

CHAPTER 2024-245

Committee Substitute for Committee Substitute for House Bill No. 7021

An act relating to mental health and substance abuse; amending s. 394.4572, F.S.; providing an exception to background screening requirements for certain licensed physicians and nurses; amending s. 394.459, F.S.; specifying a timeframe for recording restrictions in a patient's clinical file; requiring that such recorded restriction be immediately served on certain parties; conforming a provision to changes made by the act; amending s. 394.4598, F.S.; authorizing certain psychiatric nurses to consult with guardian advocates for purposes of obtaining consent for treatment; amending s. 394.4599, F.S.; revising written notice requirements relating to filing petitions for involuntary services; amending s. 394.461, F.S.; authorizing the state to establish that a transfer evaluation was performed by providing the court with a copy of the evaluation before the close of the state's case-in-chief; prohibiting the court from considering substantive information in the transfer evaluation; providing an exception; revising reporting requirements; amending s. 394.4615, F.S.; allowing a patient's legal custodian to authorize the release of his or her clinical records; conforming provisions to changes made by the act; amending s. 394.462, F.S.; authorizing a county to include alternative funding arrangements for transporting individuals to designated receiving facilities in the county's transportation plan; amending s. 394.4625, F.S.; revising requirements relating to voluntary admissions to a facility for examination and treatment; requiring certain treating psychiatric nurses to document specified information in a patient's clinical record within a specified timeframe; requiring clinical psychologists who make determinations of involuntary placement at certain mental health facilities to have specified clinical experience; authorizing certain psychiatric nurses to order emergency treatment for certain patients; conforming provisions to changes made by the act; amending s. 394.463, F.S.; authorizing, rather than requiring, law enforcement officers to take certain persons into custody for involuntary examinations; requiring a law enforcement officer to provide a parent or legal guardian of a minor being transported to certain facilities with specified facility information; providing an exception; requiring written reports by law enforcement officers to contain certain information; requiring the Louis de la Parte Florida Mental Health Institute to collect and analyze certain documents and use them to prepare annual reports; providing requirements for such reports; requiring the institute to post such reports on its website by a specified date; requiring the department to post a specified providing requirements for an examination to determine if the report on its website; criteria for involuntary services are met; defining the term "repeated admittance"; revising requirements for releasing a patient from a receiving facility; revising requirements for petitions for involuntary services; requiring the department and the Agency for Health Care

Administration to analyze certain data, identify patterns and trends, and make recommendations to decrease avoidable admissions; authorizing recommendations to be addressed in a specified manner; requiring the institute to publish a specified report on its website and submit such report to the Governor and Legislature by a certain date; amending s. 394.4655, F.S.; defining the term “involuntary outpatient placement”; authorizing a specified court to order an individual to involuntary outpatient treatment; removing provisions relating to criteria, retention of a patient, and petition for involuntary outpatient services and court proceedings relating to involuntary outpatient services; amending s. 394.467, F.S.; providing definitions; revising requirements for ordering a person for involuntary services and treatment, petitions for involuntary services, appointment of counsel, and continuances of hearings, respectively; requiring clinical psychologists to have specified clinical experience in order to recommend involuntary services; authorizing certain psychiatric nurses to recommend involuntary services for mental health treatment; revising the conditions under which a court may waive the requirement for a patient to be present at an involuntary inpatient placement hearing; authorizing the court to permit the state attorney and witnesses to attend and testify remotely at the hearing in certain circumstances through specified means; providing requirements for the state attorney and witnesses to attend and testify remotely; requiring facilities to make certain clinical records available to a state attorney within a specified timeframe; specifying that such records remain confidential and may not be used for certain purposes; requiring the court to allow certain testimony from specified persons; revising the length of time a court may require a patient to receive services; requiring facilities to discharge patients when they no longer meet the criteria for involuntary inpatient treatment; prohibiting courts from ordering individuals with developmental disabilities to be involuntarily placed in a state treatment facility; requiring courts to refer such individuals, and authorizing courts to refer certain other individuals, to specified agencies for evaluation and services under certain circumstances; providing for a court to retain jurisdiction over specified cases; providing requirements for service plan modifications, noncompliance with involuntary outpatient services, and discharge, respectively; revising requirements for the procedure for continued involuntary services and return to facilities, respectively; amending s. 394.468, F.S.; revising requirements for discharge planning and procedures; providing requirements for the discharge transition process; creating s. 394.4915, F.S.; establishing the Office of Children’s Behavioral Health Ombudsman within the Department of Children and Families for a specified purpose; providing responsibilities of the office; requiring the department and managing entities to include specified information in a specified manner on their websites; amending ss. 394.495 and 394.496, F.S.; conforming provisions to changes made by the act; amending s. 394.499, F.S.; revising eligibility requirements for children’s crisis stabilization unit/juvenile addictions receiving facility services; amending s. 394.875, F.S.; authorizing certain psychiatric nurses to provide certain services; removing a limitation on

the size of a crisis stabilization unit; removing a requirement for the department to implement a certain demonstration project; creating s. 394.90826, F.S.; requiring the Department of Health and the Agency for Health Care Administration to jointly establish behavioral health inter-agency collaboratives throughout the state for specified purposes; providing objectives and membership for each regional collaborative; requiring the department to define the regions to be served; providing requirements for the entities represented in each collaborative; amending s. 394.9085, F.S.; conforming a cross-reference to changes made by the act; amending s. 397.305, F.S.; revising the purpose to include the most appropriate environment for substance abuse services; amending s. 397.311, F.S.; revising definitions; amending s. 397.401, F.S.; prohibiting certain service providers from exceeding their licensed capacity by more than a specified percentage or for more than a specified number of days; amending s. 397.4073, F.S.; providing an exception to background screening requirements for certain licensed physicians and nurses; amending s. 397.501, F.S.; revising notice requirements for the right to counsel; amending s. 397.581, F.S.; revising actions that constitute unlawful activities relating to assessment and treatment; providing penalties; amending s. 397.675, F.S.; revising the criteria for involuntary admissions for purposes of assessment and stabilization, and for involuntary treatment; amending s. 397.6751, F.S.; revising service provider responsibilities relating to involuntary admissions; amending s. 397.681, F.S.; revising where involuntary treatment petitions for substance abuse impaired persons may be filed specifying requirements for the court to allow a waiver of the respondent's right to counsel relating to petitions for involuntary treatment; revising the circumstances under which courts are required to appoint counsel for respondents without regard to respondents' wishes; renumbering and amending s. 397.693, F.S.; revising the circumstances under which a person may be the subject of court-ordered involuntary treatment; renumbering and amending s. 397.695, F.S.; authorizing the court or clerk of the court to waive or prohibit any service of process fees for petitioners determined to be indigent; renumbering and amending s. 397.6951, F.S.; revising the information required to be included in a petition for involuntary treatment services; authorizing a petitioner to include a certificate or report of a qualified professional with such petition; requiring such certificate or report to contain certain information; requiring that certain additional information be included if an emergency exists; renumbering and amending s. 397.6955, F.S.; revising when the office of criminal conflict and civil regional counsel represents a person in the filing of a petition for involuntary services and when a hearing must be held on such petition; requiring a law enforcement agency to effect service for initial treatment hearings; providing an exception; amending s. 397.6818, F.S.; authorizing the court to take certain actions and issue certain orders regarding a respondent's involuntary assessment if emergency circumstances exist; providing a specified timeframe for taking such actions; amending s. 397.6957, F.S.; expanding the exemption from the requirement that a respondent be present at a hearing on a petition for involuntary treatment services; authorizing the court to order drug tests

and to permit witnesses to attend and testify remotely at the hearing through certain means; removing a provision requiring the court to appoint a guardian advocate under certain circumstances; prohibiting a respondent from being involuntarily ordered into treatment unless certain requirements are met; providing requirements relating to involuntary assessment and stabilization orders; providing requirements relating to involuntary treatment hearings; requiring that the assessment of a respondent occur before a specified time unless certain requirements are met; authorizing service providers to petition the court in writing for an extension of the observation period; providing service requirements for such petitions; authorizing the service provider to continue to hold the respondent if the court grants the petition; requiring a qualified professional to transmit his or her report to the clerk of the court within a specified timeframe; requiring the clerk of the court to enter the report into the court file; providing requirements for the report; providing that the report's filing satisfies the requirements for release of certain individuals if it contains admission and discharge information; providing for the petition's dismissal under certain circumstances; authorizing the court to order certain persons to take a respondent into custody and transport him or her to or from certain service providers and the court; revising the petitioner's burden of proof in the hearing; authorizing the court to initiate involuntary proceedings and have the respondent evaluated by the Agency for Persons with Disabilities under certain circumstances; requiring that, if a treatment order is issued, it must include certain findings; amending s. 397.697, F.S.; requiring that an individual meet certain requirements to qualify for involuntary outpatient treatment; revising the jurisdiction of the court with respect to certain orders entered in a case; specifying that certain hearings may be set by either the motion of a party or under the court's own authority; requiring a certain institute to receive and maintain copies of certain documents and use them to prepare annual reports; providing requirements for such reports; requiring the institute to post such reports on its website and provide copies of such reports to the department and the Legislature by a specified date; amending s. 397.6971, F.S.; revising when an individual receiving involuntary treatment services may be determined eligible for discharge; conforming provisions to changes made by the act; amending s. 397.6975, F.S.; authorizing certain entities to file a petition for renewal of an involuntary treatment services order; revising the timeframe during which the court is required to schedule a hearing; amending s. 397.6977, F.S.; providing requirements for discharge planning and procedures for a respondent's release from involuntary treatment services; repealing ss. 397.6811, 397.6814, 397.6815, 397.6819, 397.6821, 397.6822, and 397.6978, F.S., relating to involuntary assessment and stabilization and the appointment of guardian advocates, respectively; amending s. 916.13, F.S.; requiring the Department of Children and Families to complete and submit a competency evaluation report to the circuit court to determine if a defendant adjudicated incompetent to proceed meets the criteria for involuntary civil commitment if it is determined that the defendant will not or is unlikely to regain competency; defining the term "competency

evaluation report to the circuit court”; requiring a qualified professional to sign such report under penalty of perjury; providing requirements for such report; authorizing a defendant who meets the criteria for involuntary examination and court witnesses to appear remotely for a hearing; amending ss. 40.29, 394.455, 409.972, 464.012, 744.2007, and 916.107, F.S.; conforming provisions to changes made by the act; providing an appropriation; providing an effective date.

