

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2500

SPONSOR: Senator Klein

SUBJECT: Sexually Violent Predators

DATE: April 14, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/3 amendments</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill would require the Criminal Justice Estimating Conference to project future bed needs and other program needs resulting from the civil commitments authorized under the Jimmy Ryce Act of 1998, for the purpose of estimating necessary appropriations.

The bill would expand the definition of the term “victim” to include persons who were the victim of the act of a sexually violent predator for whom involuntary civil commitment is sought.

The bill would increase the amount of time the Department of Children and Family Services’ multidisciplinary team has to complete and submit its report and recommendation regarding whether a person meets the definition of the term sexually violent predator to the state attorney. The increase in time would be from 45 to 90 days.

The bill provides that rules may be adopted by the Department of Children and Family Services regarding continuing education of the members of the multidisciplinary assessment teams.

The bill also requires the Department to implement a long-term study to determine the efficacy of the Act.

This bill substantially amends the following sections of the Florida Statutes: 216.1365; 775.089; 394.913; 394.930; and 394.31.

## II. Present Situation:

In 1998, the Legislature enacted the Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators Treatment and Care Act. The Act provides a procedure for the civil confinement of a sexual offender who is determined to be a “sexually violent predator” subsequent to his or her release from custody or upon the expiration of his or her incarcerative

sentence. The person is then committed to the Department of Children and Family Services for long-term residential treatment, care, and custody in a secure facility.

In 1999 the Legislature transferred the Jimmy Ryce Act from ch. 916, F.S., relating to mentally deficient and mentally ill criminal defendants, to ch. 394, F.S., relating to mental health, and created Part V of that chapter, which is entitled “Involuntary Commitment of Sexually Violent Predators.” This transfer reflects the legislative intent and policy that commitments under the Jimmy Ryce Act procedures are civil in nature and relate to mental health issues, rather than criminal in nature and punitive in purpose.

Section 216.1365, F.S., was created in 1999 requiring the Criminal Justice Estimating Conference to develop information relating to the number of eligible discharges and the projected number of civil commitments pursuant to the civil proceedings provided for in ch. 394, F.S., (the Jimmy Ryce Act). Under s. 216.135(5), F.S., the Estimating Conference is charged with the responsibility of forecasting the number of prison admissions as well as any other official information relating to the criminal justice system as is needed for planning and budgeting purposes. Although commitments under the Jimmy Ryce Act are civil in nature, the Conference has the expertise to forecast the information required for budgeting purposes in the civil commitment arena while other Estimating Conferences created in ch. 216, F.S., arguably do not have the same focus.

Section 775.089, F.S., which is found in the chapter entitled “Crimes; Definitions; General Penalties; Registration of Criminals” addresses restitution. Section 775.089(1)(c), F.S., defines the term “victim” as a person who has suffered a property damage or loss, monetary expense, or physical injury or death as the result of the defendant’s criminal episode. The definition also includes the next of kin or the victim’s estate. Under this section, and under the jurisdiction of the criminal trial court, restitution may be ordered and the defendant required to pay it within a specified period or in specified installments. The end of the period or the last installment must not be later than the end of the probationary period if probation is ordered; 5 years after the term of imprisonment if no probation is ordered; or 5 years after the date of sentencing in any other case.

In s. 394.913, F.S., the procedure to be followed upon the impending release from custody of a person who may fit the criteria of a sexually violent predator is set forth. First, the agency with jurisdiction over the person (i.e., the Department of Corrections, the Department of Juvenile Justice, the Department of Children and Family Services), must notify the state attorney and a multidisciplinary team assembled by the Department of Children and Family Services that the person’s release from custody is imminent. This notice must occur 365 days prior to release in the case of a person in the adult system, or 90 days in the case of a delinquent child. Next there is an assessment of the person by the multidisciplinary team. The team makes an assessment of the person’s record and background, among other things, and may interview the person should the person choose to have the interview. The team must then make a determination whether the person meets the definition of a sexually violent predator and file a recommendation with the state attorney. Presently s. 394.913(3)(e), F.S., requires the team to have its report and recommendation to the state attorney within 45 days of receiving notice of the person’s approaching release from custody.

