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1 A bill to be entitled
2 An act relating to intellectual disabilities; amending
3 s. 39.502, F.S.; substituting the Arc of Florida for
4 the Association for Retarded Citizens for purposes of
5 certain proceedings relating to children; amending ss.
6 40.013, 86.041, 92.53, 92.54, and 92.55, F.S.;
7 substituting the term "intellectual disability" for
8 the term "mental retardation"; amending s. 320.10,
9 F.S.; substituting the Arc of Florida for the
10 Association for Retarded Citizens; amending ss.
11 383.14, 393.063, 393.11, and 394.455, F.S.;
12 substituting the term "intellectual disability" for
13 the term "mental retardation"; clarifying in s.
14 393.063, that the meaning of the terms "intellectual
15 disability" or "intellectually disabled" is the same
16 as the meaning of the terms "mental retardation,"
17 "retarded," and "mentally retarded" for purposes of
18 matters relating to the criminal laws and court rules;
19 amending s. 400.960, F.S.; revising definitions
20 relating to intermediate care facilities for the
21 developmentally disabled to delete unused terms;
22 amending s. 408.032, F.S.; conforming a cross-
23 reference; amending s. 409.908, F.S.; substituting the
24 term "intellectually disabled" for the term "mentally
25 retarded"; amending ss. 413.20, 440.49, and 499.0054,
26 F.S.; substituting the term "intellectual disability"
27 for the term "mental retardation"; amending s.
28 514.072, F.S.; conforming a cross-reference and

29 deleting obsolete provisions; amending ss. 627.6041,
 30 627.6615, 641.31, 650.05, 765.204, 849.04, 914.16,
 31 914.17, 916.105, and 916.106, F.S.; substituting the
 32 term "intellectual disability" for the term "mental
 33 retardation"; amending s. 916.107, F.S.; substituting
 34 the term "intellectual disability" for the term
 35 "retardation"; providing a directive to the Division
 36 of Statutory Revision; amending ss. 916.301, 916.3012,
 37 916.302, 916.3025, 916.303, 916.304, 918.16, 921.137,
 38 941.38, 944.602, 945.025, 945.12, 945.42, 947.185,
 39 984.19, 985.14, 985.145, 985.18, 985.19, 985.195, and
 40 985.61, F.S.; clarifying in s. 921.137, F.S., that the
 41 terms "intellectual disability" or "intellectually
 42 disabled" are interchangeable with and have the same
 43 meaning as the terms "mental retardation," or
 44 "retardation" and "mentally retarded," as defined
 45 before the effective date of the act; substituting the
 46 term "intellectual disability" for the term "mental
 47 retardation"; expressing legislative intent; providing
 48 an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Subsection (15) of section 39.502, Florida
 53 Statutes, is amended to read:

54 39.502 Notice, process, and service.—

55 (15) A party who is identified as a person who has a ~~with~~
 56 mental illness or ~~with~~ a developmental disability must be

57 informed by the court of the availability of advocacy services
 58 through the department, the Arc of Florida ~~Association for~~
 59 ~~Retarded Citizens~~, or other appropriate mental health or
 60 developmental disability advocacy groups and encouraged to seek
 61 such services.

62 Section 2. Subsection (9) of section 40.013, Florida
 63 Statutes, is amended to read:

64 40.013 Persons disqualified or excused from jury service.—

65 (9) Any person who is responsible for the care of a person
 66 who, because of mental illness, intellectual disability ~~mental~~
 67 ~~retardation~~, senility, or other physical or mental incapacity,
 68 is incapable of caring for himself or herself shall be excused
 69 from jury service upon request.

70 Section 3. Section 86.041, Florida Statutes, is amended to
 71 read:

72 86.041 Actions by executors, administrators, trustees,
 73 etc.—Any person interested as or through an executor,
 74 administrator, trustee, guardian, or other fiduciary, creditor,
 75 devisee, legatee, heir, next of kin, or cestui que trust, in the
 76 administration of a trust, a guardianship, or ~~of~~ the estate of a
 77 decedent, an infant, a mental incompetent, or insolvent may have
 78 a declaration of rights or equitable or legal relations to ~~in~~
 79 ~~respect thereto~~:

80 (1) ~~To~~ Ascertain any class of creditors, devisees,
 81 legatees, heirs, next of kin, or others; ~~or~~

82 (2) ~~To~~ Direct the executor, administrator, or trustee to
 83 refrain from doing any particular act in his or her fiduciary
 84 capacity; or

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85 (3) ~~To~~ Determine any question relating to ~~arising in~~ the
 86 administration of the guardianship, estate, or trust, including
 87 questions of construction of wills and other writings.

88
 89 For the purpose of this section, a "mental incompetent" is one
 90 who, because of mental illness, intellectual disability ~~mental~~
 91 ~~retardation~~, senility, excessive use of drugs or alcohol, or
 92 other mental incapacity, is incapable of ~~either~~ managing his or
 93 her property or caring for himself or herself, or both.

94 Section 4. Section 92.53, Florida Statutes, is amended to
 95 read:

96 92.53 Videotaping the ~~of~~ testimony of a victim or witness
 97 under age 16 or who has an intellectual disability ~~person with~~
 98 ~~mental retardation~~.—

99 (1) On motion and hearing in camera and a finding that
 100 there is a substantial likelihood that a victim or witness who
 101 is under the age of 16 or who has an intellectual disability ~~is~~
 102 ~~a person with mental retardation~~ as defined in s. 393.063 would
 103 suffer at least moderate emotional or mental harm due to the
 104 presence of the defendant if such victim or witness ~~the child or~~
 105 ~~person with mental retardation~~ is required to testify in open
 106 court, or ~~that such victim or witness~~ is otherwise unavailable
 107 as defined in s. 90.804(1), the trial court may order the
 108 videotaping of the testimony of the victim or witness in a case,
 109 whether civil or criminal in nature, in which videotaped
 110 testimony is to be used ~~utilized~~ at trial in lieu of trial
 111 testimony in open court.

112 (2) The motion may be filed by:

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113 (a) The victim or witness, or the victim's or witness's
 114 attorney, parent, legal guardian, or guardian ad litem;

115 (b) A trial judge on his or her own motion;

116 (c) Any party in a civil proceeding; or

117 (d) The prosecuting attorney or the defendant, or the
 118 defendant's counsel.

119 (3) The judge shall preside, or shall appoint a special
 120 master to preside, at the videotaping unless ~~the following~~
 121 ~~conditions are met:~~

122 (a) The child or the person who has the intellectual
 123 disability ~~with mental retardation~~ is represented by a guardian
 124 ad litem or counsel;

125 (b) The representative of the victim or witness and the
 126 counsel for each party stipulate that the requirement for the
 127 presence of the judge or special master may be waived; and

128 (c) The court finds at a hearing on the motion that the
 129 presence of a judge or special master is not necessary to
 130 protect the victim or witness.

131 (4) The defendant and the defendant's counsel must ~~shall~~
 132 be present at the videotaping, unless the defendant has waived
 133 this right. The court may require the defendant to view the
 134 testimony from outside the presence of the child or the person
 135 who has an intellectual disability ~~with mental retardation~~ by
 136 means of a two-way mirror or another similar method that ensures
 137 ~~will ensure~~ that the defendant can observe and hear the
 138 testimony of the victim or witness in person, but ~~that~~ the
 139 victim or witness cannot hear or see the defendant. The
 140 defendant and the attorney for the defendant may communicate by

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141 any appropriate private method.

142 (5) Any party, or the court on its own motion, may request
 143 the aid of an interpreter, as provided in s. 90.606, to aid the
 144 parties in formulating methods of questioning the child or
 145 person who has the intellectual disability ~~with mental~~
 146 ~~retardation~~ and in interpreting the answers of the child or
 147 person during ~~with mental retardation throughout~~ proceedings
 148 conducted under this section.

149 (6) The motion referred to in subsection (1) may be made
 150 at any time with reasonable notice to each party to the cause,
 151 and videotaping of testimony may be made any time after the
 152 court grants the motion. The videotaped testimony is ~~shall be~~
 153 admissible as evidence in the trial of the cause; however, such
 154 testimony is ~~shall~~ not be admissible in any trial or proceeding
 155 in which such witness testifies by use of closed circuit
 156 television pursuant to s. 92.54.

157 (7) The court shall make specific findings of fact, on the
 158 record, as to the basis for its ruling under this section.

159 Section 5. Section 92.54, Florida Statutes, is amended to
 160 read:

161 92.54 Use of closed circuit television in proceedings
 162 involving a victim or witness ~~victims or witnesses~~ under the age
 163 of 16 or who has an intellectual disability ~~persons with mental~~
 164 ~~retardation.~~

165 (1) Upon motion and hearing in camera and upon a finding
 166 that there is a substantial likelihood that a victim or witness
 167 under the age of 16 or who has an intellectual disability ~~the~~
 168 ~~child or person with mental retardation~~ will suffer at least

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169 moderate emotional or mental harm due to the presence of the
170 defendant if such victim or witness ~~the child or person with~~
171 ~~mental retardation~~ is required to testify in open court, or ~~that~~
172 ~~such victim or witness~~ is unavailable as defined in s.
173 90.804(1), the trial court may order that the testimony of the a
174 ~~child under the age of 16 or person with mental retardation who~~
175 ~~is a~~ victim or witness be taken outside of the courtroom and
176 shown by means of closed circuit television.

177 (2) The motion may be filed by the victim or witness; the
178 attorney, parent, legal guardian, or guardian ad litem of the
179 victim or witness; the prosecutor; the defendant or the
180 defendant's counsel; or the trial judge on his or her own
181 motion.

182 (3) Only the judge, the prosecutor, the defendant, the
183 attorney for the defendant, the operators of the videotape
184 equipment, an interpreter, and some other person who, in the
185 opinion of the court, contributes to the well-being of the child
186 or the person who has an intellectual disability ~~with mental~~
187 ~~retardation~~ and who will not be a witness in the case may be in
188 the room during the recording of the testimony.

189 (4) During the victim's or witness's ~~child's or person's~~
190 ~~with mental retardation~~ testimony by closed circuit television,
191 the court may require the defendant to view the testimony from
192 the courtroom. In such a case, the court shall permit the
193 defendant to observe and hear the testimony of the victim or
194 witness ~~child or person with mental retardation~~, but must ~~shall~~
195 ensure that the victim or witness ~~child or person with mental~~
196 ~~retardation~~ cannot hear or see the defendant. The defendant's

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197 right to assistance of counsel, which includes the right to
 198 immediate and direct communication with counsel conducting
 199 cross-examination, must be protected and, upon the defendant's
 200 request, such communication must ~~shall~~ be provided by any
 201 appropriate electronic method.

202 (5) The court shall make specific findings of fact, on the
 203 record, as to the basis for its ruling under this section.

204 Section 6. Section 92.55, Florida Statutes, is amended to
 205 read:

206 92.55 Judicial or other proceedings involving victim or
 207 witness under the age of 16 or person who has an intellectual
 208 disability ~~with mental retardation~~; special protections; use of
 209 registered service or therapy animals.-

210 (1) Upon motion of any party, upon motion of a parent,
 211 guardian, attorney, or guardian ad litem for a victim or witness
 212 ~~child~~ under the age of 16 or person who has an intellectual
 213 disability ~~with mental retardation~~, or upon its own motion, the
 214 court may enter any order necessary to protect such a ~~child~~
 215 ~~under the age of 16 or person with mental retardation who is a~~
 216 victim or witness in any judicial proceeding or other official
 217 proceeding from severe emotional or mental harm due to the
 218 presence of the defendant if the victim or witness ~~child or~~
 219 ~~person with mental retardation~~ is required to testify in open
 220 court. Such orders must ~~shall~~ relate to the taking of testimony
 221 and ~~shall~~ include, but are not ~~be~~ limited to:

222 (a) Interviewing or the taking of depositions as part of a
 223 civil or criminal proceeding.

224 (b) Examination and cross-examination for the purpose of

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225 | qualifying as a witness or testifying in any proceeding.

226 | (c) The use of testimony taken outside of the courtroom,
 227 | including proceedings under ss. 92.53 and 92.54.

228 | (2) In ruling upon the motion, the court shall consider
 229 | ~~take into consideration~~:

230 | (a) The age of the child, the nature of the offense or
 231 | act, the relationship of the child to the parties in the case or
 232 | to the defendant in a criminal action, the degree of emotional
 233 | trauma that will result to the child as a consequence of the
 234 | defendant's presence, and any other fact that the court deems
 235 | relevant; or

236 | (b) The age of the person who has an intellectual
 237 | disability ~~with mental retardation~~, the functional capacity of
 238 | such ~~the person with mental retardation~~, the nature of the
 239 | offenses or act, the relationship of the person ~~with mental~~
 240 | ~~retardation~~ to the parties in the case or to the defendant in a
 241 | criminal action, the degree of emotional trauma that will result
 242 | to the person ~~with mental retardation~~ as a consequence of the
 243 | defendant's presence, and any other fact that the court deems
 244 | relevant.