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

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

394.4572 Screening of mental health personnel.—

(1)

(e) Any physician licensed under chapter 458 or chapter 459 or a nurse licensed under chapter 464 who was required to undergo background screening by the Department of Health as part of his or her initial licensure and the renewal of licensure, and who has an active and unencumbered license, is not subject to background screening pursuant to this section.

Section 2. Paragraph (d) of subsection (5) of section 394.459, Florida Statutes, are amended to read:

394.459 Rights of patients.—

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

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

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

394.4598 Guardian advocate.—

(3) A facility requesting appointment of a guardian advocate must, prior to the appointment, provide the prospective guardian advocate with information about the duties and responsibilities of guardian advocates, including the information about the ethics of medical decisionmaking. Before asking a guardian advocate to give consent to treatment for a patient, the facility shall provide to the guardian advocate sufficient information so that the guardian advocate can decide whether to give express and informed consent to the treatment, including information that the treatment is essential to the care of the patient, and that the treatment does not present an unreasonable risk of serious, hazardous, or irreversible side effects. Before giving consent to treatment, the guardian advocate must meet and talk with the patient and the patient's physician or psychiatric nurse practicing within the framework of an established protocol with a psychiatrist in person, if at all possible, and by telephone, if not. The decision of the guardian advocate may be reviewed by the court, upon petition of the patient's attorney, the patient's family, or the facility administrator.

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

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

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

1. Notice that the petition for:

~~a. involuntary services inpatient treatment pursuant to s. 394.4655 or s. 394.467 has been filed with the circuit or county court, as applicable, and the address of such court in the county in which the individual is hospitalized and the address of such court; or~~

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

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

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

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

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

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

394.461 Designation of receiving and treatment facilities and receiving systems.—The department is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designation for failure to comply with this part and rules adopted under this part. The department may issue a conditional designation for up to 60 days to allow the implementation of corrective measures. Unless designated by the department, facilities are not permitted to hold or treat involuntary patients under this part.

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

(4) REPORTING REQUIREMENTS.—

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

Section 6. Paragraph (a) of subsection (2) and subsection (3) of section 394.4615, Florida Statutes, is amended to read:

394.4615 Clinical records; confidentiality.—

(2) The clinical record shall be released when:

(a) The patient or the patient's guardian or legal custodian authorizes the release. The guardian, ~~or guardian advocate, or legal custodian~~ shall be provided access to the appropriate clinical records of the patient. The patient or the patient's guardian, ~~or guardian advocate, or legal custodian~~ may authorize the release of information and clinical records to appropriate persons to ensure the continuity of the patient's health care or mental health

care. A receiving facility must document that, within 24 hours of admission, individuals admitted on a voluntary basis have been provided with the option to authorize the release of information from their clinical record to the individual's health care surrogate or proxy, attorney, representative, or other known emergency contact.

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

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

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

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

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

394.462 Transportation.—A transportation plan shall be developed and implemented by each county in collaboration with the managing entity in accordance with this section. A county may enter into a memorandum of understanding with the governing boards of nearby counties to establish a shared transportation plan. When multiple counties enter into a memorandum of understanding for this purpose, the counties shall notify the managing entity and provide it with a copy of the agreement. The transportation plan shall describe methods of transport to a facility within the designated receiving system for individuals subject to involuntary examination under s. 394.463 or involuntary admission under s. 397.6772, s. 397.679, s. 397.6798, or s. 397.6957 ~~s. 397.6811~~, and may identify responsibility for other transportation to a participating facility when necessary and agreed to by the facility. The plan may rely on emergency medical transport services or private transport companies, as appropriate.

The plan shall comply with the transportation provisions of this section and ss. 397.6772, 397.6795, ~~397.6822~~, and 397.697.

(1) TRANSPORTATION TO A RECEIVING FACILITY.—

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

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

a. The jurisdiction designated by the county has contracted on an annual basis with an emergency medical transport service or private transport company for transportation of persons to receiving facilities pursuant to this section at the sole cost of the county or as otherwise provided in the transportation plan developed by the county; and

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

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

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

b. From the person receiving the transportation.

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

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

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

(e) When a law enforcement officer takes custody of a person pursuant to this part, the officer may request assistance from emergency medical

personnel if such assistance is needed for the safety of the officer or the person in custody.

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

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

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

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

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

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

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

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

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

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

(2) TRANSPORTATION TO A TREATMENT FACILITY.—

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

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

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

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

(3) TRANSFER OF CUSTODY.—Custody of a person who is transported pursuant to this part, along with related documentation, shall be

relinquished to a responsible individual at the appropriate receiving or treatment facility.

Section 8. Paragraphs (a) and (f) of subsection (1) and subsection (5) of section 394.4625, Florida Statutes, are amended to read:

394.4625 Voluntary admissions.—

(1) AUTHORITY TO RECEIVE PATIENTS.—

(a) A facility may receive for observation, diagnosis, or treatment any ~~adult person 18 years of age or older~~ who applies by express and informed consent for admission or any minor person age 17 or younger whose parent or legal guardian applies for admission. Such person may be admitted to the facility if found to show evidence of mental illness and to be suitable for treatment, and:

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

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

(f) Within 24 hours after admission of a voluntary patient, the treating admitting physician or psychiatric nurse practicing within the framework of an established protocol with a psychiatrist shall document in the patient's clinical record that the patient is able to give express and informed consent for admission. If the patient is not able to give express and informed consent for admission, the facility shall either discharge the patient or transfer the patient to involuntary status pursuant to subsection (5).

(5) TRANSFER TO INVOLUNTARY STATUS.—When a voluntary patient, or an authorized person on the patient's behalf, makes a request for discharge, the request for discharge, unless freely and voluntarily rescinded, must be communicated to a physician, clinical psychologist with at least 3 years of postdoctoral experience in the practice of clinical psychology, or psychiatrist as quickly as possible, but not later than 12 hours after the request is made. If the patient meets the criteria for involuntary placement, the administrator of the facility must file with the court a petition for involuntary placement, within 2 court working days after the request for discharge is made. If the petition is not filed within 2 court working days, the patient shall be discharged. Pending the filing of the petition, the patient may be held and emergency treatment rendered in the least restrictive manner, upon the ~~written~~ written order of a physician or psychiatric nurse practicing within the framework of an established protocol with a psychiatrist, if it is determined that such treatment is necessary for the safety of the patient or others.

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

394.463 Involuntary examination.—

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

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

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

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

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

(2) INVOLUNTARY EXAMINATION.—

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

1. A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on written or oral sworn testimony that includes specific facts that support the findings. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to an appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462 for involuntary examination. The order of the court shall be made a part of the patient's clinical record. A fee may not be charged for the filing of an order under this subsection. A facility accepting the patient based on this order must send a copy of the order to the department within 5 working days. The order may be submitted electronically through existing data systems, if available. The order shall be valid only until the person is delivered to the facility or for the period specified in the order itself, whichever comes first. If a time limit is not specified in the order, the order is valid for 7 days after the date that the order was signed.

2. A law enforcement officer ~~may~~ shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462 for examination. A law enforcement officer transporting a person pursuant to this ~~section~~ subparagraph shall restrain the person in the least restrictive manner available and appropriate under the circumstances. If transporting a minor and the parent or legal guardian of the minor is present, before departing, the law enforcement officer shall provide the parent or legal guardian of the minor with the name, address, and contact information for the facility within the designated receiving system to which the law enforcement officer is transporting the minor, subject to any safety and welfare concerns for the minor. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, which must be made a part of the patient's clinical record. The report must include all emergency contact information for the person that is readily accessible to the law enforcement officer, including information available through electronic databases maintained by the Department of Law Enforcement or by the Department of Highway Safety and Motor Vehicles. Such emergency contact information may be used by a receiving facility only for the purpose of informing listed emergency contacts of a patient's whereabouts pursuant to s. 119.0712(2)(d). Any facility accepting the patient based on this report must send a copy of the report to the department within 5 working days.

3. A physician, a physician assistant, a clinical psychologist, a psychiatric nurse, an advanced practice registered nurse registered under s. 464.0123, a mental health counselor, a marriage and family therapist, or a clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means, such as voluntary appearance for outpatient evaluation, are not available, a law enforcement officer shall take into custody the person named in the certificate and deliver him or her to the appropriate, or nearest, facility within the designated receiving system pursuant to s. 394.462 for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody and include all emergency contact information required under subparagraph 2. ~~The report must include all emergency contact information for the person that is readily accessible to the law enforcement officer, including information available through electronic databases maintained by the Department of Law Enforcement or by the Department of Highway Safety and Motor Vehicles.~~ Such emergency contact information may be used by a receiving facility only for the purpose of informing listed emergency contacts of a patient's whereabouts pursuant to s. 119.0712(2)(d). The report and certificate shall be made a part of the patient's clinical record. Any facility accepting the patient based on this certificate must send a copy of the certificate to the department within 5

working days. The document may be submitted electronically through existing data systems, if applicable.

