



1 person will receive in the community, if any; and the person's  
2 offense history;

3 (b) The person's criminal history, including police  
4 reports, victim statements, presentence investigation reports,  
5 postsentence investigation reports, if available, and any  
6 other documents containing facts of the person's criminal  
7 incidents or indicating whether the criminal incidents  
8 included sexual acts or were sexually motivated;

9 (c) Mental health, mental status, and medical records,  
10 including all clinical records and notes concerning the  
11 person;

12 (d) Documentation of institutional adjustment and any  
13 treatment received and, in the case of an adjudicated  
14 delinquent committed to the Department of Juvenile Justice,  
15 copies of the most recent performance plan and performance  
16 summary; and

17 (e) If the person was returned to custody after a  
18 period of supervision, documentation of adjustment during  
19 supervision and any treatment received.

20 Section 2. Section 394.9223, Florida Statutes, is  
21 created to read:

22 394.9223 Use of force.--

23 (1) An employee or agent of a secure facility, or an  
24 employee of a state or of a local law enforcement agency, is  
25 authorized to apply physical force upon a person committed to  
26 a secure facility under this part only when and to the extent  
27 that it reasonably appears necessary. This includes the use of  
28 nonlethal devices such as chemical agents and electronic  
29 devices. Deadly force may be used only in defense of oneself  
30 or another. Circumstances under which physical force may be  
31 used include:

1 (a) Defending himself or herself or another against  
2 imminent use of unlawful force.

3 (b) Preventing a person committed to the custody of  
4 the department from escaping.

5 (c) Preventing damage to property.

6 (d) Quelling a disturbance.

7 (e) Overcoming physical resistance to a lawful  
8 command.

9 (f) Administering medical treatment by or under the  
10 supervision of a physician or his or her designee only when  
11 such treatment is:

12 1. Necessary to protect the health of others, as in  
13 the case of contagious or venereal diseases; or

14 2. Offered in satisfaction of a duty to protect the  
15 person against self-inflicted injury or death.

16 (2) Following any use of force, a qualified health  
17 care provider shall examine any person physically involved to  
18 determine the extent of injury, if any, and shall prepare a  
19 report that includes, but need not be limited to, a statement  
20 of whether further examination by a physician is necessary.  
21 Any noticeable physical injury shall be examined by a  
22 physician who shall prepare a report documenting the extent  
23 and cause of the injury and the treatment prescribed. Such  
24 report shall be completed within 5 working days after the  
25 incident and shall be submitted to the facility superintendent  
26 for investigation as appropriate.

27 (3) Each person who applied physical force or was  
28 responsible for making the decision to apply physical force  
29 upon a committed person shall prepare, date, and sign an  
30 independent report within 5 working days after the incident.  
31 The report shall be delivered to the facility superintendent,

1 who shall conduct an investigation and shall determine whether  
2 force was appropriately used. Copies of the report and the  
3 facility superintendent's evaluation shall be kept in the  
4 resident's file. A record of each incident involving an  
5 employee's use of force and the facility superintendent's  
6 evaluation shall be kept in the employee's file.

7 (4) An employee of a secure facility for sexually  
8 violent predators who, with malicious intent:

9 (a) Commit a battery upon a facility resident commits  
10 a misdemeanor of the first degree, punishable as provided in  
11 s. 775.082 or s. 775.083.

12 (b) Commit a battery or inflict cruel or inhuman  
13 treatment by neglect or otherwise, and in so doing cause great  
14 bodily harm, permanent disability, or permanent disfigurement  
15 to a resident, commit a felony of the third degree, punishable  
16 as provided in s. 775.082, s. 775.083, or s. 775.084.

17 Section 3. Section 921.245, Florida Statutes, is  
18 created to read:

19 921.245 Felony judgments; sexually motivated  
20 offense.--Each judgment of guilt for a felony offense must  
21 contain a written finding by the court indicating whether the  
22 criminal act was sexually motivated.

23 Section 4. This act shall take effect upon becoming a  
24 law.

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SENATE SUMMARY

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3 Revises laws relating to the sexually violent predator  
4 program. Provides that any information concerning sexual  
5 acts and sexual motivation in a person's criminal history  
6 be provided to the multidisciplinary team that assesses  
7 and makes recommendations as to whether a person is a  
8 sexually violent predator. Provides for the use of  
9 physical force against a person committed as a sexually  
10 violent predator and specifies the circumstances when  
11 force may be used. Provides for an examination by a  
12 health provider, a report to be prepared, and an  
13 investigation following the use of force. Provides for  
14 criminal penalties when force is used with malicious  
15 intent. Requires that each judgment of guilt for a felony  
16 offense contains a written finding on whether the act was  
17 sexually motivated.  
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