

HB 1097

2012

1 A bill to be entitled
2 An act relating to sexually violent predators;
3 amending s. 394.912, F.S.; limiting the definition of
4 the term "sexually violent offense," for purposes of
5 sexually violent predator provisions, to felony
6 offenses; amending s. 394.913, F.S.; providing for
7 prioritization of written assessment and
8 recommendation for a person scheduled or up for review
9 for release when the assessment and recommendation
10 have not been completed within a specified period;
11 amending s. 394.9135, F.S.; revising provisions
12 relating to petitions to hold a person in custody
13 following release and transfer to the Department of
14 Children and Family Services to provide for extension
15 of certain time periods that expire after normal
16 business hours; amending s. 394.917, F.S.; deleting an
17 exception for detainers for deportation by the United
18 States Bureau of Citizenship and Immigration Services
19 to provisions requiring sexually violent predators to
20 be committed to the custody of the Department of
21 Children and Family Services upon the expiration of
22 the incarcerative portion of all criminal sentences
23 and disposition of any detainers; creating s.
24 394.9265, F.S.; prohibiting the knowing and
25 intentional bringing of contraband into or its removal
26 from the grounds of any facility for commitment or
27 detention of sexually violent predators; specifying

HB 1097

2012

28 | items that constitute contraband; providing criminal
 29 | penalties for violations; providing an effective date.
 30 |

31 | Be It Enacted by the Legislature of the State of Florida:
 32 |

33 | Section 1. Paragraph (h) of subsection (9) of section
 34 | 394.912, Florida Statutes, is amended to read:

35 | 394.912 Definitions.—As used in this part, the term:

36 | (9) "Sexually violent offense" means:

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

41 | Section 2. Subsection (1) of section 394.913, Florida
 42 | Statutes, is amended to read:

43 | 394.913 Notice to state attorney and multidisciplinary
 44 | team of release of sexually violent predator; establishing
 45 | multidisciplinary teams; information to be provided to
 46 | multidisciplinary teams.—

47 | (1) The agency with jurisdiction over a person who has
 48 | been convicted of a sexually violent offense shall give written
 49 | notice to the multidisciplinary team, and a copy to the state
 50 | attorney of the circuit where that person was last convicted of
 51 | a sexually violent offense. If the person has never been
 52 | convicted of a sexually violent offense in this state but has
 53 | been convicted of a sexually violent offense in another state or
 54 | in federal court, the agency with jurisdiction shall give
 55 | written notice to the multidisciplinary team and a copy to the

HB 1097

2012

56 state attorney of the circuit where the person was last
57 convicted of any offense in this state. If the person is being
58 confined in this state pursuant to interstate compact and has a
59 prior or current conviction for a sexually violent offense, the
60 agency with jurisdiction shall give written notice to the
61 multidisciplinary team and a copy to the state attorney of the
62 circuit where the person plans to reside upon release or, if no
63 residence in this state is planned, the state attorney in the
64 circuit where the facility from which the person to be released
65 is located.

66 (a) Except as provided in s. 394.9135, the written notice
67 must be given:

68 1.~~(a)~~ At least 545 days prior to the anticipated release
69 from total confinement of a person serving a sentence in the
70 custody of the Department of Corrections, except that in the
71 case of persons who are totally confined for a period of less
72 than 545 days, written notice must be given as soon as
73 practicable;

74 2.~~(b)~~ At least 180 days prior to the anticipated release
75 from residential commitment of a person committed to the custody
76 of the Department of Juvenile Justice, except that in the case
77 of persons who are committed to low or moderate risk, written
78 notice must be given as soon as practicable; or

79 3.~~(c)~~ At least 180 days prior to the anticipated hearing
80 regarding possible release of a person committed to the custody
81 of the department who has been found not guilty by reason of
82 insanity or mental incapacity of a sexually violent offense.

HB 1097

2012

83 (b) Notwithstanding paragraph (a), in the case of a person
84 for whom the written assessment and recommendation has not been
85 completed at least 365 days prior to his or her release from
86 total confinement, the department shall prioritize the
87 assessment of that person based upon the person's release date.

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

90 394.9135 Immediate releases from total confinement;
91 transfer of person to department; time limitations on
92 assessment, notification, and filing petition to hold in
93 custody; filing petition after release.—

94 (2) Within 72 hours after transfer, the multidisciplinary
95 team shall assess whether the person meets the definition of a
96 sexually violent predator. If the multidisciplinary team
97 determines that the person does not meet the definition of a
98 sexually violent predator, that person shall be immediately
99 released. If the multidisciplinary team determines that the
100 person meets the definition of a sexually violent predator, the
101 team shall provide the state attorney, as designated by s.
102 394.913, with its written assessment and recommendation within
103 the 72-hour period or, if the 72-hour period ends after 5 p.m.
104 on a working day or on a weekend or holiday, within the next
105 working day thereafter.

106 (3) Within 48 hours after receipt of the written
107 assessment and recommendation from the multidisciplinary team,
108 the state attorney, as designated in s. 394.913, may file a
109 petition with the circuit court alleging that the person is a
110 sexually violent predator and stating facts sufficient to

HB 1097

2012

111 support such allegation. If a petition is not filed within 48
 112 hours after receipt of the written assessment and recommendation
 113 by the state attorney, the person shall be immediately released,
 114 except that, if the 48-hour period ends after 5 p.m. on a
 115 working day or on a weekend or holiday, the petition may be
 116 filed on the next working day without resulting in the person's
 117 release. If a petition is filed pursuant to this section and the
 118 judge determines that there is probable cause to believe that
 119 the person is a sexually violent predator, the judge shall order
 120 the person be maintained in custody and held in an appropriate
 121 secure facility for further proceedings in accordance with this
 122 part.

123 Section 4. Subsection (2) of section 394.917, Florida
 124 Statutes, is amended to read:

125 394.917 Determination; commitment procedure; mistrials;
 126 housing; counsel and costs in indigent appellate cases.—

127 (2) If the court or jury determines that the person is a
 128 sexually violent predator, upon the expiration of the
 129 incarcerative portion of all criminal sentences and disposition
 130 of any detainers ~~other than detainers for deportation by the~~
 131 ~~United States Bureau of Citizenship and Immigration Services,~~
 132 the person shall be committed to the custody of the Department
 133 of Children and Family Services for control, care, and treatment
 134 until such time as the person's mental abnormality or
 135 personality disorder has so changed that it is safe for the
 136 person to be at large. At all times, persons who are detained or
 137 committed under this part shall be kept in a secure facility
 138 segregated from patients of the department who are not detained

HB 1097

2012

139 or committed under this part.

140 Section 5. Section 394.9265, Florida Statutes, is created
 141 to read:

142 394.9265 Introduction or removal of certain articles
 143 unlawful; penalty.-

144 (1) Except as authorized by law, it is unlawful to
 145 knowingly and intentionally bring into any facility providing
 146 secure confinement and treatment under this part, or to take or
 147 attempt to take or send therefrom, any of the following
 148 articles:

149 (a) Any intoxicating beverage or beverage that causes or
 150 may cause an intoxicating effect;

151 (b) Any controlled substance as defined in chapter 893; or

152 (c) Any firearm or weapon.

153 (2) A person who violates this section commits a felony of
 154 the third degree, punishable as provided in s. 775.082, s.
 155 775.083, or s. 775.084.

156 Section 6. This act shall take effect July 1, 2012.