

1 A bill to be entitled
2 An act relating to mental health services in the
3 criminal justice system; amending ss. 39.001, 39.507,
4 and 39.521, F.S.; conforming provisions to changes
5 made by the act; amending s. 394.4655, F.S.; defining
6 the terms "court" and "criminal county court" for
7 purposes of involuntary outpatient placement;
8 conforming provisions to changes made by act; amending
9 ss. 394.4599 and 394.463, F.S.; conforming provisions
10 to changes made by act; conforming cross-references;
11 amending s. 394.455 and 394.4615, F.S.; conforming
12 cross-references; amending s. 394.47891, F.S.;
13 expanding eligibility for military veterans and
14 servicemembers court programs; creating s. 394.47892,
15 F.S.; amending s. 910.035, F.S.; revising the
16 definition of the term "problem-solving court";
17 creating s. 916.185, F.S.; creating the Forensic
18 Hospital Diversion Pilot Program; providing
19 legislative findings and intent; providing
20 definitions; authorizing the Department of Children
21 and Families to implement a Forensic Hospital
22 Diversion Pilot Program in specified judicial
23 circuits; authorizing the department to request
24 specified budget amendments; providing for eligibility
25 for the program; providing legislative intent
26 concerning training; authorizing rulemaking; amending

27 s. 948.001, F.S.; defining the term "mental health
28 probation"; amending ss. 948.01 and 948.06, F.S.;
29 authorizing courts to order certain offenders on
30 probation or community control to postadjudicatory
31 mental health court programs; amending s. 948.08,
32 F.S.; expanding eligibility requirements for certain
33 pretrial intervention programs; providing for
34 voluntary admission into a pretrial mental health
35 court program; creating s. 916.185, F.S.; creating the
36 Forensic Hospital Diversion Pilot Program; providing
37 legislative findings and intent; providing
38 definitions; requiring the Department of Children and
39 Families to implement a Forensic Hospital Diversion
40 Pilot Program in specified judicial circuits;
41 providing for eligibility for the program; providing
42 legislative intent concerning training; authorizing
43 rulemaking; amending ss. 948.01 and 948.06, F.S.;
44 providing for courts to order certain defendants on
45 probation or community control to postadjudicatory
46 mental health court programs; amending s. 948.08,
47 F.S.; expanding eligibility requirements for certain
48 pretrial intervention programs; providing for
49 voluntary admission into pretrial mental health court
50 program; amending s. 948.16, F.S.; expanding
51 eligibility of veterans for a misdemeanor pretrial
52 veterans' treatment intervention program; providing

53 eligibility of misdemeanor defendants for a
54 misdemeanor pretrial mental health court program;
55 amending s. 948.21, F.S.; expanding veterans'
56 eligibility for participating in treatment programs
57 while on court-ordered probation or community control;
58 amending s. 985.345, F.S.; authorizing pretrial mental
59 health court programs for certain juvenile offenders;
60 providing for disposition of pending charges after
61 completion of the pretrial intervention program;
62 reenacting s. 397.334(3)(a) and (5), F.S., relating to
63 treatment-based drug court programs, to incorporate
64 the amendments made by the act to ss. 948.01 and
65 948.06, F.S., in references thereto; reenacting s.
66 948.012(2)(b), F.S., relating to split sentence
67 probation or community control and imprisonment, to
68 incorporate the amendment made by the act to s.
69 948.06, F.S., in a reference thereto; providing an
70 effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Subsection (6) of section 39.001, Florida
75 Statutes, is amended to read:

76 39.001 Purposes and intent; personnel standards and
77 screening.—

78 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

79 (a) The Legislature recognizes that early referral and
80 comprehensive treatment can help combat mental illnesses and
81 substance abuse disorders in families and that treatment is
82 cost-effective.

83 (b) The Legislature establishes the following goals for
84 the state related to mental illness and substance abuse
85 treatment services in the dependency process:

86 1. To ensure the safety of children.

87 2. To prevent and remediate the consequences of mental
88 illnesses and substance abuse disorders on families involved in
89 protective supervision or foster care and reduce the occurrences
90 of mental illnesses and substance abuse disorders, including
91 alcohol abuse or related disorders, for families who are at risk
92 of being involved in protective supervision or foster care.

93 3. To expedite permanency for children and reunify
94 healthy, intact families, when appropriate.

95 4. To support families in recovery.

96 (c) The Legislature finds that children in the care of the
97 state's dependency system need appropriate health care services,
98 that the impact of mental illnesses and substance abuse
99 disorders on health indicates the need for health care services
100 to include treatment for mental health and substance abuse
101 disorders for ~~services to~~ children and parents, where
102 appropriate, and that it is in the state's best interest that
103 such children be provided the services they need to enable them
104 to become and remain independent of state care. In order to

105 provide these services, the state's dependency system must have
 106 the ability to identify and provide appropriate intervention and
 107 treatment for children with personal or family-related mental
 108 illness and substance abuse problems.

109 (d) It is the intent of the Legislature to encourage the
 110 use of the mental health court program model established under
 111 s. 394.47892 and the drug court program model established under
 112 ~~by~~ s. 397.334 and authorize courts to assess children and
 113 persons who have custody or are requesting custody of children
 114 where good cause is shown to identify and address mental
 115 illnesses and substance abuse disorders ~~problems~~ as the court
 116 deems appropriate at every stage of the dependency process.
 117 Participation in treatment, including a mental health court
 118 program or a treatment-based drug court program, may be required
 119 by the court following adjudication. Participation in assessment
 120 and treatment before ~~prior to~~ adjudication is ~~shall be~~
 121 voluntary, except as provided in s. 39.407(16).

122 (e) It is therefore the purpose of the Legislature to
 123 provide authority for the state to contract with mental health
 124 service providers and community substance abuse treatment
 125 providers for the development and operation of specialized
 126 support and overlay services for the dependency system, which
 127 will be fully implemented and used as resources permit.

