

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-00886B-12

20127162

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; providing an
32 effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

35
36 Section 1. Subsection (9) of section 394.912, Florida
37 Statutes, is amended to read:

38 394.912 Definitions.—As used in this part, the term:

39 (9) "Sexually violent offense" means:

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

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

44 1. Sexual battery; or

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

47 (c) Committing the offense of false imprisonment upon a
48 child under the age of 13 and, in the course of that offense,
49 committing:

50 1. Sexual battery; or

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

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

54 (e) Lewd, lascivious, or indecent assault or act upon or in
55 presence of the child in violation of s. 800.04 or s.
56 847.0135(5);

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

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59 (g) Any conviction for a felony offense in effect at any
60 time before October 1, 1998, which is comparable to a sexually
61 violent offense under paragraphs (a)-(f) or any federal
62 conviction or conviction in another state for a felony offense
63 that in this state would be a sexually violent offense; or

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

68 Section 2. Paragraph (e) of subsection (3) of section
69 394.913, Florida Statutes, is amended to read:

70 394.913 Notice to state attorney and multidisciplinary team
71 of release of sexually violent predator; establishing
72 multidisciplinary teams; information to be provided to
73 multidisciplinary teams.-

74 (3)

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

82 2. Notwithstanding the timeframes in this section, if the
83 written assessment and recommendation has not been completed for
84 more than one person who will be released from total confinement
85 in less than 365 days, the department shall give priority to the
86 assessment of the person who will be released at the earliest
87 date.

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

106 (3) ~~Within 48 hours after receipt of the written assessment~~
107 ~~and recommendation from the multidisciplinary team,~~ The state
108 attorney, as designated in s. 394.913, may file a petition with
109 the circuit court alleging that the person is a sexually violent
110 predator and stating facts sufficient to support such allegation
111 within 48 hours after receipt of the written assessment and
112 recommendation from the multidisciplinary team or by 5 p.m. of
113 the next work day if the 48-hour period ends after 5 p.m. on a
114 work day or on a weekend or holiday. If a petition is not timely
115 filed ~~within 48 hours~~ after receipt of the written assessment
116 and recommendation by the state attorney, the person shall be

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117 immediately released. If a petition is filed pursuant to this
118 section and the judge determines that there is probable cause to
119 believe that the person is a sexually violent predator, the
120 judge shall order the person be maintained in custody and held
121 in an appropriate secure facility for further proceedings in
122 accordance with this 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
139 or committed under this part.

140 Section 5. Section 394.933, Florida Statutes, is created to
141 read:

142 394.933 Introduction or removal of certain articles
143 unlawful; penalty.—

144 (1) (a) Except as authorized by law or as specifically
145 authorized by the person in charge of a facility, a person may

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146 not introduce into any facility for commitment or detention of
147 sexually violent predators under this part, or take or attempt
148 to take or send therefrom, any of the following articles, which
149 are declared to be contraband for the purposes of this section:

150 1. An intoxicating beverage or beverage that causes or may
151 cause an intoxicating effect;

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

153 3. A firearm or deadly weapon; or

154 4. Any other item designated by written facility policy to
155 be hazardous to the welfare of clients or staff or to the
156 operation of the facility.

157 (b) A person may not transmit to, attempt to transmit to,
158 or cause or attempt to cause to be transmitted to or received by
159 any client of any facility under the supervision or control of
160 the department or agency any article or thing declared by this
161 section to be contraband, at any place that is outside the
162 grounds of such facility, except as authorized by law or as
163 specifically authorized by the person in charge of the facility.

164 (2) (a) An individual or vehicle entering the grounds of any
165 facility to which this section applies is subject to reasonable
166 search and seizure of any contraband materials introduced into
167 or upon the grounds of such facility for the purpose of
168 enforcing this section. This paragraph shall be enforced by
169 institutional security personnel or by a law enforcement officer
170 as defined in s. 943.10.

171 (b) A person who violates subsection (1) commits a felony
172 of the third degree, punishable as provided in s. 775.082, s.
173 775.083, or s. 775.084.

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