

1 A bill to be entitled
2 An act relating to the Department of Corrections; amending
3 s. 921.187, F.S.; deleting certain provisions limiting
4 circumstances under which an offender may be placed in
5 community control; amending s. 943.16, F.S.; eliminating
6 provisions requiring that a law enforcement officer
7 reimburse the employing agency for wages and benefits paid
8 by the employing agency if the officer terminates
9 employment before the end of a 2-year commitment period;
10 eliminating wages and benefits from the costs that
11 employing agencies may recover; eliminating the definition
12 of the term "academy training period"; amending s.
13 944.1905, F.S.; authorizing the department to assign
14 certain young adult offenders to a facility for youthful
15 offenders until the offender reaches a specified age;
16 deleting provisions requiring that certain young adult
17 offenders be housed and provided certain services
18 separately from older offenders; amending s. 944.47, F.S.;
19 providing that a cellular telephone or other portable
20 communication device that is introduced inside the secure
21 perimeter of a state correctional institution without
22 prior authorization is contraband; prohibiting an inmate
23 or other person upon the grounds of the institution from
24 possessing such contraband without authorization;
25 providing a definition; providing criminal penalties;
26 amending s. 948.01, F.S.; deleting the requirement that the
27 court require the Department of Corrections provide
28 certain notifications; amending s. 948.10, F.S.; deleting

29 a requirement that community control programs and manuals
 30 be developed in consultation with the Florida Conference
 31 of Circuit Court Judges and the State Courts
 32 Administrator; deleting the prohibition on sentencing
 33 offenders convicted of certain forcible felonies to
 34 community control; deleting the requirement that the
 35 department commit at least 10% of resources to the
 36 community control program; deleting requirements for the
 37 department in developing and implementing community
 38 control programs, resource directories, and training
 39 programs; deleting a requirement for the Florida Court
 40 Education Council and the State Courts Administrator to
 41 coordinate certain resources for judges pertaining to
 42 community control; eliminating provisions governing review
 43 and notice by the department of offenders ineligible for
 44 community control and requiring the department to develop
 45 a caseload equalization strategy; amending s. 958.04,
 46 F.S.; authorizing the court to sentence a person as a
 47 youthful offender if the offender is younger than 21 years
 48 of age at the time sentence is imposed; requiring the
 49 Department of Corrections to adopt by rule criteria to
 50 define successful participation in the youthful offender
 51 program; amending s. 958.11, F.S.; removing the specific
 52 designation of youthful offender facilities for housing
 53 female offenders; revising requirements for the department
 54 with respect to assigning or transferring youthful
 55 offenders; removing references to the Assistant Secretary
 56 for Youthful Offenders; amending s. 958.12, F.S.; removing

57 | the requirement for a youthful offender to be visited by a
58 | probation and parole officer before release; removing the
59 | requirement for the department to develop community
60 | partnerships with the Department of Labor and Employment
61 | Security and the Department of Children and Family
62 | Services; amending s. 120.57, F.S.; allowing
63 | administrative law judges to appoint private pro bono
64 | attorneys in the continued placement hearings of inmates;
65 | amending s. 945.41, F.S.; eliminating a requirement that
66 | the Department of Corrections contract with the Department
67 | of Children and Family Services to provide certain mental
68 | health services; authorizing the Department of Corrections
69 | to contract with other entities or persons to provide
70 | mental health services to inmates; amending s. 945.42,
71 | F.S.; revising definitions and defining the term "crisis
72 | stabilization care"; amending s. 945.43, F.S.; revising
73 | the procedures for placing an inmate in a mental health
74 | treatment facility; authorizing the court to waive the
75 | presence of the inmate at the hearing on the inmate's
76 | placement; amending s. 945.44, F.S.; providing for the
77 | emergency placement of an inmate in a mental health
78 | treatment facility; amending s. 945.45, F.S.; revising the
79 | provisions governing the continued placement of an inmate
80 | in a mental health treatment facility; authorizing an
81 | administrative law judge to appoint a private pro bono
82 | attorney to represent an inmate in continued placement
83 | hearings; providing that the administrative law judge may
84 | waive the presence of the inmate at the hearing under

85 certain conditions; amending s. 945.46, F.S.; authorizing
 86 the warden to initiate procedures for the involuntary
 87 examination of an inmate who has a mental illness and
 88 meets certain criteria; amending s. 945.47, F.S.;
 89 providing for the transfer of an inmate who is no longer
 90 in need of mental health treatment; deleting certain
 91 provisions governing involuntary placement; requiring that
 92 a summary of the inmate's treatment be provided to the
 93 Parole Commission and the Department of Children and
 94 Family Services upon request; amending s. 945.48, F.S.;
 95 revising the procedure for the involuntary mental health
 96 treatment of an inmate; providing for the warden of the
 97 institution containing the mental health treatment
 98 facility to petition the circuit court for an order
 99 authorizing involuntary treatment; providing requirements
 100 for the hearing on involuntary treatment; limiting the
 101 period that an order authorizing involuntary treatment is
 102 effective; providing a procedure for emergency treatment;
 103 amending s. 945.49, F.S.; deleting a provision requiring
 104 that training provided to correctional officers employed
 105 by a mental health treatment facility be in accordance
 106 with the requirements of the Criminal Justice Standards
 107 and Training Commission; providing an effective date.

108
 109 Be It Enacted by the Legislature of the State of Florida:

110
 111 Section 1. Subsections (2), (3), and (4) of section
 112 921.187, Florida Statutes, are amended to read:

113 921.187 Disposition and sentencing; alternatives;
 114 restitution.--
 115 ~~(2) An offender may not be placed in community control if:~~
 116 ~~(a) Convicted of or adjudication is withheld for a~~
 117 ~~forcible felony as defined in s. 776.08; and~~
 118 ~~(b) Previously convicted of or adjudication was withheld~~
 119 ~~for a forcible felony as defined in s. 776.08.~~
 120
 121 ~~Nothing in this subsection prohibits placement of certain~~
 122 ~~inmates on community control pursuant to s. 947.1747. For~~
 123 ~~purposes of this subsection, a forcible felony does not include~~
 124 ~~manslaughter or burglary.~~
 125 (2)~~(3)~~ In addition to any other penalty provided by law
 126 for an offense enumerated in s. 775.0877(1)(a)-(n), if the
 127 offender is convicted of criminal transmission of HIV pursuant
 128 to s. 775.0877, the court may sentence the offender to criminal
 129 quarantine community control as described in s. 948.001.
 130 (3)~~(4)~~ The court shall require an offender to make
 131 restitution under s. 775.089, unless the court finds clear and
 132 compelling reasons not to order such restitution. If the court
 133 does not order restitution, or orders restitution of only a
 134 portion of the damages, as provided in s. 775.089, the court
 135 shall state the reasons on the record in detail. An order
 136 requiring an offender to make restitution to a victim under s.
 137 775.089 does not remove or diminish the requirement that the
 138 court order payment to the Crimes Compensation Trust Fund under
 139 chapter 960.