128 (f) Participation in a mental health court program or a
 129 ~~the~~ treatment-based drug court program does not divest any
 130 public or private agency of its responsibility for a child or

131 adult, but is intended to enable these agencies to better meet
132 their needs through shared responsibility and resources.

133 Section 2. Subsection (10) of section 39.507, Florida
134 Statutes, is amended to read:

135 39.507 Adjudicatory hearings; orders of adjudication.—

136 (10) After an adjudication of dependency, or a finding of
137 dependency where adjudication is withheld, the court may order a
138 person who has custody or is requesting custody of the child to
139 submit to a mental health or substance abuse disorder assessment
140 or evaluation. The assessment or evaluation must be administered
141 by a qualified professional, as defined in s. 397.311. The court
142 may also require such person to participate in and comply with
143 treatment and services identified as necessary, including, when
144 appropriate and available, participation in and compliance with
145 a mental health court program established under s. 394.47892 or
146 a treatment-based drug court program established under s.
147 397.334. In addition to supervision by the department, the
148 court, including the mental health court program or treatment-
149 based drug court program, may oversee the progress and
150 compliance with treatment by a person who has custody or is
151 requesting custody of the child. The court may impose
152 appropriate available sanctions for noncompliance upon a person
153 who has custody or is requesting custody of the child or make a
154 finding of noncompliance for consideration in determining
155 whether an alternative placement of the child is in the child's
156 best interests. Any order entered under this subsection may be

157 made only upon good cause shown. This subsection does not
158 authorize placement of a child with a person seeking custody,
159 other than the parent or legal custodian, who requires mental
160 health or substance abuse disorder treatment.

161 Section 3. Paragraph (b) of subsection (1) of section
162 39.521, Florida Statutes, is amended to read:

163 39.521 Disposition hearings; powers of disposition.—

164 (1) A disposition hearing shall be conducted by the court,
165 if the court finds that the facts alleged in the petition for
166 dependency were proven in the adjudicatory hearing, or if the
167 parents or legal custodians have consented to the finding of
168 dependency or admitted the allegations in the petition, have
169 failed to appear for the arraignment hearing after proper
170 notice, or have not been located despite a diligent search
171 having been conducted.

172 (b) When any child is adjudicated by a court to be
173 dependent, the court having jurisdiction of the child has the
174 power by order to:

175 1. Require the parent and, when appropriate, the legal
176 custodian and the child to participate in treatment and services
177 identified as necessary. The court may require the person who
178 has custody or who is requesting custody of the child to submit
179 to a mental health or substance abuse disorder assessment or
180 evaluation. The assessment or evaluation must be administered by
181 a qualified professional, as defined in s. 397.311. The court
182 may also require such person to participate in and comply with

183 treatment and services identified as necessary, including, when
184 appropriate and available, participation in and compliance with
185 a mental health court program established under s. 394.47892 or
186 a treatment-based drug court program established under s.
187 397.334. In addition to supervision by the department, the
188 court, including the mental health court program or the
189 treatment-based drug court program, may oversee the progress and
190 compliance with treatment by a person who has custody or is
191 requesting custody of the child. The court may impose
192 appropriate available sanctions for noncompliance upon a person
193 who has custody or is requesting custody of the child or make a
194 finding of noncompliance for consideration in determining
195 whether an alternative placement of the child is in the child's
196 best interests. Any order entered under this subparagraph may be
197 made only upon good cause shown. This subparagraph does not
198 authorize placement of a child with a person seeking custody of
199 the child, other than the child's parent or legal custodian, who
200 requires mental health or substance abuse disorder treatment.

201 2. Require, if the court deems necessary, the parties to
202 participate in dependency mediation.

203 3. Require placement of the child either under the
204 protective supervision of an authorized agent of the department
205 in the home of one or both of the child's parents or in the home
206 of a relative of the child or another adult approved by the
207 court, or in the custody of the department. Protective
208 supervision continues until the court terminates it or until the

209 child reaches the age of 18, whichever date is first. Protective
 210 supervision shall be terminated by the court whenever the court
 211 determines that permanency has been achieved for the child,
 212 whether with a parent, another relative, or a legal custodian,
 213 and that protective supervision is no longer needed. The
 214 termination of supervision may be with or without retaining
 215 jurisdiction, at the court's discretion, and shall in either
 216 case be considered a permanency option for the child. The order
 217 terminating supervision by the department shall set forth the
 218 powers of the custodian of the child and shall include the
 219 powers ordinarily granted to a guardian of the person of a minor
 220 unless otherwise specified. Upon the court's termination of
 221 supervision by the department, no further judicial reviews are
 222 required, so long as permanency has been established for the
 223 child.

224 Section 4. Subsections (1) through (7) of section
 225 394.4655, F.S., are renumbered as subsections (2) through (8),
 226 respectively, paragraph (b) of present subsection (3), paragraph
 227 (b) of present subsection (6), and paragraphs (a) and (c) of
 228 present subsection (7) are amended, and a new subsection (1) is
 229 added to that section, to read:

230 394.4655 Involuntary outpatient placement.—

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

232 (a) "Court" means a circuit court or a criminal county
 233 court.

234 (b) "Criminal county court" means a county court

235 exercising its original jurisdiction in a misdemeanor case under
236 s. 34.01.

237 (4)~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

238 (b) Each required criterion for involuntary outpatient
239 placement must be alleged and substantiated in the petition for
240 involuntary outpatient placement. A copy of the certificate
241 recommending involuntary outpatient placement completed by a
242 qualified professional specified in subsection (3) ~~(2)~~ must be
243 attached to the petition. A copy of the proposed treatment plan
244 must be attached to the petition. Before the petition is filed,
245 the service provider shall certify that the services in the
246 proposed treatment plan are available. If the necessary services
247 are not available in the patient's local community to respond to
248 the person's individual needs, the petition may not be filed.

