

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

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

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30 voluntariness of a minor's admission to a facility;
31 requiring the filing of a petition for involuntary
32 placement or release of a minor to his or her parent
33 or legal guardian under certain circumstances;
34 requiring minor patients' assent to voluntary care to
35 be verified in a specified manner before a transfer to
36 voluntary status may occur; conforming provisions to
37 changes made by the act; amending s. 394.463, F.S.;
38 revising the requirements for when a person may be
39 taken to a receiving facility for involuntary
40 examination; requiring a facility to inform the
41 department of certain persons who have been examined
42 or committed under certain circumstances; conforming
43 provisions to changes made by the act; providing
44 criminal and civil penalties; amending s. 394.4655,
45 F.S.; revising the requirements for involuntary
46 outpatient treatment; amending s. 394.467, F.S.;
47 revising the requirements for when a person may be
48 ordered for involuntary inpatient placement; revising
49 requirements for continuances of hearings; revising
50 the conditions under which a court may waive the
51 requirement for a patient to be present at an
52 involuntary inpatient placement hearing; authorizing
53 the court to permit all witnesses to attend and
54 testify remotely at the hearing through certain means;
55 requiring facilities to make certain clinical records
56 available to a state attorney within a specified
57 timeframe; specifying that such records remain
58 confidential and may not be used for certain purposes;

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59 revising when the court may appoint a magistrate;
60 requiring the court to allow certain testimony from
61 individuals; revising the amount of time a court may
62 require a patient to receive services; requiring
63 facilities to discharge patients after the patient no
64 longer meets the criteria for involuntary treatment;
65 prohibiting courts from ordering that individuals with
66 developmental disabilities be involuntarily placed in a
67 state treatment facility; requiring such individuals
68 to be referred to certain agencies for evaluation and
69 services; authorizing facilities to hold such
70 individuals under certain circumstances; conforming
71 provisions to changes made by the act; revising the
72 amount of time a court may require a patient to
73 receive services; amending ss. 394.495 and 394.496,
74 F.S.; conforming provisions to changes made by the
75 act; amending s. 394.499, F.S.; making technical and
76 conforming changes; amending s. 394.9085, F.S.;
77 conforming cross-references; amending s. 397.305,
78 F.S.; revising the purposes of ch. 397, F.S.; amending
79 s. 397.311, F.S.; revising the definition of the terms
80 "impaired" and "substance abuse impaired"; defining
81 the terms "involuntary treatment services," "neglect
82 or refuse to care for himself or herself," and "real
83 and present threat of substantial harm"; amending s.
84 397.416, F.S.; conforming a cross-reference; amending
85 s. 397.501, F.S.; requiring that respondents with
86 serious substance use disorders be informed of the
87 essential elements of recovery and provide them

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88 assistance with accessing a continuum of care regimen;
89 authorizing the department to adopt certain rules;
90 amending s. 397.675, F.S.; revising the criteria for
91 involuntary admissions; amending s. 397.6751, F.S.;
92 revising the responsibilities of a service provider;
93 amending s. 397.681, F.S.; revising where involuntary
94 treatment petitions for substance abuse impaired
95 persons may be filed; revising what part of such
96 proceedings a general or special magistrate may
97 preside over; requiring that the state attorney
98 represent the state as the real party of interest in
99 an involuntary proceeding, subject to legislative
100 appropriation; providing that the petitioner has the
101 right to be heard; specifying that certain records
102 obtained by a state attorney must remain confidential
103 and may not be used for certain purposes; conforming
104 provisions to changes made by the act; repealing s.
105 397.6811, F.S., relating to involuntary assessment and
106 stabilization; repealing s. 397.6814, F.S., relating
107 to petitions for involuntary assessment and
108 stabilization; repealing s. 397.6815, F.S., relating
109 to involuntary assessment and stabilization
110 procedures; repealing s. 397.6818, F.S., relating to
111 court determinations for petitions for involuntary
112 assessment and stabilization; repealing s. 397.6819,
113 F.S., relating to the responsibilities of licensed
114 service providers with regard to involuntary
115 assessment and stabilization; repealing s. 397.6821,
116 F.S., relating to extensions of time for completion of

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117 involuntary assessment and stabilization; repealing s.
118 397.6822, F.S., relating to the disposition of
119 individuals after involuntary assessments; amending s.
120 397.693, F.S.; revising the circumstances under which
121 a person is eligible for court-ordered involuntary
122 treatment; amending s. 397.695, F.S.; authorizing the
123 court or clerk of the court to waive or prohibit any
124 service of process fees for an indigent petitioner;
125 amending s. 397.6951, F.S.; revising the requirements
126 for the contents of a petition for involuntary
127 treatment services; authorizing a petitioner to
128 include with the petition a certificate or report of a
129 qualified professional; requiring the certificate or
130 report to contain certain information; requiring that
131 certain additional information be included if an
132 emergency exists; amending s. 397.6955, F.S.;

133 requiring the clerk of the court to notify the state
134 attorney's office upon the receipt of a petition filed
135 for involuntary treatment services; revising when the
136 office of criminal conflict and civil regional counsel
137 represents a person; revising when a hearing must be
138 held on the petition; requiring law enforcement
139 agencies to effect service for initial treatment
140 hearings unless certain requirements are met;
141 providing requirements for when a petitioner asserts
142 that emergency circumstances exist or the court
143 determines that an emergency exists; conforming
144 provisions to changes made by the act; amending s.
145 397.6957, F.S.; expanding the exemption from the

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146 requirement that a respondent be present at a hearing
147 on a petition for involuntary treatment services;
148 authorizing the court to order drug tests and permit
149 all witnesses to remotely attend and testify at the
150 hearing through certain means; deleting a provision
151 requiring the court to appoint a guardian advocate
152 under certain circumstances; prohibiting a respondent
153 from being involuntarily ordered into treatment unless
154 certain requirements are met; providing requirements
155 relating to involuntary assessment and stabilization
156 orders; providing requirements relating to involuntary
157 treatment hearings; requiring that the assessment of a
158 respondent occur before a specified time unless
159 certain requirements are met; requiring the service
160 provider to discharge the respondent after a specified
161 time unless certain requirements are met; requiring a
162 qualified professional to provide copies of his or her
163 report to the court and all relevant parties and
164 counsel; providing requirements for the report;
165 authorizing a court to order certain persons to take a
166 respondent into custody and transport him or her to or
167 from certain service providers and the court; revising
168 the petitioner's burden of proof in the hearing;
169 authorizing the court to initiate involuntary
170 proceedings under certain circumstances; requiring
171 that, if a treatment order is issued, it must include
172 certain findings; amending s. 397.697, F.S.; requiring
173 that an individual meet certain requirements to
174 qualify for involuntary outpatient treatment;

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175 specifying that certain hearings may be set by the
176 motion of a party or under the court's own authority;
177 specifying that a service provider's authority is
178 separate and distinct from the court's jurisdiction;
179 amending s. 397.6971, F.S.; revising when an
180 individual receiving involuntary treatment services
181 may be determined eligible for discharge; conforming
182 provisions to changes made by the act; amending s.
183 397.6975, F.S.; authorizing certain entities to file a
184 petition for renewal of involuntary treatment;
185 revising the timeframe during which the court is
186 required to schedule a hearing; conforming provisions
187 to changes made by the act; amending s. 397.6977,
188 F.S.; conforming provisions to changes made by the
189 act; repealing s. 397.6978, F.S., relating to the
190 appointment of guardian advocates; amending ss.
191 409.972, 464.012, 744.2007, and 790.065, F.S.;

192 conforming cross-references; providing an effective
193 date.

194

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

196

197 Section 1. Present subsections (32) through (39) and (40)
198 through (49) of section 394.455, Florida Statutes, are
199 redesignated as subsections (33) through (40) and (42) through
200 (51), respectively, new subsections (32) and (41) are added to
201 that section, and subsection (23) of that section is amended, to
202 read:

203 394.455 Definitions.—As used in this part, the term:

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204 (23) "Involuntary examination" means an examination
205 performed under s. 394.463, s. 397.6772, s. 397.679, s.
206 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
207 person qualifies for involuntary services.

208 (32) "Neglect or refuse to care for himself or herself"
209 includes, but is not limited to, evidence that a person:

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

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

216 (41) "Real and present threat of substantial harm"
217 includes, but is not limited to, evidence of a substantial
218 probability that the untreated person will:

219 (a) Lack, refuse, or not receive services for health and
220 safety which are actually available in the community; or

221 (b) Suffer severe mental, emotional, or physical harm that
222 will result in the loss of his or her ability to function in the
223 community or the loss of cognitive or volitional control over
224 thoughts or actions.

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

227 394.459 Rights of patients.—

228 (13) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, the
229 facility must inform a respondent with a serious mental illness
230 of the essential elements of recovery and provide assistance
231 with accessing a continuum of care regimen. The department may
232 adopt rules specifying the services that may be provided to such

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233 respondents.

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

236 394.4598 Guardian advocate.—

237 (1) The administrator may petition the court for the
238 appointment of a guardian advocate based upon the opinion of a
239 psychiatrist that the patient is incompetent to consent to
240 treatment. If the court finds that a patient is incompetent to
241 consent to treatment and has not been adjudicated incapacitated
242 and a guardian with the authority to consent to mental health
243 treatment appointed, it shall appoint a guardian advocate. The
244 patient has the right to have an attorney represent him or her
245 at the hearing. If the person is indigent, the court shall
246 appoint the office of the public defender to represent him or
247 her at the hearing. The patient has the right to testify, cross-
248 examine witnesses, and present witnesses. The proceeding shall
249 be recorded either electronically or stenographically, and
250 testimony shall be provided under oath. One of the professionals
251 authorized to give an opinion in support of a petition for
252 involuntary placement, as described in ~~s. 394.4655~~ or s.
253 394.467, must testify. A guardian advocate must meet the
254 qualifications of a guardian contained in part IV of chapter
255 744, except that a professional referred to in this part, an
256 employee of the facility providing direct services to the
257 patient under this part, a departmental employee, a facility
258 administrator, or member of the Florida local advocacy council
259 shall not be appointed. A person who is appointed as a guardian
260 advocate must agree to the appointment.

261 Section 4. Paragraph (d) of subsection (2) of section

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262 394.4599, Florida Statutes, is amended to read:

263 394.4599 Notice.—

264 (2) INVOLUNTARY ADMISSION.—

265 (d) The written notice of the filing of the petition for
266 involuntary services for an individual being held must contain
267 the following:

268 1. Notice that the petition for:

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

272 b. Involuntary outpatient services pursuant to s. 394.4655
273 has been filed with the criminal county court, ~~as defined in s.~~
274 ~~394.4655(1)~~, or the circuit court, as applicable, in the county
275 in which the individual is hospitalized and the address of such
276 court.

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

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

283 4. Notice that the individual, the individual's guardian,
284 guardian advocate, health care surrogate or proxy, or
285 representative, or the administrator may apply for a change of
286 venue for the convenience of the parties or witnesses or because
287 of the condition of the individual.