245 | (3) In addition to such other relief ~~as is~~ provided by
 246 | law, the court may enter orders limiting the number of times
 247 | that a child or a person who has an intellectual disability ~~with~~
 248 | ~~mental retardation~~ may be interviewed, prohibiting depositions
 249 | of such ~~a~~ child or person ~~with mental retardation~~, requiring the
 250 | submission of questions before the ~~prior to~~ examination of the ~~a~~
 251 | child or person ~~with mental retardation~~, setting the place and
 252 | conditions for interviewing the ~~a~~ child or person ~~with mental~~

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253 ~~retardation~~ or for conducting any other proceeding, or
254 permitting or prohibiting the attendance of any person at any
255 proceeding. The court shall enter any order necessary to protect
256 the rights of all parties, including the defendant in any
257 criminal action.

258 (4) The court may set any other conditions it finds just
259 and appropriate when ~~on the~~ taking the ~~of~~ testimony of ~~by~~ a
260 child, including the use of a service or therapy animal that has
261 been evaluated and registered according to national standards,
262 in any proceeding involving a sexual offense. When deciding
263 whether to permit a child to testify with the assistance of a
264 registered service or therapy animal, the court shall consider
265 ~~take into consideration~~ the age of the child, the interests of
266 the child, the rights of the parties to the litigation, and any
267 other relevant factor that would facilitate the testimony by the
268 child.

269 Section 7. Subsection (1) of section 320.10, Florida
270 Statutes, is amended to read:

271 320.10 Exemptions.—

272 (1) The provisions of s. 320.08 do not apply to:

273 (a) Any motor vehicle or mobile home owned by, and
274 operated exclusively for the personal use of, any member of the
275 United States Armed Forces who is not a resident of this state
276 and who is stationed in the state while in compliance with
277 military or naval orders;

278 (b) Any motor vehicle owned or operated exclusively by the
279 Federal Government;

280 (c) Any motor vehicle owned and operated exclusively for

281 the benefit of the Boys' Clubs of America, the National Audubon
 282 Society, the National Children's Cardiac Hospital, any humane
 283 society, any nationally chartered veterans' organization that
 284 maintains a state headquarters in this state, the Children's
 285 Bible Mission, the Boy Scouts of America, the Girl Scouts of
 286 America, the Salvation Army, the American National Red Cross,
 287 the United Service Organization, any local member unit of the
 288 National Urban League which provides free services to municipal
 289 and county residents who are in need of such services, the Young
 290 Men's Christian Association, the Young Men's Hebrew Association,
 291 the Camp Fire Girls' Council, the Young Women's Christian
 292 Association, the Young Women's Hebrew Association, any local
 293 member unit of the Arc of Florida ~~Association for Retarded~~
 294 ~~Citizens~~, the Children's Home Society of Florida, or the
 295 Goodwill Industries. A not-for-profit organization named in this
 296 paragraph and its local affiliate organizations is ~~shall be~~
 297 eligible for the exemption if it ~~for so long as each~~ maintains
 298 current articles of incorporation on file with the Department of
 299 State and qualifies as a not-for-profit organization under s.
 300 212.08;

301 (d) Any motor vehicle owned and operated by a church,
 302 temple, or synagogue for exclusive use as a community service
 303 van or to transport passengers without compensation to religious
 304 services or for religious education;

305 (e) Any motor vehicle owned and operated by the Civil Air
 306 Patrol or the United States Coast Guard Auxiliary;

307 (f) Any mobile blood bank unit when operated as a
 308 nonprofit service by an organization;

309 (g) Any mobile X-ray unit or truck or bus used exclusively
 310 for public health purposes;

311 (h) Any school bus owned and operated by a nonprofit
 312 educational or religious corporation;

313 (i) Any vehicle used by any of the various search and
 314 rescue units of the several counties for exclusive use as a
 315 search and rescue vehicle; or ~~and~~

316 (j) Any motor vehicle used by a community transportation
 317 coordinator or a transportation operator as defined in part I of
 318 chapter 427, and which is used exclusively to transport
 319 transportation disadvantaged persons.

320 Section 8. Paragraph (d) of subsection (3) of section
 321 383.14, Florida Statutes, is amended to read:

322 383.14 Screening for metabolic disorders, other hereditary
 323 and congenital disorders, and environmental risk factors.—

324 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The
 325 department shall administer and provide certain services to
 326 implement the provisions of this section and shall:

327 (d) Maintain a confidential registry of cases, including
 328 information of importance for the purpose of followup services
 329 to prevent intellectual disabilities ~~mental retardation~~, to
 330 correct or ameliorate physical disabilities ~~handicaps~~, and for
 331 epidemiologic studies, if indicated. Such registry shall be
 332 exempt from the provisions of s. 119.07(1).

333
 334 All provisions of this subsection must be coordinated with the
 335 provisions and plans established under this chapter, chapter
 336 411, and Pub. L. No. 99-457.

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337 Section 9. Subsection (9) and subsections (21) through
 338 (32) of section 393.063, Florida Statutes, are reordered and
 339 amended to read:

340 393.063 Definitions.—For the purposes of this chapter, the
 341 term:

342 (9) "Developmental disability" means a disorder or
 343 syndrome that is attributable to intellectual disability
 344 ~~retardation~~, cerebral palsy, autism, spina bifida, or Prader-
 345 Willi syndrome; that manifests before the age of 18; and that
 346 constitutes a substantial handicap that can reasonably be
 347 expected to continue indefinitely.

348 ~~(22)~~(21) "Intermediate care facility for the
 349 developmentally disabled" or "ICF/DD" means a residential
 350 facility licensed and certified under ~~pursuant to~~ part VIII of
 351 chapter 400.

352 ~~(23)~~(22) "Medical/dental services" means medically
 353 necessary services that ~~which~~ are provided or ordered for a
 354 client by a person licensed under chapter 458, chapter 459, or
 355 chapter 466. Such services may include, but are not limited to,
 356 prescription drugs, specialized therapies, nursing supervision,
 357 hospitalization, dietary services, prosthetic devices, surgery,
 358 specialized equipment and supplies, adaptive equipment, and
 359 other services as required to prevent or alleviate a medical or
 360 dental condition.

361 ~~(24)~~(23) "Personal care services" means individual
 362 assistance with or supervision of essential activities of daily
 363 living for self-care, including ambulation, bathing, dressing,
 364 eating, grooming, and toileting, and other similar services that

365 are incidental to the care furnished and essential to the
 366 health, safety, and welfare of the client if ~~when there is~~ no
 367 one else is available to perform those services.

368 (25)~~(24)~~ "Prader-Willi syndrome" means an inherited
 369 condition typified by neonatal hypotonia with failure to thrive,
 370 hyperphagia or an excessive drive to eat which leads to obesity
 371 usually at 18 to 36 months of age, mild to moderate intellectual
 372 disability ~~mental retardation~~, hypogonadism, short stature, mild
 373 facial dysmorphism, and a characteristic neurobehavior.

374 (26)~~(25)~~ "Relative" means an individual who is connected
 375 by affinity or consanguinity to the client and who is 18 years
 376 of age or older.

377 (27)~~(26)~~ "Resident" means a any person who has a with
 378 developmental disability and resides ~~disabilities residing~~ at a
 379 residential facility, whether or not such person is a client of
 380 the agency.

381 (28)~~(27)~~ "Residential facility" means a facility providing
 382 room and board and personal care for persons who have with
 383 developmental disabilities.

384 (29)~~(28)~~ "Residential habilitation" means supervision and
 385 training with the acquisition, retention, or improvement in
 386 skills related to activities of daily living, such as personal
 387 hygiene skills, homemaking skills, and the social and adaptive
 388 skills necessary to enable the individual to reside in the
 389 community.

390 (30)~~(29)~~ "Residential habilitation center" means a
 391 community residential facility licensed under this chapter which
 392 provides habilitation services. The capacity of such a facility

393 may ~~shall~~ not be fewer than nine residents. After October 1,
 394 1989, new residential habilitation centers may not be licensed
 395 and the licensed capacity for any existing residential
 396 habilitation center may not be increased.

397 (31) ~~(30)~~ "Respite service" means appropriate, short-term,
 398 temporary care that is provided to a person who has a ~~with~~
 399 developmental disability in order ~~disabilities~~ to meet the
 400 planned or emergency needs of the person or the family or other
 401 direct service provider.

402 (32) ~~(31)~~ "Restraint" means a physical device, method, or
 403 drug used to control dangerous behavior.

404 (a) A physical restraint is any manual method or physical
 405 or mechanical device, material, or equipment attached or
 406 adjacent to an ~~the~~ individual's body so that he or she cannot
 407 easily remove the restraint and which restricts freedom of
 408 movement or normal access to one's body.

409 (b) A drug used as a restraint is a medication used to
 410 control the person's behavior or to restrict his or her freedom
 411 of movement and is not a standard treatment for the person's
 412 medical or psychiatric condition. Physically holding a person
 413 during a procedure to forcibly administer psychotropic
 414 medication is a physical restraint.

415 (c) Restraint does not include physical devices, such as
 416 orthopedically prescribed appliances, surgical dressings and
 417 bandages, supportive body bands, or other physical holding ~~when~~
 418 necessary for routine physical examinations and tests; for
 419 purposes of orthopedic, surgical, or other similar medical
 420 treatment; ~~when used~~ to provide support for the achievement of

421 functional body position or proper balance; or ~~when used~~ to
 422 protect a person from falling out of bed.

423 ~~(21)-(32)~~ "Intellectual disability" ~~"Retardation"~~ means
 424 significantly subaverage general intellectual functioning
 425 existing concurrently with deficits in adaptive behavior which
 426 ~~that~~ manifests before the age of 18 and can reasonably be
 427 expected to continue indefinitely. For the purposes of this
 428 definition, the term:

429 (a) "Adaptive behavior" means the effectiveness or degree
 430 with which an individual meets the standards of personal
 431 independence and social responsibility expected of his or her
 432 age, cultural group, and community.

433 (b) "Significantly subaverage general intellectual
 434 functioning," for the purpose of this definition, means
 435 performance that ~~which~~ is two or more standard deviations from
 436 the mean score on a standardized intelligence test specified in
 437 the rules of the agency. ~~"Adaptive behavior," for the purpose of~~
 438 ~~this definition, means the effectiveness or degree with which an~~
 439 ~~individual meets the standards of personal independence and~~
 440 ~~social responsibility expected of his or her age, cultural~~
 441 ~~group, and community.~~

442
 443 For purposes of the application of the criminal laws and
 444 procedural rules of this state to matters relating to pretrial,
 445 trial, sentencing, and any matters relating to the imposition
 446 and execution of the death penalty, the terms "intellectual
 447 disability" or "intellectually disabled" are interchangeable
 448 with and have the same meaning as the terms "mental retardation"

449 or "retardation" and "mentally retarded" as defined in this
 450 section before July 1, 2012.

451 Section 10. Subsection (1), paragraphs (c) and (d) of
 452 subsection (2), paragraphs (b) through (d) of subsection (3),
 453 paragraph (b) of subsection (4), paragraphs (b), (e), (f), and
 454 (g) of subsection (5), subsection (6), paragraph (d) of
 455 subsection (7), paragraph (b) of subsection (8), subsection
 456 (10), and paragraph (b) of subsection (12) of section 393.11,
 457 Florida Statutes, are amended to read:

458 393.11 Involuntary admission to residential services.—

459 (1) JURISDICTION.—If ~~When~~ a person has an intellectual
 460 disability ~~is mentally retarded~~ and requires involuntary
 461 admission to residential services provided by the agency, the
 462 circuit court of the county in which the person resides has
 463 ~~shall have~~ jurisdiction to conduct a hearing and enter an order
 464 involuntarily admitting the person in order for ~~that~~ the person
 465 to ~~may~~ receive the care, treatment, habilitation, and
 466 rehabilitation that ~~which~~ the person needs. For the purpose of
 467 identifying intellectual disability ~~mental retardation~~,
 468 diagnostic capability shall be established by the agency. Except
 469 as otherwise specified, the proceedings under this section are
 470 ~~shall be~~ governed by the Florida Rules of Civil Procedure.

471 (2) PETITION.—

472 (c) The petition shall be verified and must ~~shall~~:

- 473 1. State the name, age, and present address of the
- 474 commissioners and their relationship to the person who has an
- 475 intellectual disability ~~with mental retardation~~ or autism;
- 476 2. State the name, age, county of residence, and present

477 address of the person who has an intellectual disability ~~with~~
 478 ~~mental retardation~~ or autism;

479 3. Allege that the commission believes that the person
 480 needs involuntary residential services and specify the factual
 481 information on which the belief is based;

482 4. Allege that the person lacks sufficient capacity to
 483 give express and informed consent to a voluntary application for
 484 services and lacks the basic survival and self-care skills to
 485 provide for the person's well-being or is likely to physically
 486 injure others if allowed to remain at liberty; and

487 5. State which residential setting is the least
 488 restrictive and most appropriate alternative and specify the
 489 factual information on which the belief is based.

490 (d) The petition must ~~shall~~ be filed in the circuit court
 491 of the county in which the person who has the intellectual
 492 disability ~~with mental retardation~~ or autism resides.

493 (3) NOTICE.—

494 (b) If ~~Whenever~~ a motion or petition has been filed
 495 pursuant to s. 916.303 to dismiss criminal charges against a
 496 defendant who has an intellectual disability ~~with retardation~~ or
 497 autism, and a petition is filed to involuntarily admit the
 498 defendant to residential services under this section, the notice
 499 of the filing of the petition must ~~shall~~ also be given to the
 500 defendant's attorney, the state attorney of the circuit from
 501 which the defendant was committed, and the agency.

