

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

26 | the voluntariness of admissions to a facility for
27 | examination and treatment; providing requirements for
28 | verifying the assent of a minor admitted to a
29 | facility; requiring the appointment of a public
30 | defender to review the voluntariness of a minor's
31 | admission to a facility; requiring the filing of a
32 | petition for involuntary placement or release of a
33 | minor to his or her parent or legal guardian under
34 | certain circumstances; conforming provisions to
35 | changes made by the act; amending s. 394.463, F.S.;
36 | revising the requirements for when a person may be
37 | taken to a receiving facility for involuntary
38 | examination; requiring a facility to inform the
39 | department of certain persons who have been examined
40 | or committed under certain circumstances; conforming
41 | provisions to changes made by the act; providing
42 | criminal and civil penalties; amending s. 394.4655,
43 | F.S.; revising the requirements for involuntary
44 | outpatient treatment; amending s. 394.467, F.S.;
45 | revising the requirements for when a person may be
46 | ordered for involuntary inpatient placement; revising
47 | requirements for continuances of hearings; revising
48 | the conditions under which a court may waive the
49 | requirement for a patient to be present at an
50 | involuntary inpatient placement hearing; authorizing

51 the court to permit all witnesses to remotely attend
52 and testify at the hearing through certain means;
53 authorizing the state attorney to access certain
54 persons and records for certain purposes; specifying
55 such records remain confidential; revising when the
56 court may appoint a magistrate; revising the amount of
57 time a court may require a patient to receive
58 services; providing an exception to the prohibition on
59 a court ordering certain individuals to be
60 involuntarily placed in a state treatment facility;
61 conforming a cross-reference; amending ss. 394.495 and
62 394.496, F.S.; conforming cross-references; amending
63 s. 394.499, F.S.; making technical and conforming
64 changes; amending s. 394.9085, F.S.; conforming cross-
65 references; amending s. 397.305, F.S.; revising the
66 purposes of ch. 397, F.S.; amending s. 397.311, F.S.;
67 revising the definition of the terms "impaired" and
68 "substance abuse impaired"; defining the terms
69 "involuntary treatment," "neglect or refuse to care
70 for himself or herself," and "real and present threat
71 of substantial harm"; amending s. 397.416, F.S.;
72 conforming cross-references; amending s. 397.501,
73 F.S.; requiring that respondents with serious
74 substance abuse addictions be informed of the
75 essential elements of recovery and provided assistance

76 | with accessing a continuum of care regimen;
77 | authorizing the department to adopt certain rules;
78 | amending s. 397.675, F.S.; revising the criteria for
79 | involuntary admissions; amending s. 397.6751, F.S.;
80 | revising the responsibilities of a service provider;
81 | amending s. 397.681, F.S.; requiring that the state
82 | attorney represent the state as the real party of
83 | interest in an involuntary proceeding, subject to
84 | legislative appropriation; authorizing the state
85 | attorney to access certain persons and records;
86 | conforming provisions to changes made by the act;
87 | repealing s. 397.6811, F.S., relating to involuntary
88 | assessment and stabilization; repealing s. 397.6814,
89 | F.S., relating to petitions for involuntary assessment
90 | and stabilization; repealing s. 397.6815, F.S.,
91 | relating to involuntary assessment and stabilization
92 | procedures; repealing s. 397.6818, F.S., relating to
93 | court determinations for petitions for involuntary
94 | assessment and stabilization; repealing s. 397.6819,
95 | F.S., relating to the responsibilities of licensed
96 | service providers with regard to involuntary
97 | assessment and stabilization; repealing s. 397.6821,
98 | F.S., relating to extensions of time for completion of
99 | involuntary assessment and stabilization; repealing s.
100 | 397.6822, F.S., relating to the disposition of

101 individuals after involuntary assessments; amending s.
102 397.693, F.S.; revising the circumstances under which
103 a person is eligible for court-ordered involuntary
104 treatment; amending s. 397.695, F.S.; authorizing the
105 court or clerk of the court to waive or prohibit any
106 service of process fees for an indigent petitioner;
107 amending s. 397.6951, F.S.; revising the requirements
108 for the contents of a petition for involuntary
109 treatment services; providing that a petitioner may
110 include a certificate or report of a qualified
111 professional with the petition; requiring the
112 certificate or report to contain certain information;
113 requiring that certain additional information must be
114 included if an emergency exists; amending s. 397.6955,
115 F.S.; requiring the clerk of the court to notify the
116 state attorney's office upon the receipt of a petition
117 filed for involuntary treatment services; revising
118 when a hearing must be held on the petition; providing
119 requirements for when a petitioner asserts that
120 emergency circumstances exist or the court determines
121 that an emergency exists; amending s. 397.6957, F.S.;
122 expanding the exemption from the requirement that a
123 respondent be present at a hearing on a petition for
124 involuntary treatment services; authorizing the court
125 to order drug tests and permit all witnesses to

126 remotely attend and testify at the hearing through
127 certain means; deleting a provision requiring the
128 court to appoint a guardian advocate under certain
129 circumstances; prohibiting a respondent from being
130 involuntarily ordered into treatment unless certain
131 requirements are met; providing requirements relating
132 to involuntary assessment and stabilization orders;
133 providing requirements relating to involuntary
134 treatment hearings; requiring that the assessment of a
135 respondent occur before a specified time unless
136 certain requirements are met; requiring the service
137 provider to discharge the respondent after a specified
138 time unless certain requirements are met; requiring a
139 qualified professional to provide copies of his or her
140 report to the court and all relevant parties and
141 counsel; providing requirements for the report;
142 authorizing certain entities to take specified actions
143 based upon the involuntary assessment; authorizing a
144 court to order certain persons to take a respondent
145 into custody and transport him or her to or from
146 certain service providers and the court; revising the
147 petitioner's burden of proof in the hearing;
148 authorizing the court to initiate involuntary
149 proceedings under certain circumstances; requiring
150 that, if a treatment order is issued, it must include

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

171
172 Be It Enacted by the Legislature of the State of Florida:

173
174 Section 1. Subsections (31) through (38) and (39) through
175 (48) of section 394.455, Florida Statutes, are renumbered as

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

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

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

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

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

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

200 (b) Is substantially unable to make an informed treatment

201 choice and needs care or treatment to prevent deterioration.

202 (40) "Real and present threat of substantial harm"
 203 includes, but is not limited to, evidence of a substantial
 204 probability that the untreated person will:

205 (a) Lack, refuse, or not receive services for health and
 206 safety; or

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

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

213 394.459 Rights of patients.—

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

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

222 394.4598 Guardian advocate.—

223 (1) The administrator may petition the court for the
 224 appointment of a guardian advocate based upon the opinion of a
 225 psychiatrist that the patient is incompetent to consent to

226 treatment. If the court finds that a patient is incompetent to
227 consent to treatment and has not been adjudicated incapacitated
228 and a guardian with the authority to consent to mental health
229 treatment appointed, it shall appoint a guardian advocate. The
230 patient has the right to have an attorney represent him or her
231 at the hearing. If the person is indigent, the court shall
232 appoint the office of the public defender to represent him or
233 her at the hearing. The patient has the right to testify, cross-
234 examine witnesses, and present witnesses. The proceeding shall
235 be recorded either electronically or stenographically, and
236 testimony shall be provided under oath. One of the professionals
237 authorized to give an opinion in support of a petition for
238 involuntary placement, as described in ~~s. 394.4655~~ or s.
239 394.467, must testify. A guardian advocate must meet the
240 qualifications of a guardian contained in part IV of chapter
241 744, except that a professional referred to in this part, an
242 employee of the facility providing direct services to the
243 patient under this part, a departmental employee, a facility
244 administrator, or member of the Florida local advocacy council
245 may ~~shall~~ not be appointed. A person who is appointed as a
246 guardian advocate must agree to the appointment.

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

249 394.4599 Notice.—

250 (2) INVOLUNTARY ADMISSION.—

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

254 1. Notice that the petition for:

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

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

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

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

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

274 5. Notice that the individual is entitled to an
 275 independent expert examination and, if the individual cannot

276 afford such an examination, that the court will provide for one.

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

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

287 (2) TREATMENT FACILITY.—The department may designate any
 288 state-owned, state-operated, or state-supported facility as a
 289 state treatment facility. A civil patient must ~~shall~~ not be
 290 admitted to a state treatment facility without previously
 291 undergoing a transfer evaluation. Before the close of the
 292 state's case in chief in a court hearing for involuntary
 293 placement ~~in a state treatment facility~~, the state may establish
 294 that the transfer evaluation was performed and the document
 295 properly executed by providing the court with a copy of the
 296 transfer evaluation. The court may not ~~shall receive and~~
 297 consider the substantive information ~~documented~~ in the transfer
 298 evaluation unless the evaluator testifies at the hearing. Any
 299 other facility, including a private facility or a federal
 300 facility, may be designated as a treatment facility by the

301 department, provided that such designation is agreed to by the
302 appropriate governing body or authority of the facility.

