

Bill No. SB 2866

Barcode 842710

CHAMBER ACTION

Senate

House

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The Committee on Children, Families, and Elder Affairs
(Margolis) recommended the following amendment:

Senate Amendment

On page 2, line 24, through
page 4, line 19, delete those lines

and insert:

394.9223 Use of force.--

(1) When necessary to provide protection and security to any client, to the personnel, equipment, buildings, or grounds of a secure facility, or to citizens in the surrounding community, an employee or agent of a secure facility, or an employee of a state or local law enforcement agency, may apply physical force upon a person confined in a secure facility under this part only when and to the extent that it reasonably appears necessary. This includes the use of nonlethal devices, such as chemical agents and hand-held electronic immobilization devices, when authorized by the administrator of the facility or her or his designee when the administrator is not present, and only after an employee has

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1 been trained in the appropriate use of such chemical agents
2 and electronic devices. Chemical agents and hand-held
3 electronic devices shall be used only to the extent necessary
4 to provide protection and security. A staff person may not
5 carry a chemical agent or hand-held electronic immobilization
6 device on her or his person under any circumstances, except
7 during escort of a facility resident outside of the secure
8 perimeter of the facility, or as an authorized response to an
9 incident within the facility which threatens the safety or
10 security of staff or residents. Hand-held electronic
11 immobilization devices are only used during escort of a
12 confined person outside of the secure perimeter of the
13 facility. Circumstances under which reasonable force may be
14 employed include:

15 (a) Defending oneself against imminent use of unlawful
16 force;

17 (b) Preventing the escape of a person confined at the
18 secure facility.

19 (c) Preventing damage to property;

20 (d) Quelling a disturbance; or

21 (e) Overcoming physical resistance to a lawful
22 command.

23 (2) Following any use of force, each person who was
24 physically involved shall receive a medical examination by a
25 qualified health care provider, unless the person refuses such
26 examination, to determine the extent of injury, if any. The
27 examining health care provider shall prepare a report that
28 includes, but need not be limited to, a statement of whether
29 further examination by a physician is necessary. Any
30 noticeable physical injury shall be examined by a physician
31 who shall prepare a report documenting the extent and cause of

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1 the injury and the treatment prescribed. Such report shall be
2 completed within 5 working days after the incident and shall
3 be submitted to the facility superintendent for investigation
4 as appropriate.

5 (3) Each person who applied physical force or was
6 responsible for making the decision to apply physical force
7 upon a confined person shall prepare, date, and sign an
8 independent report within 3 working days after the incident.
9 The report shall be delivered to the facility superintendent
10 who shall conduct an investigation and shall determine whether
11 force was appropriately used. Copies of the report and the
12 facility superintendent's evaluation shall be kept in the
13 resident's file. A record of each incident involving an
14 employee's use of force and the facility superintendent's
15 evaluation shall be kept in the employee's file.

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

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

21 (b) Commits a battery or inflicts cruel or inhuman
22 treatment by neglect or otherwise, and in so doing causes
23 great bodily harm, permanent disability, or permanent
24 disfigurement to a person confined in the facility, commits a
25 felony of the third degree, punishable as provided in s.
26 775.082, s. 775.083, or s. 775.084.

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