

By the Committees on Children, Families, and Elder Affairs; and
Children, Families, and Elder Affairs

586-02386-12

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1 A bill to be entitled
2 An act relating to sexually violent predators;
3 amending s. 394.912, F.S.; clarifying the definition
4 of the term "sexually violent offense" to include only
5 a felony criminal act that has been determined beyond
6 a reasonable doubt to have been sexually motivated;
7 amending s. 394.913, F.S.; requiring that the
8 Department of Children and Family Services give
9 priority to the assessment of persons who will be
10 released from total confinement at the earliest date
11 under certain circumstances; amending s. 394.9135,
12 F.S.; revising the period within which the
13 department's multidisciplinary team is required to
14 provide an assessment to the state attorney; revising
15 the period within which the state attorney may file a
16 petition with the circuit court alleging that an
17 offender is a sexually violent predator; amending s.
18 394.917, F.S.; deleting a provision relating to the
19 deportation of a sexually violent predator; creating
20 s. 394.933, F.S.; prohibiting the introduction or
21 attempted introduction of certain items into any
22 facility for the detention of sexually violent
23 predators; prohibiting the transmission or attempted
24 transmission of prohibited items to a person
25 incarcerated in the facility; providing that a person
26 or vehicle entering the grounds of the facility is
27 subject to reasonable search for and seizure of
28 prohibited items; subjecting a person to criminal
29 penalties for introducing or attempting to introduce a

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prohibited item on the grounds of a facility for the detention of sexually violent predators; creating the Statewide Workgroup on the Conditional Release of Sexually Violent Predators; providing that the workgroup is created for the purposes of assessing the appropriateness of placing sexually violent predators on conditional release in the community and, based upon its assessment, making policy recommendations to the Governor and the Legislature; providing for membership on the workgroup; providing for the payment of per diem and travel expenses; requiring the Department of Children and Family Services to provide support to the workgroup; requiring the workgroup to hold its organizational meeting by a specified date; describing the duties and responsibilities of the workgroup; requiring the workgroup to submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; providing an effective date.

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

Section 1. Subsection (9) of section 394.912, Florida Statutes, is amended to read:

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

(9) "Sexually violent offense" means:

(a) Murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2.;

(b) Kidnapping of a child under the age of 13 and, in the

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59 course of that offense, committing:

60 1. Sexual battery; or

61 2. A lewd, lascivious, or indecent assault or act upon or
62 in the presence of the child;

63 (c) Committing the offense of false imprisonment upon a
64 child under the age of 13 and, in the course of that offense,
65 committing:

66 1. Sexual battery; or

67 2. A lewd, lascivious, or indecent assault or act upon or
68 in the presence of the child;

69 (d) Sexual battery in violation of s. 794.011;

70 (e) Lewd, lascivious, or indecent assault or act upon or in
71 presence of the child in violation of s. 800.04 or s.
72 847.0135(5);

73 (f) An attempt, criminal solicitation, or conspiracy, in
74 violation of s. 777.04, of a sexually violent offense;

75 (g) Any conviction for a felony offense in effect at any
76 time before October 1, 1998, which is comparable to a sexually
77 violent offense under paragraphs (a)-(f) or any federal
78 conviction or conviction in another state for a felony offense
79 that in this state would be a sexually violent offense; or

80 (h) Any felony criminal act that, either at the time of
81 sentencing for the offense or subsequently during civil
82 commitment proceedings under this part, has been determined
83 beyond a reasonable doubt to have been sexually motivated.

84 Section 2. Paragraph (e) of subsection (3) of section
85 394.913, Florida Statutes, is amended to read:

86 394.913 Notice to state attorney and multidisciplinary team
87 of release of sexually violent predator; establishing

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88 multidisciplinary teams; information to be provided to
89 multidisciplinary teams.—

90 (3)

91 (e)1. Within 180 days after receiving notice, there shall
92 be a written assessment as to whether the person meets the
93 definition of a sexually violent predator and a written
94 recommendation, which shall be provided to the state attorney.
95 The written recommendation shall be provided by the Department
96 of Children and Family Services and shall include the written
97 report of the multidisciplinary team.

98 2. Notwithstanding the timeframes in this section, if the
99 written assessment and recommendation have not been completed
100 for more than one person who will be released from total
101 confinement in less than 365 days, the department shall give
102 priority to the assessment of the person who will be released at
103 the earliest date.

104 Section 3. Subsections (2) and (3) of section 394.9135,
105 Florida Statutes, are amended to read:

106 394.9135 Immediate releases from total confinement;
107 transfer of person to department; time limitations on
108 assessment, notification, and filing petition to hold in
109 custody; filing petition after release.—

110 (2) Within 72 hours after transfer, the multidisciplinary
111 team shall assess whether the person meets the definition of a
112 sexually violent predator. If the multidisciplinary team
113 determines that the person does not meet the definition of a
114 sexually violent predator, that person shall be immediately
115 released. If the multidisciplinary team determines that the
116 person meets the definition of a sexually violent predator, the

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team shall provide the state attorney, as designated by s. 394.913, with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends after 5 p.m. on a work day or on a weekend or holiday, within the next working day thereafter.

