

PCB HCC 08-26

Redraft - A

YEAR

1 A bill to be entitled
 2 An act relating to mental health and substance abuse;
 3 amending s. 394.4572, F.S.; revising provisions relating
 4 to employment screening requirements for mental health
 5 personnel; revising the definition of the term "mental
 6 health personnel"; removing an exemption from screening
 7 requirements for certain mental health personnel; creating
 8 s. 394.4996, F.S.; authorizing the Agency for Health Care
 9 Administration, in consultation with the Department of
 10 Children and Family Services, to establish a licensure
 11 category for facilities providing integrated adult mental
 12 health crisis stabilization unit and addictions receiving
 13 facility services; authorizing such facilities to provide
 14 integrated mental health and substance abuse services to
 15 adults who meet certain criteria; providing for standards,
 16 procedures, and requirements for services; providing
 17 rulemaking authority; amending s. 394.655, F.S.; revises
 18 purpose of the Criminal Justice, Mental Health, and
 19 Substance Abuse Policy Council; amending s. 394.656, F.S.;
 20 requiring the department and the agency to develop local
 21 treatment and service delivery infrastructures in
 22 coordination with counties receiving grants under the
 23 Criminal Justice, Mental Health, and Substance Abuse
 24 Reinvestment Grant Program; amending s. 394.657, F.S.;
 25 providing additional duties of certain county planning
 26 councils and committees; amending s. 394.659, F.S.;
 27 providing additional duties of the Criminal Justice,
 28 Mental Health, and Substance Abuse Technical Assistance

PCB HCC 08-26

Redraft - A

YEAR

29 Center; requiring an annual report; amending s. 394.67,
 30 F.S.; revising the definition of the term "residential
 31 treatment center for children and adolescents"; providing
 32 for such centers to be licensed by the agency; amending s.
 33 394.674, F.S.; revising eligibility requirements for
 34 substance abuse and mental health services funded by the
 35 department; providing rulemaking authority; creating s.
 36 394.9086, F.S.; creating the "Community Mental Health and
 37 Substance Abuse Treatment and Crime Reduction Act";
 38 providing goals; providing definitions; creating a
 39 community mental health and substance abuse treatment
 40 forensic treatment system; providing criteria for
 41 eligibility; providing responsibilities of the department;
 42 establishing demonstration sites amending s. 409.906,
 43 F.S.; authorizing the agency to seek federal approval to
 44 implement home and community-based services; amending s.
 45 553.80, F.S.; providing for enforcement of the Florida
 46 Building Code construction regulations for secure mental
 47 health treatment facilities by the department; amending s.
 48 916.111, F.S.; revising provisions governing the training
 49 of mental health experts; requiring forensic evaluator
 50 training courses to be offered annually; providing
 51 requirements for being placed on or removed from the
 52 department's forensic evaluator registry; amending s.
 53 916.115, F.S.; revising provisions relating to appointment
 54 of experts by the court to evaluate the mental condition
 55 of a criminal defendant; requiring experts to complete
 56 forensic evaluator training within a specified period of

PCB HCC 08-26

Redraft - A

YEAR

57 | time to remain on the department's registry; providing
 58 | conditions under which certain persons may assist in
 59 | forensic evaluations; amending s. 916.13, F.S.; creating
 60 | an exception to involuntary commitment for defendants
 61 | adjudicated incompetent in the custody of the Department
 62 | of Corrections; providing duties of the department
 63 | relating to treatment for defendants adjudicated
 64 | incompetent to proceed due to mental illness; revising
 65 | duties of the department and the court; specifying
 66 | timeframes for the filing of reports, the commitment and
 67 | placement of defendants, and the holding of hearings;
 68 | amending s. 916.15, F.S.; creating an exception for the
 69 | involuntary commitment of defendants adjudicated not
 70 | guilty by reason of insanity in the custody of the
 71 | Department of Corrections; revising duties of the
 72 | department and the court; specifying timeframes for the
 73 | filing of reports, the commitment and placement of
 74 | defendants, and the holding of hearings; amending s.
 75 | 916.17, F.S.; providing conditions for placement of a
 76 | defendant in a community residential facility in a
 77 | demonstration area established under the act under certain
 78 | circumstances; providing criteria for such placement;
 79 | providing an effective date.

80 |
 81 | Be It Enacted by the Legislature of the State of Florida:
 82 |

83 | Section 1. Paragraph (d) of subsection (1) of section
 84 | 394.4572, Florida Statutes, is redesignated as paragraph (c),

PCB HCC 08-26

Redraft - A

YEAR

85 and present paragraphs (a) and (c) of that subsection are
 86 amended to read:

87 394.4572 Screening of mental health personnel.--

88 (1)(a) The department and the Agency for Health Care
 89 Administration shall require employment screening for mental
 90 health personnel using the standards for level 2 screening set
 91 forth in chapter 435. "Mental health personnel" includes all
 92 program directors, professional clinicians, staff members, and
 93 volunteers working in public or private mental health programs
 94 and facilities who have direct contact with ~~unmarried~~ patients
 95 ~~under the age of 18 years~~. For purposes of this chapter,
 96 employment screening of mental health personnel shall also
 97 include, but is not limited to, employment screening as provided
 98 under chapter 435.

