

26 outpatient services and court proceedings relating to
 27 involuntary outpatient services; amending s. 394.467,
 28 F.S.; providing definitions; revising requirements for
 29 ordering a person for involuntary services and
 30 treatment, petitions for involuntary service,
 31 appointment of counsel, and continuances of hearings,
 32 respectively; revising the conditions under which a
 33 court may waive the requirement for a patient to be
 34 present at an involuntary inpatient placement hearing;
 35 authorizing the court to permit witnesses to attend
 36 and testify remotely at the hearing through specified
 37 means; providing requirements for a witness to attend
 38 and testify remotely; requiring facilities to make
 39 certain clinical records available to a state attorney
 40 within a specified timeframe; specifying that such
 41 records remain confidential and may not be used for
 42 certain purposes; revising the circumstances under
 43 which a court may appoint a magistrate to preside over
 44 certain proceedings; requiring the court to allow
 45 certain testimony from specified persons; revising the
 46 length of time a court may require a patient to
 47 receive services; requiring facilities to discharge
 48 patients when they no longer meet the criteria for
 49 involuntary inpatient treatment; prohibiting courts
 50 from ordering individuals with developmental

51 disabilities to be involuntarily placed in a state
 52 treatment facility; requiring courts to refer such
 53 individuals, and authorizing courts to refer certain
 54 other individuals, to specified agencies for
 55 evaluation and services; providing requirements for
 56 treatment plan modifications, noncompliance with
 57 involuntary outpatient services, and discharge,
 58 respectively; revising requirements for the procedure
 59 for continued involuntary services and return to
 60 facilities, respectively; amending ss. 394.495 and
 61 394.496, F.S.; conforming provisions to changes made
 62 by the act; amending s. 394.9085, F.S.; conforming a
 63 cross-reference to changes made by the act; amending
 64 ss. 409.972, 464.012, and 744.2007, F.S.; conforming
 65 provisions to changes made by the act; providing an
 66 effective date.

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

68
 69 Section 1. Paragraph (d) of subsection (2) of section
 70 394.4599, Florida Statutes, is amended to read:

71 394.4599 Notice.—

72 (2) INVOLUNTARY ADMISSION.—

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

76 1. Notice that the petition for:

77 a. Involuntary services ~~inpatient treatment~~ pursuant to s.
78 394.467 has been filed with the circuit court and the address of
79 such court ~~in the county in which the individual is hospitalized~~
80 ~~and the address of such court~~; or

81 b. Involuntary outpatient services pursuant to s. 394.467
82 ~~s. 394.4655~~ has been filed with the criminal county court, as
83 defined in s. 394.4655(1), ~~or the circuit court, as applicable,~~
84 ~~in the county in which the individual is hospitalized~~ and the
85 address of such court.

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

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

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

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

100 Section 2. Subsection (3) of section 394.4615, Florida

101 Statutes, is amended to read:

102 394.4615 Clinical records; confidentiality.—

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

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

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

122
123 For the purpose of determining whether a person meets the
124 criteria for involuntary services ~~outpatient placement~~ or for
125 preparing the proposed treatment plan pursuant to s. 394.4655 or

126 | s. 394.467 ~~s. 394.4655~~, the clinical record may be released to
 127 | the state attorney, the public defender or the patient's private
 128 | legal counsel, the court, and to the appropriate mental health
 129 | professionals, including the service provider under s. 394.4655
 130 | or s. 394.467 ~~identified in s. 394.4655(7)(b)2.~~, in accordance
 131 | with state and federal law.

132 | Section 3. Subsection (1) and paragraphs (a), (e), (f),
 133 | (g), and (h) of subsection (2) of section 394.463, Florida
 134 | Statutes, are amended to read:

135 | 394.463 Involuntary examination.—

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

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

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

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

151 provision of other services; or

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

156 (2) INVOLUNTARY EXAMINATION.—

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

159 1. A circuit or county court may enter an ex parte order
 160 stating that a person appears to meet the criteria for
 161 involuntary examination and specifying the findings on which
 162 that conclusion is based. The ex parte order for involuntary
 163 examination must be based on written or oral sworn testimony
 164 that includes specific facts that support the findings. If other
 165 less restrictive means are not available, such as voluntary
 166 appearance for outpatient evaluation, a law enforcement officer,
 167 or other designated agent of the court, shall take the person
 168 into custody and deliver him or her to an appropriate, or the
 169 nearest, facility within the designated receiving system
 170 pursuant to s. 394.462 for involuntary examination. The order of
 171 the court shall be made a part of the patient's clinical record.
 172 A fee may not be charged for the filing of an order under this
 173 subsection. A facility accepting the patient based on this order
 174 must send a copy of the order to the department within 5 working
 175 days. The order may be submitted electronically through existing

176 data systems, if available. The order shall be valid only until
177 the person is delivered to the facility or for the period
178 specified in the order itself, whichever comes first. If a time
179 limit is not specified in the order, the order is valid for 7
180 days after the date that the order was signed.

181 2. A law enforcement officer may ~~shall~~ take a person who
182 appears to meet the criteria for involuntary examination into
183 custody and deliver the person or have him or her delivered to
184 an appropriate, or the nearest, facility within the designated
185 receiving system pursuant to s. 394.462 for examination. A law
186 enforcement officer transporting a person pursuant to this
187 section ~~subparagraph~~ shall restrain the person in the least
188 restrictive manner available and appropriate under the
189 circumstances. The officer shall execute a written report
190 detailing the circumstances under which the person was taken
191 into custody, which must be made a part of the patient's
192 clinical record. The report must include all emergency contact
193 information for the person that is readily accessible to the law
194 enforcement officer, including information available through
195 electronic databases maintained by the Department of Law
196 Enforcement or by the Department of Highway Safety and Motor
197 Vehicles. Such emergency contact information may be used by a
198 receiving facility only for the purpose of informing listed
199 emergency contacts of a patient's whereabouts pursuant to s.
200 119.0712(2)(d). Any facility accepting the patient based on this

201 report must send a copy of the report to the department within 5
 202 working days.

203 3. A physician, a physician assistant, a clinical
 204 psychologist, a psychiatric nurse, an advanced practice
 205 registered nurse registered under s. 464.0123, a mental health
 206 counselor, a marriage and family therapist, or a clinical social
 207 worker may execute a certificate stating that he or she has
 208 examined a person within the preceding 48 hours and finds that
 209 the person appears to meet the criteria for involuntary
 210 examination and stating the observations upon which that
 211 conclusion is based. If other less restrictive means, such as
 212 voluntary appearance for outpatient evaluation, are not
 213 available, a law enforcement officer shall take into custody the
 214 person named in the certificate and deliver him or her to the
 215 appropriate, or nearest, facility within the designated
 216 receiving system pursuant to s. 394.462 for involuntary
 217 examination. The law enforcement officer shall execute a written
 218 report detailing the circumstances under which the person was
 219 taken into custody and include all emergency contact information
 220 required under subparagraph 2. The report must include all
 221 emergency contact information for the person that is readily
 222 accessible to the law enforcement officer, including information
 223 available through electronic databases maintained by the
 224 Department of Law Enforcement or by the Department of Highway
 225 Safety and Motor Vehicles. Such emergency contact information

226 | may be used by a receiving facility only for the purpose of
 227 | informing listed emergency contacts of a patient's whereabouts
 228 | pursuant to s. 119.0712(2)(d). The report and certificate shall
 229 | be made a part of the patient's clinical record. Any facility
 230 | accepting the patient based on this certificate must send a copy
 231 | of the certificate to the department within 5 working days. The
 232 | document may be submitted electronically through existing data
 233 | systems, if applicable.