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

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

293 394.461 Designation of receiving and treatment facilities
294 and receiving systems.—The department is authorized to designate
295 and monitor receiving facilities, treatment facilities, and
296 receiving systems and may suspend or withdraw such designation
297 for failure to comply with this part and rules adopted under
298 this part. Unless designated by the department, facilities are
299 not permitted to hold or treat involuntary patients under this
300 part.

301 (2) TREATMENT FACILITY.—The department may designate any
302 state-owned, state-operated, or state-supported facility as a
303 state treatment facility. A civil patient shall not be admitted
304 to a state treatment facility without previously undergoing a
305 transfer evaluation. Before the close of the state's case in
306 chief in a court hearing for involuntary placement in a state
307 treatment facility, the state may establish that the transfer
308 evaluation was performed and the document properly executed by
309 providing the court with a copy of the transfer evaluation. The
310 court may not shall receive and consider the substantive
311 information documented in the transfer evaluation unless the
312 evaluator testifies at the hearing. Any other facility,
313 including a private facility or a federal facility, may be
314 designated as a treatment facility by the department, provided
315 that such designation is agreed to by the appropriate governing
316 body or authority of the facility.

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

319 394.4615 Clinical records; confidentiality.—

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320 (3) Information from the clinical record may be released in
321 the following circumstances:

322 (a) When a patient has communicated to a service provider a
323 specific threat to cause serious bodily injury or death to an
324 identified or a readily available person, if the service
325 provider reasonably believes, or should reasonably believe
326 according to the standards of his or her profession, that the
327 patient has the apparent intent and ability to imminently or
328 immediately carry out such threat. When such communication has
329 been made, the administrator may authorize the release of
330 sufficient information to provide adequate warning to the person
331 threatened with harm by the patient.

332 (b) When the administrator of the facility or secretary of
333 the department deems release to a qualified researcher as
334 defined in administrative rule, an aftercare treatment provider,
335 or an employee or agent of the department is necessary for
336 treatment of the patient, maintenance of adequate records,
337 compilation of treatment data, aftercare planning, or evaluation
338 of programs.

339

340 For the purpose of determining whether a person meets the
341 criteria for involuntary outpatient placement ~~or for preparing~~
342 ~~the proposed treatment plan~~ pursuant to s. 394.4655, the
343 clinical record may be released to the state attorney, the
344 public defender or the patient's private legal counsel, the
345 court, and to the appropriate mental health professionals,
346 ~~including the service provider identified in s.~~
347 ~~394.4655(7)(b)2.,~~ in accordance with state and federal law.

348 Section 7. Section 394.462, Florida Statutes, is amended to

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349 read:

350 394.462 Transportation.—A transportation plan shall be
351 developed and implemented by each county in collaboration with
352 the managing entity in accordance with this section. A county
353 may enter into a memorandum of understanding with the governing
354 boards of nearby counties to establish a shared transportation
355 plan. When multiple counties enter into a memorandum of
356 understanding for this purpose, the counties shall notify the
357 managing entity and provide it with a copy of the agreement. The
358 transportation plan shall describe methods of transport to a
359 facility within the designated receiving system for individuals
360 subject to involuntary examination under s. 394.463 or
361 involuntary admission under s. 397.6772, s. 397.679, s.
362 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify
363 responsibility for other transportation to a participating
364 facility when necessary and agreed to by the facility. The plan
365 may rely on emergency medical transport services or private
366 transport companies, as appropriate. The plan shall comply with
367 the transportation provisions of this section and ss. 397.6772,
368 397.6795, ~~397.6822~~, and 397.697.

369 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

370 (a) Each county shall designate a single law enforcement
371 agency within the county, or portions thereof, to take a person
372 into custody upon the entry of an ex parte order or the
373 execution of a certificate for involuntary examination by an
374 authorized professional and to transport that person to the
375 appropriate facility within the designated receiving system
376 pursuant to a transportation plan.

377 (b)1. The designated law enforcement agency may decline to

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378 transport the person to a receiving facility only if:

379 a. The jurisdiction designated by the county has contracted
380 on an annual basis with an emergency medical transport service
381 or private transport company for transportation of persons to
382 receiving facilities pursuant to this section at the sole cost
383 of the county; and

384 b. The law enforcement agency and the emergency medical
385 transport service or private transport company agree that the
386 continued presence of law enforcement personnel is not necessary
387 for the safety of the person or others.

388 2. The entity providing transportation may seek
389 reimbursement for transportation expenses. The party responsible
390 for payment for such transportation is the person receiving the
391 transportation. The county shall seek reimbursement from the
392 following sources in the following order:

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

395 b. From the person receiving the transportation.

396 c. From a financial settlement for medical care, treatment,
397 hospitalization, or transportation payable or accruing to the
398 injured party.

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

404 (d) Any company that contracts with a governing board of a
405 county to transport patients shall comply with the applicable
406 rules of the department to ensure the safety and dignity of

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407 patients.

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

412 (f) When a member of a mental health overlay program or a
413 mobile crisis response service is a professional authorized to
414 initiate an involuntary examination pursuant to s. 394.463 or s.
415 397.675 and that professional evaluates a person and determines
416 that transportation to a receiving facility is needed, the
417 service, at its discretion, may transport the person to the
418 facility or may call on the law enforcement agency or other
419 transportation arrangement best suited to the needs of the
420 patient.

421 (g) When any law enforcement officer has custody of a
422 person based on either noncriminal or minor criminal behavior
423 that meets the statutory guidelines for involuntary examination
424 pursuant to s. 394.463, the law enforcement officer shall
425 transport the person to the appropriate facility within the
426 designated receiving system pursuant to a transportation plan.
427 Persons who meet the statutory guidelines for involuntary
428 admission pursuant to s. 397.675 may also be transported by law
429 enforcement officers to the extent resources are available and
430 as otherwise provided by law. Such persons shall be transported
431 to an appropriate facility within the designated receiving
432 system pursuant to a transportation plan.

433 (h) When any law enforcement officer has arrested a person
434 for a felony and it appears that the person meets the statutory
435 guidelines for involuntary examination or placement under this

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436 part, such person must first be processed in the same manner as
437 any other criminal suspect. The law enforcement agency shall
438 thereafter immediately notify the appropriate facility within
439 the designated receiving system pursuant to a transportation
440 plan. The receiving facility shall be responsible for promptly
441 arranging for the examination and treatment of the person. A
442 receiving facility is not required to admit a person charged
443 with a crime for whom the facility determines and documents that
444 it is unable to provide adequate security, but shall provide
445 examination and treatment to the person where he or she is held.

446 (i) If the appropriate law enforcement officer believes
447 that a person has an emergency medical condition as defined in
448 s. 395.002, the person may be first transported to a hospital
449 for emergency medical treatment, regardless of whether the
450 hospital is a designated receiving facility.

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

456 (k) The appropriate facility within the designated
457 receiving system pursuant to a transportation plan must accept
458 persons brought by law enforcement officers, or an emergency
459 medical transport service or a private transport company
460 authorized by the county, for involuntary examination pursuant
461 to s. 394.463.

462 (l) The appropriate facility within the designated
463 receiving system pursuant to a transportation plan must provide
464 persons brought by law enforcement officers, or an emergency

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465 medical transport service or a private transport company
466 authorized by the county, pursuant to s. 397.675, a basic
467 screening or triage sufficient to refer the person to the
468 appropriate services.

469 (m) Each law enforcement agency designated pursuant to
470 paragraph (a) shall establish a policy that reflects a single
471 set of protocols for the safe and secure transportation and
472 transfer of custody of the person. Each law enforcement agency
473 shall provide a copy of the protocols to the managing entity.

474 (n) When a jurisdiction has entered into a contract with an
475 emergency medical transport service or a private transport
476 company for transportation of persons to facilities within the
477 designated receiving system, such service or company shall be
478 given preference for transportation of persons from nursing
479 homes, assisted living facilities, adult day care centers, or
480 adult family-care homes, unless the behavior of the person being
481 transported is such that transportation by a law enforcement
482 officer is necessary.

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

486 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

487 (a) If neither the patient nor any person legally obligated
488 or responsible for the patient is able to pay for the expense of
489 transporting a voluntary or involuntary patient to a treatment
490 facility, the transportation plan established by the governing
491 board of the county or counties must specify how the
492 hospitalized patient will be transported to, from, and between
493 facilities in a safe and dignified manner.

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

500 (c) A company that contracts with one or more counties to
501 transport patients in accordance with this section shall comply
502 with the applicable rules of the department to ensure the safety
503 and dignity of patients.

504 (d) County or municipal law enforcement and correctional
505 personnel and equipment may not be used to transport patients
506 adjudicated incapacitated or found by the court to meet the
507 criteria for involuntary placement pursuant to s. 394.467,
508 except in small rural counties where there are no cost-efficient
509 alternatives.

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

514 Section 8. Subsections (1) and (4) of section 394.4625,
515 Florida Statutes, are amended to read:

516 394.4625 Voluntary admissions.—

517 (1) EXAMINATION AND TREATMENT AUTHORITY TO RECEIVE
518 PATIENTS.—

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

522 1. If the person is an adult, he or she must be competent

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523 to provide his or her express and informed consent in writing to
524 the facility.

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

528 a. The minor's assent is an affirmative agreement by the
529 minor to remain at the facility for examination and treatment.
530 The minor's failure to object is not assent for purposes of this
531 subparagraph.

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

537 c. In verifying the minor's assent, the examining
538 professional must first provide the minor with an explanation as
539 to why the minor will be examined and treated, what the minor
540 can expect while in the facility, and when the minor may expect
541 to be released, using language that is appropriate to the
542 minor's age, experience, maturity, and condition. The examining
543 professional must determine and document that the minor is able
544 to understand this information.

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

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

550 f. The court shall appoint a public defender who may review
551 the voluntariness of the minor's admission to the facility and

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552 further verify his or her assent. The public defender may
553 interview and represent the minor and shall have access to all
554 relevant witnesses and records. If the public defender does not
555 review the voluntariness of the admission, the clinical
556 assessment of the minor's assent shall serve as verification of
557 assent.

558 g. Unless the minor's assent is verified pursuant to this
559 subparagraph, a petition for involuntary placement must be filed
560 with the court or the minor must be released to his or her
561 parent or legal guardian within 24 hours after arriving at the
562 facility ~~A facility may receive for observation, diagnosis, or~~
563 ~~treatment any person 18 years of age or older making application~~
564 ~~by express and informed consent for admission or any person age~~
565 ~~17 or under for whom such application is made by his or her~~
566 ~~guardian. If found to show evidence of mental illness, to be~~
567 ~~competent to provide express and informed consent, and to be~~
568 ~~suitable for treatment, such person 18 years of age or older may~~
569 ~~be admitted to the facility. A person age 17 or under may be~~
570 ~~admitted only after a hearing to verify the voluntariness of the~~
571 ~~consent.~~

572 (b) A mental health overlay program or a mobile crisis
573 response service or a licensed professional who is authorized to
574 initiate an involuntary examination pursuant to s. 394.463 and
575 is employed by a community mental health center or clinic must,
576 pursuant to district procedure approved by the respective
577 district administrator, conduct an initial assessment of the
578 ability of the following persons to give express and informed
579 consent to treatment before such persons may be admitted
580 voluntarily:

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

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

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

590 (c) When an initial assessment of the ability of a person
591 to give express and informed consent to treatment is required
592 under this section, and a mobile crisis response service does
593 not respond to the request for an assessment within 2 hours
594 after the request is made or informs the requesting facility
595 that it will not be able to respond within 2 hours after the
596 request is made, the requesting facility may arrange for
597 assessment by any licensed professional authorized to initiate
598 an involuntary examination pursuant to s. 394.463 who is not
599 employed by or under contract with, and does not have a
600 financial interest in, either the facility initiating the
601 transfer or the receiving facility to which the transfer may be
602 made.