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

305 394.4615 Clinical records; confidentiality.—

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

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

318 (b) When the administrator of the facility or secretary of
319 the department deems release to a qualified researcher as
320 defined in administrative rule, an aftercare treatment provider,
321 or an employee or agent of the department is necessary for
322 treatment of the patient, maintenance of adequate records,
323 compilation of treatment data, aftercare planning, or evaluation
324 of programs.

325

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

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

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

351 may rely on emergency medical transport services or private
352 transport companies, as appropriate. The plan shall comply with
353 the transportation provisions of this section and ss. 397.6772,
354 397.6795, ~~397.6822~~, and 397.697.

355 (1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

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

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

374 2. The entity providing transportation may seek
375 reimbursement for transportation expenses. The party responsible

376 for payment for such transportation is the person receiving the
377 transportation. The county shall seek reimbursement from the
378 following sources in the following order:

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

381 b. From the person receiving the transportation.

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

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

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

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

398 (f) When a member of a mental health overlay program or a
399 mobile crisis response service is a professional authorized to
400 initiate an involuntary examination pursuant to s. 394.463 or s.

401 397.675 and that professional evaluates a person and determines
402 that transportation to a receiving facility is needed, the
403 service, at its discretion, may transport the person to the
404 facility or may call on the law enforcement agency or other
405 transportation arrangement best suited to the needs of the
406 patient.

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

419 (h) When any law enforcement officer has arrested a person
420 for a felony and it appears that the person meets the statutory
421 guidelines for involuntary examination or placement under this
422 part, such person must first be processed in the same manner as
423 any other criminal suspect. The law enforcement agency shall
424 thereafter immediately notify the appropriate facility within
425 the designated receiving system pursuant to a transportation

426 | plan. The receiving facility shall be responsible for promptly
427 | arranging for the examination and treatment of the person. A
428 | receiving facility is not required to admit a person charged
429 | with a crime for whom the facility determines and documents that
430 | it is unable to provide adequate security, but shall provide
431 | examination and treatment to the person where he or she is held.

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

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

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

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

451 medical transport service or a private transport company
452 authorized by the county, pursuant to s. 397.675, a basic
453 screening or triage sufficient to refer the person to the
454 appropriate services.

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

460 (n) When a jurisdiction has entered into a contract with
461 an emergency medical transport service or a private transport
462 company for transportation of persons to facilities within the
463 designated receiving system, such service or company shall be
464 given preference for transportation of persons from nursing
465 homes, assisted living facilities, adult day care centers, or
466 adult family-care homes, unless the behavior of the person being
467 transported is such that transportation by a law enforcement
468 officer is necessary.

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

472 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

473 (a) If neither the patient nor any person legally
474 obligated or responsible for the patient is able to pay for the
475 expense of transporting a voluntary or involuntary patient to a

476 treatment facility, the transportation plan established by the
477 governing board of the county or counties must specify how the
478 hospitalized patient will be transported to, from, and between
479 facilities in a safe and dignified manner.

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

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

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

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

500 Section 8. Subsection (1) of section 394.4625, Florida

501 Statutes, is amended to read:

502 394.4625 Voluntary admissions.—

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

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

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

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

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

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

523 c. In verifying the minor's assent, the examining
524 professional must first provide the minor with an explanation as
525 to why the minor will be examined and treated, what the minor

526 can expect while in the facility, and when the minor may expect
527 to be released, using language that is appropriate to the
528 minor's age, experience, maturity, and condition. The examining
529 professional must determine and document that the minor is able
530 to understand this information.

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

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

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

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

551 ~~17 or under for whom such application is made by his or her~~
552 ~~guardian. If found to show evidence of mental illness, to be~~
553 ~~competent to provide express and informed consent, and to be~~
554 ~~suitable for treatment, such person 18 years of age or older may~~
555 ~~be admitted to the facility. A person age 17 or under may be~~
556 ~~admitted only after a hearing to verify the voluntariness of the~~
557 ~~consent.~~

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

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

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

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

576 (c) When an initial assessment of the ability of a person
577 to give express and informed consent to treatment is required
578 under this section, and a mobile crisis response service does
579 not respond to the request for an assessment within 2 hours
580 after the request is made or informs the requesting facility
581 that it will not be able to respond within 2 hours after the
582 request is made, the requesting facility may arrange for
583 assessment by any licensed professional authorized to initiate
584 an involuntary examination pursuant to s. 394.463 who is not
585 employed by or under contract with, and does not have a
586 financial interest in, either the facility initiating the
587 transfer or the receiving facility to which the transfer may be
588 made.

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

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

601 health treatment must either be discharged or transferred to
602 involuntary status.

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

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

613 394.463 Involuntary examination.—

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

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

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

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

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

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

637 (2) INVOLUNTARY EXAMINATION.—

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

640 1. A circuit or county court may enter an ex parte order
641 stating that a person appears to meet the criteria for
642 involuntary examination and specifying the findings on which
643 that conclusion is based. The ex parte order for involuntary
644 examination must be based on written or oral sworn testimony
645 that includes specific facts that support the findings. If other
646 less restrictive means are not available, such as voluntary
647 appearance for outpatient evaluation, a law enforcement officer,
648 or other designated agent of the court, shall take the person
649 into custody and deliver him or her to an appropriate, or the
650 nearest, facility within the designated receiving system

651 pursuant to s. 394.462 for involuntary examination. The order of
652 the court shall be made a part of the patient's clinical record.
653 A fee may not be charged for the filing of an order under this
654 subsection. A facility accepting the patient based on this order
655 must send a copy of the order to the department within 5 working
656 days. The order may be submitted electronically through existing
657 data systems, if available. The order shall be valid only until
658 the person is delivered to the facility or for the period
659 specified in the order itself, whichever comes first. If no time
660 limit is specified in the order, the order shall be valid for 7
661 days after the date that the order was signed.

662 2. A law enforcement officer may ~~shall~~ take a person who
663 appears to meet the criteria for involuntary examination into
664 custody and deliver the person or have him or her delivered to
665 an appropriate, or the nearest, facility within the designated
666 receiving system pursuant to s. 394.462 for examination. The
667 officer shall execute a written report detailing the
668 circumstances under which the person was taken into custody,
669 which must be made a part of the patient's clinical record. Any
670 facility accepting the patient based on this report must send a
671 copy of the report to the department within 5 working days.

672 3. A physician, clinical psychologist, psychiatric nurse,
673 mental health counselor, marriage and family therapist, or
674 clinical social worker may execute a certificate stating that he
675 or she has examined a person within the preceding 48 hours and

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

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

698 (g) The examination period must be for up to 72 hours. For
699 a minor, the examination shall be initiated within 12 hours
700 after the patient's arrival at the facility. The facility must

701 inform the department of any person who has been examined or
702 committed three or more times under this chapter within a 12-
703 month period. Within the examination period or, if the
704 examination period ends on a weekend or holiday, no later than
705 the next working day thereafter, one of the following actions
706 must be taken, based on the individual needs of the patient:

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

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

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

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

726 the facility administrator.

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

750 (5) UNLAWFUL ACTIVITIES RELATING TO EXAMINATION AND

751 TREATMENT; PENALTIES.-

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

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

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

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

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

770 394.4655 Involuntary outpatient services.-

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

775 1. Has been jailed or incarcerated, has been involuntarily

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

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

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

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

785 and

786 b. Can follow a prescribed treatment plan.

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

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

799 (3) A criminal county court exercising its original
800 jurisdiction in a misdemeanor case under s. 34.01 may order a

801 person into involuntary outpatient services.

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

805 394.467 Involuntary inpatient placement.—

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

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

811 1.a. He or she has refused voluntary inpatient placement
 812 for treatment after sufficient and conscientious explanation and
 813 disclosure of the purpose of inpatient placement for treatment;
 814 or

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

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

824 b. There is substantial likelihood that in the near future
 825 and without services, he or she will inflict serious ~~bodily~~ harm

826 | to ~~en~~ self or others, as evidenced by acts, omissions, or recent
827 | behavior causing, attempting, or threatening such harm, which
828 | includes, but is not limited to, significant property damage;
829 | and

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

833 | (5) CONTINUANCE OF HEARING.—The patient and the state are
834 | independently entitled ~~is entitled, with the concurrence of the~~
835 | ~~patient's counsel,~~ to at least one continuance of the hearing.
836 | The patient's continuance may be for a period of ~~for~~ up to 4
837 | weeks and requires the concurrence of his or her counsel. The
838 | state's continuance may be for a period of up to 7 court working
839 | days and requires a showing of good cause and due diligence by
840 | the state before requesting the continuance. The state's failure
841 | to timely review any readily available document or failure to
842 | attempt to contact a known witness does not warrant a
843 | continuance.