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

142 943.16 Payment of tuition or officer certification
 143 examination fee by employing agency; reimbursement of tuition,
 144 other course expenses, wages, and benefits.--

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

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

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

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

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

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

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

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

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

191 (5) For purposes of this section, "~~academy training~~
 192 ~~period~~" means the period of time that a trainee is attending an
 193 approved basic recruit training program in a law enforcement or
 194 correctional officer academy class for purposes of obtaining

195 ~~certification pursuant to this chapter, until the date of~~
 196 ~~graduation from such class.~~ the term "other course expenses"
 197 includes the cost of meals.

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

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

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

210 944.1905 Initial inmate classification; inmate
 211 reclassification.--The Department of Corrections shall classify
 212 inmates pursuant to an objective classification scheme. The
 213 initial inmate classification questionnaire and the inmate
 214 reclassification questionnaire must cover both aggravating and
 215 mitigating factors.

216 (5) (a) Notwithstanding any other provision of this section
 217 or chapter 958, the department shall assign to facilities
 218 housing youthful offenders ~~specific correctional facilities~~ all
 219 inmates who are less than 18 years of age and who are ~~not~~
 220 ~~eligible for and~~ have not been assigned to a facility for
 221 youthful offenders under the provisions of chapter 958. Such an
 222 inmate shall be assigned to a facility for youthful offenders

223 until the inmate is 18 years of age; however, the department may
 224 assign the inmate to a facility for youthful offenders until the
 225 inmate reaches an age not to exceed 21 years if the department
 226 determines that the continued assignment is in the best
 227 interests of the inmate and the assignment does not pose an
 228 unreasonable risk to other inmates in the facility. ~~Any such~~
 229 ~~inmate who is less than 18 years of age shall be housed in a~~
 230 ~~dormitory that is separate from inmates who are 18 years of age~~
 231 ~~or older. Furthermore, the department shall provide any food~~
 232 ~~service, education, and recreation for such inmate separately~~
 233 ~~from inmates who are 18 years of age or older.~~

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

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

248 Section 4. Section 944.47, Florida Statutes, is amended to
 249 read:

250 944.47 Introduction, removal, or possession of certain
 251 articles unlawful; penalty.--

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

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

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

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

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

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

273 6. Any cellular telephone or other portable communication
 274 device intentionally and unlawfully introduced inside the secure
 275 perimeter of any state correctional institution without prior
 276 authorization or consent from the officer in charge of such
 277 correctional institution. As used in this subparagraph, the term

278 "portable communication device" means any device carried, worn,
 279 or stored which is designed or intended to receive or transmit
 280 verbal or written messages, access or store data, or connect
 281 electronically to the Internet or any other electronic device,
 282 and which allows communications in any form. Such devices
 283 include, but are not limited to, portable two-way pagers, hand-
 284 held radios, cellular telephones, Blackberry-type devices,
 285 personal digital assistants or PDA's, laptop computers, or any
 286 components of these devices which are intended to be used to
 287 assemble such devices. The term also includes any new technology
 288 that is developed for similar purposes. Excluded from this
 289 definition is any device having communication capabilities which
 290 has been approved or issued by the department for investigative
 291 or institutional security purposes or for conducting other state
 292 business.

293 (b) It is unlawful to transmit or attempt to transmit to,
 294 or cause or attempt to cause to be transmitted to or received
 295 by, any inmate of any state correctional institution any article
 296 or thing declared by this subsection to be contraband, at any
 297 place which is outside the grounds of such institution, except
 298 through regular channels as authorized by the officer in charge
 299 of such correctional institution.

300 (c) It is unlawful for any inmate of any state
 301 correctional institution or any person while upon the grounds of
 302 any state correctional institution to be in actual or
 303 constructive possession of any article or thing declared by this
 304 section to be contraband, except as authorized by the officer in
 305 charge of such correctional institution.

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

314 Section 5. Paragraph (c) of subsection (3) of section
 315 948.01, Florida Statutes, is amended to read:

316 948.01 When court may place defendant on probation or into
 317 community control.--

318 (3) If, after considering the provisions of subsection (2)
 319 and the offender's prior record or the seriousness of the
 320 offense, it appears to the court in the case of a felony
 321 disposition that probation is an unsuitable dispositional
 322 alternative to imprisonment, the court may place the offender in
 323 a community control program as provided in s. 948.10. Or, in a
 324 case of prior disposition of a felony commitment, upon motion of
 325 the offender or the department or upon its own motion, the court
 326 may, within the period of its retained jurisdiction following
 327 commitment, suspend the further execution of the disposition and
 328 place the offender in a community control program upon such
 329 terms as the court may require. The court may consult with a
 330 local offender advisory council pursuant to s. 948.90 with
 331 respect to the placement of an offender into community control.
 332 Not later than 3 working days before the hearing on the motion,
 333 the department shall forward to the court all relevant material

334 on the offender's progress while in custody. If this sentencing
 335 alternative to incarceration is utilized, the court shall:

336 ~~(c) Require the department to provide notifications~~
 337 ~~pursuant to s. 948.10(7).~~

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

340 948.10 Community control programs.--

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

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

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

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

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

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

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

366
367 ~~Nothing in this subsection prohibits placement of certain~~
368 ~~inmates on community control pursuant to s. 947.1747. For the~~
369 ~~purposes of this subsection, a forcible felony does not include~~
370 ~~manslaughter or burglary.~~

371 (2)(3) The department shall commit not less than 10
372 percent of the parole and probation field staff and supporting
373 resources to the operation of the community control program.
374 Caseloads should be restricted to a maximum of 25 cases per
375 officer in order to ensure an adequate level of staffing.
376 Community control is an individualized program in which the
377 offender is restricted to noninstitutional quarters or
378 restricted to his or her own residence subject to an authorized
379 level of limited freedom.