603 (d) A facility may not admit as a voluntary patient a
604 person who has been adjudicated incapacitated, unless the
605 condition of incapacity has been judicially removed. If a
606 facility admits as a voluntary patient a person who is later
607 determined to have been adjudicated incapacitated, and the
608 condition of incapacity had not been removed by the time of the
609 admission, the facility must either discharge the patient or

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610 transfer the patient to involuntary status.

611 (e) The health care surrogate or proxy of a voluntary
612 patient may not consent to the provision of mental health
613 treatment for the patient. A voluntary patient who is unwilling
614 or unable to provide express and informed consent to mental
615 health treatment must either be discharged or transferred to
616 involuntary status.

617 (f) Within 24 hours after admission of a voluntary patient,
618 the admitting physician shall document in the patient's clinical
619 record that the patient is able to give express and informed
620 consent for admission. If the patient is not able to give
621 express and informed consent for admission, the facility shall
622 either discharge the patient or transfer the patient to
623 involuntary status pursuant to subsection (5).

624 (4) TRANSFER TO VOLUNTARY STATUS.—An involuntary patient
625 who applies to be transferred to voluntary status shall be
626 transferred to voluntary status immediately, unless the patient
627 has been charged with a crime, or has been involuntarily placed
628 for treatment by a court pursuant to s. 394.467 and continues to
629 meet the criteria for involuntary placement. When transfer to
630 voluntary status occurs, notice shall be given as provided in s.
631 394.4599, and if the patient is a minor, the minor's assent to
632 voluntary care must be verified through the procedures under
633 subparagraph (1)(a)2. before the transfer to voluntary status
634 may occur.

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

638 394.463 Involuntary examination.—

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

643 (a)1. The person has refused voluntary examination after
644 conscientious explanation and disclosure of the purpose of the
645 examination; or

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

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

655 2. There is a substantial likelihood that in the near
656 future and without care or treatment, the person will inflict
657 serious ~~cause serious bodily~~ harm to self ~~himself or herself~~ or
658 others ~~in the near future~~, as evidenced by recent acts,
659 omissions, or behavior causing, attempting, or threatening such
660 harm, which includes, but is not limited to, significant
661 property damage.

662 (2) INVOLUNTARY EXAMINATION.—

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

665 1. A circuit or county court may enter an ex parte order
666 stating that a person appears to meet the criteria for
667 involuntary examination and specifying the findings on which

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668 that conclusion is based. The ex parte order for involuntary
669 examination must be based on written or oral sworn testimony
670 that includes specific facts that support the findings. If other
671 less restrictive means are not available, such as voluntary
672 appearance for outpatient evaluation, a law enforcement officer,
673 or other designated agent of the court, shall take the person
674 into custody and deliver him or her to an appropriate, or the
675 nearest, facility within the designated receiving system
676 pursuant to s. 394.462 for involuntary examination. The order of
677 the court shall be made a part of the patient's clinical record.
678 A fee may not be charged for the filing of an order under this
679 subsection. A facility accepting the patient based on this order
680 must send a copy of the order to the department within 5 working
681 days. The order may be submitted electronically through existing
682 data systems, if available. The order shall be valid only until
683 the person is delivered to the facility or for the period
684 specified in the order itself, whichever comes first. If a time
685 limit is not specified in the order, the order is valid for 7
686 days after the date that the order was signed.

687 2. A law enforcement officer may ~~shall~~ take a person who
688 appears to meet the criteria for involuntary examination into
689 custody and deliver the person or have him or her delivered to
690 an appropriate, or the nearest, facility within the designated
691 receiving system pursuant to s. 394.462 for examination. The
692 officer shall execute a written report detailing the
693 circumstances under which the person was taken into custody,
694 which must be made a part of the patient's clinical record. Any
695 facility accepting the patient based on this report must send a
696 copy of the report to the department within 5 working days.

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697 3. A physician, a clinical psychologist, a psychiatric
698 nurse, an advanced practice registered nurse registered under s.
699 464.0123, a mental health counselor, a marriage and family
700 therapist, or a clinical social worker may execute a certificate
701 stating that he or she has examined a person within the
702 preceding 48 hours and finds that the person appears to meet the
703 criteria for involuntary examination and stating the
704 observations upon which that conclusion is based. If other less
705 restrictive means, such as voluntary appearance for outpatient
706 evaluation, are not available, a law enforcement officer shall
707 take into custody the person named in the certificate and
708 deliver him or her to the appropriate, or nearest, facility
709 within the designated receiving system pursuant to s. 394.462
710 for involuntary examination. The law enforcement officer shall
711 execute a written report detailing the circumstances under which
712 the person was taken into custody. The report and certificate
713 shall be made a part of the patient's clinical record. Any
714 facility accepting the patient based on this certificate must
715 send a copy of the certificate to the department within 5
716 working days. The document may be submitted electronically
717 through existing data systems, if applicable.

718
719 When sending the order, report, or certificate to the
720 department, a facility shall, at a minimum, provide information
721 about which action was taken regarding the patient under
722 paragraph (g), which information shall also be made a part of
723 the patient's clinical record.

724 (g) The examination period must be for up to 72 hours. For
725 a minor, the examination shall be initiated within 12 hours

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726 after the patient's arrival at the facility. The facility must
727 inform the department of any person who has been examined or
728 committed three or more times under this chapter within a 12-
729 month period. Within the examination period or, if the
730 examination period ends on a weekend or holiday, no later than
731 the next working day thereafter, one of the following actions
732 must be taken, based on the individual needs of the patient:

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

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

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

742 4. A petition for involuntary services shall be filed in
743 the circuit court ~~if inpatient treatment is deemed necessary~~ or
744 with the criminal county court, as described in s. 394.4655
745 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient
746 treatment is deemed necessary, the least restrictive treatment
747 consistent with the optimum improvement of the patient's
748 condition shall be made available. The petition ~~When a petition~~
749 ~~is to be filed for involuntary outpatient placement, it shall be~~
750 ~~filed by one of the petitioners specified in s. 394.4655(4)(a).~~
751 ~~A petition for involuntary inpatient placement shall be filed by~~
752 the facility administrator.

753 (h) A person for whom an involuntary examination has been
754 initiated who is being evaluated or treated at a hospital for an

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755 emergency medical condition specified in s. 395.002 must be
756 examined by a facility within the examination period specified
757 in paragraph (g). The examination period begins when the patient
758 arrives at the hospital and ceases when the attending physician
759 documents that the patient has an emergency medical condition.
760 If the patient is examined at a hospital providing emergency
761 medical services by a professional qualified to perform an
762 involuntary examination and is found as a result of that
763 examination not to meet the criteria for involuntary outpatient
764 services pursuant to s. 394.4655 ~~s. 394.4655(2)~~ or involuntary
765 inpatient placement pursuant to s. 394.467(1), the patient may
766 be offered voluntary services or placement, if appropriate, or
767 released directly from the hospital providing emergency medical
768 services. The finding by the professional that the patient has
769 been examined and does not meet the criteria for involuntary
770 inpatient services or involuntary outpatient placement must be
771 entered into the patient's clinical record. This paragraph is
772 not intended to prevent a hospital providing emergency medical
773 services from appropriately transferring a patient to another
774 hospital before stabilization if the requirements of s.
775 395.1041(3) (c) have been met.

776 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND
777 TREATMENT; PENALTIES.-

778 (a) Knowingly furnishing false information for the purpose
779 of obtaining emergency or other involuntary admission for any
780 person is a misdemeanor of the first degree, punishable as
781 provided in s. 775.082 and by a fine not exceeding \$5,000.

782 (b) Causing or otherwise securing, or conspiring with or
783 assisting another to cause or secure, without reason for

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784 believing a person to be impaired, any emergency or other
785 involuntary procedure for the person is a misdemeanor of the
786 first degree, punishable as provided in s. 775.082 and by a fine
787 not exceeding \$5,000.

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

792 Section 10. Section 394.4655, Florida Statutes, is amended
793 to read:

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

796 394.4655 Involuntary outpatient services.-

797 (1) (a) The court may order a respondent into outpatient
798 treatment for up to 6 months if, during a hearing under s.
799 394.467, it is established that the respondent meets involuntary
800 placement criteria and:

801 1. Has been jailed or incarcerated, has been involuntarily
802 admitted to a receiving or treatment facility as defined in s.
803 394.455, or has received mental health services in a forensic or
804 correctional facility at least twice during the last 36 months;

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

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

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

811 b. Can follow a prescribed treatment plan.

812 (b) For the duration of his or her treatment, the

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813 respondent must be supported by a social worker or case manager
814 of the outpatient provider, or a willing, able, and responsible
815 individual appointed by the court who must inform the court,
816 state attorney, and public defender of any failure by the
817 respondent to comply with his or her outpatient program.

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

825 (3) A criminal county court exercising its original
826 jurisdiction in a misdemeanor case under s. 34.01 may order a
827 person who meets the commitment criteria into involuntary
828 outpatient services.

829 Section 11. Subsections (1) and (5), paragraphs (a), (b),
830 and (c) of subsection (6), and paragraph (d) of subsection (7)
831 of section 394.467, Florida Statutes, are amended to read:

832 394.467 Involuntary inpatient placement.—

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

836 (a) He or she has a mental illness and because of his or
837 her mental illness:

838 1.a. He or she has refused voluntary inpatient placement
839 for treatment after sufficient and conscientious explanation and
840 disclosure of the purpose of inpatient placement for treatment;
841 or

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

844 2.a. He or she is incapable of surviving alone or with the
845 help of willing, able, and responsible family or friends,
846 including available alternative services, and, without
847 treatment, is likely to suffer from neglect or refuse to care
848 for himself or herself, and such neglect or refusal poses a real
849 and present threat of substantial harm to his or her well-being;
850 or

851 b. There is substantial likelihood that in the near future
852 and without services he or she will inflict serious ~~bodily~~ harm
853 to ~~en~~ self or others, as evidenced by recent acts, omissions, or
854 behavior causing, attempting, or threatening such harm, which
855 includes, but is not limited to, significant property damage;
856 and

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

860 (5) CONTINUANCE OF HEARING.—The patient and the state are
861 independently entitled ~~is entitled, with the concurrence of the~~
862 ~~patient's counsel,~~ to at least one continuance of the hearing.
863 The patient's continuance may be for a period of ~~for~~ up to 4
864 weeks and requires the concurrence of his or her counsel. The
865 state's continuance may be for a period of up to 5 court working
866 days and requires a showing of good cause and due diligence by
867 the state before requesting the continuance. The state's failure
868 to timely review any readily available document or failure to
869 attempt to contact a known witness does not warrant a
870 continuance.