234 |
 235 | When sending the order, report, or certificate to the
 236 | department, a facility shall, at a minimum, provide information
 237 | about which action was taken regarding the patient under
 238 | paragraph (g), which information shall also be made a part of
 239 | the patient's clinical record.

240 | (e) The department shall receive and maintain the copies
 241 | of ex parte orders, involuntary ~~outpatient~~ services orders
 242 | issued pursuant to ss. 394.4655 and 394.467 ~~s. 394.4655,~~
 243 | ~~involuntary inpatient placement orders issued pursuant to s.~~
 244 | ~~394.467,~~ professional certificates, law enforcement officers'
 245 | reports, and reports relating to the transportation of patients.
 246 | These documents shall be considered part of the clinical record,
 247 | governed by the provisions of s. 394.4615. These documents shall
 248 | be used to prepare annual reports analyzing the data obtained
 249 | from these documents, without including the personal identifying
 250 | information of the patient. ~~identifying patients, and The~~

251 department shall post the reports on its website and provide
 252 copies of such reports to the ~~department, the~~ President of the
 253 Senate, the Speaker of the House of Representatives, and the
 254 minority leaders of the Senate and the House of Representatives
 255 by November 30 of each year.

256 (f) A patient shall be examined by a physician or a
 257 clinical psychologist, or by a psychiatric nurse performing
 258 within the framework of an established protocol with a
 259 psychiatrist at a facility without unnecessary delay to
 260 determine if the criteria for involuntary services are met.
 261 Emergency treatment may be provided upon the order of a
 262 physician if the physician determines that such treatment is
 263 necessary for the safety of the patient or others. The patient
 264 may not be released by the receiving facility or its contractor
 265 without the documented approval of a psychiatrist or a clinical
 266 psychologist or, if the receiving facility is owned or operated
 267 by a hospital, health system, or nationally accredited community
 268 mental health center, the release may also be approved by a
 269 psychiatric nurse performing within the framework of an
 270 established protocol with a psychiatrist, or an attending
 271 emergency department physician with experience in the diagnosis
 272 and treatment of mental illness after completion of an
 273 involuntary examination pursuant to this subsection. A
 274 ~~psychiatric nurse may not approve the release of a patient if~~
 275 ~~the involuntary examination was initiated by a psychiatrist~~

276 ~~unless the release is approved by the initiating psychiatrist.~~
 277 The release may be approved through telehealth.

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

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

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

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

293 4. A petition for involuntary services shall be filed in
 294 the circuit court ~~if inpatient treatment is deemed necessary~~ or
 295 with the criminal county court, as defined in s. 394.4655(1), as
 296 applicable. When inpatient treatment is deemed necessary, the
 297 least restrictive treatment consistent with the optimum
 298 improvement of the patient's condition shall be made available.
 299 The ~~When a petition is to be filed for involuntary outpatient~~
 300 ~~placement, it~~ shall be filed by one of the petitioners specified

301 in s. 394.467, and the court shall dismiss an untimely filed
 302 petition s. 394.4655(4)(a). A ~~petition for involuntary inpatient~~
 303 ~~placement shall be filed by the facility administrator~~. If a
 304 patient's 72-hour examination period ends on a weekend or
 305 holiday, including the hours before the ordinary business hours
 306 on the morning of the next working day, and the receiving
 307 facility:

308 a. Intends to file a petition for involuntary services,
 309 such patient may be held at the ~~a receiving~~ facility through the
 310 next working day thereafter and the ~~such~~ petition ~~for~~
 311 ~~involuntary services~~ must be filed no later than such date. If
 312 the ~~receiving~~ facility fails to file the ~~a~~ petition by ~~for~~
 313 ~~involuntary services~~ at the ordinary close of business on the
 314 next working day, the patient shall be released from the
 315 receiving facility following approval pursuant to paragraph (f).

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

323 (h) A person for whom an involuntary examination has been
 324 initiated who is being evaluated or treated at a hospital for an
 325 emergency medical condition specified in s. 395.002 must be

326 examined by a facility within the examination period specified
 327 in paragraph (g). The examination period begins when the patient
 328 arrives at the hospital and ceases when the attending physician
 329 documents that the patient has an emergency medical condition.
 330 If the patient is examined at a hospital providing emergency
 331 medical services by a professional qualified to perform an
 332 involuntary examination and is found as a result of that
 333 examination not to meet the criteria for involuntary ~~outpatient~~
 334 services pursuant to s. 394.467 ~~s. 394.4655(2)~~ or involuntary
 335 ~~inpatient placement pursuant to s. 394.467(1)~~, the patient may
 336 be offered voluntary outpatient or inpatient services ~~or~~
 337 ~~placement~~, if appropriate, or released directly from the
 338 hospital providing emergency medical services. The finding by
 339 the professional that the patient has been examined and does not
 340 meet the criteria for involuntary ~~inpatient~~ services ~~or~~
 341 ~~involuntary outpatient placement~~ must be entered into the
 342 patient's clinical record. This paragraph is not intended to
 343 prevent a hospital providing emergency medical services from
 344 appropriately transferring a patient to another hospital before
 345 stabilization if the requirements of s. 395.1041(3)(c) have been
 346 met.

347 Section 4. Section 394.4655, Florida Statutes, is amended
 348 to read:

349 394.4655 Involuntary outpatient services.—

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

351 (a) "Court" means a circuit court or a criminal county
 352 court.

353 (b) "Criminal county court" means a county court
 354 exercising its original jurisdiction in a misdemeanor case under
 355 s. 34.01.

356 (c) "Involuntary outpatient placement" means involuntary
 357 outpatient services as defined in s. 394.467, F.S.

