

HB 7109

2007

1 A bill to be entitled

2 An act relating to sexually violent predators; amending s.
3 394.913, F.S.; providing for information concerning sexual
4 acts and sexual motivation in a person's criminal history
5 to be provided to the multidisciplinary team treating the
6 sexually violent predator; creating s. 394.9221, F.S.;
7 authorizing employment of certified correctional officers
8 by certain facilities; creating s. 394.9223, F.S.;
9 providing for the use of physical force against a person
10 confined in a secure facility as a sexually violent
11 predator under certain circumstances; providing for
12 examinations, reports, and investigations following the
13 use of force; providing for criminal penalties when force
14 is used with malicious intent; amending s. 916.106, F.S.;
15 authorizing employment of certified correctional officers
16 by certain facilities; creating s. 921.245, F.S.;
17 requiring the judgment in a felony offense in which the
18 record demonstrates sexual motivation to identify the
19 offense as involving sexual motivation; providing an
20 effective date.

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

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24 Section 1. Subsection (2) of section 394.913, Florida
25 Statutes, is amended to read:

26 394.913 Notice to state attorney and multidisciplinary
27 team of release of sexually violent predator; establishing
28 multidisciplinary teams; information to be provided to

29 multidisciplinary teams.--

30 (2) The agency having ~~with~~ jurisdiction shall provide the
31 multidisciplinary team with the following information:

32 (a) The person's name; identifying characteristics;
33 anticipated future residence; the type of supervision the person
34 will receive in the community, if any; and the person's offense
35 history;

36 (b) The person's criminal history, including police
37 reports, victim statements, presentence investigation reports,
38 postsentence investigation reports, if available, and any other
39 documents containing facts of the person's criminal incidents or
40 indicating whether the criminal incidents included sexual acts
41 or were sexually motivated;

42 (c) Mental health, mental status, and medical records,
43 including all clinical records and notes concerning the person;

44 (d) Documentation of institutional adjustment and any
45 treatment received and, in the case of an adjudicated delinquent
46 committed to the Department of Juvenile Justice, copies of the
47 most recent performance plan and performance summary; and

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

51 Section 2. Section 394.9221, Florida Statutes, is created
52 to read:

53 394.9221 Certified security personnel.--The department, or
54 an entity contracted to operate a facility under this part, is
55 considered an "employing agency" within the meaning of s.
56 943.10(4) and is expressly authorized to employ certified

HB 7109

2007

57 correctional officers as facility security personnel.

58 Section 3. Section 394.9223, Florida Statutes, is created
59 to read:

60 394.9223 Use of force.--

61 (1) When necessary to provide protection and security to
62 any client, to the personnel, equipment, buildings, or grounds
63 of a secure facility, or to citizens in the surrounding
64 community, an employee or agent of a secure facility, or an
65 employee of a state or local law enforcement agency, may apply
66 physical force upon a person confined in a secure facility under
67 this part only when and to the extent that it reasonably appears
68 necessary. This includes the use of nonlethal devices, such as
69 chemical agents and hand-held electronic immobilization devices,
70 when authorized by the administrator of the facility or her or
71 his designee when the administrator is not present, and only
72 after an employee has been trained in the appropriate use of
73 such chemical agents and electronic devices. Chemical agents and
74 hand-held electronic immobilization devices shall be used only
75 to the extent necessary to provide protection and security. A
76 staff person may not carry a chemical agent or hand-held
77 electronic immobilization device on her or his person under any
78 circumstances, except while escorting a facility resident
79 outside the secure perimeter of the facility or as an authorized
80 response to an incident within the facility that threatens the
81 safety or security of staff or residents. Hand-held electronic
82 immobilization devices are used only while escorting a confined
83 person outside the secure perimeter of the facility.
84 Circumstances under which reasonable force may be employed

HB 7109

2007

85 include:

86 (a) Defending oneself against imminent use of unlawful
87 force;

88 (b) Preventing the escape of a person confined at the
89 secure facility;

90 (c) Preventing damage to property;

91 (d) Quelling a disturbance; or

92 (e) Overcoming physical resistance to a lawful command.

93 (2) Following any use of force, each person who was
94 physically involved shall receive a medical examination by a
95 qualified health care provider, unless the person refuses such
96 examination, to determine the extent of injury, if any. The
97 examining health care provider shall prepare a report that
98 includes, but need not be limited to, a statement of whether
99 further examination by a physician is necessary. Any noticeable
100 physical injury shall be examined by a physician who shall
101 prepare a report documenting the extent and cause of the injury
102 and the treatment prescribed. Such report shall be completed
103 within 5 working days after the incident and shall be submitted
104 to the facility superintendent for investigation as appropriate.

105 (3) Each person who applied physical force or was
106 responsible for making the decision to apply physical force upon
107 a confined person shall prepare, date, and sign an independent
108 report within 3 working days after the incident. The report
109 shall be delivered to the facility superintendent who shall
110 conduct an investigation and shall determine whether force was
111 appropriately used. Copies of the report and the facility
112 superintendent's evaluation shall be kept in the resident's

HB 7109

2007

113 file. A record of each incident involving an employee's use of
 114 force and the facility superintendent's evaluation shall be kept
 115 in the employee's file.

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

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

121 (b) Commits a battery or inflicts cruel or inhuman
 122 treatment by neglect or otherwise, and, in so doing, causes
 123 great bodily harm, permanent disability, or permanent
 124 disfigurement to a person confined in the facility commits a
 125 felony of the third degree, punishable as provided in s.
 126 775.082, s. 775.083, or s. 775.084.

127 Section 4. Subsection (12) of section 916.106, Florida
 128 Statutes, is amended to read:

129 916.106 Definitions.--For the purposes of this chapter,
 130 the term:

131 (12) "Institutional security personnel" means the staff of
 132 forensic facilities who meet or exceed the requirements of s.
 133 943.13 and who are responsible for providing security,
 134 protecting clients and personnel, enforcing rules, preventing
 135 and investigating unauthorized activities, and safeguarding the
 136 interests of citizens in the surrounding communities. The
 137 department, the agency, or an entity contracted to operate a
 138 forensic facility is considered an "employing agency" within the
 139 meaning of s. 943.10(4) and is expressly authorized to employ
 140 certified correctional officers as institutional security

HB 7109

2007

141 personnel. This authority applies to all certified correctional
142 officers employed in such capacity since January 1, 1974.

143 Section 5. Section 921.245, Florida Statutes, is created
144 to read:

145 921.245 Felony judgments; sexually motivated
146 offenses.--The judgment entered in each felony offense in which
147 the record demonstrates sexual motivation must identify the
148 offense as involving sexual motivation.

149 Section 6. This act shall take effect upon becoming a law.