

By Representative Needelman

1 A bill to be entitled
2 An act relating to the involuntary civil
3 commitment of sexually violent predators;
4 creating s. 394.9215, F.S.; authorizing a
5 person held in a secure facility under part V
6 of ch. 394, F.S., to file a petition for habeas
7 corpus; providing for a response and
8 evidentiary proceeding; providing for appeal;
9 prohibiting a person from filing a petition for
10 habeas corpus during commitment proceedings;
11 providing that the petitioner does not have a
12 right to appointed counsel; requiring that the
13 court grant relief in the least intrusive
14 manner possible; prohibiting the court from
15 releasing a petitioner unless it finds no other
16 relief will remedy the violation of the
17 petitioner's rights; amending s. 394.923, F.S.;
18 providing that the Department of Legal Affairs
19 and its officers and employees are immune from
20 civil liability for good-faith conduct under
21 part V of ch. 394, F.S.; providing an effective
22 date.

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

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26 Section 1. Section 394.9215, Florida Statutes, is
27 created to read:

28 394.9215 Right to habeas corpus.--

29 (1)(a) At any time after exhausting all administrative
30 remedies, a person held in a secure facility under this part
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1 may file a petition for habeas corpus in the circuit court for
2 the county in which the facility is located alleging that:

3 1. The person's conditions of confinement violate a
4 statutory right under state law or a constitutional right
5 under the State Constitution or the United States
6 Constitution; or

7 2. The facility in which the person is confined is not
8 an appropriate secure facility, as that term is used in s.
9 394.915.

10 (b) Upon filing a legally sufficient petition stating
11 a prima facie case under paragraph (a), the court may direct
12 the Department of Children and Family Services to file a
13 response. If necessary, the court may conduct an evidentiary
14 proceeding and issue an order to correct a violation of state
15 or federal rights found to exist by the court. A final order
16 entered under this section may be appealed to the district
17 court of appeal. A nonfinal order may be appealed to the
18 extent provided by the Florida Rules of Appellate Procedure.
19 An appeal by the department shall stay the trial court's order
20 until disposition of the appeal.

21 (2) A person may not assert a claim under this section
22 during the commitment proceedings governed under this part. A
23 person does not have a right to appointed counsel in any
24 proceeding initiated under this section.

25 (3) Relief granted on a petition filed under this
26 section must be narrowly drawn and may not exceed that which
27 is minimally necessary to correct, in the least intrusive
28 manner possible, the violation of the state or federal rights
29 of a particular petitioner. A court considering a petition
30 under this section must give substantial weight to whether the
31 granting of relief would adversely impact the operation of the

1 detention and treatment facility or would adversely impact
2 public safety.

3 (4) The court may not enter an order releasing a
4 person from secure detention unless the court expressly finds
5 that no relief short of release will remedy the violation of
6 state or federal rights which is found to have occurred.

7 Section 2. Section 394.923, Florida Statutes, is
8 amended to read:

9 394.923 Immunity from civil liability.--The agency
10 with jurisdiction and its officers and employees; the
11 department and its officers and employees; members of the
12 multidisciplinary team; the state attorney and the state
13 attorney's employees; the Department of Legal Affairs and its
14 officers and employees;and those involved in the evaluation,
15 care, and treatment of sexually violent persons committed
16 under this part are immune from any civil liability for good
17 faith conduct under this part.

18 Section 3. This act shall take effect July 1, 2002.

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21 SENATE SUMMARY

22 Authorizes a person who is involuntarily committed to a
23 secure facility as a sexually violent predator to file a
24 petition for habeas corpus. Prohibits filing such a
25 petition during the commitment proceedings. Specifies
26 that the petitioner does not have a right to appointed
27 counsel. Requires that any relief granted by the court be
28 narrowly drawn and in the least intrusive manner
29 possible. Limits the right of the court to release a
30 petitioner. Grants immunity from civil liability to
31 officers and employees of the Department of Legal Affairs
for actions taken in good faith under part V of ch. 394,
F.S. (See bill for details.)