

## House Bill No. 7137

An act relating to the Department of Corrections; amending s. 921.187, F.S.; deleting certain provisions limiting circumstances under which an offender may be placed in community control; amending s. 943.16, F.S.; eliminating provisions requiring that a law enforcement officer reimburse the employing agency for wages and benefits paid by the employing agency if the officer terminates employment before the end of a 2-year commitment period; eliminating wages and benefits from the costs that employing agencies may recover; eliminating the definition of the term “academy training period”; amending s. 944.1905, F.S.; authorizing the department to assign certain young adult offenders to a facility for youthful offenders until the offender reaches a specified age; deleting provisions requiring that certain young adult offenders be housed and provided certain services separately from older offenders; amending s. 944.47, F.S.; providing that a cellular telephone or other portable communication device that is introduced inside the secure perimeter of a state correctional institution without prior authorization is contraband; prohibiting an inmate or other person upon the grounds of the institution from possessing such contraband without authorization; providing a definition; providing criminal penalties; amending s. 948.01, F.S.; deleting the requirement that a court using a specified alternative to a sentence of incarceration require the Department of Corrections to provide certain notifications; amending s. 948.10, F.S.; deleting a requirement that community control programs and manuals be developed in consultation with the Florida Conference of Circuit Court Judges and the State Courts Administrator; deleting the prohibition on sentencing offenders convicted of certain forcible felonies to community control; deleting requirements for the department in developing and implementing community control programs, resource directories, and training programs; deleting a requirement for the Florida Court Education Council and the State Courts Administrator to coordinate certain resources for judges pertaining to community control; eliminating provisions governing review and notice by the department of offenders ineligible for community control and requiring the department to develop a caseload equalization strategy; conforming provisions to deletion of the prohibition on sentencing offenders convicted of certain forcible felonies to community control; amending s. 958.04, F.S.; authorizing the court to sentence a person as a youthful offender if the offender is younger than 21 years of age at the time sentence is imposed; requiring the Department of Corrections to adopt by rule criteria to define successful participation in the youthful offender program; amending s. 958.11, F.S.; removing the specific designation of youthful offender facilities for housing female offenders; revising requirements for the department with respect to assigning or transferring youthful offenders; removing references to the Assistant Secretary for Youthful Offenders; amending s. 958.12, F.S.; removing the requirement for a youthful offender to be visited by a probation and parole

officer before release; removing the requirement for the department to develop community partnerships with the Department of Labor and Employment Security and the Department of Children and Family Services and including private agencies as possible partners in such partnerships; amending s. 945.41, F.S.; eliminating a requirement that the Department of Corrections contract with the Department of Children and Family Services to provide certain mental health services; authorizing the Department of Corrections to contract with other entities or persons to provide mental health services to inmates; amending s. 945.42, F.S.; revising definitions and defining the term “crisis stabilization care”; amending s. 945.43, F.S.; revising the procedures for placing an inmate in a mental health treatment facility; authorizing the court to waive the presence of the inmate at the hearing on the inmate’s placement; amending s. 945.44, F.S.; providing for the emergency placement of an inmate in a mental health treatment facility; amending s. 945.45, F.S.; revising the provisions governing the continued placement of an inmate in a mental health treatment facility; authorizing an administrative law judge to appoint a private pro bono attorney to represent an inmate in continued placement hearings; providing that the administrative law judge may waive the presence of the inmate at the hearing under certain conditions; amending s. 945.46, F.S.; authorizing the warden to initiate procedures for the involuntary examination of an inmate who has a mental illness and meets certain criteria; amending s. 945.47, F.S.; providing for the transfer of an inmate who is no longer in need of mental health treatment; deleting certain provisions governing involuntary placement; requiring that a summary of the inmate’s treatment be provided to the Parole Commission and the Department of Children and Family Services upon request; amending s. 945.48, F.S.; revising the procedure for the involuntary mental health treatment of an inmate; providing for the warden of the institution containing the mental health treatment facility to petition the circuit court for an order authorizing involuntary treatment; providing requirements for the hearing on involuntary treatment; limiting the period that an order authorizing involuntary treatment is effective; providing a procedure for emergency treatment; amending s. 945.49, F.S.; deleting a provision requiring that training provided to correctional officers employed by a mental health treatment facility be in accordance with the requirements of the Criminal Justice Standards and Training Commission; deleting a requirement that a specified number of administrative law judges be assigned to conduct hearings on continued placement of inmates; requiring that inmates receiving mental health treatment be subject to the same standards applied to other inmates in the department; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 921.187, Florida Statutes, are amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

~~(2) An offender may not be placed in community control if:~~

~~(a) Convicted of or adjudication is withheld for a forcible felony as defined in s. 776.08; and~~

~~(b) Previously convicted of or adjudication was withheld for a forcible felony as defined in s. 776.08.~~

Nothing in this subsection prohibits placement of certain inmates on community control pursuant to s. 947.1747. For purposes of this subsection, a forcible felony does not include manslaughter or burglary.

(2)(3) In addition to any other penalty provided by law for an offense enumerated in s. 775.0877(1)(a)-(n), if the offender is convicted of criminal transmission of HIV pursuant to s. 775.0877, the court may sentence the offender to criminal quarantine community control as described in s. 948.001.

(3)(4) The court shall require an offender to make restitution under s. 775.089, unless the court finds clear and compelling reasons not to order such restitution. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, the court shall state the reasons on the record in detail. An order requiring an offender to make restitution to a victim under s. 775.089 does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960.

Section 2. Section 943.16, Florida Statutes, is amended to read:

943.16 Payment of tuition or officer certification examination fee by employing agency; reimbursement of tuition, other course expenses, wages, and benefits.—

(1) An employing agency is authorized to pay any costs of tuition of a trainee in attendance at an approved basic recruit training program.

