

By the Committee on Corrections and Representatives
 Lawson, Turnbull and Trovillion

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 and 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; providing
 10 clarification with regard to use, expansion,
 11 and renovation of existing structures,
 12 facilities, and institutions; requiring the
 13 Department of Children and Family Services, in
 14 proposing a site for a facility for sexually
 15 violent predators, to request the local
 16 government to determine compliance with local
 17 plans and ordinances; requiring a public
 18 hearing; providing for the department to
 19 request modification of any local plan or
 20 ordinance; authorizing the Department of
 21 Children and Family Services to appeal a
 22 decision of a local government to the Governor
 23 and Cabinet; providing requirements for the
 24 Governor and Cabinet in reviewing such appeal;
 25 authorizing the Governor and Cabinet to adopt
 26 rules; providing for judicial review of a
 27 decision of the Governor and Cabinet; providing
 28 an effective date.
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 30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. A state correctional institution under the
2 jurisdiction of the Department of Corrections or the
3 Correctional Privatization Commission or a secure facility for
4 sexually violent predators under the jurisdiction of the
5 Department of Children and Family Services may not be located
6 within a one-half mile radius of the real property that
7 comprises a public or private elementary school, middle
8 school, or secondary school; a child care facility as defined
9 in section 402.302, Florida Statutes; or a park, playground,
10 or other place where children regularly congregate. However,
11 nothing herein shall be construed to limit the use, expansion,
12 or renovation of existing structures, facilities, or
13 institutions which are now or have previously been used as
14 correctional facilities by the Department of Corrections or
15 the Correctional Privatization Commission or facilities for
16 sexually violent predators under the jurisdiction of the
17 Department of Children and Family Services.

18 Section 2. Siting of secure facilities for sexually
19 violent predators.--

20 (1) When the Department of Children and Family
21 Services proposes a site for a secure facility for sexually
22 violent predators, it must request that the local government
23 having jurisdiction over such proposed site determine whether
24 the proposed site complies with local government comprehensive
25 plans, local land-use ordinances, local zoning ordinances, and
26 other local ordinances in effect at the time of such request.
27 Upon receipt of such request, the appropriate local government
28 must give notice and the appropriate agency must hold a public
29 hearing on the request within 60 days after the request is
30 submitted in the same manner as for a rezoning as provided
31 under the appropriate special or local law or ordinance,

1 except that such proceedings shall be recorded by tape or a
2 certified court reporter and made available for transcription
3 at the expense of any interested party.

4 (2) If the local government determines within 90 days
5 after the request that construction of a secure facility for
6 sexually violent predators on the proposed site does not
7 comply with any such plan or ordinance, the Department of
8 Children and Family Services may request a modification of
9 such plan or ordinance without having an ownership interest in
10 such property. For the purposes of this section, modification
11 includes, but is not limited to, a variance, rezoning, special
12 exception, or any other action of the local government having
13 jurisdiction over the proposed site which would authorize
14 siting of a secure facility.

15 (3) Upon receipt of a request for modification from
16 the Department of Children and Family Services, the local
17 government may recommend alternative sites to the department
18 and must give notice and hold a public hearing on the request
19 for modification in the same manner as for a rezoning as
20 provided under the appropriate special or local law or
21 ordinance, except that such proceeding shall be recorded by
22 tape or by a certified court reporter and made available for
23 transcription at the expense of any interested party.

24 (4) When the Department of Children and Family
25 Services requests such a modification and it is denied by the
26 local government or there is no action on such request within
27 90 days after the request, the department may appeal the
28 decision of the local government on the requested modification
29 of local plans or ordinances to the Governor and Cabinet.

30 (5) The Governor and Cabinet shall consider the
31 following when determining whether to grant the appeal from

1 the decision of the local government on the requested
2 modification:
3 (a) The record of the proceedings before the local
4 government.
5 (b) Reports and studies by any other agency relating
6 to matters within the jurisdiction of such agency, which
7 matters may be potentially affected by the proposed site.
8 (c) Existing studies and reports and information
9 maintained by the Department of Corrections or the Department
10 of Children and Family Services which address the feasibility
11 and availability of alternative sites in the general area.
12 (6) The Governor and Cabinet, upon determining that
13 the local government has recommended no feasible alternative
14 site and that the interests of the state in providing secure
15 facilities for sexually violent predators outweigh the
16 concerns of the local government, shall authorize construction
17 and operation of the facility on the proposed site,
18 notwithstanding any local plan or ordinance.
19 (7) The Governor and Cabinet may adopt rules of
20 procedure to govern proceedings conducted under this section.
21 (8) Actions taken by the department or the Governor
22 and Cabinet pursuant to this section are not subject to
23 sections 120.56, 120.569, and 120.57, Florida Statutes. The
24 decision by the Governor and Cabinet is subject to judicial
25 review under section 120.68, Florida Statutes, in the District
26 Court of Appeal, First District.
27 Section 3. This act shall take effect upon becoming a
28 law.
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