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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1), (3), (7), and (11) of section 394.912, Florida Statutes, are amended, and paragraph (i) is added to subsection (9) of that section, to read:

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



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10 (1) "Agency with jurisdiction" means the entity ~~agency~~ that
11 releases, upon lawful order or authority, a person who is
12 serving a sentence in the custody of the Department of
13 Corrections, a person who was adjudicated delinquent and is
14 committed to the custody of the Department of Juvenile Justice,
15 ~~or~~ a person who was involuntarily committed to the custody of
16 the Department of Children and Families ~~Family Services~~ upon an
17 adjudication of not guilty by reason of insanity, or a person
18 who is serving a sentence in a county or municipal jail for a
19 sexually violent offense as defined in paragraph (9) (i).

20 (3) "Department" means the Department of Children and
21 Families ~~Family Services~~.

22 (7) "Secretary" means the secretary of the Department of
23 Children and Families ~~Family Services~~.

24 (9) "Sexually violent offense" means:

25 (i) A criminal offense in which the state attorney refers a
26 person to the department for civil commitment proceedings
27 pursuant to s. 394.9125.

28 (11) "Total confinement" means that the person is currently
29 being held in any physically secure facility being operated or
30 contractually operated for the Department of Corrections, the
31 Department of Juvenile Justice, or the Department of Children
32 and Families ~~Family Services~~. A person shall also be deemed to
33 be in total confinement for applicability of provisions under
34 this part if:

35 (a) The person is serving an incarcerative sentence under
36 the custody of the Department of Corrections or the Department
37 of Juvenile Justice and is being held in any other secure
38 facility for any reason;



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39 (b) The person is serving a sentence in a county or
40 municipal jail for a sexually violent offense as defined in
41 paragraph (9)(i); or

42 (c) A court or the agency with jurisdiction determines that
43 the person who is being held should have been lawfully released
44 at an earlier date and that the provisions of this part would
45 have been applicable to the person on the date that he or she
46 should have been lawfully released.

47 Section 2. Section 394.9125, Florida Statutes, is created
48 to read:

49 394.9125 State attorney; authority to refer a person for
50 civil commitment.-

51 (1) A state attorney shall refer a person to the department
52 for civil commitment proceedings if:

53 (a) The state attorney receives an arrest alert on the
54 person pursuant to s. 394.926(3); and

55 (b) The person is subsequently sentenced to a term of
56 imprisonment in a county or municipal jail for any criminal
57 offense.

58 (2) A state attorney may refer a person to the department
59 for civil commitment proceedings if the person:

60 (a) Is required to register as a sexual offender pursuant
61 to s. 943.0435;

62 (b) Has previously been convicted of a sexually violent
63 offense as defined in s. 394.912(9)(a)-(h); and

64 (c) Has been sentenced to a term of imprisonment in a
65 county or municipal jail for any criminal offense.

66 (3) A state attorney who refers a person for civil
67 commitment pursuant to subsection (1) or subsection (2) shall



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68 notify the county or municipal jail to which the person has been
69 sentenced within 24 hours after the referral is made.

70 (4) (a) If a person is sentenced to a term of imprisonment
71 in a county or municipal jail but is not subsequently totally
72 confined in the jail due to receiving credit for time served,
73 the state attorney may file a petition with the circuit court
74 within 120 hours after such person's sentencing proceeding
75 requesting the court to order such person into the department's
76 custody for purposes of initiating civil commitment proceedings.

77 (b) If the judge determines that there is probable cause to
78 believe that the person should have been referred to the
79 department pursuant to subsection (1) or subsection (2) but that
80 the referral was not made because the person was not totally
81 confined in a county or municipal jail due to receiving credit
82 for time served, the judge shall order that the person be taken
83 into custody and delivered to the custody of the department for
84 civil commitment proceedings.