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871 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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

875 2. Except for good cause documented in the court file, the
876 hearing must be held in the county or the facility, as
877 appropriate, where the patient is located, must be as convenient
878 to the patient as is consistent with orderly procedure, and
879 shall be conducted in physical settings not likely to be
880 injurious to the patient's condition. If the court finds that
881 the patient's attendance at the hearing is not consistent with
882 the best interests of, or is likely to be injurious to, the
883 patient, or the patient knowingly, intelligently, and
884 voluntarily waives his or her right to be present, and the
885 patient's counsel does not object, the court may waive the
886 presence of the patient from all or any portion of the hearing.
887 Absent a showing of good cause, such as specific symptoms of the
888 respondent's condition, the court may permit all witnesses,
889 including, but not limited to, any medical professionals or
890 personnel who are or have been involved with the patient's
891 treatment, to remotely attend and testify at the hearing under
892 oath via the most appropriate and convenient technological
893 method of communication available to the court, including, but
894 not limited to, teleconference. Any witness intending to
895 remotely attend and testify at the hearing must provide the
896 parties with all relevant documents by the close of business on
897 the day before the hearing. The state attorney for the circuit
898 in which the patient is located shall represent the state,
899 rather than the petitioning facility administrator, as the real

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900 party in interest in the proceeding. The facility shall make the
901 respondent's clinical records available to the state attorney
902 within 24 hours of the involuntary placement petition's filing
903 so that the state can evaluate and prepare its case before the
904 hearing. However, these records shall remain confidential, and
905 the state attorney may not use any record obtained under this
906 part for criminal investigation or prosecution purposes, or for
907 any purpose other than the patient's civil commitment under this
908 chapter.

909 3. The court may appoint a magistrate to preside at the
910 hearing on the petition and any ancillary proceedings thereto,
911 which include, but are not limited to, writs of habeas corpus
912 issued pursuant to s. 394.459(8). One of the professionals who
913 executed the petition for involuntary inpatient placement
914 certificate shall be a witness. The court shall allow testimony
915 deemed relevant by the court under state law from individuals,
916 including family members, regarding the person's prior history
917 and how that history relates to the person's current condition.
918 The patient and the patient's guardian or representative shall
919 be informed by the court of the right to an independent expert
920 examination. If the patient cannot afford such an examination,
921 the court shall ensure that one is provided, as otherwise
922 provided for by law. The independent expert's report is
923 confidential and not discoverable, unless the expert is to be
924 called as a witness for the patient at the hearing. The
925 testimony in the hearing must be given under oath, and the
926 proceedings must be recorded. The patient may refuse to testify
927 at the hearing.

928 (b) If the court concludes that the patient meets the

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929 criteria for involuntary inpatient placement, it may order that
930 the patient be transferred to a treatment facility or, if the
931 patient is at a treatment facility, that the patient be retained
932 there or be treated at any other appropriate facility, or that
933 the patient receive services, on an involuntary basis, for up to
934 ~~90 days. However, any order for involuntary mental health~~
935 ~~services in a treatment facility may be for up to 6 months.~~ The
936 order shall specify the nature and extent of the patient's
937 mental illness, and, unless the patient has transferred to a
938 voluntary status, the facility must discharge the patient at any
939 time he or she no longer meets the criteria for involuntary
940 inpatient treatment. The court may not order an individual with
941 a developmental disability as defined in s. 393.063, traumatic
942 brain injury, or dementia who lacks a co-occurring mental
943 illness to be involuntarily placed in a state treatment
944 facility. These individuals must be referred to the Agency for
945 Persons with Disabilities or the Department of Elderly Affairs
946 for further evaluation and the provision of appropriate services
947 for their individual needs. In addition, if it reasonably
948 appears that the individual with developmental disabilities,
949 traumatic brain injury, or dementia would be found incapacitated
950 under chapter 744 and the individual does not already have a
951 legal guardian, the facility must inform the department and any
952 known next of kin and initiate guardianship proceedings.
953 Provided that the facility is attempting to locate appropriate
954 placement while the guardianship hearing is pending, the
955 facility may hold the individual until the petition to appoint a
956 guardian is adjudicated by the court and placement is secured.
957 ~~The facility shall discharge a patient any time the patient no~~

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958 ~~longer meets the criteria for involuntary inpatient placement,~~
959 ~~unless the patient has transferred to voluntary status.~~

960 (c) If at any time before the conclusion of the involuntary
961 placement hearing ~~on involuntary inpatient placement~~ it appears
962 to the court that the person does not meet the criteria of ~~for~~
963 ~~involuntary inpatient placement under~~ this section, but instead
964 meets the criteria for involuntary ~~outpatient services,~~ the
965 court ~~may order the person evaluated for involuntary outpatient~~
966 ~~services pursuant to s. 394.4655. The petition and hearing~~
967 ~~procedures set forth in s. 394.4655 shall apply. If the person~~
968 ~~instead meets the criteria for involuntary assessment,~~
969 ~~protective custody, or involuntary admission~~ or treatment
970 pursuant to s. 397.675, ~~then~~ the court may order the person to
971 be admitted for involuntary assessment ~~for a period of 5 days~~
972 pursuant to s. 397.6957 ~~s. 397.6811~~. Thereafter, all proceedings
973 are governed by chapter 397.

974 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
975 PLACEMENT.—

976 (d) If at a hearing it is shown that the patient continues
977 to meet the criteria for involuntary inpatient placement, the
978 administrative law judge shall sign the order for continued
979 involuntary inpatient placement for up to ~~90 days. However, any~~
980 ~~order for involuntary mental health services in a treatment~~
981 ~~facility may be for up to~~ 6 months. The same procedure shall be
982 repeated before the expiration of each additional period the
983 patient is retained.

984
985 The procedure required in this subsection must be followed
986 before the expiration of each additional period the patient is

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987 involuntarily receiving services.

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

990 394.495 Child and adolescent mental health system of care;
991 programs and services.—

992 (3) Assessments must be performed by:

993 (a) A clinical psychologist, clinical social worker,
994 physician, psychiatric nurse, or psychiatrist as those terms are
995 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
996 ~~(7), (33), (36), or (37);~~

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

998 (c) A person who is under the direct supervision of a
999 clinical psychologist, clinical social worker, physician,
1000 psychiatric nurse, or psychiatrist as those terms are defined in
1001 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~
1002 ~~(7), (33), (36), or (37)~~ or a professional licensed under
1003 chapter 491.

1004 Section 13. Subsection (5) of section 394.496, Florida
1005 Statutes, is amended to read:

1006 394.496 Service planning.—

1007 (5) A clinical psychologist, clinical social worker,
1008 physician, psychiatric nurse, or psychiatrist as those terms are
1009 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
1010 ~~(7), (33), (36), or (37)~~ or a professional licensed under
1011 chapter 491 must be included among those persons developing the
1012 services plan.

1013 Section 14. Paragraph (a) of subsection (2) of section
1014 394.499, Florida Statutes, is amended to read:

1015 394.499 Integrated children's crisis stabilization

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1016 unit/juvenile addictions receiving facility services.-

1017 (2) Children eligible to receive integrated children's
1018 crisis stabilization unit/juvenile addictions receiving facility
1019 services include:

1020 (a) A person under 18 years of age for whom voluntary
1021 application is made by his or her parent or legal guardian, if
1022 such person is found to show evidence of mental illness and to
1023 be suitable for treatment pursuant to s. 394.4625. A person
1024 under 18 years of age may be admitted for integrated facility
1025 services only after a hearing to verify that the consent to
1026 admission is voluntary is conducted pursuant to s. 394.4625.

1027 Section 15. Subsection (6) of section 394.9085, Florida
1028 Statutes, is amended to read:

1029 394.9085 Behavioral provider liability.-

1030 (6) For purposes of this section, the terms "detoxification
1031 services," "addictions receiving facility," and "receiving
1032 facility" have the same meanings as those provided in ss.
1033 397.311(26)(a)4. ~~397.311(26)(a)3.~~, 397.311(26)(a)1., and 394.455
1034 ~~394.455(40)~~, respectively.

1035 Section 16. Subsection (3) of section 397.305, Florida
1036 Statutes, is amended to read:

1037 397.305 Legislative findings, intent, and purpose.-

1038 (3) It is the purpose of this chapter to provide for a
1039 comprehensive continuum of accessible and quality substance
1040 abuse prevention, intervention, clinical treatment, and recovery
1041 support services in the most appropriate and least restrictive
1042 environment which promotes long-term recovery while protecting
1043 and respecting the rights of individuals, primarily through
1044 community-based private not-for-profit providers working with

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1045 local governmental programs involving a wide range of agencies
1046 from both the public and private sectors.

1047 Section 17. Present subsections (29) through (36) and (37)
1048 through (50) of section 397.311, Florida Statutes, are
1049 redesignated as subsections (30) through (37) and (39) through
1050 (52), respectively, new subsections (29) and (38) are added to
1051 that section, and subsections (19) and (23) of that section are
1052 amended, to read:

1053 397.311 Definitions.—As used in this chapter, except part
1054 VIII, the term:

1055 (19) "Impaired" or "substance abuse impaired" means having
1056 a substance use disorder or a condition involving the use of
1057 alcoholic beverages, illicit or prescription drugs, or any
1058 psychoactive or mood-altering substance in such a manner as to
1059 induce mental, emotional, or physical problems or ~~and~~ cause
1060 socially dysfunctional behavior.

1061 (23) "Involuntary treatment services" means an array of
1062 behavioral health services that may be ordered by the court for
1063 persons with substance abuse impairment or co-occurring
1064 substance abuse impairment and mental health disorders.

1065 (29) "Neglect or refuse to care for himself or herself"
1066 includes, but is not limited to, evidence that a person:

1067 (a) Is unable to satisfy basic needs for nourishment,
1068 clothing, medical care, shelter, or safety, in a manner that
1069 creates a substantial probability of imminent death, serious
1070 physical debilitation, or disease; or

1071 (b) Is substantially unable to make an informed treatment
1072 choice and needs care or treatment to prevent deterioration.

1073 (38) "Real and present threat of substantial harm"

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1074 includes, but is not limited to, evidence of a substantial
1075 probability that the untreated person will:

1076 (a) Lack, refuse, or not receive services for health and
1077 safety which are actually available in the community; or

1078 (b) Suffer severe mental, emotional, or physical harm that
1079 will result in the loss of his or her ability to function in the
1080 community or the loss of cognitive or volitional control over
1081 thoughts or actions.

1082 Section 18. Section 397.416, Florida Statutes, is amended
1083 to read:

1084 397.416 Substance abuse treatment services; qualified
1085 professional.—Notwithstanding any other provision of law, a
1086 person who was certified through a certification process
1087 recognized by the former Department of Health and Rehabilitative
1088 Services before January 1, 1995, may perform the duties of a
1089 qualified professional with respect to substance abuse treatment
1090 services as defined in this chapter, and need not meet the
1091 certification requirements contained in s. 397.311(36) ~~s.~~
1092 ~~397.311(35)~~.