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

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

365 ~~(b) The person has a mental illness.~~

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

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

371 ~~(e) The person has:~~

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

376 ~~period does not include any period during which the person was~~
 377 ~~admitted or incarcerated; or~~
 378 ~~—— 2. Engaged in one or more acts of serious violent behavior~~
 379 ~~toward self or others, or attempts at serious bodily harm to~~
 380 ~~himself or herself or others, within the preceding 36 months.~~
 381 ~~—— (f) The person is, as a result of his or her mental~~
 382 ~~illness, unlikely to voluntarily participate in the recommended~~
 383 ~~treatment plan and has refused voluntary services for treatment~~
 384 ~~after sufficient and conscientious explanation and disclosure of~~
 385 ~~why the services are necessary or is unable to determine for~~
 386 ~~himself or herself whether services are necessary.~~
 387 ~~—— (g) In view of the person's treatment history and current~~
 388 ~~behavior, the person is in need of involuntary outpatient~~
 389 ~~services in order to prevent a relapse or deterioration that~~
 390 ~~would be likely to result in serious bodily harm to himself or~~
 391 ~~herself or others, or a substantial harm to his or her well-~~
 392 ~~being as set forth in s. 394.463(1).~~
 393 ~~—— (h) It is likely that the person will benefit from~~
 394 ~~involuntary outpatient services.~~
 395 ~~—— (i) All available, less restrictive alternatives that~~
 396 ~~would offer an opportunity for improvement of his or her~~
 397 ~~condition have been judged to be inappropriate or unavailable.~~
 398 ~~—— (3) INVOLUNTARY OUTPATIENT SERVICES.—~~
 399 ~~—— (a)1. A patient who is being recommended for involuntary~~
 400 ~~outpatient services by the administrator of the facility where~~

401 ~~the patient has been examined may be retained by the facility~~
 402 ~~after adherence to the notice procedures provided in s.~~
 403 ~~394.4599. The recommendation must be supported by the opinion of~~
 404 ~~a psychiatrist and the second opinion of a clinical psychologist~~
 405 ~~or another psychiatrist, both of whom have personally examined~~
 406 ~~the patient within the preceding 72 hours, that the criteria for~~
 407 ~~involuntary outpatient services are met. However, if the~~
 408 ~~administrator certifies that a psychiatrist or clinical~~
 409 ~~psychologist is not available to provide the second opinion, the~~
 410 ~~second opinion may be provided by a licensed physician who has~~
 411 ~~postgraduate training and experience in diagnosis and treatment~~
 412 ~~of mental illness, a physician assistant who has at least 3~~
 413 ~~years' experience and is supervised by such licensed physician~~
 414 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
 415 ~~nurse. Any second opinion authorized in this subparagraph may be~~
 416 ~~conducted through a face-to-face examination, in person or by~~
 417 ~~electronic means. Such recommendation must be entered on an~~
 418 ~~involuntary outpatient services certificate that authorizes the~~
 419 ~~facility to retain the patient pending completion of a hearing.~~
 420 ~~The certificate must be made a part of the patient's clinical~~
 421 ~~record.~~

422 ~~—— 2. If the patient has been stabilized and no longer meets~~
 423 ~~the criteria for involuntary examination pursuant to s.~~
 424 ~~394.463(1), the patient must be released from the facility while~~
 425 ~~awaiting the hearing for involuntary outpatient services. Before~~

426 ~~filing a petition for involuntary outpatient services, the~~
 427 ~~administrator of the facility or a designated department~~
 428 ~~representative must identify the service provider that will have~~
 429 ~~primary responsibility for service provision under an order for~~
 430 ~~involuntary outpatient services, unless the person is otherwise~~
 431 ~~participating in outpatient psychiatric treatment and is not in~~
 432 ~~need of public financing for that treatment, in which case the~~
 433 ~~individual, if eligible, may be ordered to involuntary treatment~~
 434 ~~pursuant to the existing psychiatric treatment relationship.~~
 435 ~~—— 3. The service provider shall prepare a written proposed~~
 436 ~~treatment plan in consultation with the patient or the patient's~~
 437 ~~guardian advocate, if appointed, for the court's consideration~~
 438 ~~for inclusion in the involuntary outpatient services order that~~
 439 ~~addresses the nature and extent of the mental illness and any~~
 440 ~~co-occurring substance use disorder that necessitate involuntary~~
 441 ~~outpatient services. The treatment plan must specify the likely~~
 442 ~~level of care, including the use of medication, and anticipated~~
 443 ~~discharge criteria for terminating involuntary outpatient~~
 444 ~~services. Service providers may select and supervise other~~
 445 ~~individuals to implement specific aspects of the treatment plan.~~
 446 ~~The services in the plan must be deemed clinically appropriate~~
 447 ~~by a physician, clinical psychologist, psychiatric nurse, mental~~
 448 ~~health counselor, marriage and family therapist, or clinical~~
 449 ~~social worker who consults with, or is employed or contracted~~
 450 ~~by, the service provider. The service provider must certify to~~

451 ~~the court in the proposed plan whether sufficient services for~~
 452 ~~improvement and stabilization are currently available and~~
 453 ~~whether the service provider agrees to provide those services.~~
 454 ~~If the service provider certifies that the services in the~~
 455 ~~proposed treatment plan are not available, the petitioner may~~
 456 ~~not file the petition. The service provider must notify the~~
 457 ~~managing entity if the requested services are not available. The~~
 458 ~~managing entity must document such efforts to obtain the~~
 459 ~~requested services.~~

460 ~~—— (b) If a patient in involuntary inpatient placement meets~~
 461 ~~the criteria for involuntary outpatient services, the~~
 462 ~~administrator of the facility may, before the expiration of the~~
 463 ~~period during which the facility is authorized to retain the~~
 464 ~~patient, recommend involuntary outpatient services. The~~
 465 ~~recommendation must be supported by the opinion of a~~
 466 ~~psychiatrist and the second opinion of a clinical psychologist~~
 467 ~~or another psychiatrist, both of whom have personally examined~~
 468 ~~the patient within the preceding 72 hours, that the criteria for~~
 469 ~~involuntary outpatient services are met. However, if the~~
 470 ~~administrator certifies that a psychiatrist or clinical~~
 471 ~~psychologist is not available to provide the second opinion, the~~
 472 ~~second opinion may be provided by a licensed physician who has~~
 473 ~~postgraduate training and experience in diagnosis and treatment~~
 474 ~~of mental illness, a physician assistant who has at least 3~~
 475 ~~years' experience and is supervised by such licensed physician~~

476 ~~or a psychiatrist, a clinical social worker, or by a psychiatric~~
 477 ~~nurse. Any second opinion authorized in this subparagraph may be~~
 478 ~~conducted through a face-to-face examination, in person or by~~
 479 ~~electronic means. Such recommendation must be entered on an~~
 480 ~~involuntary outpatient services certificate, and the certificate~~
 481 ~~must be made a part of the patient's clinical record.~~

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

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

501 ~~clinically appropriate by a physician, clinical psychologist,~~
 502 ~~psychiatric nurse, mental health counselor, marriage and family~~
 503 ~~therapist, or clinical social worker, as defined in this~~
 504 ~~chapter, who consults with, or is employed or contracted by, the~~
 505 ~~service provider.~~

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

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

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

515 ~~—— 1. The administrator of a receiving facility; or~~

516 ~~—— 2. The administrator of a treatment facility.~~

517 ~~—— (b) Each required criterion for involuntary outpatient~~
 518 ~~services must be alleged and substantiated in the petition for~~
 519 ~~involuntary outpatient services. A copy of the certificate~~
 520 ~~recommending involuntary outpatient services completed by a~~
 521 ~~qualified professional specified in subsection (3) must be~~
 522 ~~attached to the petition. A copy of the proposed treatment plan~~
 523 ~~must be attached to the petition. Before the petition is filed,~~
 524 ~~the service provider shall certify that the services in the~~
 525 ~~proposed plan are available. If the necessary services are not~~