(2)(a) A trainee who attends such approved training program at the expense of an employing agency must remain in the employment or appointment of such employing agency for a period of not less than 2 years after graduation from the basic recruit training program. If employment or appointment is terminated on the trainee's own initiative within 2 years, he or she shall reimburse the employing agency for the full cost of his or her tuition and, other course expenses, and additional amounts as provided in paragraph (b).

~~(b) In addition to reimbursement for the full cost of tuition and other course expenses, a trainee terminating employment as provided in paragraph (a) shall reimburse the employing agency for the trainee's wages and benefits paid by the employing agency during the academy training period according to the following schedule:~~

1. ~~For a trainee terminating employment within 6 months of graduation from the basic recruit training program, the full amount of wages and benefits paid during the academy training period.~~

2. ~~For a trainee terminating employment within 6 months and 1 day to 12 months of graduation from the basic recruit training program, an amount equal to three-fourths of the full amount of wages and benefits paid during the academy training period.~~

3. ~~For a trainee terminating employment within 12 months and 1 day to 18 months of graduation from the basic recruit training program, an amount equal to one-half of the full amount of wages and benefits paid during the academy training period.~~

4. ~~For a trainee terminating employment within 18 months and 1 day to 24 months of graduation from the basic recruit training program, an amount equal to one-fourth of the full amount of wages and benefits paid during the academy training period.~~

(3) An employing agency is authorized to pay the required fee for an applicant to take the officer certification examination on one occasion.

(4) An employing agency may institute a civil action to collect such cost of tuition and, other course expenses, ~~wages, and benefits~~ as provided in this section if it is not reimbursed, provided that the employing agency gave written notification to the trainee of the 2-year employment commitment during the employment screening process. The trainee shall return signed acknowledgment of receipt of such notification.

(5) For purposes of this section, ~~“academy training period” means the period of time that a trainee is attending an approved basic recruit training program in a law enforcement or correctional officer academy class for purposes of obtaining certification pursuant to this chapter, until the date of graduation from such class.~~ the term “other course expenses” includes the cost of meals.

(6) This section does not apply to trainees who terminate employment with the employing agency and resign their certification upon termination in order to obtain employment for which certification under this chapter is not required. Further, this section does not apply to trainees attending auxiliary officer training.

(7) Notwithstanding the provisions of this section, an employing agency may waive a trainee’s requirement of reimbursement in part or in full when the trainee terminates employment due to hardship or extenuating circumstances.

Section 3. Subsection (5) of section 944.1905, Florida Statutes, is amended to read:

944.1905 Initial inmate classification; inmate reclassification.—The Department of Corrections shall classify inmates pursuant to an objective classification scheme. The initial inmate classification questionnaire and

the inmate reclassification questionnaire must cover both aggravating and mitigating factors.

(5)(a) Notwithstanding any other provision of this section or chapter 958, the department shall assign to facilities housing youthful offenders specific correctional facilities all inmates who are less than 18 years of age and who ~~are not eligible for and~~ have not been assigned to a facility for youthful offenders under the provisions of chapter 958. Such an inmate shall be assigned to a facility for youthful offenders until the inmate is 18 years of age; however, the department may assign the inmate to a facility for youthful offenders until the inmate reaches an age not to exceed 21 years if the department determines that the continued assignment is in the best interests of the inmate and the assignment does not pose an unreasonable risk to other inmates in the facility. Any such inmate who is less than 18 years of age shall be housed in a dormitory that is separate from inmates who are 18 years of age or older. Furthermore, the department shall provide any food service, education, and recreation for such inmate separately from inmates who are 18 years of age or older.

~~(b) Notwithstanding the requirements of s. 958.11, any inmate who is less than 18 years of age, who was 15 years of age or younger at the time of his or her offense, and who has no prior juvenile adjudication must be placed in a facility for youthful offenders until the inmate is 18 years of age. At the discretion of the department, such an inmate may be placed in a facility for youthful offenders until the inmate is 21 years of age.~~

~~(b)(e)~~ Any inmate who is assigned to a facility under paragraph (a) is subject to the provisions of s. 958.11 regarding facility assignments, ~~and or~~ paragraph (b) shall be removed and reassigned to the general inmate population if his or her behavior threatens the safety of other inmates or correctional staff.

Section 4. Paragraph (a) of subsection (1) and subsection (2) of section 944.47, Florida Statutes, are amended to read:

944.47 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except through regular channels as authorized by the officer in charge of the correctional institution, it is unlawful to introduce into or upon the grounds of any state correctional institution, or to take or attempt to take or send or attempt to send therefrom, any of the following articles which are hereby declared to be contraband for the purposes of this section, to wit:

1. Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

2. Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

3. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect.

4. Any controlled substance as defined in s. 893.02(4) or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.

5. Any firearm or weapon of any kind or any explosive substance.

6. Any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution without prior authorization or consent from the officer in charge of such correctional institution. As used in this subparagraph, the term "portable communication device" means any device carried, worn, or stored which is designed or intended to receive or transmit verbal or written messages, access or store data, or connect electronically to the Internet or any other electronic device and which allows communications in any form. Such devices include, but are not limited to, portable two-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDA's, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the department for investigative or institutional security purposes or for conducting other state business.