844 | (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

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

848 | 2. Except for good cause documented in the court file, the
849 | hearing must be held in the county or the facility, as
850 | appropriate, where the patient is located, must be as convenient

851 to the patient as is consistent with orderly procedure, and
852 shall be conducted in physical settings not likely to be
853 injurious to the patient's condition. If the court finds that
854 the patient's attendance at the hearing is not consistent with
855 the best interests of, or is likely to be injurious to, the
856 patient, or the patient knowingly, intelligently, and
857 voluntarily waives his or her right to be present, and the
858 patient's counsel does not object, the court may waive the
859 presence of the patient from all or any portion of the hearing.
860 Absent a showing of good cause, the court may permit all
861 witnesses, including, but not limited to, any medical
862 professionals or personnel who are or have been involved with
863 the patient's treatment, to remotely attend and testify at the
864 hearing under oath via the most appropriate and convenient
865 technological method of communication available to the court,
866 including, but not limited to, teleconference. The state
867 attorney for the circuit in which the patient is located shall
868 represent the state, rather than the petitioning facility
869 administrator, as the real party in interest in the proceeding.
870 In order to evaluate and prepare its case before the hearing,
871 the state attorney may access, by subpoena if necessary, the
872 patient, witnesses, and all relevant records. Such records
873 include, but are not limited to, any social media, school
874 records, clinical files, and reports documenting contact the
875 patient may have had with law enforcement officers or other

876 state agencies. However, these records shall remain
877 confidential, and the state attorney may not use any records
878 obtained under this part for criminal investigation or
879 prosecution purposes, or for any purpose other than the
880 patient's civil commitment under this chapter.

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

896 (b) If the court concludes that the patient meets the
897 criteria for involuntary inpatient placement, it may order that
898 the patient be transferred to a treatment facility or, if the
899 patient is at a treatment facility, that the patient be retained
900 there or be treated at any other appropriate facility, or that

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

925 (c) If at any time before the conclusion of the

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

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

941 394.495 Child and adolescent mental health system of care;
 942 programs and services.—

943 (3) Assessments must be performed by:

944 (a) A clinical psychologist, clinical social worker,
 945 physician, psychiatric nurse, or psychiatrist as those terms are
 946 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
 947 ~~(7), (32), (35), or (36);~~

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

949 (c) A person who is under the direct supervision of a
 950 clinical psychologist, clinical social worker, physician,

951 psychiatric nurse, or psychiatrist as those terms are defined in
952 s. 394.455 ~~qualified professional as defined in s. 394.455(5),~~
953 ~~(7), (32), (35), or (36)~~ or a professional licensed under
954 chapter 491.

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

957 394.496 Service planning.—

958 (5) A clinical psychologist, clinical social worker,
959 physician, psychiatric nurse, or psychiatrist as those terms are
960 defined in s. 394.455 ~~professional as defined in s. 394.455(5),~~
961 ~~(7), (32), (35), or (36)~~ or a professional licensed under
962 chapter 491 must be included among those persons developing the
963 services plan.

964 Section 14. Paragraph (a) of subsection (2) of section
965 394.499, Florida Statutes, is amended to read:

966 394.499 Integrated children's crisis stabilization
967 unit/juvenile addictions receiving facility services.—

968 (2) Children eligible to receive integrated children's
969 crisis stabilization unit/juvenile addictions receiving facility
970 services include:

971 (a) A person under 18 years of age for whom voluntary
972 application is made by his or her parent or legal guardian, if
973 such person is found to show evidence of mental illness and to
974 be suitable for treatment pursuant to s. 394.4625. A person
975 under 18 years of age may be admitted for integrated facility

976 | services only after a hearing to verify that the consent to
 977 | admission is voluntary is conducted pursuant to s. 394.4625.

978 | Section 15. Subsection (6) of section 394.9085, Florida
 979 | Statutes, is amended to read:

980 | 394.9085 Behavioral provider liability.—

981 | (6) For purposes of this section, the terms
 982 | "detoxification services," "addictions receiving facility," and
 983 | "receiving facility" have the same meanings as those provided in
 984 | ss. 397.311(26) (a)4., 397.311(26) (a)1., and 394.455 ~~394.455(39)~~,
 985 | respectively.

986 | Section 16. Subsection (3) of section 397.305, Florida
 987 | Statutes, is amended to read:

988 | 397.305 Legislative findings, intent, and purpose.—

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

998 | Section 17. Subsections (29) through (36) and (37) through
 999 | (50) of section 397.311, Florida Statutes, are renumbered as
 1000 | subsections (30) through (37) and (39) through (52),

1001 respectively, subsections (19) and (23) are amended, and new
 1002 subsections (29) and (38) are added to that section, to read:

1003 397.311 Definitions.—As used in this chapter, except part
 1004 VIII, the term:

1005 (19) "Impaired" or "substance abuse impaired" means having
 1006 a substance use disorder or a condition involving the use of
 1007 alcoholic beverages, illicit or prescription drugs, or any
 1008 psychoactive or mood-altering substance in such a manner as to
 1009 induce mental, emotional, or physical problems or ~~and~~ cause
 1010 socially dysfunctional behavior.

1011 (23) "Involuntary treatment services" means an array of
 1012 behavioral health services that may be ordered by the court for
 1013 persons with substance abuse impairment or co-occurring
 1014 substance abuse impairment and mental health disorders.

1015 (29) "Neglect or refuse to care for himself or herself"
 1016 includes, but is not limited to, evidence that a person:

1017 (a) Is unable to satisfy basic needs for nourishment,
 1018 clothing, medical care, shelter, or safety in a manner that
 1019 creates a substantial probability of imminent death, serious
 1020 physical debilitation, or disease; or

1021 (b) Is substantially unable to make an informed treatment
 1022 choice and needs care or treatment to prevent deterioration.

1023 (38) "Real and present threat of substantial harm"
 1024 includes, but is not limited to, evidence of a substantial
 1025 probability that the untreated person will:

1026 (a) Lack, refuse, or not receive services for health and
 1027 safety; or

1028 (b) Suffer severe mental, emotional, or physical harm that
 1029 will result in the loss of ability to function in the community
 1030 or the loss of cognitive or volitional control over thoughts or
 1031 actions.

1032 Section 18. Section 397.416, Florida Statutes, is amended
 1033 to read:

1034 397.416 Substance abuse treatment services; qualified
 1035 professional.—Notwithstanding any other provision of law, a
 1036 person who was certified through a certification process
 1037 recognized by the former Department of Health and Rehabilitative
 1038 Services before January 1, 1995, may perform the duties of a
 1039 qualified professional with respect to substance abuse treatment
 1040 services as defined in this chapter, and need not meet the
 1041 certification requirements contained in s. 397.311(36) ~~s.~~
 1042 ~~397.311(35)~~.

1043 Section 19. Subsection (11) is added to section 397.501,
 1044 Florida Statutes, to read:

1045 397.501 Rights of individuals.—Individuals receiving
 1046 substance abuse services from any service provider are
 1047 guaranteed protection of the rights specified in this section,
 1048 unless otherwise expressly provided, and service providers must
 1049 ensure the protection of such rights.

1050 (11) POST-DISCHARGE CONTINUUM OF CARE.—Upon discharge, a

1051 respondent with a serious substance abuse addiction must be
1052 informed of the essential elements of recovery and provided
1053 assistance with accessing a continuum of care regimen. The
1054 department may adopt rules specifying the services that may be
1055 provided to such respondents.