249 (7)~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

250 (b)1. If the court concludes that the patient meets the
251 criteria for involuntary outpatient placement pursuant to
252 subsection (2) ~~(1)~~, the court shall issue an order for
253 involuntary outpatient placement. The court order shall be for a
254 period of up to 6 months. The order must specify the nature and
255 extent of the patient's mental illness. The order of the court
256 and the treatment plan shall be made part of the patient's
257 clinical record. The service provider shall discharge a patient
258 from involuntary outpatient placement when the order expires or
259 any time the patient no longer meets the criteria for
260 involuntary placement. Upon discharge, the service provider

261 shall send a certificate of discharge to the court.

262 2. The court may not order the department or the service
263 provider to provide services if the program or service is not
264 available in the patient's local community, if there is no space
265 available in the program or service for the patient, or if
266 funding is not available for the program or service. A copy of
267 the order must be sent to the Agency for Health Care
268 Administration by the service provider within 1 working day
269 after it is received from the court. After the placement order
270 is issued, the service provider and the patient may modify
271 provisions of the treatment plan. For any material modification
272 of the treatment plan to which the patient or the patient's
273 guardian advocate, if appointed, does agree, the service
274 provider shall send notice of the modification to the court. Any
275 material modifications of the treatment plan which are contested
276 by the patient or the patient's guardian advocate, if appointed,
277 must be approved or disapproved by the court consistent with
278 subsection (3) ~~(2)~~.

279 3. If, in the clinical judgment of a physician, the
280 patient has failed or has refused to comply with the treatment
281 ordered by the court, and, in the clinical judgment of the
282 physician, efforts were made to solicit compliance and the
283 patient may meet the criteria for involuntary examination, a
284 person may be brought to a receiving facility pursuant to s.
285 394.463. If, after examination, the patient does not meet the
286 criteria for involuntary inpatient placement pursuant to s.

287 394.467, the patient must be discharged from the receiving
 288 facility. The involuntary outpatient placement order shall
 289 remain in effect unless the service provider determines that the
 290 patient no longer meets the criteria for involuntary outpatient
 291 placement or until the order expires. The service provider must
 292 determine whether modifications should be made to the existing
 293 treatment plan and must attempt to continue to engage the
 294 patient in treatment. For any material modification of the
 295 treatment plan to which the patient or the patient's guardian
 296 advocate, if appointed, does agree, the service provider shall
 297 send notice of the modification to the court. Any material
 298 modifications of the treatment plan which are contested by the
 299 patient or the patient's guardian advocate, if appointed, must
 300 be approved or disapproved by the court consistent with
 301 subsection (3) ~~(2)~~.

302 (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
 303 PLACEMENT.—

304 (a)1. If the person continues to meet the criteria for
 305 involuntary outpatient placement, the service provider shall,
 306 before the expiration of the period during which the treatment
 307 is ordered for the person, file in the ~~circuit~~ court that issued
 308 the order for involuntary outpatient treatment a petition for
 309 continued involuntary outpatient placement.

310 2. The existing involuntary outpatient placement order
 311 remains in effect until disposition on the petition for
 312 continued involuntary outpatient placement.

313 3. A certificate shall be attached to the petition which
 314 includes a statement from the person's physician or clinical
 315 psychologist justifying the request, a brief description of the
 316 patient's treatment during the time he or she was involuntarily
 317 placed, and an individualized plan of continued treatment.

318 4. The service provider shall develop the individualized
 319 plan of continued treatment in consultation with the patient or
 320 the patient's guardian advocate, if appointed. When the petition
 321 has been filed, the clerk of the court shall provide copies of
 322 the certificate and the individualized plan of continued
 323 treatment to the department, the patient, the patient's guardian
 324 advocate, the state attorney, and the patient's private counsel
 325 or the public defender.

326 (c) Hearings on petitions for continued involuntary
 327 outpatient placement shall be before the ~~circuit~~ court that
 328 issued the order for involuntary outpatient treatment. The court
 329 may appoint a master to preside at the hearing. The procedures
 330 for obtaining an order pursuant to this paragraph shall be in
 331 accordance with subsection (7) ~~(6)~~, except that the time period
 332 included in paragraph (2) (e) ~~(1) (e)~~ is not applicable in
 333 determining the appropriateness of additional periods of
 334 involuntary outpatient placement.

335 Section 5. Paragraph (d) of subsection (2) of section
 336 394.4599, Florida Statutes, is amended to read:

337 394.4599 Notice.—

338 (2) INVOLUNTARY ADMISSION.—

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

342 1. Notice that the petition for:

343 a. Involuntary inpatient treatment pursuant to s. 394.467
344 has been filed with the circuit court in the county in which the
345 individual is hospitalized and the address of such court; or

346 b. Involuntary outpatient treatment pursuant to s.
347 394.4655 has been filed with the criminal county court, as
348 defined in s. 394.4655(1), or the circuit court, as applicable,
349 in the county in which the individual is hospitalized and the
350 address of such court.

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

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

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

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

365 Section 6. Paragraphs (g) and (i) of subsection (2) of
366 section 394.463, Florida Statutes, are amended to read:

367 394.463 Involuntary examination.—

368 (2) INVOLUNTARY EXAMINATION.—

369 (g) A person for whom an involuntary examination has been
370 initiated who is being evaluated or treated at a hospital for an
371 emergency medical condition specified in s. 395.002 must be
372 examined by a receiving facility within 72 hours. The 72-hour
373 period begins when the patient arrives at the hospital and
374 ceases when the attending physician documents that the patient
375 has an emergency medical condition. If the patient is examined
376 at a hospital providing emergency medical services by a
377 professional qualified to perform an involuntary examination and
378 is found as a result of that examination not to meet the
379 criteria for involuntary outpatient placement pursuant to s.
380 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement
381 pursuant to s. 394.467(1), the patient may be offered voluntary
382 placement, if appropriate, or released directly from the
383 hospital providing emergency medical services. The finding by
384 the professional that the patient has been examined and does not
385 meet the criteria for involuntary inpatient placement or
386 involuntary outpatient placement must be entered into the
387 patient's clinical record. Nothing in this paragraph is intended
388 to prevent a hospital providing emergency medical services from
389 appropriately transferring a patient to another hospital prior
390 to stabilization, provided the requirements of s. 395.1041(3)(c)

391 have been met.