(2) A person who violates any provision of this section as it pertains to an article of contraband described in subparagraph (1)(a)1., ~~or subparagraph (1)(a)2., or subparagraph (1)(a)6.~~ ~~commits is guilty~~ of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In all other cases, a violation of a provision of this section constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Paragraph (c) of subsection (3) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(3) If, after considering the provisions of subsection (2) and the offender's prior record or the seriousness of the offense, it appears to the court in the case of a felony disposition that probation is an unsuitable dispositional alternative to imprisonment, the court may place the offender in a community control program as provided in s. 948.10. Or, in a case of prior disposition of a felony commitment, upon motion of the offender or the department or upon its own motion, the court may, within the period of its retained jurisdiction following commitment, suspend the further execution of the disposition and place the offender in a community control program upon such terms as the court may require. The court may consult with a local offender advisory council pursuant to s. 948.90 with respect to the placement of an offender into community control. Not later than 3 working days before the hearing on the motion, the department shall forward to the court all relevant material on the offender's progress while in custody. If this sentencing alternative to incarceration is utilized, the court shall:

~~(e) Require the department to provide notifications pursuant to s. 948.10(7).~~

Section 6. Section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs.—

(1) The Department of Corrections shall develop and administer a community control program. ~~Such community control program and required manuals shall be developed in consultation with the Florida Conference of Circuit Court Judges and the office of the State Courts Administrator.~~ This complementary program shall be rigidly structured and designed to accommodate offenders who, in the absence of such a program, would have been incarcerated. The program shall focus on the provision of sanctions and consequences which are commensurate with the seriousness of the crime. The program shall offer the courts and the Parole Commission an alternative, community-based method to punish an offender in lieu of incarceration when the offender is a member of one of the following target groups:

(a) Probation violators charged with technical violations or misdemeanor violations.

(b) Parole violators charged with technical violations or misdemeanor violations.

(c) Individuals found guilty of felonies, who, due to their criminal backgrounds or the seriousness of the offenses, would not be placed on regular probation.

~~(2) An offender may not be placed in community control if:~~

~~(a) Convicted of or adjudication withheld for a forcible felony as defined in s. 776.08, and~~

~~(b) Previously convicted of or adjudication withheld for a forcible felony as defined in s. 776.08.~~

~~Nothing in this subsection prohibits placement of certain inmates on community control pursuant to s. 947.1747. For the purposes of this subsection, a forcible felony does not include manslaughter or burglary.~~

~~(2)(3)~~ The department shall commit not less than 10 percent of the parole and probation field staff and supporting resources to the operation of the community control program. Caseloads should be restricted to a maximum of 25 cases per officer in order to ensure an adequate level of staffing. Community control is an individualized program in which the offender is restricted to noninstitutional quarters or restricted to his or her own residence subject to an authorized level of limited freedom.

~~(4) The department shall develop and implement procedures to diagnose offenders during the prison intake process in order to recommend to the sentencing courts, during the period of retained jurisdiction, suitable candidates for placement in a program of community control.~~

~~(5) The Department of Corrections shall develop, or shall contract for the development of, an implementation manual, a resource directory, and training programs for implementing community control programs.~~

~~(a)1. The community control implementation manual shall include, but shall not be limited to, an explanation of the types of offenders who should be placed in community control programs, procedures for diagnosing offenders, objectives and goals of such placements, examples of alternative placements based upon the experience of other states, and instruction in developing an individualized program for each offender.~~

~~2. An offender's individualized program shall include diagnosis of treatment needs in the areas of education, substance abuse, and mental health, as well as community sanction provisions, restitution and community service provisions, rehabilitation objectives and programs, and a schedule for periodic review and reevaluation of such individualized programs. Individualized programs for offenders who committed controlled substance violations shall include provision for the conduct of random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).~~

~~(b) The community control resource directory shall include, but shall not be limited to, for each circuit in the state, an identification and description of community resources that are available for the implementation of community control programs, which resources include the following:~~

- ~~1. The name, address, phone, county location, capacity, and cost.~~
- ~~2. Client eligibility and characteristics which prohibit acceptance.~~
- ~~3. The objectives of the program.~~
- ~~4. The primary source of referrals.~~
- ~~5. The average length of stay.~~
- ~~6. The services offered.~~

~~(c) Training programs shall be provided for correctional field staff, local offender advisory councils, and others responsible for the implementation of community control programs.~~

~~(6) The Florida Court Education Council and the office of the State Courts Administrator shall coordinate the development and implementation of a reference manual, directory, and training programs for judges in relation to community control disposition.~~

~~(7) Upon written request, when an offender is placed on community control, the department shall notify:~~

~~(a) The original arresting law enforcement agency.~~

~~(b) The sheriff or chief law enforcement officer of the county in which the offender is to be placed.~~

~~(c) The chief officer of any local law enforcement agency within whose jurisdiction the offender is to be placed.~~

~~(d) The victim of the offense, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or the victim's parent or guardian if the victim is a minor, or the next of kin if the victim is a homicide victim.~~

~~Such notification shall include the name and street address of the offender, the length of supervision, and the nature of the offense. Update notification must be provided with respect to violation of the terms or conditions of the placement.~~

~~(8) If an offender is sentenced to community control by the court and the offender is ineligible to be placed on community control as provided in subsection (2), the department shall:~~

~~(a) Review and verify whether an ineligible offender was placed on community control.~~

~~(b) Within 30 days after receipt of the order, notify the sentencing judge, the state attorney, and the Attorney General that the offender was ineligible for placement on community control.~~

~~(c) Provide a quarterly report to the chief judge and the state attorney of each circuit citing the number of ineligible offenders placed on community control within that circuit.~~

~~(d) Provide an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court on the placement of ineligible offenders on community control in order to assist in preparing judicial education programs or for any other purpose.~~

~~(3)(9) Procedures governing violations of community control shall be the same as those described in s. 948.06 with respect to probation.~~

~~(4)(10) Upon completion of the sanctions imposed in the community control plan before the expiration of the term ordered by the court, the department may petition the court to discharge the offender from community control supervision or to return the offender to a program of regular probation supervision. In considering the petition, the court should recognize the limited staff resources committed to the community control program, the purpose of the program, and the offender's successful compliance with the conditions set forth in the order of the court.~~

~~(11) The Department of Corrections shall:~~

~~(a) Develop and maintain a weighted statewide caseload equalization strategy designed to ensure that high-risk offenders receive the highest level of supervision; and~~

~~(b) Develop and implement a supervision risk assessment instrument for the community control population which is similar to the probation risk assessment instrument established by the National Institute of Justice.~~

(5)(12) In its annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives under s. 20.315(5), the department shall include a detailed analysis of the community control program and the department's specific efforts to protect the public from offenders placed on community control. The analysis must include, but need not be limited to, specific information on the department's ability to meet minimum officer-to-offender contact standards, the number of crimes committed by offenders on community control, and the level of community supervision provided.