99 ~~(c) Mental health personnel working in a facility licensed~~
 100 ~~under chapter 395 who have less than 15 hours per week of direct~~
 101 ~~contact with patients or who are health care professionals~~
 102 ~~licensed by the Agency for Health Care Administration or a board~~
 103 ~~thereunder are exempt from the fingerprinting and screening~~
 104 ~~requirements, except for persons working in mental health~~
 105 ~~facilities where the primary purpose of the facility is the~~
 106 ~~treatment of minors.~~

107 Section 2. Section 394.4996, Florida Statutes, is created
 108 to read:

109 394.4996 Integrated adult mental health crisis
 110 stabilization unit and addictions receiving facility services.--

111 (1) Beginning July 1, 2008, the Agency for Health Care
 112 Administration, in consultation with the Department of Children

PCB HCC 08-26

Redraft - A

YEAR

113 and Family Services, is authorized to license facilities that
 114 integrate services provided in an adult mental health crisis
 115 stabilization unit with services provided in an adult addictions
 116 receiving facility. The services provided shall be designated as
 117 "integrated adult mental health crisis stabilization unit and
 118 addictions receiving facility services," and the facility
 119 providing those services shall be licensed as an adult crisis
 120 stabilization unit by the agency and shall meet all licensure
 121 requirements for crisis stabilization units that provide these
 122 integrated services.

123 (2) An integrated adult mental health crisis stabilization
 124 unit and addictions receiving facility may provide services
 125 under this section to adults 18 years of age or older who:

126 (a) Meet the requirements for voluntary admission for
 127 mental health treatment under s. 394.4625;

128 (b) Meet the criteria for involuntary examination for
 129 mental illness under s. 394.463;

130 (c) Qualify for voluntary admission for substance abuse
 131 treatment under s. 397.601; or

132 (d) Meet the criteria for involuntary admission for
 133 substance abuse impairment under s. 397.675.

134 (3) The department, in consultation with the agency, shall
 135 adopt by rule standards that address eligibility criteria;
 136 clinical procedures; staffing requirements; operational,
 137 administrative, and financing requirements; and the
 138 investigation of complaints. Standards that are implemented
 139 specific to substance abuse treatment services shall meet or
 140 exceed existing standards, in accordance with rule 65D-30.005,

PCB HCC 08-26

Redraft - A

YEAR

141 Florida Administrative Code, for addictions receiving
 142 facilities.

143 Section 3. Paragraph (b) of subsection (11) of section
 144 394.655, Florida Statutes, is amended to read:

145 394.655 The Substance Abuse and Mental Health Corporation;
 146 powers and duties; composition; evaluation and reporting
 147 requirements.--

148 (11)

149 (b) The purpose of the council shall be to:

150 1. Align policy initiatives in the criminal justice,
 151 juvenile justice, and mental health systems to ensure the most
 152 effective use of resources and to coordinate the development of
 153 legislative proposals and budget requests relating to the shared
 154 needs of adults and juveniles who have a mental illness,
 155 substance abuse disorder, or co-occurring mental health and
 156 substance abuse disorders who are in, or at risk of entering,
 157 the criminal justice system.

158 2. Provide consultation in the development of
 159 comprehensive and cost-effective community-based mental health
 160 and substance abuse treatment services for individuals with
 161 mental illnesses receiving services in forensic facilities,
 162 prisons, jails, and juvenile justice centers. The council will
 163 appoint an advisory committee to review and monitor the
 164 implementation of the Community Mental Health and Substance
 165 Abuse Treatment and Crime Reduction Act. The advisory committee
 166 shall include at least one person who has received services and
 167 one family member of a person receiving services under the act.

PCB HCC 08-26

Redraft - A

YEAR

168 Section 4. Subsection (1) of section 394.656, Florida
 169 Statutes, is amended to read:

170 394.656 Criminal Justice, Mental Health, and Substance
 171 Abuse Reinvestment Grant Program.--

172 (1) There is created within the Department of Children and
 173 Family Services the Criminal Justice, Mental Health, and
 174 Substance Abuse Reinvestment Grant Program. The purpose of the
 175 program is to provide funding to counties with which they can
 176 plan, implement, or expand initiatives that increase public
 177 safety, avert increased spending on criminal justice, and
 178 improve the accessibility and effectiveness of treatment
 179 services for adults and juveniles who have a mental illness,
 180 substance abuse disorder, or co-occurring mental health and
 181 substance abuse disorders and who are in, or at risk of
 182 entering, the criminal or juvenile justice systems. In
 183 implementing the Community Mental Health and Substance Abuse
 184 Treatment and Crime Reduction Act, the department and the agency
 185 shall work in coordination with counties that received grants
 186 under the Criminal Justice, Mental Health, and Substance Abuse
 187 Reinvestment Grant Program pursuant to s. 394.656 to develop
 188 local treatment and service delivery infrastructures.

189 Section 5. Subsection (1) of section 394.657, Florida
 190 Statutes, is amended to read:

191 394.657 County planning councils or committees.--

192 (1) Each board of county commissioners shall designate the
 193 county public safety coordinating council established under s.
 194 951.26, or designate another criminal or juvenile justice mental
 195 health and substance abuse council or committee, as the planning

PCB HCC 08-26

Redraft - A

YEAR

196 council or committee. The public safety coordinating council or
 197 other designated criminal or juvenile justice mental health and
 198 substance abuse council or committee shall:

199 (a) Coordinate, ~~in coordination with~~ the county offices of
 200 planning and budget and, ~~shall~~ make a formal recommendation to
 201 the board of county commissioners regarding how the Criminal
 202 Justice, Mental Health, and Substance Abuse Reinvestment Grant
 203 Program may best be implemented within a community. The board of
 204 county commissioners may assign any entity to prepare the
 205 application on behalf of the county administration for
 206 submission to the corporation for review. A county may join with
 207 one or more counties to form a consortium and use a regional
 208 public safety coordinating council or another county-designated
 209 regional criminal or juvenile justice mental health and
 210 substance abuse planning council or committee for the geographic
 211 area represented by the member counties.