502 (c) The notice must ~~shall~~ state that a hearing shall be
 503 set to inquire into the need of the person who has an
 504 intellectual disability ~~with mental retardation~~ or autism for

505 involuntary residential services. The notice must ~~shall~~ also
 506 state the date of the hearing on the petition.

507 (d) The notice must ~~shall~~ state that the individual who
 508 has an intellectual disability ~~with mental retardation~~ or autism
 509 has the right to be represented by counsel of his or her own
 510 choice and that, if the person cannot afford an attorney, the
 511 court shall appoint one.

512 (4) AGENCY PARTICIPATION.—

513 (b) Following examination, the agency shall file a written
 514 report with the court at least ~~not less than~~ 10 working days
 515 before the date of the hearing. The report must be served on the
 516 petitioner, the person who has the intellectual disability ~~with~~
 517 ~~mental retardation~~, and the person's attorney at the time the
 518 report is filed with the court.

519 (5) EXAMINING COMMITTEE.—

520 (b) The court shall appoint at least ~~no fewer than~~ three
 521 disinterested experts who have demonstrated to the court an
 522 expertise in the diagnosis, evaluation, and treatment of persons
 523 who have intellectual disabilities ~~with mental retardation~~. The
 524 committee must include at least one licensed and qualified
 525 physician, one licensed and qualified psychologist, and one
 526 qualified professional who, at ~~with~~ a minimum, has ~~of~~ a masters
 527 degree in social work, special education, or vocational
 528 rehabilitation counseling, to examine the person and to testify
 529 at the hearing on the involuntary admission to residential
 530 services.

531 (e) The committee shall prepare a written report for the
 532 court. The report must explicitly document the extent that the

533 person meets the criteria for involuntary admission. The report,
 534 and expert testimony, must include, but not be limited to:

535 1. The degree of the person's intellectual disability
 536 ~~mental retardation~~ and whether, using diagnostic capabilities
 537 established by the agency, the person is eligible for agency
 538 services;

539 2. Whether, because of the person's degree of intellectual
 540 disability ~~mental retardation~~, the person:

541 a. Lacks sufficient capacity to give express and informed
 542 consent to a voluntary application for services pursuant to s.
 543 393.065;

544 b. Lacks basic survival and self-care skills to such a
 545 degree that close supervision and habilitation in a residential
 546 setting is necessary and if not provided would result in a real
 547 and present threat of substantial harm to the person's well-
 548 being; or

549 c. Is likely to physically injure others if allowed to
 550 remain at liberty.

551 3. The purpose to be served by residential care;

552 4. A recommendation on the type of residential placement
 553 which would be the most appropriate and least restrictive for
 554 the person; and

555 5. The appropriate care, habilitation, and treatment.

556 (f) The committee shall file the report with the court at
 557 least ~~not less than~~ 10 working days before the date of the
 558 hearing. The report must ~~shall~~ be served on the petitioner, the
 559 person who has the intellectual disability ~~with mental~~
 560 ~~retardation~~, the person's attorney at the time the report is

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561 filed with the court, and the agency.

562 (g) Members of the examining committee shall receive a
563 reasonable fee to be determined by the court. The fees shall ~~are~~
564 ~~to~~ be paid from the general revenue fund of the county in which
565 the person who has the intellectual disability ~~with mental~~
566 ~~retardation~~ resided when the petition was filed.

567 (6) COUNSEL; GUARDIAN AD LITEM.—

568 (a) The person who has the intellectual disability must
569 ~~with mental retardation shall~~ be represented by counsel at all
570 stages of the judicial proceeding. If ~~In the event~~ the person is
571 indigent and cannot afford counsel, the court shall appoint a
572 public defender at least ~~not less than~~ 20 working days before
573 the scheduled hearing. The person's counsel shall have full
574 access to the records of the service provider and the agency. In
575 all cases, the attorney shall represent the rights and legal
576 interests of the person ~~with mental retardation~~, regardless of
577 who initiates ~~may initiate~~ the proceedings or pays ~~pay~~ the
578 attorney's fee.

579 (b) If the attorney, during the course of his or her
580 representation, reasonably believes that the person who has the
581 intellectual disability ~~with mental retardation~~ cannot
582 adequately act in his or her own interest, the attorney may seek
583 the appointment of a guardian ad litem. A prior finding of
584 incompetency is not required before a guardian ad litem is
585 appointed pursuant to this section.

586 (7) HEARING.—

587 (d) The person who has the intellectual disability must
588 ~~with mental retardation shall~~ be physically present throughout

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589 the entire proceeding. If the person's attorney believes that
 590 the person's presence at the hearing is not in his or her ~~the~~
 591 ~~person's~~ best interest, the person's presence may be waived once
 592 the court has seen the person and the hearing has commenced.

593 (8) ORDER.—

594 (b) An order of involuntary admission to residential
 595 services may not be entered unless the court finds that:

596 1. The person is intellectually disabled ~~mentally retarded~~
 597 or autistic;

598 2. Placement in a residential setting is the least
 599 restrictive and most appropriate alternative to meet the
 600 person's needs; and

601 3. Because of the person's degree of intellectual
 602 disability ~~mental retardation~~ or autism, the person:

603 a. Lacks sufficient capacity to give express and informed
 604 consent to a voluntary application for services pursuant to s.
 605 393.065 and lacks basic survival and self-care skills to such a
 606 degree that close supervision and habilitation in a residential
 607 setting is necessary and, if not provided, would result in a
 608 real and present threat of substantial harm to the person's
 609 well-being; or

610 b. Is likely to physically injure others if allowed to
 611 remain at liberty.

612 (10) COMPETENCY.—

613 (a) The issue of competency is ~~shall be~~ separate and
 614 distinct from a determination of the appropriateness of
 615 involuntary admission to residential services due to
 616 intellectual disability ~~for a condition of mental retardation~~.

617 (b) The issue of the competency of a person who has an
 618 intellectual disability ~~with mental retardation~~ for purposes of
 619 assigning guardianship shall be determined in a separate
 620 proceeding according to the procedures and requirements of
 621 chapter 744. The issue of the competency of a person who has an
 622 intellectual disability ~~with mental retardation~~ or autism for
 623 purposes of determining whether the person is competent to
 624 proceed in a criminal trial shall be determined in accordance
 625 with chapter 916.

626 (12) APPEAL.—

627 (b) The filing of an appeal by the person who has an
 628 intellectual disability ~~stays with mental retardation~~ shall stay
 629 admission of the person into residential care. The stay remains
 630 ~~shall remain~~ in effect during the pendency of all review
 631 proceedings in Florida courts until a mandate issues.

632 Section 11. Subsection (18) of section 394.455, Florida
 633 Statutes, is amended to read:

634 394.455 Definitions.—As used in this part, unless the
 635 context clearly requires otherwise, the term:

636 (18) "Mental illness" means an impairment of the mental or
 637 emotional processes that exercise conscious control of one's
 638 actions or of the ability to perceive or understand reality,
 639 which impairment substantially interferes with the ~~a~~ person's
 640 ability to meet the ordinary demands of living, ~~regardless of~~
 641 ~~etiology~~. For the purposes of this part, the term does not
 642 include a ~~retardation or~~ developmental disability as defined in
 643 chapter 393, intoxication, or conditions manifested only by
 644 antisocial behavior or substance abuse impairment.

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645 Section 12. Subsections (3) through (13) of section
646 400.960, Florida Statutes, are amended to read:

647 400.960 Definitions.—As used in this part, the term:

648 ~~(3) "Autism" has the same meaning as in s. 393.063.~~

649 ~~(4) "Cerebral palsy" has the same meaning as in s.~~

650 ~~393.063.~~

651 (3)~~(5)~~ "Client" means any person determined by the Agency
652 for Persons with Disabilities to be eligible for developmental
653 services.

654 (4)~~(6)~~ "Developmentally disabled" "~~developmental~~
655 ~~disability~~" has the same meaning as "developmental disability"
656 as that term is defined in s. 393.063.

657 (5)~~(7)~~ "Direct service provider" means a person 18 years
658 of age or older who has direct contact with individuals who have
659 ~~with~~ developmental disabilities and who is unrelated to such ~~the~~
660 individuals ~~with developmental disabilities~~.

661 (6)~~(8)~~ "Intermediate care facility for the developmentally
662 disabled" means a residential facility licensed and certified in
663 accordance with state law, and certified by the Federal
664 Government, pursuant to the Social Security Act, as a provider
665 of Medicaid services to persons who have ~~with~~ developmental
666 disabilities.

667 ~~(9) "Prader-Willi syndrome" has the same meaning as in s.~~
668 ~~393.063.~~

669 (7)~~(10)~~~~(a)~~ "Restraint" means a physical device, method, or
670 drug used to control behavior.

671 (a) A physical restraint is any manual method or physical
672 or mechanical device, material, or equipment attached or

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673 adjacent to the individual's body so that he or she cannot
 674 easily remove the restraint and which restricts freedom of
 675 movement or normal access to one's body.

676 (b) A drug used as a restraint is a medication used to
 677 control the person's behavior or to restrict his or her freedom
 678 of movement. Physically holding a person during a procedure to
 679 forcibly administer psychotropic medication is a physical
 680 restraint.

681 (c) Restraint does not include physical devices, such as
 682 orthopedically prescribed appliances, surgical dressings and
 683 bandages, supportive body bands, or other physical holding ~~when~~
 684 necessary for routine physical examinations and tests; for
 685 purposes of orthopedic, surgical, or other similar medical
 686 treatment; ~~when used~~ to provide support for the achievement of
 687 functional body position or proper balance; or ~~when used~~ to
 688 protect a person from falling out of bed.

689 ~~(11) "Retardation" has the same meaning as in s. 393.063.~~

690 (8) ~~(12)~~ "Seclusion" means the physical segregation of a
 691 person in any fashion or the involuntary isolation of a person
 692 in a room or area from which the person is prevented from
 693 leaving. The prevention may be by physical barrier or by a staff
 694 member who is acting in a manner, or who is physically situated,
 695 so as to prevent the person from leaving the room or area. For
 696 purposes of this part, the term does not mean isolation due to a
 697 person's medical condition or symptoms.

698 ~~(13) "Spina bifida" has the same meaning as in s. 393.063.~~

699 Section 13. Subsection (12) of section 408.032, Florida
 700 Statutes, is amended to read:

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701 408.032 Definitions relating to Health Facility and
 702 Services Development Act.—As used in ss. 408.031-408.045, the
 703 term:

704 (12) "Intermediate care facility for the developmentally
 705 disabled" means a residential facility licensed under part VIII
 706 of chapter 400 ~~chapter 393 and certified by the Federal~~
 707 ~~Government pursuant to the Social Security Act as a provider of~~
 708 ~~Medicaid services to persons who are mentally retarded or who~~
 709 ~~have a related condition.~~

710 Section 14. Subsection (8) of section 409.908, Florida
 711 Statutes, is amended to read:

712 409.908 Reimbursement of Medicaid providers.—Subject to
 713 specific appropriations, the agency shall reimburse Medicaid
 714 providers, in accordance with state and federal law, according
 715 to methodologies set forth in the rules of the agency and in
 716 policy manuals and handbooks incorporated by reference therein.
 717 These methodologies may include fee schedules, reimbursement
 718 methods based on cost reporting, negotiated fees, competitive
 719 bidding pursuant to s. 287.057, and other mechanisms the agency
 720 considers efficient and effective for purchasing services or
 721 goods on behalf of recipients. If a provider is reimbursed based
 722 on cost reporting and submits a cost report late and that cost
 723 report would have been used to set a lower reimbursement rate
 724 for a rate semester, then the provider's rate for that semester
 725 shall be retroactively calculated using the new cost report, and
 726 full payment at the recalculated rate shall be effected
 727 retroactively. Medicare-granted extensions for filing cost
 728 reports, if applicable, shall also apply to Medicaid cost

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729 reports. Payment for Medicaid compensable services made on
730 behalf of Medicaid eligible persons is subject to the
731 availability of moneys and any limitations or directions
732 provided for in the General Appropriations Act or chapter 216.
733 Further, nothing in this section shall be construed to prevent
734 or limit the agency from adjusting fees, reimbursement rates,
735 lengths of stay, number of visits, or number of services, or
736 making any other adjustments necessary to comply with the
737 availability of moneys and any limitations or directions
738 provided for in the General Appropriations Act, provided the
739 adjustment is consistent with legislative intent.

740 (8) A provider of home-based or community-based services
741 rendered pursuant to a federally approved waiver shall be
742 reimbursed based on an established or negotiated rate for each
743 service. These rates shall be established according to an
744 analysis of the expenditure history and prospective budget
745 developed by each contract provider participating in the waiver
746 program, or under any other methodology adopted by the agency
747 and approved by the Federal Government in accordance with the
748 waiver. Privately owned and operated community-based residential
749 facilities which meet agency requirements and which formerly
750 received Medicaid reimbursement for the optional intermediate
751 care facility for the intellectually disabled ~~mentally retarded~~
752 service may participate in the developmental services waiver as
753 part of a home-and-community-based continuum of care for
754 Medicaid recipients who receive waiver services.