1056 Section 20. Section 397.675, Florida Statutes, is amended
1057 to read:

1058 397.675 Criteria for involuntary admissions, including
1059 protective custody, emergency admission, and other involuntary
1060 assessment, involuntary treatment, and alternative involuntary
1061 assessment for minors, for purposes of assessment and
1062 stabilization, and for involuntary treatment.—A person meets the
1063 criteria for involuntary admission if there is good faith reason
1064 to believe that the person is substance abuse impaired, has a
1065 substance use disorder, or has a substance use disorder and a
1066 co-occurring mental health disorder and, because of such
1067 impairment or disorder:

1068 (1) Has lost the power of self-control with respect to
1069 substance abuse, or has a history of noncompliance with
1070 substance abuse treatment with continued substance use; and

1071 (2) ~~(a)~~ Is in need of substance abuse services and, by
1072 reason of substance abuse impairment, his or her judgment has
1073 been so impaired that he or she is refusing voluntary care after
1074 a sufficient and conscientious explanation and disclosure of the
1075 purpose for such services, or is incapable of appreciating his

1076 or her need for such services and of making a rational decision
 1077 in that regard, although mere refusal to receive such services
 1078 does not constitute evidence of lack of judgment with respect to
 1079 his or her need for such services; and ~~or~~

1080 (3) (a) ~~(b)~~ Without care or treatment, is likely to suffer
 1081 from neglect or refuse to care for himself or herself; that such
 1082 neglect or refusal poses a real and present threat of
 1083 substantial harm to his or her well-being; and that it is not
 1084 apparent that such harm may be avoided through the help of
 1085 willing, able, and responsible family members or friends or the
 1086 provision of other services; or

1087 (b) There is substantial likelihood that in the near
 1088 future and without services, the person will inflict serious
 1089 harm to self or others, as evidenced by acts, omissions, or
 1090 behavior causing, attempting, or threatening such harm, which
 1091 includes, but is not limited to, significant property damage ~~has~~
 1092 ~~inflicted, or threatened to or attempted to inflict, or, unless~~
 1093 ~~admitted, is likely to inflict, physical harm on himself,~~
 1094 ~~herself, or another.~~

1095 Section 21. Subsection (1) of section 397.6751, Florida
 1096 Statutes, is amended to read:

1097 397.6751 Service provider responsibilities regarding
 1098 involuntary admissions.—

1099 (1) It is the responsibility of the service provider to:

1100 (a) Ensure that a person who is admitted to a licensed

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2020

1101 service component meets the admission criteria specified in s.
1102 397.675;

1103 (b) Ascertain whether the medical and behavioral
1104 conditions of the person, as presented, are beyond the safe
1105 management capabilities of the service provider;

1106 (c) Provide for the admission of the person to the service
1107 component that represents the most appropriate and least
1108 restrictive available setting that is responsive to the person's
1109 treatment needs;

1110 (d) Verify that the admission of the person to the service
1111 component does not result in a census in excess of its licensed
1112 service capacity;

1113 (e) Determine whether the cost of services is within the
1114 financial means of the person or those who are financially
1115 responsible for the person's care; and

1116 (f) Take all necessary measures to ensure that each
1117 individual in treatment is provided with a safe environment, and
1118 to ensure that each individual whose medical condition or
1119 behavioral problem becomes such that he or she cannot be safely
1120 managed by the service component is discharged and referred to a
1121 more appropriate setting for care.

1122 Section 22. Section 397.681, Florida Statutes, is amended
1123 to read:

1124 397.681 Involuntary petitions; general provisions; court
1125 jurisdiction and right to counsel.—

1126 (1) JURISDICTION.—The courts have jurisdiction of
1127 ~~involuntary assessment and stabilization petitions and~~
1128 involuntary treatment petitions for substance abuse impaired
1129 persons, and such petitions must be filed with the clerk of the
1130 court in the county where the person is located. The clerk of
1131 the court may not charge a fee for the filing of a petition
1132 under this section. The chief judge may appoint a general or
1133 special magistrate to preside over all or part of the
1134 proceedings. The alleged impaired person is named as the
1135 respondent.

1136 (2) RIGHT TO COUNSEL.—A respondent has the right to
1137 counsel at every stage of a proceeding relating to a petition
1138 for his or her ~~involuntary assessment and a petition for his or~~
1139 ~~her~~ involuntary treatment for substance abuse impairment. A
1140 respondent who desires counsel and is unable to afford private
1141 counsel has the right to court-appointed counsel and to the
1142 benefits of s. 57.081. If the court believes that the respondent
1143 needs the assistance of counsel, the court shall appoint such
1144 counsel for the respondent without regard to the respondent's
1145 wishes. If the respondent is a minor not otherwise represented
1146 in the proceeding, the court shall immediately appoint a
1147 guardian ad litem to act on the minor's behalf.

1148 (3) STATE REPRESENTATIVE.—Subject to legislative
1149 appropriation, for all court-involved involuntary proceedings
1150 under this chapter, the state attorney for the circuit in which

1151 the respondent is located shall represent the state rather than
1152 the petitioner as the real party of interest in the proceeding,
1153 but the state attorney must be respectful of the petitioner's
1154 interests and concerns. In order to evaluate and prepare its
1155 case before the hearing, the state attorney may access, by
1156 subpoena if necessary, the respondent, the witnesses, and all
1157 relevant records. Such records include, but are not limited to,
1158 any social media, school records, clinical files, and reports
1159 documenting contact the respondent may have had with law
1160 enforcement officers or other state agencies. However, these
1161 records shall remain confidential, and the petitioner may not
1162 access any records obtained by the state attorney unless such
1163 records are entered into the court file. In addition, the state
1164 attorney may not use any records obtained under this part for
1165 criminal investigation or prosecution purposes, or for any
1166 purpose other than the respondent's civil commitment under this
1167 chapter.

1168 Section 23. Section 397.6811, Florida Statutes, is
1169 repealed.

1170 Section 24. Section 397.6814, Florida Statutes, is
1171 repealed.

1172 Section 25. Section 397.6815, Florida Statutes, is
1173 repealed.

1174 Section 26. Section 397.6818, Florida Statutes, is
1175 repealed.

1176 Section 27. Section 397.6819, Florida Statutes, is
 1177 repealed.

1178 Section 28. Section 397.6821, Florida Statutes, is
 1179 repealed.

1180 Section 29. Section 397.6822, Florida Statutes, is
 1181 repealed.

1182 Section 30. Section 397.693, Florida Statutes, is amended
 1183 to read:

1184 397.693 Involuntary treatment.—A person may be the subject
 1185 of a petition for court-ordered involuntary treatment pursuant
 1186 to this part, if that person:

1187 (1) Reasonably appears to meet ~~meets~~ the criteria for
 1188 involuntary admission provided in s. 397.675; ~~and:~~

1189 (2) ~~(1)~~ Has been placed under protective custody pursuant
 1190 to s. 397.677 within the previous 10 days;

1191 (3) ~~(2)~~ Has been subject to an emergency admission pursuant
 1192 to s. 397.679 within the previous 10 days; or

1193 (4) ~~(3)~~ Has been assessed by a qualified professional
 1194 within 30 ~~5~~ days;

1195 ~~(4) Has been subject to involuntary assessment and~~
 1196 ~~stabilization pursuant to s. 397.6818 within the previous 12~~
 1197 ~~days; or~~

1198 ~~(5) Has been subject to alternative involuntary admission~~
 1199 ~~pursuant to s. 397.6822 within the previous 12 days.~~

1200 Section 31. Section 397.695, Florida Statutes, is amended

1201 to read:

1202 397.695 Involuntary treatment services; persons who may
 1203 petition.—

1204 (1) If the respondent is an adult, a petition for
 1205 involuntary treatment services may be filed by the respondent's
 1206 spouse or legal guardian, any relative, a service provider, or
 1207 an adult who has direct personal knowledge of the respondent's
 1208 substance abuse impairment and his or her prior course of
 1209 assessment and treatment.

1210 (2) If the respondent is a minor, a petition for
 1211 involuntary treatment may be filed by a parent, legal guardian,
 1212 or service provider.

1213 (3) The court or the clerk of the court may waive or
 1214 prohibit any service of process fees if a petitioner is
 1215 determined to be indigent under s. 57.082.