212 (b) Provide consultation regarding the planning and
 213 implementation of the Community Mental Health and Substance
 214 Abuse Treatment and Crime Reduction Act by the local governing
 215 bodies.

216 Section 6. Paragraphs (g), (h), (i), and (j) are added to
 217 subsection (1) of section 394.659, Florida Statutes, to read:

218 394.659 Criminal Justice, Mental Health, and Substance
 219 Abuse Technical Assistance Center.--

220 (1) There is created a Criminal Justice, Mental Health,
 221 and Substance Abuse Technical Assistance Center at the Louis de
 222 la Parte Florida Mental Health Institute at the University of
 223 South Florida, which shall:

PCB HCC 08-26

Redraft - A

YEAR

224 (g) In coordination with the department, develop minimum
 225 competencies and proficiencies required for communities and
 226 service providers.

227 (h) Identify evidence-based practices and deliver
 228 necessary training and consultation to service providers.

229 (i) Assist the department with the development of outcome
 230 measures.

231 (j) Provide an annual report to the Governor, the
 232 President of the Senate, the Speaker of the House of
 233 Representatives, the Chief Justice of the Florida Supreme Court,
 234 and the State Courts Administrator on the status of the
 235 implementation of the Community Mental Health and Substance
 236 Abuse Treatment and Crime Reduction Act. For those areas that
 237 also have a grant under s. 394.656, the institute shall prepare
 238 a joint report to avoid duplication.

239 Section 7. Subsection (21) of section 394.67, Florida
 240 Statutes, is amended to read:

241 394.67 Definitions.--As used in this part, the term:

242 (21) "Residential treatment center for children and
 243 adolescents" means a 24-hour residential program, including a
 244 therapeutic group home, which provides mental health services to
 245 emotionally disturbed children or adolescents as defined in s.
 246 394.492(5) or (6) and which is a private for-profit or not-for-
 247 profit corporation licensed by the agency ~~under contract with~~
 248 ~~the department~~ which offers a variety of treatment modalities in
 249 a more restrictive setting.

250 Section 8. Subsections (1) and (4) of section 394.674,
 251 Florida Statutes, are amended to read:

PCB HCC 08-26

Redraft - A

YEAR

252 394.674 Client ~~Clinical~~ eligibility for publicly funded
 253 substance abuse and mental health services; fee collection
 254 requirements.--

255 (1) To be eligible to receive substance abuse and mental
 256 health services funded by the department, a person must be a
 257 member of one of the department's priority populations ~~target~~
 258 ~~groups~~ approved by the Legislature, ~~pursuant to s. 216.0166.~~ The
 259 priority populations include:

260 (a) For adult mental health services:

261 1. Adults who have severe and persistent mental illness,
 262 as designated by the department using criteria that include
 263 severity of diagnosis, duration of the mental illness, ability
 264 to independently perform activities of daily living, and receipt
 265 of disability income for a psychiatric condition. Within this
 266 group priority populations include:

- 267 a. Older adults in crisis.
- 268 b. Older adults who are at risk of being placed in a more
 269 restrictive environment because of their mental illness.
- 270 c. Persons deemed incompetent to proceed or not guilty by
 271 reason of insanity under chapter 916.
- 272 d. Other persons involved in the criminal justice system.
- 273 e. Persons dually diagnosed as having co-occurring mental
 274 health and substance abuse disorders.

275 2. Adults experiencing an acute mental or emotional crisis
 276 as defined in s. 394.67(17).

277 (b) For children's mental health services:

- 278 1. Children who have a serious emotional disturbance.
- 279 2. Children who have an emotional disturbance.

PCB HCC 08-26

Redraft - A

YEAR

280 3. Children who are at risk of emotional disturbance.
 281 (c) For substance abuse services:
 282 1. Adults who have substance abuse disorders and have a
 283 history of intravenous drug use.
 284 2. Persons dually diagnosed as having co-occurring mental
 285 health and substance abuse disorders.
 286 3. Parents who put children at risk due to a substance
 287 abuse disorder.
 288 4. Persons who have a substance abuse disorder and have
 289 been ordered by the court to receive treatment.
 290 5. Children at risk for initiating drug use.
 291 6. Children under state supervision.
 292 7. Children who have a substance abuse disorder but are
 293 not under the supervision of a court or in the custody of a
 294 state agency.
 295 8. Persons identified as a priority population as a
 296 condition for receiving services funded through the Substance
 297 Abuse Prevention and Treatment Block Grant.
 298 (4) The department shall adopt rules to implement client
 299 ~~the clinical~~ eligibility, client enrollment, and fee collection
 300 requirements for publicly funded substance abuse and mental
 301 health services. The rules must require ~~that~~ each provider under
 302 contract with the department that enrolls eligible persons into
 303 treatment to develop a sliding fee scale for persons who have a
 304 net family income at or above 150 percent of the Federal Poverty
 305 Income Guidelines, unless otherwise required by state or federal
 306 law. The sliding fee scale must use the uniform schedule of
 307 discounts by which a provider under contract with the department

PCB HCC 08-26

Redraft - A

YEAR

308 discounts its established client charges for services supported
 309 with state, federal, or local funds, using, at a minimum,
 310 factors such as family income, financial assets, and family size
 311 as declared by the person or the person's guardian. The rules
 312 must include uniform criteria to be used by all service
 313 providers in developing the schedule of discounts for the
 314 sliding fee scale. The rules must address the most expensive
 315 types of treatment, such as residential and inpatient treatment,
 316 in order to make it possible for a client to responsibly
 317 contribute to his or her mental health or substance abuse care
 318 without jeopardizing the family's financial stability. A person
 319 who is not eligible for Medicaid and whose net family income is
 320 less than 150 percent of the Federal Poverty Income Guidelines
 321 must pay a portion of his or her treatment costs which is
 322 comparable to the copayment amount required by the Medicaid
 323 program for Medicaid clients pursuant to s. 409.9081. The rules
 324 must require that persons who receive financial assistance from
 325 the Federal Government because of a disability and are in long-
 326 term residential treatment settings contribute to their board
 327 and care costs and treatment costs and must be consistent with
 328 the provisions in s. 409.212.