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

(e) The department shall receive and maintain the copies of ex parte orders, involuntary ~~outpatient~~ services orders issued pursuant to ~~ss. 394.4655 and 394.467~~ s. ~~394.4655~~, involuntary inpatient placement orders issued pursuant to s. ~~394.467~~, professional certificates, law enforcement officers' reports, and reports relating to the transportation of patients. These documents shall be considered part of the clinical record, governed by the provisions of s. 394.4615. These documents shall be provided to the Louis de la Parte Florida Mental Health Institute established under s. 1004.44 by the department and used by the institute to prepare annual reports analyzing the data obtained from these documents, without including the personal identifying information of the patient. The information in the reports may include, but need not be limited to, a state level analysis of involuntary examinations, including a description of demographic characteristics of individuals and the geographic locations of involuntary examinations; counts of the number of involuntary examinations at each receiving facility; and reporting and analysis of trends for involuntary examinations within the state. The report shall also include counts of and provide demographic, geographic, and other relevant information about individuals with a developmental disability, as defined in s. 393.063, or a traumatic brain injury or dementia who were taken to a receiving facility for involuntary examination pursuant to s. 394.463 and determined not to have a co-occurring mental illness. The institute identifying patients, and shall post the reports on its website and provide copies of such reports to the department, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives by November 30 of each year.

(f) A patient must ~~shall~~ be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility without unnecessary delay to determine if the criteria for involuntary services are met. Such examination shall include, but not be limited to, consideration of the patient's treatment history at the facility and any information regarding the patient's condition and behavior provided by knowledgeable individuals. Evidence that criteria under subparagraph (1)(b)1. are met may include, but need not be limited to, repeated admittance for involuntary examination despite implementation of appropriate discharge plans. For purposes of this paragraph, the term "repeated admittance" means three or more admissions into the facility within the immediately preceding 12 months. An individual's basic needs being served while admitted to the facility may not be considered evidence that criteria under subparagraph (1)(b)1. are met. Emergency treatment may be provided upon the order of a physician or a

psychiatric nurse practicing within the framework of an established protocol with a psychiatrist if the physician or psychiatric nurse determines that such treatment is necessary for the safety of the patient or others. The patient may not be released by the receiving facility or its contractor without the documented approval of a psychiatrist or a clinical psychologist or, if the receiving facility is owned or operated by a hospital, health system, or nationally accredited community mental health center, the release may also be approved by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist, or an attending emergency department physician with experience in the diagnosis and treatment of mental illness after completion of an involuntary examination pursuant to this subsection. A psychiatric nurse may not approve the release of a patient if the involuntary examination was initiated by a psychiatrist unless the release is approved by the initiating psychiatrist. The release may be approved through telehealth.

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

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

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

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

4. A petition for involuntary services shall be filed in the circuit court if ~~inpatient treatment is deemed necessary~~ or with the ~~criminal county court, as defined in s. 394.4655(1), as applicable~~. When inpatient treatment is deemed necessary, the least restrictive treatment consistent with the optimum improvement of the patient's condition shall be made available. The ~~When a petition is to be filed for involuntary outpatient placement, it shall be filed by one of the petitioners specified in s. 394.467, and the court shall dismiss an untimely filed petition s. 394.4655(4)(a). A petition for involuntary inpatient placement shall be filed by the facility administrator.~~ If a patient's 72-hour examination period ends on a weekend or holiday, including the hours before the ordinary business hours on the morning of the next working day, and the receiving facility:

a. Intends to file a petition for involuntary services, such patient may be held at the a receiving facility through the next working day thereafter and the such petition for involuntary services must be filed no later than such

date. If the receiving facility fails to file the a petition by ~~for involuntary services~~ at the ordinary close of business on the next working day, the patient shall be released from the receiving facility following approval pursuant to paragraph (f).

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

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

(4) DATA ANALYSIS.—

(a) The department shall provide the Using data collected under paragraph (2)(a) and s. 1006.07(10), and child welfare data related to involuntary examinations, to the Louis de la Parte Florida Mental Health Institute established under s. 1004.44. The Agency for Health Care Administration shall provide Medicaid data to the institute, requested by the institute, related to involuntary examination of children enrolled in Medicaid for the purpose of administering the program and improving service provision for such children. The department and agency shall enter into any necessary agreements with the institute to provide such data. The institute shall use such data to the department shall, at a minimum, analyze data on both the initiation of involuntary examinations of children and the initiation of involuntary examinations of students who are removed from a school; identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child or student; study root causes for such patterns, trends, or repeated involuntary examinations;

and make recommendations to encourage the use of alternatives to eliminate inappropriate initiations of such examinations.

(b) The institute shall analyze service data on individuals who are high utilizers of crisis stabilization services provided in designated receiving facilities, and shall, at a minimum, identify any patterns or trends and make recommendations to decrease avoidable admissions. Recommendations may be addressed in the department's contracts with the behavioral health managing entities and in the contracts between the Agency for Health Care Administration and the Medicaid managed medical assistance plans.

(c) The institute department shall publish submit a report on its findings and recommendations on its website and submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, the department, and the Agency for Health Care Administration by November 1 of each odd-numbered year.

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

394.4655 Orders to involuntary outpatient placement services.—

(1) DEFINITIONS.—As used in this section, the term “involuntary outpatient placement” means involuntary outpatient services as defined in s. 394.467.:

(a) “Court” means a circuit court or a criminal county court.

(b) “Criminal County court” means a county court exercising its original jurisdiction in a misdemeanor case under s. 34.01.

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

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

(b) The person has a mental illness.

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

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

(e) The person has:

1. At least twice within the immediately preceding 36 months been involuntarily admitted to a receiving or treatment facility as defined in s. 394.455, or has received mental health services in a forensic or correctional

facility. The 36-month period does not include any period during which the person was admitted or incarcerated; or

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

(f)—The person is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment plan and has refused voluntary services for treatment after sufficient and conscientious explanation and disclosure of why the services are necessary or is unable to determine for himself or herself whether services are necessary.

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

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

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

(3) INVOLUNTARY OUTPATIENT SERVICES.—

(a)1.—A patient who is being recommended for involuntary outpatient services by the administrator of the facility where the patient has been examined may be retained by the facility after adherence to the notice procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, if the administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental illness, a physician assistant who has at least 3 years' experience and is supervised by such licensed physician or a psychiatrist, a clinical social worker, or by a psychiatric nurse. Any second opinion authorized in this subparagraph may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation must be entered on an involuntary outpatient services certificate that authorizes the facility to retain the patient pending completion of a hearing. The certificate must be made a part of the patient's clinical record.

2.—If the patient has been stabilized and no longer meets the criteria for involuntary examination pursuant to s. 394.463(1), the patient must be

~~released from the facility while awaiting the hearing for involuntary outpatient services. Before filing a petition for involuntary outpatient services, the administrator of the facility or a designated department representative must identify the service provider that will have primary responsibility for service provision under an order for involuntary outpatient services, unless the person is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.~~

~~3.— The service provider shall prepare a written proposed treatment plan in consultation with the patient or the patient's guardian advocate, if appointed, for the court's consideration for inclusion in the involuntary outpatient services order that addresses the nature and extent of the mental illness and any co-occurring substance use disorder that necessitate involuntary outpatient services. The treatment plan must specify the likely level of care, including the use of medication, and anticipated discharge criteria for terminating involuntary outpatient services. Service providers may select and supervise other individuals to implement specific aspects of the treatment plan. The services in the plan must be deemed clinically appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker who consults with, or is employed or contracted by, the service provider. The service provider must certify to the court in the proposed plan whether sufficient services for improvement and stabilization are currently available and whether the service provider agrees to provide those services. If the service provider certifies that the services in the proposed treatment plan are not available, the petitioner may not file the petition. The service provider must notify the managing entity if the requested services are not available. The managing entity must document such efforts to obtain the requested services.~~

~~(b)— If a patient in involuntary inpatient placement meets the criteria for involuntary outpatient services, the administrator of the facility may, before the expiration of the period during which the facility is authorized to retain the patient, recommend involuntary outpatient services. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary outpatient services are met. However, if the administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental illness, a physician assistant who has at least 3 years' experience and is supervised by such licensed physician or a psychiatrist, a clinical social worker, or by a psychiatric nurse. Any second opinion authorized in this subparagraph may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation~~

must be entered on an involuntary outpatient services certificate, and the certificate must be made a part of the patient's clinical record.

