

PCB HCC 07-05

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1 A bill to be entitled
 2 An act relating to sexually violent predators; amending s.
 3 394.913, F.S.; providing for information concerning sexual
 4 acts and sexual motivation in a person's criminal history
 5 to be provided to the multidisciplinary team treating the
 6 sexually violent predator; creating s. 394.9223, F.S.;
 7 providing for the use of physical force against a person
 8 confined in a secure facility as a sexually violent
 9 predator under certain circumstances; providing for
 10 examinations, reports, and investigations following the
 11 use of force; providing for criminal penalties when force
 12 is used with malicious intent; creating s. 921.245, F.S.;
 13 requiring the judgment in a felony offense in which the
 14 record demonstrates sexual motivation to identify the
 15 offense as involving sexual motivation; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Subsection (2) of section 394.913, Florida
 21 Statutes, is amended to read:

22 394.913 Notice to state attorney and multidisciplinary team
 23 of release of sexually violent predator; establishing
 24 multidisciplinary teams; information to be provided to
 25 multidisciplinary teams.--

26 (2) The agency having ~~with~~ jurisdiction shall provide the
 27 multidisciplinary team with the following information:

28 (a) The person's name; identifying characteristics;
 29 anticipated future residence; the type of supervision the person

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30 will receive in the community, if any; and the person's offense
 31 history;

32 (b) The person's criminal history, including police
 33 reports, victim statements, presentence investigation reports,
 34 postsentence investigation reports, if available, and any other
 35 documents containing facts of the person's criminal incidents or
 36 indicating whether the criminal incidents included sexual acts or
 37 were sexually motivated;

38 (c) Mental health, mental status, and medical records,
 39 including all clinical records and notes concerning the person;

40 (d) Documentation of institutional adjustment and any
 41 treatment received and, in the case of an adjudicated delinquent
 42 committed to the Department of Juvenile Justice, copies of the
 43 most recent performance plan and performance summary; and

44 (e) If the person was returned to custody after a period of
 45 supervision, documentation of adjustment during supervision and
 46 any treatment received.

47 Section 2. Section 394.9223, Florida Statutes, is created
 48 to read:

49 394.9223 Use of force.--

50 (1) When necessary to provide protection and security to
 51 any client, to the personnel, equipment, buildings, or grounds of
 52 a secure facility, or to citizens in the surrounding community,
 53 an employee or agent of a secure facility, or an employee of a
 54 state or local law enforcement agency, may apply physical force
 55 upon a person confined in a secure facility under this part only
 56 when and to the extent that it reasonably appears necessary. This
 57 includes the use of nonlethal devices, such as chemical agents
 58 and hand-held electronic immobilization devices, when authorized

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59 by the administrator of the facility or her or his designee when
 60 the administrator is not present, and only after an employee has
 61 been trained in the appropriate use of such chemical agents and
 62 electronic devices. Chemical agents and hand-held electronic
 63 immobilization devices shall be used only to the extent necessary
 64 to provide protection and security. A staff person may not carry
 65 a chemical agent or hand-held electronic immobilization device on
 66 her or his person under any circumstances, except while escorting
 67 a facility resident outside the secure perimeter of the facility
 68 or as an authorized response to an incident within the facility
 69 that threatens the safety or security of staff or residents.
 70 Hand-held electronic immobilization devices are used only while
 71 escorting a confined person outside the secure perimeter of the
 72 facility. Circumstances under which reasonable force may be
 73 employed include:
 74 (a) Defending oneself against imminent use of unlawful
 75 force;
 76 (b) Preventing the escape of a person confined at the
 77 secure facility;
 78 (c) Preventing damage to property;
 79 (d) Quelling a disturbance; or
 80 (e) Overcoming physical resistance to a lawful command.
 81 (2) Following any use of force, each person who was
 82 physically involved shall receive a medical examination by a
 83 qualified health care provider, unless the person refuses such
 84 examination, to determine the extent of injury, if any. The
 85 examining health care provider shall prepare a report that
 86 includes, but need not be limited to, a statement of whether
 87 further examination by a physician is necessary. Any noticeable

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88 physical injury shall be examined by a physician who shall
 89 prepare a report documenting the extent and cause of the injury
 90 and the treatment prescribed. Such report shall be completed
 91 within 5 working days after the incident and shall be submitted
 92 to the facility superintendent for investigation as appropriate.

93 (3) Each person who applied physical force or was
 94 responsible for making the decision to apply physical force upon
 95 a confined person shall prepare, date, and sign an independent
 96 report within 3 working days after the incident. The report shall
 97 be delivered to the facility superintendent who shall conduct an
 98 investigation and shall determine whether force was appropriately
 99 used. Copies of the report and the facility superintendent's
 100 evaluation shall be kept in the resident's file. A record of each
 101 incident involving an employee's use of force and the facility
 102 superintendent's evaluation shall be kept in the employee's file.

103 (4) An employee of a secure facility under this part who,
 104 with malicious intent:

105 (a) Commits a battery upon a person confined in the
 106 facility commits a misdemeanor of the first degree, punishable as
 107 provided in s. 775.082 or s. 775.083; or

108 (b) Commits a battery or inflicts cruel or inhuman
 109 treatment by neglect or otherwise, and, in so doing, causes great
 110 bodily harm, permanent disability, or permanent disfigurement to
 111 a person confined in the facility commits a felony of the third
 112 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 113 775.084.

114 Section 3. Section 921.245, Florida Statutes, is created to
 115 read:

116 921.245 Felony judgments; sexually motivated offenses.--The

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117 | judgment entered in each felony offense in which the record
118 | demonstrates sexual motivation must identify the offense as
119 | involving sexual motivation.

120 | Section 4. This act shall take effect upon becoming a law.