392 (i) Within the 72-hour examination period or, if the 72
393 hours ends on a weekend or holiday, no later than the next
394 working day thereafter, one of the following actions must be
395 taken, based on the individual needs of the patient:

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

399 2. The patient shall be released, subject to the
400 provisions of subparagraph 1., for voluntary outpatient
401 treatment;

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

406 4. A petition for involuntary placement shall be filed in
407 the circuit court ~~if when outpatient or~~ inpatient treatment is
408 deemed necessary or with the criminal county court, as defined
409 in s. 394.4655(1), as applicable. ~~If When~~ inpatient treatment is
410 deemed necessary, the least restrictive treatment consistent
411 with the optimum improvement of the patient's condition shall be
412 made available. When a petition is to be filed for involuntary
413 outpatient placement, it shall be filed by one of the
414 petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A
415 petition for involuntary inpatient placement shall be filed by
416 the facility administrator.

417 Section 7. Subsection (34) of section 394.455, Florida
 418 Statutes, is amended to read:

419 394.455 Definitions.—As used in this part, unless the
 420 context clearly requires otherwise, the term:

421 (34) "Involuntary examination" means an examination
 422 performed under s. 394.463 to determine if an individual
 423 qualifies for involuntary inpatient treatment under s.
 424 394.467(1) or involuntary outpatient treatment under s.
 425 394.4655(2) ~~394.4655(1)~~.

426 Section 8. Subsection (3) of section 394.4615, Florida
 427 Statutes, is amended to read:

428 394.4615 Clinical records; confidentiality.—

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

431 (a) When a patient has declared an intention to harm other
 432 persons. When such declaration has been made, the administrator
 433 may authorize the release of sufficient information to provide
 434 adequate warning to the person threatened with harm by the
 435 patient.

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

443
444 For the purpose of determining whether a person meets the
445 criteria for involuntary outpatient placement or for preparing
446 the proposed treatment plan pursuant to s. 394.4655, the
447 clinical record may be released to the state attorney, the
448 public defender or the patient's private legal counsel, the
449 court, and to the appropriate mental health professionals,
450 including the service provider identified in s. 394.4655(7)(b)2.
451 ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

452 Section 9. Section 394.47891, Florida Statutes, is amended
453 to read:

454 394.47891 Military veterans and servicemembers court
455 programs.—The chief judge of each judicial circuit may establish
456 a Military Veterans and Servicemembers Court Program under which
457 veterans, as defined in s. 1.01, including veterans who were
458 discharged or released under a general discharge, and
459 servicemembers, as defined in s. 250.01, who are charged or
460 convicted of a criminal offense and who suffer from a military-
461 related mental illness, traumatic brain injury, substance abuse
462 disorder, or psychological problem can be sentenced in
463 accordance with chapter 921 in a manner that appropriately
464 addresses the severity of the mental illness, traumatic brain
465 injury, substance abuse disorder, or psychological problem
466 through services tailored to the individual needs of the
467 participant. Entry into any Military Veterans and Servicemembers
468 Court Program must be based upon the sentencing court's

469 assessment of the defendant's criminal history, military
470 service, substance abuse treatment needs, mental health
471 treatment needs, amenability to the services of the program, the
472 recommendation of the state attorney and the victim, if any, and
473 the defendant's agreement to enter the program.

474 Section 10. Section 394.47892, Florida Statutes, is
475 created to read:

476 394.47892 Mental health court programs.—

477 (1) Each county may fund a mental health court program
478 under which a defendant in the justice system assessed with a
479 mental illness shall be processed in such a manner as to
480 appropriately address the severity of the identified mental
481 illness through treatment services tailored to the individual
482 needs of the participant. The Legislature intends to encourage
483 the department, the Department of Corrections, the Department of
484 Juvenile Justice, the Department of Health, the Department of
485 Law Enforcement, the Department of Education, and other such
486 agencies, local governments, law enforcement agencies,
487 interested public or private entities, and individuals to
488 support the creation and establishment of problem-solving court
489 programs. Participation in a mental health court program does
490 not relieve a public or private agency of its responsibility for
491 a child or an adult, but enables such agency to better meet the
492 child's or adult's needs through shared responsibility and
493 resources.

494 (2) Mental health court programs may include pretrial

495 intervention programs as provided in ss. 948.08, 948.16, and
496 985.345, postadjudicatory mental health court programs as
497 provided in ss. 948.01 and 948.06, and review of the status of
498 compliance or noncompliance of sentenced defendants through a
499 mental health court program.

500 (3) Entry into a pretrial mental health court program is
501 voluntary.

502 (4) (a) Entry into a postadjudicatory mental health court
503 program as a condition of probation or community control
504 pursuant to s. 948.01 or s. 948.06 must be based upon the
505 sentencing court's assessment of the defendant's criminal
506 history, mental health screening outcome, amenability to the
507 services of the program, and total sentence points; the
508 recommendation of the state attorney and the victim, if any; and
509 the defendant's agreement to enter the program.

510 (b) A defendant who is sentenced to a postadjudicatory
511 mental health court program and who, while a mental health court
512 program participant, is the subject of a violation of probation
513 or community control under s. 948.06 shall have the violation of
514 probation or community control heard by the judge presiding over
515 the postadjudicatory mental health court program. After a
516 hearing on or admission of the violation, the judge shall
517 dispose of any such violation as he or she deems appropriate if
518 the resulting sentence or conditions are lawful.

519 (5) (a) Contingent upon an annual appropriation by the
520 Legislature, the state courts system shall establish, at a

521 minimum, one coordinator position in each mental health court
522 program to coordinate the responsibilities of the participating
523 agencies and service providers. Each coordinator shall provide
524 direct support to the mental health court program by providing
525 coordination between the multidisciplinary team and the
526 judiciary, providing case management, monitoring compliance of
527 the participants in the mental health court program with court
528 requirements, and managing the collection of data for program
529 evaluation and accountability.

