

Mental Health Law
University of Florida Levin College of Law
Spring 2025 Syllabus & Course Policies
Law 6930 Class 12834 -- 3 credits

Professor Lea Johnston
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Class location: Holland Hall 285A
Class time: W, F: 1:15 – 2:40 p.m.
Office Hours: Wed, 2:40-4:40 p.m.

1. Course Description. This course explores the law’s treatment of individuals with mental disorders. The course will cover governmental efforts to deprive those with mental disorders of liberty and property through the criminal and civil systems, as well as certain entitlements and protection against discrimination.

2. Student Learning Outcomes. After completing this course, students should be able to:

- Elucidate the difference between mental disorder and “mental disability” for legal purposes.
- Articulate when and how mental health professionals may participate in the legal process, how to utilize these experts, and how effectively to respond to them.
- Demonstrate insight into how effectively to counsel and advocate for individuals with serious mental illness.
- Apply statutes concerning insanity, diminished capacity, and capital sentencing in state courts.
- Apply state statutes and procedural rules concerning civil commitment and guardianship in state courts.
- Apply case law concerning competency and the right to refuse and consent to psychiatric treatment in state and federal courts.
- Apply relevant portions of the Americans with Disabilities Act (ADA) in state and federal courts.
- Identify and establish, from a given fact pattern, possible violations of procedural rules, statutes, and due process principles concerning the legal regulation of individuals with mental disabilities.
- Identify and defend the values underlying competence, autonomy, paternalism, the best interests test, and substituted judgment.
- Explain a defense attorney’s ethical and legal obligations to his or her client with mental disorder in criminal and civil commitment proceedings.

3. Assessment of Student Learning and Grading Evaluation. I will assess your attainment of competency in these learning outcomes through a final examination. Your grade in the course will reflect the following:

- 85% of grade: cumulative final exam
- 15% of grade: participation in class, which reflects your “good faith completion” of assigned reading, assigned videos, assigned problems and discussion questions, and any assigned quizzes.

4. Required Instructional Materials. The textbook will be Christopher Slobogin et al., *Law and the Mental Health System: Civil and Criminal Aspects* (6th ed. 2014). This is **not** the latest edition of the case book (this will save you some money!). Supplemental materials are posted on Canvas.

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments

5. Attendance Policy. Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed **four** absences during the course of the semester.¹ To be “present,” a student must arrive to class on time. A student who fails to meet the attendance requirement may be dropped from the course. The law school’s policy on attendance can be found [here](#).

6. Class Preparation, Participation, and Experience. Consistent with ABA Standard 310, you should expect to spend at least **six hours** per week preparing for this three-hour course.

Our time in class will focus on case explications and discussion of problems, big-picture questions, and hypotheticals. The tentative syllabus at the end of this document sets forth the topics we will cover in each class, as well as anticipated readings, videos, problems, and occasional (ungraded) quizzes. Much of this material can be found on Canvas.

I expect each of you to attend class prepared. A portion (15%) of your grade is for class participation, which will reflect your good faith completion of all assigned work, including all assigned problems and discussion questions.

¹ University-recognized religious holidays are exempt. Please provide me with advance notification of such absences.

To ensure meaningful participation from all class members and to help you build lawyering skills, I may cold-call students using the Socratic method.

7. Preferred Name and Pronouns. It is important to the learning environment that you feel welcome and safe in this class and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible. I would like to acknowledge your preferred name and pronouns that reflect your identity; please let me know how you would like to be addressed.

You may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records

8. Discourse, Inclusion, and the Classroom Ethos. As a law student and future lawyer, it is important that you are able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions.

As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions
- speak honestly, thoughtfully, and respectfully
- listen carefully and respectfully
- reserve the right to change our mind and allow for others to do the same
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers

9. Exams. There will be a final exam in this course, which will account for 85% of your total grade. The remainder (15%) will be awarded for class participation reflecting good faith completion of all assigned problems, discussion questions, and quizzes.