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

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

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

396 ~~2. An offender's individualized program shall include~~
 397 ~~diagnosis of treatment needs in the areas of education,~~
 398 ~~substance abuse, and mental health, as well as community~~
 399 ~~sanction provisions, restitution and community service~~
 400 ~~provisions, rehabilitation objectives and programs, and a~~
 401 ~~schedule for periodic review and reevaluation of such~~
 402 ~~individualized programs. Individualized programs for offenders~~
 403 ~~who committed controlled substance violations shall include~~
 404 ~~provision for the conduct of random substance abuse testing~~
 405 ~~intermittently throughout the term of supervision, upon the~~
 406 ~~direction of the correctional probation officer as defined in s.~~
 407 ~~943.10(3).~~

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

413 ~~1. The name, address, phone, county location, capacity,~~
 414 ~~and cost.~~

415 ~~2. Client eligibility and characteristics which prohibit~~
 416 ~~acceptance.~~

417 ~~3. The objectives of the program.~~
 418 ~~4. The primary source of referrals.~~
 419 ~~5. The average length of stay.~~
 420 ~~6. The services offered.~~
 421 ~~(c) Training programs shall be provided for correctional~~
 422 ~~field staff, local offender advisory councils, and others~~
 423 ~~responsible for the implementation of community control~~
 424 ~~programs.~~
 425 ~~(6) The Florida Court Education Council and the office of~~
 426 ~~the State Courts Administrator shall coordinate the development~~
 427 ~~and implementation of a reference manual, directory, and~~
 428 ~~training programs for judges in relation to community control~~
 429 ~~disposition.~~
 430 ~~(7) Upon written request, when an offender is placed on~~
 431 ~~community control, the department shall notify:~~
 432 ~~(a) The original arresting law enforcement agency.~~
 433 ~~(b) The sheriff or chief law enforcement officer of the~~
 434 ~~county in which the offender is to be placed.~~
 435 ~~(c) The chief officer of any local law enforcement agency~~
 436 ~~within whose jurisdiction the offender is to be placed.~~
 437 ~~(d) The victim of the offense, the victim's parent or~~
 438 ~~guardian if the victim is a minor, the lawful representative of~~
 439 ~~the victim or the victim's parent or guardian if the victim is a~~
 440 ~~minor, or the next of kin if the victim is a homicide victim.~~
 441
 442 ~~Such notification shall include the name and street address of~~
 443 ~~the offender, the length of supervision, and the nature of the~~

444 ~~offense. Update notification must be provided with respect to~~
 445 ~~violation of the terms or conditions of the placement.~~

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

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

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

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

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

465 (3)~~(9)~~ Procedures governing violations of community
 466 control shall be the same as those described in s. 948.06 with
 467 respect to probation.

468 (4)~~(10)~~ Upon completion of the sanctions imposed in the
 469 community control plan before the expiration of the term ordered
 470 by the court, the department may petition the court to discharge
 471 the offender from community control supervision or to return the

472 offender to a program of regular probation supervision. In
 473 considering the petition, the court should recognize the limited
 474 staff resources committed to the community control program, the
 475 purpose of the program, and the offender's successful compliance
 476 with the conditions set forth in the order of the court.

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

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

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

485 (5) ~~(12)~~ In its annual report to the Governor, the
 486 President of the Senate, and the Speaker of the House of
 487 Representatives under s. 20.315(5), the department shall include
 488 a detailed analysis of the community control program and the
 489 department's specific efforts to protect the public from
 490 offenders placed on community control. The analysis must
 491 include, but need not be limited to, specific information on the
 492 department's ability to meet minimum officer-to-offender contact
 493 standards, the number of crimes committed by offenders on
 494 community control, and the level of community supervision
 495 provided.

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

498 958.04 Judicial disposition of youthful offenders.--

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

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

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

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

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

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

524 (b) The court may impose a period of incarceration as a
525 condition of probation or community control, which period of
526 incarceration shall be served in ~~either~~ a county facility, a

527 department probation and restitution center, or a community
528 residential facility that ~~which~~ is owned and operated by any
529 public or private entity providing such services. A ~~No~~ youthful
530 offender may not be required to serve a period of incarceration
531 in a community correctional center as defined in s. 944.026.
532 Admission to a department facility or center shall be contingent
533 upon the availability of bed space and shall take into account
534 the purpose and function of such facility or center. Placement
535 in such a facility or center may ~~shall~~ not exceed 364 days.

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

548 (d) The court may commit the youthful offender to the
549 custody of the department for a period of not more than 6 years,
550 provided that any such commitment may ~~shall~~ not exceed the
551 maximum sentence for the offense for which the youthful offender
552 has been convicted. Successful participation in the youthful
553 offender program by an offender who is sentenced as a youthful
554 offender by the court pursuant to this section, or is classified

555 as such by the department, may result in a recommendation to the
 556 court, by the department, for a modification or early
 557 termination of probation, community control, or the sentence at
 558 any time prior to the scheduled expiration of such term. The
 559 department shall adopt rules defining criteria for successful
 560 participation in the youthful offender program which shall
 561 include program participation, academic and vocational training,
 562 and satisfactory adjustment. When a modification of the sentence
 563 results in the reduction of a term of incarceration, the court
 564 may impose a term of probation or community control which, when
 565 added to the term of incarceration, may ~~shall~~ not exceed the
 566 original sentence imposed.

567 Section 8. Section 958.11, Florida Statutes, is amended to
 568 read:

569 958.11 Designation of institutions and programs for
 570 youthful offenders; assignment from youthful offender
 571 institutions and programs.--

572 (1) The department shall by rule designate separate
 573 institutions and programs for youthful offenders and shall
 574 employ and utilize personnel specially qualified by training and
 575 experience to operate all such institutions and programs for
 576 youthful offenders. Youthful offenders who are at least 14 years
 577 of age but who have not yet reached the age of 19 years at the
 578 time of reception shall be separated from youthful offenders who
 579 are 19 years of age or older, except that if the population of
 580 the facilities designated for 14-year-old to 18-year-old
 581 youthful offenders exceeds 100 percent of lawful capacity, the

582 department may assign 18-year-old youthful offenders to the 19-
 583 24 age group facility.

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

596 (3) The department may assign a youthful offender to a
 597 facility in the state correctional system which is not
 598 designated for the care, custody, control, and supervision of
 599 youthful offenders or an age group only in the following
 600 circumstances:

601 (a) If the youthful offender is convicted of a new crime
 602 which is a felony under the laws of this state.

603 (b) If the youthful offender becomes such a serious
 604 management or disciplinary problem resulting from serious
 605 violations of the rules of the department that his or her
 606 original assignment would be detrimental to the interests of the
 607 program and to other inmates committed thereto.

608 (c) If the youthful offender needs medical treatment,
609 health services, or other specialized treatment otherwise not
610 available at the youthful offender facility.

611 (d) If the department determines that the youthful
612 offender should be transferred outside of the state correctional
613 system, as provided by law, for services not provided by the
614 department.

615 (e) If bed space is not available in a designated
616 community residential facility, the department may assign a
617 youthful offender to a community residential facility, provided
618 that the youthful offender is separated from other offenders
619 insofar as is practical.

620 (f) If the youthful offender was originally assigned to a
621 facility designated for 14-year-old to 18-year-old youthful
622 offenders, but subsequently reaches the age of 19 years, the
623 department may retain the youthful offender in the facility if
624 the department determines that it is in the best interest of the
625 youthful offender and the department.

626 (g) If the department determines that a youthful offender
627 originally assigned to a facility designated for the 19-24 age
628 group is mentally or physically vulnerable by such placement,
629 the department may reassign a youthful offender to a facility
630 designated for the 14-18 age group if the department determines
631 that a reassignment is necessary to protect the safety of the
632 youthful offender or the institution.