1093 Section 19. Subsection (11) is added to section 397.501,
1094 Florida Statutes, to read:

1095 397.501 Rights of individuals.—Individuals receiving
1096 substance abuse services from any service provider are
1097 guaranteed protection of the rights specified in this section,
1098 unless otherwise expressly provided, and service providers must
1099 ensure the protection of such rights.

1100 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, the
1101 facility must inform a respondent with a serious substance use
1102 disorder of the essential elements of recovery and provide

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1103 assistance with accessing a continuum of care regimen. The
1104 department may adopt rules specifying the services that may be
1105 provided to such respondents.

1106 Section 20. Section 397.675, Florida Statutes, is amended
1107 to read:

1108 397.675 Criteria for involuntary admissions, including
1109 protective custody, emergency admission, and other involuntary
1110 assessment, involuntary treatment, and alternative involuntary
1111 assessment for minors, for purposes of assessment and
1112 stabilization, and for involuntary treatment.—A person meets the
1113 criteria for involuntary admission if there is good faith reason
1114 to believe that the person is substance abuse impaired or has a
1115 substance use disorder and a co-occurring mental health disorder
1116 and, because of such impairment or disorder:

1117 (1) Has lost the power of self-control with respect to
1118 substance abuse, or has a history of noncompliance with
1119 substance abuse treatment with continued substance use; and

1120 (2) ~~(a)~~ Is in need of substance abuse services and, by
1121 reason of substance abuse impairment, his or her judgment has
1122 been so impaired that he or she is refusing voluntary care after
1123 a sufficient and conscientious explanation and disclosure of the
1124 purpose for such services, or is incapable of appreciating his
1125 or her need for such services and of making a rational decision
1126 in that regard, although mere refusal to receive such services
1127 does not constitute evidence of lack of judgment with respect to
1128 his or her need for such services; and ~~or~~

1129 (3) (a) ~~(b)~~ Without care or treatment, is likely to suffer
1130 from neglect or refuse to care for himself or herself; that such
1131 neglect or refusal poses a real and present threat of

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1132 substantial harm to his or her well-being; and that it is not
1133 apparent that such harm may be avoided through the help of
1134 willing, able, and responsible family members or friends or the
1135 provision of other services;~~;~~ or

1136 (b) There is substantial likelihood that in the near future
1137 and without services, the person will inflict serious harm to
1138 self or others, as evidenced by recent acts, omissions, or
1139 behavior causing, attempting, or threatening such harm, which
1140 includes, but is not limited to, significant property damage has
1141 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
1142 ~~admitted, is likely to inflict, physical harm on himself,~~
1143 ~~herself, or another.~~

1144 Section 21. Subsection (1) of section 397.6751, Florida
1145 Statutes, is amended to read:

1146 397.6751 Service provider responsibilities regarding
1147 involuntary admissions.—

1148 (1) It is the responsibility of the service provider to:

1149 (a) Ensure that a person who is admitted to a licensed
1150 service component meets the admission criteria specified in s.
1151 397.675;

1152 (b) Ascertain whether the medical and behavioral conditions
1153 of the person, as presented, are beyond the safe management
1154 capabilities of the service provider;

1155 (c) Provide for the admission of the person to the service
1156 component that represents the most appropriate and least
1157 restrictive available setting that is responsive to the person's
1158 treatment needs;

1159 (d) Verify that the admission of the person to the service
1160 component does not result in a census in excess of its licensed

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1161 service capacity;

1162 (e) Determine whether the cost of services is within the
1163 financial means of the person or those who are financially
1164 responsible for the person's care; and

1165 (f) Take all necessary measures to ensure that each
1166 individual in treatment is provided with a safe environment, and
1167 to ensure that each individual whose medical condition or
1168 behavioral problem becomes such that he or she cannot be safely
1169 managed by the service component is discharged and referred to a
1170 more appropriate setting for care.

1171 Section 22. Section 397.681, Florida Statutes, is amended
1172 to read:

1173 397.681 Involuntary petitions; general provisions; court
1174 jurisdiction and right to counsel.—

1175 (1) JURISDICTION.—The courts have jurisdiction of
1176 ~~involuntary assessment and stabilization petitions and~~
1177 involuntary treatment petitions for substance abuse impaired
1178 persons, and such petitions must be filed with the clerk of the
1179 court in the county where the person is located or resides. The
1180 clerk of the court may not charge a fee for the filing of a
1181 petition under this section. The chief judge may appoint a
1182 general or special magistrate to preside over all or part of the
1183 proceedings related to the petition or any ancillary matters
1184 thereto, which include, but are not limited to, writs of habeas
1185 corpus issued pursuant to s. 397.501(9). The alleged impaired
1186 person is named as the respondent.

1187 (2) RIGHT TO COUNSEL.—A respondent has the right to counsel
1188 at every stage of a proceeding relating to a petition for his or
1189 her ~~involuntary assessment and a petition for his or her~~

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1190 involuntary treatment for substance abuse impairment. A
1191 respondent who desires counsel and is unable to afford private
1192 counsel has the right to court-appointed counsel and to the
1193 benefits of s. 57.081. If the court believes that the respondent
1194 needs the assistance of counsel, the court shall appoint such
1195 counsel for the respondent without regard to the respondent's
1196 wishes. If the respondent is a minor not otherwise represented
1197 in the proceeding, the court shall immediately appoint a
1198 guardian ad litem to act on the minor's behalf.

1199 (3) STATE REPRESENTATIVE.—Subject to legislative
1200 appropriation, for all court-involved involuntary proceedings
1201 under this chapter in which the petitioner has not retained
1202 private counsel, the state attorney for the circuit in which the
1203 respondent is located shall represent the state rather than the
1204 petitioner as the real party of interest in the proceeding, but
1205 the petitioner has the right to be heard. Furthermore, the state
1206 attorney may not use any record obtained under this part for
1207 criminal investigation or prosecution purposes, or for any
1208 purpose other than the respondent's civil commitment under this
1209 chapter. Any record obtained under this subsection must remain
1210 confidential.

1211 Section 23. Section 397.6811, Florida Statutes, is
1212 repealed.

1213 Section 24. Section 397.6814, Florida Statutes, is
1214 repealed.

1215 Section 25. Section 397.6815, Florida Statutes, is
1216 repealed.

1217 Section 26. Section 397.6818, Florida Statutes, is
1218 repealed.

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1219 Section 27. Section 397.6819, Florida Statutes, is
 1220 repealed.

1221 Section 28. Section 397.6821, Florida Statutes, is
 1222 repealed.

1223 Section 29. Section 397.6822, Florida Statutes, is
 1224 repealed.

1225 Section 30. Section 397.693, Florida Statutes, is amended
 1226 to read:

1227 397.693 Involuntary treatment.—A person may be the subject
 1228 of a petition for court-ordered involuntary treatment pursuant
 1229 to this part, if that person:

1230 (1) Reasonably appears to meet ~~meets~~ the criteria for
 1231 involuntary admission provided in s. 397.675; ~~and:~~

1232 (2) ~~(1)~~ Has been placed under protective custody pursuant to
 1233 s. 397.677 within the previous 10 days;

1234 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
 1235 to s. 397.679 within the previous 10 days; or

1236 (4) ~~(3)~~ Has been assessed by a qualified professional within
 1237 30 ~~5~~ days;

1238 ~~(4) Has been subject to involuntary assessment and~~
 1239 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
 1240 ~~days; or~~

1241 ~~(5) Has been subject to alternative involuntary admission~~
 1242 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1243 Section 31. Section 397.695, Florida Statutes, is amended
 1244 to read:

1245 397.695 Involuntary treatment services; persons who may
 1246 petition.—

1247 (1) If the respondent is an adult, a petition for

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1248 involuntary treatment services may be filed by the respondent's
1249 spouse or legal guardian, any relative, a service provider, or
1250 an adult who has direct personal knowledge of the respondent's
1251 substance abuse impairment and his or her prior course of
1252 assessment and treatment.

1253 (2) If the respondent is a minor, a petition for
1254 involuntary treatment may be filed by a parent, legal guardian,
1255 or service provider.

1256 (3) The court or the clerk of the court may waive or
1257 prohibit any service of process fees if a petitioner is
1258 determined to be indigent under s. 57.082.

1259 Section 32. Section 397.6951, Florida Statutes, is amended
1260 to read:

1261 397.6951 Contents of petition for involuntary treatment
1262 services.-

1263 (1) A petition for involuntary treatment services must
1264 contain the name of the respondent; the name of the petitioner
1265 ~~or petitioners~~; the relationship between the respondent and the
1266 petitioner; the name of the respondent's attorney, if known; ~~the~~
1267 ~~findings and recommendations of the assessment performed by the~~
1268 ~~qualified professional~~; and the factual allegations presented by
1269 the petitioner establishing the need for involuntary ~~outpatient~~
1270 services for substance abuse impairment. The factual allegations
1271 must demonstrate the reason for the petitioner's belief that the
1272 respondent:

1273 ~~(1) The reason for the petitioner's belief that the~~
1274 ~~respondent is substance abuse impaired;~~

1275 (a)(2) ~~The reason for the petitioner's belief that because~~
1276 ~~of such impairment the respondent~~ Has lost the power of self-

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1277 control with respect to substance abuse, or has a history of
1278 noncompliance with substance abuse treatment with continued
1279 substance use; and

1280 (b) Needs substance abuse services, but his or her judgment
1281 is so impaired by substance abuse that he or she either is
1282 refusing voluntary care after a sufficient and conscientious
1283 explanation and disclosure of the purpose of such services, or
1284 is incapable of appreciating his or her need for such services
1285 and of making a rational decision in that regard; and

1286 (c)1. Without services, is likely to suffer from neglect or
1287 refuse to care for himself or herself; that the neglect or
1288 refusal poses a real and present threat of substantial harm to
1289 his or her well-being; and that it is not apparent that the harm
1290 may be avoided through the help of willing, able, and
1291 responsible family members or friends or the provision of other
1292 services; or

1293 2. There is a substantial likelihood that in the near
1294 future and without services, the respondent will inflict serious
1295 harm to self or others, as evidenced by recent acts, omissions,
1296 or behavior causing, attempting, or threatening such harm, which
1297 includes, but is not limited to, significant property damage

1298 ~~(3) (a) The reason the petitioner believes that the~~
1299 ~~respondent has inflicted or is likely to inflict physical harm~~
1300 ~~on himself or herself or others unless the court orders the~~
1301 ~~involuntary services; or~~

1302 ~~(b) The reason the petitioner believes that the~~
1303 ~~respondent's refusal to voluntarily receive care is based on~~
1304 ~~judgment so impaired by reason of substance abuse that the~~
1305 ~~respondent is incapable of appreciating his or her need for care~~

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1306 ~~and of making a rational decision regarding that need for care.~~

1307 (2) The petition may be accompanied by a certificate or
1308 report of a qualified professional or a licensed physician who
1309 examined the respondent within 30 days before the petition was
1310 filed. This certificate or report must include the qualified
1311 professional or physician's findings relating to his or her
1312 assessment of the patient and his or her treatment
1313 recommendations. If the respondent was not assessed before the
1314 filing of a treatment petition or refused to submit to an
1315 evaluation, the lack of assessment or refusal must be noted in
1316 the petition.