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

~~2.— The service provider that will have primary responsibility for service provision shall be identified by the designated department representative before the order for involuntary outpatient services and must, before filing a petition for involuntary outpatient services, certify to the court whether the services recommended in the patient's discharge plan are available and whether the service provider agrees to provide those services. The service provider must develop with the patient, or the patient's guardian advocate, if appointed, a treatment or service plan that addresses the needs identified in the discharge plan. The plan must be deemed to be clinically appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker, as defined in this chapter, who consults with, or is employed or contracted by, the service provider.~~

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

~~(4) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES.—~~

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

- ~~1.— The administrator of a receiving facility; or~~
- ~~2.— The administrator of a treatment facility.~~

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

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

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

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

~~(7) HEARING ON INVOLUNTARY OUTPATIENT SERVICES.—~~

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

~~2.— The court may appoint a magistrate to preside at the hearing. One of the professionals who executed the involuntary outpatient services certificate shall be a witness. The patient and the patient's guardian or representative shall be informed by the court of the right to an independent expert examination. If the patient cannot afford such an examination, the court shall ensure that one is provided, as otherwise provided by law. The independent expert's report is confidential and not discoverable, unless the expert is to be called as a witness for the patient at the hearing. The court shall allow testimony from individuals, including family members, deemed by the court to be relevant under state law, regarding the person's prior~~

history and how that prior history relates to the person's current condition. The testimony in the hearing must be given under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

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

~~2. The court may not order the department or the service provider to provide services if the program or service is not available in the patient's local community, if there is no space available in the program or service for the patient, or if funding is not available for the program or service. The service provider must notify the managing entity if the requested services are not available. The managing entity must document such efforts to obtain the requested services. A copy of the order must be sent to the managing entity by the service provider within 1 working day after it is received from the court. The order may be submitted electronically through existing data systems. After the order for involuntary services is issued, the service provider and the patient may modify the treatment plan. For any material modification of the treatment plan to which the patient or, if one is appointed, the patient's guardian advocate agrees, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if applicable, must be approved or disapproved by the court consistent with subsection (3).~~

~~3. If, in the clinical judgment of a physician, the patient has failed or has refused to comply with the treatment ordered by the court, and, in the clinical judgment of the physician, efforts were made to solicit compliance and the patient may meet the criteria for involuntary examination, a person may be brought to a receiving facility pursuant to s. 394.463. If, after examination, the patient does not meet the criteria for involuntary inpatient placement pursuant to s. 394.467, the patient must be discharged from the facility. The involuntary outpatient services order shall remain in effect unless the service provider determines that the patient no longer meets the criteria for involuntary outpatient services or until the order expires. The service provider must determine whether modifications should be made to the existing treatment plan and must attempt to continue to engage the patient in treatment. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if applicable, agrees, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the~~

patient or the patient's guardian advocate, if applicable, must be approved or disapproved by the court consistent with subsection (3).

~~(c) If, at any time before the conclusion of the initial hearing on involuntary outpatient services, it appears to the court that the person does not meet the criteria for involuntary outpatient services under this section but, instead, meets the criteria for involuntary inpatient placement, the court may order the person admitted for involuntary inpatient examination under s. 394.463. If the person instead meets the criteria for involuntary assessment, protective custody, or involuntary admission pursuant to s. 397.675, the court may order the person to be admitted for involuntary assessment for a period of 5 days pursuant to s. 397.6811. Thereafter, all proceedings are governed by chapter 397.~~

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

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

~~(8) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES.—~~

~~(a)1. If the person continues to meet the criteria for involuntary outpatient services, the service provider shall, at least 10 days before the expiration of the period during which the treatment is ordered for the person, file in the court that issued the order for involuntary outpatient services a petition for continued involuntary outpatient services. The court shall immediately schedule a hearing on the petition to be held within 15 days after the petition is filed.~~

~~2.—The existing involuntary outpatient services order remains in effect until disposition on the petition for continued involuntary outpatient services.~~

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

~~4.—The service provider shall develop the individualized plan of continued treatment in consultation with the patient or the patient’s guardian advocate, if applicable. When the petition has been filed, the clerk of the court shall provide copies of the certificate and the individualized plan of continued services to the department, the patient, the patient’s guardian advocate, the state attorney, and the patient’s private counsel or the public defender.~~

~~(b)—Within 1 court working day after the filing of a petition for continued involuntary outpatient services, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. The public defender shall represent the person until the petition is dismissed or the court order expires or the patient is discharged from involuntary outpatient services. Any attorney representing the patient shall have access to the patient, witnesses, and records relevant to the presentation of the patient’s case and shall represent the interests of the patient, regardless of the source of payment to the attorney.~~

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

~~(d)—Notice of the hearing must be provided as set forth in s. 394.4599. The patient and the patient’s attorney may agree to a period of continued outpatient services without a court hearing.~~

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

~~(f)—If the patient has previously been found incompetent to consent to treatment, the court shall consider testimony and evidence regarding the patient’s competence. Section 394.4598 governs the discharge of the guardian advocate if the patient’s competency to consent to treatment has been restored.~~

Section 11. Section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement and involuntary outpatient services.—

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

(a) “Court” means a circuit court or, for commitments only to involuntary outpatient services as defined in s. 394.4655, a county court.

(b) “Involuntary inpatient placement” means placement in a secure receiving or treatment facility providing stabilization and treatment services to a person 18 years of age or older who does not voluntarily consent to services under this chapter, or a minor who does not voluntarily assent to services under this chapter.

(c) “Involuntary outpatient services” means services provided in the community to a person who does not voluntarily consent to or participate in services under this chapter.

(d) “Services plan” means an individualized plan detailing the recommended behavioral health services and supports based on a thorough assessment of the needs of the patient, to safeguard and enhance the patient’s health and well-being in the community.

(2)(4) CRITERIA FOR INVOLUNTARY SERVICES.—A person may be ordered by a court to be provided for involuntary services inpatient placement for treatment upon a finding of the court, by clear and convincing evidence, that the person meets the following criteria:

(a) *Involuntary outpatient services.*—A person ordered to involuntary outpatient services must meet the following criteria:

1. The person has a mental illness and, because of his or her mental illness:

a. He or she is unlikely to voluntarily participate in a recommended services plan and has refused voluntary services for treatment after sufficient and conscientious explanation and disclosure of why the services are necessary; or

b. Is unable to determine for himself or herself whether services are necessary.

2. The person is unlikely to survive safely in the community without supervision, based on a clinical determination.

3. The person has a history of lack of compliance with treatment for mental illness.

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

5. It is likely that the person will benefit from involuntary outpatient services.

6. All available less restrictive alternatives that would offer an opportunity for improvement of the person's condition have been deemed to be inappropriate or unavailable.

(b) Involuntary inpatient placement.—A person ordered to involuntary inpatient placement must meet the following criteria:

1.(a) The person ~~He or she~~ has a mental illness and, because of his or her mental illness:

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

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

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

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

3.(b) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the person's ~~his or her~~ condition have been deemed judged to be inappropriate or unavailable.

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

(a) A patient may be retained by the a facility that examined the patient for involuntary services until the completion of the patient's court hearing or involuntarily placed in a treatment facility upon the recommendation of the administrator of the facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. However, if a patient who is being recommended for only involuntary outpatient services has been stabilized and no longer meets the criteria for involuntary examination pursuant to s. 394.463(1), the patient must be released from the facility while awaiting the hearing for involuntary outpatient services.

(b) The recommendation that the involuntary services criteria reasonably appear to have been met must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist with at least 3

years of clinical experience, or another psychiatrist, or a psychiatric nurse practicing within the framework of an established protocol with a psychiatrist, who both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. For involuntary inpatient placement, the patient must have been examined within the preceding 72 hours. For involuntary outpatient services the patient must have been examined within the preceding 30 days.

(c) If However, if the administrator certifies that a psychiatrist, a or clinical psychologist with at least 3 years of clinical experience, or a psychiatric nurse practicing within the framework of an established protocol with a psychiatrist is not available to provide a the second opinion, the petitioner must certify as such and the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental illness, a clinical psychologist, or by a psychiatric nurse.

(d) Any opinion authorized in this subsection may be conducted through a face-to-face or in-person examination, in person, or by electronic means. Recommendations for involuntary services must be Such recommendation shall be entered on a petition for involuntary services inpatient placement certificate, which shall be made a part of the patient's clinical record. The filing of the petition that authorizes the facility to retain the patient pending transfer to a treatment facility or completion of a hearing.

(4)(3) PETITION FOR INVOLUNTARY SERVICES INPATIENT PLACEMENT.—

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

1. The administrator of a receiving the facility;
2. The administrator of a treatment facility; or
3. A service provider who is treating the person being petitioned.

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

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

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

- a. Whether the petitioner is recommending inpatient placement, outpatient services, or both.
- b. The length of time recommended for each type of involuntary services.

c. The reasons for the recommendation.

2. If recommending involuntary outpatient services, or a combination of involuntary inpatient placement and outpatient services, the petitioner must identify the service provider that has agreed to provide services for the person under an order for involuntary outpatient services, unless he or she is otherwise participating in outpatient psychiatric treatment and is not in need of public financing for that treatment, in which case the individual, if eligible, may be ordered to involuntary treatment pursuant to the existing psychiatric treatment relationship.

3. When recommending an order to involuntary outpatient services, the petitioner shall prepare a written proposed services plan in consultation with the patient or the patient's guardian advocate, if appointed, for the court's consideration for inclusion in the involuntary outpatient services order that addresses the nature and extent of the mental illness and any co-occurring substance use disorder that necessitate involuntary outpatient services. The services plan must specify the likely needed level of care, including the use of medication, and anticipated discharge criteria for terminating involuntary outpatient services. The services in the plan must be deemed clinically appropriate by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker who consults with, or is employed or contracted by, the service provider. If the services in the proposed services plan are not available, the petitioner may not file the petition. The petitioner must notify the managing entity if the requested services are not available. The managing entity must document such efforts to obtain the requested service. The service provider who accepts the patient for involuntary outpatient services is responsible for the development of a comprehensive treatment plan.