1216 Section 32. Section 397.6951, Florida Statutes, is amended
 1217 to read:

1218 397.6951 Contents of petition for involuntary treatment
 1219 services.—

1220 (1) A petition for involuntary treatment services must
 1221 contain the name of the respondent; the name of the petitioner
 1222 or petitioners; the relationship between the respondent and the
 1223 petitioner; the name of the respondent's attorney, if known; ~~the~~
 1224 ~~findings and recommendations of the assessment performed by the~~
 1225 ~~qualified professional;~~ and the factual allegations presented by

1226 the petitioner establishing the need for involuntary ~~outpatient~~
1227 services for substance abuse impairment. The factual allegations
1228 must demonstrate the reason for the petitioner's belief that the
1229 respondent:

1230 ~~(1) The reason for the petitioner's belief that the~~
1231 ~~respondent is substance abuse impaired;~~

1232 ~~(a) (2) The reason for the petitioner's belief that because~~
1233 ~~of such impairment the respondent~~ Has lost the power of self-
1234 control with respect to substance abuse, or has a history of
1235 noncompliance with substance abuse treatment with continued
1236 substance use; and

1237 (b) Needs substance abuse services, but his or her
1238 judgment is so impaired by substance abuse that he or she either
1239 is refusing voluntary care after a sufficient and conscientious
1240 explanation and disclosure of the purpose of such services, or
1241 is incapable of appreciating his or her need for such services
1242 and of making a rational decision in that regard; and

1243 (c)1. Without services, is likely to suffer from neglect
1244 or refuse to care for himself or herself; that the neglect or
1245 refusal poses a real and present threat of substantial harm to
1246 his or her well-being; and that it is not apparent that the harm
1247 may be avoided through the help of willing, able, and
1248 responsible family members or friends or the provision of other
1249 services; or

1250 2. There is a substantial likelihood that in the near

1251 future and without services, the respondent will inflict serious
1252 harm to self or others, as evidenced by acts, omissions, or
1253 behavior causing, attempting, or threatening such harm, which
1254 includes, but is not limited to, significant property damage

1255 ~~(3) (a) The reason the petitioner believes that the~~
1256 ~~respondent has inflicted or is likely to inflict physical harm~~
1257 ~~on himself or herself or others unless the court orders the~~
1258 ~~involuntary services; or~~

1259 ~~(b) The reason the petitioner believes that the~~
1260 ~~respondent's refusal to voluntarily receive care is based on~~
1261 ~~judgment so impaired by reason of substance abuse that the~~
1262 ~~respondent is incapable of appreciating his or her need for care~~
1263 ~~and of making a rational decision regarding that need for care.~~

1264 (2) The petition may be accompanied by a certificate or
1265 report of a qualified professional or a licensed physician who
1266 has examined the respondent within 30 days before the petition's
1267 submission. This certificate or report must include the
1268 qualified professional or physician's findings relating to his
1269 or her assessment of the patient and his or her treatment
1270 recommendations. If the respondent was not assessed before the
1271 filing of a treatment petition or refused to submit to an
1272 evaluation, the lack of assessment or refusal must be noted in
1273 the petition.

1274 (3) If there is an emergency, the petition must also
1275 describe the respondent's exigent circumstances and include a

1276 request for an ex parte assessment and stabilization order that
1277 must be executed pursuant to s. 397.6955(4).

1278 Section 33. Section 397.6955, Florida Statutes, is amended
1279 to read:

1280 397.6955 Duties of court upon filing of petition for
1281 involuntary treatment services.-

1282 (1) Upon the filing of a petition for involuntary
1283 treatment services for a substance abuse impaired person with
1284 the clerk of the court, the clerk must notify the state
1285 attorney's office. In addition, the court shall immediately
1286 determine whether the respondent is represented by an attorney
1287 or whether the appointment of counsel for the respondent is
1288 appropriate. If, based on the contents of the petition, the
1289 court appoints counsel for the person, the clerk of the court
1290 shall immediately notify the office of criminal conflict and
1291 civil regional counsel, created pursuant to s. 27.511, of the
1292 appointment. The office of criminal conflict and civil regional
1293 counsel shall represent the person until the petition is
1294 dismissed, the court order expires, or the person is discharged
1295 from involuntary treatment services. An attorney that represents
1296 the person named in the petition shall have access to the
1297 person, witnesses, and records relevant to the presentation of
1298 the person's case and shall represent the interests of the
1299 person, regardless of the source of payment to the attorney.

1300 (2) The court shall schedule a hearing to be held on the

1301 petition within 10 court working ~~5~~ days unless a continuance is
 1302 granted. The court may appoint a magistrate to preside at the
 1303 hearing.

1304 (3) A copy of the petition and notice of the hearing must
 1305 be provided to the respondent; the respondent's parent,
 1306 guardian, or legal custodian, in the case of a minor; the
 1307 respondent's attorney, if known; the petitioner; the
 1308 respondent's spouse or guardian, if applicable; and such other
 1309 persons as the court may direct. If the respondent is a minor, a
 1310 copy of the petition and notice of the hearing must be
 1311 personally delivered to the respondent. The court shall also
 1312 issue a summons to the person whose admission is sought.

1313 (4) (a) When the petitioner asserts that emergency
 1314 circumstances exist, or when upon review of the petition the
 1315 court determines that an emergency exists, the court may rely
 1316 solely on the contents of the petition and, without the
 1317 appointment of an attorney, enter an ex parte order for the
 1318 respondent's involuntary assessment and stabilization which must
 1319 be executed during the period that the hearing on the petition
 1320 for treatment is pending. The court may further order a law
 1321 enforcement officer or other designated agent of the court to:

1322 1. Take the respondent into custody and deliver him or her
 1323 to the nearest appropriate licensed service provider to be
 1324 evaluated; and

1325 2. Serve the respondent with the notice of hearing and a

1326 copy of the petition.

1327 (b) The service provider must promptly inform the court
1328 and parties of the respondent's arrival and may not hold the
1329 respondent for longer than 72 hours of observation thereafter,
1330 unless:

1331 1. The service provider seeks additional time under s.
1332 397.6957(1)(c) and the court, after a hearing, grants that
1333 motion;

1334 2. The respondent shows signs of withdrawal, or a need to
1335 be either detoxified or treated for a medical condition, which
1336 shall extend the amount of time the respondent may be held for
1337 observation until the issue is resolved; or

1338 3. The original or extended observation period ends on a
1339 weekend or holiday, in which case the provider may hold the
1340 respondent until the next court working day.

1341 (c) If the ex parte order was not executed by the initial
1342 hearing date, it shall be deemed void. However, should the
1343 respondent not appear at the hearing for any reason, including
1344 lack of service, and upon reviewing the petition, testimony, and
1345 evidence presented, the court reasonably believes the respondent
1346 meets this chapter's commitment criteria and that a substance
1347 abuse emergency exists, the court may issue or reissue an ex
1348 parte assessment and stabilization order that is valid for 90
1349 days. If the respondent's location is known at the time of the
1350 hearing, the court:

- 1351 1. Shall continue the case for no more than 10 court
 1352 working days; and
- 1353 2. May order a law enforcement officer or other designated
 1354 agent of the court to:
- 1355 a. Take the respondent into custody and deliver him or her
 1356 to the nearest appropriate licensed service provider to be
 1357 evaluated; and
- 1358 b. If a hearing date is set, serve the respondent with
 1359 notice of the rescheduled hearing and a copy of the involuntary
 1360 treatment petition if the respondent has not already been
 1361 served.

1362

1363 Otherwise, the petitioner and the service provider must promptly
 1364 inform the court that the respondent has been assessed so that
 1365 the court may schedule a hearing. The service provider must
 1366 serve the respondent, before his or her discharge, with the
 1367 notice of hearing and a copy of the petition. However, if the
 1368 respondent has not been assessed after 90 days, the court must
 1369 dismiss the case.

1370 Section 34. Section 397.6957, Florida Statutes, is amended
 1371 to read:

1372 397.6957 Hearing on petition for involuntary treatment
 1373 services.—

1374 (1) (a) The respondent must be present at a hearing on a
 1375 petition for involuntary treatment services unless he or she

1376 knowingly, intelligently, and voluntarily waives his or her
1377 right to be present or, upon receiving proof of service and
1378 evaluating the circumstances of the case, the court finds that
1379 his or her presence is inconsistent with his or her best
1380 interests or is likely to be injurious to himself or herself or
1381 others. The court shall hear and review all relevant evidence,
1382 including testimony from individuals such as family members
1383 familiar with the respondent's prior history and how it relates
1384 to his or her current condition, and the ~~review of~~ results of
1385 the assessment completed by the qualified professional in
1386 connection with this chapter. The court may also order drug
1387 tests. Absent a showing of good cause, the court may permit all
1388 witnesses, such as any medical professionals or personnel who
1389 are or have been involved with the respondent's treatment, to
1390 remotely attend and testify at the hearing under oath via the
1391 most appropriate and convenient technological method of
1392 communication available to the court, including, but not limited
1393 to, teleconference ~~the respondent's protective custody,~~
1394 emergency admission, involuntary assessment, or alternative
1395 involuntary admission. The respondent must be present unless the
1396 court finds that his or her presence is likely to be injurious
1397 to himself or herself or others, in which event the court must
1398 appoint a guardian advocate to act in behalf of the respondent
1399 throughout the proceedings.