1317 (3) If there is an emergency, the petition must also
1318 describe the respondent's exigent circumstances and include a
1319 request for an ex parte assessment and stabilization order that
1320 must be executed pursuant to s. 397.6955(4).

1321 Section 33. Section 397.6955, Florida Statutes, is amended
1322 to read:

1323 397.6955 Duties of court upon filing of petition for
1324 involuntary treatment services.-

1325 (1) Upon the filing of a petition for involuntary treatment
1326 services for a substance abuse impaired person with the clerk of
1327 the court which does not indicate that the petitioner has
1328 retained private counsel, the clerk must notify the state
1329 attorney's office. In addition, the court shall immediately
1330 determine whether the respondent is represented by an attorney
1331 or whether the appointment of counsel for the respondent is
1332 appropriate. If, based on the contents of the petition, the
1333 court appoints counsel for the person, the clerk of the court
1334 shall immediately notify the office of criminal conflict and

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1335 civil regional counsel, created pursuant to s. 27.511, of the
1336 appointment. The office of criminal conflict and civil regional
1337 counsel shall represent the person until the petition is
1338 dismissed, the court order expires, ~~or~~ the person is discharged
1339 from involuntary treatment services, or the office is otherwise
1340 discharged by the court. An attorney that represents the person
1341 named in the petition shall have access to the person,
1342 witnesses, and records relevant to the presentation of the
1343 person's case and shall represent the interests of the person,
1344 regardless of the source of payment to the attorney.

1345 (2) The court shall schedule a hearing to be held on the
1346 petition within 10 court working ~~5~~ days unless a continuance is
1347 granted. ~~The court may appoint a magistrate to preside at the~~
1348 ~~hearing.~~

1349 (3) A copy of the petition and notice of the hearing must
1350 be provided to the respondent; the respondent's parent,
1351 guardian, or legal custodian, in the case of a minor; the
1352 respondent's attorney, if known; the petitioner; the
1353 respondent's spouse or guardian, if applicable; and such other
1354 persons as the court may direct. If the respondent is a minor, a
1355 copy of the petition and notice of the hearing must be
1356 personally delivered to the respondent. The clerk ~~court~~ shall
1357 also issue a summons to the person whose admission is sought,
1358 and unless a circuit court's chief judge authorizes
1359 disinterested private process servers to serve parties under
1360 this chapter, a law enforcement agency must effect service for
1361 the initial treatment hearing.

1362 (4) (a) When the petitioner asserts that emergency
1363 circumstances exist, or when upon review of the petition the

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1364 court determines that an emergency exists, the court may rely
1365 solely on the contents of the petition and, without the
1366 appointment of an attorney, enter an ex parte order for the
1367 respondent's involuntary assessment and stabilization which must
1368 be executed during the period when the hearing on the petition
1369 for treatment is pending. The court may further order a law
1370 enforcement officer or other designated agent of the court to:

1371 1. Take the respondent into custody and deliver him or her
1372 to either the nearest appropriate licensed service provider or a
1373 licensed service provider designated by the court to be
1374 evaluated; and

1375 2. Serve the respondent with the notice of hearing and a
1376 copy of the petition.

1377 (b) The service provider must promptly inform the court and
1378 parties of the respondent's arrival and may not hold the
1379 respondent for longer than 72 hours of observation thereafter,
1380 unless:

1381 1. The service provider seeks additional time under s.
1382 397.6957(1)(c) and the court, after a hearing, grants that
1383 motion;

1384 2. The respondent shows signs of withdrawal, or a need to
1385 be either detoxified or treated for a medical condition, which
1386 shall extend the amount of time the respondent may be held for
1387 observation until the issue is resolved; or

1388 3. The original or extended observation period ends on a
1389 weekend or holiday, in which case the provider may hold the
1390 respondent until the next court working day.

1391 (c) If the ex parte order was not executed by the initial
1392 hearing date, it shall be deemed void. However, should the

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1393 respondent not appear at the hearing for any reason, including
1394 lack of service, and upon reviewing the petition, testimony, and
1395 evidence presented, the court reasonably believes the respondent
1396 meets this chapter's commitment criteria and that a substance
1397 abuse emergency exists, the court may issue or reissue an ex
1398 parte assessment and stabilization order that is valid for 90
1399 days. If the respondent's location is known at the time of the
1400 hearing, the court:

1401 1. Shall continue the case for no more than 10 court
1402 working days; and

1403 2. May order a law enforcement officer or other designated
1404 agent of the court to:

1405 a. Take the respondent into custody and deliver him or her
1406 to be evaluated either by the nearest appropriate licensed
1407 service provider or by a licensed service provider designated by
1408 the court; and

1409 b. If a hearing date is set, serve the respondent with
1410 notice of the rescheduled hearing and a copy of the involuntary
1411 treatment petition if the respondent has not already been
1412 served.

1413
1414 Otherwise, the petitioner and the service provider must promptly
1415 inform the court that the respondent has been assessed so that
1416 the court may schedule a hearing as soon as practicable. The
1417 service provider must serve the respondent, before his or her
1418 discharge, with the notice of hearing and a copy of the
1419 petition. However, if the respondent has not been assessed
1420 within 90 days, the court must dismiss the case.

1421 Section 34. Section 397.6957, Florida Statutes, is amended

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1422 to read:

1423 397.6957 Hearing on petition for involuntary treatment
1424 services.—

1425 (1) (a) The respondent must be present at a hearing on a
1426 petition for involuntary treatment services unless he or she
1427 knowingly, intelligently, and voluntarily waives his or her
1428 right to be present or, upon receiving proof of service and
1429 evaluating the circumstances of the case, the court finds that
1430 his or her presence is inconsistent with his or her best
1431 interests or is likely to be injurious to himself or herself or
1432 others. The court shall hear and review all relevant evidence,
1433 including testimony from individuals such as family members
1434 familiar with the respondent's prior history and how it relates
1435 to his or her current condition, and the review of results of
1436 the assessment completed by the qualified professional in
1437 connection with this chapter. The court may also order drug
1438 tests. Absent a showing of good cause, such as specific symptoms
1439 of the respondent's condition, the court may permit all
1440 witnesses, such as any medical professionals or personnel who
1441 are or have been involved with the respondent's treatment, to
1442 remotely attend and testify at the hearing under oath via the
1443 most appropriate and convenient technological method of
1444 communication available to the court, including, but not limited
1445 to, teleconference. Any witness intending to remotely attend and
1446 testify at the hearing must provide the parties with all
1447 relevant documents by the close of business on the day before
1448 the hearing the respondent's protective custody, emergency
1449 admission, involuntary assessment, or alternative involuntary
1450 admission. The respondent must be present unless the court finds

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1451 ~~that his or her presence is likely to be injurious to himself or~~
1452 ~~herself or others, in which event the court must appoint a~~
1453 ~~guardian advocate to act in behalf of the respondent throughout~~
1454 ~~the proceedings.~~

1455 (b) A respondent cannot be involuntarily ordered into
1456 treatment under this chapter without a clinical assessment being
1457 performed, unless he or she is present in court and expressly
1458 waives the assessment. In nonemergency situations, if the
1459 respondent was not, or had previously refused to be, assessed by
1460 a qualified professional and, based on the petition, testimony,
1461 and evidence presented, it reasonably appears that the
1462 respondent qualifies for involuntary treatment services, the
1463 court shall issue an involuntary assessment and stabilization
1464 order to determine the appropriate level of treatment the
1465 respondent requires. Additionally, in cases where an assessment
1466 was attached to the petition, the respondent may request, or the
1467 court on its own motion may order, an independent assessment by
1468 a court-appointed physician or an otherwise agreed-upon
1469 physician. If an assessment order is issued, it is valid for 90
1470 days, and if the respondent is present or there is either proof
1471 of service or his or her location is known, the involuntary
1472 treatment hearing shall be continued for no more than 10 court
1473 working days. Otherwise, the petitioner and the service provider
1474 must promptly inform the court that the respondent has been
1475 assessed so that the court may schedule a hearing as soon as
1476 practicable. The service provider shall then serve the
1477 respondent, before his or her discharge, with the notice of
1478 hearing and a copy of the petition. The assessment must occur
1479 before the new hearing date, and if there is evidence indicating

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1480 that the respondent will not voluntarily appear at the
1481 forthcoming hearing, or is a danger to self or others, the court
1482 may enter a preliminary order committing the respondent to an
1483 appropriate treatment facility for further evaluation until the
1484 date of the rescheduled hearing. However, if after 90 days the
1485 respondent remains unassessed, the court shall dismiss the case.

1486 (c)1. The respondent's assessment by a qualified
1487 professional must occur within 72 hours after his or her arrival
1488 at a licensed service provider unless he or she shows signs of
1489 withdrawal or a need to be either detoxified or treated for a
1490 medical condition, which shall extend the amount of time the
1491 respondent may be held for observation until that issue is
1492 resolved. If the person conducting the assessment is not a
1493 licensed physician, the assessment must be reviewed by a
1494 licensed physician within the 72-hour period. If the respondent
1495 is a minor, such assessment must be initiated within the first
1496 12 hours after the minor's admission to the facility. The
1497 service provider may also move to extend the 72 hours of
1498 observation by petitioning the court in writing for additional
1499 time. The service provider must furnish copies of such motion to
1500 all parties in accordance with applicable confidentiality
1501 requirements, and, after a hearing, the court may grant
1502 additional time or expedite the respondent's involuntary
1503 treatment hearing. The involuntary treatment hearing, however,
1504 may be expedited only by agreement of the parties on the hearing
1505 date or if there is notice and proof of service as provided in
1506 s. 397.6955 (1) and (3). If the court grants the service
1507 provider's petition, the service provider may hold the
1508 respondent until its extended assessment period expires or until

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1509 the expedited hearing date. However, if the original or extended
1510 observation period ends on a weekend or holiday, the provider
1511 may hold the respondent until the next court working day.

1512 2. Upon the completion of his or her report, the qualified
1513 professional, in accordance with applicable confidentiality
1514 requirements, shall provide copies to the court and all relevant
1515 parties and counsel. This report must contain a recommendation
1516 on the level, if any, of substance abuse and, if applicable, co-
1517 occurring mental health treatment the respondent requires. The
1518 qualified professional's failure to include a treatment
1519 recommendation, much like a recommendation of no treatment,
1520 shall result in the petition's dismissal.

1521 (d) The court may order a law enforcement officer or other
1522 designated agent of the court to take the respondent into
1523 custody and transport him or her to or from the treating or
1524 assessing service provider and the court for his or her hearing.

