

By Senators Meek, Thomas, Dyer, Campbell, Rossin and Mitchell

36-195A-00

1                                   A bill to be entitled  
2           An act relating to correctional facilities;  
3           prohibiting the Department of Corrections or  
4           the Department of Children or Family Services  
5           from locating a state correctional institution  
6           or a facility for sexually violent predators  
7           within a specified distance from a public or  
8           private school, a child care facility, or a  
9           place where children congregate; requiring the  
10          Department of Children and Family Services, in  
11          proposing a site for a facility for sexually  
12          violent predators, to request the local  
13          government to determine compliance with local  
14          plans and ordinances; providing for the  
15          department to request modification of any local  
16          plan or ordinance; authorizing the Department  
17          of Children and Family Services to appeal a  
18          decision of a local government to the Governor  
19          and Cabinet; providing requirements for the  
20          Governor and Cabinet in reviewing such appeal;  
21          authorizing the Governor and Cabinet to adopt  
22          rules; providing for judicial review of a  
23          decision of the Governor and Cabinet; providing  
24          an effective date.

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

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28           Section 1. A state correctional institution under the  
29 jurisdiction of the Department of Corrections or a secure  
30 facility for sexually violent predators under the jurisdiction  
31 of the Department of Children and Family Services may not be

1 located within 5 blocks of the real property that comprises a  
2 public or private elementary school, middle school, or  
3 secondary school; a child care facility as defined in section  
4 402.302, Florida Statutes; or a park, playground, or other  
5 place where children regularly congregate.

6 Section 2. Siting of secure facilities for sexually  
7 violent predators.--

8 (1) When the Department of Children and Family  
9 Services proposes a site for a secure facility for sexually  
10 violent predators, it must request that the local government  
11 having jurisdiction over such proposed site determine whether  
12 the proposed site complies with local government comprehensive  
13 plans, local land-use ordinances, local zoning ordinances, and  
14 other local ordinances in effect at the time of such request.  
15 If such determination is not made within 90 days after the  
16 request, it is presumed that the proposed site complies with  
17 such plans and ordinances.

18 (2) If the local government determines within 90 days  
19 after the request that construction of a secure facility for  
20 sexually violent predators on the proposed site does not  
21 comply with any such plan or ordinance, the Department of  
22 Children and Family Services may request a modification of  
23 such plan or ordinance without having an ownership interest in  
24 such property. For the purposes of this section, modification  
25 includes, but is not limited to, a variance, rezoning, special  
26 exception, or any other action of the local government having  
27 jurisdiction over the proposed site which would authorize  
28 siting of a secure facility.

29 (3) Upon receipt of a request for modification from  
30 the Department of Children and Family Services, the local  
31 government may recommend alternative sites to the department

1 and must give notice and hold a public hearing on the request  
2 for modification in the same manner as for a rezoning as  
3 provided under the appropriate special or local law or  
4 ordinance, except that such proceeding shall be recorded by  
5 tape or by a certified court reporter and made available for  
6 transcription at the expense of any interested party.

7 (4) When the Department of Children and Family  
8 Services requests such a modification and it is denied by the  
9 local government or there is no action on such request within  
10 90 days after the request, the department may appeal the  
11 decision of the local government on the requested modification  
12 of local plans or ordinances to the Governor and Cabinet.

13 (5) The Governor and Cabinet shall consider the  
14 following when determining whether to grant the appeal from  
15 the decision of the local government on the requested  
16 modification:

17 (a) The record of the proceedings before the local  
18 government.

19 (b) Reports and studies by any other agency relating  
20 to matters within the jurisdiction of such agency, which  
21 matters may be potentially affected by the proposed site.

22 (c) Existing studies and reports and information  
23 maintained by the Department of Corrections or the Department  
24 of Children and Family Services which address the feasibility  
25 and availability of alternative sites in the general area.

26 (6) The Governor and Cabinet, upon determining that  
27 the local government has recommended no feasible alternative  
28 site and that the interests of the state in providing secure  
29 facilities for sexually violent predators outweigh the  
30 concerns of the local government, shall authorize construction  
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1 and operation of the facility on the proposed site,  
2 notwithstanding any local plan or ordinance.

3 (7) The Governor and Cabinet may adopt rules of  
4 procedure to govern proceedings conducted under this section.

5 (8) Actions taken by the department or the Governor  
6 and Cabinet pursuant to this section are not subject to  
7 sections 120.56, 120.569, and 120.57, Florida Statutes. The  
8 decision by the Governor and Cabinet is subject to judicial  
9 review under section 120.68, Florida Statutes, in the District  
10 Court of Appeal, First District.

11 Section 3. This act shall take effect upon becoming a  
12 law.

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15 SENATE SUMMARY

16 Prohibits a state correctional institution or a facility  
17 for sexually violent predators from being located within  
18 5 blocks of a public or private elementary school, middle  
19 school, or secondary school; a child care facility; or a  
20 park or other place where children congregate. Requires  
21 that the Department of Children and Family Services  
22 request that the local government determine compliance  
23 with plans and ordinances whenever the department  
24 proposes siting or constructing a facility for sexually  
25 violent predators. Provides for the Department of  
26 Children and Family Services to appeal a decision of a  
27 local government concerning such siting to the Governor  
28 and Cabinet. Provides for the First District Court of  
29 Appeal to review a final decision of the Governor and  
30 Cabinet. (See bill for details.)  
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