

By the Committees on Children, Families, and Elder Affairs; and  
Children, Families, and Elder Affairs

586-02386-12

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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 only  
5           a felony criminal act that has been determined beyond  
6           a reasonable doubt to have been sexually motivated;  
7           amending s. 394.913, F.S.; requiring that the  
8           Department of Children and Family Services give  
9           priority to the assessment of persons who will be  
10          released from total confinement at the earliest date  
11          under certain circumstances; amending s. 394.9135,  
12          F.S.; revising the period within which the  
13          department's multidisciplinary team is required to  
14          provide an assessment to the state attorney; revising  
15          the period within which the state attorney may file a  
16          petition with the circuit court alleging that an  
17          offender is a sexually violent predator; amending s.  
18          394.917, F.S.; deleting a provision relating to the  
19          deportation of a sexually violent predator; creating  
20          s. 394.933, F.S.; prohibiting the introduction or  
21          attempted introduction of certain items into any  
22          facility for the detention of sexually violent  
23          predators; prohibiting the transmission or attempted  
24          transmission of prohibited items to a person  
25          incarcerated in the facility; providing that a person  
26          or vehicle entering the grounds of the facility is  
27          subject to reasonable search for and seizure of  
28          prohibited items; subjecting a person to criminal  
29          penalties for introducing or attempting to introduce a

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30 prohibited item on the grounds of a facility for the  
31 detention of sexually violent predators; creating the  
32 Statewide Workgroup on the Conditional Release of  
33 Sexually Violent Predators; providing that the  
34 workgroup is created for the purposes of assessing the  
35 appropriateness of placing sexually violent predators  
36 on conditional release in the community and, based  
37 upon its assessment, making policy recommendations to  
38 the Governor and the Legislature; providing for  
39 membership on the workgroup; providing for the payment  
40 of per diem and travel expenses; requiring the  
41 Department of Children and Family Services to provide  
42 support to the workgroup; requiring the workgroup to  
43 hold its organizational meeting by a specified date;  
44 describing the duties and responsibilities of the  
45 workgroup; requiring the workgroup to submit its  
46 report to the Governor, the President of the Senate,  
47 and the Speaker of the House of Representatives by a  
48 specified date; providing an effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Subsection (9) of section 394.912, Florida  
53 Statutes, is amended to read:

54 394.912 Definitions.—As used in this part, the term:

55 (9) "Sexually violent offense" means:

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

58 (b) Kidnapping of a child under the age of 13 and, in the

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59 course of that offense, committing:

60 1. Sexual battery; or

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

63 (c) Committing the offense of false imprisonment upon a  
64 child under the age of 13 and, in the course of that offense,  
65 committing:

66 1. Sexual battery; or

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

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

70 (e) Lewd, lascivious, or indecent assault or act upon or in  
71 presence of the child in violation of s. 800.04 or s.  
72 847.0135(5);

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

75 (g) Any conviction for a felony offense in effect at any  
76 time before October 1, 1998, which is comparable to a sexually  
77 violent offense under paragraphs (a)-(f) or any federal  
78 conviction or conviction in another state for a felony offense  
79 that in this state would be a sexually violent offense; or

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

84 Section 2. Paragraph (e) of subsection (3) of section  
85 394.913, Florida Statutes, is amended to read:

86 394.913 Notice to state attorney and multidisciplinary team  
87 of release of sexually violent predator; establishing

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88 multidisciplinary teams; information to be provided to  
89 multidisciplinary teams.-

90 (3)

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

98 2. Notwithstanding the timeframes in this section, if the  
99 written assessment and recommendation have not been completed  
100 for more than one person who will be released from total  
101 confinement in less than 365 days, the department shall give  
102 priority to the assessment of the person who will be released at  
103 the earliest date.

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

106 394.9135 Immediate releases from total confinement;  
107 transfer of person to department; time limitations on  
108 assessment, notification, and filing petition to hold in  
109 custody; filing petition after release.-

110 (2) Within 72 hours after transfer, the multidisciplinary  
111 team shall assess whether the person meets the definition of a  
112 sexually violent predator. If the multidisciplinary team  
113 determines that the person does not meet the definition of a  
114 sexually violent predator, that person shall be immediately  
115 released. If the multidisciplinary team determines that the  
116 person meets the definition of a sexually violent predator, the

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117 team shall provide the state attorney, as designated by s.  
118 394.913, with its written assessment and recommendation within  
119 the 72-hour period or, if the 72-hour period ends after 5 p.m.  
120 on a work day or on a weekend or holiday, within the next  
121 working day thereafter.

122 (3) ~~Within 48 hours after receipt of the written assessment~~  
123 ~~and recommendation from the multidisciplinary team,~~ The state  
124 attorney, as designated in s. 394.913, may file a petition with  
125 the circuit court alleging that the person is a sexually violent  
126 predator and stating facts sufficient to support such allegation  
127 within 48 hours after receipt of the written assessment and  
128 recommendation from the multidisciplinary team or by 5 p.m. of  
129 the next work day if the 48-hour period ends after 5 p.m. on a  
130 work day or on a weekend or holiday. If a petition is not timely  
131 filed ~~within 48 hours~~ after receipt of the written assessment  
132 and recommendation by the state attorney, the person shall be  
133 immediately released. If a petition is filed pursuant to this  
134 section and the judge determines that there is probable cause to  
135 believe that the person is a sexually violent predator, the  
136 judge shall order the person be maintained in custody and held  
137 in an appropriate secure facility for further proceedings in  
138 accordance with this part.