633 (h) If the department determines that a youthful offender
634 originally assigned to a facility designated for the 14-18 age
635 group is disruptive, incorrigible, or uncontrollable, the

636 department may reassign a youthful offender to a facility
637 designated for the 19-24 age group if the department determines
638 that a reassignment would best serve the interests of the
639 youthful offender and the department.

640 (4) The department ~~Office of the Assistant Secretary for~~
641 ~~Youthful Offenders~~ shall continuously screen all institutions,
642 facilities, and programs for any inmate who meets the
643 eligibility requirements for youthful offender designation
644 specified in s. 958.04(1)(a) and (c) whose age does not exceed
645 24 years and whose total length of sentence does not exceed 10
646 years, and the department may classify and assign as a youthful
647 offender any inmate who meets the criteria of this subsection.

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

658 (6) The department may assign to a youthful offender
659 facility any inmate, except a capital or life felon, whose age
660 does not exceed 19 years but who does not otherwise meet the
661 criteria of this section, if the department ~~Assistant Secretary~~
662 ~~for Youthful Offenders~~ determines that such inmate's mental or
663 physical vulnerability would substantially or materially

664 jeopardize his or her safety in a nonyouthful offender facility.
 665 Assignments made under this subsection shall be included in the
 666 department's annual report.

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

669 958.12 Participation in certain activities required.--

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

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

- 676 1. Reception and orientation.
- 677 2. Evaluation, needs assessment, and classification.
- 678 3. Educational programs.
- 679 4. Career and job training.
- 680 5. Life and socialization skills training, including
- 681 anger/aggression control.
- 682 6. Prerelease orientation and planning.
- 683 7. Appropriate transition services.

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

- 686 1. Religious services and counseling.
- 687 2. Social services.
- 688 3. Substance abuse treatment and counseling.
- 689 4. Psychological and psychiatric services.
- 690 5. Library services.
- 691 6. Medical and dental health care.

692 7. Athletic, recreational, and leisure time activities.

693 8. Mail and visiting privileges.

694

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

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

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

714 (3)~~(4)~~ Community partnerships shall be developed by the
 715 department to provide postrelease community resources. The
 716 department shall develop partnerships with entities that ~~which~~
 717 include, but are not limited to, state agencies ~~the Department~~
 718 ~~of Labor and Employment Security, the Department of Children and~~

719 ~~Family Services~~, community health agencies, private agencies,
 720 and school systems.

721 ~~(4)-(5)~~ If supervision of the youthful offender after
 722 release from incarceration is required, this ~~and~~ may be
 723 accomplished in a residential or nonresidential program or
 724 intensive day treatment, ~~or~~ through supervision by a
 725 correctional probation ~~and parole~~ officer.

726 Section 10. Paragraph (b) of subsection (1) of section
 727 120.57, Florida Statutes, is amended to read:

728 120.57 Additional procedures for particular cases.--

729 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING
 730 DISPUTED ISSUES OF MATERIAL FACT.--

731 (b) All parties shall have an opportunity to respond, to
 732 present evidence and argument on all issues involved, to conduct
 733 cross-examination and submit rebuttal evidence, to submit
 734 proposed findings of facts and orders, to file exceptions to the
 735 presiding officer's recommended order, and to be represented by
 736 counsel or other qualified representative. In proceedings for
 737 the continued placement of inmates under s. 945.45, the
 738 administrative law judge may appoint a private pro bono attorney
 739 in the circuit in which the treatment facility is located to
 740 represent the inmate. When appropriate, the general public may
 741 be given an opportunity to present oral or written
 742 communications. If the agency proposes to consider such
 743 material, then all parties shall be given an opportunity to
 744 cross-examine or challenge or rebut the material.

745 Section 11. Subsections (1) and (5) of section 945.41,
 746 Florida Statutes, are amended to read:

747 945.41 Legislative intent of ss. 945.40-945.49.--It is the
 748 intent of the Legislature that mentally ill inmates in the
 749 custody of the Department of Corrections receive evaluation and
 750 appropriate treatment for their mental illness through a
 751 continuum of services. It is further the intent of the
 752 Legislature that:

753 (1) Inmates in the custody of the department who have
 754 mental illnesses that require hospitalization and intensive
 755 psychiatric inpatient treatment or care receive appropriate
 756 treatment or care in Department of Corrections mental health
 757 treatment facilities designated for that purpose. ~~The department~~
 758 ~~shall contract with the Department of Children and Family~~
 759 ~~Services for the provision of mental health services in any~~
 760 ~~departmental mental health treatment facility.~~ The Department of
 761 Corrections shall provide mental health services to inmates
 762 committed to it and may contract with any entities, persons, or
 763 agencies qualified to provide such services.

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

768 Section 12. Section 945.42, Florida Statutes, is amended
 769 to read:

770 945.42 Definitions; ss. 945.40-945.49.--As used in ss.
 771 945.40-945.49, the following terms shall have the meanings
 772 ascribed to them, unless the context shall clearly indicate
 773 otherwise:

774 (1) "Court" means the circuit court.

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

786 (3)-(2) "Department" means the Department of Corrections.

787 (4)-(3) "Director" means the Director for Mental Health
 788 Services of the Department of Corrections or his or her
 789 designee.

790 (5)-(4) "In immediate need of care and treatment" means
 791 that an inmate is apparently mentally ill and is not able to be
 792 appropriately cared for in the institution where he or she ~~the~~
 793 ~~inmate~~ is confined and that, but for being isolated in a more
 794 restrictive and secure housing environment, because of the
 795 apparent mental illness:

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

802 2. There is an immediate, real, and present threat that

803 the inmate will inflict serious bodily harm on himself or
 804 herself or another person, as evidenced by recent behavior
 805 involving causing, attempting, or threatening such harm;

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

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

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

815 (6)-(5) "In need of care and treatment" means that an
 816 inmate has a mental illness for which inpatient services in a
 817 mental health treatment facility are necessary and that, but for
 818 being isolated in a more restrictive and secure housing
 819 environment, because of the ~~which~~ mental illness;

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

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

829 (b)1. The inmate has refused voluntary placement for
 830 treatment at a mental health treatment facility after sufficient

831 and conscientious explanation and disclosure of the purpose of
 832 placement; or

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

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

838 (7)-(6) "Inmate" means any person committed to the custody
 839 of the Department of Corrections.

840 (8)-(7) "Mental health treatment facility" means the
 841 Corrections Mental Health Institution and any extended treatment
 842 or hospitalization-level unit within the corrections system
 843 which other institution that the Assistant Secretary for Health
 844 Services of the department specifically designates by rule to
 845 provide acute psychiatric care and which may include involuntary
 846 treatment and therapeutic intervention at the hospital level, in
 847 contrast to less intensive levels of care such as outpatient
 848 mental health care, transitional mental health care, or crisis
 849 stabilization care.