Section 7. Subsections (1) and (2) of section 958.04, Florida Statutes, are amended to read:

958.04 Judicial disposition of youthful offenders.—

(1) The court may sentence as a youthful offender any person:

(a) Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to chapter 985;

(b) Who is found guilty of or who has tendered, and the court has accepted, a plea of nolo contendere or guilty to a crime ~~that which~~ is, under the laws of this state, a felony if the offender is younger than 21 years of age at the time sentence is imposed such crime was committed before the defendant's 21st birthday; and

(c) Who has not previously been classified as a youthful offender under the provisions of this act; however, ~~a~~ no person who has been found guilty of a capital or life felony may not be sentenced as a youthful offender under this act.

(2) In lieu of other criminal penalties authorized by law and notwithstanding any imposition of consecutive sentences, the court shall dispose of the criminal case as follows:

(a) The court may place a youthful offender under supervision on probation or in a community control program, with or without an adjudication of guilt, under such conditions as the court may lawfully impose for a period of not more than 6 years. Such period of supervision may ~~shall~~ not exceed the maximum sentence for the offense for which the youthful offender was found guilty.

(b) The court may impose a period of incarceration as a condition of probation or community control, which period of incarceration shall be served in ~~either~~ a county facility, a department probation and restitution center, or a community residential facility ~~that which~~ is owned and operated by any public or private entity providing such services. A ~~No~~ youthful offender may not be required to serve a period of incarceration in a community correctional center as defined in s. 944.026. Admission to a department facility or center shall be contingent upon the availability of bed space and shall take into account the purpose and function of such facility or center. Placement in such a facility or center may ~~shall~~ not exceed 364 days.

(c) The court may impose a split sentence whereby the youthful offender is to be placed on probation or community control upon completion of any specified period of incarceration; however, if the incarceration period is to be served in a department facility other than a probation and restitution center or community residential facility, such period shall be for not less than 1 year or more than 4 years. The period of probation or community control shall commence immediately upon the release of the youthful offender from incarceration. The period of incarceration imposed or served and the period of probation or community control, when added together, may ~~shall~~ not exceed 6 years.

(d) The court may commit the youthful offender to the custody of the department for a period of not more than 6 years, provided that any such commitment may ~~shall~~ not exceed the maximum sentence for the offense for which the youthful offender has been convicted. Successful participation in the youthful offender program by an offender who is sentenced as a youthful offender by the court pursuant to this section, or is classified as such by the department, may result in a recommendation to the court, by the department, for a modification or early termination of probation, community control, or the sentence at any time prior to the scheduled expiration of such term. The department shall adopt rules defining criteria for successful participation in the youthful offender program which shall include program participation, academic and vocational training, and satisfactory adjustment. When a modification of the sentence results in the reduction of a term of incarceration, the court may impose a term of probation or community control which, when added to the term of incarceration, may ~~shall~~ not exceed the original sentence imposed.

Section 8. Subsections (2), (4), (5), and (6) of section 958.11, Florida Statutes, are amended to read:

958.11 Designation of institutions and programs for youthful offenders; assignment from youthful offender institutions and programs.—

(2) Youthful offender institutions and programs shall contain only those youthful offenders sentenced as such by a court or classified as such by the department, pursuant to the requirements of subsections (4) and (6), except that under special circumstances select adult offenders may be assigned to youthful offender institutions. Female youthful offenders of all ages may continue to be housed ~~together at those institutions designated by department rule Florida Correctional Institution and Broward Correctional Institution~~ until such time as institutions for a female youthful offenders are offender institution is established or adapted to allow for separation by age and to accommodate all custody classifications.

(4) ~~The department Office of the Assistant Secretary for Youthful Offenders~~ shall continuously screen all institutions, facilities, and programs for any inmate who meets the eligibility requirements for youthful offender designation specified in s. 958.04(1)(a) and (c) whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years, and the department may classify and assign as a youthful offender any inmate who meets the criteria of this subsection.

(5) The ~~department~~ Population Movement and Control Coordinator shall coordinate all youthful offender assignments or transfers and shall ~~consult with the Office of the Assistant Secretary for Youthful Offenders. The Office of the Assistant Secretary for Youthful Offenders shall review and maintain~~ access to full and complete documentation and substantiation of all such assignments or transfers of youthful offenders to or from facilities in the state correctional system which are not designated for their care, custody, and control, except assignments or transfers made pursuant to paragraph (3)(c).

(6) The department may assign to a youthful offender facility any inmate, except a capital or life felon, whose age does not exceed 19 years but who does not otherwise meet the criteria of this section, if the ~~department Assistant Secretary for Youthful Offenders~~ determines that such inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a nonyouthful offender facility. Assignments made under this subsection shall be included in the department's annual report.

Section 9. Section 958.12, Florida Statutes, is amended to read:

958.12 Participation in certain activities required.—

(1) A youthful offender shall be required to participate in work assignments, and in career, academic, counseling, and other rehabilitative programs in accordance with this section, including, but not limited to:

(a) All youthful offenders may be required, as appropriate, to participate in:

1. Reception and orientation.
2. Evaluation, needs assessment, and classification.
3. Educational programs.
4. Career and job training.
5. Life and socialization skills training, including anger/aggression control.
6. Prerelease orientation and planning.
7. Appropriate transition services.

(b) In addition to the requirements in paragraph (a), the department shall make available:

1. Religious services and counseling.
2. Social services.
3. Substance abuse treatment and counseling.
4. Psychological and psychiatric services.