530 (b) Each mental health court program shall collect
531 sufficient client-level data and programmatic information for
532 purposes of program evaluation. Client-level data includes
533 primary offenses that resulted in the mental health court
534 program referral or sentence, treatment compliance, completion
535 status and reasons for failure to complete, offenses committed
536 during treatment and the sanctions imposed, frequency of court
537 appearances, and units of service. Programmatic information
538 includes referral and screening procedures, eligibility
539 criteria, type and duration of treatment offered, and
540 residential treatment resources. The programmatic information
541 and aggregate data on the number of mental health court program
542 admissions and terminations by type of termination shall be
543 reported annually by each mental health court program to the
544 Office of the State Courts Administrator.

545 (6) If a county chooses to fund a mental health court
546 program, the county must secure funding from sources other than

547 the state for those costs not otherwise assumed by the state
548 pursuant to s. 29.004. However, this subsection does not
549 preclude counties from using funds for treatment and other
550 services provided through state executive branch agencies.
551 Counties may provide, by interlocal agreement, for the
552 collective funding of these programs.

553 (7) The chief judge of each judicial circuit may appoint
554 an advisory committee for the mental health court program. The
555 committee shall be composed of the chief judge, or his or her
556 designee, who shall serve as chair; the judge or judges of the
557 mental health court program, if not otherwise designated by the
558 chief judge as his or her designee; the state attorney, or his
559 or her designee; the public defender, or his or her designee;
560 the mental health court program coordinator or coordinators;
561 community representatives; treatment representatives; and any
562 other persons who the chair deems appropriate.

563 Section 11. Paragraph (a) of subsection (5) of section
564 910.035, Florida Statutes, is amended to read:

565 910.035 Transfer from county for plea, sentence, or
566 participation in a problem-solving court.-

567 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING
568 COURT.-

569 (a) For purposes of this subsection, the term "problem-
570 solving court" means a drug court pursuant to s. 948.01, s.
571 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'
572 and servicemembers' court pursuant to s. 394.47891, s. 948.08,

573 s. 948.16, or s. 948.21; ~~or~~ a mental health court program
574 pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.
575 948.16; or a delinquency pretrial intervention court program
576 pursuant to s. 985.345.

577 Section 12. Section 916.185, Florida Statutes, is created
578 to read:

579 916.185 Forensic Hospital Diversion Pilot Program.—

580 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
581 that many jail inmates who have serious mental illnesses and who
582 are committed to state forensic mental health treatment
583 facilities for restoration of competency to proceed could be
584 served more effectively and at less cost in community-based
585 alternative programs. The Legislature further finds that many
586 people who have serious mental illnesses and who have been
587 discharged from state forensic mental health treatment
588 facilities could avoid returning to the criminal justice and
589 forensic mental health systems if they received specialized
590 treatment in the community. Therefore, it is the intent of the
591 Legislature to create the Forensic Hospital Diversion Pilot
592 Program to serve offenders who have mental illnesses or co-
593 occurring mental illnesses and substance use disorders and who
594 are involved in or at risk of entering state forensic mental
595 health treatment facilities, prisons, jails, or state civil
596 mental health treatment facilities.

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

598 (a) "Best practices" means treatment services that

599 incorporate the most effective and acceptable interventions
600 available in the care and treatment of offenders who are
601 diagnosed as having mental illnesses or co-occurring mental
602 illnesses and substance use disorders.

603 (b) "Community forensic system" means the community mental
604 health and substance use forensic treatment system, including
605 the comprehensive set of services and supports provided to
606 offenders involved in or at risk of becoming involved in the
607 criminal justice system.

608 (c) "Evidence-based practices" means interventions and
609 strategies that, based on the best available empirical research,
610 demonstrate effective and efficient outcomes in the care and
611 treatment of offenders who are diagnosed as having mental
612 illnesses or co-occurring mental illnesses and substance use
613 disorders.

614 (3) CREATION.—There is authorized a Forensic Hospital
615 Diversion Pilot Program to provide competency-restoration and
616 community-reintegration services in either a locked residential
617 treatment facility when appropriate or a community-based
618 facility based on considerations of public safety, the needs of
619 the individual, and available resources.

620 (a) The department may implement a Forensic Hospital
621 Diversion Pilot Program modeled after the Miami-Dade Forensic
622 Alternative Center, taking into account local needs and
623 resources in Duval County, in conjunction with the Fourth
624 Judicial Circuit in Duval County; in Broward County, in

625 conjunction with the Seventeenth Judicial Circuit in Broward
 626 County; and in Miami-Dade County, in conjunction with the
 627 Eleventh Judicial Circuit in Miami-Dade County.

628 (b) If the department elects to create and implement the
 629 program, the department shall include a comprehensive continuum
 630 of care and services that use evidence-based practices and best
 631 practices to treat offenders who have mental health and co-
 632 occurring substance use disorders.

633 (c) The department and the corresponding judicial circuits
 634 may implement this section if existing resources are available
 635 to do so on a recurring basis. The department may request budget
 636 amendments pursuant to chapter 216 to realign funds between
 637 mental health services and community substance abuse and mental
 638 health services in order to implement this pilot program.

639 (4) ELIGIBILITY.—Participation in the Forensic Hospital
 640 Diversion Pilot Program is limited to offenders who:

641 (a) Are 18 years of age or older.

642 (b) Are charged with a felony of the second degree or a
 643 felony of the third degree.

644 (c) Do not have a significant history of violent criminal
 645 offenses.

646 (d) Are adjudicated incompetent to proceed to trial or not
 647 guilty by reason of insanity pursuant to this part.

648 (e) Meet public safety and treatment criteria established
 649 by the department for placement in a community setting.

650 (f) Otherwise would be admitted to a state mental health

651 treatment facility.

652 (5) TRAINING.—The Legislature encourages the Florida
653 Supreme Court, in consultation and cooperation with the Florida
654 Supreme Court Task Force on Substance Abuse and Mental Health
655 Issues in the Courts, to develop educational training for judges
656 in the pilot program areas which focuses on the community
657 forensic system.

