

By Senator Grall

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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; conforming a provision to changes made by
5 the act; amending s. 394.4572, F.S.; providing an
6 exception to background screening requirements for
7 certain licensed physicians and nurses; amending s.
8 394.459, F.S.; conforming a provision to changes made
9 by the act; specifying a timeframe for recording
10 restrictions in a patient's clinical file; amending s.
11 394.4599, F.S.; revising written notice requirements
12 relating to filing petitions for involuntary services;
13 amending s. 394.461, F.S.; authorizing the state to
14 establish that a transfer evaluation was performed by
15 providing the court with a copy of the evaluation
16 before the close of the state's case in chief;
17 prohibiting the court from considering substantive
18 information in the transfer evaluation unless the
19 evaluator testifies at the hearing; requiring the
20 Department of Children and Families to post a
21 specified report on its website; deleting requirements
22 to submit the report to specified parties; amending s
23 394.4615, F.S.; conforming cross-references to changes
24 made by the act; amending s. 394.462, F.S.; conforming
25 cross-references; amending s. 394.4625, F.S.; revising
26 requirements relating to voluntary admissions to a
27 facility for examination and treatment; amending s.
28 394.463, F.S.; authorizing, rather than requiring, law
29 enforcement officers to take certain persons into

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30 custody for involuntary examinations; requiring
31 written reports by a law enforcement officer to
32 contain certain information; revising the types of
33 documents that the department is required to receive
34 and maintain and that are considered part of the
35 clinical record; requiring the department to post a
36 specified report on its website by a specified date;
37 revising requirements for releasing a patient from a
38 receiving facility; revising when the examination
39 period begins for a patient at a receiving facility;
40 revising requirements for petitions for involuntary
41 services; requiring the department and the Agency for
42 Health Care Administration to analyze certain data,
43 identify patterns and trends, and make recommendations
44 to decrease avoidable admissions; authorizing
45 recommendations to be addressed in a specified manner;
46 requiring the department to publish a specified report
47 on its website by a certain date; making technical
48 changes; conforming provisions to changes made by the
49 act; amending s. 394.4655, F.S.; defining the terms
50 "court", "criminal county court", and "involuntary
51 outpatient placement"; authorizing a criminal county
52 court to order an individual to involuntary outpatient
53 treatment; deleting provisions relating to involuntary
54 outpatient services; amending s. 394.467, F.S.;
55 defining terms; revising the criteria for ordering a
56 person for involuntary inpatient placement; providing
57 that a patient may be recommended and retained for
58 involuntary services; requiring recommendations for

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59 services be supported by the opinions of certain
60 medical professionals within a specified timeframe;
61 revising who may file a petition for involuntary
62 services; requiring such petitions to be filed in the
63 county where the patient is located; providing
64 criteria for what must be in a petition for
65 involuntary services; requiring a service provider to
66 provide a treatment plan if the patient meets the
67 criteria for involuntary services; requiring copies of
68 such petitions be given to specified individuals;
69 requiring the court to appoint counsel for the
70 patient, if the patient meets certain criteria;
71 revising provisions relating to continuances of
72 hearings; revising requirements for hearings on
73 involuntary services; revising the conditions under
74 which a court may waive the requirement for a patient
75 to be present at an involuntary inpatient placement
76 hearing; requiring facilities to make certain clinical
77 records available to a state attorney within a
78 specified timeframe; specifying that such records
79 remain confidential and may not be used for certain
80 purposes; requiring the court to allow testimony from
81 certain individuals; requiring the court to consider
82 testimony and evidence regarding a patient's
83 competence to consent to services and treatment;
84 requiring the court to appoint a guardian advocate if
85 the patient is found to be incompetent; authorizing
86 the court to order a patient to involuntary inpatient
87 or outpatient services, depending on the services

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available to the patient in his or her community; requiring service providers to document efforts taken to secure appropriate services for the patient; prohibiting courts from ordering individuals with developmental disabilities to be involuntarily placed in a state treatment facility; conforming provisions to changes made by the act; amending s. 394.468, F.S.; revising requirements for discharge planning; amending ss. 394.495 and 394.496, F.S.; conforming provisions to changes made by the act; amending s. 394.499, F.S.; revising eligibility requirements for children's crisis stabilization unit/juvenile addictions receiving facility services; amending s. 394.875, F.S.; conforming provisions to changes made by the act; deleting a limitation on the size of a crisis stabilization unit; deleting a requirement for the department to implement a certain demonstration project; amending s. 394.9085, F.S.; conforming a cross-reference; amending s. 397.305, F.S.; revising the purpose of ch. 397, F.S.; amending s. 397.311, F.S.; revising and defining terms; amending s. 397.401, F.S.; prohibiting certain service providers from exceeding their licensed capacity by more than a specified percentage or for more than a specified number of days; amending s. 397.4073, F.S.; providing an exception to background screening requirements for certain licensed physicians and nurses; amending s. 397.501, F.S.; revising notice requirements for the right to counsel; amending s. 397.581, F.S.; revising

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117 actions that constitute unlawful activities relating
118 to assessment and treatment; amending s. 397.675,
119 F.S.; revising the criteria for involuntary admissions
120 for purposes of assessment and stabilization, and for
121 involuntary treatment; amending s. 397.681, F.S.;
122 revising where involuntary treatment petitions for
123 substance abuse impaired persons must be filed;
124 revising the portion of such proceedings over which a
125 general or special magistrate may preside; providing
126 an exception to a respondent's right to counsel
127 relating to petitions for involuntary treatment;
128 revising the circumstances under which courts are
129 required to appoint counsel for respondents without
130 regard to respondents' wishes; conforming provisions
131 to changes made by the act; amending s. 397.6751,
132 F.S.; revising service provider responsibilities
133 relating to involuntary admissions; amending s.
134 397.6818, F.S.; revising provisions relating to court
135 determinations for petitions for involuntary
136 assessment and stabilization; renumbering and amending
137 s. 397.693, F.S.; revising the circumstances under
138 which a person may be the subject of court-ordered
139 involuntary treatment; renumbering and amending s.
140 397.695, F.S.; authorizing the court or a law
141 enforcement agency to waive or prohibit any service of
142 process fees for petitioners determined to be
143 indigent; renumbering and amending s. 397.6951, F.S.;
144 revising the information required to be included in a
145 petition for involuntary treatment services;

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146 authorizing a petitioner to include a certificate or
147 report of a qualified professional with such petition;
148 requiring such certificate or report to contain
149 certain information; requiring that certain additional
150 information be included if an emergency exists;
151 renumbering and amending s. 397.6955, F.S.; revising
152 when the office of criminal conflict and civil
153 regional counsel represents a person; revising when a
154 hearing must be held on a petition for involuntary
155 treatment; requiring law enforcement agencies to
156 effect service for initial treatment hearings;
157 providing an exception; conforming provisions to
158 changes made by the act; amending s. 397.6957, F.S.;
159 expanding the exemption from the requirement that a
160 respondent be present at a hearing on a petition for
161 involuntary treatment services; requiring the court to
162 hear testimony from family members familiar with the
163 respondent's history; authorizing the court to order
164 drug tests and to permit witnesses to attend and
165 testify remotely at the hearing through certain means;
166 deleting a provision requiring the court to appoint a
167 guardian advocate under certain circumstances;
168 prohibiting a respondent from being involuntarily
169 ordered into treatment unless certain requirements are
170 met; providing requirements relating to involuntary
171 assessment and stabilization orders; providing
172 requirements relating to involuntary treatment
173 hearings; requiring that the assessment of a
174 respondent occur within a specified timeframe;

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175 providing an exception; authorizing service providers
176 to petition the court in writing for an extension of
177 the observation period; providing service requirements
178 for such petitions; authorizing the service provider
179 to continue to hold the respondent if the court grants
180 the petition; requiring a qualified professional to
181 transmit his or her report to the clerk of the court
182 within a specified timeframe; requiring the clerk of
183 the court to enter the report into the court file;
184 providing requirements for the report; providing that
185 the report's filing satisfies the requirements for
186 release of certain individuals if it contains
187 admission and discharge information; providing for the
188 petition's dismissal under certain circumstances;
189 authorizing the court to initiate involuntary
190 proceedings and have the respondent evaluated by the
191 under certain circumstances; requiring that a
192 treatment order, if issued, must include certain
193 findings; amending s. 397.6975, F.S.; authorizing
194 certain entities to file a petition for renewal of an
195 involuntary treatment services order; revising the
196 timeframe during which the court is required to
197 schedule a hearing; conforming provisions to changes
198 made by the act; amending s. 397.6977, F.S.; providing
199 that discharge planning and procedures for a
200 respondent's release from involuntary treatment
201 services address minimum requirements; amending ss.
202 409.972, 464.012, and 744.2007, F.S.; conforming
203 provisions to changes made by the act; amending s.

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204 916.13, F.S.; requiring the Department of Children and
205 Families to complete and submit a competency
206 evaluation report to the circuit court to determine if
207 a defendant adjudicated incompetent to proceed meets
208 the criteria for involuntary civil commitment if it is
209 determined that the defendant will not or is unlikely
210 to regain competency; requiring a qualified
211 professional to sign such report under penalty of
212 perjury; defining the term "competency evaluation
213 report to the circuit court"; providing requirements
214 for such report; requiring a defendant who meets the
215 criteria for involuntary examination and court
216 witnesses to appear remotely for hearing; conforming
217 provisions to changes made by the act; repealing s.
218 397.6811, F.S., relating to involuntary assessment and
219 stabilization; repealing s. 397.6814, F.S., relating
220 to petitions for involuntary assessment and
221 stabilization; repealing s. 397.6815, F.S., relating
222 to involuntary assessment and stabilization
223 procedures; repealing s. 397.6819, F.S., relating to
224 the responsibilities of licensed service providers
225 with regard to involuntary assessment and
226 stabilization; repealing s. 397.6821, F.S., relating
227 to extensions of time for completion of involuntary
228 assessment and stabilization; repealing s. 397.6822,
229 F.S., relating to the disposition of individuals after
230 involuntary assessment; repealing s. 397.6978, F.S.,
231 relating to the appointment of guardian advocates;
232 providing an effective date.

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

235

236 Section 1. Subsection (23) of s. 394.455, Florida Statutes,
237 is amended, to read:

238 394.455 Definitions.—As used in this part, the term:

239 (23) "Involuntary examination" means an examination
240 performed under s. 394.463, s. 397.6772, s. 397.679, s.
241 397.6798, or s. 397.6957 ~~s. 397.6811~~ to determine whether a
242 person qualifies for involuntary services.

243 Section 2. Paragraph (e) is added to subsection (1) of
244 section 394.4572, Florida Statutes, to read:

245 394.4572 Screening of mental health personnel.—

246 (1)

247 (e) Licensed physicians and nurses who require background
248 screening by Department of Health at initial licensure and
249 renewal of licensure are not subject to background screening
250 pursuant to this section if they are providing a service that is
251 within their scope of licensed practice.

252 Section 3. Paragraph (d) of subsection (3) and paragraph
253 (d) of subsection (5) of section 394.459, Florida Statutes, are
254 amended to read:

255 394.459 Rights of patients.—

256 (3) RIGHT TO EXPRESS AND INFORMED PATIENT CONSENT.—

257 (d) The administrator of a receiving or treatment facility
258 may, upon the recommendation of the patient's attending
259 physician, authorize emergency medical treatment, including a
260 surgical procedure, if such treatment is deemed lifesaving, or
261 if the situation threatens serious bodily harm to the patient,

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262 and permission of the patient or the patient's guardian or
263 guardian advocate cannot be obtained.

264 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—

265 (d) If a patient's right to communicate with outside
266 persons; receive, send, or mail sealed, unopened correspondence;
267 or receive visitors is restricted by the facility, a qualified
268 professional must record the restriction and its underlying
269 reasons in the patient's clinical file within 24 hours, and this
270 document must immediately written notice of such restriction and
271 the reasons for the restriction shall be served on the patient,
272 the patient's attorney, and the patient's guardian, guardian
273 advocate, or representative. A qualified professional must
274 document any restriction within 24 hours, and such restriction
275 shall be recorded on the patient's clinical record with the
276 reasons therefor. The restriction of a patient's right to
277 communicate or to receive visitors shall be reviewed at least
278 every 3 days. The right to communicate or receive visitors shall
279 not be restricted as a means of punishment. Nothing in this
280 paragraph shall be construed to limit the provisions of
281 paragraph (e).

282 Section 4. Paragraph (d) of subsection (2) of section
283 394.4599, Florida Statutes, is amended to read:

284 394.4599 Notice.—

285 (2) INVOLUNTARY ADMISSION.—

286 (d) The written notice of the filing of the petition for
287 involuntary services for an individual being held must contain
288 the following:

289 1. Notice that the petition for:

290 a. Involuntary services inpatient treatment pursuant to s.

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291 394.467 has been filed with the circuit court and the address of
292 such court in the county in which the individual is hospitalized
293 and the address of such court; or

294 b. Involuntary outpatient services pursuant to s. 394.4655
295 has been filed with the criminal county court, as defined in s.
296 394.4655(1), or the circuit court, as applicable, in the county
297 in which the individual is hospitalized and the address of such
298 court.

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

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

305 4. Notice that the individual, the individual's guardian,
306 guardian advocate, health care surrogate or proxy, or
307 representative, or the administrator may apply for a change of
308 venue for the convenience of the parties or witnesses or because
309 of the condition of the individual.