1400 (b) A respondent cannot be involuntarily ordered into

1401 treatment under this chapter without a clinical assessment being
1402 performed unless he or she is present in court and expressly
1403 waives the assessment. In nonemergency situations, if the
1404 respondent was not, or had previously refused to be, assessed by
1405 a qualified professional and, based on the petition, testimony,
1406 and evidence presented, it reasonably appears that the
1407 respondent qualifies for involuntary treatment services, the
1408 court shall issue an involuntary assessment and stabilization
1409 order to determine the appropriate level of treatment the
1410 respondent requires. Additionally, in cases where an assessment
1411 was attached to the petition, the respondent may request, or the
1412 court on its own motion may order, an independent assessment by
1413 a court-appointed physician or an otherwise agreed-upon
1414 physician. If an assessment order is issued, it is valid for 90
1415 days, and if the respondent is present or there is either proof
1416 of service or his or her location is known, the involuntary
1417 treatment hearing shall be continued for no more than 10 court
1418 working days. Otherwise, the petitioner and the service provider
1419 must promptly inform the court that the respondent has been
1420 assessed so that the court may schedule a hearing. The service
1421 provider shall then serve the respondent, before his or her
1422 discharge, with the notice of hearing and a copy of the
1423 petition. The assessment must occur before the new hearing date,
1424 and if there is evidence indicating that the respondent will not
1425 voluntarily appear at the forthcoming hearing, or is a danger to

1426 self or others, the court may enter a preliminary order
1427 committing the respondent to an appropriate treatment facility
1428 for further evaluation until the date of the rescheduled
1429 hearing. However, if after 90 days the respondent remains
1430 unassessed, the court shall dismiss the case.

1431 (c)1. The respondent's assessment by a qualified
1432 professional must occur within 72 hours after his or her arrival
1433 at a licensed service provider unless he or she shows signs of
1434 withdrawal or a need to be either detoxified or treated for a
1435 medical condition, which shall extend the amount of time the
1436 respondent may be held for observation until that issue is
1437 resolved. If the person conducting the assessment is not a
1438 licensed physician, the assessment must be reviewed by a
1439 licensed physician within the 72-hour period. If the respondent
1440 is a minor, such assessment must be initiated within the first
1441 12 hours after the minor's admission to the facility. The
1442 service provider may also move to extend the 72 hours of
1443 observation by petitioning the court in writing for additional
1444 time. The service provider must furnish copies of such motion to
1445 all parties in accordance with applicable confidentiality
1446 requirements and, after a hearing, the court may grant
1447 additional time or expedite the respondent's involuntary
1448 treatment hearing. The involuntary treatment hearing, however,
1449 may only be expedited by agreement of the parties on the hearing
1450 date, or if there is notice and proof of service as provided in

1451 s. 397.6955 (1) and (3). If the court grants the service
1452 provider's petition, the service provider may hold the
1453 respondent until its extended assessment period expires or until
1454 the expedited hearing date. However, if the original or extended
1455 observation period ends on a weekend or holiday, the provider
1456 may hold the respondent until the next court working day.

1457 2. Upon the completion of his or her report, the qualified
1458 professional, in accordance with applicable confidentiality
1459 requirements, shall provide copies to the court and all relevant
1460 parties and counsel. This report must contain a recommendation
1461 on the level, if any, of substance abuse and, if applicable, co-
1462 occurring mental health treatment the respondent requires. The
1463 qualified professional's failure to include a treatment
1464 recommendation, much like a recommendation of no treatment,
1465 shall result in the petition's dismissal.

1466 (d) The court may order a law enforcement officer or other
1467 designated agent of the court to take the respondent into
1468 custody and transport him or her to or from the treating or
1469 assessing service provider and the court for his or her hearing.

1470 (2) The petitioner has the burden of proving by clear and
1471 convincing evidence that:

1472 (a) The respondent is substance abuse impaired, has lost
1473 the power of self-control with respect to substance abuse, or
1474 ~~and~~ has a history of lack of compliance with treatment for
1475 substance abuse with continued substance use; and

1476 (b) Because of such impairment, the respondent is unlikely
1477 to voluntarily participate in the recommended services after
1478 sufficient and conscientious explanation and disclosure of their
1479 purpose, or is unable to determine for himself or herself
1480 whether services are necessary and make a rational decision in
1481 that regard; and

1482 (c)1. Without services, the respondent is likely to suffer
1483 from neglect or refuse to care for himself or herself; that such
1484 neglect or refusal poses a real and present threat of
1485 substantial harm to his or her well-being; and that it is not
1486 apparent that such harm may be avoided through the help of
1487 willing, able, and responsible family members or friends or the
1488 provision of other services; or

1489 2. There is a substantial likelihood that in the near
1490 future and without services, the respondent will inflict serious
1491 harm to self or others, as evidenced by acts, omissions, or
1492 behavior causing, attempting, or threatening such harm, which
1493 includes, but is not limited to, significant property damage
1494 ~~cause serious bodily harm to himself, herself, or another in the~~
1495 ~~near future, as evidenced by recent behavior; or~~

1496 ~~2. The respondent's refusal to voluntarily receive care is~~
1497 ~~based on judgment so impaired by reason of substance abuse that~~
1498 ~~the respondent is incapable of appreciating his or her need for~~
1499 ~~care and of making a rational decision regarding that need for~~
1500 ~~care.~~

1501 (3) ~~One of the qualified professionals who executed the~~
1502 ~~involuntary services certificate must be a witness. The court~~
1503 ~~shall allow testimony from individuals, including family~~
1504 ~~members, deemed by the court to be relevant under state law,~~
1505 ~~regarding the respondent's prior history and how that prior~~
1506 ~~history relates to the person's current condition. The Testimony~~
1507 in the hearing must be taken under oath, and the proceedings
1508 must be recorded. The respondent patient may refuse to testify
1509 at the hearing.

1510 (4) If at any point during the hearing the court has
1511 reason to believe that the respondent, due to mental illness
1512 other than or in addition to substance abuse impairment, is
1513 likely to injure himself or herself or another if allowed to
1514 remain at liberty, or otherwise meets the involuntary commitment
1515 provisions of part I of chapter 394, the court may initiate
1516 involuntary proceedings under such provisions.

1517 (5)~~(4)~~ At the conclusion of the hearing, the court shall
1518 either dismiss the petition or order the respondent to receive
1519 involuntary treatment services from his or her chosen licensed
1520 service provider if possible and appropriate. Any treatment
1521 order must include findings regarding the respondent's need for
1522 treatment and the appropriateness of other least restrictive
1523 alternatives.

1524 Section 35. Section 397.697, Florida Statutes, is amended
1525 to read:

1526 397.697 Court determination; effect of court order for
 1527 involuntary treatment services.-

1528 (1) (a) When the court finds that the conditions for
 1529 involuntary treatment services have been proved by clear and
 1530 convincing evidence, it may order the respondent to receive
 1531 involuntary treatment services from a publicly funded licensed
 1532 service provider for a period not to exceed 90 days. The court
 1533 may also order a respondent to undergo treatment through a
 1534 privately funded licensed service provider if the respondent has
 1535 the ability to pay for the treatment, or if any person on the
 1536 respondent's behalf voluntarily demonstrates a willingness and
 1537 an ability to pay for the treatment. If the court finds it
 1538 necessary, it may direct the sheriff to take the respondent into
 1539 custody and deliver him or her to the licensed service provider
 1540 specified in the court order, or to the nearest appropriate
 1541 licensed service provider, for involuntary treatment services.
 1542 When the conditions justifying involuntary treatment services no
 1543 longer exist, the individual must be released as provided in s.
 1544 397.6971. When the conditions justifying involuntary treatment
 1545 services are expected to exist after 90 days of treatment
 1546 services, a renewal of the involuntary treatment services order
 1547 may be requested pursuant to s. 397.6975 before the end of the
 1548 90-day period.

1549 (b) To qualify for involuntary outpatient treatment, an
 1550 individual must be supported by a social worker or case manager

1551 of a licensed service provider or a willing, able, and
1552 responsible individual appointed by the court who shall inform
1553 the court and parties if the respondent fails to comply with his
1554 or her outpatient program. In addition, unless the respondent
1555 has been involuntarily ordered into inpatient treatment under
1556 this chapter at least twice during the last 36 months, or
1557 demonstrates the ability to substantially comply with the
1558 outpatient treatment while waiting for residential placement to
1559 become available, he or she must receive an assessment from a
1560 qualified professional or licensed physician expressly
1561 recommending outpatient services, and it must appear likely that
1562 the respondent will follow a prescribed outpatient care plan.

1563 (2) In all cases resulting in an order for involuntary
1564 treatment services, the court shall retain jurisdiction over the
1565 case and the parties for the entry of such further orders as the
1566 circumstances may require, including, but not limited to,
1567 monitoring compliance with treatment, changing the treatment
1568 modality, or initiating contempt of court proceedings for
1569 violating any valid order issued pursuant to this chapter.
1570 Hearings under this section may be set by motion of the parties
1571 or under the court's own authority, and the motion and notice of
1572 hearing for these ancillary proceedings, which include, but are
1573 not limited to, civil contempt, must be served in accordance
1574 with relevant court procedural rules. The court's requirements
1575 for notification of proposed release must be included in the

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1576 original order.