329 Section 9. Section 394.9086, Florida Statutes, is created
 330 to read:

331 394.9086 Community Mental Health and Substance Abuse
 332 Treatment and Crime Reduction Act.--

333 (1) This act may be cited as the "Community Mental Health
 334 and Substance Abuse Treatment and Crime Reduction Act."

PCB HCC 08-26

Redraft - A

YEAR

335 (2) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
 336 finds that many inmates with serious mental illnesses who are
 337 committed to state forensic mental health treatment facilities
 338 for competency restoration could be served effectively and at
 339 less cost in community-based alternative programs. The
 340 Legislature further finds that many individuals with serious
 341 mental illnesses who have been discharged from state forensic
 342 mental health treatment facilities could avoid returning to the
 343 criminal justice and forensic mental health system if they
 344 received specialized treatment in the community. It is therefore
 345 the intent of the Legislature to create the Community Mental
 346 Health and Substance Abuse Forensic Treatment System to serve
 347 individuals with mental illnesses or co-occurring mental health
 348 and substance abuse disorders who are involved in or at risk of
 349 entering forensic facilities, prisons, jails, juvenile justice
 350 centers, and civil treatment facilities.

351 (3) GOALS.--The goals of the community mental health and
 352 substance abuse forensic treatment system are to:

353 (a) Ensure that forensic competency restoration services
 354 are provided in the least restrictive, least costly, and most
 355 efficient environment.

356 (b) Provide competency restoration services in the
 357 community, when appropriate, based on consideration of public
 358 safety, needs of the individual, and available resources.

359 (c) Reduce admissions for competency restoration to state
 360 forensic mental health treatment facilities.

361 (d) Reduce rates of arrest, incarceration, and recidivism
 362 for individuals in the program.

PCB HCC 08-26

Redraft - A

YEAR

- 363 (e) Ensure public safety.
- 364 (f) Increase outreach and services to individuals at risk
 365 of criminal justice system, juvenile justice system, and
 366 forensic mental health system involvement.
- 367 (g) Support collaboration among local law enforcement,
 368 judicial, and correctional system stakeholders to implement
 369 diversion and problem-solving strategies to reduce the demand
 370 for forensic mental health placements.
- 371 (4) DEFINITIONS.--
- 372 (a) "Agency" means the Agency for Health Care
 373 Administration.
- 374 (b) "Community residential facility" means a community-
 375 based residential treatment setting licensed by the agency under
 376 s. 394.875 or s. 429.075 or licensed by the department under s.
 377 397.401.
- 378 (c) "Department" means the Department of Children and
 379 Family Services.
- 380 (d) "Evidence-based practices" means interventions and
 381 strategies that, based on the best available empirical research,
 382 demonstrate effective and efficient outcomes in the care and
 383 treatment of individuals diagnosed with mental illnesses or co-
 384 occurring mental health and substance abuse disorders.
- 385 (e) "Forensic intensive care management" means activities
 386 that address the comprehensive psychiatric, social, and support
 387 needs of individuals diagnosed with serious and persistent
 388 mental illnesses or severe emotional disturbances who are
 389 involved in the justice system and receive services under this
 390 section. Activities include, but are not limited to, service

PCB HCC 08-26

Redraft - A

YEAR

391 planning, service coordination, monitoring, and assistance with
 392 accessing federal, state, and local benefits necessary to
 393 sustain an individual in the community.

394 (f) "Forensic treatment system" means a community mental
 395 health and substance abuse forensic treatment system that
 396 includes the comprehensive set of services and supports provided
 397 to individuals under this section.

398 (g) "Geographic area" means a county, circuit, regional,
 399 or multiregional area in the state.

400 (5) COMMUNITY MENTAL HEALTH AND SUBSTANCE ABUSE FORENSIC
 401 TREATMENT SYSTEM.--The department, in consultation with the
 402 agency, shall develop and implement a community mental health
 403 and substance abuse forensic treatment system. The forensic
 404 system shall build on the local community diversion and re-entry
 405 initiatives and strategies that are consistent with those
 406 identified and supported under s. 394.658(1)(b).

407 (a) The forensic system initiatives and strategies may
 408 include, but are not limited to:

- 409 1. Mental health courts;
- 410 2. Diversion programs;
- 411 3. Alternative prosecution and sentencing techniques;
- 412 4. Crisis intervention teams;
- 413 5. Treatment accountability services;
- 414 6. Specialized training for criminal justice, juvenile
 415 justice, and treatment services professionals;
- 416 7. Specialized probation officers at the state and county
 417 levels to serve individuals under correctional control in the
 418 community;