The final examination will be an in-class, limited open book examination. It will likely contain multiple choice, short answer, and traditional law school essay questions. The exam will

focus on material discussed in class, but all material and concepts covered in the course may be tested to some degree. Exams will be graded anonymously by exam number. The law school policy on exam delays and accommodations can be found [here](#).

Review of Final Exam. How to receive a copy of your exam: **After June 1, 2025**, students who wish to review their exams can do so by requesting a copy of their exams from my assistant, Victoria Redd, reddva@law.ufl.edu. I will post the exam questions, along with a model answer and best student answers, in the “past exams” folder in Canvas files.

How to ask questions about your exam: I expect that the model answer and best student answer will address most students’ questions. I am happy to address any remaining questions by email. Before contacting me, please review your exam and compare it to the model answer. I will not re-grade exams.

10. UF Levin College of Law Standard Syllabus Policies. Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at [this link](#).

11. Health and Wellness Resources:

- *U Matter, We Care:* If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit [U Matter, We Care website](#) to refer or report a concern and a team member will reach out to the student in distress.
- *Counseling and Wellness Center:* [Visit the Counseling and Wellness Center website](#) or call 352-392-1575 for information on crisis services as well as non-crisis services.
- *Student Health Care Center:* Call 352-392-1161 for 24/7 information to help you find the care you need, or [visit the Student Health Care Center website](#).
- *University Police Department:* [Visit UF Police Department website](#) or call 352-392-1111 (or 9-1-1 for emergencies).
- *UF Health Shands Emergency Room / Trauma Center:* For immediate medical care call 352-733-0111 or go to the emergency room at 1515 SW Archer Road, Gainesville, FL 32608; [Visit the UF Health Emergency Room and Trauma Center website](#).

12. Basic Needs Assistance. Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. If you are comfortable doing so, you may also notify me so that I can direct you to further resources.

MENTAL HEALTH LAW: TENTATIVE SYLLABUS

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

Assignments for the first two weeks of class are included below. A weekly syllabus will be maintained on Canvas and updated each weekend.

CB = CHRISTOPHER SLOBOGIN, ET AL., LAW AND THE MENTAL HEALTH SYSTEM: CIVIL AND CRIMINAL ASPECTS (6TH ED. 2014).

Approx. Date	Subject	Topics	Assignment
<p>MODULE 1: Introduction – Mental Disorder & Mental Health Treatment</p>			
Jan.15	Mental Disorder	Introduction “Mental disorder” <ul style="list-style-type: none"> - Medicine - Law DSM 5 Race and psychiatry Lived reality of mental disorder	<p>CB: 4 – 18 (to end of n.6), 20-27</p> <p>Warner, Psychiatry Confronts Its Racist Past, and Tries to Make Amends (file on Canvas)</p> <p>Unzicker, “To Be a Mental Patient” (file on Canvas)</p> <p><u>Watch the first hour (to minute 1:02) of the 2019 documentary: Bedlam, https://video.alexanderstreet.com/watch/bedlam (1:25:31)</u></p> <p>Bring 5 observations about the movie to Tuesday’s class</p>
Jan.17	Treatment	<p>Guest Speaker: Dr. Tonia Werner, Vice President, Medical</p>	<p>CB: 28 – top of 39, 40-41 (notes 1-4)</p>

		<p>Services/Chief Medical Officer of Meridian; former Director of Forensic Psychiatry Division of University of Florida</p>	<p>Swerlick, Florida's Lukewarm Commitment to Investing in Behavioral Health (on Canvas)</p> <p>Florida Policy Institute, Behavioral Health Services: Funding in Florida (on Canvas)</p> <p>Prepare five questions to ask Dr. Werner</p>
<p>MODULE 2: Expertise</p>			
Jan.22	Normality	<p>Frameworks for course:</p> <ul style="list-style-type: none"> - Substance - Evidentiary predicate <p>Expert opinion on normality: whether person has mental disorder</p> <ul style="list-style-type: none"> - Importance of diagnosis <p>Ex: Hinkley trial</p>	<p>CB: 493 – 520 (to end of n.1)</p>
Jan.22, 24	Responsibility	<p>Expert opinion on responsibility: connection between mental disorder and legal test</p> <p>Ex: pathological gambling</p> <p><u>Lewellyn</u></p> <p>Evidentiary hurdles:</p> <ul style="list-style-type: none"> - <u>Frye</u> - Fed. R. Evid. 702 - <u>Daubert</u> (in FL!) <p>Mental health evidence under <u>Daubert</u></p>	<p>CB: bottom of 522 - top of 531</p> <p>Perez v. Bell South Telecommunications, Inc., 138 So.3d 492 (2014)</p> <p>Andrews v. State, 181 So. 3d 526 (Fla. 5th DCA 2015)</p> <p>Prepare problem on Canvas for discussion</p>