1577 (3) An involuntary treatment services order also
1578 authorizes the licensed service provider to require the
1579 individual to receive treatment services that will benefit him
1580 or her, including treatment services at any licensable service
1581 component of a licensed service provider. While subject to the
1582 court's oversight, the service provider's authority under this
1583 section is separate and distinct from the court's broad
1584 continuing jurisdiction under subsection (2). Such oversight
1585 includes, but is not limited to, submitting reports regarding
1586 the respondent's progress or compliance with treatment as
1587 required by the court.

1588 (4) If the court orders involuntary treatment services, a
1589 copy of the order must be sent to the managing entity within 1
1590 working day after it is received from the court. Documents may
1591 be submitted electronically through ~~though~~ existing data
1592 systems, if applicable.

1593 Section 36. Section 397.6971, Florida Statutes, is amended
1594 to read:

1595 397.6971 Early release from involuntary treatment
1596 services.—

1597 (1) At any time before the end of the 90-day involuntary
1598 treatment services period, or before the end of any extension
1599 granted pursuant to s. 397.6975, an individual receiving
1600 involuntary treatment services may be determined eligible for

1601 discharge to the most appropriate referral or disposition for
 1602 the individual when any of the following apply:

1603 (a) The individual no longer meets the criteria for
 1604 involuntary admission and has given his or her informed consent
 1605 to be transferred to voluntary treatment status.

1606 (b) If the individual was admitted on the grounds of
 1607 likelihood of infliction of physical harm upon himself or
 1608 herself or others, such likelihood no longer exists.

1609 (c) If the individual was admitted on the grounds of need
 1610 for assessment and stabilization or treatment, accompanied by
 1611 inability to make a determination respecting such need:

- 1612 1. Such inability no longer exists; or
- 1613 2. It is evident that further treatment will not bring
 1614 about further significant improvements in the individual's
 1615 condition.

1616 (d) The individual ~~is~~ no longer needs treatment ~~in need of~~
 1617 services.

1618 (e) The director of the service provider determines that
 1619 the individual is beyond the safe management capabilities of the
 1620 provider.

1621 (2) Whenever a qualified professional determines that an
 1622 individual admitted for involuntary treatment services qualifies
 1623 for early release under subsection (1), the service provider
 1624 shall immediately discharge the individual and must notify all
 1625 persons specified by the court in the original treatment order.

1626 Section 37. Section 397.6975, Florida Statutes, is amended
 1627 to read:

1628 397.6975 Extension of involuntary treatment services
 1629 period.—

1630 (1) Whenever a service provider believes that an
 1631 individual who is nearing the scheduled date of his or her
 1632 release from involuntary care services continues to meet the
 1633 criteria for involuntary treatment services in s. 397.693 or s.
 1634 397.6957, a petition for renewal of the involuntary treatment
 1635 services order must ~~may~~ be filed with the court ~~at least 10 days~~
 1636 before the expiration of the court-ordered services period. The
 1637 petition may be filed by the service provider or by the person
 1638 who filed the petition for the initial treatment order if the
 1639 petition is accompanied by supporting documentation from the
 1640 service provider. The court shall ~~immediately~~ schedule a hearing
 1641 within 10 court working ~~to be held not more than 15~~ days after
 1642 filing of the petition and ~~. The court shall~~ provide the copy of
 1643 the petition for renewal and the notice of the hearing to all
 1644 parties and counsel to the proceeding. The hearing is conducted
 1645 pursuant to ss. 397.697 and 397.6957 and must be before the
 1646 circuit court unless referred to a magistrate ~~s. 397.6957~~.

1647 (2) If the court finds that the petition for renewal of
 1648 ~~the~~ involuntary treatment services ~~order~~ should be granted, it
 1649 may order the respondent to receive involuntary treatment
 1650 services for a period not to exceed an additional 90 days. When

1651 the conditions justifying involuntary treatment services no
1652 longer exist, the individual must be released as provided in s.
1653 397.6971. When the conditions justifying involuntary treatment
1654 services continue to exist after an additional 90 days of
1655 treatment service, a new petition requesting renewal of the
1656 involuntary treatment services order may be filed pursuant to
1657 this section.

1658 ~~(3) Within 1 court working day after the filing of a~~
1659 ~~petition for continued involuntary services, the court shall~~
1660 ~~appoint the office of criminal conflict and civil regional~~
1661 ~~counsel to represent the respondent, unless the respondent is~~
1662 ~~otherwise represented by counsel. The clerk of the court shall~~
1663 ~~immediately notify the office of criminal conflict and civil~~
1664 ~~regional counsel of such appointment. The office of criminal~~
1665 ~~conflict and civil regional counsel shall represent the~~
1666 ~~respondent until the petition is dismissed or the court order~~
1667 ~~expires or the respondent is discharged from involuntary~~
1668 ~~services. Any attorney representing the respondent shall have~~
1669 ~~access to the respondent, witnesses, and records relevant to the~~
1670 ~~presentation of the respondent's case and shall represent the~~
1671 ~~interests of the respondent, regardless of the source of payment~~
1672 ~~to the attorney.~~

1673 ~~(4) Hearings on petitions for continued involuntary~~
1674 ~~services shall be before the circuit court. The court may~~
1675 ~~appoint a magistrate to preside at the hearing. The procedures~~

1676 ~~for obtaining an order pursuant to this section shall be in~~
1677 ~~accordance with s. 397.697.~~

1678 ~~(5) Notice of hearing shall be provided to the respondent~~
1679 ~~or his or her counsel. The respondent and the respondent's~~
1680 ~~counsel may agree to a period of continued involuntary services~~
1681 ~~without a court hearing.~~

1682 ~~(6) The same procedure shall be repeated before the~~
1683 ~~expiration of each additional period of involuntary services.~~

1684 ~~(7) If the respondent has previously been found~~
1685 ~~incompetent to consent to treatment, the court shall consider~~
1686 ~~testimony and evidence regarding the respondent's competence.~~

1687 Section 38. Section 397.6977, Florida Statutes, is amended
1688 to read:

1689 397.6977 Disposition of individual upon completion of
1690 involuntary treatment services.—At the conclusion of the 90-day
1691 period of court-ordered involuntary treatment services, the
1692 respondent is automatically discharged unless a motion for
1693 renewal of the involuntary treatment services order has been
1694 filed with the court pursuant to s. 397.6975.

1695 Section 39. Section 397.6978, Florida Statutes, is
1696 repealed.

1697 Section 40. Paragraph (b) of subsection (1) of section
1698 409.972, Florida Statutes, is amended to read:

1699 409.972 Mandatory and voluntary enrollment.—

1700 (1) The following Medicaid-eligible persons are exempt

1701 from mandatory managed care enrollment required by s. 409.965,
1702 and may voluntarily choose to participate in the managed medical
1703 assistance program:

1704 (b) Medicaid recipients residing in residential commitment
1705 facilities operated through the Department of Juvenile Justice
1706 or a treatment facility as defined in s. 394.455 ~~s. 394.455(47)~~.

1707 Section 41. Paragraph (e) of subsection (4) of section
1708 464.012, Florida Statutes, is amended to read:

1709 464.012 Licensure of advanced practice registered nurses;
1710 fees; controlled substance prescribing.—

1711 (4) In addition to the general functions specified in
1712 subsection (3), an advanced practice registered nurse may
1713 perform the following acts within his or her specialty:

1714 (e) A psychiatric nurse, who meets the requirements in s.
1715 394.455(36) ~~s. 394.455(35)~~, within the framework of an
1716 established protocol with a psychiatrist, may prescribe
1717 psychotropic controlled substances for the treatment of mental
1718 disorders.

1719 Section 42. Subsection (7) of section 744.2007, Florida
1720 Statutes, is amended to read:

1721 744.2007 Powers and duties.—

1722 (7) A public guardian may not commit a ward to a treatment
1723 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
1724 involuntary placement proceeding as provided by law.

1725 Section 43. Paragraph (a) of subsection (2) of section

1726 | 790.065, Florida Statutes, is amended to read:

1727 | 790.065 Sale and delivery of firearms.—

1728 | (2) Upon receipt of a request for a criminal history
1729 | record check, the Department of Law Enforcement shall, during
1730 | the licensee's call or by return call, forthwith:

1731 | (a) Review any records available to determine if the
1732 | potential buyer or transferee:

1733 | 1. Has been convicted of a felony and is prohibited from
1734 | receipt or possession of a firearm pursuant to s. 790.23;

1735 | 2. Has been convicted of a misdemeanor crime of domestic
1736 | violence, and therefore is prohibited from purchasing a firearm;

1737 | 3. Has had adjudication of guilt withheld or imposition of
1738 | sentence suspended on any felony or misdemeanor crime of
1739 | domestic violence unless 3 years have elapsed since probation or
1740 | any other conditions set by the court have been fulfilled or
1741 | expunction has occurred; or

1742 | 4. Has been adjudicated mentally defective or has been
1743 | committed to a mental institution by a court or as provided in
1744 | sub-sub-subparagraph b.(II), and as a result is prohibited by
1745 | state or federal law from purchasing a firearm.