850 (9)-(8) "Mentally ill" means an impairment of the mental or
 851 emotional processes, of the ability to exercise conscious
 852 control of one's actions, or of the ability to perceive or
 853 understand reality ~~or to understand~~, which impairment
 854 substantially interferes with a person's ability to meet the
 855 ordinary demands of living, regardless of etiology, except that,
 856 for the purposes of transfer of an inmate to a mental health
 857 treatment facility, the term does not include retardation or
 858 developmental disability as defined in chapter 393, simple

859 | intoxication, or conditions manifested only by antisocial
 860 | behavior or substance abuse ~~drug~~ addiction. However, an
 861 | individual who is mentally retarded or developmentally disabled
 862 | may also have a mental illness.

863 | ~~(10)-(9)~~ "Psychiatrist" means a medical practitioner
 864 | licensed pursuant to chapter 458 or chapter 459 who has
 865 | primarily diagnosed and treated nervous and mental disorders for
 866 | a period of not less than 3 years inclusive of psychiatric
 867 | residency.

868 | ~~(11)-(10)~~ "Psychological professional" "~~Psychologist~~" means
 869 | a behavioral practitioner who has an approved doctoral degree in
 870 | psychology as defined in s. 490.003(3)(b) and is employed by the
 871 | department that is primarily clinical in nature from a
 872 | ~~university or professional graduate school that is state-~~
 873 | ~~authorized or accredited by an accrediting agency approved by~~
 874 | ~~the United States Department of Education and who is~~
 875 | ~~professionally certified by the appropriate professional~~
 876 | ~~psychology association or who~~ is licensed as a psychologist
 877 | pursuant to chapter 490.

878 | ~~(12)-(11)~~ "Secretary" means the Secretary of Corrections.

879 | ~~(13)-(12)~~ "Transitional mental health care" means a level
 880 | of care that is more intensive than outpatient care, but less
 881 | intensive than crisis stabilization care, and is characterized
 882 | by the provision of traditional mental health treatments such as
 883 | group and individual therapy, activity therapy, recreational
 884 | therapy, and psychotropic medications ~~chemotherapy~~, in the
 885 | context of a structured residential setting. Transitional mental
 886 | health care is indicated for a person with chronic or residual

887 | symptomatology who does not require crisis stabilization care or
 888 | acute psychiatric care ~~at the hospital level~~, but whose
 889 | impairment ~~impairments~~ in functioning nevertheless renders
 890 | ~~render~~ him or her incapable of adjusting satisfactorily within
 891 | the general inmate population, ~~even with the assistance of~~
 892 | ~~outpatient care~~.

893 | ~~(14)~~ ~~(13)~~ "Warden" means the warden of a state corrections
 894 | facility or his or her designee.

895 | Section 13. Section 945.43, Florida Statutes, is amended
 896 | to read:

897 | 945.43 Admission of inmate to mental health treatment
 898 | facility.--

899 | (1) CRITERIA.--An inmate may be admitted to a mental
 900 | health treatment facility if he or she is mentally ill and is in
 901 | need of care and treatment, as defined in s. 945.42(6).

902 | (2) PROCEDURE FOR PLACEMENT IN ~~ADMISSION TO~~ A MENTAL
 903 | HEALTH TREATMENT FACILITY.--

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

914 | (b) A copy of the petition ~~certificate shall also be filed~~

915 ~~with the department, and copies shall be served on the inmate~~
 916 ~~and the inmate's representatives, accompanied by:~~

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

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

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

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

931 (c) The petition for placement may be filed in the county
 932 in which the inmate is located ~~being treated at any time within~~
 933 ~~6 months of the date of the certificate.~~ The hearing shall be
 934 held in the same county, and one of the inmate's physicians at
 935 the facility where the inmate is located shall appear as a
 936 witness at the hearing.

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

941 (e) If the court finds that the inmate is mentally ill and
 942 in need of care and treatment, as defined in s. 945.42(6), the

943 court ~~it~~ shall order that he or she be placed in ~~admitted to~~ a
 944 mental health treatment facility or, if the inmate is at a
 945 mental health treatment facility, that he or she be retained
 946 there. ~~However, the inmate may be immediately transferred to and~~
 947 ~~admitted at a mental health treatment facility by executing a~~
 948 ~~waiver of the hearing by express and informed consent, without~~
 949 ~~awaiting the court order.~~ The court shall authorize the mental
 950 health treatment facility to retain the inmate for up to 6
 951 months. If, at the end of that time, continued placement
 952 ~~treatment~~ is necessary, the warden shall apply to the Division
 953 of Administrative Hearings in accordance with s. 945.45 ~~court~~
 954 for an order authorizing continued placement.

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

960 (a) The court shall serve notice on the warden of the
 961 facility where the inmate is confined, ~~the director,~~ and the
 962 allegedly mentally ill inmate. The notice must ~~shall~~ specify the
 963 date, time, and place of the hearing; the basis for the
 964 allegation of mental illness; and the names of the examining
 965 experts. The hearing shall be held within 5 days, and the court
 966 may appoint a general or special magistrate to preside. The
 967 court may waive the presence of the inmate at the hearing if
 968 such waiver is consistent with the best interests of the inmate
 969 and the inmate's counsel does not object. The hearing may be as
 970 informal as is consistent with orderly procedure. One of the

971 experts whose opinion supported the petition for placement
 972 ~~recommendation~~ shall be present at the hearing for information
 973 purposes.

974 (b) If, at the hearing, the court finds that the inmate is
 975 mentally ill and in need of care and treatment, as defined in s.
 976 945.42(6), the court ~~it~~ shall order that he or she be placed in
 977 ~~transferred to~~ a mental health treatment facility ~~and provided~~
 978 ~~appropriate treatment~~. The court shall provide a copy of its
 979 order authorizing placement transfer and all supporting
 980 documentation relating to the inmate's condition to the warden
 981 of the treatment facility. If the court finds that the inmate is
 982 not mentally ill, it shall dismiss the petition for placement
 983 ~~transfer~~.

984 (4) REFUSAL OF PLACEMENT ADMISSION; WHEN REFUSAL
 985 ~~ALLOWED~~--The warden of an institution in which a mental health
 986 treatment facility is located may refuse to place ~~admit~~ any
 987 inmate in that treatment facility who is not accompanied by
 988 adequate court orders and documentation, as required in ss.
 989 945.40-945.49.

990 Section 14. Section 945.44, Florida Statutes, is amended
 991 to read:

992 945.44 Emergency placement ~~admission~~ of inmate in a ~~to~~
 993 mental health treatment facility.--

994 (1) CRITERIA.--An inmate may be placed in a mental health
 995 treatment facility on an emergency basis if he or she is
 996 mentally ill and in immediate need of care and treatment, as
 997 defined in s. 945.42(5).