Jan.24, 29	Propensity	<p>Expert opinion on propensity: whether person is likely to commit future harm</p> <p><u>Barefoot</u></p> <p>Exercise: subject propensity testimony to:</p> <ul style="list-style-type: none"> - Fed. R. Evid. 403 - <u>Frye</u> - <u>Daubert</u> - <u>Fed. R. Evid. 702 – assist factfinder</u> <p>Modern propensity evidence: risk assessment instruments</p> <ul style="list-style-type: none"> • <u>Loomis</u> • Instruments: actuarial vs. structural professional judgment 	<p>CB: 542-57</p> <p>Excerpt from 7th edition of case book (pp. 556-70) (file on Canvas)</p> <p>The Appeal, “Risk Assessment Tools Are Flawed” (file on Canvas)</p> <p><i>Optional additional reading</i></p>
	Constitutional Issues	<p>Right to expert assistance: <u>Ake</u> (DP)</p> <p>Basis of clinical opinion</p> <ul style="list-style-type: none"> - Statement of D: <u>Estelle</u> (5th Am) <p>Right to assistance of counsel before pretrial evaluation: <u>Estelle</u> (6th Am)</p>	<p>CB: 580 – 607</p> <p>Prepare <u>Ake</u> problem on Canvas for class discussion.</p>
		<p>Discuss the assigned problems in break-out groups</p>	<p>Prepare all parts of problem 5 on pp. 606-07; be ready to debate parts A, D, G, & H in class</p>
	Evidentiary Issues	<p>Admissibility of opinion based on hearsay</p> <ul style="list-style-type: none"> • <u>Goldstein</u>, FRE 703 	<p>CB: 607-24</p> <p>Fla. Stat. §90.703-704</p>

		<ul style="list-style-type: none"> • (Confrontation Clause problem??) Admissibility of hearsay (on which opinion is based) • <u>Goldstein</u>, 703 (like Fla. Stat. 90.703) • Confrontation Clause Opinions on ultimate issues • Ultimate vs. penultimate issues • NO: <u>Edwards</u>, FRE 704 • YES: Fla. Stat. 90.703 	Fed. R. Evid. 703, 704
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**MODULE 3:
Criminal Law**

Mental Disorder & Incarceration	<p>*watch video on your own and write 1-page response paper.</p> <p>Abstract of <i>The New Asylums</i>: There are nearly half a million mentally ill people serving time in America’s prisons and jails. As sheriffs and prison wardens become the unexpected and ill-equipped gatekeepers of this burgeoning population, they raise a troubling new concern: are jails and prisons America’s new asylums? With exclusive and unprecedented access to prison therapy sessions, mental health treatment meetings, crisis wards, and prison disciplinary tribunals, Frontline goes deep inside Ohio’s state prison system to present a searing exploration of the complex and growing topic of mental health behind bars and a</p>	<p>Video: The New Asylums (54:32)</p> <p>Canvas assignment: write (and submit through Canvas) a one-page response to <i>The New Asylums</i>.</p>
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		moving portrait of the individuals at the center of this issue.	
	Insanity Defense: Cognitive	<p>Rationale for insanity defense</p> <p>Various iterations:</p> <ul style="list-style-type: none"> • Cognitive test: <i>M'Naghten</i> • Volitional: ALI test <p>Application of cognitive test: <u>Heads</u></p>	<p>CB: 625-48 (to end of n.1), 652 – top of 655</p> <p>Fla. Stat §775. 027</p> <p>Prepare insanity problems on Canvas for class discussion</p> <p><i>Optional additional reading</i></p>
Feb.14	Mock Examination of Expert on Sanity	<p>Guests: Kristofer Eisenmenger, Dr. Tonia Werner, Prof. Sarah Wolking</p> <p>Watch direct- and cross-examination</p> <p>Discussion regarding strategies employed by prosecutor and defense attorney</p>	<p>Psychiatric Evaluation & CV (files on Canvas)</p> <p>Prepare problem on Canvas (outline direct or cross examination) for class</p>
	Insanity Defense: Volitional	<p>Application of volitional test:</p> <ul style="list-style-type: none"> • <u>Pollard</u> • Problems A and B in n.5 <p>3 ways states limit volitional test</p> <p>Automatism</p> <ul style="list-style-type: none"> - Vs. insanity defense - Application: <u>Heads?</u> <u>Pollard?</u> 	<p>CB: 656-73</p> <p>Prepare problems A and B in note 5 on pages 669-70 for class discussion</p>
	Mens Rea Testimony	<p>Diminished capacity doctrine</p> <ul style="list-style-type: none"> - Examples <ul style="list-style-type: none"> ○ Vs. insanity 	<p>CB: 673-92 (to end of n.2)</p>