1746 | a. As used in this subparagraph, "adjudicated mentally
1747 | defective" means a determination by a court that a person, as a
1748 | result of marked subnormal intelligence, or mental illness,
1749 | incompetency, condition, or disease, is a danger to himself or
1750 | herself or to others or lacks the mental capacity to contract or

1751 manage his or her own affairs. The phrase includes a judicial
1752 finding of incapacity under s. 744.331(6)(a), an acquittal by
1753 reason of insanity of a person charged with a criminal offense,
1754 and a judicial finding that a criminal defendant is not
1755 competent to stand trial.

1756 b. As used in this subparagraph, "committed to a mental
1757 institution" means:

1758 (I) Involuntary commitment, commitment for mental
1759 defectiveness or mental illness, and commitment for substance
1760 abuse. The phrase includes involuntary inpatient placement under
1761 ~~as defined in s. 394.467~~, involuntary outpatient placement as
1762 defined in s. 394.4655, ~~involuntary assessment and stabilization~~
1763 ~~under s. 397.6818~~, and involuntary substance abuse treatment
1764 under s. 397.6957, but does not include a person in a mental
1765 institution for observation or discharged from a mental
1766 institution based upon the initial review by the physician or a
1767 voluntary admission to a mental institution; or

1768 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
1769 admission to a mental institution for outpatient or inpatient
1770 treatment of a person who had an involuntary examination under
1771 s. 394.463, where each of the following conditions have been
1772 met:

1773 (A) An examining physician found that the person is an
1774 imminent danger to himself or herself or others.

1775 (B) The examining physician certified that if the person

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1776 did not agree to voluntary treatment, a petition for involuntary
1777 outpatient or inpatient treatment would have been filed under s.
1778 394.463(2)(g)4., or the examining physician certified that a
1779 petition was filed and the person subsequently agreed to
1780 voluntary treatment prior to a court hearing on the petition.

1781 (C) Before agreeing to voluntary treatment, the person
1782 received written notice of that finding and certification, and
1783 written notice that as a result of such finding, he or she may
1784 be prohibited from purchasing a firearm, and may not be eligible
1785 to apply for or retain a concealed weapon or firearms license
1786 under s. 790.06 and the person acknowledged such notice in
1787 writing, in substantially the following form:

1788
1789 "I understand that the doctor who examined me believes I am a
1790 danger to myself or to others. I understand that if I do not
1791 agree to voluntary treatment, a petition will be filed in court
1792 to require me to receive involuntary treatment. I understand
1793 that if that petition is filed, I have the right to contest it.
1794 In the event a petition has been filed, I understand that I can
1795 subsequently agree to voluntary treatment prior to a court
1796 hearing. I understand that by agreeing to voluntary treatment in
1797 either of these situations, I may be prohibited from buying
1798 firearms and from applying for or retaining a concealed weapons
1799 or firearms license until I apply for and receive relief from
1800 that restriction under Florida law."

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

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1801
1802 (D) A judge or a magistrate has, pursuant to sub-sub-
1803 subparagraph c.(II), reviewed the record of the finding,
1804 certification, notice, and written acknowledgment classifying
1805 the person as an imminent danger to himself or herself or
1806 others, and ordered that such record be submitted to the
1807 department.

1808 c. In order to check for these conditions, the department
1809 shall compile and maintain an automated database of persons who
1810 are prohibited from purchasing a firearm based on court records
1811 of adjudications of mental defectiveness or commitments to
1812 mental institutions.

1813 (I) Except as provided in sub-sub-subparagraph (II),
1814 clerks of court shall submit these records to the department
1815 within 1 month after the rendition of the adjudication or
1816 commitment. Reports shall be submitted in an automated format.
1817 The reports must, at a minimum, include the name, along with any
1818 known alias or former name, the sex, and the date of birth of
1819 the subject.

1820 (II) For persons committed to a mental institution
1821 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
1822 the person's agreement to voluntary admission, a record of the
1823 finding, certification, notice, and written acknowledgment must
1824 be filed by the administrator of the receiving or treatment
1825 facility, as defined in s. 394.455, with the clerk of the court

1826 for the county in which the involuntary examination under s.
1827 394.463 occurred. No fee shall be charged for the filing under
1828 this sub-sub-subparagraph. The clerk must present the records to
1829 a judge or magistrate within 24 hours after receipt of the
1830 records. A judge or magistrate is required and has the lawful
1831 authority to review the records ex parte and, if the judge or
1832 magistrate determines that the record supports the classifying
1833 of the person as an imminent danger to himself or herself or
1834 others, to order that the record be submitted to the department.
1835 If a judge or magistrate orders the submittal of the record to
1836 the department, the record must be submitted to the department
1837 within 24 hours.

1838 d. A person who has been adjudicated mentally defective or
1839 committed to a mental institution, as those terms are defined in
1840 this paragraph, may petition the court that made the
1841 adjudication or commitment, or the court that ordered that the
1842 record be submitted to the department pursuant to sub-sub-
1843 subparagraph c.(II), for relief from the firearm disabilities
1844 imposed by such adjudication or commitment. A copy of the
1845 petition shall be served on the state attorney for the county in
1846 which the person was adjudicated or committed. The state
1847 attorney may object to and present evidence relevant to the
1848 relief sought by the petition. The hearing on the petition may
1849 be open or closed as the petitioner may choose. The petitioner
1850 may present evidence and subpoena witnesses to appear at the

1851 hearing on the petition. The petitioner may confront and cross-
1852 examine witnesses called by the state attorney. A record of the
1853 hearing shall be made by a certified court reporter or by court-
1854 approved electronic means. The court shall make written findings
1855 of fact and conclusions of law on the issues before it and issue
1856 a final order. The court shall grant the relief requested in the
1857 petition if the court finds, based on the evidence presented
1858 with respect to the petitioner's reputation, the petitioner's
1859 mental health record and, if applicable, criminal history
1860 record, the circumstances surrounding the firearm disability,
1861 and any other evidence in the record, that the petitioner will
1862 not be likely to act in a manner that is dangerous to public
1863 safety and that granting the relief would not be contrary to the
1864 public interest. If the final order denies relief, the
1865 petitioner may not petition again for relief from firearm
1866 disabilities until 1 year after the date of the final order. The
1867 petitioner may seek judicial review of a final order denying
1868 relief in the district court of appeal having jurisdiction over
1869 the court that issued the order. The review shall be conducted
1870 de novo. Relief from a firearm disability granted under this
1871 sub-subparagraph has no effect on the loss of civil rights,
1872 including firearm rights, for any reason other than the
1873 particular adjudication of mental defectiveness or commitment to
1874 a mental institution from which relief is granted.

1875 e. Upon receipt of proper notice of relief from firearm

1876 disabilities granted under sub-subparagraph d., the department
1877 shall delete any mental health record of the person granted
1878 relief from the automated database of persons who are prohibited
1879 from purchasing a firearm based on court records of
1880 adjudications of mental defectiveness or commitments to mental
1881 institutions.

1882 f. The department is authorized to disclose data collected
1883 pursuant to this subparagraph to agencies of the Federal
1884 Government and other states for use exclusively in determining
1885 the lawfulness of a firearm sale or transfer. The department is
1886 also authorized to disclose this data to the Department of
1887 Agriculture and Consumer Services for purposes of determining
1888 eligibility for issuance of a concealed weapons or concealed
1889 firearms license and for determining whether a basis exists for
1890 revoking or suspending a previously issued license pursuant to
1891 s. 790.06(10). When a potential buyer or transferee appeals a
1892 nonapproval based on these records, the clerks of court and
1893 mental institutions shall, upon request by the department,
1894 provide information to help determine whether the potential
1895 buyer or transferee is the same person as the subject of the
1896 record. Photographs and any other data that could confirm or
1897 negate identity must be made available to the department for
1898 such purposes, notwithstanding any other provision of state law
1899 to the contrary. Any such information that is made confidential
1900 or exempt from disclosure by law shall retain such confidential

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1901 | or exempt status when transferred to the department.

1902 | Section 44. This act shall take effect July 1, 2020.