Chapter 99-222, L.O.F., revised the Jimmy Ryce Act to include the creation of s. 394.930, F.S., which gave the Department of Children and Family Services the authority to adopt rules for, among other things, the procedures that must be followed by the multidisciplinary assessment teams mentioned above.

These revisions also gave the Department of Children and Family Services the responsibility of compiling quarterly reports comprised of various statistics profiling people referred to the Department under the Act in s. 394.931, F.S.

### **III. Effect of Proposed Changes:**

Section 1 of the bill would amend s. 216.1365, F.S., to expand the expectations of the Criminal Justice Estimating Conference with regard to making forecasts in the civil commitment arena. The bill would require the Estimating Conference to project future bed needs and other critical program needs under the Jimmy Ryce Act, for the purpose of determining necessary appropriations.

Section 2 of the bill amends s. 775.089(1)(c), F.S., which defines the term “victim” as it relates to restitution resulting from a defendant’s criminal episode. The bill refines the definition under this subsection to include the victim of an offense committed by an offender who, at any time following the offense, is alleged to be a sexually violent predator and for whom involuntary civil commitment is sought under part V of ch. 394, F.S.

Section 3 of the bill would extend the time for the multidisciplinary team to file its report and recommendation to the state attorney from 45 days after notice of the impending release of the person to whom the Jimmy Ryce Act may apply, to 90 days. It should be noted that the time frame within which the agency which has the person in custody must notify the team and state attorney of the impending release of the person was expanded in last year’s legislation, from 180 to 365 days (in the case of the adult offender). Presumably this was done to allow more of a “buffer” between the release and the filing of the petition by the state attorney under s. 394.914, F.S. This amendment would eliminate some of that “buffer.” The 90 day turn-around time for the team would leave virtually no time for the state attorney to review the team’s recommendation and file a petition in the case of a committed juvenile, since, under s. 394.13(1)(a), F.S., the agency who has the juvenile in custody is only required to give notice of the juvenile’s impending release “at least 90 days” before it happens.

Section 4 of the bill would amend s. 394.930, F.S., to include a new subsection (2) which would give the Department of Children and Family Services the authority to adopt rules for the continuing education requirements for members of the multidisciplinary teams who assess people who may fall under the “sexually violent predator” criteria, and any additional training required for other professionals who assess and evaluate persons under the Act.

Section 5 of the bill amends s. 394.931, F.S., to add the requirement that the Department of Children and Family Services implement a long-term study to determine the overall efficacy of the Act. There is no time-frame specified for reporting the findings of the study.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

There may be an indeterminate positive effect for victims of crimes committed by sexually violent predators as defined under the Act because the bill presumably provides an opportunity for them to seek restitution in the civil arena, after the criminal court's jurisdiction over the restitution issue may have lapsed.

## C. Government Sector Impact:

There may be a fiscal impact on the Department of Children and Family Services in that Section 5 of the bill requires the Department to conduct a long-term study which will require some amount of employee work hours dedicated to the task.

**VI. Technical Deficiencies:**

It appears that the intent of Section 2 of the bill is to provide some mechanism by which victims of the crimes committed by people who meet the criteria for involuntary civil commitment under the Act can somehow seek restitution for the harm that came to them at the civil commitment stage. Perhaps, since the case has moved beyond the criminal arena at the time the civil commitment procedures began, the bill should not seek to amend s. 775.089, F.S. An alternative would be to amend s. 960.03 (13), F.S., and s. 960.07 (2), F.S., which pertain to the Crimes Compensation Trust Fund.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Criminal Justice:

Repeals s. 216.1365, F.S., and moves that provision requiring the Criminal Justice Estimating Conference to project future bed needs and other program needs for sexually violent predators, to s. 216.136, F.S. (WITH TITLE AMENDMENT)

#2 by Criminal Justice:

Amends s. 960.07, F.S., expanding the time within which a victim of an offense committed by a sexually violent predator may apply for compensation from the Crimes Compensation Trust Fund. (WITH TITLE AMENDMENT)

#3 by Criminal Justice:

Deletes the word “continuing” from s. 394.930(2), F.S., the subsection providing for the Department of Children and Family Services to adopt rules regarding the education requirements for members of the multidisciplinary teams and others who assess and evaluate sexually violent predators.