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

313 Section 5. Subsection (2) and paragraph (d) of subsection
314 (4) of section 394.461, Florida Statutes, are amended to read:

315 394.461 Designation of receiving and treatment facilities
316 and receiving systems.—The department is authorized to designate
317 and monitor receiving facilities, treatment facilities, and
318 receiving systems and may suspend or withdraw such designation
319 for failure to comply with this part and rules adopted under

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320 this part. The department may issue a conditional designation
321 for up to 60 days to allow the implementation of corrective
322 measures. Unless designated by the department, facilities are
323 not permitted to hold or treat involuntary patients under this
324 part.

325 (2) TREATMENT FACILITY.—The department may designate any
326 state-owned, state-operated, or state-supported facility as a
327 state treatment facility. A civil patient shall not be admitted
328 to a state treatment facility without previously undergoing a
329 transfer evaluation. Before the close of the state's case in
330 chief in a court hearing for involuntary placement ~~in a state~~
331 ~~treatment facility, the state may establish that the transfer~~
332 ~~evaluation was performed and the document properly executed by~~
333 ~~providing the court with a copy of the transfer evaluation. The~~
334 ~~court may not shall receive and consider the substantive~~
335 ~~information documented in the transfer evaluation unless the~~
336 ~~evaluator testifies at the hearing.~~ Any other facility,
337 including a private facility or a federal facility, may be
338 designated as a treatment facility by the department, provided
339 that such designation is agreed to by the appropriate governing
340 body or authority of the facility.

341 (4) REPORTING REQUIREMENTS.—

342 (d) The department shall issue an annual report based on
343 the data required pursuant to this subsection. The report shall
344 include individual facilities' data, as well as statewide
345 totals. The report shall be posted on the department's website
346 ~~submitted to the Governor, the President of the Senate, and the~~
347 ~~Speaker of the House of Representatives.~~

348 Section 6. 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 7. Subsection (3) of section 394.4615, Florida
515 Statutes, is amended to read:

516 394.4615 Clinical records; confidentiality.—

517 (3) Information from the clinical record may be released in
518 the following circumstances:

519 (a) When a patient has communicated to a service provider a
520 specific threat to cause serious bodily injury or death to an
521 identified or a readily available person, if the service
522 provider reasonably believes, or should reasonably believe

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523 according to the standards of his or her profession, that the
524 patient has the apparent intent and ability to imminently or
525 immediately carry out such threat. When such communication has
526 been made, the administrator may authorize the release of
527 sufficient information to provide adequate warning to the person
528 threatened with harm by the patient.

529 (b) When the administrator of the facility or secretary of
530 the department deems release to a qualified researcher as
531 defined in administrative rule, an aftercare treatment provider,
532 or an employee or agent of the department is necessary for
533 treatment of the patient, maintenance of adequate records,
534 compilation of treatment data, aftercare planning, or evaluation
535 of programs.

536

537 For the purpose of determining whether a person meets the
538 criteria for involuntary outpatient placement or for preparing
539 the proposed treatment plan pursuant to s. 394.4655 or s.
540 394.467, the clinical record may be released to the state
541 attorney, the public defender or the patient's private legal
542 counsel, the court, and to the appropriate mental health
543 professionals, including the service provider under s. 394.467,
544 ~~identified in s. 394.4655(7)(b)2.~~, in accordance with state and
545 federal law.

546 Section 8. Paragraph (a) of subsection (1) of section
547 394.4625, Florida Statutes, is amended to read:

548 394.4625 Voluntary admissions.—

549 (1) AUTHORITY TO RECEIVE PATIENTS.—

550 (a) A facility may receive for observation, diagnosis, or
551 treatment any adult person 18 years of age or older who applies

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552 by express and informed consent for admission or any minor
553 ~~person age 17 or younger~~ whose parent or legal guardian applies
554 for admission. Such person may be admitted to the facility if
555 found to show evidence of mental illness and to be suitable for
556 treatment, and:

557 1. If the person is an adult, is found to be competent to
558 provide express and informed consent; or

559 2. If the person is a minor, the parent or legal guardian
560 provides express and informed consent and the facility performs,
561 ~~and to be suitable for treatment, such person 18 years of age or~~
562 ~~elder may be admitted to the facility. A person age 17 or~~
563 ~~younger may be admitted only after~~ a clinical review to verify
564 the voluntariness of the minor's assent.

565 Section 9. Subsection (1), paragraphs (a) and (e) through
566 (h) of subsection (2), and subsection (4) of section 394.463,
567 Florida Statutes, are amended to read:

568 394.463 Involuntary examination.—

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

573 (a)1. The person has refused voluntary examination after
574 conscientious explanation and disclosure of the purpose of the
575 examination; or

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

578 (b)1. Without care or treatment, the person is likely to
579 suffer from neglect or refuse to care for himself or herself;
580 such neglect or refusal poses a real and present threat of

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581 substantial harm to his or her well-being; and it is not
582 apparent that such harm may be avoided through the help of
583 willing, able, and responsible family members or friends or the
584 provision of other services; or

585 2. There is a substantial likelihood that without care or
586 treatment the person will cause serious bodily harm to himself
587 or herself or others in the near future, as evidenced by recent
588 behavior.

589 (2) INVOLUNTARY EXAMINATION.—

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

592 1. A circuit or county court may enter an ex parte order
593 stating that a person appears to meet the criteria for
594 involuntary examination and specifying the findings on which
595 that conclusion is based. The ex parte order for involuntary
596 examination must be based on written or oral sworn testimony
597 that includes specific facts that support the findings. If other
598 less restrictive means are not available, such as voluntary
599 appearance for outpatient evaluation, a law enforcement officer,
600 or other designated agent of the court, shall take the person
601 into custody and deliver him or her to an appropriate, or the
602 nearest, facility within the designated receiving system
603 pursuant to s. 394.462 for involuntary examination. The order of
604 the court shall be made a part of the patient's clinical record.
605 A fee may not be charged for the filing of an order under this
606 subsection. A facility accepting the patient based on this order
607 must send a copy of the order to the department within 5 working
608 days. The order may be submitted electronically through existing
609 data systems, if available. The order shall be valid only until

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610 the person is delivered to the facility or for the period
611 specified in the order itself, whichever comes first. If a time
612 limit is not specified in the order, the order is valid for 7
613 days after the date that the order was signed.

614 2. A law enforcement officer may ~~shall~~ take a person who
615 appears to meet the criteria for involuntary examination into
616 custody and deliver the person or have him or her delivered to
617 an appropriate, or the nearest, facility within the designated
618 receiving system pursuant to s. 394.462 for examination. A law
619 enforcement officer transporting a person pursuant to this
620 section subparagraph shall restrain the person in the least
621 restrictive manner available and appropriate under the
622 circumstances. The officer shall execute a written report
623 detailing the circumstances under which the person was taken
624 into custody, which must be made a part of the patient's
625 clinical record. The report must include all emergency contact
626 information for the person that is readily accessible to the law
627 enforcement officer, including information available through
628 electronic databases maintained by the Department of Law
629 Enforcement or by the Department of Highway Safety and Motor
630 Vehicles. Such emergency contact information may be used by a
631 receiving facility only for the purpose of informing listed
632 emergency contacts of a patient's whereabouts pursuant to s.
633 119.0712(2)(d). Any facility accepting the patient based on this
634 report must send a copy of the report to the department within 5
635 working days.

636 3. A physician, a physician assistant, a clinical
637 psychologist, a psychiatric nurse, an advanced practice
638 registered nurse registered under s. 464.0123, a mental health

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639 counselor, a marriage and family therapist, or a clinical social
640 worker may execute a certificate stating that he or she has
641 examined a person within the preceding 48 hours and finds that
642 the person appears to meet the criteria for involuntary
643 examination and stating the observations upon which that
644 conclusion is based. If other less restrictive means, such as
645 voluntary appearance for outpatient evaluation, are not
646 available, a law enforcement officer shall take into custody the
647 person named in the certificate and deliver him or her to the
648 appropriate, or nearest, facility within the designated
649 receiving system pursuant to s. 394.462 for involuntary
650 examination. The law enforcement officer shall execute a written
651 report detailing the circumstances under which the person was
652 taken into custody and containing all emergency contact
653 information required under subparagraph 2. The report must
654 include all emergency contact information for the person that is
655 readily accessible to the law enforcement officer, including
656 information available through electronic databases maintained by
657 the Department of Law Enforcement or by the Department of
658 Highway Safety and Motor Vehicles. Such emergency contact
659 information may be used by a receiving facility only for the
660 purpose of informing listed emergency contacts of a patient's
661 whereabouts pursuant to s. 119.0712(2)(d). The report and
662 certificate shall be made a part of the patient's clinical
663 record. Any facility accepting the patient based on this
664 certificate must send a copy of the certificate to the
665 department within 5 working days. The document may be submitted
666 electronically through existing data systems, if applicable.
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668 When sending the order, report, or certificate to the
669 department, a facility shall, at a minimum, provide information
670 about which action was taken regarding the patient under
671 paragraph (g), which information shall also be made a part of
672 the patient's clinical record.

673 (e) The department shall receive and maintain ~~the~~ copies of
674 ex parte orders, involuntary ~~outpatient~~ services orders issued
675 pursuant to ss. 394.4655 and 394.467 ~~s. 394.4655, involuntary~~
~~inpatient placement orders issued pursuant to s. 394.467,~~
676 professional certificates, law enforcement officers' reports,
677 and reports relating to the transportation of patients. These
678 documents shall be considered part of the clinical record,
679 governed by the provisions of s. 394.4615. These documents shall
680 be used to prepare annual reports analyzing the data obtained
681 from these documents, without including patients' personal
682 identifying information ~~identifying patients, and the department~~
683 shall post the reports on its website and provide copies of
684 reports ~~to the department, the President of the Senate, the~~
685 Speaker of the House of Representatives, and the minority
686 leaders of the Senate and the House of Representatives by
687 November 30 of each year.

688 (f) A patient shall be examined by a physician or a
689 clinical psychologist, or by a psychiatric nurse performing
690 within the framework of an established protocol with a
691 psychiatrist at a facility without unnecessary delay to
692 determine if the criteria for involuntary services are met.
693 Emergency treatment may be provided upon the order of a
694 physician if the physician determines that such treatment is
695 necessary for the safety of the patient or others. The patient

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697 may not be released by the receiving facility or its contractor
698 without the documented approval of a psychiatrist, or a clinical
699 psychologist, or, if the receiving facility is owned or operated
700 by a hospital, health system, or nationally accredited community
701 mental health center, the release may also be approved by a
702 psychiatric nurse performing within the framework of an
703 established protocol with a psychiatrist, or an attending
704 emergency department physician with experience in the diagnosis
705 and treatment of mental illness after completion of an
706 involuntary examination pursuant to this subsection. A
707 ~~psychiatric nurse may not approve the release of a patient if~~
708 ~~the involuntary examination was initiated by a psychiatrist~~
709 ~~unless the release is approved by the initiating psychiatrist.~~
710 The release may be approved through telehealth.

711 (g) The examination period must be for up to 72 hours and
712 begins when a patient arrives at the receiving facility. For a
713 minor, the examination shall be initiated within 12 hours after
714 the patient's arrival at the facility. Within the examination
715 period, one of the following actions must be taken, based on the
716 individual needs of the patient:

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

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

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

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726 4. A petition for involuntary services shall be filed in
727 the circuit court ~~if inpatient treatment is deemed necessary or~~
728 with the criminal county court, as described in s. 394.4655
729 ~~defined in s. 394.4655(1)~~, as applicable. When inpatient
730 treatment is deemed necessary, the least restrictive treatment
731 consistent with the optimum improvement of the patient's
732 condition shall be made available. The petition ~~When a petition~~
733 ~~is to be filed for involuntary outpatient placement, it shall be~~
734 filed by one of the petitioners specified in s. 394.4655(4) (a).
735 ~~A petition for involuntary inpatient placement shall be filed by~~
736 ~~the facility administrator, and the court shall dismiss an~~
737 untimely filed petition. If a patient's 72-hour examination
738 period ends on a weekend or holiday, including the hours before
739 the ordinary business hours of the following workday morning,
740 and the receiving facility:

741 a. Intends to file a petition for involuntary services,
742 such patient may be held at ~~the a-receiving~~ facility through the
743 next working day thereafter and ~~the such petition for~~
744 ~~involuntary services~~ must be filed no later than such date. If
745 the ~~receiving~~ facility fails to file ~~the a petition by for~~
746 ~~involuntary services at the ordinary close of business on the~~
747 next working day, the patient shall be released from the
748 receiving facility following approval pursuant to paragraph (f).

749 b. Does not intend to file a petition for involuntary
750 services, ~~the a-receiving~~ facility may postpone release of a
751 patient until the next working day thereafter only if a
752 qualified professional documents that adequate discharge
753 planning and procedures in accordance with s. 394.468, and
754 approval pursuant to paragraph (f), are not possible until the

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755 next working day.

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

780 (4) DATA ANALYSIS.—

781 (a) Using data collected under paragraph (2)(a) and s.
782 1006.07(10), the department shall, at a minimum, analyze data on
783 both the initiation of involuntary examinations of children and

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784 the initiation of involuntary examinations of students who are
785 removed from a school; identify any patterns or trends and cases
786 in which involuntary examinations are repeatedly initiated on
787 the same child or student; study root causes for such patterns,
788 trends, or repeated involuntary examinations; and make
789 recommendations to encourage the use of alternatives to
790 eliminate inappropriate initiations of such examinations.