755 Section 15. Subsection (16) of section 413.20, Florida
756 Statutes, is amended to read:

757 413.20 Definitions.—As used in this part, the term:
 758 (16) "Person who has a significant disability" means an
 759 individual who has a disability that is a severe physical or
 760 mental impairment that seriously limits one or more functional
 761 capacities, such as mobility, communication, self-care, self-
 762 direction, interpersonal skills, work tolerance, or work skills,
 763 in terms of an employment outcome; whose vocational
 764 rehabilitation may be expected to require multiple vocational
 765 rehabilitation services over an extended period of time; and who
 766 has one or more physical or mental disabilities resulting from
 767 amputation, arthritis, autism, blindness, burn injury, cancer,
 768 cerebral palsy, cystic fibrosis, deafness, head injury, heart
 769 disease, hemiplegia, hemophilia, respiratory or pulmonary
 770 dysfunction, intellectual disability ~~mental retardation~~, mental
 771 illness, multiple sclerosis, muscular dystrophy, musculoskeletal
 772 disorder, neurological disorder, including stroke and epilepsy,
 773 paraplegia, quadriplegia, or other spinal cord condition,
 774 sickle-cell anemia, specific learning disability, end-stage
 775 renal disease, or another disability or a combination of
 776 disabilities that is determined, after an assessment for
 777 determining eligibility and vocational rehabilitation needs, to
 778 cause comparable substantial functional limitation.

779 Section 16. Paragraph (a) of subsection (6) of section
 780 440.49, Florida Statutes, is amended to read:

781 440.49 Limitation of liability for subsequent injury
 782 through Special Disability Trust Fund.—

783 (6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

784 (a) Reimbursement is not allowed under this section unless

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785 it is established that the employer knew of the preexisting
 786 permanent physical impairment before ~~prior to~~ the occurrence of
 787 the subsequent injury or occupational disease, and ~~that~~ the
 788 permanent physical impairment is one of the following:

- 789 1. Epilepsy.
- 790 2. Diabetes.
- 791 3. Cardiac disease.
- 792 4. Amputation of foot, leg, arm, or hand.
- 793 5. Total loss of sight of one or both eyes or a partial
 794 loss of corrected vision of more than 75 percent bilaterally.
- 795 6. Residual disability from poliomyelitis.
- 796 7. Cerebral palsy.
- 797 8. Multiple sclerosis.
- 798 9. Parkinson's disease.
- 799 10. Meniscectomy.
- 800 11. Patellectomy.
- 801 12. Ruptured cruciate ligament.
- 802 13. Hemophilia.
- 803 14. Chronic osteomyelitis.
- 804 15. Surgical or spontaneous fusion of a major weight-
 805 bearing joint.
- 806 16. Hyperinsulinism.
- 807 17. Muscular dystrophy.
- 808 18. Thrombophlebitis.
- 809 19. Herniated intervertebral disk.
- 810 20. Surgical removal of an intervertebral disk or spinal
 811 fusion.
- 812 21. One or more back injuries or a disease process of the

813 back resulting in disability over a total of 120 or more days,
 814 if substantiated by a doctor's opinion that there was a
 815 preexisting impairment to the claimant's back.

816 22. Total deafness.

817 23. Intellectual disability if ~~Mental retardation,~~
 818 ~~provided~~ the employee's intelligence quotient is such that she
 819 or he falls within the lowest 2 percentile of the general
 820 population. However, ~~it shall not be necessary for~~ the employer
 821 does not need to know the employee's actual intelligence
 822 quotient or actual relative ranking in relation to the
 823 intelligence quotient of the general population.

824 24. Any permanent physical condition that ~~which,~~ before
 825 ~~prior to~~ the industrial accident or occupational disease,
 826 constitutes a 20 percent ~~20-percent~~ impairment of a member or of
 827 the body as a whole.

828 25. Obesity if, ~~provided~~ the employee is 30 percent or
 829 more over the average weight designated for her or his height
 830 and age in the Table of Average Weight of Americans by Height
 831 and Age prepared by the Society of Actuaries using data from the
 832 1979 Build and Blood Pressure Study.

833 26. Any permanent physical impairment as provided ~~defined~~
 834 in s. 440.15(3) which is a result of a prior industrial accident
 835 with the same employer or the employer's parent company,
 836 subsidiary, sister company, or affiliate located within the
 837 geographical boundaries of this state.

838 Section 17. Paragraph (g) of subsection (1) of section
 839 499.0054, Florida Statutes, is amended to read:

840 499.0054 Advertising and labeling of drugs, devices, and

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841 cosmetics; exemptions.-

842 (1) It is a violation of the Florida Drug and Cosmetic Act
 843 to perform or cause the performance of any of the following
 844 acts:

845 (g) The advertising of any drug or device represented to
 846 have any effect in any of the following conditions, disorders,
 847 diseases, or processes:

- 848 1. Blood disorders.
- 849 2. Bone or joint diseases.
- 850 3. Kidney diseases or disorders.
- 851 4. Cancer.
- 852 5. Diabetes.
- 853 6. Gall bladder diseases or disorders.
- 854 7. Heart and vascular diseases.
- 855 8. High blood pressure.
- 856 9. Diseases or disorders of the ear or auditory apparatus,
 857 including hearing loss or deafness.
- 858 10. Mental disease or intellectual disability ~~mental~~
 859 ~~retardation~~.
- 860 11. Paralysis.
- 861 12. Prostate gland disorders.
- 862 13. Conditions of the scalp affecting hair loss.
- 863 14. Baldness.
- 864 15. Endocrine disorders.
- 865 16. Sexual impotence.
- 866 17. Tumors.
- 867 18. Venereal diseases.
- 868 19. Varicose ulcers.

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- 869 20. Breast enlargement.
- 870 21. Purifying blood.
- 871 22. Metabolic disorders.
- 872 23. Immune system disorders or conditions affecting the
- 873 immune system.
- 874 24. Extension of life expectancy.
- 875 25. Stress and tension.
- 876 26. Brain stimulation or performance.
- 877 27. The body's natural defense mechanisms.
- 878 28. Blood flow.
- 879 29. Depression.
- 880 30. Human immunodeficiency virus or acquired immune
- 881 deficiency syndrome or related disorders or conditions.

882 Section 18. Section 514.072, Florida Statutes, is amended
 883 to read:

884 514.072 Certification of swimming instructors for people
 885 who have developmental disabilities ~~required~~.—Any person working
 886 at a swimming pool who holds himself or herself out as a
 887 swimming instructor specializing in training people who have
 888 developmental disabilities, as defined in s. 393.063(10), may be
 889 certified by the Dan Marino Foundation, Inc., in addition to
 890 being certified under s. 514.071. The Dan Marino Foundation,
 891 Inc., must develop certification requirements and a training
 892 curriculum for swimming instructors for people who have
 893 developmental disabilities ~~and must submit the certification~~
 894 ~~requirements to the Department of Health for review by January~~
 895 ~~1, 2007. A person certified under s. 514.071 before July 1,~~
 896 ~~2007, must meet the additional certification requirements of~~

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897 ~~this section before January 1, 2008.~~ A person certified under s.
 898 514.071 ~~on or after July 1, 2007,~~ must meet the additional
 899 certification requirements of this section within 6 months after
 900 receiving certification under s. 514.071.

901 Section 19. Section 627.6041, Florida Statutes, is amended
 902 to read:

903 627.6041 ~~Handicapped~~ Children with disabilities;
 904 continuation of coverage.—

905 (1) A hospital or medical expense insurance policy or
 906 health care services plan contract that is delivered or issued
 907 for delivery in this state and that provides that coverage of a
 908 dependent child terminates ~~will terminate~~ upon attainment of the
 909 limiting age for dependent children specified in the policy or
 910 contract must ~~shall~~ also provide in substance that attainment of
 911 the limiting age does not terminate the coverage of the child
 912 while the child continues to be both:

913 (a) ~~(1)~~ Incapable of self-sustaining employment by reason
 914 of an intellectual ~~mental retardation~~ or physical disability.
 915 ~~handicap; and~~

916 (b) ~~(2)~~ Chiefly dependent upon the policyholder or
 917 subscriber for support and maintenance.

918 (2) If a claim is denied under a policy or contract for
 919 the stated reason that the child has attained the limiting age
 920 for dependent children specified in the policy or contract, the
 921 notice of denial must state that the policyholder has the burden
 922 of establishing that the child continues to meet the criteria
 923 specified in subsection ~~subsections~~ (1) and ~~(2)~~.

924 Section 20. Section 627.6615, Florida Statutes, is amended

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925 to read:

926 627.6615 ~~Handicapped~~ Children with disabilities;
 927 continuation of coverage under group policy.—

928 (1) A group health insurance policy or health care
 929 services plan contract that is delivered or issued for delivery
 930 in this state and that provides that coverage of a dependent
 931 child of an employee or other member of the covered group
 932 terminates ~~will terminate~~ upon attainment of the limiting age
 933 for dependent children specified in the policy or contract must
 934 ~~shall~~ also provide in substance that attainment of the limiting
 935 age does not terminate the coverage of the child while the child
 936 continues to be both:

937 (a) ~~(1)~~ Incapable of self-sustaining employment by reason
 938 of an intellectual ~~mental retardation~~ or physical disability.
 939 ~~handicap; and~~

940 (b) ~~(2)~~ Chiefly dependent upon the employee or member for
 941 support and maintenance.

942 (2) If a claim is denied under a policy or contract for
 943 the stated reason that the child has attained the limiting age
 944 for dependent children specified in the policy or contract, the
 945 notice of denial must state that the certificateholder or
 946 subscriber has the burden of establishing that the child
 947 continues to meet the criteria specified in subsection
 948 ~~subsections (1) and (2)~~.

949 Section 21. Subsection (29) of section 641.31, Florida
 950 Statutes, is amended to read:

951 641.31 Health maintenance contracts.—

952 (29) If a health maintenance contract provides that

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953 coverage of a dependent child of the subscriber terminates ~~will~~
 954 ~~terminate~~ upon attainment of the limiting age for dependent
 955 children which is specified in the contract, the contract must
 956 also provide in substance that attainment of the limiting age
 957 does not terminate the coverage of the child while the child
 958 continues to be both:

959 (a) Incapable of self-sustaining employment by reason of
 960 an intellectual ~~mental retardation~~ or physical disability.
 961 ~~handicap, and~~

962 (b) Chiefly dependent upon the employee or member for
 963 support and maintenance.

964
 965 If the claim is denied under a contract for the stated reason
 966 that the child has attained the limiting age for dependent
 967 children specified in the contract, the notice or denial must
 968 state that the subscriber has the burden of establishing that
 969 the child continues to meet the criteria specified in this
 970 subsection ~~paragraphs (a) and (b).~~

971 Section 22. Subsection (4) of section 650.05, Florida
 972 Statutes, is amended to read:

973 650.05 Plans for coverage of employees of political
 974 subdivisions.—

975 (4) ~~(a)~~ Notwithstanding any other provision of this
 976 chapter, effective January 1, 1972, all state political
 977 subdivisions receiving financial aid which ~~that~~ provide social
 978 security coverage for their employees pursuant to ~~the provisions~~
 979 ~~of~~ this chapter and the ~~provisions of the~~ various retirement
 980 systems as authorized by law shall, in addition to other

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981 purposes, use ~~utilize~~ all grants-in-aid and other revenue
 982 received from the state to pay the employer's share of social
 983 security cost.

984 ~~(b)~~ The grants-in-aid and other revenue ~~referred to in~~
 985 ~~paragraph (a)~~ specifically include, but are not limited to,
 986 minimum foundation program grants to public school districts and
 987 community colleges; gasoline, motor fuel, cigarette, racing, and
 988 insurance premium taxes distributed to political subdivisions;
 989 and amounts specifically appropriated as grants-in-aid for
 990 mental health, intellectual disabilities ~~mental retardation~~, and
 991 mosquito control programs.

992 Section 23. Subsection (1) of section 765.204, Florida
 993 Statutes, is amended to read:

994 765.204 Capacity of principal; procedure.—

995 (1) A principal is presumed to be capable of making health
 996 care decisions for herself or himself unless she or he is
 997 determined to be incapacitated. Incapacity may not be inferred
 998 from the person's voluntary or involuntary hospitalization for
 999 mental illness or from her or his intellectual disability ~~mental~~
 1000 ~~retardation~~.

1001 Section 24. Section 849.04, Florida Statutes, is amended
 1002 to read:

1003 849.04 Permitting minors and persons under guardianship to
 1004 gamble. ~~Whoever being~~ The proprietor, owner, or keeper of any E.
 1005 O., keno or pool table, or billiard table, wheel of fortune, or
 1006 other game of chance, ~~kept for the purpose of betting,~~ who
 1007 willfully and knowingly allows a ~~any~~ minor or ~~any~~ person who is
 1008 mentally incompetent or under guardianship to play at such game

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1009 or to bet on such game of chance; or whoever aids or abets or
 1010 otherwise encourages such playing or betting of any money or
 1011 other valuable thing upon the result of such game of chance by a
 1012 ~~any~~ minor or ~~any~~ person who is mentally incompetent or under
 1013 guardianship, commits ~~shall be guilty of~~ a felony of the third
 1014 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1015 775.084. For the purpose of this section, the term a "person who
 1016 is mentally incompetent person" means a person ~~is one~~ who
 1017 because of mental illness, intellectual disability ~~mental~~
 1018 ~~retardation~~, senility, excessive use of drugs or alcohol, or
 1019 other mental incapacity is incapable of ~~either~~ managing his or
 1020 her property or caring for himself or herself or both.

