

By Senator Storms

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1 A bill to be entitled
2 An act relating to sexually violent predators;
3 amending s. 394.912, F.S.; clarifying the definition
4 of the term "sexually violent offense" to include a
5 felony criminal act that has been determined beyond a
6 reasonable doubt to have been sexually motivated;
7 amending s. 394.913, F.S.; requiring the Department of
8 Children and Family Services to prioritize the
9 assessment of certain offenders for whom written
10 assessments and recommendations have not been
11 completed within a specified period; amending s.
12 394.9135, F.S.; revising the period within which the
13 department's multidisciplinary team is required to
14 provide an assessment to the state attorney regarding
15 certain offenders and file a petition with the circuit
16 court alleging that an offender is a sexually violent
17 predator; providing an effective date.

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

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21 Section 1. Subsection (9) of section 394.912, Florida
22 Statutes, is amended to read:

23 394.912 Definitions.—As used in this part, the term:

24 (9) "Sexually violent offense" means:

25 (a) Murder of a human being while engaged in sexual battery
26 in violation of s. 782.04(1)(a)2.;

27 (b) Kidnapping of a child under the age of 13 and, in the
28 course of that offense, committing:

29 1. Sexual battery; or

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30 2. A lewd, lascivious, or indecent assault or act upon or
31 in the presence of the child;

32 (c) Committing the offense of false imprisonment upon a
33 child under the age of 13 and, in the course of that offense,
34 committing:

35 1. Sexual battery; or

36 2. A lewd, lascivious, or indecent assault or act upon or
37 in the presence of the child;

38 (d) Sexual battery in violation of s. 794.011;

39 (e) Lewd, lascivious, or indecent assault or act upon or in
40 presence of the child in violation of s. 800.04 or s.
41 847.0135(5);

42 (f) An attempt, criminal solicitation, or conspiracy, in
43 violation of s. 777.04, of a sexually violent offense;

44 (g) Any conviction for a felony offense in effect at any
45 time before October 1, 1998, which is comparable to a sexually
46 violent offense under paragraphs (a)-(f) or any federal
47 conviction or conviction in another state for a felony offense
48 that in this state would be a sexually violent offense; or

49 (h) Any felony criminal act that, either at the time of
50 sentencing for the offense or subsequently during civil
51 commitment proceedings under this part, has been determined
52 beyond a reasonable doubt to have been sexually motivated.

53 Section 2. Paragraph (e) of subsection (3) of section
54 394.913, Florida Statutes, is amended to read:

55 394.913 Notice to state attorney and multidisciplinary team
56 of release of sexually violent predator; establishing
57 multidisciplinary teams; information to be provided to
58 multidisciplinary teams.-

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(3)

(e)1. Within 180 days after receiving notice, there shall be a written assessment as to whether the person meets the definition of a sexually violent predator and a written recommendation, which shall be provided to the state attorney. The written recommendation shall be provided by the Department of Children and Family Services and shall include the written report of the multidisciplinary team.

2. The timeframes in this section notwithstanding, when there are individuals for whom the written assessment and recommendation have not been completed by 365 days before their release from total confinement, the department shall prioritize the assessment of those individuals based on their release date.

Section 3. Subsections (2) and (3) of section 394.9135, Florida Statutes, are amended to read:

394.9135 Immediate releases from total confinement; transfer of person to department; time limitations on assessment, notification, and filing petition to hold in custody; filing petition after release.—

(2) Within 72 hours after transfer, the multidisciplinary team shall assess whether the person meets the definition of a sexually violent predator. If the multidisciplinary team determines that the person does not meet the definition of a sexually violent predator, that person shall be immediately released. If the multidisciplinary team determines that the person meets the definition of a sexually violent predator, the team shall provide the state attorney, as designated by s. 394.913, with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends after 5 p.m.

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88 on a work day or on a weekend or holiday, within the next
89 working day thereafter.

90 (3) Within 48 hours after receipt of the written assessment
91 and recommendation from the multidisciplinary team, the state
92 attorney, as designated in s. 394.913, may file a petition with
93 the circuit court alleging that the person is a sexually violent
94 predator and stating facts sufficient to support such
95 allegation. If a petition is not filed within 48 hours after
96 receipt of the written assessment and recommendation by the
97 state attorney, the person shall be immediately released, except
98 that if the 48-hour period ends after 5 p.m. on a work day or on
99 a weekend or holiday, the petition may be filed on the next work
100 day without resulting in the person's release. If a petition is
101 filed pursuant to this section and the judge determines that
102 there is probable cause to believe that the person is a sexually
103 violent predator, the judge shall order the person be maintained
104 in custody and held in an appropriate secure facility for
105 further proceedings in accordance with this part.

106 Section 4. This act shall take effect July 1, 2010.