		<ul style="list-style-type: none"> - <u>Clark</u> <p>Current law re: permit diminished capacity evidence</p> <ul style="list-style-type: none"> - 3 limitations - Florida law - NO – <u>Chestnut</u> <p>Current law re: abolish insanity and offer only diminished capacity</p> <ul style="list-style-type: none"> - <u>Kahler</u>: constitutional 	<p>Chestnut v. State, 538 So.2d 820 (Fla. 1989)</p> <p>Prepare problem on Canvas (outline oral argument) for class</p>
	Diminished Responsibility	<p>Diminished responsibility vs. diminished capacity</p> <p>Current law: not accepted in U.S.</p> <p>Should it be?</p>	<p>CB: 692-94 (note 3 only)</p> <p>Skim: Johnston et al., <i>Diminished Criminal Responsibility: A Multinational Comparative Review</i> (on Canvas)</p>
	Other Defenses	<p>Traditional defenses:</p> <ul style="list-style-type: none"> - Self-defense - Provocation - Duress <p>Trend in law: subjectivization</p> <ul style="list-style-type: none"> - MPC <p>Full subjectivization vs. insanity</p> <p>Florida law: self-defense</p> <ul style="list-style-type: none"> - Battered spouse syndrome - PTSD? 	<p>CB: 701-03</p> <p><u>Battered spouse syndrome:</u> read to end of Part II at p.640 in <u>Ibn-Tamas</u>, 407 A. 2d 626 (App. D.C. 1979); skim <u>Hickson</u>, 630 So.2d 172 (Fla. 1993)</p> <p>PTSD: <u>Mizell</u>, 773 So.2d 618 (Fla. 1st Dist. App. 2000); <u>Oquendo</u>, 357 So. 3d 214 (Fla. 2d Dist. App. 2023), review granted, No. SC2023-0807, 2023 WL 7132836 (Fla. Oct. 30, 2023)</p> <p>Prepare the problems posted on Canvas for class discussion</p>

Feb.26	<p>Panel: Mental Health & the Criminal Justice System in Florida.</p> <p>Guests: Brian Kramer (State Attorney, Eighth Judicial Circuit) and Stacy Scott (Public Defender, Eighth Judicial Circuit)</p> <p>Prepare five questions to ask Ms. Scott and Mr. Kramer.</p>
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MODULE 4:
Civil Commitment