(e) Each required criterion for the recommended involuntary services must be alleged and substantiated in the petition. A copy of the recommended services plan, if applicable, must be attached to the petition. The court must accept petitions and other documentation with electronic signatures.

(f) When the petition has been filed Upon filing, the clerk of the court shall provide copies of the petition and the recommended services plan, if applicable, to the department, the managing entity, the patient, the patient's guardian or representative, and the state attorney, and the public defender or the patient's private counsel of the judicial circuit in which the patient is located. A fee may not be charged for the filing of a petition under this subsection.

(5)(4) APPOINTMENT OF COUNSEL.—Within 1 court working day after the filing of a petition for involuntary services inpatient placement, the court shall appoint the public defender to represent the person who is the subject of the petition, unless the person is otherwise represented by counsel or ineligible. The clerk of the court shall immediately notify the public defender of such appointment. The public defender shall represent the

person until the petition is dismissed, the court order expires, the patient is discharged from involuntary services, or the public defender is otherwise discharged by the court. Any attorney who represents representing the patient shall be provided have access to the patient, witnesses, and records relevant to the presentation of the patient's case and shall represent the interests of the patient, regardless of the source of payment to the attorney.

(6)(5) CONTINUANCE OF HEARING.—The patient and the state are independently is entitled, with the concurrence of the patient's counsel, to seek a at least one continuance of the hearing. The patient shall be granted a request for an initial continuance for up to 7 calendar days. The patient may request additional continuances for up to 21 calendar days in total, which shall only be granted by a showing of good cause and due diligence by the patient and the patient's counsel before requesting the continuance. The state may request one continuance of up to 7 calendar days, which shall only be granted by a showing of good cause and due diligence by the state before requesting the continuance. The state's failure to timely review any readily available document or failure to attempt to contact a known witness does not warrant a continuance 4-weeks.

(7)(6) HEARING ON INVOLUNTARY SERVICES INPATIENT PLACEMENT.—

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

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

3. A hearing on involuntary services must be as convenient to the patient as is consistent with orderly procedure, and shall be conducted in physical settings not likely to be injurious to the patient's condition. If the court finds that the patient's attendance at the hearing is not consistent with the best interests of the patient, or the patient knowingly, intelligently, and voluntarily waives his or her right to be present, and if the patient's counsel does not object, the court may waive the attendance presence of the patient from all or any portion of the hearing. The state attorney for the circuit in which the patient is located shall represent the state, rather than the petitioner, as the real party in interest in the proceeding. The facility or service provider shall make the patient's clinical records available to the state attorney and the patient's attorney so that the state can evaluate and prepare its case. However, these records shall remain confidential, and the state attorney may not use any record obtained under this part for criminal investigation or prosecution purposes, or for any purpose other than the

patient's civil commitment under this chapter petitioning facility administrator, as the real party in interest in the proceeding.

~~(b)3.~~ The court may appoint a magistrate to preside at the hearing. The state attorney and witnesses may remotely attend and, as appropriate, testify at the hearing under oath via audio-video teleconference. A witness intending to attend remotely and testify must provide the parties with all relevant documents by the close of business on the day before the hearing. One of the professionals who executed the petition for involuntary services inpatient placement certificate shall be a witness. The patient and the patient's guardian or representative shall be informed by the court of the right to an independent expert examination. If the patient cannot afford such an examination, the court shall ensure that one is provided, as otherwise provided for by law. The independent expert's report is confidential and not discoverable, unless the expert is to be called as a witness for the patient at the hearing. The court shall allow testimony from persons, including family members, deemed by the court to be relevant under state law, regarding the person's prior history and how that prior history relates to the person's current condition. The testimony in the hearing must be given under oath, and the proceedings must be recorded. The patient may refuse to testify at the hearing.

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

(8) ORDERS OF THE COURT.—

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

2. The order must specify the nature and extent of the patient's mental illness and the reasons the appropriate involuntary services criteria are satisfied.

3. An order for only involuntary outpatient services, involuntary inpatient placement, or of a combination of involuntary services may be for a period of up to 6 months.

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

5. The order of the court and the patient's services plan, if applicable, must be made part of the patient's clinical record.

(b) If the court orders a patient into involuntary inpatient placement, the court it may order that the patient be retained at a receiving facility while awaiting transfer transferred to a treatment facility, or, if the patient is at a treatment facility, that the patient be retained there or be treated at any other appropriate facility, or that the patient receive services, on an involuntary basis, for up to 90 days. However, any order for involuntary mental health services in a treatment facility may be for up to 6 months. The order shall specify the nature and extent of the patient's mental illness. The court may not order an individual with a developmental disability as defined in s. 393.063 or a traumatic brain injury or dementia who lacks a co-occurring mental illness to be involuntarily placed in a state treatment facility. The facility shall discharge a patient any time the patient no longer meets the criteria for involuntary inpatient placement, unless the patient has transferred to voluntary status.

(c) If at any time before the conclusion of a the hearing on involuntary services, inpatient placement it appears to the court that the patient person does not meet the criteria for involuntary inpatient placement under this section, but instead meets the criteria for involuntary outpatient services, the court may order the person evaluated for involuntary outpatient services pursuant to s. 394.4655. The petition and hearing procedures set forth in s. 394.4655 shall apply. If the person instead meets the criteria for involuntary assessment, protective custody, or involuntary admission or treatment pursuant to s. 397.675, then the court may order the person to be admitted for involuntary assessment for a period of 5 days pursuant to s. 397.6757 s. 397.6811. Thereafter, all proceedings are governed by chapter 397.

(d) At the hearing on involuntary inpatient placement, the court shall consider testimony and evidence regarding the patient's competence to consent to treatment. If the court finds that the patient is incompetent to consent to treatment, it shall appoint a guardian advocate as provided in s. 394.4598.

(d)(e) The administrator of the petitioning facility or the designated department representative shall provide a copy of the court order and adequate documentation of a patient's mental illness to the service provider for involuntary outpatient services or the administrator of a treatment facility if the patient is ordered for involuntary inpatient placement, whether by civil or criminal court. The documentation must include any

advance directives made by the patient, a psychiatric evaluation of the patient, and any evaluations of the patient performed by a psychiatric nurse, a clinical psychologist, a marriage and family therapist, a mental health counselor, or a clinical social worker. The administrator of a treatment facility may refuse admission to any patient directed to its facilities on an involuntary basis, whether by civil or criminal court order, who is not accompanied by adequate orders and documentation.

(e) In cases resulting in an order for involuntary outpatient services, the court shall retain jurisdiction over the case and the parties for entry of further orders as circumstances may require, including, but not limited to, monitoring compliance with treatment or ordering inpatient treatment to stabilize a person who decompensates while under court-ordered outpatient treatment and meets the commitment criteria of s. 394.467.

(9) SERVICES PLAN MODIFICATION.—After the order for involuntary outpatient services is issued, the service provider and the patient may modify the services plan as provided by department rule.

(10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.—

(a) If, in the clinical judgment of a physician, a psychiatrist, a clinical psychologist with at least 3 years of clinical experience, or a psychiatric nurse practicing within the framework of an established protocol with a psychiatrist, a patient receiving involuntary outpatient services has failed or has refused to comply with the services plan ordered by the court, and efforts were made to solicit compliance, the service provider must report such noncompliance to the court. The involuntary outpatient services order shall remain in effect unless the service provider determines that the patient no longer meets the criteria for involuntary outpatient services or until the order expires. The service provider must determine whether modifications should be made to the existing services plan and must attempt to continue to engage the patient in treatment. For any material modification of the services plan to which the patient or the patient's guardian advocate, if applicable, agrees, the service provider shall send notice of the modification to the court. Any material modifications of the services plan which are contested by the patient or the patient's guardian advocate, if applicable, must be approved or disapproved by the court.

(b) A county court may not use incarceration as a sanction for noncompliance with the services plan, but it may order an individual evaluated for possible inpatient placement if there is significant, or are multiple instances of, noncompliance.

(11)(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES INPATIENT PLACEMENT.—

(a) A petition for continued involuntary services must be filed if the patient continues to meets the criteria for involuntary services.

(b)1. If a patient receiving involuntary outpatient services continues to meet the criteria for involuntary outpatient services, the service provider must file in the court that issued the initial order for involuntary outpatient services a petition for continued involuntary outpatient services.

2. If a patient in involuntary inpatient placement

~~(a) Hearings on petitions for continued involuntary inpatient placement of an individual placed at any treatment facility are administrative hearings and must be conducted in accordance with s. 120.57(1), except that any order entered by the administrative law judge is final and subject to judicial review in accordance with s. 120.68. Orders concerning patients committed after successfully pleading not guilty by reason of insanity are governed by s. 916.15.~~

~~(b) If the patient continues to meet the criteria for involuntary services inpatient placement and is being treated at a receiving treatment facility, the administrator must shall, before the expiration of the period the receiving treatment facility is authorized to retain the patient, file in the court that issued the initial order for involuntary inpatient placement, a petition requesting authorization for continued involuntary services inpatient placement. The administrator may petition for inpatient or outpatient services.~~

3. If a patient in inpatient placement continues to meet the criteria for involuntary services and is being treated at a treatment facility, the administrator must, before expiration of the period the treatment facility is authorized to retain the patient, file a petition requesting authorization for continued involuntary services. The administrator may petition for inpatient or outpatient services. Hearings on petitions for continued involuntary services of an individual placed at any treatment facility are administrative hearings and must be conducted in accordance with s. 120.57(1), except that any order entered by the judge is final and subject to judicial review in accordance with s. 120.68. Orders concerning patients committed after successfully pleading not guilty by reason of insanity are governed by s. 916.15.