1021 Section 25. Section 914.16, Florida Statutes, is amended
 1022 to read:

1023 914.16 Child abuse and sexual abuse of victims under age
 1024 16 or who have an intellectual disability ~~persons with mental~~
 1025 ~~retardation~~; limits on interviews.—The chief judge of each
 1026 judicial circuit, after consultation with the state attorney and
 1027 the public defender for the judicial circuit, the appropriate
 1028 chief law enforcement officer, and any other person deemed
 1029 appropriate by the chief judge, shall ~~provide by~~ order
 1030 reasonable limits on the number of interviews which ~~that~~ a
 1031 victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s.
 1032 847.0135(5) who is under 16 years of age or a victim of a
 1033 violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who
 1034 has an intellectual disability ~~is a person with mental~~
 1035 ~~retardation~~ as defined in s. 393.063 must submit to for law
 1036 enforcement or discovery purposes. ~~The order shall,~~ To the

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1037 extent possible, the order must protect the victim from the
 1038 psychological damage of repeated interrogations while preserving
 1039 the rights of the public, the victim, and the person charged
 1040 with the violation.

1041 Section 26. Section 914.17, Florida Statutes, is amended
 1042 to read:

1043 914.17 Appointment of advocate for victims or witnesses
 1044 who are minors or intellectually disabled ~~persons with mental~~
 1045 ~~retardation.~~

1046 (1) A guardian ad litem or other advocate shall be
 1047 appointed by the court to represent a minor in any criminal
 1048 proceeding if the minor is a victim of or witness to child abuse
 1049 or neglect, ~~or if the minor is~~ a victim of a sexual offense, or
 1050 a witness to a sexual offense committed against another minor.
 1051 The court may appoint a guardian ad litem or other advocate in
 1052 any other criminal proceeding in which a minor is involved as
 1053 ~~either~~ a victim or a witness. The guardian ad litem or other
 1054 advocate shall have full access to all evidence and reports
 1055 introduced during the proceedings, may interview witnesses, may
 1056 make recommendations to the court, shall be noticed and have the
 1057 right to appear on behalf of the minor at all proceedings, and
 1058 may request additional examinations by medical doctors,
 1059 psychiatrists, or psychologists. ~~It is the duty of~~ The guardian
 1060 ad litem or other advocate shall ~~to perform the following~~
 1061 ~~services:~~

1062 (a) ~~To~~ Explain, in language understandable to the minor,
 1063 all legal proceedings in which the minor is ~~shall be~~ involved;

1064 (b) ~~To~~ Act, as a friend of the court, to advise the judge,

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1065 whenever appropriate, of the minor's ability to understand and
 1066 cooperate with any court proceeding; and

1067 (c) ~~To~~ Assist the minor and the minor's family in coping
 1068 with the emotional effects of the crime and subsequent criminal
 1069 proceedings in which the minor is involved.

1070 (2) An advocate shall be appointed by the court to
 1071 represent a person who has an intellectual disability with
 1072 ~~mental retardation~~ as defined in s. 393.063 in any criminal
 1073 proceeding if the person ~~with mental retardation~~ is a victim of
 1074 or witness to abuse or neglect, ~~or if the person with mental~~
 1075 ~~retardation is~~ a victim of a sexual offense, or a witness to a
 1076 sexual offense committed against a minor or person who has an
 1077 intellectual disability with mental retardation. The court may
 1078 appoint an advocate in any other criminal proceeding in which
 1079 such a person ~~with mental retardation~~ is involved as ~~either~~ a
 1080 victim or a witness. The advocate shall have full access to all
 1081 evidence and reports introduced during the proceedings, may
 1082 interview witnesses, may make recommendations to the court,
 1083 shall be noticed and have the right to appear on behalf of the
 1084 person ~~with mental retardation~~ at all proceedings, and may
 1085 request additional examinations by medical doctors,
 1086 psychiatrists, or psychologists. ~~It is the duty of~~ The advocate
 1087 shall to perform the following services:

1088 (a) ~~To~~ Explain, in language understandable to the person
 1089 ~~with mental retardation~~, all legal proceedings in which the
 1090 person is ~~shall be~~ involved;

1091 (b) ~~To~~ Act, as a friend of the court, to advise the judge,
 1092 whenever appropriate, of the person's ~~person with mental~~

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1093 ~~retardation's~~ ability to understand and cooperate with any court
 1094 proceedings; and

1095 (c) ~~To~~ Assist the person ~~with mental retardation~~ and the
 1096 person's family in coping with the emotional effects of the
 1097 crime and subsequent criminal proceedings in which the person
 1098 ~~with mental retardation~~ is involved.

1099 (3) Any person participating in a judicial proceeding as a
 1100 guardian ad litem or other advocate is ~~shall be~~ presumed prima
 1101 facie to be acting in good faith and in so doing is ~~shall be~~
 1102 immune from any liability, civil or criminal, which ~~that~~
 1103 ~~otherwise~~ might be incurred or imposed.

1104 Section 27. Subsections (1), (2), and (3) of section
 1105 916.105, Florida Statutes, are amended to read:

1106 916.105 Legislative intent.—

1107 (1) It is the intent of the Legislature that the
 1108 Department of Children and Family Services and the Agency for
 1109 Persons with Disabilities, as appropriate, establish, locate,
 1110 and maintain separate and secure forensic facilities and
 1111 programs for the treatment or training of defendants who have
 1112 been charged with a felony and who have been found to be
 1113 incompetent to proceed due to their mental illness, intellectual
 1114 disability ~~mental retardation~~, or autism, or who have been
 1115 acquitted of a felony by reason of insanity, and who, while
 1116 still under the jurisdiction of the committing court, are
 1117 committed to the department or agency under ~~the provisions of~~
 1118 this chapter. Such facilities must ~~shall~~ be sufficient to
 1119 accommodate the number of defendants committed under the
 1120 conditions noted above. Except for those defendants found by the

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1121 department or agency to be appropriate for treatment or training
 1122 in a civil facility or program pursuant to subsection (3),
 1123 forensic facilities must ~~shall~~ be designed and administered so
 1124 that ingress and egress, together with other requirements of
 1125 this chapter, may be strictly controlled by staff responsible
 1126 for security in order to protect the defendant, facility
 1127 personnel, other clients, and citizens in adjacent communities.

1128 (2) It is the intent of the Legislature that treatment or
 1129 training programs for defendants who are found to have mental
 1130 illness, intellectual disability ~~mental retardation~~, or autism
 1131 and are involuntarily committed to the department or agency, and
 1132 who are still under the jurisdiction of the committing court, be
 1133 provided in a manner, subject to security requirements and other
 1134 mandates of this chapter, which ensures ~~as to ensure~~ the rights
 1135 of the defendants as provided in this chapter.

1136 (3) It is the intent of the Legislature that evaluation
 1137 and services to defendants who have mental illness, intellectual
 1138 disability ~~mental retardation~~, or autism be provided in
 1139 community settings, in community residential facilities, or in
 1140 civil facilities, whenever this is a feasible alternative to
 1141 treatment or training in a state forensic facility.

1142 Section 28. Subsections (1), (10), (11), (12), and (17) of
 1143 section 916.106, Florida Statutes, are amended, and subsections
 1144 (13) through (15) of that section are reordered and amended, to
 1145 read:

1146 916.106 Definitions.—For the purposes of this chapter, the
 1147 term:

1148 (1) "Agency" means the Agency for Persons with

1149 Disabilities. The agency is responsible for training forensic
 1150 clients who are developmentally disabled due to intellectual
 1151 disability ~~mental-retardation~~ or autism and have been determined
 1152 incompetent to proceed.

1153 (10) "Forensic facility" means a separate and secure
 1154 facility established within the department or agency to serve
 1155 forensic clients. A separate and secure facility means a
 1156 security-grade building for the purpose of separately housing
 1157 persons who have mental illness from persons who have
 1158 intellectual disabilities ~~with-retardation~~ or autism and
 1159 separately housing persons who have been involuntarily committed
 1160 pursuant to this chapter from nonforensic residents.

1161 (11) "Incompetent to proceed" means unable to proceed at
 1162 any material stage of a criminal proceeding, which includes the
 1163 ~~shall include~~ trial of the case, pretrial hearings involving
 1164 questions of fact on which the defendant might be expected to
 1165 testify, entry of a plea, proceedings for violation of probation
 1166 or violation of community control, sentencing, and hearings on
 1167 issues regarding a defendant's failure to comply with court
 1168 orders or conditions or other matters in which the mental
 1169 competence of the defendant is necessary for a just resolution
 1170 of the issues being considered.

1171 (12) "Institutional security personnel" means the staff of
 1172 forensic facilities who meet or exceed the requirements of s.
 1173 943.13 and who are responsible for providing security,
 1174 protecting clients and personnel, enforcing rules, preventing
 1175 and investigating unauthorized activities, and safeguarding the
 1176 interests of residents ~~citizens~~ in the surrounding communities.

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1177 ~~(14)~~~~(13)~~ "Mental illness" means an impairment of the
1178 emotional processes that exercise conscious control of one's
1179 actions, or of the ability to perceive or understand reality,
1180 which impairment substantially interferes with the a defendant's
1181 ability to meet the ordinary demands of living. For the purposes
1182 of this chapter, the term does not apply to defendants who have
1183 only an intellectual disability ~~with only mental retardation~~ or
1184 autism and does not include intoxication or conditions
1185 manifested only by antisocial behavior or substance abuse
1186 impairment.

1187 ~~(15)~~~~(14)~~ "Restraint" means a physical device, method, or
1188 drug used to control dangerous behavior.

1189 (a) A physical restraint is any manual method or physical
1190 or mechanical device, material, or equipment attached or
1191 adjacent to a person's body so that he or she cannot easily
1192 remove the restraint and that restricts freedom of movement or
1193 normal access to one's body.

1194 (b) A drug used as a restraint is a medication used to
1195 control the person's behavior or to restrict his or her freedom
1196 of movement and not part of the standard treatment regimen of
1197 the person with a diagnosed mental illness who is a client of
1198 the department. Physically holding a person during a procedure
1199 to forcibly administer psychotropic medication is a physical
1200 restraint.

1201 (c) Restraint does not include physical devices, such as
1202 orthopedically prescribed appliances, surgical dressings and
1203 bandages, supportive body bands, or other physical holding ~~when~~
1204 necessary for routine physical examinations and tests; for

1205 purposes of orthopedic, surgical, or other similar medical
 1206 treatment; ~~when used~~ to provide support for the achievement of
 1207 functional body position or proper balance; or ~~when used~~ to
 1208 protect a person from falling out of bed.

1209 ~~(13)-(15)~~ "Intellectual disability" ~~"Retardation"~~ has the
 1210 same meaning as in s. 393.063.

1211 (17) "Social service professional" means a person whose
 1212 minimum qualifications include a bachelor's degree and at least
 1213 2 years of social work, clinical practice, special education,
 1214 habilitation, or equivalent experience working directly with
 1215 persons who have intellectual disabilities ~~with retardation~~,
 1216 autism, or other developmental disabilities.

1217 Section 29. Paragraph (a) of subsection (1) and paragraph
 1218 (a) of subsection (3) of section 916.107, Florida Statutes, are
 1219 amended to read:

1220 916.107 Rights of forensic clients.—

1221 (1) RIGHT TO INDIVIDUAL DIGNITY.—

1222 (a) The policy of the state is that the individual dignity
 1223 of the client shall be respected at all times and upon all
 1224 occasions, including any occasion when the forensic client is
 1225 detained, transported, or treated. Clients with mental illness,
 1226 intellectual disability ~~retardation~~, or autism and who are
 1227 charged with committing felonies shall receive appropriate
 1228 treatment or training. In a criminal case involving a client who
 1229 has been adjudicated incompetent to proceed or not guilty by
 1230 reason of insanity, a jail may be used as an emergency facility
 1231 for up to 15 days following the date the department or agency
 1232 receives a completed copy of the court commitment order

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1233 containing all documentation required by the applicable Florida
 1234 Rules of Criminal Procedure. For a forensic client who is held
 1235 in a jail awaiting admission to a facility of the department or
 1236 agency, evaluation and treatment or training may be provided in
 1237 the jail by the local community mental health provider for
 1238 mental health services, by the developmental disabilities
 1239 program for persons with intellectual disability ~~retardation~~ or
 1240 autism, the client's physician or psychologist, or any other
 1241 appropriate program until the client is transferred to a civil
 1242 or forensic facility.