1525 (2) The petitioner has the burden of proving by clear and
1526 convincing evidence that:

1527 (a) The respondent is substance abuse impaired, has lost
1528 the power of self-control with respect to substance abuse, or
1529 ~~and~~ has a history of lack of compliance with treatment for
1530 substance abuse with continued substance use; and

1531 (b) Because of such impairment, the respondent is unlikely
1532 to voluntarily participate in the recommended services after
1533 sufficient and conscientious explanation and disclosure of their
1534 purpose, or is unable to determine for himself or herself
1535 whether services are necessary and make a rational decision in
1536 that regard; and

1537 (c)1. Without services, the respondent is likely to suffer

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1538 from neglect or refuse to care for himself or herself; that such
1539 neglect or refusal poses a real and present threat of
1540 substantial harm to his or her well-being; and that it is not
1541 apparent that such harm may be avoided through the help of
1542 willing, able, and responsible family members or friends or the
1543 provision of other services; or

1544 2. There is a substantial likelihood that in the near
1545 future and without services, the respondent will inflict serious
1546 harm to self or others, as evidenced by recent acts, omissions,
1547 or behavior causing, attempting, or threatening such harm, which
1548 includes, but is not limited to, significant property damage
1549 ~~cause serious bodily harm to himself, herself, or another in the~~
1550 ~~near future, as evidenced by recent behavior; or~~

1551 ~~2. The respondent's refusal to voluntarily receive care is~~
1552 ~~based on judgment so impaired by reason of substance abuse that~~
1553 ~~the respondent is incapable of appreciating his or her need for~~
1554 ~~care and of making a rational decision regarding that need for~~
1555 ~~care.~~

1556 ~~(3) One of the qualified professionals who executed the~~
1557 ~~involuntary services certificate must be a witness. The court~~
1558 ~~shall allow testimony from individuals, including family~~
1559 ~~members, deemed by the court to be relevant under state law,~~
1560 ~~regarding the respondent's prior history and how that prior~~
1561 ~~history relates to the person's current condition. The Testimony~~
1562 ~~in the hearing must be taken under oath, and the proceedings~~
1563 ~~must be recorded. The respondent ~~patient~~ may refuse to testify~~
1564 ~~at the hearing.~~

1565 (4) If at any point during the hearing the court has reason
1566 to believe that the respondent, due to mental illness other than

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1567 or in addition to substance abuse impairment, is likely to
1568 neglect or injure himself, herself, or another if allowed to
1569 remain at liberty, or otherwise meets the involuntary commitment
1570 provisions of part I of chapter 394, the court may initiate
1571 involuntary examination proceedings under such provisions.

1572 (5)~~(4)~~ At the conclusion of the hearing, the court shall
1573 either dismiss the petition or order the respondent to receive
1574 involuntary treatment services from his or her chosen licensed
1575 service provider if possible and appropriate. Any treatment
1576 order must include findings regarding the respondent's need for
1577 treatment and the appropriateness of other less restrictive
1578 alternatives.

1579 Section 35. Section 397.697, Florida Statutes, is amended
1580 to read:

1581 397.697 Court determination; effect of court order for
1582 involuntary treatment services.-

1583 (1) (a) When the court finds that the conditions for
1584 involuntary treatment services have been proved by clear and
1585 convincing evidence, it may order the respondent to receive
1586 involuntary treatment services from a publicly funded licensed
1587 service provider for a period not to exceed 90 days. The court
1588 may also order a respondent to undergo treatment through a
1589 privately funded licensed service provider if the respondent has
1590 the ability to pay for the treatment, or if any person on the
1591 respondent's behalf voluntarily demonstrates a willingness and
1592 an ability to pay for the treatment. If the court finds it
1593 necessary, it may direct the sheriff to take the respondent into
1594 custody and deliver him or her to the licensed service provider
1595 specified in the court order, or to the nearest appropriate

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1596 licensed service provider, for involuntary treatment services.
1597 When the conditions justifying involuntary treatment services no
1598 longer exist, the individual must be released as provided in s.
1599 397.6971. When the conditions justifying involuntary treatment
1600 services are expected to exist after 90 days of treatment
1601 services, a renewal of the involuntary treatment services order
1602 may be requested pursuant to s. 397.6975 before the end of the
1603 90-day period.

1604 (b) To qualify for involuntary outpatient treatment, an
1605 individual must be supported by a social worker or case manager
1606 of a licensed service provider or a willing, able, and
1607 responsible individual appointed by the court who shall inform
1608 the court and parties if the respondent fails to comply with his
1609 or her outpatient program. In addition, unless the respondent
1610 has been involuntarily ordered into inpatient treatment under
1611 this chapter at least twice during the last 36 months, or
1612 demonstrates the ability to substantially comply with the
1613 outpatient treatment while waiting for residential placement to
1614 become available, he or she must receive an assessment from a
1615 qualified professional or licensed physician expressly
1616 recommending outpatient services, such services must be
1617 available in the county in which the respondent is located, and
1618 it must appear likely that the respondent will follow a
1619 prescribed outpatient care plan.

1620 (2) In all cases resulting in an order for involuntary
1621 treatment services, the court shall retain jurisdiction over the
1622 case and the parties for the entry of such further orders as the
1623 circumstances may require, including, but not limited to,
1624 monitoring compliance with treatment, changing the treatment

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1625 modality, or initiating contempt of court proceedings for
1626 violating any valid order issued pursuant to this chapter.
1627 Hearings under this section may be set by motion of the parties
1628 or under the court's own authority, and the motion and notice of
1629 hearing for these ancillary proceedings, which include, but are
1630 not limited to, civil contempt, must be served in accordance
1631 with relevant court procedural rules. The court's requirements
1632 for notification of proposed release must be included in the
1633 original order.

1634 (3) An involuntary treatment services order also authorizes
1635 the licensed service provider to require the individual to
1636 receive treatment services that will benefit him or her,
1637 including treatment services at any licensable service component
1638 of a licensed service provider. While subject to the court's
1639 oversight, the service provider's authority under this section
1640 is separate and distinct from the court's broad continuing
1641 jurisdiction under subsection (2). Such oversight includes, but
1642 is not limited to, submitting reports regarding the respondent's
1643 progress or compliance with treatment as required by the court.

1644 (4) If the court orders involuntary treatment services, a
1645 copy of the order must be sent to the managing entity within 1
1646 working day after it is received from the court. Documents may
1647 be submitted electronically through ~~through~~ existing data
1648 systems, if applicable.

1649 Section 36. Section 397.6971, Florida Statutes, is amended
1650 to read:

1651 397.6971 Early release from involuntary treatment
1652 services.—

1653 (1) At any time before the end of the 90-day involuntary

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1654 treatment services period, or before the end of any extension
1655 granted pursuant to s. 397.6975, an individual receiving
1656 involuntary treatment services may be determined eligible for
1657 discharge to the most appropriate referral or disposition for
1658 the individual when any of the following apply:

1659 (a) The individual no longer meets the criteria for
1660 involuntary admission and has given his or her informed consent
1661 to be transferred to voluntary treatment status.

1662 (b) If the individual was admitted on the grounds of
1663 likelihood of self-neglect or the infliction of ~~physical~~ harm
1664 upon himself or herself or others, such likelihood no longer
1665 exists.

1666 (c) If the individual was admitted on the grounds of need
1667 for assessment and stabilization or treatment, accompanied by
1668 inability to make a determination respecting such need:

- 1669 1. Such inability no longer exists; or
1670 2. It is evident that further treatment will not bring
1671 about further significant improvements in the individual's
1672 condition.

1673 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
1674 services.

1675 (e) The director of the service provider determines that
1676 the individual is beyond the safe management capabilities of the
1677 provider.

1678 (2) Whenever a qualified professional determines that an
1679 individual admitted for involuntary treatment services qualifies
1680 for early release under subsection (1), the service provider
1681 shall immediately discharge the individual and must notify all
1682 persons specified by the court in the original treatment order.

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1683 Section 37. Section 397.6975, Florida Statutes, is amended
1684 to read:

1685 397.6975 Extension of involuntary treatment services
1686 period.—

1687 (1) Whenever a service provider believes that an individual
1688 who is nearing the scheduled date of his or her release from
1689 involuntary treatment services continues to meet the criteria
1690 for involuntary treatment services in s. 397.693 or s. 397.6957,
1691 a petition for renewal of the involuntary treatment services
1692 order must ~~may~~ be filed with the court ~~at least 10 days~~ before
1693 the expiration of the court-ordered services period. The
1694 petition may be filed by the service provider or by the person
1695 who filed the petition for the initial treatment order if the
1696 petition is accompanied by supporting documentation from the
1697 service provider. The court shall ~~immediately~~ schedule a hearing
1698 within 10 court working ~~to be held not more than 15~~ days after
1699 filing of the petition and. ~~The court shall~~ provide the copy of
1700 the petition for renewal and the notice of the hearing to all
1701 parties and counsel to the proceeding. The hearing is conducted
1702 pursuant to ss. 397.6957 and 397.697 and must be before the
1703 circuit court unless referred to a magistrate ~~s. 397.6957~~.

1704 (2) If the court finds that the petition for renewal of ~~the~~
1705 involuntary treatment services ~~order~~ should be granted, it may
1706 order the respondent to receive involuntary treatment services
1707 for a period not to exceed an additional 90 days. When the
1708 conditions justifying involuntary treatment services no longer
1709 exist, the individual must be released as provided in s.
1710 397.6971. When the conditions justifying involuntary treatment
1711 services continue to exist after an additional 90 days of

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1712 treatment service, a new petition requesting renewal of the
1713 involuntary treatment services order may be filed pursuant to
1714 this section.

1715 ~~(3) Within 1 court working day after the filing of a~~
1716 ~~petition for continued involuntary services, the court shall~~
1717 ~~appoint the office of criminal conflict and civil regional~~
1718 ~~counsel to represent the respondent, unless the respondent is~~
1719 ~~otherwise represented by counsel. The clerk of the court shall~~
1720 ~~immediately notify the office of criminal conflict and civil~~
1721 ~~regional counsel of such appointment. The office of criminal~~
1722 ~~conflict and civil regional counsel shall represent the~~
1723 ~~respondent until the petition is dismissed or the court order~~
1724 ~~expires or the respondent is discharged from involuntary~~
1725 ~~services. Any attorney representing the respondent shall have~~
1726 ~~access to the respondent, witnesses, and records relevant to the~~
1727 ~~presentation of the respondent's case and shall represent the~~
1728 ~~interests of the respondent, regardless of the source of payment~~
1729 ~~to the attorney.~~

1730 ~~(4) Hearings on petitions for continued involuntary~~
1731 ~~services shall be before the circuit court. The court may~~
1732 ~~appoint a magistrate to preside at the hearing. The procedures~~
1733 ~~for obtaining an order pursuant to this section shall be in~~
1734 ~~accordance with s. 397.697.~~

1735 ~~(5) Notice of hearing shall be provided to the respondent~~
1736 ~~or his or her counsel. The respondent and the respondent's~~
1737 ~~counsel may agree to a period of continued involuntary services~~
1738 ~~without a court hearing.~~

1739 ~~(6) The same procedure shall be repeated before the~~
1740 ~~expiration of each additional period of involuntary services.~~

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1741 ~~(7) If the respondent has previously been found incompetent~~
1742 ~~to consent to treatment, the court shall consider testimony and~~
1743 ~~evidence regarding the respondent's competence.~~

1744 Section 38. Section 397.6977, Florida Statutes, is amended
1745 to read:

1746 397.6977 Disposition of individual upon completion of
1747 involuntary treatment services.—At the conclusion of the 90-day
1748 period of court-ordered involuntary treatment services, the
1749 respondent is automatically discharged unless a motion for
1750 renewal of the involuntary treatment services order has been
1751 filed with the court pursuant to s. 397.6975.