791 (b) The department and the Agency for Health Care
792 Administration shall analyze service data collected on
793 individuals who, as defined by the department and the agency,
794 are high utilizers of crisis stabilization services provided in
795 designated receiving facilities, and shall, at a minimum,
796 identify any patterns or trends and make recommendations to
797 decrease avoidable admissions. Recommendations may be addressed
798 in the department's contracts with the behavioral health
799 managing entities and in the agency's contracts with the
800 Medicaid managed medical assistance plans.

801 (c) The department shall publish submit a report on its
802 findings and recommendations on its website and submit the
803 report to the Governor, the President of the Senate, and the
804 Speaker of the House of Representatives by November 1 of each
805 odd-numbered year.

806 Section 10. Section 394.4655, Florida Statutes, is amended
807 to read:

808 394.4655 Involuntary outpatient services.—

809 (1) DEFINITIONS.—As used in this section, the term:

810 (a) "Court" means a circuit court or a criminal county
811 court.

812 (b) "Criminal county court" means a county court exercising

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813 its original jurisdiction in a misdemeanor case under s. 34.01.

814 (c) "Involuntary outpatient placement" means involuntary
815 outpatient services as defined in s. 394.476.

816 (2) INVOLUNTARY PLACEMENT.—A criminal county court may
817 order an individual to involuntary outpatient placement under s.
818 394.467. CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES. A person
819 may be ordered to involuntary outpatient services upon a finding
820 of the court, by clear and convincing evidence, that the person
821 meets all of the following criteria:

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

823 (b) The person has a mental illness.

824 (c) The person is unlikely to survive safely in the
825 community without supervision, based on a clinical
826 determination.

827 (d) The person has a history of lack of compliance with
828 treatment for mental illness.

829 (e) The person has:

830 1. At least twice within the immediately preceding 36
831 months been involuntarily admitted to a receiving or treatment
832 facility as defined in s. 394.455, or has received mental health
833 services in a forensic or correctional facility. The 36 month
834 period does not include any period during which the person was
835 admitted or incarcerated; or

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

839 (f) The person is, as a result of his or her mental
840 illness, unlikely to voluntarily participate in the recommended
841 treatment plan and has refused voluntary services for treatment

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842 after sufficient and conscientious explanation and disclosure of
843 why the services are necessary or is unable to determine for
844 himself or herself whether services are necessary.

845 (g) In view of the person's treatment history and current
846 behavior, the person is in need of involuntary outpatient
847 services in order to prevent a relapse or deterioration that
848 would be likely to result in serious bodily harm to himself or
849 herself or others, or a substantial harm to his or her well-
850 being as set forth in s. 394.463(1).

851 (h) It is likely that the person will benefit from
852 involuntary outpatient services.

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

856 (3) INVOLUNTARY OUTPATIENT SERVICES.

857 (a) 1. A patient who is being recommended for involuntary
858 outpatient services by the administrator of the facility where
859 the patient has been examined may be retained by the facility
860 after adherence to the notice procedures provided in s.
861 394.4599. The recommendation must be supported by the opinion of
862 a psychiatrist and the second opinion of a clinical psychologist
863 or another psychiatrist, both of whom have personally examined
864 the patient within the preceding 72 hours, that the criteria for
865 involuntary outpatient services are met. However, if the
866 administrator certifies that a psychiatrist or clinical
867 psychologist is not available to provide the second opinion, the
868 second opinion may be provided by a licensed physician who has
869 postgraduate training and experience in diagnosis and treatment
870 of mental illness, a physician assistant who has at least 3

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871 years' experience and is supervised by such licensed physician
872 or a psychiatrist, a clinical social worker, or by a psychiatric
873 nurse. Any second opinion authorized in this subparagraph may be
874 conducted through a face to face examination, in person or by
875 electronic means. Such recommendation must be entered on an
876 involuntary outpatient services certificate that authorizes the
877 facility to retain the patient pending completion of a hearing.
878 The certificate must be made a part of the patient's clinical
879 record.

880 2. If the patient has been stabilized and no longer meets
881 the criteria for involuntary examination pursuant to s.
882 394.463(1), the patient must be released from the facility while
883 awaiting the hearing for involuntary outpatient services. Before
884 filing a petition for involuntary outpatient services, the
885 administrator of the facility or a designated department
886 representative must identify the service provider that will have
887 primary responsibility for service provision under an order for
888 involuntary outpatient services, unless the person is otherwise
889 participating in outpatient psychiatric treatment and is not in
890 need of public financing for that treatment, in which case the
891 individual, if eligible, may be ordered to involuntary treatment
892 pursuant to the existing psychiatric treatment relationship.

893 3. The service provider shall prepare a written proposed
894 treatment plan in consultation with the patient or the patient's
895 guardian advocate, if appointed, for the court's consideration
896 for inclusion in the involuntary outpatient services order that
897 addresses the nature and extent of the mental illness and any
898 co-occurring substance use disorder that necessitate involuntary
899 outpatient services. The treatment plan must specify the likely

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900 level of care, including the use of medication, and anticipated
901 discharge criteria for terminating involuntary outpatient
902 services. Service providers may select and supervise other
903 individuals to implement specific aspects of the treatment plan.
904 The services in the plan must be deemed clinically appropriate
905 by a physician, clinical psychologist, psychiatric nurse, mental
906 health counselor, marriage and family therapist, or clinical
907 social worker who consults with, or is employed or contracted
908 by, the service provider. The service provider must certify to
909 the court in the proposed plan whether sufficient services for
910 improvement and stabilization are currently available and
911 whether the service provider agrees to provide those services.
912 If the service provider certifies that the services in the
913 proposed treatment plan are not available, the petitioner may
914 not file the petition. The service provider must notify the
915 managing entity if the requested services are not available. The
916 managing entity must document such efforts to obtain the
917 requested services.

918 (b) If a patient in involuntary inpatient placement meets
919 the criteria for involuntary outpatient services, the
920 administrator of the facility may, before the expiration of the
921 period during which the facility is authorized to retain the
922 patient, recommend involuntary outpatient services. The
923 recommendation must be supported by the opinion of a
924 psychiatrist and the second opinion of a clinical psychologist
925 or another psychiatrist, both of whom have personally examined
926 the patient within the preceding 72 hours, that the criteria for
927 involuntary outpatient services are met. However, if the
928 administrator certifies that a psychiatrist or clinical

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psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental illness, a physician assistant who has at least 3 years' experience and is supervised by such licensed physician or a psychiatrist, a clinical social worker, or by a psychiatric nurse. Any second opinion authorized in this subparagraph may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation must be entered on an involuntary outpatient services certificate, and the certificate must be made a part of the patient's clinical record.

(e) 1. The administrator of the treatment facility shall provide a copy of the involuntary outpatient services certificate and a copy of the state mental health discharge form to the managing entity in the county where the patient will be residing. For persons who are leaving a state mental health treatment facility, the petition for involuntary outpatient services must be filed in the county where the patient will be residing.

2. The service provider that will have primary responsibility for service provision shall be identified by the designated department representative before the order for involuntary outpatient services and must, before filing a petition for involuntary outpatient services, certify to the court whether the services recommended in the patient's discharge plan are available and whether the service provider agrees to provide those services. The service provider must develop with the patient, or the patient's guardian advocate, if appointed, a treatment or service plan that addresses the needs

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958 identified in the discharge plan. The plan must be deemed to be
959 clinically appropriate by a physician, clinical psychologist,
960 psychiatric nurse, mental health counselor, marriage and family
961 therapist, or clinical social worker, as defined in this
962 chapter, who consults with, or is employed or contracted by, the
963 service provider.

964 3. If the service provider certifies that the services in
965 the proposed treatment or service plan are not available, the
966 petitioner may not file the petition. The service provider must
967 notify the managing entity if the requested services are not
968 available. The managing entity must document such efforts to
969 obtain the requested services.

970 (4) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES.—

971 (a) A petition for involuntary outpatient services may be
972 filed by:

- 973 1. The administrator of a receiving facility; or
974 2. The administrator of a treatment facility.

975 (b) Each required criterion for involuntary outpatient
976 services must be alleged and substantiated in the petition for
977 involuntary outpatient services. A copy of the certificate
978 recommending involuntary outpatient services completed by a
979 qualified professional specified in subsection (3) must be
980 attached to the petition. A copy of the proposed treatment plan
981 must be attached to the petition. Before the petition is filed,
982 the service provider shall certify that the services in the
983 proposed plan are available. If the necessary services are not
984 available, the petition may not be filed. The service provider
985 must notify the managing entity if the requested services are
986 not available. The managing entity must document such efforts to

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987 obtain the requested services.

988 (e) The petition for involuntary outpatient services must
989 be filed in the county where the patient is located, unless the
990 patient is being placed from a state treatment facility, in
991 which case the petition must be filed in the county where the
992 patient will reside. When the petition has been filed, the clerk
993 of the court shall provide copies of the petition and the
994 proposed treatment plan to the department, the managing entity,
995 the patient, the patient's guardian or representative, the state
996 attorney, and the public defender or the patient's private
997 counsel. A fee may not be charged for filing a petition under
998 this subsection.

999 (5) APPOINTMENT OF COUNSEL. Within 1 court working day
1000 after the filing of a petition for involuntary outpatient
1001 services, the court shall appoint the public defender to
1002 represent the person who is the subject of the petition, unless
1003 the person is otherwise represented by counsel. The clerk of the
1004 court shall immediately notify the public defender of the
1005 appointment. The public defender shall represent the person
1006 until the petition is dismissed, the court order expires, or the
1007 patient is discharged from involuntary outpatient services. An
1008 attorney who represents the patient must be provided access to
1009 the patient, witnesses, and records relevant to the presentation
1010 of the patient's case and shall represent the interests of the
1011 patient, regardless of the source of payment to the attorney.

1012 (6) CONTINUANCE OF HEARING. The patient is entitled, with
1013 the concurrence of the patient's counsel, to at least one
1014 continuance of the hearing. The continuance shall be for a
1015 period of up to 4 weeks.

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1016 (7) HEARING ON INVOLUNTARY OUTPATIENT SERVICES.

1017 (a) 1. The court shall hold the hearing on involuntary
1018 outpatient services within 5 working days after the filing of
1019 the petition, unless a continuance is granted. The hearing must
1020 be held in the county where the petition is filed, must be as
1021 convenient to the patient as is consistent with orderly
1022 procedure, and must be conducted in physical settings not likely
1023 to be injurious to the patient's condition. If the court finds
1024 that the patient's attendance at the hearing is not consistent
1025 with the best interests of the patient and if the patient's
1026 counsel does not object, the court may waive the presence of the
1027 patient from all or any portion of the hearing. The state
1028 attorney for the circuit in which the patient is located shall
1029 represent the state, rather than the petitioner, as the real
1030 party in interest in the proceeding.

1031 2. The court may appoint a magistrate to preside at the
1032 hearing. One of the professionals who executed the involuntary
1033 outpatient services certificate shall be a witness. The patient
1034 and the patient's guardian or representative shall be informed
1035 by the court of the right to an independent expert examination.
1036 If the patient cannot afford such an examination, the court
1037 shall ensure that one is provided, as otherwise provided by law.
1038 The independent expert's report is confidential and not
1039 discoverable, unless the expert is to be called as a witness for
1040 the patient at the hearing. The court shall allow testimony from
1041 individuals, including family members, deemed by the court to be
1042 relevant under state law, regarding the person's prior history
1043 and how that prior history relates to the person's current
1044 condition. The testimony in the hearing must be given under

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1045 ~~eath, and the proceedings must be recorded. The patient may~~
1046 ~~refuse to testify at the hearing.~~

1047 ~~(b)1. If the court concludes that the patient meets the~~
1048 ~~criteria for involuntary outpatient services pursuant to~~
1049 ~~subsection (2), the court shall issue an order for involuntary~~
1050 ~~outpatient services. The court order shall be for a period of up~~
1051 ~~to 90 days. The order must specify the nature and extent of the~~
1052 ~~patient's mental illness. The order of the court and the~~
1053 ~~treatment plan must be made part of the patient's clinical~~
1054 ~~record. The service provider shall discharge a patient from~~
1055 ~~involuntary outpatient services when the order expires or any~~
1056 ~~time the patient no longer meets the criteria for involuntary~~
1057 ~~placement. Upon discharge, the service provider shall send a~~
1058 ~~certificate of discharge to the court.~~

1059 ~~2. The court may not order the department or the service~~
1060 ~~provider to provide services if the program or service is not~~
1061 ~~available in the patient's local community, if there is no space~~
1062 ~~available in the program or service for the patient, or if~~
1063 ~~funding is not available for the program or service. The service~~
1064 ~~provider must notify the managing entity if the requested~~
1065 ~~services are not available. The managing entity must document~~
1066 ~~such efforts to obtain the requested services. A copy of the~~
1067 ~~order must be sent to the managing entity by the service~~
1068 ~~provider within 1 working day after it is received from the~~
1069 ~~court. The order may be submitted electronically through~~
1070 ~~existing data systems. After the order for involuntary services~~
1071 ~~is issued, the service provider and the patient may modify the~~
1072 ~~treatment plan. For any material modification of the treatment~~
1073 ~~plan to which the patient or, if one is appointed, the patient's~~

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1074 guardian advocate agrees, the service provider shall send notice
1075 of the modification to the court. Any material modifications of
1076 the treatment plan which are contested by the patient or the
1077 patient's guardian advocate, if applicable, must be approved or
1078 disapproved by the court consistent with subsection (3).

