies of the Federal
1894 Government and other states for use exclusively in determining
1895 the lawfulness of a firearm sale or transfer. The department is
1896 also authorized to disclose this data to the Department of
1897 Agriculture and Consumer Services for purposes of determining
1898 eligibility for issuance of a concealed weapons or concealed
1899 firearms license and for determining whether a basis exists for
1900 revoking or suspending a previously issued license pursuant to
1901 s. 790.06(10). When a potential buyer or transferee appeals a
1902 nonapproval based on these records, the clerks of court and
1903 mental institutions shall, upon request by the department,
1904 provide information to help determine whether the potential
1905 buyer or transferee is the same person as the subject of the
1906 record. Photographs and any other data that could confirm or
1907 negate identity must be made available to the department for
1908 such purposes, notwithstanding any other provision of state law
1909 to the contrary. Any such information that is made confidential
1910 or exempt from disclosure by law shall retain such confidential
1911 or exempt status when transferred to the department.

1912 Section 44. This act shall take effect July 1, 2020.