5. Library services.
6. Medical and dental health care.
7. Athletic, recreational, and leisure time activities.
8. Mail and visiting privileges.

Income derived by a youthful offender from participation in such activities may be used, in part, to defray a portion of the costs of his or her incarceration or supervision; to satisfy preexisting obligations; to pay fines, counseling fees, or other costs lawfully imposed; or to pay restitution to the victim of the crime for which the youthful offender has been convicted in an amount determined by the sentencing court. Any such income not used for such reasons or not used as provided in s. 946.513 or s. 958.09 shall be placed in a bank account for use by the youthful offender upon his or her release.

(2) A comprehensive transition and postrelease plan shall be developed for the youthful offender by a team consisting of a transition assistance officer, a classification officer, an educational representative, a health services administrator, a probation and parole officer, and the youthful offender.

~~(3) A youthful offender shall be visited by a probation and parole officer prior to the offender's release from incarceration in order to assist in the youthful offender's transition.~~

~~(3)(4)~~ Community partnerships shall be developed by the department to provide postrelease community resources. The department shall develop partnerships with entities ~~that~~ which include, but are not limited to, state agencies ~~the Department of Labor and Employment Security, the Department of Children and Family Services,~~ community health agencies, private agencies, and school systems.

~~(4)(5)~~ If supervision of the youthful offender after release from incarceration is required, ~~this and~~ may be accomplished in a residential or nonresidential program or, intensive day treatment, or through supervision by a correctional probation ~~and parole~~ officer.

Section 10. Subsections (1) and (5) of section 945.41, Florida Statutes, are amended to read:

945.41 Legislative intent of ss. 945.40-945.49.—It is the intent of the Legislature that mentally ill inmates in the custody of the Department of Corrections receive evaluation and appropriate treatment for their mental illness through a continuum of services. It is further the intent of the Legislature that:

(1) Inmates in the custody of the department who have mental illnesses that require hospitalization and intensive psychiatric inpatient treatment or care receive appropriate treatment or care in Department of Corrections mental health treatment facilities designated for that purpose. ~~The department shall contract with the Department of Children and Family Services~~

for the provision of mental health services in any departmental mental health treatment facility. The Department of Corrections shall provide mental health services to inmates committed to it and may contract with any entities, persons, or agencies qualified to provide such services.

(5) The department may designate a mental health treatment facility for adult, ~~and youthful, and~~ female offenders or may contract with other appropriate entities, persons, or agencies for such services.

Section 11. Section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(1) “Court” means the circuit court.

(2) “Crisis stabilization care” means a level of care that is less restrictive and intense than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment services provided within a highly structured setting or locked residential setting, and that is intended for inmates who are experiencing acute emotional distress and who cannot be adequately evaluated and treated in a transitional care unit or infirmary isolation management room. Such treatment is also more intense than treatment provided in a transitional care unit and is devoted principally toward rapid stabilization of acute symptoms and conditions.

~~(3)~~(2) “Department” means the Department of Corrections.

~~(4)~~(3) “Director” means the Director for Mental Health Services of the Department of Corrections or his or her designee.

~~(5)~~(4) “In immediate need of care and treatment” means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she the inmate is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness:

~~(a)1. The inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention, is likely to continue to refuse to care for himself or herself, and such refusal the alleged mental illness poses an immediate, real, and present threat of substantial harm to his or her the inmate’s well-being; or to the safety of others.~~

2. There is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm;

~~(b)1. The inmate has refused voluntary placement for treatment at a mental health treatment facility after sufficient and conscientious explanation and disclosure of the purpose of placement; or~~

2. The inmate is unable to determine for himself or herself whether placement is necessary; and

(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

~~(6)(5)~~ "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and that, but for being isolated in a more restrictive and secure housing environment, because of the ~~which~~ mental illness;

(a)1. The inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to ~~his or her~~ the inmate's well-being; or to the safety of others.

2. There is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;

(b)1. The inmate has refused voluntary placement for treatment at a mental health treatment facility after sufficient and conscientious explanation and disclosure of the purpose of placement; or

2. The inmate is unable to determine for himself or herself whether placement is necessary; and

(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

~~(7)(6)~~ "Inmate" means any person committed to the custody of the Department of Corrections.

~~(8)(7)~~ "Mental health treatment facility" means ~~the Corrections Mental Health Institution and any extended treatment or hospitalization-level unit within the corrections system which other institution that~~ the Assistant Secretary for Health Services of the department specifically designates by rule to provide acute psychiatric care and which may include involuntary treatment and therapeutic intervention at the hospital level, in contrast to less intensive levels of care such as outpatient mental health care, transitional mental health care, or crisis stabilization care.

~~(9)(8)~~ "Mentally ill" means an impairment of the mental or emotional processes, of the ability to exercise conscious control of one's actions, or of the ability to perceive or understand reality ~~or to understand~~, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of etiology, except that, for the purposes of transfer of an inmate to a mental health treatment facility, the term does not include retardation or developmental disability as defined in chapter 393, simple intoxication, or conditions manifested only by antisocial behav-

ior or substance abuse drug addiction. However, an individual who is mentally retarded or developmentally disabled may also have a mental illness.

(10)(9) “Psychiatrist” means a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated nervous and mental disorders for a period of not less than 3 years inclusive of psychiatric residency.

(11)(10) “Psychological professional” “Psychologist” means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3)(b) and is employed by the department that is primarily clinical in nature from a university or professional graduate school that is state-authorized or accredited by an accrediting agency approved by the United States Department of Education and who is professionally certified by the appropriate professional psychology association or who is licensed as a psychologist pursuant to chapter 490.

(12)(11) “Secretary” means the Secretary of Corrections.