1752 Section 39. Section 397.6978, Florida Statutes, is
1753 repealed.

1754 Section 40. Paragraph (b) of subsection (1) of section
1755 409.972, Florida Statutes, is amended to read:

1756 409.972 Mandatory and voluntary enrollment.—

1757 (1) The following Medicaid-eligible persons are exempt from
1758 mandatory managed care enrollment required by s. 409.965, and
1759 may voluntarily choose to participate in the managed medical
1760 assistance program:

1761 (b) Medicaid recipients residing in residential commitment
1762 facilities operated through the Department of Juvenile Justice
1763 or a treatment facility as defined in s. 394.455 ~~s. 394.455(48)~~.

1764 Section 41. Paragraph (e) of subsection (4) of section
1765 464.012, Florida Statutes, is amended to read:

1766 464.012 Licensure of advanced practice registered nurses;
1767 fees; controlled substance prescribing.—

1768 (4) In addition to the general functions specified in
1769 subsection (3), an advanced practice registered nurse may

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1770 perform the following acts within his or her specialty:

1771 (e) A psychiatric nurse, who meets the requirements in s.
1772 394.455(37) ~~s. 394.455(36)~~, within the framework of an
1773 established protocol with a psychiatrist, may prescribe
1774 psychotropic controlled substances for the treatment of mental
1775 disorders.

1776 Section 42. Subsection (7) of section 744.2007, Florida
1777 Statutes, is amended to read:

1778 744.2007 Powers and duties.—

1779 (7) A public guardian may not commit a ward to a treatment
1780 facility, as defined in s. 394.455 ~~s. 394.455(48)~~, without an
1781 involuntary placement proceeding as provided by law.

1782 Section 43. Paragraph (a) of subsection (2) of section
1783 790.065, Florida Statutes, is amended to read:

1784 790.065 Sale and delivery of firearms.—

1785 (2) Upon receipt of a request for a criminal history record
1786 check, the Department of Law Enforcement shall, during the
1787 licensee's call or by return call, forthwith:

1788 (a) Review any records available to determine if the
1789 potential buyer or transferee:

1790 1. Has been convicted of a felony and is prohibited from
1791 receipt or possession of a firearm pursuant to s. 790.23;

1792 2. Has been convicted of a misdemeanor crime of domestic
1793 violence, and therefore is prohibited from purchasing a firearm;

1794 3. Has had adjudication of guilt withheld or imposition of
1795 sentence suspended on any felony or misdemeanor crime of
1796 domestic violence unless 3 years have elapsed since probation or
1797 any other conditions set by the court have been fulfilled or
1798 expunction has occurred; or

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1799 4. Has been adjudicated mentally defective or has been
1800 committed to a mental institution by a court or as provided in
1801 sub-sub-subparagraph b.(II), and as a result is prohibited by
1802 state or federal law from purchasing a firearm.

1803 a. As used in this subparagraph, "adjudicated mentally
1804 defective" means a determination by a court that a person, as a
1805 result of marked subnormal intelligence, or mental illness,
1806 incompetency, condition, or disease, is a danger to himself or
1807 herself or to others or lacks the mental capacity to contract or
1808 manage his or her own affairs. The phrase includes a judicial
1809 finding of incapacity under s. 744.331(6)(a), an acquittal by
1810 reason of insanity of a person charged with a criminal offense,
1811 and a judicial finding that a criminal defendant is not
1812 competent to stand trial.

1813 b. As used in this subparagraph, "committed to a mental
1814 institution" means:

1815 (I) Involuntary commitment, commitment for mental
1816 defectiveness or mental illness, and commitment for substance
1817 abuse. The phrase includes involuntary inpatient placement under
1818 ~~as defined in s. 394.467~~, involuntary outpatient placement as
1819 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
1820 ~~under s. 397.6818~~, and involuntary substance abuse treatment
1821 under s. 397.6957, but does not include a person in a mental
1822 institution for observation or discharged from a mental
1823 institution based upon the initial review by the physician or a
1824 voluntary admission to a mental institution; or

1825 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
1826 admission to a mental institution for outpatient or inpatient
1827 treatment of a person who had an involuntary examination under

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1828 s. 394.463, where each of the following conditions have been
1829 met:

1830 (A) An examining physician found that the person is an
1831 imminent danger to himself or herself or others.

1832 (B) The examining physician certified that if the person
1833 did not agree to voluntary treatment, a petition for involuntary
1834 outpatient or inpatient treatment would have been filed under s.
1835 394.463(2)(g)4., or the examining physician certified that a
1836 petition was filed and the person subsequently agreed to
1837 voluntary treatment prior to a court hearing on the petition.

1838 (C) Before agreeing to voluntary treatment, the person
1839 received written notice of that finding and certification, and
1840 written notice that as a result of such finding, he or she may
1841 be prohibited from purchasing a firearm, and may not be eligible
1842 to apply for or retain a concealed weapon or firearms license
1843 under s. 790.06 and the person acknowledged such notice in
1844 writing, in substantially the following form:

1845
1846 "I understand that the doctor who examined me believes I am a
1847 danger to myself or to others. I understand that if I do not
1848 agree to voluntary treatment, a petition will be filed in court
1849 to require me to receive involuntary treatment. I understand
1850 that if that petition is filed, I have the right to contest it.
1851 In the event a petition has been filed, I understand that I can
1852 subsequently agree to voluntary treatment prior to a court
1853 hearing. I understand that by agreeing to voluntary treatment in
1854 either of these situations, I may be prohibited from buying
1855 firearms and from applying for or retaining a concealed weapons
1856 or firearms license until I apply for and receive relief from

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1857 that restriction under Florida law.”

1858
1859 (D) A judge or a magistrate has, pursuant to sub-sub-
1860 subparagraph c.(II), reviewed the record of the finding,
1861 certification, notice, and written acknowledgment classifying
1862 the person as an imminent danger to himself or herself or
1863 others, and ordered that such record be submitted to the
1864 department.

1865 c. In order to check for these conditions, the department
1866 shall compile and maintain an automated database of persons who
1867 are prohibited from purchasing a firearm based on court records
1868 of adjudications of mental defectiveness or commitments to
1869 mental institutions.

1870 (I) Except as provided in sub-sub-subparagraph (II), clerks
1871 of court shall submit these records to the department within 1
1872 month after the rendition of the adjudication or commitment.
1873 Reports shall be submitted in an automated format. The reports
1874 must, at a minimum, include the name, along with any known alias
1875 or former name, the sex, and the date of birth of the subject.

1876 (II) For persons committed to a mental institution pursuant
1877 to sub-sub-subparagraph b.(II), within 24 hours after the
1878 person's agreement to voluntary admission, a record of the
1879 finding, certification, notice, and written acknowledgment must
1880 be filed by the administrator of the receiving or treatment
1881 facility, as defined in s. 394.455, with the clerk of the court
1882 for the county in which the involuntary examination under s.
1883 394.463 occurred. No fee shall be charged for the filing under
1884 this sub-sub-subparagraph. The clerk must present the records to
1885 a judge or magistrate within 24 hours after receipt of the

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1886 records. A judge or magistrate is required and has the lawful
1887 authority to review the records ex parte and, if the judge or
1888 magistrate determines that the record supports the classifying
1889 of the person as an imminent danger to himself or herself or
1890 others, to order that the record be submitted to the department.
1891 If a judge or magistrate orders the submittal of the record to
1892 the department, the record must be submitted to the department
1893 within 24 hours.

1894 d. A person who has been adjudicated mentally defective or
1895 committed to a mental institution, as those terms are defined in
1896 this paragraph, may petition the court that made the
1897 adjudication or commitment, or the court that ordered that the
1898 record be submitted to the department pursuant to sub-sub-
1899 subparagraph c.(II), for relief from the firearm disabilities
1900 imposed by such adjudication or commitment. A copy of the
1901 petition shall be served on the state attorney for the county in
1902 which the person was adjudicated or committed. The state
1903 attorney may object to and present evidence relevant to the
1904 relief sought by the petition. The hearing on the petition may
1905 be open or closed as the petitioner may choose. The petitioner
1906 may present evidence and subpoena witnesses to appear at the
1907 hearing on the petition. The petitioner may confront and cross-
1908 examine witnesses called by the state attorney. A record of the
1909 hearing shall be made by a certified court reporter or by court-
1910 approved electronic means. The court shall make written findings
1911 of fact and conclusions of law on the issues before it and issue
1912 a final order. The court shall grant the relief requested in the
1913 petition if the court finds, based on the evidence presented
1914 with respect to the petitioner's reputation, the petitioner's

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1915 mental health record and, if applicable, criminal history
1916 record, the circumstances surrounding the firearm disability,
1917 and any other evidence in the record, that the petitioner will
1918 not be likely to act in a manner that is dangerous to public
1919 safety and that granting the relief would not be contrary to the
1920 public interest. If the final order denies relief, the
1921 petitioner may not petition again for relief from firearm
1922 disabilities until 1 year after the date of the final order. The
1923 petitioner may seek judicial review of a final order denying
1924 relief in the district court of appeal having jurisdiction over
1925 the court that issued the order. The review shall be conducted
1926 de novo. Relief from a firearm disability granted under this
1927 sub-subparagraph has no effect on the loss of civil rights,
1928 including firearm rights, for any reason other than the
1929 particular adjudication of mental defectiveness or commitment to
1930 a mental institution from which relief is granted.

1931 e. Upon receipt of proper notice of relief from firearm
1932 disabilities granted under sub-subparagraph d., the department
1933 shall delete any mental health record of the person granted
1934 relief from the automated database of persons who are prohibited
1935 from purchasing a firearm based on court records of
1936 adjudications of mental defectiveness or commitments to mental
1937 institutions.

1938 f. The department is authorized to disclose data collected
1939 pursuant to this subparagraph to agencies of the Federal
1940 Government and other states for use exclusively in determining
1941 the lawfulness of a firearm sale or transfer. The department is
1942 also authorized to disclose this data to the Department of
1943 Agriculture and Consumer Services for purposes of determining

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1944 eligibility for issuance of a concealed weapons or concealed
1945 firearms license and for determining whether a basis exists for
1946 revoking or suspending a previously issued license pursuant to
1947 s. 790.06(10). When a potential buyer or transferee appeals a
1948 nonapproval based on these records, the clerks of court and
1949 mental institutions shall, upon request by the department,
1950 provide information to help determine whether the potential
1951 buyer or transferee is the same person as the subject of the
1952 record. Photographs and any other data that could confirm or
1953 negate identity must be made available to the department for
1954 such purposes, notwithstanding any other provision of state law
1955 to the contrary. Any such information that is made confidential
1956 or exempt from disclosure by law shall retain such confidential
1957 or exempt status when transferred to the department.

1958 Section 44. This act shall take effect July 1, 2021.