526 ~~available, the petition may not be filed. The service provider~~
 527 ~~must notify the managing entity if the requested services are~~
 528 ~~not available. The managing entity must document such efforts to~~
 529 ~~obtain the requested services.~~

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

541 ~~—— (5) APPOINTMENT OF COUNSEL. Within 1 court working day~~
 542 ~~after the filing of a petition for involuntary outpatient~~
 543 ~~services, the court shall appoint the public defender to~~
 544 ~~represent the person who is the subject of the petition, unless~~
 545 ~~the person is otherwise represented by counsel. The clerk of the~~
 546 ~~court shall immediately notify the public defender of the~~
 547 ~~appointment. The public defender shall represent the person~~
 548 ~~until the petition is dismissed, the court order expires, or the~~
 549 ~~patient is discharged from involuntary outpatient services. An~~
 550 ~~attorney who represents the patient must be provided access to~~

551 ~~the patient, witnesses, and records relevant to the presentation~~
 552 ~~of the patient's case and shall represent the interests of the~~
 553 ~~patient, regardless of the source of payment to the attorney.~~

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

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

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

573 ~~—— 2. The court may appoint a magistrate to preside at the~~
 574 ~~hearing. One of the professionals who executed the involuntary~~
 575 ~~outpatient services certificate shall be a witness. The patient~~

576 ~~and the patient's guardian or representative shall be informed~~
577 ~~by the court of the right to an independent expert examination.~~
578 ~~If the patient cannot afford such an examination, the court~~
579 ~~shall ensure that one is provided, as otherwise provided by law.~~
580 ~~The independent expert's report is confidential and not~~
581 ~~discoverable, unless the expert is to be called as a witness for~~
582 ~~the patient at the hearing. The court shall allow testimony from~~
583 ~~individuals, including family members, deemed by the court to be~~
584 ~~relevant under state law, regarding the person's prior history~~
585 ~~and how that prior history relates to the person's current~~
586 ~~condition. The testimony in the hearing must be given under~~
587 ~~oath, and the proceedings must be recorded. The patient may~~
588 ~~refuse to testify at the hearing.~~

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

601 ~~2. The court may not order the department or the service~~
602 ~~provider to provide services if the program or service is not~~
603 ~~available in the patient's local community, if there is no space~~
604 ~~available in the program or service for the patient, or if~~
605 ~~funding is not available for the program or service. The service~~
606 ~~provider must notify the managing entity if the requested~~
607 ~~services are not available. The managing entity must document~~
608 ~~such efforts to obtain the requested services. A copy of the~~
609 ~~order must be sent to the managing entity by the service~~
610 ~~provider within 1 working day after it is received from the~~
611 ~~court. The order may be submitted electronically through~~
612 ~~existing data systems. After the order for involuntary services~~
613 ~~is issued, the service provider and the patient may modify the~~
614 ~~treatment plan. For any material modification of the treatment~~
615 ~~plan to which the patient or, if one is appointed, the patient's~~
616 ~~guardian advocate agrees, the service provider shall send notice~~
617 ~~of the modification to the court. Any material modifications of~~
618 ~~the treatment plan which are contested by the patient or the~~
619 ~~patient's guardian advocate, if applicable, must be approved or~~
620 ~~disapproved by the court consistent with subsection (3).~~
621 ~~3. If, in the clinical judgment of a physician, the~~
622 ~~patient has failed or has refused to comply with the treatment~~
623 ~~ordered by the court, and, in the clinical judgment of the~~
624 ~~physician, efforts were made to solicit compliance and the~~
625 ~~patient may meet the criteria for involuntary examination, a~~

626 ~~person may be brought to a receiving facility pursuant to s.~~
627 ~~394.463. If, after examination, the patient does not meet the~~
628 ~~criteria for involuntary inpatient placement pursuant to s.~~
629 ~~394.467, the patient must be discharged from the facility. The~~
630 ~~involuntary outpatient services order shall remain in effect~~
631 ~~unless the service provider determines that the patient no~~
632 ~~longer meets the criteria for involuntary outpatient services or~~
633 ~~until the order expires. The service provider must determine~~
634 ~~whether modifications should be made to the existing treatment~~
635 ~~plan and must attempt to continue to engage the patient in~~
636 ~~treatment. For any material modification of the treatment plan~~
637 ~~to which the patient or the patient's guardian advocate, if~~
638 ~~applicable, agrees, the service provider shall send notice of~~
639 ~~the modification to the court. Any material modifications of the~~
640 ~~treatment plan which are contested by the patient or the~~
641 ~~patient's guardian advocate, if applicable, must be approved or~~
642 ~~disapproved by the court consistent with subsection (3).~~
643 ~~—— (c) If, at any time before the conclusion of the initial~~
644 ~~hearing on involuntary outpatient services, it appears to the~~
645 ~~court that the person does not meet the criteria for involuntary~~
646 ~~outpatient services under this section but, instead, meets the~~
647 ~~criteria for involuntary inpatient placement, the court may~~
648 ~~order the person admitted for involuntary inpatient examination~~
649 ~~under s. 394.463. If the person instead meets the criteria for~~
650 ~~involuntary assessment, protective custody, or involuntary~~

651 ~~admission pursuant to s. 397.675, the court may order the person~~
 652 ~~to be admitted for involuntary assessment for a period of 5 days~~
 653 ~~pursuant to s. 397.6811. Thereafter, all proceedings are~~
 654 ~~governed by chapter 397.~~

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

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

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

672 ~~—— (a)1. If the person continues to meet the criteria for~~
 673 ~~involuntary outpatient services, the service provider shall, at~~
 674 ~~least 10 days before the expiration of the period during which~~
 675 ~~the treatment is ordered for the person, file in the court that~~

676 ~~issued the order for involuntary outpatient services a petition~~
 677 ~~for continued involuntary outpatient services. The court shall~~
 678 ~~immediately schedule a hearing on the petition to be held within~~
 679 ~~15 days after the petition is filed.~~

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

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

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

697 ~~—— (b) Within 1 court working day after the filing of a~~
 698 ~~petition for continued involuntary outpatient services, the~~
 699 ~~court shall appoint the public defender to represent the person~~
 700 ~~who is the subject of the petition, unless the person is~~

701 ~~otherwise represented by counsel. The clerk of the court shall~~
 702 ~~immediately notify the public defender of such appointment. The~~
 703 ~~public defender shall represent the person until the petition is~~
 704 ~~dismissed or the court order expires or the patient is~~
 705 ~~discharged from involuntary outpatient services. Any attorney~~
 706 ~~representing the patient shall have access to the patient,~~
 707 ~~witnesses, and records relevant to the presentation of the~~
 708 ~~patient's case and shall represent the interests of the patient,~~
 709 ~~regardless of the source of payment to the attorney.~~

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

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

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

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

731 Section 5. Section 394.467, Florida Statutes, is amended
 732 to read:

733 394.467 Involuntary services inpatient placement.-

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

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

736 (b) "Involuntary inpatient placement" means services
 737 provided on an inpatient basis to a person 18 years of age or
 738 older who does not voluntarily consent to services under this
 739 chapter, or a minor who does not voluntarily assent to services
 740 under this chapter.