998 (2) PROCEDURE FOR EMERGENCY PLACEMENT ADMISSION.--An

999 inmate who is mentally ill and in immediate need of care and
 1000 treatment that ~~which~~ cannot be provided at the institution where
 1001 he or she is confined may be placed in ~~admitted to~~ a mental
 1002 health treatment facility on an emergency basis. The inmate may
 1003 be placed ~~transferred~~ immediately in a mental health treatment
 1004 ~~to the~~ facility and shall be accompanied by the recommendation
 1005 of the warden of the institution where the inmate is confined,
 1006 which recommendation must ~~shall~~ state the need for the emergency
 1007 placement ~~transfer~~ and ~~shall~~ include a written opinion of a
 1008 physician verifying the need for the emergency placement
 1009 ~~transfer~~. Upon the emergency placement ~~the admission~~ of the
 1010 inmate in ~~to~~ the facility, the inmate shall be evaluated; if he
 1011 or she is determined to be in need of treatment or care, the
 1012 warden shall initiate proceedings for placement of the inmate,
 1013 as described in s. 945.43(2).

1014 Section 15. Section 945.45, Florida Statutes, is amended
 1015 to read:

1016 945.45 ~~Procedure for~~ continued placement of inmates in a
 1017 mental health treatment facility.--

1018 (1) CRITERIA.--An inmate may be retained in a mental
 1019 health treatment facility if he or she is mentally ill and
 1020 continues to be in need of care and treatment as defined in s.
 1021 945.42(6).

1022 (2) ~~(1)~~ PROCEDURE FOR CONTINUED PLACEMENT OF AN INMATE IN A
 1023 MENTAL HEALTH TREATMENT FACILITY.--

1024 (a) ~~If continued placement of an inmate is necessary,~~ The
 1025 warden shall, prior to the expiration of the period during which
 1026 the treatment facility is authorized to retain the inmate, file

1027 a petition with the Division of Administrative Hearings for
 1028 ~~request~~ an order authorizing continued placement. The petition
 1029 must ~~This request shall~~ be accompanied by a statement from the
 1030 inmate's physician justifying the petition request and providing
 1031 a brief summary of the inmate's treatment during the time he or
 1032 she has been placed. In addition, the warden shall submit an
 1033 individualized plan for the inmate for whom he or she is
 1034 requesting continued placement. The inmate may remain in a
 1035 mental health treatment facility pending a hearing after the
 1036 timely filing of the petition.

1037 (b) Notification of this request for retention shall be
 1038 mailed to the inmate, ~~and the inmate's representative~~ along with
 1039 a waiver-of-hearing form and the completed petition, requesting
 1040 the inmate's ~~only a signature and a waiver of hearing form.~~ The
 1041 waiver-of-hearing form shall require express and informed
 1042 consent and shall state that the inmate is entitled to an
 1043 administrative ~~a~~ hearing under the law; that the inmate is
 1044 entitled to be represented by an attorney at the hearing and
 1045 that, if the inmate cannot afford an attorney, one will be
 1046 appointed; and that, if it is shown at the hearing that the
 1047 inmate does not meet the criteria for continued placement, he or
 1048 she will be transferred out of the mental health treatment
 1049 facility to another facility of the department. If the inmate ~~or~~
 1050 ~~the inmate's representative~~ does not sign the petition, or if
 1051 the inmate does not sign a waiver within 15 days, the
 1052 administrative law judge shall notice a hearing with regard to
 1053 the inmate involved in accordance with ss. 120.569 and
 1054 120.57(1).

1055 (3) PROCEDURE FOR HEARING ON CONTINUED PLACEMENT OF AN
 1056 INMATE IN A MENTAL HEALTH TREATMENT FACILITY.--

1057 (a) The hearing on a petition for the continued placement
 1058 of an inmate in a mental health treatment facility is an
 1059 administrative hearing and shall be conducted in accordance with
 1060 ss. 120.569 and 120.57(1), except that an order entered by the
 1061 administrative law judge is final and subject to judicial review
 1062 in accordance with s. 120.68. An administrative law judge shall
 1063 be assigned by the Division of Administrative Hearings to
 1064 conduct hearings for continued placement.

1065 (b) The administrative law judge may appoint a private pro
 1066 bono attorney in the circuit in which the treatment facility is
 1067 located to represent the inmate.

1068 (c) The administrative law judge may waive the presence of
 1069 the inmate at the hearing if such waiver is consistent with the
 1070 best interests of the inmate and the inmate's counsel does not
 1071 object.

1072 (d)-(2) If, at a hearing pursuant to ss. 945.40-945.49, the
 1073 administrative law judge finds that the inmate no longer meets
 1074 the criteria for placement treatment, he or she shall order that
 1075 the inmate be transferred out of the mental health treatment
 1076 ~~facility to another facility of the department.~~

1077 (e)-(3) If the inmate waives the hearing or if the
 1078 administrative law judge finds that the inmate is in need of
 1079 continued placement treatment, the administrative law judge
 1080 shall enter an order authorizing such continued placement
 1081 ~~treatment~~ for a period not to exceed 1 year. The same procedure
 1082 shall be repeated prior to the expiration of each additional 1-

1083 year period that the inmate is retained in the mental health
 1084 treatment facility.

1085 ~~(4) Hearings on requests for orders authorizing continued~~
 1086 ~~placement filed in accordance with this section shall be~~
 1087 ~~conducted in accordance with the provisions of ss. 120.569 and~~
 1088 ~~120.57(1), except that any order entered by the administrative~~
 1089 ~~law judge shall be final and subject to judicial review in~~
 1090 ~~accordance with s. 120.68.~~

1091 Section 16. Section 945.46, Florida Statutes, is amended
 1092 to read:

1093 945.46 Initiation of involuntary placement proceedings
 1094 with respect to a mentally ill inmate scheduled for release.--

1095 (1) If an inmate who is receiving mental health treatment
 1096 in the department is scheduled for release through expiration of
 1097 sentence or any other means, but continues to be mentally ill
 1098 and in need of care and treatment, as defined in s. 945.42(6),
 1099 the warden is authorized to initiate procedures for involuntary
 1100 placement pursuant to ~~the provisions of~~ s. 394.467, 60 days
 1101 prior to such release.

1102 (2) In addition, the warden may initiate procedures for
 1103 involuntary examination pursuant to s. 394.463 for any inmate
 1104 who has a mental illness and meets the criteria of s.
 1105 394.463(1).