Police Power Commitment: Theory	<p>Definition</p> <p>Rights implicated</p> <p>Legitimate purposes served?</p> <p>Procedural protections (vs. criminal law)</p> <p>Why treat MD specially?</p>	CB: 804–25
Police Power Commitment: Practice	<p>Brooks’ 4 elements of dangerousness</p> <p style="padding-left: 20px;">→ Today: magnitude of harm</p> <p style="padding-left: 20px;">Probability of harm</p> <p style="padding-left: 20px;">Frequency of harm</p> <p style="padding-left: 20px;">Imminence of harm</p> <p>FL’s Baker Act</p> <ul style="list-style-type: none"> - Police power provision - Definition of mental illness <p>Problem</p> <ul style="list-style-type: none"> • <u>Gregorovich</u> • <u>Nyflot</u> 	<p>CB: 826-38; 841 (start at n.2) – bottom of 842; bottom of 845 – top 849</p> <p>Baker Act: Fla. Stat. §394.467(1), (2)(b); 394.455(29)</p> <p>Prepare problem posted on Canvas for discussion in class</p>

	Parens Patriae Commitment: Theory	<p>“Parens patriae” rationale</p> <p>Why confined to mental disorder?</p> <p>Types of harms</p> <p>Proper scope</p> <p>Any limits set by U.S. Constitution?</p> <p>- <u>Donaldson</u></p>	CB: 854-72
	Parens Patriae Commitment: Practice	<p><u>Mayock</u> (harm to self)</p> <p><u>Boggs</u> (provocation, self-neglect)</p> <p>Fla. Stat. § 394.467(2)(b)</p> <p>Fla. Stat. § 394.463(1)-(2)</p> <p>- In practice</p> <p>Least restrictive alternatives</p>	<p>CB: 872-88</p> <p>Fla. Stat. § 394.467(2)(b); § 394.463 (1)-(2) (Baker Act)</p> <p>Prepare problem posted on Canvas for discussion in class</p>
	Assisted Outpatient Treatment	<p>Latest trend: AOT</p> <p>Merits?</p>	<p>CB: 897 – 902 (only notes 4 & 5)</p> <p>Fla. Stat. § 394.467(2)(a) (Baker Act)</p> <p><u>Skim:</u> Johnston & Klein, <i>Assisted Outpatient Treatment: A State-by-state Comparative Review</i></p>
	Commitment Procedures	<p>Procedures for involuntary examination & commitment</p> <p>Florida’s Baker Act: use and procedures</p>	<p>CB: 904-13</p> <p>Fla. Stat. §§ 394.463, 394.467 (Baker Act)</p> <p>Flowchart of Involuntary Examination Procedure Under Baker Act</p>

			<p>Flowchart of Involuntary Treatment Procedure Under Baker Act</p> <p>For more information on the use of the Baker Act, see this report:</p> <p>Baker Act Reporting Center, The Baker Act: Fiscal Year 2022/2023 Annual Report (on Canvas)</p>
	Right to Counsel	<p>Does due process require provision of counsel?</p> <p>What role should counsel serve?</p> <p>Ethical rules</p> <p>In practice</p> <p>1999 FL Supreme Court report</p>	<p>CB: 940-51</p> <p>Prepare question on Canvas for discussion in class</p>
	Release and Voluntary Admissions	<p>Overview of involuntary civil commitment process</p> <p>Release procedure</p> <p>Voluntary admissions</p> <ul style="list-style-type: none"> - Prevalence, why favored - “Voluntary?” <p>Informed consent</p> <p>Reform</p> <p>FL’s approach</p> <ul style="list-style-type: none"> - Discharge <p>Discharge in practice</p>	<p>CB: 959 – top of 978</p> <p>Baker Act flow charts: involuntary examination; involuntary treatment (on Canvas)</p> <p>Fla. Stat. § 394.467(4)-(7); § 394.4625</p>
	Children	Involuntary Examination of Minors	CB: 1018-35