741 (c) "Involuntary outpatient services" means services
 742 provided on an outpatient basis to a person who does not
 743 voluntarily consent to services under this chapter.

744 (2) ~~(1)~~ CRITERIA FOR INVOLUNTARY SERVICES.—A person may be
 745 ordered by a court to be provided for involuntary services
 746 ~~inpatient placement for treatment~~ upon a finding of the court,
 747 by clear and convincing evidence, that the person meets the
 748 following criteria:

749 (a) The person ~~He or she~~ has a mental illness and because
 750 of his or her mental illness:

751 1.a. Is unlikely to voluntarily participate in the
 752 recommended treatment plan and has refused voluntary services or
 753 ~~He or she has refused~~ voluntary inpatient placement for
 754 treatment after sufficient and conscientious explanation and
 755 disclosure of the purpose of ~~inpatient placement for~~ treatment;
 756 or

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

759 2.a. Is unlikely to survive safely in the community
 760 without supervision, based on clinical determination;

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

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

773 **(b)** In view of the person's treatment history and current
 774 behavior, the person is in need of involuntary outpatient
 775 services to prevent a relapse or deterioration of his or her

776 mental health that would be likely to result in serious bodily
 777 harm to self or others, or a substantial harm to his or her
 778 well-being as set forth in s. 394.463(1).

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

781 (d) It is likely that the person will benefit from
 782 involuntary services.

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

787 (3)-(2) RECOMMENDATION FOR INVOLUNTARY SERVICES AND
 788 ADMISSION TO A TREATMENT FACILITY.-A patient may be recommended
 789 for involuntary inpatient placement, involuntary outpatient
 790 services, or a combination of both.

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

801 (b) The recommendation must be supported by the opinion of
 802 a psychiatrist and the second opinion of a clinical psychologist
 803 or another psychiatrist, both of whom have personally examined
 804 the patient within the preceding 72 hours, that the criteria for
 805 involuntary services inpatient placement are met.

806 (c) ~~If However, if the administrator certifies that a~~
 807 psychiatrist or clinical psychologist is not available to
 808 provide a the second opinion, the administrator must certify
 809 that a clinical psychologist is not available and the second
 810 opinion may be provided by a licensed physician who has
 811 postgraduate training and experience in diagnosis and treatment
 812 of mental illness or by a psychiatric nurse. If the patient is
 813 being recommended for involuntary outpatient services only, the
 814 second opinion may be provided by a physician assistant who has
 815 at least 3 years' experience and is supervised by a licensed
 816 physician or psychiatrist or a clinical social worker.

817 (d) Any opinion authorized in this subsection may be
 818 conducted through a face-to-face or in-person examination, ~~in~~
 819 ~~person,~~ or by electronic means. Recommendations for involuntary
 820 services must be ~~Such recommendation shall be entered on an a~~
 821 ~~petition for involuntary services inpatient placement~~
 822 certificate, which shall be made a part of the patient's
 823 clinical record. The certificate must either authorize the
 824 facility to retain the patient pending completion of a hearing
 825 or authorize ~~that authorizes~~ the facility to retain the patient

826 pending transfer to a treatment facility or completion of a
 827 hearing.

828 ~~(4)-(3)~~ PETITION FOR INVOLUNTARY SERVICES ~~INPATIENT~~
 829 ~~PLACEMENT.~~-

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

- 831 1. The administrator of a receiving ~~the~~ facility; or
- 832 2. The administrator of a treatment facility.

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

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

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

843 a. Whether the petitioner is recommending inpatient
 844 placement, outpatient services, or both.

845 b. The length of time recommended for each type of
 846 involuntary services.

847 c. The reasons for the recommendation.

848 2. If recommending involuntary outpatient services, or a
 849 combination of involuntary inpatient placement and outpatient
 850 services, the petitioner must identify the service provider that

851 will have primary responsibility for providing such services
852 under an order for involuntary outpatient services, unless the
853 person is otherwise participating in outpatient psychiatric
854 treatment and is not in need of public financing for that
855 treatment, in which case the individual, if eligible, may be
856 ordered to involuntary treatment pursuant to the existing
857 psychiatric treatment relationship.

858 3. If recommending an immediate order to involuntary
859 outpatient placement, the service provider shall prepare a
860 written proposed treatment plan in consultation with the patient
861 or the patient's guardian advocate, if appointed, for the
862 court's consideration for inclusion in the involuntary
863 outpatient services order that addresses the nature and extent
864 of the mental illness and any co-occurring substance use
865 disorder that necessitate involuntary outpatient services. The
866 treatment plan must specify the likely level of care, including
867 the use of medication, and anticipated discharge criteria for
868 terminating involuntary outpatient services. Service providers
869 may select and supervise other individuals to implement specific
870 aspects of the treatment plan. The services in the plan must be
871 deemed clinically appropriate by a physician, clinical
872 psychologist, psychiatric nurse, mental health counselor,
873 marriage and family therapist, or clinical social worker who
874 consults with, or is employed or contracted by, the service
875 provider. The service provider must certify to the court in the

876 proposed plan whether sufficient services for improvement and
 877 stabilization are currently available and whether the service
 878 provider agrees to provide those services. If the service
 879 provider certifies that the services in the proposed treatment
 880 plan are not available, the petitioner may not file the
 881 petition. The service provider must notify the managing entity
 882 if the requested services are not available. The managing entity
 883 must document such efforts to obtain the requested service.

884 (e) Each required criterion for the recommended
 885 involuntary services must be alleged and substantiated in the
 886 petition. A copy of the certificate recommending involuntary
 887 services completed by a qualified professional specified in
 888 subsection (3) and, if applicable, a copy of the proposed
 889 treatment plan must be attached to the petition.

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

898 (5)-(4) APPOINTMENT OF COUNSEL.—Within 1 court working day
 899 after the filing of a petition for involuntary services
 900 ~~inpatient placement,~~ the court shall appoint the public defender

901 to represent the person who is the subject of the petition,
 902 unless the person is otherwise represented by counsel or
 903 ineligible. The clerk of the court shall immediately notify the
 904 public defender of such appointment. The public defender shall
 905 represent the person until the petition is dismissed, the court
 906 order expires, or the patient is discharged from involuntary
 907 services. Any attorney who represents ~~representing~~ the patient
 908 shall be provided ~~have~~ access to the patient, witnesses, and
 909 records relevant to the presentation of the patient's case and
 910 shall represent the interests of the patient, regardless of the
 911 source of payment to the attorney.