(13)(12) “Transitional mental health care” means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatments such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications chemotherapy, in the context of a structured residential setting. Transitional mental health care is indicated for a person with chronic or residual symptomatology who does not require crisis stabilization care or acute psychiatric care at the hospital level, but whose impairment impairments in functioning nevertheless renders render him or her incapable of adjusting satisfactorily within the general inmate population, even with the assistance of outpatient care.

(14)(13) “Warden” means the warden of a state corrections facility or his or her designee.

Section 12. Section 945.43, Florida Statutes, is amended to read:

945.43 Admission of inmate to mental health treatment facility.—

(1) CRITERIA.—An inmate may be admitted to a mental health treatment facility if he or she is mentally ill and is in need of care and treatment, as defined in s. 945.42.

(2) PROCEDURE FOR PLACEMENT IN ADMISSION TO A MENTAL HEALTH TREATMENT FACILITY.—

(a) An inmate may be admitted to a mental health treatment facility after notice and hearing, upon the recommendation of the warden of the facility where the inmate is confined and of the director. The recommendation shall be entered on a petition certificate and must be supported by the expert opinion of a psychiatrist and the second opinion of a psychiatrist or psychological professional psychologist. The petition certificate shall be filed with the court in the county where the inmate is located and shall serve as a petition for a hearing regarding placement.

~~(b) A copy of the petition certificate shall also be filed with the department, and copies shall be served on the inmate and the inmate's representatives, accompanied by:~~

~~1. A written notice, in plain and simple language, that the inmate or the inmate's representative may apply at any time for a hearing on the issue of the inmate's need for treatment if he or she has previously waived such a hearing.~~

~~2. A petition for such hearing, which requires only the signature of the inmate or the inmate's representative for completion.~~

~~3. A written notice that the petition may be filed with the court in the county in which the inmate is hospitalized at the time and stating the name and address of the judge of such court.~~

~~4. a written notice that the inmate or the inmate's representative may apply immediately to the court to have an attorney appointed if the inmate cannot afford one.~~

~~(c) The petition for placement may be filed in the county in which the inmate is located being treated at any time within 6 months of the date of the certificate. The hearing shall be held in the same county, and one of the inmate's physicians at the facility where the inmate is located shall appear as a witness at the hearing.~~

~~(d) An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.~~

~~(e) If the court finds that the inmate is mentally ill and in need of care and treatment, as defined in s. 945.42, the court it shall order that he or she be placed in admitted to a mental health treatment facility or, if the inmate is at a mental health treatment facility, that he or she be retained there. However, the inmate may be immediately transferred to and admitted at a mental health treatment facility by executing a waiver of the hearing by express and informed consent, without awaiting the court order. The court shall authorize the mental health treatment facility to retain the inmate for up to 6 months. If, at the end of that time, continued placement treatment is necessary, the warden shall apply to the Division of Administrative Hearings in accordance with s. 945.45 court for an order authorizing continued placement.~~

~~(3) PROCEDURE FOR HEARING ON PLACEMENT TRANSFER OF AN INMATE IN A FOR MENTAL HEALTH TREATMENT FACILITY.—If the inmate does not waive a hearing or if the inmate or the inmate's representative files a petition for a hearing after having waived it,~~

~~(a) The court shall serve notice on the warden of the facility where the inmate is confined, the director, and the allegedly mentally ill inmate. The notice must shall specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general~~

or special magistrate to preside. The court may waive the presence of the inmate at the hearing if such waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. The hearing may be as informal as is consistent with orderly procedure. One of the experts whose opinion supported the petition for placement recommendation shall be present at the hearing for information purposes.

(b) If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, as defined in s. 945.42, the court ~~it~~ shall order that he or she be placed in ~~transferred to~~ a mental health treatment facility ~~and provided appropriate treatment.~~ The court shall provide a copy of its order authorizing placement transfer and all supporting documentation relating to the inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, it shall dismiss the petition for placement transfer.

(4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL ALLOWED.—The warden of an institution in which a mental health treatment facility is located may refuse to ~~place~~ admit any inmate in that treatment facility who is not accompanied by adequate court orders and documentation, as required in ss. 945.40-945.49.

Section 13. Section 945.44, Florida Statutes, is amended to read:

945.44 Emergency placement admission of inmate in a ~~to~~ mental health treatment facility.—

(1) CRITERIA.—An inmate may be placed in a mental health treatment facility on an emergency basis if he or she is mentally ill and in immediate need of care and treatment, as defined in s. 945.42.

(2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.—An inmate who is mentally ill and in immediate need of care and treatment ~~that which~~ cannot be provided at the institution where he or she is confined may be placed in ~~admitted to~~ a mental health treatment facility on an emergency basis. The inmate may be placed ~~transferred~~ immediately in a mental health treatment ~~to the~~ facility and shall be accompanied by the recommendation of the warden of the institution where the inmate is confined, which recommendation ~~must~~ shall state the need for the emergency placement transfer and shall include a written opinion of a physician verifying the need for the emergency placement transfer. Upon the emergency placement ~~the admission~~ of the inmate in ~~to~~ the facility, the inmate shall be evaluated; if he or she is determined to be in need of treatment or care, the warden shall initiate proceedings for placement of the inmate, as described in s. 945.43(2).

Section 14. Section 945.45, Florida Statutes, is amended to read:

945.45 ~~Procedure for Continued placement of inmates in mental health treatment facilities.~~—

(1) CRITERIA.—An inmate may be retained in a mental health treatment facility if he or she is mentally ill and continues to be in need of care and treatment, as defined in s. 945.42.

(2)(1) PROCEDURE.—

(a) If continued placement of an inmate is necessary, The warden shall, prior to the expiration of the period during which the treatment facility is authorized to retain the inmate, file a petition with the Division of Administrative Hearings for request an order authorizing continued placement. The petition must This request shall be accompanied by a statement from the inmate's physician justifying the petition request and providing a brief summary of the inmate's treatment during the time he or she has been placed. In addition, the warden shall submit an individualized plan for the inmate for whom he or she is requesting continued placement. The inmate may remain in a mental health treatment facility pending a hearing after the timely filing of the petition.