419 8. Collateral services such as housing, transitional
 420 housing, and supported employment; and
 421 9. Reentry services to create or expand mental health and
 422 substance abuse treatment and supports for affected individuals.
 423 (b) The forensic system must include a comprehensive
 424 continuum of care and services that use evidence-based practices
 425 to address co-occurring mental health and substance abuse
 426 disorders. The forensic system must include the following
 427 minimum elements:
 428 1. Competency restoration and treatment services provided
 429 in a variety of settings from least restrictive to progressively
 430 more restrictive settings;
 431 2. Forensic intensive care management;
 432 3. Supported housing;
 433 4. Supported employment;
 434 5. Medication management;
 435 6. Trauma-specific services for treatment of the effects
 436 of sexual, physical, and emotional abuse or trauma experienced
 437 by individuals with mental illnesses involved in the criminal
 438 justice system. These services may include behavioral therapies,
 439 desensitization therapies, grounding techniques, and other
 440 services;
 441 7. Residential services to address crisis episodes and
 442 short-term residential treatment. In addition, alternate models
 443 for services in crisis stabilization units or short-term
 444 residential treatment facilities may be used that provide care
 445 in a less restrictive setting and at lower cost;

PCB HCC 08-26

Redraft - A

YEAR

446 8. Treatment for co-occurring mental health and substance
 447 abuse disorders; and

448 9. Other services or supports identified by the department
 449 working with the agency, the Substance Abuse and Mental Health
 450 Corporation, and local governing bodies.

451 (6) ELIGIBILITY.--The department may serve individuals who
 452 meet the criteria in paragraphs (a)-(c). The department shall
 453 give highest priority for services provided under this section
 454 to the following in rank order:

455 (a) Adults who are adjudicated incompetent to proceed or
 456 not guilty by reason of insanity under chapter 916, who have
 457 been ordered by the court into forensic commitment, whose
 458 current most serious charge is a third degree or nonviolent
 459 second degree felony, and who meet public safety criteria
 460 established by the court and treatability criteria established
 461 by the department for placement in a community setting.

462 (b) Adults who have been found competent to proceed and
 463 discharged into the community from a state forensic mental
 464 health treatment facility.

465 (c) Adults who experience serious and persistent mental
 466 illnesses who are at risk of entering or who are already
 467 involved with the criminal justice system as evidenced by their
 468 frequency of contact with the system.

469 (7) DEPARTMENT RESPONSIBILITIES.--The department shall
 470 develop a continuum of services to implement the community
 471 mental health and substance abuse forensic treatment system in
 472 accordance with subsection (5). The department shall:

473 (a) Establish standards for all providers, including, but
 474 not limited to, community-based providers that administer
 475 competency restoration services in a community residential
 476 facility or a less restrictive setting.

477 (b) Define requirements for all providers in the forensic
 478 system and set ongoing performance expectations.

479 (c) Select demonstration sites for participation based on
 480 the criteria in subsection (8) that demonstrate active and
 481 sustained participation in and collaboration with the community.

482 (d) Enter into memorandums of agreement with county
 483 planning councils or committees identified in s. 394.657 that
 484 are included in the demonstration sites.

485 (e) Identify providers to implement the continuum of
 486 services. The department shall consult with county planning
 487 councils or committees when selecting providers.

488 (f) Enter into contracts with appropriate providers.

489 (g) Establish performance measures and reporting
 490 requirements for providers participating in the forensic system.
 491 The measures shall include, at a minimum:

492 1. Number of individuals diverted from state forensic
 493 facilities;

494 2. Number of individuals diverted from the criminal
 495 justice system;

496 3. Rates of arrest, incarceration, and recidivism for new
 497 criminal offenses;

498 4. Rates of employment;

499 5. Number of days in jails, prisons, and forensic
 500 facilities on an annual basis; and

501 6. Satisfaction of key community stakeholder participants
 502 and local partners with the initiative, including, at a minimum,
 503 input from individuals who have received services under this
 504 section and family members of individuals receiving services
 505 under this section, county planning councils or committees, and
 506 participating providers.

507 (h) Monitor contracts for compliance with terms and, at
 508 least annually, to the extent possible, perform joint onsite
 509 monitoring with the agency, the Substance Abuse and Mental
 510 Health Corporation, and the Criminal Justice, Mental Health, and
 511 Substance Abuse Technical Assistance Center established under s.
 512 394.659 to assess performance as evidenced by the quality,
 513 efficiency, and effectiveness of the care provided.

514 (8) DEMONSTRATION SITES.--The department in consultation
 515 with the agency shall identify up to three geographic areas of
 516 the state for initial implementation of this act.

517 (a) In at least one area, the department shall establish a
 518 single point of accountability for the forensic system and, if
 519 feasible, contract with a managing entity as defined in s.
 520 394.9082 to provide operational oversight of subcontractors and
 521 daily operations. Payment for these services shall be based on a
 522 prepaid capitation rate.

523 (b) All areas shall be selected based on a determination
 524 of community readiness and the potential for impacting the
 525 greatest number of individuals entering the forensic mental
 526 health and criminal justice systems. Criteria for selection may
 527 include:

528 1. Community readiness to deliver services as outlined in
 529 subsection (5) and demonstrated by well-established community
 530 collaboration plans and local partnerships as evidenced by
 531 memorandums of agreement that are submitted to and approved by
 532 the department;

533 2. A high forensic bed utilization rate in the state
 534 mental health treatment facilities;

535 3. Successful application for implementation grant funding
 536 under s. 394.656, the Criminal Justice, Mental Health, and
 537 Substance Abuse Reinvestment Grant Program; and

538 4. Other elements determined by the department in
 539 consultation with the agency.