		<ul style="list-style-type: none"> - Highlights of report Voluntary admission <p>Constitutional constraints on admission and release: <u>Parham</u></p> <ul style="list-style-type: none"> - By parents - By state <p><u>Parham</u>'s process and holding</p> <ul style="list-style-type: none"> - Focus: admission by parents <p>Florida procedure</p>	<p>Fla. Stat. §§ 394.4785, 394.4625</p> <p>Report on Involuntary Examination of Minors by Department of Children and Families (11/1/2019) (*read parts I, III, VI) (file on Canvas)</p> <p>Watch this video: Children in Crisis, Florida's Baker Acted Kids I-Team Investigates, https://www.youtube.com/watch?v=ODInKaumjIM (3:43)</p>
<p>MODULE 5: Competency Determinations</p>			
	Competency Generally	<p>Definition</p> <p>Justification</p> <p>Appelbaum & Roth's hierarchy of competency concepts</p> <p>Additional proposed tests:</p> <ul style="list-style-type: none"> • Understanding & belief test • Volitional test • Different person test 	<p>CB: 1037-53</p> <p>Prepare: apply various tests for competency in the context of the Katz case in n.4 on p. 1051</p>
Apr.4	Judicial Experience: General Civil Commitment & Commitment	<p>Guests: General Magistrates Katherine Floyd & Bridget Baker</p> <ul style="list-style-type: none"> - Judicial perspective re Baker Act, Marchman Act, and guardianship proceedings 	<p>Prepare five questions to ask Magistrates Floyd and Baker on Baker Act, Marchman Act, and guardianship</p>

	<p>of Substance Abusers</p>		<p>CB: bottom of p.1001-03 (to end of n.2), note 4 (p.1005)</p> <p>What is the Marchman Act?, Lawyer Monthly (Oct.10, 2021) (on Canvas)</p> <p>Marchman Act: A Look Inside Florida's Law Forcing Some Into Drug Treatment, CBS12 News (May 18, 2021) (on Canvas)</p> <p>Marchman Act: skim Fl. Stat. §§ 397.675, 397.68111-6818, 397.6957-6971</p> <p>Amanda Morris, Britney Spears's Case Raises Questions on Guardianship, New York Times (July 12, 2021)</p>
	<p>Guardianship</p>	<p>Definition</p> <p>Criteria for guardianship</p> <ul style="list-style-type: none"> - 3 approaches <p>Fla. Stat. § 744.102(12): incapacitated person</p> <p><u>Losh</u>, <u>Smith</u></p> <p>Less restrictive options</p> <p><u>Renz</u></p> <p>Procedure: Fla. Stat. § 744.331</p> <p>Restoration of competency: § 744.464</p> <p>Standard of decision-making</p>	<p>CB: 1053-70 (stop at <u>Hayes</u>), 1076 (start at n.3) – 1079, 1080-81 (note 7)</p> <p><u>Losh</u>, 86 So.3d 1150 (Fla. 3d DCA 2012)</p> <p><u>Smith</u>, 917 So.2d 400 (Fla. 5th DCA 2005)</p> <p>Fla. Stat. §§ 744.102(9), (12); 744.331; 744.334; 744.2005; 744.3215, 744.464</p> <p><i>Buzzfeed, Beyond Britney: Abuse, Exploitation, And Death Inside America's</i></p>

		<p>Advanced directive</p>	<p><i>Guardianship Industry</i> (9/17/21) (on Canvas)</p> <p>Watch these videos:</p> <p>Temporary guardianship, https://www.youtube.com/watch?v=Xom4upx_paY (1:33)</p> <p>Inside the Court Room Making a Plea for Guardianship, https://www.youtube.com/watch?v=kqQM9eNMtOo (7:21 start at 2:40)</p> <p>Prepare problem posted on Canvas for discussion in class</p> <p>Optional: for detailed guidance on the role of appointed counsel in guardianship proceedings, see:</p> <p>Erlandsson v. Guardianship of Erlandsson, 4th DCA (May 6, 2020)</p> <p>Optional: For a deep dive into Britney Spear's conservatorship, see:</p> <p>Ronan Farrow & Jia Tolentino, Britney Spears's Conservatorship Nightmare (7/3/21)</p> <p>Optional: supplemental information for legal practice:</p>
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			ABA Toolkit for Health Care Advance Planning
	Competency to Proceed	Problems!	<p>Read: CB: 1127-48 (to end of n.3)</p> <p>Fla. Stat. §§ 916.12 (mental illness), 916.3012 (intellectual disability or autism); Fla. R. Crim. P. 3.210-3.211</p> <p>Watch video: Competency Assessment, https://www.youtube.com/watch?v=HOKGS-XuFqk&t=566s (15:18)</p> <p>Prepare: three competency problems at pp.1134-41 for class discussion</p>
	Competency Restoration	<p>What happens when a D is found incompetent to stand trial?</p> <ul style="list-style-type: none"> • Procedure in Florida • DP constraints: <u>Jackson</u> 	<p>CB: 1151-57 (to end of n.3), 1158-59</p> <p>Fla. Stat. §§ 916.13 (mental illness), 916.302 (intellectual disability or autism); Fla. R. Crim. P. 3.212-3.213</p> <p>Prepare the problem on Canvas for class discussion</p>
		<p>The reality of competency restoration</p> <p>When can a state can forcibly medicate restore competence?</p> <ul style="list-style-type: none"> • <u>Sell</u> • <u>Harper</u> test • Incompetent to make treatment decisions (w/ guardian) 	<p>CB: 1159-77 (to end of n.3), note 6 (p.1179)</p> <p>Tampa Bay Times, “Definition of Insanity” (on Canvas)</p>