1243 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

1244 (a) A forensic client shall be asked to give express and
 1245 informed written consent for treatment. If a client refuses such
 1246 treatment as is deemed necessary and essential by the client's
 1247 multidisciplinary treatment team for the appropriate care of the
 1248 client, such treatment may be provided under the following
 1249 circumstances:

1250 1. In an emergency situation in which there is immediate
 1251 danger to the safety of the client or others, such treatment may
 1252 be provided upon the written order of a physician for a period
 1253 not to exceed 48 hours, excluding weekends and legal holidays.
 1254 If, after the 48-hour period, the client has not given express
 1255 and informed consent to the treatment initially refused, the
 1256 administrator or designee of the civil or forensic facility
 1257 shall, within 48 hours, excluding weekends and legal holidays,
 1258 petition the committing court or the circuit court serving the
 1259 county in which the facility is located, at the option of the
 1260 facility administrator or designee, for an order authorizing the

1261 continued treatment of the client. In the interim, the need for
 1262 treatment shall be reviewed every 48 hours and may be continued
 1263 without the consent of the client upon the continued written
 1264 order of a physician who has determined that the emergency
 1265 situation continues to present a danger to the safety of the
 1266 client or others.

1267 2. In a situation other than an emergency situation, the
 1268 administrator or designee of the facility shall petition the
 1269 court for an order authorizing necessary and essential treatment
 1270 for the client. The order shall allow such treatment for a
 1271 period not to exceed 90 days following the date of the entry of
 1272 the order. Unless the court is notified in writing that the
 1273 client has provided express and informed consent in writing or
 1274 that the client has been discharged by the committing court, the
 1275 administrator or designee shall, before ~~prior to~~ the expiration
 1276 of the initial 90-day order, petition the court for an order
 1277 authorizing the continuation of treatment for another 90-day
 1278 period. This procedure shall be repeated until the client
 1279 provides consent or is discharged by the committing court.

1280 3. At the hearing on the issue of whether the court should
 1281 enter an order authorizing treatment for which a client was
 1282 unable to or refused to give express and informed consent, the
 1283 court shall determine by clear and convincing evidence that the
 1284 client has mental illness, intellectual disability ~~retardation~~,
 1285 or autism, that the treatment not consented to is essential to
 1286 the care of the client, and that the treatment not consented to
 1287 is not experimental and does not present an unreasonable risk of
 1288 serious, hazardous, or irreversible side effects. In arriving at

1289 the substitute judgment decision, the court must consider at
 1290 least the following factors:

- 1291 a. The client's expressed preference regarding treatment;
- 1292 b. The probability of adverse side effects;
- 1293 c. The prognosis without treatment; and
- 1294 d. The prognosis with treatment.

1295
 1296 The hearing shall be as convenient to the client as may be
 1297 consistent with orderly procedure and shall be conducted in
 1298 physical settings not likely to be injurious to the client's
 1299 condition. The court may appoint a general or special magistrate
 1300 to preside at the hearing. The client or the client's guardian,
 1301 and the representative, shall be provided with a copy of the
 1302 petition and the date, time, and location of the hearing. The
 1303 client has the right to have an attorney represent him or her at
 1304 the hearing, and, if the client is indigent, the court shall
 1305 appoint the office of the public defender to represent the
 1306 client at the hearing. The client may testify or not, as he or
 1307 she chooses, and has the right to cross-examine witnesses and
 1308 may present his or her own witnesses.

1309 Section 30. The Division of Statutory Revision is
 1310 requested to rename part III of chapter 916, Florida Statutes,
 1311 consisting of ss. 916.301-916.304, as "Forensic Services for
 1312 Persons who are Intellectually Disabled or Autistic."

1313 Section 31. Subsections (1) and (2) of section 916.301,
 1314 Florida Statutes, are amended to read:

1315 916.301 Appointment of experts.—

1316 (1) All evaluations ordered by the court under this part

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1317 must be conducted by qualified experts who have expertise in
1318 evaluating persons who have an intellectual disability ~~with~~
1319 ~~retardation~~ or autism. The agency shall maintain and provide the
1320 courts annually with a list of available ~~retardation and autism~~
1321 professionals who are appropriately licensed and qualified to
1322 perform evaluations of defendants alleged to be incompetent to
1323 proceed due to intellectual disability ~~retardation~~ or autism.
1324 The courts may use professionals from this list when appointing
1325 experts and ordering evaluations under this part.

1326 (2) If a defendant's suspected mental condition is
1327 intellectual disability ~~retardation~~ or autism, the court shall
1328 appoint the following:

1329 (a) At least one, or at the request of any party, two
1330 experts to evaluate whether the defendant meets the definition
1331 of intellectual disability ~~retardation~~ or autism and, if so,
1332 whether the defendant is competent to proceed; and

1333 (b) A psychologist selected by the agency who is licensed
1334 or authorized by law to practice in this state, with experience
1335 in evaluating persons suspected of having an intellectual
1336 disability ~~retardation~~ or autism, and a social service
1337 professional, with experience in working with persons who have
1338 an intellectual disability ~~with retardation~~ or autism.

1339 1. The psychologist shall evaluate whether the defendant
1340 meets the definition of intellectual disability ~~retardation~~ or
1341 autism and, if so, whether the defendant is incompetent to
1342 proceed due to intellectual disability ~~retardation~~ or autism.

1343 2. The social service professional shall provide a social
1344 and developmental history of the defendant.

1345 Section 32. Subsections (1), (2), and (4) of section
 1346 916.3012, Florida Statutes, are amended to read:

1347 916.3012 Mental competence to proceed.—

1348 (1) A defendant whose suspected mental condition is
 1349 intellectual disability ~~retardation~~ or autism is incompetent to
 1350 proceed within the meaning of this chapter if the defendant does
 1351 not have sufficient present ability to consult with the
 1352 defendant's lawyer with a reasonable degree of rational
 1353 understanding or if the defendant has no rational, as well as
 1354 factual, understanding of the proceedings against the defendant.

1355 (2) Experts in intellectual disability ~~retardation~~ or
 1356 autism appointed pursuant to s. 916.301 shall first consider
 1357 whether the defendant meets the definition of intellectual
 1358 disability ~~retardation~~ or autism and, if so, consider the
 1359 factors related to the issue of whether the defendant meets the
 1360 criteria for competence to proceed as described in subsection
 1361 (1).

1362 (4) If the experts ~~should~~ find that the defendant is
 1363 incompetent to proceed, the experts shall report on any
 1364 recommended training for the defendant to attain competence to
 1365 proceed. In considering the issues relating to training, the
 1366 examining experts shall specifically report on:

1367 (a) The intellectual disability ~~retardation~~ or autism
 1368 causing the incompetence;

1369 (b) The training appropriate for the intellectual
 1370 disability ~~retardation~~ or autism of the defendant and an
 1371 explanation of each of the possible training alternatives in
 1372 order of choices;

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1373 (c) The availability of acceptable training and, if
 1374 training is available in the community, the expert shall so
 1375 state in the report; and

1376 (d) The likelihood of the defendant's attaining competence
 1377 under the training recommended, an assessment of the probable
 1378 duration of the training required to restore competence, and the
 1379 probability that the defendant will attain competence to proceed
 1380 in the foreseeable future.

1381 Section 33. Subsection (1), paragraphs (a) and (b) of
 1382 subsection (2), and paragraph (a) of subsection (3) of section
 1383 916.302, Florida Statutes, are amended to read:

1384 916.302 Involuntary commitment of defendant determined to
 1385 be incompetent to proceed.—

1386 (1) CRITERIA.—Every defendant who is charged with a felony
 1387 and who is adjudicated incompetent to proceed due to
 1388 intellectual disability ~~retardation~~ or autism may be
 1389 involuntarily committed for training upon a finding by the court
 1390 of clear and convincing evidence that:

1391 (a) The defendant has an intellectual disability
 1392 ~~retardation~~ or autism;

1393 (b) There is a substantial likelihood that in the near
 1394 future the defendant will inflict serious bodily harm on himself
 1395 or herself or another person, as evidenced by recent behavior
 1396 causing, attempting, or threatening such harm;

1397 (c) All available, less restrictive alternatives,
 1398 including services provided in community residential facilities
 1399 or other community settings, which would offer an opportunity
 1400 for improvement of the condition have been judged to be

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1401 inappropriate; and

1402 (d) There is a substantial probability that the
 1403 intellectual disability ~~retardation~~ or autism causing the
 1404 defendant's incompetence will respond to training and the
 1405 defendant will regain competency to proceed in the reasonably
 1406 foreseeable future.

1407 (2) ADMISSION TO A FACILITY.—

1408 (a) A defendant who has been charged with a felony and who
 1409 is found to be incompetent to proceed due to intellectual
 1410 disability ~~retardation~~ or autism, and who meets the criteria for
 1411 involuntary commitment to the agency under ~~the provisions of~~
 1412 this chapter, shall be committed to the agency, and the agency
 1413 shall retain and provide appropriate training for the defendant.
 1414 Within ~~No later than~~ 6 months after the date of admission or at
 1415 the end of any period of extended commitment or at any time the
 1416 administrator or designee determines ~~shall have determined~~ that
 1417 the defendant has regained competency to proceed or no longer
 1418 meets the criteria for continued commitment, the administrator
 1419 or designee shall file a report with the court pursuant to this
 1420 chapter and the applicable Florida Rules of Criminal Procedure.

1421 (b) A defendant determined to be incompetent to proceed
 1422 due to intellectual disability ~~retardation~~ or autism may be
 1423 ordered by a circuit court into a forensic facility designated
 1424 by the agency for defendants who have an intellectual disability
 1425 ~~mental retardation~~ or autism.

1426 (3) PLACEMENT OF DUALY DIAGNOSED DEFENDANTS.—

1427 (a) If a defendant has both an intellectual disability
 1428 ~~mental retardation~~ or autism and ~~has~~ a mental illness,

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1429 | evaluations must address which condition is primarily affecting
 1430 | the defendant's competency to proceed. Referral of the defendant
 1431 | should be made to a civil or forensic facility most appropriate
 1432 | to address the symptoms that are the cause of the defendant's
 1433 | incompetence.

1434 | Section 34. Subsection (1) of section 916.3025, Florida
 1435 | Statutes, is amended to read:

1436 | 916.3025 Jurisdiction of committing court.—

1437 | (1) The committing court shall retain jurisdiction in the
 1438 | case of any defendant found to be incompetent to proceed due to
 1439 | intellectual disability ~~retardation~~ or autism and ordered into a
 1440 | forensic facility designated by the agency for defendants who
 1441 | have intellectual disabilities ~~mental-retardation~~ or autism. A
 1442 | defendant may not be released except by the order of the
 1443 | committing court. An administrative hearing examiner does not
 1444 | have jurisdiction to determine issues of continuing commitment
 1445 | or release of any defendant involuntarily committed pursuant to
 1446 | this chapter.

1447 | Section 35. Section 916.303, Florida Statutes, is amended
 1448 | to read:

1449 | 916.303 Determination of incompetency ~~due to retardation~~
 1450 | ~~or autism~~; dismissal of charges.—

1451 | (1) The charges against any defendant found to be
 1452 | incompetent to proceed due to intellectual disability
 1453 | ~~retardation~~ or autism shall be dismissed without prejudice to
 1454 | the state if the defendant remains incompetent to proceed within
 1455 | a reasonable time after such determination, not to exceed 2
 1456 | years, unless the court in its order specifies its reasons for

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1457 believing that the defendant will become competent to proceed
 1458 within the foreseeable future and specifies the time within
 1459 which the defendant is expected to become competent to proceed.
 1460 The charges may be refiled by the state if the defendant is
 1461 declared competent to proceed in the future.

1462 (2) If the charges are dismissed and if the defendant is
 1463 considered to lack sufficient capacity to give express and
 1464 informed consent to a voluntary application for services and
 1465 lacks the basic survival and self-care skills to provide for his
 1466 or her well-being or is likely to physically injure himself or
 1467 herself or others if allowed to remain at liberty, the agency,
 1468 the state attorney, or the defendant's attorney shall apply to
 1469 the committing court to involuntarily admit the defendant to
 1470 residential services pursuant to s. 393.11.

1471 (3) If the defendant is considered to need involuntary
 1472 residential services for reasons described in subsection (2)
 1473 and, further, there is a substantial likelihood that the
 1474 defendant will injure another person or continues to present a
 1475 danger of escape, and all available less restrictive
 1476 alternatives, including services in community residential
 1477 facilities or other community settings, which would offer an
 1478 opportunity for improvement of the condition have been judged to
 1479 be inappropriate, the agency, the state attorney, or the
 1480 defendant's counsel may request the committing court to continue
 1481 the defendant's placement in a secure facility pursuant to this
 1482 part. Any placement so continued ~~under this subsection~~ must be
 1483 reviewed by the court at least annually at a hearing. The annual
 1484 review and hearing must ~~shall~~ determine whether the defendant

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1485 continues to meet the criteria described in this subsection and,
 1486 if so, whether the defendant still requires involuntary
 1487 placement in a secure facility and whether the defendant is
 1488 receiving adequate care, treatment, habilitation, and
 1489 rehabilitation, including psychotropic medication and behavioral
 1490 programming. Notice of the annual review and review hearing
 1491 shall be given to the state attorney and the defendant's
 1492 attorney. ~~In no instance may~~ A defendant's placement in a secure
 1493 facility may not exceed the maximum sentence for the crime for
 1494 which the defendant was charged.