540 Section 10. Subsection (26) is added to section 409.906,
 541 Florida Statutes, to read:

542 409.906 Optional Medicaid services.--Subject to specific
 543 appropriations, the agency may make payments for services which
 544 are optional to the state under Title XIX of the Social Security
 545 Act and are furnished by Medicaid providers to recipients who
 546 are determined to be eligible on the dates on which the services
 547 were provided. Any optional service that is provided shall be
 548 provided only when medically necessary and in accordance with
 549 state and federal law. Optional services rendered by providers
 550 in mobile units to Medicaid recipients may be restricted or
 551 prohibited by the agency. Nothing in this section shall be
 552 construed to prevent or limit the agency from adjusting fees,
 553 reimbursement rates, lengths of stay, number of visits, or
 554 number of services, or making any other adjustments necessary to
 555 comply with the availability of moneys and any limitations or

PCB HCC 08-26

Redraft - A

YEAR

556 | directions provided for in the General Appropriations Act or
 557 | chapter 216. If necessary to safeguard the state's systems of
 558 | providing services to elderly and disabled persons and subject
 559 | to the notice and review provisions of s. 216.177, the Governor
 560 | may direct the Agency for Health Care Administration to amend
 561 | the Medicaid state plan to delete the optional Medicaid service
 562 | known as "Intermediate Care Facilities for the Developmentally
 563 | Disabled." Optional services may include:

564 | (26) HOME AND COMMUNITY-BASED MENTAL HEALTH SERVICES.--The
 565 | agency is authorized to seek federal approval through a state
 566 | plan amendment to implement home and community-based services
 567 | under the authority of and in compliance with s. 1915(i) of the
 568 | Social Security Act for services for individuals who have been
 569 | determined by an independent evaluation to have disabilities
 570 | that cause them to become, or put them at risk of becoming,
 571 | involved with the criminal justice system due to mental illness.
 572 | In accordance with allowances under the authority of s. 1915(i)
 573 | of the Social Security Act, these services may be limited to a
 574 | select number of eligible individuals, in select geographic
 575 | areas as identified by the agency. An eligible individual may
 576 | have an income of up to 150 percent of the federal poverty
 577 | level. The agency shall coordinate with the department to select
 578 | and define the services to be submitted in the state plan
 579 | amendment and provided under this subsection. The agency must
 580 | receive approval from the Legislature or the Legislative Budget
 581 | Commission before implementing the state plan amendment.

582 | Section 11. Subsection (1) of section 553.80, Florida
 583 | Statutes, is amended to read:

PCB HCC 08-26

Redraft - A

YEAR

584 553.80 Enforcement.--

585 (1) Except as provided in paragraphs (a) - (g) ~~(a) - (f)~~, each
 586 local government and each legally constituted enforcement
 587 district with statutory authority shall regulate building
 588 construction and, where authorized in the state agency's
 589 enabling legislation, each state agency shall enforce the
 590 Florida Building Code required by this part on all public or
 591 private buildings, structures, and facilities, unless such
 592 responsibility has been delegated to another unit of government
 593 pursuant to s. 553.79(9).

594 (a) Construction regulations relating to correctional
 595 facilities under the jurisdiction of the Department of
 596 Corrections and the Department of Juvenile Justice shall ~~are to~~
 597 be enforced exclusively by those departments.

598 (b) Construction regulations relating to elevator
 599 equipment under the jurisdiction of the Bureau of Elevators of
 600 the Department of Business and Professional Regulation shall be
 601 enforced exclusively by that department.

602 (c) Construction regulations relating to secure mental
 603 health treatment facilities under the jurisdiction of the
 604 Department of Children and Family Services shall be enforced
 605 exclusively by that department.

606 ~~(d)-(e)~~ In addition to the requirements of s. 553.79 and
 607 this section, facilities subject to the provisions of chapter
 608 395 and part II of chapter 400 shall have facility plans
 609 reviewed and construction surveyed by the state agency
 610 authorized to do so under the requirements of chapter 395 and

PCB HCC 08-26

Redraft - A

YEAR

611 part II of chapter 400 and the certification requirements of the
612 Federal Government.

613 (e)~~(d)~~ Building plans approved under s. 553.77(3) and
614 state-approved manufactured buildings, including buildings
615 manufactured and assembled offsite and not intended for
616 habitation, such as lawn storage buildings and storage sheds,
617 are exempt from local code enforcing agency plan reviews except
618 for provisions of the code relating to erection, assembly, or
619 construction at the site. Erection, assembly, and construction
620 at the site are subject to local permitting and inspections.
621 Lawn storage buildings and storage sheds bearing the insignia of
622 approval of the department are not subject to s. 553.842. Such
623 buildings that do not exceed 400 square feet may be delivered
624 and installed without need of a contractor's or specialty
625 license.

626 (f)~~(e)~~ Construction regulations governing public schools,
627 state universities, and community colleges shall be enforced as
628 provided in subsection (6).

629 (g)~~(f)~~ The Florida Building Code as it pertains to toll
630 collection facilities under the jurisdiction of the turnpike
631 enterprise of the Department of Transportation shall be enforced
632 exclusively by the turnpike enterprise.

633
634 The governing bodies of local governments may provide a schedule
635 of fees, as authorized by s. 125.56(2) or s. 166.222 and this
636 section, for the enforcement of the provisions of this part.
637 Such fees shall be used solely for carrying out the local
638 government's responsibilities in enforcing the Florida Building

PCB HCC 08-26

Redraft - A

YEAR

639 Code. The authority of state enforcing agencies to set fees for
 640 enforcement shall be derived from authority existing on July 1,
 641 1998. However, nothing contained in this subsection shall
 642 operate to limit such agencies from adjusting their fee schedule
 643 in conformance with existing authority.