(3) ~~Within 48 hours after receipt of the written assessment and recommendation from the multidisciplinary team,~~ The state attorney, as designated in s. 394.913, may file a petition with the circuit court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation within 48 hours after receipt of the written assessment and recommendation from the multidisciplinary team or by 5 p.m. of the next work day if the 48-hour period ends after 5 p.m. on a work day or on a weekend or holiday. If a petition is not timely filed ~~within 48 hours~~ after receipt of the written assessment and recommendation by the state attorney, the person shall be immediately released. If a petition is filed pursuant to this section and the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall order the person be maintained in custody and held in an appropriate secure facility for further proceedings in accordance with this part.

Section 4. Subsection (2) of section 394.917, Florida Statutes, is amended to read:

394.917 Determination; commitment procedure; mistrials; housing; counsel and costs in indigent appellate cases.—

(2) If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition

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146 of any detainers ~~other than detainers for deportation by the~~
147 ~~United States Bureau of Citizenship and Immigration Services,~~
148 the person shall be committed to the custody of the Department
149 of Children and Family Services for control, care, and treatment
150 until such time as the person's mental abnormality or
151 personality disorder has so changed that it is safe for the
152 person to be at large. At all times, persons who are detained or
153 committed under this part shall be kept in a secure facility
154 segregated from patients of the department who are not detained
155 or committed under this part.

156 Section 5. Section 394.933, Florida Statutes, is created to
157 read:

158 394.933 Introduction or removal of certain articles
159 unlawful; penalty.—

160 (1) (a) Except as authorized by law or as specifically
161 authorized by the person in charge of a facility, a person may
162 not introduce into any facility for commitment or detention of
163 sexually violent predators under this part, or take or attempt
164 to take or send therefrom, any of the following articles, which
165 are declared to be contraband for the purposes of this section:

166 1. An intoxicating beverage or a beverage that causes or
167 may cause an intoxicating effect;

168 2. A controlled substance as defined in chapter 893;

169 3. A firearm or deadly weapon; or

170 4. Any other item designated by written facility policy to
171 be hazardous to the welfare of clients or staff or to the
172 operation of the facility.

173 (b) A person may not transmit to, attempt to transmit to,
174 or cause or attempt to cause to be transmitted to or received by

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175 any client of any facility under the supervision or control of
176 the department or agency any article or thing declared by this
177 section to be contraband, at any place that is outside the
178 grounds of such facility, except as authorized by law or as
179 specifically authorized by the person in charge of the facility.

180 (2) (a) An individual or vehicle entering the grounds of any
181 facility to which this section applies is subject to reasonable
182 search and seizure of any contraband materials introduced into
183 or upon the grounds of such facility for the purpose of
184 enforcing this section. This paragraph shall be enforced by
185 institutional security personnel or by a law enforcement officer
186 as defined in s. 943.10.

187 (b) A person who violates subsection (1) commits a felony
188 of the third degree, punishable as provided in s. 775.082, s.
189 775.083, or s. 775.084.

190 Section 6. Statewide Workgroup on the Conditional Release
191 of Sexually Violent Predators.-

192 (1) The Statewide Workgroup on the Conditional Release of
193 Sexually Violent Predators is created.

194 (2) The workgroup is created for the purposes of assessing
195 the appropriateness of placing sexually violent predators on
196 conditional release and, based upon its assessment, making
197 policy recommendations to the Governor and the Legislature.

198 (a) The workgroup shall consist of five members, including:

199 1. A representative of the Department of Children and
200 Family Services who shall be appointed by the secretary of the
201 department.

202 2. A representative of the Department of Corrections who
203 shall be appointed by the secretary of the department.

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204 3. A representative from the Florida Prosecuting Attorneys
205 Association.

206 4. A representative from the Florida Public Defender
207 Association.

208 5. A representative from the Florida Association for the
209 Treatment of Sexual Abusers.

210 6. A representative from the Florida Parole Commission.

211 (b) The workgroup shall elect a chair from among its
212 members.

213 (c) Members of the workgroup shall serve without
214 compensation, but are entitled to receive reimbursement for per
215 diem and travel expenses pursuant to s. 112.061, Florida
216 Statutes, for their actual and necessary expenses incurred in
217 the performance of their duties.

218 (d) The Department of Children and Family Services shall
219 provide the workgroup with staff support necessary to assist the
220 workgroup in the performance of its duties.

221 (3) The workgroup shall hold its organizational session by
222 August 1, 2012. Thereafter, the workgroup shall meet at least
223 four times. Additional meetings may be held at the request of
224 the chair. A majority of the members of the workgroup
225 constitutes a quorum.

226 (4) The workgroup shall:

227 (a) Collect and organize data concerning the practice of
228 placing sexually violent predators on conditional release in
229 this state;

230 (b) Identify issues related to the use of conditional
231 release in this state;

232 (c) Identify the procedures, if any, used by other states

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233 to release sexually violent predators into the community and the
234 attendant issue of supervising sexually violent predators while
235 in the community;

236 (d) Ascertain the costs of monitoring sexually violent
237 predators in the community; and

238 (e) Prepare policy recommendations for presentation to the
239 Governor and the Legislature regarding the conditional release
240 of sexually violent predators.

241 (5) The workgroup shall complete its work by December 1,
242 2012, and submit its report and recommendations to the Governor,
243 the President of the Senate, and the Speaker of the House of
244 Representatives by February 1, 2013.

245 Section 7. This act shall take effect July 1, 2012.