1495 Section 36. Subsection (1) of section 916.304, Florida
 1496 Statutes, is amended to read:

1497 916.304 Conditional release.—

1498 (1) Except for an inmate currently serving a prison
 1499 sentence, the committing court may order a conditional release
 1500 of any defendant who has been found to be incompetent to proceed
 1501 due to intellectual disability ~~retardation~~ or autism, based on
 1502 an approved plan for providing community-based training. The
 1503 committing criminal court may order a conditional release of any
 1504 defendant to a civil facility in lieu of an involuntary
 1505 commitment to a forensic facility pursuant to s. 916.302. Upon a
 1506 recommendation that community-based training for the defendant
 1507 is appropriate, a written plan for community-based training,
 1508 including recommendations from qualified professionals, may be
 1509 filed with the court, with copies to all parties. Such a plan
 1510 may also be submitted by the defendant and filed with the court,
 1511 with copies to all parties. The plan must include:

1512 (a) Special provisions for residential care and adequate

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1513 supervision of the defendant, including recommended location of
 1514 placement.

1515 (b) Recommendations for auxiliary services such as
 1516 vocational training, psychological training, educational
 1517 services, leisure services, and special medical care.

1518
 1519 In its order of conditional release, the court shall specify the
 1520 conditions of release based upon the release plan and shall
 1521 direct the appropriate agencies or persons to submit periodic
 1522 reports to the courts regarding the defendant's compliance with
 1523 the conditions of the release and progress in training, with
 1524 copies to all parties.

1525 Section 37. Section 918.16, Florida Statutes, is amended
 1526 to read:

1527 918.16 Sex offenses; testimony of person under age 16 or
 1528 who has an intellectual disability ~~person with mental~~
 1529 ~~retardation~~; testimony of victim; courtroom cleared;
 1530 exceptions.—

1531 (1) Except as provided in subsection (2), in the trial of
 1532 any case, civil or criminal, if ~~when~~ any person under the age of
 1533 16 or any person with an intellectual disability ~~mental~~
 1534 ~~retardation~~ as defined in s. 393.063 is testifying concerning
 1535 any sex offense, the court shall clear the courtroom of all
 1536 persons except parties to the cause and their immediate families
 1537 or guardians, attorneys and their secretaries, officers of the
 1538 court, jurors, newspaper reporters or broadcasters, court
 1539 reporters, and, at the request of the victim, victim or witness
 1540 advocates designated by the state attorney's office.

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1541 (2) If ~~When~~ the victim of a sex offense is testifying
 1542 concerning that offense in any civil or criminal trial, the
 1543 court shall clear the courtroom of all persons upon the request
 1544 of the victim, regardless of the victim's age or mental
 1545 capacity, except that parties to the cause and their immediate
 1546 families or guardians, attorneys and their secretaries, officers
 1547 of the court, jurors, newspaper reporters or broadcasters, court
 1548 reporters, and, at the request of the victim, victim or witness
 1549 advocates designated by the state attorney may remain in the
 1550 courtroom.

1551 Section 38. Section 921.137, Florida Statutes, is amended
 1552 to read:

1553 921.137 Imposition of the death sentence upon an
 1554 intellectually disabled a defendant ~~with mental retardation~~
 1555 prohibited.—

1556 (1) As used in this section, the term "intellectually
 1557 disabled" or "intellectual disability" ~~"mental retardation"~~
 1558 means significantly subaverage general intellectual functioning
 1559 existing concurrently with deficits in adaptive behavior and
 1560 manifested during the period from conception to age 18. The term
 1561 "significantly subaverage general intellectual functioning," for
 1562 the purpose of this section, means performance that is two or
 1563 more standard deviations from the mean score on a standardized
 1564 intelligence test specified in the rules of the Agency for
 1565 Persons with Disabilities. The term "adaptive behavior," for the
 1566 purpose of this definition, means the effectiveness or degree
 1567 with which an individual meets the standards of personal
 1568 independence and social responsibility expected of his or her

1569 age, cultural group, and community. The Agency for Persons with
 1570 Disabilities shall adopt rules to specify the standardized
 1571 intelligence tests as provided in this subsection.

1572 (2) A sentence of death may not be imposed upon a
 1573 defendant convicted of a capital felony if it is determined in
 1574 accordance with this section that the defendant is
 1575 intellectually disabled ~~has mental retardation~~.

1576 (3) A defendant charged with a capital felony who intends
 1577 to raise intellectual disability ~~mental retardation~~ as a bar to
 1578 the death sentence must give notice of such intention in
 1579 accordance with the rules of court governing notices of intent
 1580 to offer expert testimony regarding mental health mitigation
 1581 during the penalty phase of a capital trial.

1582 (4) After a defendant who has given notice of his or her
 1583 intention to raise intellectual disability ~~mental retardation~~ as
 1584 a bar to the death sentence is convicted of a capital felony and
 1585 an advisory jury has returned a recommended sentence of death,
 1586 the defendant may file a motion to determine whether the
 1587 defendant is intellectually disabled ~~has mental retardation~~.
 1588 Upon receipt of the motion, the court shall appoint two experts
 1589 in the field of intellectual disabilities ~~mental retardation~~ who
 1590 shall evaluate the defendant and report their findings to the
 1591 court and all interested parties prior to the final sentencing
 1592 hearing. Notwithstanding s. 921.141 or s. 921.142, the final
 1593 sentencing hearing shall be held without a jury. At the final
 1594 sentencing hearing, the court shall consider the findings of the
 1595 court-appointed experts and consider the findings of any other
 1596 expert which is offered by the state or the defense on the issue

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1597 of whether the defendant has an intellectual disability ~~mental~~
 1598 ~~retardation~~. If the court finds, by clear and convincing
 1599 evidence, that the defendant has an intellectual disability
 1600 ~~mental retardation~~ as defined in subsection (1), the court may
 1601 not impose a sentence of death and shall enter a written order
 1602 that sets forth with specificity the findings in support of the
 1603 determination.

1604 (5) If a defendant waives his or her right to a
 1605 recommended sentence by an advisory jury following a plea of
 1606 guilt or nolo contendere to a capital felony and adjudication of
 1607 guilt by the court, or following a jury finding of guilt of a
 1608 capital felony, upon acceptance of the waiver by the court, a
 1609 defendant who has given notice as required in subsection (3) may
 1610 file a motion for a determination of intellectual disability
 1611 ~~mental retardation~~. Upon granting the motion, the court shall
 1612 proceed as provided in subsection (4).

1613 (6) If, following a recommendation by an advisory jury
 1614 that the defendant be sentenced to life imprisonment, the state
 1615 intends to request the court to order that the defendant be
 1616 sentenced to death, the state must inform the defendant of such
 1617 request if the defendant has notified the court of his or her
 1618 intent to raise intellectual disability ~~mental retardation~~ as a
 1619 bar to the death sentence. After receipt of the notice from the
 1620 state, the defendant may file a motion requesting a
 1621 determination by the court of whether the defendant is
 1622 intellectually disabled ~~has mental retardation~~. Upon granting
 1623 the motion, the court shall proceed as provided in subsection
 1624 (4).

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1625 (7) Pursuant to s. 924.07, the state may appeal, ~~pursuant~~
 1626 ~~to s. 924.07,~~ a determination of intellectual disability ~~mental~~
 1627 ~~retardation~~ made under subsection (4).

1628 (8) This section does not apply to a defendant who was
 1629 sentenced to death before June 12, 2001 ~~prior to the effective~~
 1630 ~~date of this act.~~

1631 (9) For purposes of the application of the criminal laws
 1632 and procedural rules of this state to any matters relating to
 1633 the imposition and execution of the death penalty, the terms
 1634 "intellectual disability" or "intellectually disabled" are
 1635 interchangeable with and have the same meaning as the terms
 1636 "mental retardation" or "retardation" and "mentally retarded" as
 1637 those terms were defined before July 1, 2012.

1638 Section 39. Paragraph (b) of subsection (2) of section
 1639 941.38, Florida Statutes, is amended to read:

1640 941.38 Extradition of persons alleged to be of unsound
 1641 mind.—

1642 (2) For the purpose of this section:

1643 (b) A "mentally incompetent person" is one who because of
 1644 mental illness, intellectual disability ~~mental retardation,~~
 1645 senility, excessive use of drugs or alcohol, or other mental
 1646 incapacity is incapable of ~~either~~ managing his or her property
 1647 or caring for himself or herself or both.

1648 Section 40. Section 944.602, Florida Statutes, is amended
 1649 to read:

1650 944.602 Agency notification before release of
 1651 intellectually disabled ~~mentally retarded~~ inmates.—Before the
 1652 release by parole, release by reason of gain-time allowances

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1653 provided for in s. 944.291, or expiration of sentence of any
 1654 inmate who has been diagnosed as having an intellectual
 1655 disability ~~mentally retarded~~ as defined in s. 393.063, the
 1656 Department of Corrections shall notify the Agency for Persons
 1657 with Disabilities in order that sufficient time be allowed to
 1658 notify the inmate or the inmate's representative, in writing, at
 1659 least 7 days before ~~prior to~~ the inmate's release, of available
 1660 community services.

1661 Section 41. Subsection (2) of section 945.025, Florida
 1662 Statutes, is amended to read:

1663 945.025 Jurisdiction of department.—

1664 (2) In establishing, operating, and using ~~utilizing~~ these
 1665 facilities, the department shall attempt, whenever possible, to
 1666 avoid the placement of nondangerous offenders who have potential
 1667 for rehabilitation with repeat offenders or dangerous offenders.
 1668 Medical, mental, and psychological problems must ~~shall~~ be
 1669 diagnosed and treated whenever possible. The Department of
 1670 Children and Family Services and the Agency for Persons with
 1671 Disabilities shall cooperate to ensure the delivery of services
 1672 to persons under the custody or supervision of the department.
 1673 ~~If when it is the intent of the department~~ intends to transfer a
 1674 ~~mentally ill or retarded~~ prisoner who has a mental illness or
 1675 intellectual disability to the Department of Children and Family
 1676 Services or the Agency for Persons with Disabilities, an
 1677 involuntary commitment hearing shall be held in accordance with
 1678 ~~according to the provisions of~~ chapter 393 or chapter 394.

1679 Section 42. Subsection (5) of section 945.12, Florida
 1680 Statutes, is amended to read:

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1681 945.12 Transfers for rehabilitative treatment.-
 1682 (5) When the department plans to release an offender who
 1683 is a mentally ill or intellectually disabled ~~retarded offender,~~
 1684 an involuntary commitment hearing shall be held as soon as
 1685 possible before ~~prior to~~ his or her release in accordance with
 1686 ~~according to the provisions of~~ chapter 393 or chapter 394.

1687 Section 43. Subsection (9) of section 945.42, Florida
 1688 Statutes, is amended to read:

1689 945.42 Definitions; ss. 945.40-945.49.-As used in ss.
 1690 945.40-945.49, the following terms shall have the meanings
 1691 ascribed to them, unless the context shall clearly indicate
 1692 otherwise:

1693 (9) "Mentally ill" means an impairment of the mental or
 1694 emotional processes that, ~~of the ability to~~ exercise conscious
 1695 control of one's actions, ~~or of the ability to~~ perceive or
 1696 understand reality, which impairment substantially interferes
 1697 with the ~~a~~ person's ability to meet the ordinary demands of
 1698 living. However, ~~regardless of etiology, except that,~~ for the
 1699 purposes of transferring ~~transfer of~~ an inmate to a mental
 1700 health treatment facility, the term does not include a
 1701 ~~retardation or~~ developmental disability as defined in s. 393.063
 1702 ~~chapter 393,~~ simple intoxication, or conditions manifested only
 1703 by antisocial behavior or substance abuse addiction. However, an
 1704 individual who is ~~mentally retarded or~~ developmentally disabled
 1705 may also have a mental illness.

1706 Section 44. Section 947.185, Florida Statutes, is amended
 1707 to read:

1708 947.185 Application for intellectual disability ~~mental~~

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1709 ~~retardation~~ services as condition of parole.—The Parole
1710 Commission may require as a condition of parole that any inmate
1711 who has been diagnosed as having an intellectual disability
1712 ~~mentally retarded~~ as defined in s. 393.063 shall, upon release,
1713 apply for services from the Agency for Persons with
1714 Disabilities.

1715 Section 45. Subsection (4) of section 984.19, Florida
1716 Statutes, is amended to read:

1717 984.19 Medical screening and treatment of child;
1718 examination of parent, guardian, or person requesting custody.—

1719 (4) A judge may order that a child alleged to be or
1720 adjudicated a child in need of services be treated by a licensed
1721 health care professional. The judge may also order such child to
1722 receive mental health or intellectual disability ~~retardation~~
1723 services from a psychiatrist, psychologist, or other appropriate
1724 service provider. If it is necessary to place the child in a
1725 residential facility for such services, ~~then~~ the procedures and
1726 criteria established in s. 394.467 or chapter 393 shall be used,
1727 as whichever is applicable. A child may be provided ~~mental~~
1728 ~~health or retardation~~ services in emergency situations, pursuant
1729 to the procedures and criteria contained in s. 394.463(1) or
1730 chapter 393, as whichever is applicable.