658 (6) RULEMAKING.—The department may adopt rules to
659 administer this section.

660 Section 13. Subsections (6) through (13) of section
661 948.001, Florida Statutes, are renumbered as subsections (7)
662 through (14), respectively, and a new subsection (6) is added to
663 that section, to read:

664 948.001 Definitions.—As used in this chapter, the term:

665 (6) "Mental health probation" means a form of specialized
666 supervision that emphasizes mental health treatment and working
667 with treatment providers to focus on underlying mental health
668 disorders and compliance with a prescribed psychotropic
669 medication regimen in accordance with individualized treatment
670 plans. Mental health probation shall be supervised by officers
671 with restricted caseloads who are sensitive to the unique needs
672 of individuals with mental health disorders, and who will work
673 in tandem with community mental health case managers assigned to
674 the defendant. Caseloads of such officers should be restricted
675 to a maximum of 50 cases per officer in order to ensure an
676 adequate level of staffing and supervision.

677 Section 14. Subsection (8) is added to section 948.01,
678 Florida Statutes, to read:

679 948.01 When court may place defendant on probation or into
680 community control.—

681 (8) (a) Notwithstanding s. 921.0024 and effective for
682 offenses committed on or after July 1, 2016, the sentencing
683 court may place the defendant into a postadjudicatory mental
684 health court program if the offense is a nonviolent felony, the
685 defendant is amenable to mental health treatment, including
686 taking prescribed medications, and the defendant is otherwise
687 qualified under s. 394.47892(4). The satisfactory completion of
688 the program must be a condition of the defendant's probation or
689 community control. As used in this subsection, the term
690 "nonviolent felony" means a third degree felony violation under
691 chapter 810 or any other felony offense that is not a forcible
692 felony as defined in s. 776.08. Defendants charged with
693 resisting an officer with violence under s. 843.01, battery on a
694 law enforcement officer under s. 784.07, or aggravated assault
695 may participate in the mental health court program if the court
696 so orders after the victim is given his or her right to provide
697 testimony or written statement to the court as provided in s.
698 921.143.

699 (b) The defendant must be fully advised of the purpose of
700 the mental health court program and the defendant must agree to
701 enter the program. The original sentencing court shall
702 relinquish jurisdiction of the defendant's case to the

703 postadjudicatory mental health court program until the defendant
704 is no longer active in the program, the case is returned to the
705 sentencing court due to the defendant's termination from the
706 program for failure to comply with the terms thereof, or the
707 defendant's sentence is completed.

708 (c) The Department of Corrections may establish designated
709 and trained mental health probation officers to support
710 individuals under supervision of the mental health court
711 program.

712 Section 15. Paragraph (j) is added to subsection (2) of
713 section 948.06, Florida Statutes, to read:

714 948.06 Violation of probation or community control;
715 revocation; modification; continuance; failure to pay
716 restitution or cost of supervision.—

717 (2)

718 (j)1. Notwithstanding s. 921.0024 and effective for
719 offenses committed on or after July 1, 2016, the court may order
720 the offender to successfully complete a postadjudicatory mental
721 health court program under s. 394.47892 or a military veterans
722 and servicemembers court program under s. 394.47891 if:

723 a. The court finds or the offender admits that the
724 offender has violated his or her community control or probation;

725 b. The underlying offense is a nonviolent felony. As used
726 in this subsection, the term "nonviolent felony" means a third
727 degree felony violation under chapter 810 or any other felony
728 offense that is not a forcible felony as defined in s. 776.08.

729 Offenders charged with resisting an officer with violence under
730 s. 843.01, battery on a law enforcement officer under s. 784.07,
731 or aggravated assault may participate in the mental health court
732 program if the court so orders after the victim is given his or
733 her right to provide testimony or written statement to the court
734 as provided in s. 921.143;

735 c. The court determines that the offender is amenable to
736 the services of a postadjudicatory mental health court program,
737 including taking prescribed medications, or a military veterans
738 and servicemembers court program;

739 d. The court explains the purpose of the program to the
740 offender and the offender agrees to participate; and

741 e. The offender is otherwise qualified to participate in a
742 postadjudicatory mental health court program under s.
743 394.47892(4) or a military veterans and servicemembers court
744 program under s. 394.47891.

745 2. After the court orders the modification of community
746 control or probation, the original sentencing court shall
747 relinquish jurisdiction of the offender's case to the
748 postadjudicatory mental health court program until the offender
749 is no longer active in the program, the case is returned to the
750 sentencing court due to the offender's termination from the
751 program for failure to comply with the terms thereof, or the
752 offender's sentence is completed.

753 Section 16. Subsection (8) of section 948.08, Florida
754 Statutes, is renumbered as subsection (9), paragraph (a) of

755 subsection (7) is amended, and a new subsection (8) is added to
 756 that section, to read:

757 948.08 Pretrial intervention program.—

758 (7) (a) Notwithstanding any provision of this section, a
 759 person who is charged with a felony, other than a felony listed
 760 in s. 948.06(8)(c), and identified as a veteran, as defined in
 761 s. 1.01, including a veteran who is discharged or released under
 762 a general discharge, or servicemember, as defined in s. 250.01,
 763 who suffers from a military service-related mental illness,
 764 traumatic brain injury, substance abuse disorder, or
 765 psychological problem, is eligible for voluntary admission into
 766 a pretrial veterans' treatment intervention program approved by
 767 the chief judge of the circuit, upon motion of either party or
 768 the court's own motion, except:

769 1. If a defendant was previously offered admission to a
 770 pretrial veterans' treatment intervention program at any time
 771 before trial and the defendant rejected that offer on the
 772 record, the court may deny the defendant's admission to such a
 773 program.

774 2. If a defendant previously entered a court-ordered
 775 veterans' treatment program, the court may deny the defendant's
 776 admission into the pretrial veterans' treatment program.