1079 3. If, in the clinical judgment of a physician, the patient
1080 has failed or has refused to comply with the treatment ordered
1081 by the court, and, in the clinical judgment of the physician,
1082 efforts were made to solicit compliance and the patient may meet
1083 the criteria for involuntary examination, a person may be
1084 brought to a receiving facility pursuant to s. 394.463. If,
1085 after examination, the patient does not meet the criteria for
1086 involuntary inpatient placement pursuant to s. 394.467, the
1087 patient must be discharged from the facility. The involuntary
1088 outpatient services order shall remain in effect unless the
1089 service provider determines that the patient no longer meets the
1090 criteria for involuntary outpatient services or until the order
1091 expires. The service provider must determine whether
1092 modifications should be made to the existing treatment plan and
1093 must attempt to continue to engage the patient in treatment. For
1094 any material modification of the treatment plan to which the
1095 patient or the patient's guardian advocate, if applicable,
1096 agrees, the service provider shall send notice of the
1097 modification to the court. Any material modifications of the
1098 treatment plan which are contested by the patient or the
1099 patient's guardian advocate, if applicable, must be approved or
1100 disapproved by the court consistent with subsection (3).

1101 (c) If, at any time before the conclusion of the initial
1102 hearing on involuntary outpatient services, it appears to the

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1103 court that the person does not meet the criteria for involuntary
1104 outpatient services under this section but, instead, meets the
1105 criteria for involuntary inpatient placement, the court may
1106 order the person admitted for involuntary inpatient examination
1107 under s. 394.463. If the person instead meets the criteria for
1108 involuntary assessment, protective custody, or involuntary
1109 admission pursuant to s. 397.675, the court may order the person
1110 to be admitted for involuntary assessment for a period of 5 days
1111 pursuant to s. 397.6811. Thereafter, all proceedings are
1112 governed by chapter 397.

1113 (d) At the hearing on involuntary outpatient services, the
1114 court shall consider testimony and evidence regarding the
1115 patient's competence to consent to services. If the court finds
1116 that the patient is incompetent to consent to treatment, it
1117 shall appoint a guardian advocate as provided in s. 394.4598.
1118 The guardian advocate shall be appointed or discharged in
1119 accordance with s. 394.4598.

1120 (e) The administrator of the receiving facility or the
1121 designated department representative shall provide a copy of the
1122 court order and adequate documentation of a patient's mental
1123 illness to the service provider for involuntary outpatient
1124 services. Such documentation must include any advance directives
1125 made by the patient, a psychiatric evaluation of the patient,
1126 and any evaluations of the patient performed by a psychologist
1127 or a clinical social worker.

1128 (8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
1129 SERVICES.

1130 (a)1. If the person continues to meet the criteria for
1131 involuntary outpatient services, the service provider shall, at

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1132 least 10 days before the expiration of the period during which
1133 the treatment is ordered for the person, file in the court that
1134 issued the order for involuntary outpatient services a petition
1135 for continued involuntary outpatient services. The court shall
1136 immediately schedule a hearing on the petition to be held within
1137 15 days after the petition is filed.

1138 2. The existing involuntary outpatient services order
1139 remains in effect until disposition on the petition for
1140 continued involuntary outpatient services.

1141 3. A certificate shall be attached to the petition which
1142 includes a statement from the person's physician or clinical
1143 psychologist justifying the request, a brief description of the
1144 patient's treatment during the time he or she was receiving
1145 involuntary services, and an individualized plan of continued
1146 treatment.

1147 4. The service provider shall develop the individualized
1148 plan of continued treatment in consultation with the patient or
1149 the patient's guardian advocate, if applicable. When the
1150 petition has been filed, the clerk of the court shall provide
1151 copies of the certificate and the individualized plan of
1152 continued services to the department, the patient, the patient's
1153 guardian advocate, the state attorney, and the patient's private
1154 counsel or the public defender.

1155 (b) Within 1 court working day after the filing of a
1156 petition for continued involuntary outpatient services, the
1157 court shall appoint the public defender to represent the person
1158 who is the subject of the petition, unless the person is
1159 otherwise represented by counsel. The clerk of the court shall
1160 immediately notify the public defender of such appointment. The

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1161 public defender shall represent the person until the petition is
1162 dismissed or the court order expires or the patient is
1163 discharged from involuntary outpatient services. Any attorney
1164 representing the patient shall have access to the patient,
1165 witnesses, and records relevant to the presentation of the
1166 patient's case and shall represent the interests of the patient,
1167 regardless of the source of payment to the attorney.

1168 (e) Hearings on petitions for continued involuntary
1169 outpatient services must be before the court that issued the
1170 order for involuntary outpatient services. The court may appoint
1171 a magistrate to preside at the hearing. The procedures for
1172 obtaining an order pursuant to this paragraph must meet the
1173 requirements of subsection (7), except that the time period
1174 included in paragraph (2)(e) is not applicable in determining
1175 the appropriateness of additional periods of involuntary
1176 outpatient placement.

1177 (d) Notice of the hearing must be provided as set forth in
1178 s. 394.4599. The patient and the patient's attorney may agree to
1179 a period of continued outpatient services without a court
1180 hearing.

1181 (e) The same procedure must be repeated before the
1182 expiration of each additional period the patient is placed in
1183 treatment.

1184 (f) If the patient has previously been found incompetent to
1185 consent to treatment, the court shall consider testimony and
1186 evidence regarding the patient's competence. Section 394.4598
1187 governs the discharge of the guardian advocate if the patient's
1188 competency to consent to treatment has been restored.

1189 Section 11. Section 394.467, Florida Statutes, is amended

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1190 to read:

1191 (Substantial rewording of section. See

1192 s. 394.467, F.S., for present text.)

1193 394.467 Involuntary services.-

1194 (1) DEFINITIONS.—As used in this section, the term:

1195 (a) "Court" means a circuit court.

1196 (b) "Involuntary inpatient placement" means services

1197 provided on an inpatient basis to a person 18 years of age or

1198 older who does not voluntarily consent to services under this

1199 chapter, or a minor who does not voluntarily assent to services.

1200 (c) "Involuntary outpatient services" means services

1201 provided on an outpatient basis to a person who does not

1202 voluntarily consent to services under this chapter.

1203 (2) CRITERIA FOR INVOLUNTARY SERVICE.—A person may be

1204 ordered to involuntary services upon a finding of the court, by

1205 clear and convincing evidence, that the person meets the

1206 following criteria:

1207 (a) The person has a mental illness and because of that

1208 mental illness:

1209 1.a. Is unlikely to voluntarily participate in the

1210 recommended treatment plan and has refused voluntary services or

1211 voluntary inpatient placement for treatment after sufficient and

1212 conscientious explanation and disclosure of the purpose of

1213 treatment; or

1214 b. Is unable to determine for himself or herself whether

1215 services or inpatient placement is necessary; and

1216 2.a. Is unlikely to survive safely in the community without

1217 supervision, based on clinical determination; or

1218 b. Is incapable of surviving alone or with the help of

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willing, able, and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to the person's well-being; or

c. Without treatment, there is a substantial likelihood that in the near future the person will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm;

(b) In view of the person's treatment history and current behavior, the person is in need of involuntary outpatient services to prevent a relapse or deterioration of his or her mental health which would likely result in serious bodily harm to himself or others, or a substantial harm to his or her well-being as set forth in s. 394.463(1);

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

(d) It is likely that the person will benefit from involuntary services; and

(e) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the person's condition have been deemed inappropriate or unavailable.

(3) RECOMMENDATION FOR INVOLUNTARY SERVICES AND TREATMENT.— A patient may be recommended for involuntary inpatient placement, involuntary outpatient services, or a combination of both.

(a) A patient may be retained by a facility for involuntary services upon the recommendation of the administrator of the facility where the patient has been examined and after adherence

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1248 to the notice and hearing procedures provided in s. 394.4599.
1249 However, if a patient who is being recommended for only
1250 involuntary outpatient services has been stabilized and no
1251 longer meets the criteria for involuntary examination pursuant
1252 to s. 394.463(1), the patient must be released from the facility
1253 while awaiting the hearing for involuntary outpatient services.

1254 (b) The recommendation must be supported by the opinion of
1255 a psychiatrist and the second opinion of a clinical psychologist
1256 or another psychiatrist, both of whom have personally examined
1257 the patient within the preceding 72 hours, that the criteria for
1258 involuntary services are met.

1259 (c) If a psychiatrist or a clinical psychologist is not
1260 available to provide a second opinion, the administrator shall
1261 certify that a psychiatrist or a clinical psychologist is not
1262 available, and the second opinion may be provided by a licensed
1263 physician who has postgraduate training and experience in
1264 diagnosis and treatment of mental illness or by a psychiatric
1265 nurse. If the patient is being recommended for involuntary
1266 outpatient services only, the second opinion may also be
1267 provided by a physician assistant who has at least 3 years'
1268 experience and is supervised by a licensed physician or a
1269 psychiatrist, or a clinical social worker.

1270 (d) Any opinion authorized in this subsection may be
1271 conducted through a face-to-face examination, in person, or by
1272 electronic means. Recommendations for involuntary services must
1273 be entered on an involuntary services certificate, which shall
1274 be made a part of the patient's clinical record. The certificate
1275 must either authorize the facility to retain the patient pending
1276 completion of a hearing or authorize the facility to retain the

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1277 patient pending transfer to a treatment facility or completion
1278 of a hearing.

1279 (4) PETITION FOR INVOLUNTARY SERVICES.—

1280 (a) A petition for involuntary services may be filed by:

- 1281 1. The administrator of a receiving facility; or
- 1282 2. The administrator of a treatment facility.

1283 (b) A petition for involuntary inpatient placement, or
1284 inpatient placement followed by outpatient services, must be
1285 filed in the court in the county where the patient is located.

1286 (c) A petition for involuntary outpatient services must be
1287 filed in the county where the patient is located, unless the
1288 patient is being placed from a state treatment facility, in
1289 which case the petition must be filed in the county where the
1290 patient will reside.

1291 (d) 1. The petitioner must state in the petition:

1292 a. Whether the petitioner is recommending inpatient
1293 placement, outpatient services, or both;

1294 b. The length of time recommended for each type of
1295 involuntary services; and

1296 c. The reasons for the recommendation.

1297 2. If recommending involuntary outpatient services, or a
1298 combination of involuntary inpatient placement and outpatient
1299 services, the petitioner must identify the service provider that
1300 will have primary responsibility for service provision under an
1301 order for involuntary outpatient services, unless the person is
1302 otherwise participating in outpatient psychiatric treatment and
1303 is not in need of public financing for that treatment, in which
1304 case the individual, if eligible, may be ordered to involuntary
1305 treatment pursuant to the existing psychiatric treatment

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1306 relationship.

1307 3. If recommending an immediate order to involuntary
1308 outpatient services, the service provider shall prepare a
1309 written proposed treatment plan in consultation with the patient
1310 or the patient's guardian advocate, if appointed, for the
1311 court's consideration for inclusion in the involuntary
1312 outpatient services order that addresses the nature and extent
1313 of the mental illness and any co-occurring substance use
1314 disorder that necessitate involuntary outpatient services. The
1315 treatment plan must specify the likely level of care, including
1316 the use of medication, and anticipated discharge criteria for
1317 terminating involuntary outpatient services. Service providers
1318 may select and supervise other individuals to implement specific
1319 aspects of the treatment plan. The services in the plan must be
1320 deemed clinically appropriate by a physician, clinical
1321 psychologist, psychiatric nurse, mental health counselor,
1322 marriage and family therapist, or clinical social worker who
1323 consults with, or is employed or contracted by, the service
1324 provider. The service provider must certify to the court in the
1325 proposed plan whether sufficient services for improvement and
1326 stabilization are currently available and whether the service
1327 provider agrees to provide those services. If the service
1328 provider certifies that the services in the proposed treatment
1329 plan are not available, the petitioner may not file the
1330 petition. The service provider must notify the managing entity
1331 if the requested services are not available. The managing entity
1332 must document such efforts to obtain the requested service.

1333 (e) Each required criterion for the recommended involuntary
1334 services must be alleged and substantiated in the petition. A

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1335 copy of the certificate recommending involuntary services
1336 completed by a qualified professional specified in subsection
1337 (3) and, if applicable, a copy of the proposed treatment plan
1338 must be attached to the petition.

1339 (f) When the petition has been filed, the clerk of the
1340 court shall provide copies of the petition and, if applicable,
1341 the proposed treatment plan to the department, the managing
1342 entity, the patient, the patient's guardian or representative,
1343 the state attorney, and the public defender or the patient's
1344 private counsel. A fee may not be charged for filing a petition
1345 under this subsection.

1346 (5) APPOINTMENT OF COUNSEL.—Within 1 court working day
1347 after the filing of a petition for involuntary services, the
1348 court shall appoint the public defender to represent the person
1349 who is the subject of the petition, unless the person is
1350 otherwise represented by counsel or ineligible. The clerk of the
1351 court shall immediately notify the public defender of such
1352 appointment. The public defender shall represent the person
1353 until the petition is dismissed, the court order expires, or the
1354 patient is discharged from involuntary services. Any attorney
1355 who represents the patient shall be provided access to the
1356 patient, witnesses, and records relevant to the presentation of
1357 the patient's case and shall represent the interests of the
1358 patient, regardless of the source of payment to the attorney.