(b) Notification of this request for retention shall be mailed to the inmate, and the inmate's representative along with a waiver-of-hearing form and the completed petition, requesting the inmate's only a signature and a waiver-of-hearing form. The waiver-of-hearing form shall require express and informed consent and shall state that the inmate is entitled to an administrative a hearing under the law; that the inmate is entitled to be represented by an attorney at the hearing and that, if the inmate cannot afford an attorney, one will be appointed; and that, if it is shown at the hearing that the inmate does not meet the criteria for continued placement, he or she will be transferred out of the mental health treatment facility to another facility of the department. If the inmate or the inmate's representative does not sign the petition, or if the inmate does not sign a waiver within 15 days, the administrative law judge shall notice a hearing with regard to the inmate involved in accordance with ss. 120.569 and 120.57(1).

(3) PROCEDURE FOR HEARING.—

(a) The hearing on a petition for the continued placement of an inmate in a mental health treatment facility is an administrative hearing and shall be conducted in accordance with ss. 120.569 and 120.57(1), except that an order entered by the administrative law judge is final and subject to judicial review in accordance with s. 120.68. An administrative law judge shall be assigned by the Division of Administrative Hearings to conduct hearings for continued placement.

(b) The administrative law judge may appoint a private pro bono attorney in the circuit in which the treatment facility is located to represent the inmate.

(c) The administrative law judge may waive the presence of the inmate at the hearing if such waiver is consistent with the best interests of the inmate and the inmate's counsel does not object.

(d)(2) If, at a hearing pursuant to ss. 945.40-945.49, the administrative law judge finds that the inmate no longer meets the criteria for placement treatment, he or she shall order that the inmate be transferred out of the mental health treatment facility to another facility of the department.

(e)(3) If the inmate waives the hearing or if the administrative law judge finds that the inmate is in need of continued placement treatment, the administrative law judge shall enter an order authorizing such continued placement treatment for a period not to exceed 1 year. The same procedure shall be repeated prior to the expiration of each additional 1-year period that the inmate is retained in the mental health treatment facility.

~~(4) Hearings on requests for orders authorizing continued placement filed in accordance with this section shall be conducted in accordance with the provisions of ss. 120.569 and 120.57(1), except that any order entered by the administrative law judge shall be final and subject to judicial review in accordance with s. 120.68.~~

Section 15. Section 945.46, Florida Statutes, is amended to read:

945.46 Initiation of involuntary placement proceedings with respect to a mentally ill inmate scheduled for release.—

(1) If an inmate who is receiving mental health treatment in the department is scheduled for release through expiration of sentence or any other means, but continues to be mentally ill and in need of care and treatment, as defined in s. 945.42, the warden is authorized to initiate procedures for involuntary placement pursuant to ~~the provisions of s. 394.467~~, 60 days prior to such release.

(2) In addition, the warden may initiate procedures for involuntary examination pursuant to s. 394.463 for any inmate who has a mental illness and meets the criteria of s. 394.463(1).

Section 16. Section 945.47, Florida Statutes, is amended to read:

945.47 Discharge of inmate from mental health treatment.—

(1) An inmate who has been transferred for the purpose of mental health treatment shall be discharged from treatment by the warden under the following conditions:

(a) If the inmate is no longer in need of care and treatment, as defined in s. 945.42, he or she may be transferred out of the mental health treatment facility and provided with appropriate mental health services to another institution in the department; ~~or~~

~~(b) If the inmate continues to be mentally ill, but is not in need of care and treatment as an inpatient, he or she may be transferred to another institution in the department and provided appropriate outpatient and aftercare services;~~

~~(b)(e) If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care and treatment as an inpatient, the inmate may be released with a recommendation for outpatient treatment, pursuant to the provisions of ss. 945.40-945.49;~~ ~~or~~

~~(d) If the inmate's sentence expires and he or she continues to be mentally ill and in need of care and treatment, the warden shall initiate proceedings for involuntary placement, pursuant to s. 394.467.~~

(2) ~~An inmate who is involuntarily placed pursuant to s. 394.467 at the expiration of his or her sentence may be placed, by order of the court, in a facility designated by the Department of Children and Family Services as a secure, nonforensic, civil facility. Such a placement shall be conditioned upon a finding by the court of clear and convincing evidence that the inmate is manifestly dangerous to himself or herself or others. The need for such placement shall be reviewed by facility staff every 90 days. At any time that a patient is considered for transfer to a nonsecure, civil unit, the court which entered the order for involuntary placement shall be notified.~~

(2)(3) At any time that an inmate who has received mental health treatment while in the custody of the department becomes eligible for release under supervision or upon end of sentence on parole, a complete record of the inmate's mental health treatment may ~~shall~~ be provided to the Parole Commission and to the Department of Children and Family Services upon request. The record shall include, at a minimum least, a summary of the inmate's diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, and treatment plan, and recommendations for after-care services. In the event that the inmate is released on parole, the record shall be provided to the parole officer who shall assist the inmate in applying for services from a professional or an agency in the community. The application for treatment and continuation of treatment by the inmate may be made a condition of parole, as provided in s. 947.19(1); and a failure to participate in prescribed treatment may be a basis for initiation of parole violation hearings.

Section 17. Section 945.48, Florida Statutes, is amended to read:

945.48 Rights of inmates ~~inmate~~ provided mental health treatment; procedure for involuntary treatment.—

(1) RIGHT TO QUALITY TREATMENT.—An inmate in a mental health treatment facility has the right to receive treatment ~~that~~ which is suited to his or her needs and ~~that~~ which is provided in a humane psychological environment. Such treatment shall be administered skillfully, safely, and humanely with respect for the inmate's dignity and personal integrity.