1106 Section 17. Section 945.47, Florida Statutes, is amended
 1107 to read:

1108 945.47 Discharge of inmate from mental health treatment.--

1109 (1) An inmate who has been transferred for the purpose of
 1110 mental health treatment shall be discharged from treatment by

1111 the warden under the following conditions:

1112 (a) If the inmate is no longer in need of care and
 1113 treatment, as defined in s. 945.42(6), he or she may be
 1114 transferred out of the mental health treatment facility and
 1115 provided with appropriate mental health services ~~to another~~
 1116 ~~institution in the department; or~~

1117 ~~(b) If the inmate continues to be mentally ill, but is not~~
 1118 ~~in need of care and treatment as an inpatient, he or she may be~~
 1119 ~~transferred to another institution in the department and~~
 1120 ~~provided appropriate outpatient and aftercare services;~~

1121 (b)(e) If the inmate's sentence expires during his or her
 1122 treatment, but he or she is no longer in need of care and
 1123 treatment as an inpatient, the inmate may be released with a
 1124 recommendation for outpatient treatment, pursuant to the
 1125 provisions of ss. 945.40-945.49. ~~7 or~~

1126 ~~(d) If the inmate's sentence expires and he or she~~
 1127 ~~continues to be mentally ill and in need of care and treatment,~~
 1128 ~~the warden shall initiate proceedings for involuntary placement,~~
 1129 ~~pursuant to s. 394.467.~~

1130 ~~(2) An inmate who is involuntarily placed pursuant to s.~~
 1131 ~~394.467 at the expiration of his or her sentence may be placed,~~
 1132 ~~by order of the court, in a facility designated by the~~
 1133 ~~Department of Children and Family Services as a secure,~~
 1134 ~~nonforensic, civil facility. Such a placement shall be~~
 1135 ~~conditioned upon a finding by the court of clear and convincing~~
 1136 ~~evidence that the inmate is manifestly dangerous to himself or~~
 1137 ~~herself or others. The need for such placement shall be reviewed~~
 1138 ~~by facility staff every 90 days. At any time that a patient is~~

1139 ~~considered for transfer to a nonsecure, civil unit, the court~~
 1140 ~~which entered the order for involuntary placement shall be~~
 1141 ~~notified.~~

1142 (2)~~(3)~~ At any time that an inmate who has received mental
 1143 health treatment while in the custody of the department becomes
 1144 eligible for release under supervision or upon end of sentence
 1145 ~~on parole~~, a ~~complete~~ record of the inmate's mental health
 1146 treatment ~~may shall~~ be provided to the Parole Commission and to
 1147 the Department of Children and Family Services upon request. The
 1148 record shall include, at a minimum least, a summary of the
 1149 inmate's diagnosis, length of stay in treatment, clinical
 1150 history, prognosis, prescribed medication, ~~and treatment plan,~~
 1151 and recommendations for aftercare services. ~~In the event that~~
 1152 ~~the inmate is released on parole, the record shall be provided~~
 1153 ~~to the parole officer who shall assist the inmate in applying~~
 1154 ~~for services from a professional or an agency in the community.~~
 1155 ~~The application for treatment and continuation of treatment by~~
 1156 ~~the inmate may be made a condition of parole, as provided in s.~~
 1157 ~~947.19(1); and a failure to participate in prescribed treatment~~
 1158 ~~may be a basis for initiation of parole violation hearings.~~

1159 Section 18. Section 945.48, Florida Statutes, is amended
 1160 to read:

1161 945.48 Rights of inmates inmate provided mental health
 1162 treatment; procedure for involuntary treatment.--

1163 (1) RIGHT TO QUALITY TREATMENT.--An inmate in a mental
 1164 health treatment facility has the right to receive treatment
 1165 that ~~which~~ is suited to his or her needs and that ~~which~~ is
 1166 provided in a humane psychological environment. Such treatment

1167 shall be administered skillfully, safely, and humanely with
 1168 respect for the inmate's dignity and personal integrity.

1169 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
 1170 provided psychiatric treatment within the department shall be
 1171 asked to give his or her express and informed written consent
 1172 for such treatment. "Express and informed written consent" or
 1173 "consent" means consent voluntarily given in writing after a
 1174 conscientious and sufficient explanation and disclosure of the
 1175 purpose of the proposed treatment; the common side effects of
 1176 the treatment, if any; the expected duration of the treatment;
 1177 and the alternative treatment available. The explanation shall
 1178 enable the inmate to make a knowing and willful decision without
 1179 any element of fraud, deceit, or duress or any other form of
 1180 constraint or coercion.

1181 (3) PROCEDURE FOR INVOLUNTARY TREATMENT OF
 1182 INMATES.--Involuntary mental health treatment of an inmate who
 1183 refuses treatment that is deemed to be necessary for the
 1184 appropriate care of the inmate and the safety of the inmate or
 1185 others may be provided at a mental health treatment facility. ~~an~~
 1186 ~~institution authorized to do so by the Assistant Secretary for~~
 1187 ~~Health Services under the following circumstances:~~

1188 (a) ~~In an emergency situation in which there is immediate~~
 1189 ~~danger to the health and safety of the inmate or other inmates,~~
 1190 ~~such treatment may be provided upon the written order of a~~
 1191 ~~physician for a period not to exceed 48 hours, excluding~~
 1192 ~~weekends and legal holidays. If, after the 48 hour period, the~~
 1193 ~~inmate has not given express and informed consent to the~~
 1194 ~~treatment initially refused, the warden shall, within 48 hours,~~

1195 ~~excluding weekends and legal holidays, petition the circuit~~
 1196 ~~court serving the county in which the facility is located for an~~
 1197 ~~order authorizing the continued treatment of the inmate. In the~~
 1198 ~~interim, treatment may be continued upon the written order of a~~
 1199 ~~physician who has determined that the emergency situation~~
 1200 ~~continues to present a danger to the safety of the inmate or~~
 1201 ~~others. If an inmate must be isolated for mental health~~
 1202 ~~purposes, that decision must be reviewed within 72 hours by~~
 1203 ~~medical staff different from that making the original placement.~~

1204 ~~(b) In a situation other than an emergency situation, the~~
 1205 ~~warden of the institution containing the mental health treatment~~
 1206 ~~facility shall petition the circuit court serving the county in~~
 1207 ~~which the mental health treatment facility is located for an~~
 1208 ~~order authorizing the treatment of the inmate. The inmate shall~~
 1209 ~~be provided with a copy of the petition along with the proposed~~
 1210 ~~treatment, the basis for the proposed treatment, the names of~~
 1211 ~~the examining experts, and the date, time, and location of the~~
 1212 ~~hearing. The inmate may have an attorney represent him or her at~~
 1213 ~~the hearing and, if the inmate is indigent, the court shall~~
 1214 ~~appoint the office of the public defender or private counsel~~
 1215 ~~pursuant to s. 27.40(1) to represent the inmate at the hearing.~~
 1216 ~~An attorney representing the inmate shall have access to the~~
 1217 ~~inmate and any records, including medical or mental health~~
 1218 ~~records, which are relevant to the representation of the inmate.~~
 1219 ~~The order shall allow such treatment for a period not to exceed~~
 1220 ~~90 days from the date of the order. Unless the court is notified~~
 1221 ~~in writing that the inmate has provided express and informed~~
 1222 ~~consent in writing, that the inmate has been transferred to~~