912 (6)~~(5)~~ CONTINUANCE OF HEARING.—The patient and the state
 913 are independently ~~is~~ entitled, ~~with the concurrence of the~~
 914 ~~patient's counsel,~~ to at least one continuance of the hearing.
 915 The patient's continuance may be for a period of up to 4 weeks
 916 and requires the concurrence of the patient's counsel. The
 917 state's continuance may be for a period of up to 5 court working
 918 days and requires a showing of good cause and due diligence by
 919 the state before requesting the continuance. The state's failure
 920 to timely review any readily available document or failure to
 921 attempt to contact a known witness does not warrant a
 922 continuance.

923 (7)~~(6)~~ HEARING ON INVOLUNTARY SERVICES ~~INPATIENT~~
 924 ~~PLACEMENT.~~—

925 (a)1. The court shall hold a ~~the~~ hearing on the

926 involuntary services petition ~~inpatient placement~~ within 5 court
 927 working days after the filing of the petition, unless a
 928 continuance is granted.

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

937 3. A hearing on involuntary services must be as convenient
 938 to the patient as is consistent with orderly procedure, and
 939 shall be conducted in physical settings not likely to be
 940 injurious to the patient's condition. If the court finds that
 941 the patient's attendance at the hearing is not consistent with
 942 the best interests of the patient, or the patient knowingly,
 943 intelligently, and voluntarily waives his or her right to be
 944 present, and if the patient's counsel does not object, the court
 945 may waive the attendance ~~presence~~ of the patient from all or any
 946 portion of the hearing. The state attorney for the circuit in
 947 which the patient is located shall represent the state, rather
 948 than the petitioner, as the real party in interest in the
 949 proceeding. The facility shall make the respondent's clinical
 950 records available to the state attorney and the respondent's

951 attorney so that the state can evaluate and prepare its case.
952 However, these records shall remain confidential, and the state
953 attorney may not use any record obtained under this part for
954 criminal investigation or prosecution purposes, or for any
955 purpose other than the patient's civil commitment under this
956 chapter petitioning facility administrator, as the real party in
957 interest in the proceeding.

958 (b)3. The court may appoint a magistrate to preside at the
959 hearing on the petition and any ancillary proceedings,
960 including, but not limited to, writs of habeas corpus issued
961 pursuant to s. 394.459. Upon a finding of good cause, the court
962 may permit all witnesses, including, but not limited to, medical
963 professionals who are or have been involved with the patient's
964 treatment, to remotely attend and testify at the hearing under
965 oath via audio-video teleconference. A witness intending to
966 remotely attend and testify must provide the parties with all
967 relevant documents by the close of business on the day before
968 the hearing. One of the professionals who executed the ~~petition~~
969 ~~for involuntary services inpatient placement~~ certificate shall
970 be a witness. The patient and the patient's guardian or
971 representative shall be informed by the court of the right to an
972 independent expert examination. If the patient cannot afford
973 such an examination, the court shall ensure that one is
974 provided, as otherwise provided for by law. The independent
975 expert's report is confidential and not discoverable, unless the

976 expert is to be called as a witness for the patient at the
 977 hearing. The court shall allow testimony from persons, including
 978 family members, deemed by the court to be relevant under state
 979 law, regarding the person's prior history and how that prior
 980 history relates to the person's current condition. The testimony
 981 in the hearing must be given under oath, and the proceedings
 982 must be recorded. The patient may refuse to testify at the
 983 hearing.

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

989 (8) ORDERS OF THE COURT.—

990 (a)1. If the court concludes that the patient meets the
 991 criteria for involuntary services, the court may order a patient
 992 to involuntary inpatient placement, involuntary outpatient
 993 services, or a combination of involuntary services depending on
 994 the criteria met and which type of involuntary services best
 995 meet the needs of the patient. However, if the court orders the
 996 patient to involuntary outpatient services, the court may not
 997 order the department or the service provider to provide services
 998 if the program or service is not available in the patient's
 999 local community, if there is no space available in the program
 1000 or service for the patient, or if funding is not available for

1001 the program or service. The service provider must notify the
 1002 managing entity if the requested services are not available. The
 1003 managing entity must document such efforts to obtain the
 1004 requested services. A copy of the order must be sent to the
 1005 managing entity by the service provider within 1 working day
 1006 after it is received from the court.

1007 2. The order must specify the nature and extent of the
 1008 patient's mental illness.

1009 3.a. An order for only involuntary outpatient services
 1010 shall be for a period of up to 90 days.

1011 b. An order for involuntary inpatient placement, or a
 1012 combination of inpatient placement and outpatient services, may
 1013 be up to 6 months.

1014 4. An order for a combination of involuntary services
 1015 shall specify the length of time the patient shall be ordered
 1016 for involuntary inpatient placement and involuntary outpatient
 1017 services.

1018 5. The order of the court and the patient's treatment
 1019 plan, if applicable, must be made part of the patient's clinical
 1020 record.

1021 (b) If the court orders a patient into involuntary
 1022 inpatient placement, the court ~~it~~ may order that the patient be
 1023 transferred to a treatment facility, ~~or,~~ if the patient is at a
 1024 treatment facility, that the patient be retained there or be
 1025 treated at any other appropriate facility, or that the patient

1026 receive services, on an involuntary basis, ~~for up to 90 days.~~
 1027 ~~However, any order for involuntary mental health services in a~~
 1028 ~~treatment facility may be for up to 6 months. The order shall~~
 1029 ~~specify the nature and extent of the patient's mental illness.~~
 1030 The court may not order an individual with a developmental
 1031 disability as defined in s. 393.063 or a traumatic brain injury
 1032 or dementia who lacks a co-occurring mental illness to be
 1033 involuntarily placed in a state treatment facility. ~~The facility~~
 1034 ~~shall discharge a patient any time the patient no longer meets~~
 1035 ~~the criteria for involuntary inpatient placement, unless the~~
 1036 ~~patient has transferred to voluntary status.~~

1037 (c) If at any time before the conclusion of a ~~the~~ hearing
 1038 on involuntary services, ~~inpatient placement~~ it appears to the
 1039 court that the patient ~~person does not meet the criteria for~~
 1040 ~~involuntary inpatient placement under this section, but instead~~
 1041 ~~meets the criteria for involuntary outpatient services, the~~
 1042 ~~court may order the person evaluated for involuntary outpatient~~
 1043 ~~services pursuant to s. 394.4655. The petition and hearing~~
 1044 ~~procedures set forth in s. 394.4655 shall apply. If the person~~
 1045 ~~instead meets the criteria for involuntary assessment,~~
 1046 ~~protective custody, or involuntary admission~~ or treatment
 1047 pursuant to s. 397.675, then the court may order the person to
 1048 be admitted for involuntary assessment ~~for a period of 5 days~~
 1049 pursuant to s. 397.6757 ~~s. 397.6811~~. Thereafter, all proceedings
 1050 are governed by chapter 397.