(2) RIGHT TO EXPRESS AND INFORMED CONSENT.—Any inmate provided psychiatric treatment within the department shall be asked to give his or her express and informed written consent for such treatment. "Express and informed written consent" or "consent" means consent voluntarily given in writing after a conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment; the common side effects of the treatment, if any; the expected duration of the treatment; and the alternative treatment available. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress or any other form of constraint or coercion.

(3) PROCEDURE FOR INVOLUNTARY TREATMENT OF INMATES.—Involuntary mental health treatment of an inmate who refuses treatment that is deemed to be necessary for the appropriate care of the inmate and the safety of the inmate or others may be provided at a mental

health treatment facility, an institution authorized to do so by the Assistant Secretary for Health Services under the following circumstances:

~~(a) In an emergency situation in which there is immediate danger to the health and safety of the inmate or other inmates, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden shall, within 48 hours, excluding weekends and legal holidays, petition the circuit court serving the county in which the facility is located for an order authorizing the continued treatment of the inmate. In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others. If an inmate must be isolated for mental health purposes, that decision must be reviewed within 72 hours by medical staff different from that making the original placement.~~

~~(b) In a situation other than an emergency situation, The warden of the institution containing the mental health treatment facility shall petition the circuit court serving the county in which the mental health treatment facility is located for an order authorizing the treatment of the inmate. The inmate shall be provided with a copy of the petition along with the proposed treatment, the basis for the proposed treatment, the names of the examining experts, and the date, time, and location of the hearing. The inmate may have an attorney represent him or her at the hearing and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate. The order shall allow such treatment for a period not to exceed 90 days from the date of the order. Unless the court is notified in writing that the inmate has provided express and informed consent in writing, that the inmate has been transferred to another institution of the department, or that the inmate is no longer in need of treatment, the warden shall, prior to the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for another 90-day period. This procedure shall be repeated until the inmate provides consent or is no longer in need of treatment. Treatment may be continued pending a hearing after the filing of any petition.~~

(4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF AN INMATE.—

(a) The hearing on the petition for involuntary treatment shall be held within 5 days after the petition is filed and the court may appoint a general or special magistrate to preside. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses. However, the court may waive the presence of the inmate at the hearing if such waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. One of the inmate's physicians whose opinion supported the petition shall appear as a witness at the hearing.

(b)(e) At the hearing on the issue of whether the court should authorize treatment for which an inmate has refused to give express and informed consent, the court shall determine by clear and convincing evidence whether the inmate is mentally ill as defined in this chapter; whether such treatment is essential to the care of the inmate; and whether the treatment is experimental or presents an unreasonable risk of serious, hazardous, or irreversible side effects. In arriving at the substitute judgment decision, the court must consider at least the following:

1. The inmate's expressed preference regarding treatment;
2. The probability of adverse side effects;
3. The prognosis for the inmate without treatment; and
4. The prognosis for the inmate with treatment.

~~The inmate and the inmate's representative shall be provided with a copy of the petition and the date, time, and location of the hearing. The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender to represent him or her at the hearing. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses.~~

(c) An order authorizing involuntary treatment shall allow such treatment for a period not to exceed 90 days following the date of the order. Unless the court is notified in writing that the inmate has provided express and informed consent in writing, that the inmate has been transferred to another institution of the department, or that the inmate is no longer in need of treatment, the warden shall, prior to the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for another 90-day period. This procedure shall be repeated until the inmate provides express and informed consent or is no longer in need of treatment. Treatment may be continued pending a hearing after the timely filing of any petition.

(5) PROCEDURE FOR EMERGENCY TREATMENT.—In an emergency situation in which there is immediate danger to the health and safety of an inmate or other inmates, emergency treatment may be provided at a mental health treatment facility upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden shall, within 48 hours, excluding weekends and legal holidays, petition the circuit court, in accordance with the procedures described in this section, for an order authorizing the continued treatment of the inmate. In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others. If an inmate must be isolated for mental health purposes, that decision must be reviewed within 72 hours by a different psychological professional or a physician other than the one making the original placement.

(6)(d) EMERGENCY TREATMENT.—In addition to the other above provisions of this section for mental health treatment, when the consent permission of the inmate cannot be obtained, the warden of a mental health treatment facility, or his or her designated representative, with the concurrence of the inmate's attending physician, may authorize emergency surgical or nonpsychiatric medical treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

~~(3) STATUS OF INMATE.—An inmate receiving mental health treatment shall be subject to the same standards applied to other inmates in the department, including, but not limited to, consideration for parole, release by reason of gain-time allowances as provided for in s. 944.291, and release by expiration of sentence.~~

Section 18. Section 945.49, Florida Statutes, is amended to read:

945.49 Operation and administration.—

(1) ADMINISTRATION.—The department is authorized to contract with the appropriate entities, agencies, persons, and local governing bodies to provide mental health services pursuant to ss. 945.40-945.49.

(2) RULES.—The department, in cooperation with the Mental Health Program Office of the Department of Children and Family Services, shall adopt rules necessary for administration of ss. 945.40-945.49 in accordance with chapter 120.

(3) ORIENTATION AND TRAINING.—Correctional officers employed by a mental health treatment facility shall receive specialized training above and beyond that required for basic certification pursuant to chapter 943. ~~Such training shall be in accordance with requirements of the Criminal Justice Standards and Training Commission.~~

(4) STATUS OF INMATE.—An inmate receiving mental health treatment shall be subject to the same standards applied to other inmates in the department, including, but not limited to, consideration for parole, release by reason of gain-time allowances as provided for in s. 944.291, and release by expiration of sentence. ADMINISTRATIVE LAW JUDGES.—One or more administrative law judges shall be assigned by the Division of Administrative Hearings to conduct hearings for continued placement.

Section 19. This act shall take effect October 1, 2008.

Approved by the Governor June 30, 2008.

Filed in Office Secretary of State June 30, 2008.