1359 (6) CONTINUANCE OF HEARING.—The patient and the state are
1360 independently entitled to at least one continuance of the
1361 hearing. The patient's continuance may be for a period of up to
1362 4 weeks and requires the concurrence of the patient's counsel.
1363 The state's continuance may be for a period of up to 5 court

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1364 working days and requires a showing of good cause and due
1365 diligence by the state before requesting the continuance. The
1366 state's failure to timely review any readily available document
1367 or failure to attempt to contact a known witness does not
1368 warrant a continuance.

1369 (7) HEARING ON INVOLUNTARY SERVICES.—

1370 (a) 1. The court shall hold a hearing on the involuntary
1371 services petition within 5 court working days after the filing
1372 of the petition, unless a continuance is granted.

1373 2. The court shall hold any hearing on involuntary
1374 outpatient services in the county where the petition is filed. A
1375 hearing on involuntary inpatient placement, or a combination or
1376 involuntary inpatient placement and involuntary outpatient
1377 services, must be held in the county or the facility, as
1378 appropriate, where the patient is located, except for good cause
1379 documented in the court file.

1380 3. A hearing on involuntary services must be as convenient
1381 to the patient as is consistent with orderly procedure, and
1382 shall be conducted in a physical setting not likely to be
1383 injurious to the patient's condition. If the court finds that
1384 the patient's attendance at the hearing is not consistent with
1385 the best interests of the patient, or the patient knowingly,
1386 intelligently, and voluntarily waives his or her right to be
1387 present, and if the patient's counsel does not object, the court
1388 may waive the presence of the patient from all or any portion of
1389 the hearing. The state attorney for the circuit in which the
1390 patient is located shall represent the state, rather than the
1391 petitioner, as the real party in interest in the proceeding. The
1392 facility shall make the respondent's clinical records available

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1393 to the state attorney and the respondent's attorney so that the
1394 state can evaluate and prepare its case. However, these records
1395 shall remain confidential, and the state attorney may not use
1396 any record obtained under this part for criminal investigation
1397 or prosecution purposes, or for any purpose other than the
1398 patient's civil commitment under this chapter.

1399 (b) At the hearing, the court shall consider testimony and
1400 evidence regarding the patient's competence to consent to
1401 services and treatment. If the court finds that the patient is
1402 incompetent to consent to treatment, it shall appoint a guardian
1403 advocate as provided in s. 394.4598.

1404 (8) ORDERS OF THE COURT.—

1405 (a) 1. If the court concludes that the patient meets the
1406 criteria for involuntary services, the court may order a patient
1407 to involuntary inpatient placement, involuntary outpatient
1408 services, or a combination of involuntary services depending on
1409 the criteria met and which type of involuntary services best
1410 meet the needs of the patient. However, if the court orders the
1411 patient to involuntary outpatient services, the court may not
1412 order the department or the service provider to provide services
1413 if the program or service is not available in the patient's
1414 local community, if there is no space available in the program
1415 or service for the patient, or if funding is not available for
1416 the program or service. The service provider must notify the
1417 managing entity if the requested services are not available. The
1418 managing entity must document such efforts to obtain the
1419 requested services. A copy of the order must be sent to the
1420 managing entity by the service provider within 1 working day
1421 after it is received from the court.

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1422 2. The order must specify the nature and extent of the
1423 patient's mental illness.

1424 3.a. An order for only involuntary outpatient services
1425 shall be for a period of up to 90 days.

1426 b. An order for involuntary inpatient placement, or a
1427 combination of inpatient placement and outpatient services, may
1428 be up to 6 months.

1429 4. An order for a combination of involuntary services must
1430 specify the length of time the patient shall be ordered for
1431 involuntary inpatient placement and involuntary outpatient
1432 services.

1433 5. The order of the court and the patient's treatment plan
1434 must be made part of the patient's clinical record.

1435 (b) If the court orders a patient into involuntary
1436 inpatient placement, the court may order that the patient be
1437 transferred to a treatment facility, or if the patient is at a
1438 treatment facility, that the patient be retained there or be
1439 treated at any other appropriate facility, or that the patient
1440 receive services on an involuntary basis. The court may not
1441 order an individual with a developmental disability as defined
1442 in s. 393.063, a traumatic brain injury, or dementia who lacks a
1443 co-occurring mental illness to be involuntarily placed in a
1444 state treatment facility.

1445 (c) If at any time before the conclusion of a hearing on
1446 involuntary services, it appears to the court that the patient
1447 instead meets the criteria for involuntary admission or
1448 treatment pursuant to s. 397.675, the court may order the person
1449 to be admitted for involuntary assessment pursuant to s.

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1450 397.675. Thereafter, all proceedings are governed by chapter
1451 397.

1452 (d) The administrator of the petitioning facility or the
1453 designated department representative shall provide a copy of the
1454 court order and adequate documentation of a patient's mental
1455 illness to the service provider for involuntary outpatient
1456 services or the administrator of a treatment facility if the
1457 patient is ordered for involuntary inpatient placement. The
1458 documentation must include any advance directives made by the
1459 patient, a psychiatric evaluation of the patient, and any
1460 evaluations of the patient performed by a psychiatric nurse, a
1461 clinical psychologist, a marriage and family therapist, a mental
1462 health counselor, or a clinical social worker. The administrator
1463 of a treatment facility may refuse admission to any patient
1464 directed to its facilities on an involuntary basis, whether by
1465 civil or criminal court order, who is not accompanied by
1466 adequate orders and documentation.

1467 (9) TREATMENT PLAN MODIFICATION.—After the order for
1468 involuntary outpatient services is issued, the service provider
1469 and the patient may modify the treatment plan. For any material
1470 modification of the treatment plan to which the patient or, if
1471 one is appointed, the patient's guardian advocate agrees, the
1472 service provider shall send notice of the modification to the
1473 court. Any material modifications of the treatment plan which
1474 are contested by the patient or the patient's guardian advocate,
1475 if applicable, must be approved or disapproved by the court
1476 consistent with subsection (4).

1477 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.—
1478 If, in the clinical judgment of a physician, a patient receiving

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1479 involuntary outpatient services has failed or has refused to
1480 comply with the treatment ordered by the court, and, in the
1481 clinical judgment of the physician, efforts were made to solicit
1482 compliance and the patient may meet the criteria for involuntary
1483 examination, a person may be brought to a receiving facility
1484 pursuant to s. 394.463. If, after examination, the patient does
1485 not meet the criteria for involuntary inpatient placement under
1486 this section, the patient must be discharged from the facility.
1487 The involuntary outpatient services order shall remain in effect
1488 unless the service provider determines that the patient no
1489 longer meets the criteria for involuntary outpatient services or
1490 until the order expires. The service provider must determine
1491 whether modifications should be made to the existing treatment
1492 plan and must attempt to continue to engage the patient in
1493 treatment. For any material modification of the treatment plan
1494 to which the patient or the patient's guardian advocate, if
1495 applicable, agrees, the service provider shall send notice of
1496 the modification to the court. Any material modifications of the
1497 treatment plan which are contested by the patient or the
1498 patient's guardian advocate, if applicable, must be approved or
1499 disapproved by the court consistent with subsection (4).

1500 (11) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES.-

1501 (a) A petition for continued involuntary services shall be
1502 filed if the patient continues to meets the criteria for
1503 involuntary services.

1504 (b) 1. If a patient receiving involuntary outpatient
1505 services continues to meet the criteria for involuntary
1506 outpatient services, the service provider shall file in the
1507 court that issued the order for involuntary outpatient services

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1508 a petition for continued involuntary outpatient services.

1509 2. If the patient in involuntary inpatient placement
1510 continues to meet the criteria for involuntary inpatient
1511 placement and is being treated at a treatment facility, the
1512 administrator shall, before the expiration of the period the
1513 treatment facility is authorized to retain the patient, file a
1514 petition requesting authorization for continued involuntary
1515 inpatient placement.

1516 3. The court shall immediately schedule a hearing on the
1517 petition to be held within 15 days after the petition is filed.

1518 4. The existing involuntary services order shall remain in
1519 effect until disposition on the petition for continued
1520 involuntary services.

1521 (c) A certificate for continued involuntary services must
1522 be attached to the petition and shall include a statement from
1523 the patient's physician, psychiatrist, psychiatric nurse, or
1524 clinical psychologist justifying the request, a brief
1525 description of the patient's treatment during the time he or she
1526 was receiving involuntary services, and, if requesting
1527 involuntary outpatient services, an individualized plan of
1528 continued treatment. The individualized plan of continued
1529 treatment must be developed in consultation with the patient or
1530 the patient's guardian advocate, if applicable. When the
1531 petition has been filed, the clerk of the court shall provide
1532 copies of the certificate and the individualized plan of
1533 continued services to the department, the patient, the patient's
1534 guardian advocate, the state attorney, and the patient's private
1535 counsel or public defender.

1536 (d) The court shall appoint counsel to represent the person

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1537 who is the subject of the petition for continued involuntary
1538 services in accordance to the provisions set forth in subsection
1539 (5), unless the person is otherwise represented by counsel or
1540 eligible.

1541 (e) Hearings on petitions for continued involuntary
1542 outpatient services must be before the court that issued the
1543 order for involuntary outpatient services. However, the patient
1544 and the patient's attorney may agree to a period of continued
1545 outpatient services without a court hearing.

1546 (f) Hearings on petitions for continued involuntary
1547 inpatient placement must be held in the county or the facility,
1548 as appropriate, where the patient is located.

1549 (g) Notice of the hearing must be provided as set forth in
1550 s. 394.4599.

1551 (h) If a patient's attendance at the hearing is voluntarily
1552 waived, the judge shall determine that the waiver is knowing and
1553 voluntary before waiving the presence of the patient from all or
1554 a portion of the hearing. Alternatively, if at the hearing the
1555 judge finds that attendance at the hearing is not consistent
1556 with the best interests of the patient, the judge may waive the
1557 presence of the patient from all or any portion of the hearing,
1558 unless the patient, through counsel, objects to the waiver of
1559 presence. The testimony in the hearing must be under oath and
1560 the proceedings must be recorded.

1561 (i) Hearings on petitions for continued involuntary
1562 inpatient placement of an individual placed at any treatment
1563 facility are administrative hearings and must be conducted in
1564 accordance with s. 120.57(1), except that any order entered by
1565 the judge is final and subject to judicial review in accordance

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1566 with s. 120.68. Orders concerning patients committed after
1567 successfully pleading not guilty by reason of insanity are
1568 governed by s. 916.15.

1569 (j) If at a hearing it is shown that the patient continues
1570 to meet the criteria for involuntary services, the court shall
1571 issue an order for continued involuntary services for up to 90
1572 days. However, any order for involuntary inpatient placement, or
1573 a combination of involuntary services, may be for up to 6
1574 months. The same procedure must be repeated before the
1575 expiration of each additional period the patient is retained.

1576 (k) If the patient has been ordered to undergo involuntary
1577 services and has previously been found incompetent to consent to
1578 treatment, the court shall consider testimony and evidence
1579 regarding the patient's competence. If the patient's competency
1580 to consent to treatment is restored, the discharge of the
1581 guardian advocate shall be governed by s. 394.4598. If the
1582 patient has been ordered to undergo involuntary inpatient
1583 placement only and the patient's competency to consent to
1584 treatment is restored, the administrative law judge may issue a
1585 recommended order to the court that found the patient
1586 incompetent to consent to treatment, that the patient's
1587 competence be restored and that any guardian advocate previously
1588 appointed be discharged.

1589 (l) If continued involuntary inpatient placement is
1590 necessary for a patient in involuntary inpatient placement who
1591 was admitted while serving a criminal sentence, but his or her
1592 sentence is about to expire, or for a minor involuntarily
1593 placed, but who is about to reach the age of 18, the
1594 administrator shall petition the administrative law judge for an

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1595 order authorizing continued involuntary inpatient placement.

1596
1597 The procedure required in this section must be followed before
1598 the expiration of each additional period the patient is
1599 involuntarily receiving services.

1600 (12) RETURN TO FACILITY.—If a patient has been ordered to
1601 undergo involuntary inpatient placement held at a treatment
1602 facility under this part and leaves the facility without the
1603 administrator's authorization, the administrator may authorize a
1604 search for the patient and his or her return to the facility.
1605 The administrator may request the assistance of a law
1606 enforcement agency in this regard.

1607 (13) DISCHARGE.—The patient shall be discharged upon
1608 expiration of the court order or at any time the patient no
1609 longer meets the criteria for involuntary services, unless the
1610 patient has transferred to voluntary status. Upon discharge, the
1611 service provider or facility shall send a certificate of
1612 discharge to the court.