1051 ~~(d) At the hearing on involuntary inpatient placement, the~~
 1052 ~~court shall consider testimony and evidence regarding the~~
 1053 ~~patient's competence to consent to treatment. If the court finds~~
 1054 ~~that the patient is incompetent to consent to treatment, it~~
 1055 ~~shall appoint a guardian advocate as provided in s. 394.4598.~~

1056 (d)(e) The administrator of the petitioning facility or
 1057 the designated department representative shall provide a copy of
 1058 the court order and adequate documentation of a patient's mental
 1059 illness to the service provider for involuntary outpatient
 1060 services or the administrator of a treatment facility if the
 1061 patient is ordered for involuntary inpatient placement, ~~whether~~
 1062 ~~by civil or criminal court~~. The documentation must include any
 1063 advance directives made by the patient, a psychiatric evaluation
 1064 of the patient, and any evaluations of the patient performed by
 1065 a psychiatric nurse, a clinical psychologist, a marriage and
 1066 family therapist, a mental health counselor, or a clinical
 1067 social worker. The administrator of a treatment facility may
 1068 refuse admission to any patient directed to its facilities on an
 1069 involuntary basis, whether by civil or criminal court order, who
 1070 is not accompanied by adequate orders and documentation.

1071 (9) TREATMENT PLAN MODIFICATION—After the order for
 1072 involuntary outpatient services is issued, the service provider
 1073 and the patient may modify the treatment plan. For any material
 1074 modification of the treatment plan to which the patient or, if
 1075 one is appointed, the patient's guardian advocate agrees, the

1076 service provider shall send notice of the modification to the
1077 court. Any material modifications of the treatment plan which
1078 are contested by the patient or the patient's guardian advocate,
1079 if applicable, must be approved or disapproved by the court
1080 consistent with subsection (4).

1081 (10) NONCOMPLIANCE WITH INVOLUNTARY OUTPATIENT SERVICES.—
1082 If, in the clinical judgment of a physician, a patient receiving
1083 involuntary outpatient services has failed or has refused to
1084 comply with the treatment plan ordered by the court, and, in the
1085 clinical judgment of the physician, efforts were made to solicit
1086 compliance and the patient may meet the criteria for involuntary
1087 examination, a person may be brought to a receiving facility
1088 pursuant to s. 394.463. If, after examination, the patient does
1089 not meet the criteria for involuntary inpatient placement under
1090 this section, the patient must be discharged from the facility.
1091 The involuntary outpatient services order shall remain in effect
1092 unless the service provider determines that the patient no
1093 longer meets the criteria for involuntary outpatient services or
1094 until the order expires. The service provider must determine
1095 whether modifications should be made to the existing treatment
1096 plan and must attempt to continue to engage the patient in
1097 treatment. For any material modification of the treatment plan
1098 to which the patient or the patient's guardian advocate, if
1099 applicable, agrees, the service provider shall send notice of
1100 the modification to the court. Any material modifications of the

1101 treatment plan which are contested by the patient or the
 1102 patient's guardian advocate, if applicable, must be approved or
 1103 disapproved by the court consistent with subsection (4).

1104 (11)-(7) PROCEDURE FOR CONTINUED INVOLUNTARY SERVICES
 1105 INPATIENT PLACEMENT.-

1106 (a) A petition for continued involuntary services shall be
 1107 filed if the patient continues to meets the criteria for
 1108 involuntary services.

1109 (b)1. If a patient receiving involuntary outpatient
 1110 services continues to meet the criteria for involuntary
 1111 outpatient services, the service provider shall file in the
 1112 court that issued the order for involuntary outpatient services
 1113 a petition for continued involuntary outpatient services.

1114 2. If the patient in involuntary inpatient placement

1115 ~~(a) Hearings on petitions for continued involuntary~~
 1116 ~~inpatient placement of an individual placed at any treatment~~
 1117 ~~facility are administrative hearings and must be conducted in~~
 1118 ~~accordance with s. 120.57(1), except that any order entered by~~
 1119 ~~the administrative law judge is final and subject to judicial~~
 1120 ~~review in accordance with s. 120.68. Orders concerning patients~~
 1121 ~~committed after successfully pleading not guilty by reason of~~
 1122 ~~insanity are governed by s. 916.15.~~

1123 ~~(b) If the patient continues to meet the criteria for~~
 1124 ~~involuntary inpatient placement and is being treated at a~~
 1125 ~~treatment facility, the administrator shall, before the~~

1126 expiration of the period the treatment facility is authorized to
 1127 retain the patient, file a petition requesting authorization for
 1128 continued involuntary inpatient placement.

1129 3. The court shall immediately schedule a hearing on the
 1130 petition to be held within 15 days after the petition is filed.

1131 4. The existing involuntary services order shall remain in
 1132 effect until disposition on the petition for continued
 1133 involuntary services.

1134 (c) A certificate for continued involuntary services must
 1135 be attached to the petition and shall include ~~The request must~~
 1136 ~~be accompanied by~~ a statement from the patient's physician,
 1137 psychiatrist, psychiatric nurse, or clinical psychologist
 1138 justifying the request, a brief description of the patient's
 1139 treatment during the time he or she was receiving involuntary
 1140 services involuntarily placed, and, if requesting involuntary
 1141 outpatient services, an individualized plan of continued
 1142 treatment. The individualized plan of continued treatment shall
 1143 be developed in consultation with the patient or the patient's
 1144 guardian advocate, if applicable. When the petition has been
 1145 filed, the clerk of the court shall provide copies of the
 1146 certificate and the individualized plan of continued services to
 1147 the department, the patient, the patient's guardian advocate,
 1148 the state attorney, and the patient's private counsel or the
 1149 public defender.

1150 (d) The court shall appoint counsel to represent the

1151 person who is the subject of the petition for continued
1152 involuntary services in accordance to the provisions set forth
1153 in subsection (5), unless the person is otherwise represented by
1154 counsel or ineligible.

1155 (e) Hearings on petitions for continued involuntary
1156 outpatient services must be before the court that issued the
1157 order for involuntary outpatient services. However, the patient
1158 and the patient's attorney may agree to a period of continued
1159 outpatient services without a court hearing.

1160 (f) Hearings on petitions for continued involuntary
1161 inpatient placement must be held in the county or the facility,
1162 as appropriate, where the patient is located.

1163 (g) The court may appoint a magistrate to preside at the
1164 hearing. The procedures for obtaining an order pursuant to this
1165 paragraph must meet the requirements of subsection (7).

1166 (h) Notice of the hearing must be provided as set forth
1167 provided in s. 394.4599.

1168 (i) If a patient's attendance at the hearing is
1169 voluntarily waived, the ~~administrative law~~ judge must determine
1170 that the patient knowingly, intelligently, and voluntarily
1171 waived his or her right to be present, ~~waiver is knowing and~~
1172 ~~voluntary~~ before waiving the presence of the patient from all or
1173 a portion of the hearing. Alternatively, if at the hearing the
1174 ~~administrative law~~ judge finds that attendance at the hearing is
1175 not consistent with the best interests of the patient, the

1176 ~~administrative law~~ judge may waive the presence of the patient
 1177 from all or any portion of the hearing, unless the patient,
 1178 through counsel, objects to the waiver of presence. The
 1179 testimony in the hearing must be under oath, and the proceedings
 1180 must be recorded.