1223 ~~another institution of the department, or that the inmate is no~~
 1224 ~~longer in need of treatment, the warden shall, prior to the~~
 1225 ~~expiration of the initial 90-day order, petition the court for~~
 1226 ~~an order authorizing the continuation of treatment for another~~
 1227 ~~90-day period. This procedure shall be repeated until the inmate~~
 1228 ~~provides consent or is no longer in need of treatment. Treatment~~
 1229 ~~may be continued pending a hearing after the filing of any~~
 1230 ~~petition.~~

1231 (4) PROCEDURE FOR THE HEARING ON INVOLUNTARY TREATMENT OF
 1232 AN INMATE.--

1233 (a) The hearing on the petition for involuntary treatment
 1234 shall be held within 5 days after the petition is filed and the
 1235 court may appoint a general or special magistrate to preside.
 1236 The inmate may testify or not, as he or she chooses, may cross-
 1237 examine witnesses testifying on behalf of the facility, and may
 1238 present his or her own witnesses. However, the court may waive
 1239 the presence of the inmate at the hearing if such waiver is
 1240 consistent with the best interests of the inmate and the
 1241 inmate's counsel does not object. One of the inmate's physicians
 1242 whose opinion supported the petition shall appear as a witness
 1243 at the hearing.

1244 (b) ~~(e)~~ At the hearing on the issue of whether the court
 1245 should authorize treatment for which an inmate has refused to
 1246 give express and informed consent, the court shall determine by
 1247 clear and convincing evidence whether the inmate is mentally ill
 1248 as defined in this chapter; whether such treatment is essential
 1249 to the care of the inmate; and whether the treatment is
 1250 experimental or presents an unreasonable risk of serious,

1251 hazardous, or irreversible side effects. In arriving at the
 1252 substitute judgment decision, the court must consider at least
 1253 the following:

- 1254 1. The inmate's expressed preference regarding treatment;
- 1255 2. The probability of adverse side effects;
- 1256 3. The prognosis for the inmate without treatment; and
- 1257 4. The prognosis for the inmate with treatment.

1258
 1259 ~~The inmate and the inmate's representative shall be provided~~
 1260 ~~with a copy of the petition and the date, time, and location of~~
 1261 ~~the hearing. The inmate may have an attorney represent him or~~
 1262 ~~her at the hearing, and, if the inmate is indigent, the court~~
 1263 ~~shall appoint the office of the public defender to represent him~~
 1264 ~~or her at the hearing. The inmate may testify or not, as he or~~
 1265 ~~she chooses, may cross examine witnesses testifying on behalf of~~
 1266 ~~the facility, and may present his or her own witnesses.~~

1267 (c) An order authorizing involuntary treatment shall allow
 1268 such treatment for a period not to exceed 90 days following the
 1269 date of the order. Unless the court is notified in writing that
 1270 the inmate has provided express and informed consent in writing,
 1271 that the inmate has been transferred to another institution of
 1272 the department, or that the inmate is no longer in need of
 1273 treatment, the warden shall, prior to the expiration of the
 1274 initial 90-day order, petition the court for an order
 1275 authorizing the continuation of treatment for another 90-day
 1276 period. This procedure shall be repeated until the inmate
 1277 provides express and informed consent or is no longer in need of
 1278 treatment. Treatment may be continued pending a hearing after

1279 the timely filing of any petition.

1280 (5) PROCEDURE FOR EMERGENCY TREATMENT.--In an emergency
 1281 situation in which there is immediate danger to the health and
 1282 safety of an inmate or other inmates, emergency treatment may be
 1283 provided at a mental health treatment facility upon the written
 1284 order of a physician for a period not to exceed 48 hours,
 1285 excluding weekends and legal holidays. If, after the 48-hour
 1286 period, the inmate has not given express and informed consent to
 1287 the treatment initially refused, the warden shall, within 48
 1288 hours, excluding weekends and legal holidays, petition the
 1289 circuit court, in accordance with the procedures described in
 1290 this section, for an order authorizing the continued treatment
 1291 of the inmate. In the interim, treatment may be continued upon
 1292 the written order of a physician who has determined that the
 1293 emergency situation continues to present a danger to the safety
 1294 of the inmate or others. If an inmate must be isolated for
 1295 mental health purposes, that decision must be reviewed within 72
 1296 hours by a different psychological professional or a physician
 1297 other than the one making the original placement.

1298 (6)~~(d)~~ EMERGENCY TREATMENT.--In addition to the other
 1299 above provisions of this section for mental health treatment,
 1300 when the ~~consent~~ ~~permission~~ of the inmate cannot be obtained,
 1301 the warden of a mental health treatment facility, or his or her
 1302 designated representative, with the concurrence of the inmate's
 1303 attending physician, may authorize emergency surgical or
 1304 nonpsychiatric medical treatment if such treatment is deemed
 1305 lifesaving or there is a situation threatening serious bodily
 1306 harm to the inmate.

1307 ~~(3) STATUS OF INMATE. An inmate receiving mental health~~
 1308 ~~treatment shall be subject to the same standards applied to~~
 1309 ~~other inmates in the department, including, but not limited to,~~
 1310 ~~consideration for parole, release by reason of gain time~~
 1311 ~~allowances as provided for in s. 944.291, and release by~~
 1312 ~~expiration of sentence.~~

1313 Section 19. Section 945.49, Florida Statutes, is amended
 1314 to read:

1315 945.49 Operation and administration.--

1316 (1) ADMINISTRATION.--The department is authorized to
 1317 contract with the appropriate entities, agencies, persons, and
 1318 local governing bodies to provide mental health services
 1319 pursuant to ss. 945.40-945.49.

1320 (2) RULES.--The department, in cooperation with the Mental
 1321 Health Program Office of the Department of Children and Family
 1322 Services, shall adopt rules necessary for administration of ss.
 1323 945.40-945.49 in accordance with chapter 120.

1324 (3) ORIENTATION AND TRAINING.--Correctional officers
 1325 employed by a mental health treatment facility shall receive
 1326 specialized training above and beyond that required for basic
 1327 certification pursuant to chapter 943. ~~Such training shall be in~~
 1328 ~~accordance with requirements of the Criminal Justice Standards~~
 1329 ~~and Training Commission.~~

1330 (4) STATUS OF INMATE.--An inmate receiving mental health
 1331 treatment shall be subject to the same standards applied to
 1332 other inmates in the department, including, but not limited to,
 1333 consideration for parole, release by reason of gain-time
 1334 allowances as provided for in s. 944.291, and release by

1335 expiration of sentence. ~~ADMINISTRATIVE LAW JUDGES. One or more~~
1336 ~~administrative law judges shall be assigned by the Division of~~
1337 ~~Administrative Hearings to conduct hearings for continued~~
1338 ~~placement.~~

1339 Section 20. This act shall take effect October 1, 2008.