1613 Section 12. Subsection (2) of section 394.468, Florida
1614 Statutes, is amended, and subsections (4) and (5) are added to
1615 that section, to read:

1616 394.468 Admission and discharge procedures.—

1617 (2) Discharge planning and procedures for any patient's
1618 release from a receiving facility or treatment facility must
1619 include and document the patient's needs, and actions to address
1620 such needs, for consideration of, at a minimum:

1621 (a) Follow-up behavioral health appointments;

1622 (b) Information on how to obtain prescribed medications;

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- 1624 (c) Information pertaining to:
1625 1. Available living arrangements;
1626 2. Transportation; and
1627 (d) Referral to:
1628 1. Care coordination services. The patient must be referred
1629 for care coordination services if the patient meets the criteria
1630 as a member of a priority population as determined by the
1631 department under s. 394.9082(3)(c); and
1632 2.3. Recovery support opportunities under s.
1633 394.4573(2)(1), including, but not limited to, connection to a
1634 peer specialist.
1635 (4) During the discharge transition process and while the
1636 patient is present, unless determined inappropriate by a
1637 physician, a receiving facility shall coordinate, face to face
1638 or through electronic means, ongoing treatment and discharge
1639 plans to a less restrictive community behavioral health
1640 provider, a peer specialist, a case manager, or a care
1641 coordination service. The transition process must include all of
1642 the following criteria:
1643 (a) Implementation of policies and procedures outlining
1644 strategies for how the receiving facility will comprehensively
1645 address the needs of patients who demonstrate a high utilization
1646 of receiving facility services to avoid or reduce future use of
1647 crisis stabilization services;
1648 (b) Developing, and including in discharge paperwork, a
1649 personalized crisis prevention plan that identifies stressors,
1650 early warning signs or symptoms, and strategies to deal with
1651 crisis; and
1652 (c) Requiring a master's-level or licensed professional-

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1653 level staff member to engage a family member, legal guardian,
1654 legal representative, or natural support in discharge planning
1655 and meet face to face or through electronic means to review the
1656 discharge instructions, including prescribed medications,
1657 follow-up appointments, and any other recommended services or
1658 follow-up resources, and document the outcome of such meeting.

1659 (5) When the recommended level of care at discharge is not
1660 immediately available to the patient, the receiving facility
1661 must initiate a referral to an appropriate provider to meet the
1662 needs of the patient and make appointments for interim services
1663 to continue care until the recommended level of care is
1664 available.

1665 Section 13. Subsection (3) of section 394.495, Florida
1666 Statutes, is amended to read:

1667 394.495 Child and adolescent mental health system of care;
1668 programs and services.—

1669 (3) Assessments must be performed by:

1670 (a) A clinical psychologist, clinical social worker,
1671 physician, psychiatric nurse, or psychiatrist, as those terms
1672 are defined in s. 394.455 professional as defined in s.
1673 394.455(5), (7), (33), (36), or (37);

1674 (b) A professional licensed under chapter 491; or

1675 (c) A person who is under the direct supervision of a
1676 clinical psychologist, clinical social worker, physician,
1677 psychiatric nurse, or psychiatrist, as those terms are defined
1678 in s. 394.455, qualified professional as defined in s.
1679 394.455(5), (7), (33), (36), or (37) or a professional licensed
1680 under chapter 491.

1681 Section 14. Subsection (5) of section 394.496, Florida

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1682 Statutes, is amended to read:

1683 394.496 Service planning.—

1684 (5) A clinical psychologist, clinical social worker,
1685 physician, psychiatric nurse, or psychiatrist, as those terms
1686 are defined in s. 394.455, professional as defined in s.
1687 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
1688 under chapter 491 must be included among those persons
1689 developing the services plan.

1690 Section 15. Paragraph (a) of subsection (2) of section
1691 394.499, Florida Statutes, is amended to read:

1692 394.499 Integrated children's crisis stabilization
1693 unit/juvenile addictions receiving facility services.—

1694 (2) Children eligible to receive integrated children's
1695 crisis stabilization unit/juvenile addictions receiving facility
1696 services include:

1697 (a) A ~~minor whose parent makes person under 18 years of age~~
1698 ~~for whom voluntary application based on the parent's express and~~
1699 ~~informed consent, and the requirements of s. 394.4625(1)(a) are~~
1700 ~~met is made by his or her guardian, if such person is found to~~
1701 ~~show evidence of mental illness and to be suitable for treatment~~
1702 ~~pursuant to s. 394.4625. A person under 18 years of age may be~~
1703 ~~admitted for integrated facility services only after a hearing~~
1704 ~~to verify that the consent to admission is voluntary.~~

1705 Section 16. Paragraphs (a) and (d) of subsection (1) of
1706 section 394.875, Florida Statutes, are amended to read:

1707 394.875 Crisis stabilization units, residential treatment
1708 facilities, and residential treatment centers for children and
1709 adolescents; authorized services; license required.—

1710 (1) (a) The purpose of a crisis stabilization unit is to

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1711 stabilize and redirect a client to the most appropriate and
1712 least restrictive community setting available, consistent with
1713 the client's needs. Crisis stabilization units may screen,
1714 assess, and admit for stabilization persons who present
1715 themselves to the unit and persons who are brought to the unit
1716 under s. 394.463. Clients may be provided 24-hour observation,
1717 medication prescribed by a physician or psychiatrist, and other
1718 appropriate services. Crisis stabilization units shall provide
1719 services regardless of the client's ability to pay ~~and shall be~~
1720 ~~limited in size to a maximum of 30 beds.~~

1721 ~~(d) The department is directed to implement a demonstration~~
1722 ~~project in circuit 18 to test the impact of expanding beds~~
1723 ~~authorized in crisis stabilization units from 30 to 50 beds.~~
1724 ~~Specifically, the department is directed to authorize existing~~
1725 ~~public or private crisis stabilization units in circuit 18 to~~
1726 ~~expand bed capacity to a maximum of 50 beds and to assess the~~
1727 ~~impact such expansion would have on the availability of crisis~~
1728 ~~stabilization services to clients.~~

1729 Section 17. Subsection (6) of section 394.9085, Florida
1730 Statutes, is amended to read:

1731 394.9085 Behavioral provider liability.—

1732 (6) For purposes of this section, the terms "detoxification
1733 services," "addictions receiving facility," and "receiving
1734 facility" have the same meanings as those provided in ss.
1735 397.311(26)(a)3., 397.311(26)(a)1., and 394.455(41) ~~394.455(40)~~,
1736 respectively.

1737 Section 18. Subsection (3) of section 397.305, Florida
1738 Statutes, is amended to read:

1739 397.305 Legislative findings, intent, and purpose.—

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1740 (3) It is the purpose of this chapter to provide for a
1741 comprehensive continuum of accessible and quality substance
1742 abuse prevention, intervention, clinical treatment, and recovery
1743 support services in the most appropriate and least restrictive
1744 environment which promotes long-term recovery while protecting
1745 and respecting the rights of individuals, primarily through
1746 community-based private not-for-profit providers working with
1747 local governmental programs involving a wide range of agencies
1748 from both the public and private sectors.

1749 Section 19. Subsections (19) and (23) of section 397.311,
1750 Florida Statutes, are amended to read:

1751 397.311 Definitions.—As used in this chapter, except part
1752 VIII, the term:

1753 (19) "Impaired" or "substance abuse impaired" means having
1754 a substance use disorder or a condition involving the use of
1755 alcoholic beverages, illicit or prescription drugs, or any
1756 psychoactive or mood-altering substance in such a manner as to
1757 induce mental, emotional, or physical problems and cause
1758 socially dysfunctional behavior.

1759 (23) "Involuntary treatment services" means an array of
1760 behavioral health services that may be ordered by the court for
1761 persons with substance abuse impairment or co-occurring
1762 substance abuse impairment and mental health disorders.

1763 Section 20. Subsection (6) is added to section 397.401,
1764 Florida Statutes, to read:

1765 397.401 License required; penalty; injunction; rules
1766 waivers.—

1767 (6) A service provider operating an addictions receiving
1768 facility or providing detoxification on a non-hospital inpatient

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1769 basis may not exceed its licensed capacity by more than 10
1770 percent and may not exceed its licensed capacity for more than 3
1771 consecutive working days or for more than 7 days in 1 month.

1772 Section 21. Paragraph (i) is added to subsection (1) of
1773 section 397.4073, Florida Statutes, to read:

1774 397.4073 Background checks of service provider personnel.—

1775 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
1776 EXCEPTIONS.—

1777 (i) Licensed physicians and nurses who require background
1778 screening by the Department of Health at initial licensure and
1779 renewal of licensure are not subject to background screening
1780 pursuant to this section if they are providing a service that is
1781 within their scope of licensed practice.

1782 Section 22. Subsection (8) of section 397.501, Florida
1783 Statutes, is amended to read:

1784 397.501 Rights of individuals.—Individuals receiving
1785 substance abuse services from any service provider are
1786 guaranteed protection of the rights specified in this section,
1787 unless otherwise expressly provided, and service providers must
1788 ensure the protection of such rights.

1789 (8) RIGHT TO COUNSEL.—Each individual must be informed that
1790 he or she has the right to be represented by counsel in any
1791 Judicial involuntary proceeding for involuntary substance abuse
1792 ~~assessment, stabilization, or~~ treatment and that he or she, or
1793 if the individual is a minor his or her parent, legal guardian,
1794 or legal custodian, may apply immediately to the court to have
1795 an attorney appointed if he or she cannot afford one.

1796 Section 23. Section 397.581, Florida Statutes, is amended
1797 to read:

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1798 397.581 Unlawful activities relating to assessment and
1799 treatment; penalties.—
1800 (1) A person may not knowingly and willfully:
1801 (a) Furnish ~~Furnishing~~ false information for the purpose of
1802 obtaining emergency or other involuntary admission of another
1803 ~~person for any person is a misdemeanor of the first degree,~~
1804 ~~punishable as provided in s. 775.082 and by a fine not exceeding~~
1805 ~~\$5,000.~~
1806 (b) ~~(2) Cause or otherwise secure, or conspire with or~~
1807 ~~assist another to cause or secure~~ ~~Causing or otherwise securing,~~
1808 ~~or conspiring with or assisting another to cause or secure,~~
1809 ~~without reason for believing a person to be impaired, any~~
1810 ~~emergency or other involuntary procedure~~ of another ~~for the~~
1811 ~~person under false pretenses is a misdemeanor of the first~~
1812 ~~degree, punishable as provided in s. 775.082 and by a fine not~~
1813 ~~exceeding \$5,000.~~
1814 (c) ~~(3) Cause, or conspire with or assist another to cause,~~
1815 ~~without lawful justification~~ ~~Causing, or conspiring with or~~
1816 ~~assisting another to cause,~~ the denial to any person of any
1817 right accorded pursuant to this chapter.
1818 (2) A person who violates subsection (1) commits ~~is a~~
1819 misdemeanor of the first degree, punishable as provided in s.
1820 775.082 and by a fine not exceeding \$5,000.
1821 Section 24. Section 397.675, Florida Statutes, is amended
1822 to read:
1823 397.675 Criteria for involuntary admissions, including
1824 protective custody, emergency admission, and other involuntary
1825 assessment, involuntary treatment, and alternative involuntary
1826 assessment for minors, for purposes of assessment and

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1827 stabilization, and for involuntary treatment.—A person meets the
1828 criteria for involuntary admission if there is good faith reason
1829 to believe that the person is substance abuse impaired or has a
1830 substance use disorder and a co-occurring mental health disorder
1831 and, because of such impairment or disorder:

1832 (1) Has lost the power of self-control with respect to
1833 substance abuse; and

1834 (2) (a) Is in need of substance abuse services and, by
1835 reason of substance abuse impairment, his or her judgment has
1836 been so impaired that he or she is incapable of appreciating his
1837 or her need for such services and of making a rational decision
1838 in that regard, although mere refusal to receive such services
1839 does not constitute evidence of lack of judgment with respect to
1840 his or her need for such services; or

1841 (b) Without care or treatment, is likely to suffer from
1842 neglect or refuse to care for himself or herself; that such
1843 neglect or refusal poses a real and present threat of
1844 substantial harm to his or her well-being; and that it is not
1845 apparent that such harm may be avoided through the help of
1846 willing, able, and responsible family members or friends or the
1847 provision of other services, or there is substantial likelihood
1848 that the person has inflicted, or threatened to or attempted to
1849 inflict, or, unless admitted, is likely to inflict, physical
1850 harm on himself, herself, or another.

1851 Section 25. Section 397.681, Florida Statutes, is amended
1852 to read:

1853 397.681 Involuntary petitions; general provisions; court
1854 jurisdiction and right to counsel.—

1855 (1) JURISDICTION.—The courts have jurisdiction of

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1856 ~~involuntary assessment and stabilization petitions and~~
1857 involuntary treatment petitions for substance abuse impaired
1858 persons, and such petitions must be filed with the clerk of the
1859 court in the county where the person resides ~~is located~~. The
1860 clerk of the court may not charge a fee for the filing of a
1861 petition under this section. The chief judge may appoint a
1862 general or special magistrate to preside over all or part of the
1863 proceedings related to the petition or any ancillary matters
1864 thereto. The alleged impaired person is named as the respondent.

1865 (2) RIGHT TO COUNSEL.—Unless the respondent is present and
1866 the court finds he or she knowingly, intelligently, and
1867 voluntarily waived legal representation, a respondent has the
1868 right to counsel at every stage of a judicial proceeding
1869 relating to a petition for his or her ~~involuntary assessment and~~
1870 ~~a petition for his or her~~ involuntary treatment for substance
1871 abuse impairment. A respondent who desires counsel and is unable
1872 to afford private counsel has the right to court-appointed
1873 counsel and to the benefits of s. 57.081. If the court believes
1874 that the respondent needs or desires the assistance of counsel,
1875 the court shall appoint such counsel for the respondent without
1876 regard to the respondent's wishes. If the respondent is a minor
1877 not otherwise represented in the proceeding, the court shall
1878 immediately appoint a guardian ad litem to act on the minor's
1879 behalf.