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

141 394.917 Determination; commitment procedure; mistrials;  
142 housing; counsel and costs in indigent appellate cases.—

143 (2) If the court or jury determines that the person is a  
144 sexually violent predator, upon the expiration of the  
145 incarcerative portion of all criminal sentences and disposition

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146 of any detainers ~~other than detainers for deportation by the~~  
147 ~~United States Bureau of Citizenship and Immigration Services,~~  
148 the person shall be committed to the custody of the Department  
149 of Children and Family Services for control, care, and treatment  
150 until such time as the person's mental abnormality or  
151 personality disorder has so changed that it is safe for the  
152 person to be at large. At all times, persons who are detained or  
153 committed under this part shall be kept in a secure facility  
154 segregated from patients of the department who are not detained  
155 or committed under this part.

156 Section 5. Section 394.933, Florida Statutes, is created to  
157 read:

158 394.933 Introduction or removal of certain articles  
159 unlawful; penalty.—

160 (1) (a) Except as authorized by law or as specifically  
161 authorized by the person in charge of a facility, a person may  
162 not introduce into any facility for commitment or detention of  
163 sexually violent predators under this part, or take or attempt  
164 to take or send therefrom, any of the following articles, which  
165 are declared to be contraband for the purposes of this section:

166 1. An intoxicating beverage or a beverage that causes or  
167 may cause an intoxicating effect;

168 2. A controlled substance as defined in chapter 893;

169 3. A firearm or deadly weapon; or

170 4. Any other item designated by written facility policy to  
171 be hazardous to the welfare of clients or staff or to the  
172 operation of the facility.

173 (b) A person may not transmit to, attempt to transmit to,  
174 or cause or attempt to cause to be transmitted to or received by

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175 any client of any facility under the supervision or control of  
176 the department or agency any article or thing declared by this  
177 section to be contraband, at any place that is outside the  
178 grounds of such facility, except as authorized by law or as  
179 specifically authorized by the person in charge of the facility.

180 (2) (a) An individual or vehicle entering the grounds of any  
181 facility to which this section applies is subject to reasonable  
182 search and seizure of any contraband materials introduced into  
183 or upon the grounds of such facility for the purpose of  
184 enforcing this section. This paragraph shall be enforced by  
185 institutional security personnel or by a law enforcement officer  
186 as defined in s. 943.10.

187 (b) A person who violates subsection (1) commits a felony  
188 of the third degree, punishable as provided in s. 775.082, s.  
189 775.083, or s. 775.084.

190 Section 6. Statewide Workgroup on the Conditional Release  
191 of Sexually Violent Predators.-

192 (1) The Statewide Workgroup on the Conditional Release of  
193 Sexually Violent Predators is created.

194 (2) The workgroup is created for the purposes of assessing  
195 the appropriateness of placing sexually violent predators on  
196 conditional release and, based upon its assessment, making  
197 policy recommendations to the Governor and the Legislature.

198 (a) The workgroup shall consist of five members, including:

199 1. A representative of the Department of Children and  
200 Family Services who shall be appointed by the secretary of the  
201 department.

202 2. A representative of the Department of Corrections who  
203 shall be appointed by the secretary of the department.

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204 3. A representative from the Florida Prosecuting Attorneys  
205 Association.

206 4. A representative from the Florida Public Defender  
207 Association.

208 5. A representative from the Florida Association for the  
209 Treatment of Sexual Abusers.

210 6. A representative from the Florida Parole Commission.

211 (b) The workgroup shall elect a chair from among its  
212 members.

213 (c) Members of the workgroup shall serve without  
214 compensation, but are entitled to receive reimbursement for per  
215 diem and travel expenses pursuant to s. 112.061, Florida  
216 Statutes, for their actual and necessary expenses incurred in  
217 the performance of their duties.

218 (d) The Department of Children and Family Services shall  
219 provide the workgroup with staff support necessary to assist the  
220 workgroup in the performance of its duties.

221 (3) The workgroup shall hold its organizational session by  
222 August 1, 2012. Thereafter, the workgroup shall meet at least  
223 four times. Additional meetings may be held at the request of  
224 the chair. A majority of the members of the workgroup  
225 constitutes a quorum.

226 (4) The workgroup shall:

227 (a) Collect and organize data concerning the practice of  
228 placing sexually violent predators on conditional release in  
229 this state;

230 (b) Identify issues related to the use of conditional  
231 release in this state;

232 (c) Identify the procedures, if any, used by other states



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233 to release sexually violent predators into the community and the  
234 attendant issue of supervising sexually violent predators while  
235 in the community;

236 (d) Ascertain the costs of monitoring sexually violent  
237 predators in the community; and

238 (e) Prepare policy recommendations for presentation to the  
239 Governor and the Legislature regarding the conditional release  
240 of sexually violent predators.

241 (5) The workgroup shall complete its work by December 1,  
242 2012, and submit its report and recommendations to the Governor,  
243 the President of the Senate, and the Speaker of the House of  
244 Representatives by February 1, 2013.

245 Section 7. This act shall take effect July 1, 2012.