777 (8) (a) Notwithstanding any provision of this section, a
 778 defendant is eligible for voluntary admission into a pretrial
 779 mental health court program established pursuant to s. 394.47892
 780 and approved by the chief judge of the circuit for a period to

781 be determined by the court, based on the clinical needs of the
782 defendant, upon motion of either party or the court's own motion
783 if:

784 1. The defendant is identified as having a mental illness;

785 2. The defendant has not been convicted of a felony; and

786 3. The defendant is charged with:

787 a. A nonviolent felony that includes a third degree felony
788 violation of chapter 810 or any other felony offense that is not
789 a forcible felony as defined in s. 776.08;

790 b. Resisting an officer with violence under s. 843.01, if
791 the law enforcement officer and state attorney consent to the
792 defendant's participation;

793 c. Battery on a law enforcement officer under s. 784.07,
794 if the law enforcement officer and state attorney consent to the
795 defendant's participation; or

796 d. Aggravated assault, if the victim and state attorney
797 consent to the defendant's participation.

798 (b) At the end of the pretrial intervention period, the
799 court shall consider the recommendation of the program
800 administrator and the recommendation of the state attorney as to
801 disposition of the pending charges. The court shall determine,
802 by written finding, whether the defendant has successfully
803 completed the pretrial intervention program. If the court finds
804 that the defendant has not successfully completed the pretrial
805 intervention program, the court may order the person to continue
806 in education and treatment, which may include a mental health

807 program offered by a licensed service provider, as defined in s.
808 394.455, or order that the charges revert to normal channels for
809 prosecution. The court shall dismiss the charges upon a finding
810 that the defendant has successfully completed the pretrial
811 intervention program.

812 Section 17. Subsections (3) and (4) of section 948.16,
813 Florida Statutes, are renumbered as subsections (4) and (5),
814 respectively, paragraph (a) of subsection (2) and present
815 subsection (4) of that section are amended, and a new subsection
816 (3) is added to that section, to read:

817 948.16 Misdemeanor pretrial substance abuse education and
818 treatment intervention program; misdemeanor pretrial veterans'
819 treatment intervention program; misdemeanor pretrial mental
820 health court program.—

821 (2) (a) A veteran, as defined in s. 1.01, including a
822 veteran who is discharged or released under a general discharge,
823 or servicemember, as defined in s. 250.01, who suffers from a
824 military service-related mental illness, traumatic brain injury,
825 substance abuse disorder, or psychological problem, and who is
826 charged with a misdemeanor is eligible for voluntary admission
827 into a misdemeanor pretrial veterans' treatment intervention
828 program approved by the chief judge of the circuit, for a period
829 based on the program's requirements and the treatment plan for
830 the offender, upon motion of either party or the court's own
831 motion. However, the court may deny the defendant admission into
832 a misdemeanor pretrial veterans' treatment intervention program

833 if the defendant has previously entered a court-ordered
834 veterans' treatment program.

835 (3) A defendant who is charged with a misdemeanor and
836 identified as having a mental illness is eligible for voluntary
837 admission into a misdemeanor pretrial mental health court
838 program established pursuant to s. 394.47892, approved by the
839 chief judge of the circuit, for a period to be determined by the
840 court, based on the clinical needs of the defendant, upon motion
841 of either party or the court's own motion.

842 (5)-(4) Any public or private entity providing a pretrial
843 substance abuse education and treatment program or mental health
844 court program under this section shall contract with the county
845 or appropriate governmental entity. The terms of the contract
846 shall include, but not be limited to, the requirements
847 established for private entities under s. 948.15(3). This
848 requirement does not apply to services provided by the
849 Department of Veterans' Affairs or the United States Department
850 of Veterans Affairs.

851 Section 18. Section 948.21, Florida Statutes, is amended
852 to read:

853 948.21 Condition of probation or community control;
854 military servicemembers and veterans.-

855 (1) Effective for a probationer or community controllee
856 whose crime is ~~was~~ committed on or after July 1, 2012, and who
857 is a veteran, as defined in s. 1.01, or servicemember, as
858 defined in s. 250.01, who suffers from a military service-

859 related mental illness, traumatic brain injury, substance abuse
860 disorder, or psychological problem, the court may, in addition
861 to any other conditions imposed, impose a condition requiring
862 the probationer or community controllee to participate in a
863 treatment program capable of treating the probationer's
864 ~~probationer~~ or community controllee's mental illness, traumatic
865 brain injury, substance abuse disorder, or psychological
866 problem.

867 (2) Effective for a probationer or community controllee
868 whose crime is committed on or after July 1, 2016, and who is a
869 veteran, as defined in s. 1.01, including a veteran who is
870 discharged or released under a general discharge, or
871 servicemember, as defined in s. 250.01, who suffers from a
872 military service-related mental illness, traumatic brain injury,
873 substance abuse disorder, or psychological problem, the court
874 may, in addition to any other conditions imposed, impose a
875 condition requiring the probationer or community controllee to
876 participate in a treatment program capable of treating the
877 probationer or community controllee's mental illness, traumatic
878 brain injury, substance abuse disorder, or psychological
879 problem.

880 (3) The court shall give preference to treatment programs
881 for which the probationer or community controllee is eligible
882 through the United States Department of Veterans Affairs or the
883 Florida Department of Veterans' Affairs. The Department of
884 Corrections is not required to spend state funds to implement

885 | this section.

886 | Section 19. Subsection (3) of section 985.345, Florida
887 | Statutes, is amended, subsection (4) is renumbered as subsection
888 | (7) and amended, and new subsections (4) through (6) are added
889 | to that section, to read:

890 | 985.345 Delinquency pretrial intervention program.—

891 | (3) At the end of the delinquency pretrial intervention
892 | period, the court shall consider the recommendation of the state
893 | attorney and the program administrator as to disposition of the
894 | pending charges. The court shall determine, by written finding,
895 | whether the child has successfully completed the delinquency
896 | pretrial intervention program. Notwithstanding the coordinated
897 | strategy developed by a drug court team pursuant to s.
898 | 397.334(4), if the court finds that the child has not
899 | successfully completed the delinquency pretrial intervention
900 | program, the court may order the child to continue in an
901 | education, treatment, or drug testing ~~urine monitoring~~ program
902 | if resources and funding are available or order that the charges
903 | revert to normal channels for prosecution. The court may dismiss
904 | the charges upon a finding that the child has successfully
905 | completed the delinquency pretrial intervention program.