1880 Section 26. Subsection (1) of section 397.6751, Florida
1881 Statutes, is amended to read:

1882 397.6751 Service provider responsibilities regarding
1883 involuntary admissions.—

1884 (1) It is the responsibility of the service provider to:

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1885 (a) Ensure that a person who is admitted to a licensed
1886 service component meets the admission criteria specified in s.
1887 397.675;

1888 (b) Ascertain whether the medical and behavioral conditions
1889 of the person, as presented, are beyond the safe management
1890 capabilities of the service provider;

1891 (c) Provide for the admission of the person to the service
1892 component that represents the most appropriate and least
1893 restrictive available setting that is responsive to the person's
1894 treatment needs;

1895 (d) Verify that the admission of the person to the service
1896 component does not result in a census in excess of its licensed
1897 service capacity;

1898 (e) Determine whether the cost of services is within the
1899 financial means of the person or those who are financially
1900 responsible for the person's care; and

1901 (f) Take all necessary measures to ensure that each
1902 individual in treatment is provided with a safe environment, and
1903 to ensure that each individual whose medical condition or
1904 behavioral problem becomes such that he or she cannot be safely
1905 managed by the service component is discharged and referred to a
1906 more appropriate setting for care.

1907 Section 27. Section 397.6818, Florida Statutes, is amended
1908 to read:

1909 397.6818 Court determination.—

1910 (1) When the petitioner asserts that emergency
1911 circumstances exist, or when upon review of the petition the
1912 court determines that an emergency exists, the court may rely
1913 solely on the contents of the petition and, without the

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1914 appointment of an attorney, enter an ex parte order for the
1915 respondent's involuntary assessment and stabilization which must
1916 be executed during the period when the hearing on the petition
1917 for treatment is pending.

1918 (2) The court may further order a law enforcement officer
1919 or another designated agent of the court to:

1920 (a) Take the respondent into custody and deliver him or her
1921 for evaluation to either the nearest appropriate licensed
1922 service provider or a licensed service provider designated by
1923 the court; and

1924 (b) Serve the respondent with the notice of hearing and a
1925 copy of the petition.

1926 (3) The service provider may not hold the respondent for
1927 longer than 72 hours of observation, unless:

1928 (a) The service provider seeks additional time under s.
1929 397.6957(1)(c) and the court, after a hearing, grants a motion
1930 allowing such additional time;

1931 (b) The respondent shows signs of withdrawal, or a need to
1932 be either detoxified or treated for a medical condition, which
1933 shall extend the amount of time the respondent may be held for
1934 observation until the issue is resolved but no later than the
1935 scheduled hearing date, absent a court-approved extension; or

1936 (c) The original or extended observation period ends on a
1937 weekend or holiday, including the hours before the ordinary
1938 business hours of the following workday morning, in which case
1939 the provider may hold the respondent until the next court
1940 working day.

1941 (4) If the ex parte order was not executed by the initial
1942 hearing date, it shall be deemed void. However, should the

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1943 respondent not appear at the hearing for any reason, including
1944 lack of service, and upon reviewing the petition, testimony, and
1945 evidence presented, the court reasonably believes the respondent
1946 meets this chapter's commitment criteria and that a substance
1947 abuse emergency exists, the court may issue or reissue an ex
1948 parte assessment and stabilization order that is valid for 90
1949 days. If the respondent's location is known at the time of the
1950 hearing, the court:

1951 (a) Shall continue the case for no more than 10 court
1952 working days; and

1953 (b) May order a law enforcement officer or another
1954 designated agent of the court to:

1955 1. Take the respondent into custody and deliver him or her
1956 for evaluation to either the nearest appropriate licensed
1957 service provider or a licensed service provider designated by
1958 the court; and

1959 2. If a hearing date is set, serve the respondent with
1960 notice of the rescheduled hearing and a copy of the involuntary
1961 treatment petition if the respondent has not already been
1962 served.

1963

1964 Otherwise, the petitioner must inform the court that the
1965 respondent has been assessed so that the court may schedule a
1966 hearing as soon as is practicable. However, if the respondent
1967 has not been assessed within 90 days, the court must dismiss the
1968 case. At the hearing initiated in accordance with s.
1969 397.6811(1), the court shall hear all relevant testimony. The
1970 respondent must be present unless the court has reason to
1971 believe that his or her presence is likely to be injurious to

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1972 him or her, in which event the court shall appoint a guardian
1973 advocate to represent the respondent. The respondent has the
1974 right to examination by a court-appointed qualified
1975 professional. After hearing all the evidence, the court shall
1976 determine whether there is a reasonable basis to believe the
1977 respondent meets the involuntary admission criteria of s.
1978 397.675.

1979 ~~(1) Based on its determination, the court shall either~~
1980 ~~dismiss the petition or immediately enter an order authorizing~~
1981 ~~the involuntary assessment and stabilization of the respondent;~~
1982 ~~or, if in the course of the hearing the court has reason to~~
1983 ~~believe that the respondent, due to mental illness other than or~~
1984 ~~in addition to substance abuse impairment, is likely to injure~~
1985 ~~himself or herself or another if allowed to remain at liberty,~~
1986 ~~the court may initiate involuntary proceedings under the~~
1987 ~~provisions of part I of chapter 394.~~

1988 ~~(2) If the court enters an order authorizing involuntary~~
1989 ~~assessment and stabilization, the order shall include the~~
1990 ~~court's findings with respect to the availability and~~
1991 ~~appropriateness of the least restrictive alternatives and the~~
1992 ~~need for the appointment of an attorney to represent the~~
1993 ~~respondent, and may designate the specific licensed service~~
1994 ~~provider to perform the involuntary assessment and stabilization~~
1995 ~~of the respondent. The respondent may choose the licensed~~
1996 ~~service provider to deliver the involuntary assessment where~~
1997 ~~possible and appropriate.~~

1998 ~~(3) If the court finds it necessary, it may order the~~
1999 ~~sheriff to take the respondent into custody and deliver him or~~
2000 ~~her to the licensed service provider specified in the court~~

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2001 order or, if none is specified, to the nearest appropriate
2002 licensed service provider for involuntary assessment.

2003 (4) The order is valid only for the period specified in the
2004 order or, if a period is not specified, for 7 days after the
2005 order is signed.

2006 Section 28. Section 397.693, Florida Statutes, is
2007 renumbered as 397.68111, Florida Statutes, and amended to read:

2008 397.68111 397.693 Involuntary treatment.—A person may be
2009 the subject of a petition for court-ordered involuntary
2010 treatment pursuant to this part, if that person:

2011 (1) Reasonably appears to meet ~~meets~~ the criteria for
2012 involuntary admission provided in s. 397.675; and;

2013 (2) (1) Has been placed under protective custody pursuant to
2014 s. 397.677 within the previous 10 days;

2015 (3) (2) Has been subject to an emergency admission pursuant
2016 to s. 397.679 within the previous 10 days; or

2017 (4) (3) Has been assessed by a qualified professional within
2018 30 5 days;

2019 (4) Has been subject to involuntary assessment and
2020 stabilization pursuant to s. 397.6818 within the previous 12
2021 days; or

2022 (5) Has been subject to alternative involuntary admission
2023 pursuant to s. 397.6822 within the previous 12 days.

2024 Section 29. Section 397.695, Florida Statutes, is
2025 renumbered as section 397.68112, Florida Statutes, and amended
2026 to read:

2027 397.68112 397.695 Involuntary treatment services; persons
2028 who may petition.—

2029 (1) If the respondent is an adult, a petition for

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2030 involuntary treatment services may be filed by the respondent's
2031 spouse or legal guardian, any relative, a service provider, or
2032 an adult who has direct personal knowledge of the respondent's
2033 substance abuse impairment and his or her prior course of
2034 assessment and treatment.

2035 (2) If the respondent is a minor, a petition for
2036 involuntary treatment services may be filed by a parent, legal
2037 guardian, or service provider.

2038 (3) The court may prohibit, or a law enforcement agency may
2039 waive, any service of process fees if a petitioner is determined
2040 to be indigent.

2041 Section 30. Section 397.6951, Florida Statutes, is
2042 renumbered as 397.68141, Florida Statutes, and amended to read:

2043 397.68141 397.6951 Contents of petition for involuntary
2044 treatment services.—A petition for involuntary services must
2045 contain the name of the respondent; the name of the petitioner
2046 ~~or petitioners~~; the relationship between the respondent and the
2047 petitioner; the name of the respondent's attorney, if known; ~~the~~
2048 ~~findings and recommendations of the assessment performed by the~~
2049 ~~qualified professional~~; and the factual allegations presented by
2050 the petitioner establishing the need for involuntary ~~outpatient~~
2051 services for substance abuse impairment. The factual allegations
2052 must demonstrate:

2053 (1) The reason for the petitioner's belief that the
2054 respondent is substance abuse impaired;

2055 (2) The reason for the petitioner's belief that because of
2056 such impairment the respondent has lost the power of self-
2057 control with respect to substance abuse; and

2058 (3) (a) The reason the petitioner believes that the

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2059 respondent has inflicted or is likely to inflict physical harm
2060 on himself or herself or others unless the court orders the
2061 involuntary services; or

2062 (b) The reason the petitioner believes that the
2063 respondent's refusal to voluntarily receive care is based on
2064 judgment so impaired by reason of substance abuse that the
2065 respondent is incapable of appreciating his or her need for care
2066 and of making a rational decision regarding that need for care.

2067 (4) The petition may be accompanied by a certificate or
2068 report of a qualified professional who examined the respondent
2069 within 30 days before the petition was filed. This certificate
2070 or report must include the qualified professional's findings
2071 relating to his or her assessment of the patient and his or her
2072 treatment recommendations. If the respondent was not assessed
2073 before the filing of a treatment petition or refused to submit
2074 to an evaluation, the lack of assessment or refusal must be
2075 noted in the petition.

2076 (5) If there is an emergency, the petition must also
2077 describe the respondent's exigent circumstances and include a
2078 request for an ex parte assessment and stabilization order that
2079 must be executed pursuant to s. 397.6818(4).

2080 Section 31. Section 397.6955, Florida Statutes, is
2081 renumbered as section 397.68151, Florida Statutes, and amended
2082 to read:

2083 397.68151 397.6955 Duties of court upon filing of petition
2084 for involuntary services.—

2085 (1) Upon the filing of a petition for involuntary services
2086 for a substance abuse impaired person with the clerk of the
2087 court, the court shall immediately determine whether the

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2088 respondent is represented by an attorney or whether the
2089 appointment of counsel for the respondent is appropriate. If the
2090 court appoints counsel for the person, the clerk of the court
2091 shall immediately notify the office of criminal conflict and
2092 civil regional counsel, created pursuant to s. 27.511, of the
2093 appointment. The office of criminal conflict and civil regional
2094 counsel shall represent the person until the petition is
2095 dismissed, the court order expires, or the person is discharged
2096 from involuntary treatment services, or the office is otherwise
2097 discharged by the court. An attorney that represents the person
2098 named in the petition shall have access to the person,
2099 witnesses, and records relevant to the presentation of the
2100 person's case and shall represent the interests of the person,
2101 regardless of the source of payment to the attorney.

2102 (2) The court shall schedule a hearing to be held on the
2103 petition within 10 court working 5 days unless a continuance is
2104 granted. The court may appoint a magistrate to preside at the
2105 hearing.

2106 (3) A copy of the petition and notice of the hearing must
2107 be provided to the respondent; the respondent's parent,
2108 guardian, or legal custodian, in the case of a minor; the
2109 respondent's attorney, if known; the petitioner; the
2110 respondent's spouse or guardian, if applicable; and such other
2111 persons as the court may direct. If the respondent is a minor, a
2112 copy of the petition and notice of the hearing must be
2113 personally delivered to the respondent. The clerk court shall
2114 also issue a summons to the person whose admission is sought and
2115 unless a circuit court's chief judge authorizes disinterested
2116 private process servers to serve parties under this chapter, a

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2117 law enforcement agency must effect such service on the person
2118 whose admission is sought for the initial treatment hearing.

2119 Section 32. Section 397.6957, Florida Statutes, is amended
2120 to read:

2121 397.6957 Hearing on petition for involuntary treatment
2122 services.—

2123 (1) (a) The respondent must be present at a hearing on a
2124 petition for involuntary treatment services, unless the court
2125 finds he or she knowingly, intelligently, and voluntarily waives
2126 his or her right to be present or, upon receiving proof of
2127 service and evaluating the circumstances of the case, that his
2128 or her presence is inconsistent with his or her best interests
2129 or is likely to be injurious to himself or herself or others.