1181 (j) Hearings on petitions for continued involuntary
 1182 inpatient placement of an individual placed at any treatment
 1183 facility are administrative hearings and must be conducted in
 1184 accordance with s. 120.57(1), except that any order entered by
 1185 the judge is final and subject to judicial review in accordance
 1186 with s. 120.68. Orders concerning patients committed after
 1187 successfully pleading not guilty by reason of insanity are
 1188 governed by s. 916.15.

1189 ~~(c) Unless the patient is otherwise represented or is~~
 1190 ~~ineligible, he or she shall be represented at the hearing on the~~
 1191 ~~petition for continued involuntary inpatient placement by the~~
 1192 ~~public defender of the circuit in which the facility is located.~~

1193 (k)(d) If at a hearing it is shown that the patient
 1194 continues to meet the criteria for involuntary services
 1195 ~~inpatient placement~~, the court ~~administrative law judge~~ shall
 1196 issue an ~~sign the~~ order for continued involuntary services
 1197 ~~inpatient placement~~ for up to 90 days. However, any order for
 1198 involuntary inpatient placement, or ~~mental health services in a~~
 1199 combination of involuntary services ~~treatment facility~~ may be
 1200 for up to 6 months. The same procedure shall be repeated before

1201 the expiration of each additional period the patient is
 1202 retained.

1203 (1) If the patient has been ordered to undergo involuntary
 1204 services and has previously been found incompetent to consent to
 1205 treatment, the court shall consider testimony and evidence
 1206 regarding the patient's competence. If the patient's competency
 1207 to consent to treatment is restored, the discharge of the
 1208 guardian advocate shall be governed by s. 394.4598. If the
 1209 patient has been ordered to undergo involuntary inpatient
 1210 placement only and the patient's competency to consent to
 1211 treatment is restored, the administrative law judge may issue a
 1212 recommended order, to the court that found the patient
 1213 incompetent to consent to treatment, that the patient's
 1214 competence be restored and that any guardian advocate previously
 1215 appointed be discharged.

1216 (m)-(e) If continued involuntary inpatient placement is
 1217 necessary for a patient in involuntary inpatient placement who
 1218 was admitted while serving a criminal sentence, but his or her
 1219 sentence is about to expire, or for a minor involuntarily
 1220 placed, but who is about to reach the age of 18, the
 1221 administrator shall petition the administrative law judge for an
 1222 order authorizing continued involuntary inpatient placement.
 1223 The procedure required in this section ~~subsection~~ must be
 1224 followed before the expiration of each additional period the
 1225 patient is involuntarily receiving services.

1226 ~~(12)(8)~~ RETURN TO FACILITY.—If a patient has been ordered
 1227 to undergo involuntary inpatient placement involuntarily held at
 1228 a treatment facility under this part leaves the facility without
 1229 the administrator's authorization, the administrator may
 1230 authorize a search for the patient and his or her return to the
 1231 facility. The administrator may request the assistance of a law
 1232 enforcement agency in this regard.

1233 ~~(13)~~ DISCHARGE—The patient shall be discharged upon
 1234 expiration of the court order or at any time the patient no
 1235 longer meets the criteria for involuntary services, unless the
 1236 patient has transferred to voluntary status. Upon discharge, the
 1237 service provider or facility shall send a certificate of
 1238 discharge to the court.

1239 Section 6. Subsection (3) of section 394.495, Florida
 1240 Statutes, is amended to read:

1241 394.495 Child and adolescent mental health system of care;
 1242 programs and services.—

1243 (3) Assessments must be performed by:

1244 (a) A clinical psychologist, clinical social worker,
 1245 physician, psychiatric nurse, or psychiatrist, as those terms
 1246 are defined in s. 394.455 ~~professional as defined in s.~~
 1247 ~~394.455(5), (7), (33), (36), or (37);~~

1248 (b) A professional licensed under chapter 491; or

1249 (c) A person who is under the direct supervision of a
 1250 clinical psychologist, clinical social worker, physician,

1251 psychiatric nurse, or psychiatrist, as those terms are defined
 1252 in s. 394.455, ~~qualified professional as defined in s.~~
 1253 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 1254 under chapter 491.

1255 Section 7. Subsection (5) of section 394.496, Florida
 1256 Statutes, is amended to read:

1257 394.496 Service planning.—

1258 (5) A clinical psychologist, clinical social worker,
 1259 physician, psychiatric nurse, or psychiatrist, as those terms
 1260 are defined in s. 394.455, ~~professional as defined in s.~~
 1261 ~~394.455(5), (7), (33), (36), or (37)~~ or a professional licensed
 1262 under chapter 491 must be included among those persons
 1263 developing the services plan.

1264 Section 8. Subsection (6) of section 394.9085, Florida
 1265 Statutes, is amended to read:

1266 394.9085 Behavioral provider liability.—

1267 (6) For purposes of this section, the terms
 1268 "detoxification ~~services,~~" "addictions receiving facility," and
 1269 "receiving facility" have the same meanings as those provided in
 1270 ss. 397.311(26)(a)4. ~~397.311(26)(a)3.,~~ 397.311(26)(a)1., and
 1271 394.455(41) ~~394.455(40),~~ respectively.

1272 Section 9. Paragraph (b) of subsection (1) of section
 1273 409.972, Florida Statutes, is amended to read:

1274 409.972 Mandatory and voluntary enrollment.—

1275 (1) The following Medicaid-eligible persons are exempt

1276 from mandatory managed care enrollment required by s. 409.965,
 1277 and may voluntarily choose to participate in the managed medical
 1278 assistance program:

1279 (b) Medicaid recipients residing in residential commitment
 1280 facilities operated through the Department of Juvenile Justice
 1281 or a treatment facility as defined in s. 394.455 ~~s. 394.455(49)~~.

1282 Section 10. Paragraph (e) of subsection (4) of section
 1283 464.012, Florida Statutes, is amended to read:

1284 464.012 Licensure of advanced practice registered nurses;
 1285 fees; controlled substance prescribing.—

1286 (4) In addition to the general functions specified in
 1287 subsection (3), an advanced practice registered nurse may
 1288 perform the following acts within his or her specialty:

1289 (e) A psychiatric nurse, who meets the requirements in s.
 1290 394.455(37) ~~s. 394.455(36)~~, within the framework of an
 1291 established protocol with a psychiatrist, may prescribe
 1292 psychotropic controlled substances for the treatment of mental
 1293 disorders.

1294 Section 11. Subsection (7) of section 744.2007, Florida
 1295 Statutes, is amended to read:

1296 744.2007 Powers and duties.—

1297 (7) A public guardian may not commit a ward to a treatment
 1298 facility, as defined in s. 394.455 ~~s. 394.455(49)~~, without an
 1299 involuntary placement proceeding as provided by law.

1300 Section 12. This act shall take effect July 1, 2024.