906 | (4) Notwithstanding any other provision of law, a child
907 | who has been identified as having a mental illness and who has
908 | not been previously adjudicated for a felony is eligible for
909 | voluntary admission into a delinquency pretrial mental health
910 | court program, established pursuant to s. 394.47892, approved by

911 the chief judge of the circuit, for a period to be determined by
912 the court, based on the clinical needs of the child, upon motion
913 of either party or the court's own motion if the child is
914 charged with:

915 (a) A misdemeanor;

916 (b) A nonviolent felony; as defined in s. 948.01(8);

917 (c) Resisting an officer with violence under s. 843.01, if
918 the law enforcement officer and state attorney consent to the
919 child's participation;

920 (d) Battery on a law enforcement officer under 784.07, if
921 the law enforcement officer and state attorney consent to the
922 child's participation; or

923 (e) Aggravated assault, if the victim and state attorney
924 consent to the child's participation.

925 (5) At the end of the delinquency pretrial intervention
926 period, the court shall consider the recommendation of the state
927 attorney and the program administrator as to disposition of the
928 pending charges. The court shall determine, by written finding,
929 whether the child has successfully completed the delinquency
930 pretrial intervention program. If the court finds that the child
931 has not successfully completed the delinquency pretrial
932 intervention program, the court may order the child to continue
933 in an education, treatment, or monitoring program if resources
934 and funding are available or order that the charges revert to
935 normal channels for prosecution. The court may dismiss the
936 charges upon a finding that the child has successfully completed

937 the delinquency pretrial intervention program.

938 (6) A child whose charges are dismissed after successful
939 completion of the mental health court program, if otherwise
940 eligible, may have his or her arrest record and plea of nolo
941 contendere to the dismissed charges expunged under s. 943.0585.

942 (7)~~(4)~~ Any entity, whether public or private, providing
943 pretrial substance abuse education, treatment intervention, drug
944 testing, or a mental health court ~~and a urine monitoring~~ program
945 under this section must contract with the county or appropriate
946 governmental entity, and the terms of the contract must include,
947 but need not be limited to, the requirements established for
948 private entities under s. 948.15(3). It is the intent of the
949 Legislature that public or private entities providing substance
950 abuse education and treatment intervention programs involve the
951 active participation of parents, schools, churches, businesses,
952 law enforcement agencies, and the department or its contract
953 providers.

954 Section 20. For the purpose of incorporating the
955 amendments made by this act to sections 948.01 and 948.06,
956 Florida Statutes, in references thereto, paragraph (a) of
957 subsection (3) and subsection (5) of section 397.334, Florida
958 Statutes, are reenacted to read:

959 397.334 Treatment-based drug court programs.—

960 (3) (a) Entry into any postadjudicatory treatment-based
961 drug court program as a condition of probation or community
962 control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be

963 based upon the sentencing court's assessment of the defendant's
964 criminal history, substance abuse screening outcome, amenability
965 to the services of the program, total sentence points, the
966 recommendation of the state attorney and the victim, if any, and
967 the defendant's agreement to enter the program.

968 (5) Treatment-based drug court programs may include
969 pretrial intervention programs as provided in ss. 948.08,
970 948.16, and 985.345, treatment-based drug court programs
971 authorized in chapter 39, postadjudicatory programs as provided
972 in ss. 948.01, 948.06, and 948.20, and review of the status of
973 compliance or noncompliance of sentenced offenders through a
974 treatment-based drug court program. While enrolled in a
975 treatment-based drug court program, the participant is subject
976 to a coordinated strategy developed by a drug court team under
977 subsection (4). The coordinated strategy may include a protocol
978 of sanctions that may be imposed upon the participant for
979 noncompliance with program rules. The protocol of sanctions may
980 include, but is not limited to, placement in a substance abuse
981 treatment program offered by a licensed service provider as
982 defined in s. 397.311 or in a jail-based treatment program or
983 serving a period of secure detention under chapter 985 if a
984 child or a period of incarceration within the time limits
985 established for contempt of court if an adult. The coordinated
986 strategy must be provided in writing to the participant before
987 the participant agrees to enter into a treatment-based drug
988 court program.

989 Section 21. For the purpose of incorporating the amendment
990 made by this act to section 948.06, Florida Statutes, in a
991 reference thereto, paragraph (b) of subsection (2) of section
992 948.012, Florida Statutes, is reenacted to read:

993 948.012 Split sentence of probation or community control
994 and imprisonment.—

995 (2) The court may also impose a split sentence whereby the
996 defendant is sentenced to a term of probation which may be
997 followed by a period of incarceration or, with respect to a
998 felony, into community control, as follows:

999 (b) If the offender does not meet the terms and conditions
1000 of probation or community control, the court may revoke, modify,
1001 or continue the probation or community control as provided in s.
1002 948.06. If the probation or community control is revoked, the
1003 court may impose any sentence that it could have imposed at the
1004 time the offender was placed on probation or community control.
1005 The court may not provide credit for time served for any portion
1006 of a probation or community control term toward a subsequent
1007 term of probation or community control. However, the court may
1008 not impose a subsequent term of probation or community control
1009 which, when combined with any amount of time served on preceding
1010 terms of probation or community control for offenses pending
1011 before the court for sentencing, would exceed the maximum
1012 penalty allowable as provided in s. 775.082. Such term of
1013 incarceration shall be served under applicable law or county
1014 ordinance governing service of sentences in state or county

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1015 | jurisdiction. This paragraph does not prohibit any other
1016 | sanction provided by law.

1017 | Section 22. This act shall take effect July 1, 2016.