2130 The court shall hear and review all relevant evidence, including
2131 testimony from individuals such as family members familiar with
2132 the respondent's prior history and how it relates to his or her
2133 current condition, and the ~~review of~~ results of the assessment
2134 completed by the qualified professional in connection with this
2135 chapter. The court may also order drug tests. Upon finding of
2136 good cause, the court may permit all witnesses, including, but
2137 not limited to, medical professionals who are or have been
2138 involved with the respondent's treatment, to remotely attend and
2139 testify at the hearing under oath via audio-video
2140 teleconference. A witness intending to remotely attend and
2141 testify must provide the parties with all relevant documents by
2142 the close of business on the day before the hearing the
2143 respondent's protective custody, emergency admission,
2144 involuntary assessment, or alternative involuntary admission.
2145 The respondent must be present unless the court finds that his

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2146 ~~or her presence is likely to be injurious to himself or herself~~
2147 ~~or others, in which event the court must appoint a guardian~~
2148 ~~advocate to act in behalf of the respondent throughout the~~
2149 ~~proceedings.~~

2150 (b) A respondent may not be involuntarily ordered into
2151 treatment under this chapter without a clinical assessment being
2152 performed, unless he or she is present in court and expressly
2153 waives the assessment. In nonemergency situations, if the
2154 respondent was not, or had previously refused to be, assessed by
2155 a qualified professional and, based on the petition, testimony,
2156 and evidence presented, it reasonably appears that the
2157 respondent qualifies for involuntary treatment services, the
2158 court shall issue an involuntary assessment and stabilization
2159 order to determine the appropriate level of treatment the
2160 respondent requires. Additionally, in cases where an assessment
2161 was attached to the petition, the respondent may request, or the
2162 court on its own motion may order, an independent assessment by
2163 a court-appointed or otherwise agreed-upon qualified
2164 professional. If an assessment order is issued, it is valid for
2165 90 days, and if the respondent is present or there is either
2166 proof of service or his or her location is known, the
2167 involuntary treatment hearing shall be continued for no more
2168 than 10 court working days. Otherwise, the petitioner must
2169 inform the court that the respondent has been assessed so that
2170 the court may schedule a hearing as soon as is practicable. The
2171 assessment must occur before the new hearing date, and if there
2172 is evidence indicating that the respondent will not voluntarily
2173 appear at the forthcoming hearing or is a danger to self or
2174 others, the court may enter a preliminary order committing the

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2175 respondent to an appropriate treatment facility for further
2176 evaluation until the date of the rescheduled hearing. However,
2177 if after 90 days the respondent remains unassessed, the court
2178 shall dismiss the case.

2179 (c)1. The respondent's assessment by a qualified
2180 professional must occur within 72 hours after his or her arrival
2181 at a licensed service provider unless the respondent shows signs
2182 of withdrawal or a need to be either detoxified or treated for a
2183 medical condition, which shall extend the amount of time the
2184 respondent may be held for observation until such issue is
2185 resolved but no later than the scheduled hearing date, absent a
2186 court-approved extension. If the respondent is a minor, such
2187 assessment must be initiated within the first 12 hours of the
2188 minor's admission to the facility. The service provider may also
2189 move to extend the 72 hours of observation by petitioning the
2190 court in writing for additional time. The service provider must
2191 furnish copies of such motion to all parties in accordance with
2192 applicable confidentiality requirements, and after a hearing,
2193 the court may grant additional time. If the court grants the
2194 service provider's petition, the service provider may continue
2195 to hold the respondent, and if the original or extended
2196 observation period ends on a weekend or holiday, including the
2197 hours before the ordinary business hours of the following
2198 workday morning, the provider may hold the respondent until the
2199 next court working day.

2200 2. No later than the ordinary close of business on the day
2201 before the hearing, the qualified professional shall transmit,
2202 in accordance with any applicable confidentiality requirements,
2203 his or her clinical assessment to the clerk of the court, who

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shall enter it into the court file. This report must contain a recommendation on the level of substance abuse treatment the respondent requires, if any, and the relevant information on which the qualified professional's findings are based. This document must further note whether the respondent has any co-occurring mental health or other treatment needs. For adults subject to an involuntary assessment, the report's filing with the court satisfies s. 397.6758 if it also contains the respondent's admission and discharge information. The qualified professional's failure to include a treatment recommendation, much like a recommendation of no treatment, shall result in the petition's dismissal.

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

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

(b) Because of such impairment the respondent is unlikely to voluntarily participate in the recommended services or is unable to determine for himself or herself whether services are necessary and:

1. Without services, the respondent is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that there is a substantial likelihood that without services the respondent will cause serious bodily harm to himself, herself, or another in the near future, as evidenced by recent behavior; or

2. The respondent's refusal to voluntarily receive care is

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2233 based on judgment so impaired by reason of substance abuse that
2234 the respondent is incapable of appreciating his or her need for
2235 care and of making a rational decision regarding that need for
2236 care.

2237 (3) ~~One of the qualified professionals who executed the~~
2238 ~~involuntary services certificate must be a witness. The court~~
2239 ~~shall allow testimony from individuals, including family~~
2240 ~~members, deemed by the court to be relevant under state law,~~
2241 ~~regarding the respondent's prior history and how that prior~~
2242 ~~history relates to the person's current condition. The Testimony~~
2243 ~~in the hearing must be taken under oath, and the proceedings~~
2244 ~~must be recorded. The respondent patient may refuse to testify~~
2245 ~~at the hearing.~~

2246 (4) If at any point during the hearing the court has reason
2247 to believe that the respondent, due to mental illness other than
2248 or in addition to substance abuse impairment, meets the
2249 involuntary commitment provisions of part I of chapter 394, the
2250 court may initiate involuntary examination proceedings under
2251 such provisions.

2252 (5) At the conclusion of the hearing the court shall either
2253 dismiss the petition or order the respondent to receive
2254 involuntary treatment services from his or her chosen licensed
2255 service provider if possible and appropriate. Any treatment
2256 order must include findings regarding the respondent's need for
2257 treatment and the appropriateness of other less restrictive
2258 alternatives.

2259 Section 33. Section 397.6975, Florida Statutes, is amended
2260 to read:

2261 397.6975 Extension of involuntary treatment services

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2262 period.-

2263 (1) Whenever a service provider believes that an individual
2264 who is nearing the scheduled date of his or her release from
2265 involuntary treatment services continues to meet the criteria
2266 for involuntary treatment services in s. 397.693 or s. 397.6957,
2267 a petition for renewal of the involuntary services order must
2268 may be filed with the court at least 10 days before the
2269 expiration of the court-ordered services period. The petition
2270 may be filed by the service provider or by the person who filed
2271 the petition for the initial treatment order if the petition is
2272 accompanied by supporting documentation from the service
2273 provider. The court shall immediately schedule a hearing within
2274 10 court working days to be held not more than 15 days after
2275 filing of the petition. The court shall provide the copy of the
2276 petition for renewal and the notice of the hearing to all
2277 parties and counsel to the proceeding. The hearing is conducted
2278 pursuant to ss. 397.6957 and 397.697 and must be before the
2279 circuit court unless referred to a magistrate s. 397.6957.

2280 (2) If the court finds that the petition for renewal of the
2281 involuntary treatment services order should be granted, it may
2282 order the respondent to receive involuntary treatment services
2283 for a period not to exceed an additional 90 days. When the
2284 conditions justifying involuntary treatment services no longer
2285 exist, the individual must be released as provided in s.
2286 397.6971. When the conditions justifying involuntary treatment
2287 services continue to exist after an additional 90 days of
2288 service, a new petition requesting renewal of the involuntary
2289 treatment services order may be filed pursuant to this section.

2290 (3) Within 1 court working day after the filing of a

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2291 petition for continued involuntary services, the court shall
2292 appoint the office of criminal conflict and civil regional
2293 counsel to represent the respondent, unless the respondent is
2294 otherwise represented by counsel. The clerk of the court shall
2295 immediately notify the office of criminal conflict and civil
2296 regional counsel of such appointment. The office of criminal
2297 conflict and civil regional counsel shall represent the
2298 respondent until the petition is dismissed or the court order
2299 expires or the respondent is discharged from involuntary
2300 services. Any attorney representing the respondent shall have
2301 access to the respondent, witnesses, and records relevant to the
2302 presentation of the respondent's case and shall represent the
2303 interests of the respondent, regardless of the source of payment
2304 to the attorney.

2305 (4) Hearings on petitions for continued involuntary
2306 services shall be before the circuit court. The court may
2307 appoint a magistrate to preside at the hearing. The procedures
2308 for obtaining an order pursuant to this section shall be in
2309 accordance with s. 397.697.

2310 (5) Notice of hearing shall be provided to the respondent
2311 or his or her counsel. The respondent and the respondent's
2312 counsel may agree to a period of continued involuntary services
2313 without a court hearing.

2314 (6) The same procedure shall be repeated before the
2315 expiration of each additional period of involuntary services.

2316 (7) If the respondent has previously been found incompetent
2317 to consent to treatment, the court shall consider testimony and
2318 evidence regarding the respondent's competence.

2319 Section 34. Section 397.6977, Florida Statutes, is amended

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2320 to read:

2321 397.6977 Disposition of individual upon completion of
2322 involuntary services.—

2323 (1) At the conclusion of the 90-day period of court-ordered
2324 involuntary services, the respondent is automatically discharged
2325 unless a motion for renewal of the involuntary services order
2326 has been filed with the court pursuant to s. 397.6975.

2327 (2) Discharge planning and procedures for any respondent's
2328 release from involuntary treatment services must include and
2329 document the respondent's needs and actions to address such
2330 needs for, at a minimum:

2331 (a) Follow-up behavioral health appointments;
2332 (b) Information on how to obtain prescribed medications;
2333 (c) Information pertaining to available living arrangements
2334 and transportation; and
2335 (d) Referral to recovery support opportunities, including,
2336 but not limited to, connection to a peer specialist.

2337 Section 35. Paragraph (b) of subsection (1) of section
2338 409.972, Florida Statutes, is amended to read:

2339 409.972 Mandatory and voluntary enrollment.—

2340 (1) The following Medicaid-eligible persons are exempt from
2341 mandatory managed care enrollment required by s. 409.965, and
2342 may voluntarily choose to participate in the managed medical
2343 assistance program:

2344 (b) Medicaid recipients residing in residential commitment
2345 facilities operated through the Department of Juvenile Justice
2346 or a treatment facility as defined in s. 394.455 ~~s. 394.455(49)~~.

2347 Section 36. Paragraph (e) of subsection (4) of section
2348 464.012, Florida Statutes, is amended to read:

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2349 464.012 Licensure of advanced practice registered nurses;
2350 fees; controlled substance prescribing.—

2351 (4) In addition to the general functions specified in
2352 subsection (3), an advanced practice registered nurse may
2353 perform the following acts within his or her specialty:

2354 (e) A psychiatric nurse, who meets the requirements in s.
2355 394.455 s. 394.455(36), within the framework of an established
2356 protocol with a psychiatrist, may prescribe psychotropic
2357 controlled substances for the treatment of mental disorders.

2358 Section 37. Subsection (7) of section 744.2007, Florida
2359 Statutes, is amended to read:

2360 744.2007 Powers and duties.—

2361 (7) A public guardian may not commit a ward to a treatment
2362 facility, as defined in s. 394.455 s. 394.455(49), without an
2363 involuntary placement proceeding as provided by law.

2364 Section 38. Paragraph (c) of subsection (2) of section
2365 916.13, Florida Statutes, is amended, and paragraph (d) is added
2366 to that subsection, to read:

2367 916.13 Involuntary commitment of defendant adjudicated
2368 incompetent.—

2369 (2) A defendant who has been charged with a felony and who
2370 has been adjudicated incompetent to proceed due to mental
2371 illness, and who meets the criteria for involuntary commitment
2372 under this chapter, may be committed to the department, and the
2373 department shall retain and treat the defendant.

2374 (c) 1. If the department determines at any time that a
2375 defendant will not or is unlikely to regain competency to
2376 proceed, the department shall, within 30 days after the
2377 determination, complete and submit a competency evaluation

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2378 report to the circuit court to determine if the defendant meets
2379 the criteria for involuntary commitment under s. 394.467. A
2380 qualified professional, as defined in s. 394.455, shall sign the
2381 competency evaluation report for the circuit court under penalty
2382 of perjury. A copy of the report must be provided, at a minimum,
2383 to the court, state attorney, and counsel for the defendant
2384 before initiating any transfer of the defendant back to the
2385 committing jurisdiction.

2386 2. For the purposes of this paragraph, the term "competency
2387 evaluation report to the circuit court" means a report by the
2388 department regarding a defendant's incompetence to proceed in a
2389 criminal proceeding due to mental illness as set forth in this
2390 section. The report must include, at a minimum, the following
2391 information regarding the defendant:

2392 a. A description of mental, emotional, and behavioral
2393 disturbances;
2394 b. An explanation to support the opinion of incompetence to
2395 proceed;

2396 c. The rationale to support why the defendant is unlikely
2397 to gain competence to proceed in the foreseeable future;

2398 d. A clinical opinion regarding whether the defendant no
2399 longer meets the criteria for involuntary forensic commitment
2400 pursuant to this section; and

2401 e. A recommendation on whether the defendant meets the
2402 criteria for involuntary services pursuant to s. 394.467.

2403 (d) The defendant must be transported, in accordance with
2404 s. 916.107, to the committing court's jurisdiction within 7 days
2405 after ~~ef~~ notification that the defendant is competent to proceed
2406 or no longer meets the criteria for continued commitment. A

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determination on the issue of competency must be made at a hearing within 30 days of the notification. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. To ensure continuity of care, the referring mental health facility must transfer the patient with up to 30 days of medications and assist in discharge planning with medical teams at the receiving county jail. The jail and facility's department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician. Notwithstanding this paragraph, a defendant who meets the criteria for involuntary examination pursuant to s. 394.463 as determined by an independent clinical opinion shall appear remotely for the hearing. Court witnesses may appear remotely.

Section 39. Section 397.6811, Florida Statutes, is repealed.

Section 40. Section 397.6814, Florida Statutes, is repealed.

Section 41. Section 397.6815, Florida Statutes, is repealed.

Section 42. Section 397.6819, Florida Statutes, is repealed.

Section 43. Section 397.6821, Florida Statutes, is repealed.

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2436 Section 44. Section 397.6822, Florida Statutes, is
2437 repealed.

2438 Section 45. Section 397.6978, Florida Statutes, is
2439 repealed.

2440 Section 46. This act shall take effect July 1, 2024.