		What happens when competence can't be restored?	
MODULE 6: Effective Representation			
Apr. 11	Representation of Clients with Mental Illness	Guest speaker: Rachel O'Brien, Assistant Public Defender, Eighth Judicial Circuit Public Defender's Office	*all readings are tentative McNeal, Slow Lawyering: Representing Seniors in Light of Cognitive Changes Accompanying Aging (on Canvas) Representing Clients with Mental Illness: A Resource for Louisiana Defenders - **only pp.1-12 (on Canvas) ARC, When Individuals with Developmental Disabilities Become Involved in the Criminal Justice System: A Guide for Attorneys - **the whole document is useful, but for class I'll expect you to read pages 11-14, 18, & 25-26 (on Canvas) Prepare five questions to ask Ms. O'Brien
MODULE 7: Entitlements and Protection Against Discrimination			
	Right to Treatment	Do the following groups have a right to mental health treatment? - Individuals in society - Currently institutionalized individuals	CB: 1233-46, 1252-62 (Youngberg), 1264 (only Harvard Law Review quote), 1265-66 (only note

		<ul style="list-style-type: none"> - Previously institutionalized individuals 	<p>3), 1312-17 (to end of n.2), 1318 (<u>Olmstead</u>) – 1331</p> <p>Test your knowledge! Take quiz on Canvas.</p>
	<p>Americans with Disabilities Act</p>	<p><u>Cleburne</u>: disability is not a suspect classification</p> <ul style="list-style-type: none"> - Rational basis with bite? <p>ADA employment discrimination claims: disparate impact</p> <ul style="list-style-type: none"> • Assigned problem <p><u>ADA: Discrimination</u></p> <p><u>Prima facie case (Murray)</u></p> <ul style="list-style-type: none"> ○ Disability ○ Qualified individual <ul style="list-style-type: none"> ▪ Essential function ▪ (direct threat - Hoback) ○ Adverse E'ment action, causation <p><u>Legit business reason</u></p> <p><u>Pretext</u></p> <ul style="list-style-type: none"> - 2 ways to demonstrate (Murray) <p><u>ADA: Reasonable Accommodation</u></p> <p><u>Prima facie case</u></p> <ul style="list-style-type: none"> ○ Disability ○ Qualified individual ○ No reasonable accommodation <ul style="list-style-type: none"> ○ Undue hardship <p><u>ADA: Retaliation</u></p> <p><u>Prima facie case</u></p> <ul style="list-style-type: none"> ○ Protected conduct ○ Adverse E'ment action 	<p>CB: 1401-05, 1416-30, 1432 (start at n.6) – 1446 (stop at n.5)</p> <p>Nuts & bolts of ADA video: https://www.youtube.com/watch?v=O5DderZcsGE (10:35)</p> <p>Prepare the problem on Canvas for class discussion</p>

		<ul style="list-style-type: none">○ Causal connection<ul style="list-style-type: none">○ Temporal proximity <p><u>Legit business reason</u></p> <p><u>Pretext</u></p> <p>Practice: how to bring ADA discrimination claim</p>	
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