1731 Section 46. Paragraph (a) of subsection (3) of section
1732 985.14, Florida Statutes, is amended to read:

1733 985.14 Intake and case management system.—

1734 (3) The intake and case management system shall facilitate
1735 consistency in the recommended placement of each child, and in
1736 the assessment, classification, and placement process, with the

1737 following purposes:

1738 (a) An individualized, multidisciplinary assessment
 1739 process that identifies the priority needs of each ~~individual~~
 1740 child for rehabilitation and treatment and identifies any needs
 1741 of the child's parents or guardians for services that would
 1742 enhance their ability to provide adequate support, guidance, and
 1743 supervision for the child. This process begins ~~shall begin~~ with
 1744 the detention risk assessment instrument and decision, includes
 1745 ~~shall include~~ the intake preliminary screening and comprehensive
 1746 assessment for substance abuse treatment services, mental health
 1747 services, intellectual disability ~~retardation~~ services, literacy
 1748 services, and other educational and treatment services as
 1749 components, additional assessment of the child's treatment
 1750 needs, and classification regarding the child's risks to the
 1751 community and, for a serious or habitual delinquent child,
 1752 includes ~~shall include the~~ assessment for placement in a serious
 1753 or habitual delinquent children program under s. 985.47. The
 1754 completed multidisciplinary assessment process must ~~shall~~ result
 1755 in the predisposition report.

1756 Section 47. Paragraph (g) of subsection (1) and subsection
 1757 (5) of section 985.145, Florida Statutes, are amended to read:

1758 985.145 Responsibilities of juvenile probation officer
 1759 during intake; screenings and assessments.-

1760 (1) The juvenile probation officer shall serve as the
 1761 primary case manager for the purpose of managing, coordinating,
 1762 and monitoring the services provided to the child. Each program
 1763 administrator within the Department of Children and Family
 1764 Services shall cooperate with the primary case manager in

1765 carrying out the duties and responsibilities described in this
 1766 section. In addition to duties specified in other sections and
 1767 through departmental rules, the assigned juvenile probation
 1768 officer shall be responsible for the following:

1769 (g) *Comprehensive assessment.*—The juvenile probation
 1770 officer, pursuant to uniform procedures established by the
 1771 department and upon determining that the report, affidavit, or
 1772 complaint is complete, shall:

1773 1. Perform the preliminary screening and make referrals
 1774 for a comprehensive assessment regarding the child's need for
 1775 substance abuse treatment services, mental health services,
 1776 intellectual disability ~~retardation~~ services, literacy services,
 1777 or other educational or treatment services.

1778 2. If ~~When~~ indicated by the preliminary screening, provide
 1779 for a comprehensive assessment of the child and family for
 1780 substance abuse problems, using community-based licensed
 1781 programs with clinical expertise and experience in the
 1782 assessment of substance abuse problems.

1783 3. If ~~When~~ indicated by the preliminary screening, provide
 1784 for a comprehensive assessment of the child and family for
 1785 mental health problems, using community-based psychologists,
 1786 psychiatrists, or other licensed mental health professionals who
 1787 have clinical expertise and experience in the assessment of
 1788 mental health problems.

1789 (5) If the screening and assessment indicate that the
 1790 interests of the child and the public will be best served
 1791 ~~thereby~~, the juvenile probation officer, with the approval of
 1792 the state attorney, may refer the child for care, diagnostic,

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1793 and evaluation services; substance abuse treatment services;
 1794 mental health services; intellectual disability ~~retardation~~
 1795 services; a diversionary, arbitration, or mediation program;
 1796 community service work; or other programs or treatment services
 1797 voluntarily accepted by the child and the child's parents or
 1798 legal guardian. If ~~Whenever~~ a child volunteers to participate in
 1799 any work program under this chapter or volunteers to work in a
 1800 specified state, county, municipal, or community service
 1801 organization supervised work program or to work for the victim,
 1802 the child is ~~shall be~~ considered an employee of the state for
 1803 the purposes of liability. In determining the child's average
 1804 weekly wage, unless otherwise determined by a specific funding
 1805 program, all remuneration received from the employer is
 1806 considered a gratuity, and the child is not entitled to any
 1807 benefits otherwise payable under s. 440.15~~7~~ regardless of
 1808 whether the child may be receiving wages and remuneration from
 1809 other employment with another employer and regardless of the
 1810 child's future wage-earning capacity.

1811 Section 48. Subsections (2) and (6) of section 985.18,
 1812 Florida Statutes, are amended to read:

1813 985.18 Medical, psychiatric, psychological, substance
 1814 abuse, and educational examination and treatment.—

1815 (2) If ~~Whenever~~ a child has been found to have committed a
 1816 delinquent act, or before such finding with the consent of any
 1817 parent or legal custodian of the child, the court may order the
 1818 child to be treated by a physician. The court may also order the
 1819 child to receive mental health, substance abuse, or intellectual
 1820 disability ~~retardation~~ services from a psychiatrist,

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1821 psychologist, or other appropriate service provider. If it is
 1822 necessary to place the child in a residential facility for such
 1823 services, the procedures and criteria established in chapter
 1824 393, chapter 394, or chapter 397, as ~~whichever is~~ applicable,
 1825 must ~~shall~~ be used. After a child has been adjudicated
 1826 delinquent, if an educational needs assessment by the district
 1827 school board or the Department of Children and Family Services
 1828 has been ~~previously~~ conducted, the court shall order the report
 1829 ~~of such needs assessment~~ included in the child's court record in
 1830 lieu of a new assessment. For purposes of this section, an
 1831 educational needs assessment includes, but is not limited to,
 1832 reports of intelligence and achievement tests, screening for
 1833 learning and other disabilities ~~and other handicaps~~, and
 1834 screening for the need for alternative education.

1835 (6) A physician must ~~shall~~ be immediately notified by the
 1836 person taking the child into custody or the person having
 1837 custody if there are indications of physical injury or illness,
 1838 or the child shall be taken to the nearest available hospital
 1839 for emergency care. A child may be provided mental health,
 1840 substance abuse, or intellectual disability ~~retardation~~
 1841 ~~services,~~ in emergency situations, pursuant to chapter 393,
 1842 chapter 394, or chapter 397, as ~~whichever is~~ applicable. After a
 1843 hearing, the court may order the custodial parent or parents,
 1844 guardian, or other custodian, if found able to do so, to
 1845 reimburse the county or state for the expense involved in such
 1846 emergency treatment or care.

1847 Section 49. Paragraph (e) of subsection (1), subsections
 1848 (2) through (4), and paragraph (a) of subsection (6) of section

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1849 985.19, Florida Statutes, are amended to read:

1850 985.19 Incompetency in juvenile delinquency cases.—

1851 (1) If, at any time prior to or during a delinquency case,
 1852 the court has reason to believe that the child named in the
 1853 petition may be incompetent to proceed with the hearing, the
 1854 court on its own motion may, or on the motion of the child's
 1855 attorney or state attorney must, stay all proceedings and order
 1856 an evaluation of the child's mental condition.

1857 (e) For incompetency evaluations related to intellectual
 1858 disability ~~mental retardation~~ or autism, the court shall order
 1859 the Agency for Persons with Disabilities to examine the child to
 1860 determine if the child meets the definition of "intellectual
 1861 disability" ~~"retardation"~~ or "autism" in s. 393.063 and, if so,
 1862 whether the child is competent to proceed with delinquency
 1863 proceedings.

1864 (2) A child who is adjudicated incompetent to proceed, and
 1865 who has committed a delinquent act or violation of law, either
 1866 of which would be a felony if committed by an adult, must be
 1867 committed to the Department of Children and Family Services for
 1868 treatment or training. A child who has been adjudicated
 1869 incompetent to proceed because of age or immaturity, or for any
 1870 reason other than for mental illness, intellectual disability,
 1871 ~~or retardation~~ or autism, must not be committed to the
 1872 department or to the Department of Children and Family Services
 1873 for restoration-of-competency treatment or training services.
 1874 For purposes of this section, a child who has committed a
 1875 delinquent act or violation of law, either of which would be a
 1876 misdemeanor if committed by an adult, may not be committed to

1877 | the department or to the Department of Children and Family
 1878 | Services for restoration-of-competency treatment or training
 1879 | services.

1880 | (3) If the court finds that a child has mental illness,
 1881 | intellectual disability ~~mental retardation~~, or autism and
 1882 | adjudicates the child incompetent to proceed, the court must
 1883 | also determine whether the child meets the criteria for secure
 1884 | placement. A child may be placed in a secure facility or program
 1885 | if the court makes a finding by clear and convincing evidence
 1886 | that:

1887 | (a) The child has mental illness, intellectual disability
 1888 | ~~mental retardation~~, or autism and because of the mental illness,
 1889 | intellectual disability ~~mental retardation~~, or autism:

1890 | 1. The child is manifestly incapable of surviving with the
 1891 | help of willing and responsible family or friends, including
 1892 | available alternative services, and without treatment or
 1893 | training the child is likely to ~~either~~ suffer from neglect or
 1894 | refuse to care for self, and such neglect or refusal poses a
 1895 | real and present threat of substantial harm to the child's well-
 1896 | being; or

1897 | 2. There is a substantial likelihood that in the near
 1898 | future the child will inflict serious bodily harm on self or
 1899 | others, as evidenced by recent behavior causing, attempting, or
 1900 | threatening such harm; and

1901 | (b) All available less restrictive alternatives, including
 1902 | treatment or training in community residential facilities or
 1903 | community settings which would offer an opportunity for
 1904 | improvement of the child's condition, are inappropriate.

1905 (4) A child who is determined to have mental illness,
 1906 intellectual disability ~~mental retardation~~, or autism, who has
 1907 been adjudicated incompetent to proceed, and who meets the
 1908 criteria set forth in subsection (3), must be committed to the
 1909 Department of Children and Family Services and receive treatment
 1910 or training in a secure facility or program that is the least
 1911 restrictive alternative consistent with public safety. Any
 1912 placement of a child to a secure residential program must be
 1913 separate from adult forensic programs. If the child attains
 1914 competency, ~~then~~ custody, case management, and supervision of
 1915 the child shall ~~will~~ be transferred to the department in order
 1916 to continue delinquency proceedings; however, the court retains
 1917 authority to order the Department of Children and Family
 1918 Services to provide continued treatment or training to maintain
 1919 competency.

1920 (a) A child adjudicated incompetent due to intellectual
 1921 disability ~~mental retardation~~ or autism may be ordered into a
 1922 secure program or facility designated by the Department of
 1923 Children and Family Services for children who have intellectual
 1924 disabilities ~~with mental retardation~~ or autism.

1925 (b) A child adjudicated incompetent due to mental illness
 1926 may be ordered into a secure program or facility designated by
 1927 the Department of Children and Family Services for children
 1928 having mental illnesses.

1929 (c) If ~~Whenever~~ a child is placed in a secure residential
 1930 facility, the department shall ~~will~~ provide transportation to
 1931 the secure residential facility for admission and from the
 1932 secure residential facility upon discharge.

1933 (d) The purpose of the treatment or training is the
 1934 restoration of the child's competency to proceed.

1935 (e) The service provider must file a written report with
 1936 the court pursuant to the applicable Florida Rules of Juvenile
 1937 Procedure within ~~not later than~~ 6 months after the date of
 1938 commitment, or at the end of any period of extended treatment or
 1939 training, and at any time the Department of Children and Family
 1940 Services, through its service provider, determines the child has
 1941 attained competency or no longer meets the criteria for secure
 1942 placement, or at such shorter intervals as ordered by the court.
 1943 A copy of a written report evaluating the child's competency
 1944 must be filed by the provider with the court and with the state
 1945 attorney, the child's attorney, the department, and the
 1946 Department of Children and Family Services.

1947 (6) (a) If a child is determined to have mental illness,
 1948 intellectual disability ~~mental retardation~~, or autism and is
 1949 found to be incompetent to proceed but does not meet the
 1950 criteria set forth in subsection (3), the court shall commit the
 1951 child to the Department of Children and Family Services and
 1952 ~~shall~~ order the Department of Children and Family Services to
 1953 provide appropriate treatment and training in the community. The
 1954 purpose of the treatment or training is the restoration of the
 1955 child's competency to proceed.

1956 Section 50. Section 985.195, Florida Statutes, is amended
 1957 to read:

1958 985.195 Transfer to other treatment services.—Any child
 1959 committed to the department may be transferred to intellectual
 1960 disability ~~retardation~~, mental health, or substance abuse

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1961 treatment facilities for diagnosis and evaluation pursuant to
 1962 chapter 393, chapter 394, or chapter 397, as ~~whichever is~~
 1963 applicable, for up to a period not to exceed 90 days.

1964 Section 51. Paragraph (b) of subsection (1) of section
 1965 985.61, Florida Statutes, is amended to read:

1966 985.61 Early delinquency intervention program; criteria.-

1967 (1) The Department of Juvenile Justice shall, contingent
 1968 upon specific appropriation and with the cooperation of local
 1969 law enforcement agencies, the judiciary, district school board
 1970 personnel, the office of the state attorney, the office of the
 1971 public defender, the Department of Children and Family Services,
 1972 and community service agencies that work with children,
 1973 establish an early delinquency intervention program, the
 1974 components of which shall include, but not be limited to:

1975 (b) Treatment modalities, including substance abuse
 1976 treatment services, mental health services, and ~~retardation~~
 1977 services for intellectual disabilities.

1978 Section 52. It is the intent of the Legislature that this
 1979 act not expand or contract the scope or application of any
 1980 provision of the Florida Statutes. This act may not be construed
 1981 to change the application of any provision of Florida Statutes
 1982 to any person.

1983 Section 53. This act shall take effect July 1, 2012.