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

5. The existing involuntary services order shall remain in effect until disposition on the petition for continued involuntary services.

(c) The petition request must be accompanied by a statement from the patient's physician, psychiatrist, psychiatric nurse, or clinical psychologist justifying the request, a brief description of the patient's treatment during the time he or she was receiving involuntary services involuntarily placed, and an individualized plan of continued treatment developed in consultation with the patient or the patient's guardian advocate, if applicable. If the petition is for involuntary outpatient services, it must comply with the

requirements of subparagraph (4)(d)3. When the petition has been filed, the clerk of the court shall provide copies of the petition and the individualized plan of continued services to the department, the patient, the patient's guardian advocate, the state attorney, and the patient's private counsel or the public defender.

(d) The court shall appoint counsel to represent the person who is the subject of the petition for continued involuntary services in accordance to the provisions set forth in subsection (5), unless the person is otherwise represented by counsel or ineligible.

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

(f) Hearings on petitions for continued involuntary inpatient placement in receiving facilities, or involuntary outpatient services following involuntary inpatient services, must be held in the county or the facility, as appropriate, where the patient is located.

(g) The court may appoint a magistrate to preside at the hearing. The procedures for obtaining an order pursuant to this paragraph must meet the requirements of subsection (7).

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

(i) If a patient's attendance at the hearing is voluntarily waived, the administrative law judge must determine that the patient knowingly, intelligently, and voluntarily waived his or her right to be present, waiver is knowing and voluntary before waiving the presence of the patient from all or a portion of the hearing. Alternatively, if at the hearing the administrative law judge finds that attendance at the hearing is not consistent with the best interests of the patient, the administrative law judge may waive the presence of the patient from all or any portion of the hearing, unless the patient, through counsel, objects to the waiver of presence. The testimony in the hearing must be under oath, and the proceedings must be recorded.

~~(e) Unless the patient is otherwise represented or is ineligible, he or she shall be represented at the hearing on the petition for continued involuntary inpatient placement by the public defender of the circuit in which the facility is located.~~

~~(j)(d) If at a hearing it is shown that the patient continues to meet the criteria for involuntary services inpatient placement, the court administrative law judge shall issue an sign the order for continued involuntary outpatient services, inpatient placement for up to 90 days. However, any order for involuntary inpatient placement, or mental health services in a combination of involuntary services treatment facility may be for up to 6~~

months. The same procedure shall be repeated before the expiration of each additional period the patient is retained.

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

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

The procedure required in this subsection must be followed before the expiration of each additional period the patient is involuntarily receiving services.

~~(12)~~(8) RETURN TO FACILITY.—If a patient has been ordered to undergo involuntary inpatient placement ~~involuntarily held~~ at a receiving or treatment facility under this part and leaves the facility without the administrator's authorization, the administrator may authorize a search for the patient and his or her return to the facility. The administrator may request the assistance of a law enforcement agency in this regard.

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

Section 12. Subsection (2) of section 394.468, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

394.468 Admission and discharge procedures.—

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

(a) Follow-up behavioral health appointments;

- (b) Information on how to obtain prescribed medications; and
- (c) Information pertaining to:

- 1. Available living arrangements;
- 2. Transportation; and

(d) Referral to:

1. Care coordination services. The patient must be referred for care coordination services if the patient meets the criteria as a member of a priority population as determined by the department under s. 394.9082(3)(c) and is in need of such services.

2.3. Recovery support opportunities under s. 394.4573(2)(l), including, but not limited to, connection to a peer specialist.

(3) During the discharge transition process and while the patient is present unless determined inappropriate by a physician or psychiatric nurse practicing within the framework of an established protocol with a psychiatrist a receiving facility shall coordinate, face-to-face or through electronic means, discharge plans to a less restrictive community behavioral health provider, a peer specialist, a case manager, or a care coordination service. The transition process must, at a minimum, include all of the following criteria:

(a) Implementation of policies and procedures outlining strategies for how the receiving facility will comprehensively address the needs of patients who demonstrate a high use of receiving facility services to avoid or reduce future use of crisis stabilization services. For any such patient, policies and procedures must include, at a minimum, a review of the effectiveness of previous discharge plans created by the facility for the patient, and the new discharge plan must address problems experienced with implementation of previous discharge plans.

(b) Developing and including in discharge paperwork a personalized crisis prevention plan that identifies stressors, early warning signs or symptoms, and strategies to deal with crisis.

(c) Requiring a staff member to seek to engage a family member, legal guardian, legal representative, or natural support in discharge planning and meet face to face or through electronic means to review the discharge instructions, including prescribed medications, follow-up appointments, and any other recommended services or follow-up resources, and document the outcome of such meeting.

(d) When the recommended level of care at discharge is not immediately available to the patient, the receiving facility must, at a minimum, initiate a referral to an appropriate provider to meet the needs of the patient to continue care until the recommended level of care is available.

Section 13. Section 394.4915, Florida Statutes, is created to read:

394.4915 Office of Children’s Behavioral Health Ombudsman.—The Office of Children’s Behavioral Health Ombudsman is established within the department for the purpose of being a central point to receive complaints on behalf of children and adolescents with behavioral health disorders receiving state-funded services and use such information to improve the child and adolescent mental health treatment and support system. The department and managing entities shall include information about and contact information for the office placed prominently on their websites on easily accessible web pages related to children and adolescent behavioral health services. To the extent permitted by available resources, the office shall, at a minimum:

(1) Receive and direct to the appropriate contact within the department, the Agency for Health Care Administration, or the appropriate organizations providing behavioral health services complaints from children and adolescents and their families about the child and adolescent mental health treatment and support system.

(2) Maintain records of complaints received and the actions taken.

(3) Be a resource to identify and explain relevant policies or procedures to children, adolescents, and their families about the child and adolescent mental health treatment and support system.

(4) Provide recommendations to the department to address systemic problems within the child and adolescent mental health treatment and support system that are leading to complaints. The department shall include an analysis of complaints and recommendations in the report required under s. 394.4573.

(5) Engage in functions that may improve the child and adolescent mental health treatment and support system.

Section 14. Subsection (3) of section 394.495, Florida Statutes, is amended to read:

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

(3) Assessments must be performed by:

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

(b) A professional licensed under chapter 491; or

(c) A person who is under the direct supervision of a clinical psychologist, clinical social worker, physician, psychiatric nurse, or psychiatrist, as those

~~terms are defined in s. 394.455, qualified professional as defined in s. 394.455(5), (7), (33), (36), or (37) or a professional licensed under chapter 491.~~

Section 15. Subsection (5) of section 394.496, Florida Statutes, is amended to read:

394.496 Service planning.—

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

Section 16. Paragraph (a) of subsection (2) of section 394.499, Florida Statutes, is amended to read:

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

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

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

Section 17. Paragraphs (a) and (d) of subsection (1) of section 394.875, Florida Statutes, are amended to read:

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

(1)(a) The purpose of a crisis stabilization unit is to stabilize and redirect a client to the most appropriate and least restrictive community setting available, consistent with the client's needs. Crisis stabilization units may screen, assess, and admit for stabilization persons who present themselves to the unit and persons who are brought to the unit under s. 394.463. Clients may be provided 24-hour observation, medication prescribed by a physician, ~~or psychiatrist, or psychiatric nurse practicing within the framework of an established protocol with a psychiatrist,~~ and other appropriate services. Crisis stabilization units shall provide services regardless of the client's ability to pay and ~~shall be limited in size to a maximum of 30 beds.~~

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

Section 18. Section 394.90826, Florida Statutes, is created to read:

394.90826 Behavioral Health Interagency Collaboration.—

(1) The department and the Agency for Health Care Administration shall jointly establish behavioral health interagency collaboratives throughout the state with the goal of identifying and addressing ongoing challenges within the behavioral health system at the local level to improve the accessibility, availability, and quality of behavioral health services. The objectives of the regional collaboratives are to:

(a) Facilitate enhanced interagency communication and collaboration.

(b) Develop and promote regional strategies tailored to address community-level challenges in the behavioral health system.

(2) The regional collaborative membership shall at a minimum be composed of representatives from all of the following, serving the region:

(a) Department of Children and Families.

(b) Agency for Health Care Administration.

(c) Agency for Persons with Disabilities.

(d) Department of Elder Affairs.

(e) Department of Health.

(f) Department of Education.

(g) School districts.

(h) Area agencies on aging.

(i) Community-based care lead agencies, as defined in s. 409.986(3)(d).

(j) Managing entities, as defined in s. 394.9082(2).

(k) Behavioral health services providers.

(l) Hospitals.

(m) Medicaid Managed Medical Assistance Plans.

(n) Police departments.

(o) Sheriffs' offices.

(3) Each regional collaborative shall define the objectives of that collaborative based upon the specific needs of the region and local communities located within the region, to achieve the specified goals.

(4) The department shall define the region to be served by each collaborative and shall be responsible for facilitating meetings.

(5) All entities represented on the regional collaboratives shall provide assistance as appropriate and reasonably necessary to fulfill the goals of the regional collaboratives.

Section 19. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

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

Section 20. Subsection (3) of section 397.305, Florida Statutes, is amended to read:

397.305 Legislative findings, intent, and purpose.—

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

Section 21. Subsections (19) and (23) of section 397.311, Florida Statutes, are amended to read:

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

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

(23) “Involuntary treatment services” means an array of behavioral health services that may be ordered by the court for persons with substance

abuse impairment or co-occurring substance abuse impairment and mental health disorders.