644 Section 12. Section 916.111, Florida Statutes, is amended
 645 to read:

646 916.111 Training of mental health experts.--The evaluation
 647 of defendants for competency to proceed or for sanity at the
 648 time of the commission of the offense shall be conducted in such
 649 a way as to ensure uniform application of the criteria
 650 enumerated in Rules 3.210 and 3.216, Florida Rules of Criminal
 651 Procedure.

652 (1) A forensic evaluator training course approved by the
 653 department must be offered at least annually to ensure that
 654 mental health experts have the opportunity to qualify to be
 655 placed on the department's forensic evaluator registry.

656 (a) Beginning July 1, 2009, an expert shall remain on the
 657 registry if he or she has completed or retaken the required
 658 training within the previous 5 years. Those who have not
 659 completed the required training within the previous 5 years
 660 shall be removed from the registry and may not conduct
 661 evaluations for the courts.

662 (b) A mental health professional who has completed the
 663 training course within the previous 5 years is responsible for
 664 maintaining documentation of completion of the required training
 665 and providing the department with current contact information
 666 during the 5-year period.

PCB HCC 08-26

Redraft - A

YEAR

667 (2) The department shall develop, and may contract with
668 accredited institutions:

669 ~~(a)(1)~~ To provide:

670 1.~~(a)~~ A plan for training mental health professionals to
671 perform forensic evaluations and to standardize the criteria and
672 procedures to be used in these evaluations;

673 2.~~(b)~~ Clinical protocols and procedures based upon the
674 criteria of Rules 3.210 and 3.216, Florida Rules of Criminal
675 Procedure; and

676 3.~~(e)~~ Training for mental health professionals in the
677 application of these protocols and procedures in performing
678 forensic evaluations and providing reports to the courts; and

679 ~~(b)(2)~~ To compile and maintain the necessary information
680 for evaluating the success of this program, including the number
681 of persons trained, the cost of operating the program, and the
682 effect on the quality of forensic evaluations as measured by
683 appropriateness of admissions to state forensic facilities and
684 to community-based care programs.

685 Section 13. Subsection (1) of section 916.115, Florida
686 Statutes, is amended to read:

687 916.115 Appointment of experts.--

688 (1) The court shall appoint no more than three experts to
689 determine the mental condition of a defendant in a criminal
690 case, including competency to proceed, insanity, involuntary
691 placement, and treatment. The experts may evaluate the defendant
692 in jail or in another appropriate local facility or in a
693 facility of the Department of Corrections.

PCB HCC 08-26

Redraft - A

YEAR

694 (a) ~~To the extent possible, the~~ Appointed experts must
 695 ~~shall~~ have completed forensic evaluator training as provided in
 696 s. 916.111 approved by the department, and each shall be a
 697 psychiatrist, licensed psychologist, or physician.

698 (b) Graduate students completing a practicum or
 699 internship, psychological specialists or counselors, and
 700 postdoctoral fellows at the state's mental health treatment
 701 facilities may assist in the evaluation process as long as their
 702 reports are overseen and signed by a supervising evaluator who
 703 has completed forensic evaluator training within the previous 5
 704 years.

705 (c) ~~(b)~~ The department shall maintain and annually provide
 706 the courts with a forensic evaluator registry list of available
 707 mental health professionals who have completed the approved
 708 training as experts.

709 Section 14. Section 916.13, Florida Statutes, is amended
 710 to read:

711 916.13 Involuntary commitment of defendant adjudicated
 712 incompetent.--

713 (1) Every defendant who is charged with a felony and who
 714 is adjudicated incompetent to proceed, except a defendant who is
 715 -serving a sentence in the custody of the Department of
 716 Corrections, may be involuntarily committed for treatment upon a
 717 finding by the court of clear and convincing evidence that:

718 (a) The defendant has a mental illness and because of the
 719 mental illness:

720 1. The defendant is manifestly incapable of surviving
 721 alone or with the help of willing and responsible family or

PCB HCC 08-26

Redraft - A

YEAR

722 friends, including available alternative services, and, without
 723 treatment, the defendant is likely to suffer from neglect or
 724 refuse to care for herself or himself and such neglect or
 725 refusal poses a real and present threat of substantial harm to
 726 the defendant's well-being; or

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

731 (b) All available, less restrictive treatment
 732 alternatives, including treatment in community residential
 733 facilities or community inpatient or outpatient settings, which
 734 would offer an opportunity for improvement of the defendant's
 735 condition have been judged to be inappropriate; and

736 (c) There is a substantial probability that the mental
 737 illness causing the defendant's incompetence will respond to
 738 treatment and the defendant will regain competency to proceed in
 739 the reasonably foreseeable future.

740 (2) (a) A defendant who has been charged with a felony and
 741 who has been adjudicated incompetent to proceed due to mental
 742 illness, and who meets the criteria for involuntary commitment
 743 to the department under the provisions of this chapter, may be
 744 committed to the department, and the department shall retain and
 745 treat the defendant. No later than 6 months after the date of
 746 admission and at the end of any period of extended commitment,
 747 or at any time the administrator or designee shall have
 748 determined that the defendant has regained competency to proceed
 749 or no longer meets the criteria for continued commitment, the

PCB HCC 08-26

Redraft - A

YEAR

750 administrator or designee shall file a report with the court
 751 pursuant to the applicable Florida Rules of Criminal Procedure.