Section 22. Subsection (6) is added to section 397.401, Florida Statutes, to read:

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

(6) A service provider operating an addictions receiving facility or providing detoxification on a nonhospital inpatient basis may not exceed its licensed capacity by more than 10 percent and may not exceed their licensed capacity for more than 3 consecutive working days or for more than 7 days in 1 month.

Section 23. Paragraph (i) is added to subsection (1) of section 397.4073, Florida Statutes, to read:

397.4073 Background checks of service provider personnel.—

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

(i) Any physician licensed under chapter 458 or chapter 459 or a nurse licensed under chapter 464 who was required to undergo background screening by the Department of Health as part of his or her initial licensure or the renewal of licensure, and who has an active and unencumbered license, is not subject to background screening pursuant to this section.

Section 24. Subsection (8) of section 397.501, Florida Statutes, is amended to read:

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

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

Section 25. Section 397.581, Florida Statutes, is amended to read:

397.581 Unlawful activities relating to assessment and treatment; penalties.—

(1) A person may not knowingly and willfully:

(a) Furnish ~~furnishing~~ false information for the purpose of obtaining emergency or other involuntary admission of another person ~~for any person~~

is a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

~~(b)(2) Cause or otherwise secure, or conspire with or assist another to cause or secure~~ Causing or otherwise securing, or conspiring with or assisting another to cause or secure, without reason for believing a person to be impaired; any emergency or other involuntary procedure of another for the person under false pretenses is a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

~~(c)(3) Cause, or conspire with or assist another to cause, without lawful justification~~ Causing, or conspiring with or assisting another to cause, the denial to any person of any right accorded pursuant to this chapter.

~~(2) A person who violates subsection (1) commits~~ is a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

Section 26. Section 397.675, Florida Statutes, is amended to read:

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

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

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

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

Section 27. Subsection (1) of section 397.6751, Florida Statutes, is amended to read:

397.6751 Service provider responsibilities regarding involuntary admissions.—

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

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

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

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

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

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

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

Section 28. Section 397.681, Florida Statutes, is amended to read:

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

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

(2) RIGHT TO COUNSEL.—A respondent has the right to counsel at every stage of a judicial proceeding relating to a petition for his or her ~~involuntary assessment and a petition for his or her~~ involuntary treatment for substance abuse impairment; however, the respondent may waive that right if the respondent is present and the court finds that such waiver is made knowingly, intelligently, and voluntarily. A respondent who desires counsel and is unable to afford private counsel has the right to court-appointed counsel and to the benefits of s. 57.081. If the court believes that

the respondent needs or desires the assistance of counsel, the court shall appoint such counsel for the respondent without regard to the respondent's wishes. If the respondent is a minor not otherwise represented in the proceeding, the court shall immediately appoint a guardian ad litem to act on the minor's behalf.

Section 29. Section 397.693, Florida Statutes, is renumbered as section 397.68111, Florida Statutes, and amended to read:

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

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

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

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

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

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

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

Section 30. Section 397.695, Florida Statutes, is renumbered as section 397.68112, Florida Statutes, and amended to read:

~~397.68112~~ ~~397.695~~ Involuntary services; persons who may petition.—

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

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

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

Section 31. Section 397.6951, Florida Statutes, is renumbered as section 397.68141, Florida Statutes, and amended to read:

~~397.68141~~ ~~397.6951~~ Contents of petition for involuntary treatment services.—A petition for involuntary services must contain the name of

the respondent; the name of the petitioner ~~or petitioners~~; the relationship between the respondent and the petitioner; the name of the respondent's attorney, if known; ~~the findings and recommendations of the assessment performed by the qualified professional~~; and the factual allegations presented by the petitioner establishing the need for involuntary ~~outpatient~~ services for substance abuse impairment. The factual allegations must demonstrate:

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

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

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

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

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

(5) If there is an emergency, the petition must also describe the respondent's exigent circumstances and include a request for an ex parte assessment and stabilization order that must be executed pursuant to s. 397.68151.

Section 32. Section 397.6955, Florida Statutes, is renumbered as section 397.68151, Florida Statutes, and amended to read:

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

(1) Upon the filing of a petition for involuntary services for a substance abuse impaired person with the clerk of the court, the court shall immediately determine whether the respondent is represented by an attorney or whether the appointment of counsel for the respondent is appropriate. If the court appoints counsel for the person, the clerk of the court shall immediately notify the office of criminal conflict and civil regional counsel, created pursuant to s. 27.511, of the appointment. The office of criminal conflict and civil regional counsel shall represent the person until

the petition is dismissed, the court order expires, ~~or the person is discharged from involuntary treatment services, or the office is otherwise discharged by the court.~~ An attorney that represents the person named in the petition shall have access to the person, witnesses, and records relevant to the presentation of the person's case and shall represent the interests of the person, regardless of the source of payment to the attorney.

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

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

Section 33. Section 397.6818, Florida Statutes, is amended to read:

397.6818 Court determination.—

(1) When the petitioner asserts that emergency circumstances exist, or when upon review of the petition the court determines that an emergency exists, the court may rely solely on the contents of the petition and, without the appointment of an attorney, enter an ex parte order for the respondent's involuntary assessment and stabilization which must be executed during the period when the hearing on the petition for treatment is pending.

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

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

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

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

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

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

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

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

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

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

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

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

~~Otherwise, the petitioner must inform the court that the respondent has been assessed so that the court may schedule a hearing as soon as is practicable. However, if the respondent has not been assessed within 90 days, the court must dismiss the case. At the hearing initiated in accordance with s. 397.6811(1), the court shall hear all relevant testimony. The respondent must be present unless the court has reason to believe that his or her presence is likely to be injurious to him or her, in which event the court shall appoint a guardian advocate to represent the respondent. The respondent has the right to examination by a court-appointed qualified professional. After hearing all the evidence, the court shall determine whether there is a reasonable basis to believe the respondent meets the involuntary admission criteria of s. 397.675.~~

~~(1) Based on its determination, the court shall either dismiss the petition or immediately enter an order authorizing the involuntary assessment and stabilization of the respondent; or, if in the course of the hearing the court has reason to believe that the respondent, due to mental illness other than or~~

~~in addition to substance abuse impairment, is likely to injure himself or herself or another if allowed to remain at liberty, the court may initiate involuntary proceedings under the provisions of part I of chapter 394.~~

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

~~(3) If the court finds it necessary, it may order the sheriff to take the respondent into custody and deliver him or her to the licensed service provider specified in the court order or, if none is specified, to the nearest appropriate licensed service provider for involuntary assessment.~~

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

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

397.6957 Hearing on petition for involuntary treatment services.—

~~(1)(a) The respondent must be present at a hearing on a petition for involuntary treatment services, unless the court finds that he or she knowingly, intelligently, and voluntarily waives his or her right to be present or, upon receiving proof of service and evaluating the circumstances of the case, that his or her presence is inconsistent with his or her best interests or is likely to be injurious to self or others. The court shall hear and review all relevant evidence, including testimony from individuals such as family members familiar with the respondent's prior history and how it relates to his or her current condition, and the review of results of the assessment completed by the qualified professional in connection with this chapter. The court may also order drug tests. Witnesses may remotely attend and, as appropriate, testify at the hearing under oath via audio-video telecommunications technology. A witness intending to remotely attend and testify must provide the parties with all relevant documents by the close of business on the day before the hearing the respondent's protective custody, emergency admission, involuntary assessment, or alternative involuntary admission. The respondent must be present unless the court finds that his or her presence is likely to be injurious to himself or herself or others, in which event the court must appoint a guardian advocate to act in behalf of the respondent throughout the proceedings.~~

~~(b) A respondent may not be involuntarily ordered into treatment under this chapter without a clinical assessment being performed, unless he or she is present in court and expressly waives the assessment. In nonemergency situations, if the respondent was not, or had previously refused to be,~~

assessed by a qualified professional and, based on the petition, testimony, and evidence presented, it reasonably appears that the respondent qualifies for involuntary treatment services, the court shall issue an involuntary assessment and stabilization order to determine the appropriate level of treatment the respondent requires. Additionally, in cases where an assessment was attached to the petition, the respondent may request, or the court on its own motion may order, an independent assessment by a court-appointed or otherwise agreed upon qualified professional. The respondent shall be informed by the court of the right to an independent assessment. If an assessment order is issued, it is valid for 90 days, and if the respondent is present or there is either proof of service or his or her location is known, the involuntary treatment hearing shall be continued for no more than 10 court working days. Otherwise, the petitioner must inform the court that the respondent has been assessed so that the court may schedule a hearing as soon as is practicable. The assessment must occur before the new hearing date, and if there is evidence indicating that the respondent will not voluntarily appear at the forthcoming hearing or is a danger to self or others, the court may enter a preliminary order committing the respondent to an appropriate treatment facility for further evaluation until the date of the rescheduled hearing. However, if after 90 days the respondent remains unassessed, the court shall dismiss the case.

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

2. No later than the ordinary close of business on the day before the hearing, the qualified professional shall transmit, in accordance with any applicable confidentiality requirements, his or her clinical assessment to the clerk of the court, who shall enter it into the court file. The report must contain a recommendation on the level of substance abuse treatment the respondent requires, if any, and the relevant information on which the qualified professional's findings are based. This document must further note whether the respondent has any co-occurring mental health or other treatment needs. For adults subject to an involuntary assessment, the

report's filing with the court satisfies s. 397.6758 if it also contains the respondent's admission and discharge information. The qualified professional's failure to include a treatment recommendation, much like a recommendation of no treatment, shall result in the petition's dismissal.

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

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

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

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

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

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

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

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

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

397.697 Court determination; effect of court order for involuntary services.—

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

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

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

(3) An involuntary treatment services order also authorizes the licensed service provider to require the individual to receive treatment services that will benefit him or her, including treatment services at any licensable service component of a licensed service provider.

(4) If the court orders involuntary treatment services, a copy of the order must be sent to the managing entity, the department, and the Louis de la Parte Florida Institute established under s. 1004.44, within 1 working day after it is received from the court. Documents may be submitted electronically through ~~though~~ existing data systems, if applicable.

(5) The department and the institute established under s. 1004.44, shall also receive and maintain copies of the involuntary assessment and treatment orders issued pursuant to ss. 397.68151, 397.6818, and 397.6957; the qualified professional assessments; the professional certificates; and the law enforcement officers' protective custody reports. The institute established under s. 1004.44 shall use such documents to prepare annual reports analyzing the data the documents contain, without including patients' personal identifying information, and the institute shall post such reports on its website and provide copies of the reports to the department, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each year.

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

397.6971 Early release from involuntary services.—

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

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

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

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

1. Such inability no longer exists; or

2. It is evident that further treatment will not bring about further significant improvements in the individual's condition.

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

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

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

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

397.6975 Extension of involuntary treatment services period.—

(1) Whenever a service provider believes that an individual who is nearing the scheduled date of his or her release from involuntary treatment services continues to meet the criteria for involuntary services in s. 397.68111 or s. 397.6957 s. 397.693, a petition for renewal of the involuntary treatment services order must ~~may~~ be filed with the court at least 10 days before the expiration of the court-ordered services period. The petition may be filed by the service provider or by the person who filed the petition for the initial treatment order if the petition is accompanied by supporting documentation from the service provider. The court shall immediately schedule a hearing within 10 court working days to be held not more than 15 days after filing of the petition and; the court shall provide the copy of the petition for renewal and the notice of the hearing to all parties and counsel to the proceeding. The hearing is conducted pursuant to ss. 397.6957 and 397.697 and must be held before the circuit court unless referred to a magistrate s. 397.6957.

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

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

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

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

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

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

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

397.6977 Disposition of individual upon completion of involuntary services.—

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

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

(a) Follow-up behavioral health appointments.

(b) Information on how to obtain prescribed medications.

(c) Information pertaining to available living arrangements and transportation.

(d) Referral to recovery support opportunities, including, but not limited to, connection to a peer specialist.

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

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

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

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

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

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

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

Section 46. Section (2) of section 916.13, Florida Statutes, is amended to read:

916.13 Involuntary commitment of defendant adjudicated incompetent.

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

(a) Immediately after receipt of a completed copy of the court commitment order containing all documentation required by the applicable Florida Rules of Criminal Procedure, the department shall request all medical information relating to the defendant from the jail. The jail shall provide the department with all medical information relating to the defendant within 3 business days after receipt of the department's request or at the time the defendant enters the physical custody of the department, whichever is earlier.

(b) Within 60 days after the date of admission and at the end of any period of extended commitment, or at any time the administrator or his or her designee determines that the defendant has regained competency to proceed or no longer meets the criteria for continued commitment, the administrator or designee shall file a report with the court pursuant to the applicable Florida Rules of Criminal Procedure.

(c)1. If the department determines at any time that a defendant will not or is unlikely to regain competency to proceed, the department shall, within 30 days after the determination, complete and submit a competency evaluation report to the circuit court to determine if the defendant meets the criteria for involuntary civil commitment under s. 394.467. A qualified professional, as defined in s. 394.455, must sign the competency evaluation report for the circuit court under penalty of perjury. A copy of the report shall be provided, at a minimum, to the court, state attorney, and counsel for the defendant before initiating any transfer of the defendant back to the committing jurisdiction.

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

- a. A description of mental, emotional, and behavioral disturbances.
- b. An explanation to support the opinion of incompetence to proceed.
- c. The rationale to support why the defendant is unlikely to gain competence to proceed in the foreseeable future.

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

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

(d)(e) The defendant must be transported, in accordance with s. 916.107, to the committing court's jurisdiction within 7 days after ~~of~~ notification that the defendant is competent to proceed or no longer meets the criteria for continued commitment. A determination on the issue of competency must be made at a hearing within 30 days of the notification. If the defendant is receiving psychotropic medication at a mental health facility at the time he or she is discharged and transferred to the jail, the administering of such medication must continue unless the jail physician documents the need to change or discontinue it. To ensure continuity of care, the referring mental health facility must transfer the patient with up to 30 days of medications and assist in discharge planning with medical teams at the receiving county jail. The jail and department physicians shall collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings; however, the final authority regarding the administering of medication to an inmate in jail rests with the jail physician. Notwithstanding this paragraph, a defendant who meets the criteria for involuntary examination pursuant to s. 394.463 as determined by an independent clinical opinion shall appear remotely for the hearing. Court witnesses may appear remotely.

Section 47. Subsection (6) of section 40.29, Florida Statutes, is amended to read:

40.29 Payment of due-process costs; reimbursement for petitions and orders.—

(6) Subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Justice Administrative Commission a certified request for reimbursement for petitions and orders filed under ss. 394.459, 394.463, 394.467, and 394.917, ~~and 397.6814,~~ at the rate of \$40 per petition or order. Such request for reimbursement shall be submitted in the form and manner prescribed by the Justice Administrative Commission pursuant to s. 28.35(2)(i).

Section 48. Subsection (23) of section 394.455, Florida Statutes, is amended to read:

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

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

Section 49. Paragraph (b) of subsection (1) of section 409.972, Florida Statutes, is amended to read:

409.972 Mandatory and voluntary enrollment.—

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

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

Section 50. Paragraph (e) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

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

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

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

Section 51. Subsection (7) of section 744.2007, Florida Statutes, is amended to read:

744.2007 Powers and duties.—

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

Section 52. Subsection (3) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.—

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

(a) A forensic client shall be asked to give express and informed written consent for treatment. If a client refuses such treatment as is deemed necessary and essential by the client’s multidisciplinary treatment team for the appropriate care of the client, such treatment may be provided under the following circumstances:

1. In an emergency situation in which there is immediate danger to the safety of the client or others, such treatment may be provided upon the ~~written~~ order of a physician for up to 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the client has not given express and informed consent to the treatment initially refused, the administrator or

designee of the civil or forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, the need for treatment shall be reviewed every 48 hours and may be continued without the consent of the client upon the continued ~~written~~ order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

2. In a situation other than an emergency situation, the administrator or designee of the facility shall petition the court for an order authorizing necessary and essential treatment for the client.

a. If the client has been receiving psychotropic medication at the jail at the time of transfer to the forensic or civil facility and lacks the capacity to make an informed decision regarding mental health treatment at the time of admission, the admitting physician shall order continued administration of psychotropic medication if, in the clinical judgment of the physician, abrupt cessation of that psychotropic medication could pose a risk to the health or safety of the client while a court order to medicate is pursued. The administrator or designee of the forensic or civil facility shall, within 5 days after a client's admission, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of a client with psychotropic medication. The jail physician shall provide a current psychotropic medication order at the time of transfer to the forensic or civil facility or upon request of the admitting physician after the client is evaluated.

b. The court order shall allow such treatment for up to 90 days after the date that the order was entered. Unless the court is notified in writing that the client has provided express and informed written consent or that the client has been discharged by the committing court, the administrator or designee of the facility shall, before the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for an additional 90 days. This procedure shall be repeated until the client provides consent or is discharged by the committing court.

3. At the hearing on the issue of whether the court should enter an order authorizing treatment for which a client was unable to or refused to give express and informed consent, the court shall determine by clear and convincing evidence that the client has mental illness, intellectual disability, or autism, that the treatment not consented to is essential to the care of the client, and that the treatment not consented to is not experimental and does not present 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 factors:

a. The client's expressed preference regarding treatment;

- b. The probability of adverse side effects;
- c. The prognosis without treatment; and
- d. The prognosis with treatment.

The hearing shall be as convenient to the client as may be consistent with orderly procedure and shall be conducted in physical settings not likely to be injurious to the client's condition. The court may appoint a general or special magistrate to preside at the hearing. The client or the client's guardian, and the representative, shall be provided with a copy of the petition and the date, time, and location of the hearing. The client has the right to have an attorney represent him or her at the hearing, and, if the client is indigent, the court shall appoint the office of the public defender to represent the client at the hearing. The client may testify or not, as he or she chooses, and has the right to cross-examine witnesses and may present his or her own witnesses.

(b) In addition to the provisions of paragraph (a), in the case of surgical procedures requiring the use of a general anesthetic or electroconvulsive treatment or nonpsychiatric medical procedures, and prior to performing the procedure, written permission shall be obtained from the client, if the client is legally competent, from the parent or guardian of a minor client, or from the guardian of an incompetent client. The administrator or designee of the forensic facility or a designated representative may, with the concurrence of the client's attending physician, authorize emergency surgical or nonpsychiatric medical treatment if such treatment is deemed lifesaving or for a situation threatening serious bodily harm to the client and permission of the client or the client's guardian could not be obtained before provision of the needed treatment.

Section 53. For the 2024-2025 fiscal year, the sum of \$50,000,000 of recurring funds from the General Revenue Fund are provided to the Department of Children and Families to implement the provisions of this act.

Section 54. This act shall take effect July 1, 2024.

Approved by the Governor June 14, 2024.

Filed in Office Secretary of State June 14, 2024.