752 (b) A defendant who is serving a sentence in the custody
 753 of the Department of Corrections and who has been charged with a
 754 new felony, or a defendant who is entitled to a mandatory appeal
 755 pursuant to Rule 3.851, Florida Rules of Criminal Procedure, and
 756 who has been adjudicated incompetent to proceed due to mental
 757 illness shall be retained in the physical custody of the
 758 Department of Corrections, which shall administer a lesson plan
 759 for competency restoration training provided by the department.
 760 No later than 6 months after the date on which the lesson plan
 761 for competency restoration training is provided, and every 12
 762 months thereafter, or at any time the department has determined
 763 that the defendant has regained competency to proceed, the
 764 department shall file a report with the court pursuant to the
 765 applicable Florida Rules of Criminal Procedure.

766 (3) Whether housed in a department facility or a
 767 Department of Corrections facility, within 15 days after the
 768 court receives notification from the department that the
 769 defendant is competent to proceed or no longer meets the
 770 criteria for continued commitment, the defendant shall be
 771 transported back to jail pursuant to s. 916.107(10) for the
 772 purpose of holding a competency hearing.

773 (4) A competency hearing shall be held within 30 days
 774 after a court receives notice from the department that a
 775 defendant is competent to proceed.

776 Section 15. Section 916.15, Florida Statutes, is amended
 777 to read:

PCB HCC 08-26

Redraft - A

YEAR

778 916.15 Involuntary commitment of defendant adjudicated not
779 guilty by reason of insanity.--

780 (1) The determination of whether a defendant is not guilty
781 by reason of insanity shall be determined in accordance with
782 Rule 3.217, Florida Rules of Criminal Procedure.

783 (2) A defendant who is acquitted of criminal charges
784 because of a finding of not guilty by reason of insanity, except
785 a defendant who is serving a sentence in the custody of the
786 Department of Corrections, may be involuntarily committed
787 pursuant to such finding if the defendant has a mental illness
788 and, because of the illness, is manifestly dangerous to himself
789 or herself or others.

790 (3) Every defendant acquitted of criminal charges by
791 reason of insanity and found to meet the criteria for
792 involuntary commitment, except a defendant who is serving a
793 sentence in the custody of the Department of Corrections, may be
794 committed to the department and treated in accordance with the
795 provisions of this section and the applicable Florida Rules of
796 Criminal Procedure. The department shall admit a defendant so
797 adjudicated to an appropriate facility or program for treatment
798 and shall retain and treat such defendant.

799 (a) No later than 6 months after the date of admission,
800 prior to the end of any period of extended commitment, or at any
801 time the administrator or designee shall have determined that
802 the defendant no longer meets the criteria for continued
803 commitment placement, the administrator or designee shall file a
804 report with the court pursuant to the applicable Florida Rules
805 of Criminal Procedure.

PCB HCC 08-26

Redraft - A

YEAR

806 (b) Whether housed in a department facility or a
 807 Department of Corrections facility, within 15 days after the
 808 court receives notification from the department that the
 809 defendant no longer meets the criteria for continued commitment,
 810 the defendant shall be transported back to jail pursuant to s.
 811 916.107(10) for the purpose of holding a competency hearing.

812 (c) A commitment hearing shall be held within 30 days
 813 after the court receives notification from the department that a
 814 defendant no longer meets the criteria for continued commitment
 815 placement.

816 (4) A defendant who is serving a sentence in the custody
 817 of the Department of Corrections and who has been charged with a
 818 new felony and has been adjudicated not guilty by reason of
 819 insanity shall be retained in the physical custody of the
 820 Department of Corrections for the remainder of the defendant's
 821 sentence. No later than 30 days prior to the anticipated release
 822 date, the department shall evaluate the defendant and file a
 823 report with the court requesting that the defendant be returned
 824 to the court's jurisdiction to determine if the defendant
 825 continues to meet the criteria for continued commitment
 826 placement.

827 (5)~~(4)~~ In all proceedings under this section, both the
 828 defendant and the state shall have the right to a hearing before
 829 the committing court. Evidence at such hearing may be presented
 830 by the hospital administrator or the administrator's designee as
 831 well as by the state and the defendant. The defendant shall have
 832 the right to counsel at any such hearing. In the event that a
 833 defendant is determined to be indigent pursuant to s. 27.52, the

PCB HCC 08-26

Redraft - A

YEAR

834 public defender shall represent the defendant. The parties shall
 835 have access to the defendant's records at the treating
 836 facilities and may interview or depose personnel who have had
 837 contact with the defendant at the treating facilities.

838 Section 16. Subsections (2) and (3) of section 916.17,
 839 Florida Statutes, are renumbered as subsections (3) and (4),
 840 respectively, and a new subsection (2) is added to that section
 841 to read:

842 916.17 Conditional release.--

843 (2) A defendant who otherwise meets the criteria for
 844 involuntary commitment under s. 916.13 but whose current most
 845 serious charge is a third degree or nonviolent second degree
 846 felony must be placed in a community residential facility for
 847 competency restoration in demonstration areas established under
 848 the Community Mental Health and Substance Abuse Treatment and
 849 Crime Reduction Act in s. 394.9086, unless bed space or funding
 850 is unavailable for the community placement or the trial court
 851 makes an explicit finding that the defendant cannot be safely
 852 managed in such a placement. In making the determination under
 853 this subsection, the court shall consider all of the following:

854 (a) The nature and seriousness of the crime or crimes
 855 allegedly committed.

856 (b) The individual's criminal history.

857 (c) The individual's psychiatric history.

858 (d) The individual's history of violent behavior or
 859 threats of violent behavior and risk of harm to self or others.

PCB HCC 08-26

Redraft - A

YEAR

860 (e) The likelihood that the individual will comply with
861 and benefit from the mental health treatment and services being
862 recommended.

863 (f) Availability of appropriate community-based services
864 and treatment settings.

865 (g) Other information considered relevant by the court.

866 Section 17. This act shall take effect July 1, 2008.