85 Section 3. Section 394.913, Florida Statutes, is amended to
86 read:

87 394.913 Notice to state attorney and multidisciplinary team
88 of release of sexually violent predator; establishing
89 multidisciplinary teams; information to be provided to
90 multidisciplinary teams.-

91 (1) The agency with jurisdiction over a person who has been
92 convicted of a sexually violent offense shall give written
93 notice to the multidisciplinary team, and shall provide a copy
94 of the notice to the state attorney of the circuit in which
95 ~~where~~ that person was last convicted of a sexually violent
96 offense. If the person has never been convicted of a sexually



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97 violent offense in this state but has been convicted of a
98 sexually violent offense in another state or in federal court,
99 the agency with jurisdiction shall give written notice to the
100 multidisciplinary team and a copy to the state attorney of the
101 circuit in which ~~where~~ the person was last convicted of any
102 offense in this state. If the person is being confined in this
103 state pursuant to interstate compact and has a prior or current
104 conviction for a sexually violent offense, the agency with
105 jurisdiction shall give written notice to the multidisciplinary
106 team and shall provide a copy to the state attorney of the
107 circuit in which ~~where~~ the person plans to reside upon release
108 or, if no residence in this state is planned, the state attorney
109 in the circuit in which ~~where~~ the facility from which the person
110 to be released is located. Except as provided in s. 394.9135,
111 the written notice must be given:

112 (a) At least 545 days before ~~prior to~~ the anticipated
113 release from total confinement of a person serving a sentence in
114 the custody of the Department of Corrections, except that in the
115 case of a person ~~persons~~ who is ~~are~~ totally confined for a
116 period of less than 545 days, written notice must be given as
117 soon as practicable;

118 (b) At least 180 days before ~~prior to~~ the anticipated
119 release from residential commitment of a person committed to the
120 custody of the Department of Juvenile Justice, except that in
121 the case of a person ~~persons~~ who is ~~are~~ committed to a low or
122 moderate risk facility, written notice must be given as soon as
123 practicable; ~~or~~

124 (c) At least 180 days before ~~prior to~~ the anticipated
125 hearing regarding possible release of a person committed to the



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126 custody of the department who has been found not guilty by
127 reason of insanity or mental incapacity of a sexually violent
128 offense; or-

129 (d) At least 180 days before the anticipated release from
130 total confinement of a person serving a sentence in a county or
131 municipal jail, except that in the case of a person who is
132 totally confined for a period of less than 180 days, written
133 notice must be given as soon as practicable.

134 (2) The agency having jurisdiction shall provide the
135 multidisciplinary team with the following information:

136 (a) The person's name; identifying characteristics;
137 anticipated future residence; the type of supervision the person
138 will receive in the community, if any; and the person's offense
139 history;

140 (b) The person's criminal history, including police
141 reports, victim statements, presentence investigation reports,
142 postsentence investigation reports, if available, and any other
143 documents containing facts of the person's criminal incidents or
144 indicating whether the criminal incidents included sexual acts
145 or were sexually motivated;

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

148 (d) Documentation of institutional adjustment and any
149 treatment received and, in the case of an adjudicated delinquent
150 committed to the Department of Juvenile Justice, copies of the
151 most recent performance plan and performance summary; and

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



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155 (3) (a) The secretary or his or her designee shall establish
156 a multidisciplinary team or teams.

157 (b) Each team shall include, but need ~~is~~ not be limited to,
158 two licensed psychiatrists or psychologists or one licensed
159 psychiatrist and one licensed psychologist.

160 (c) The multidisciplinary team shall assess and evaluate
161 each person referred to the team. The assessment and evaluation
162 must ~~shall~~ include a review of the person's institutional
163 history and treatment record, if any, the person's criminal
164 background, and any other factor that is relevant to the
165 determination of whether the ~~such~~ person is a sexually violent
166 predator.

167 (d) The multidisciplinary team may consult with law
168 enforcement agencies and victim advocate groups during the
169 assessment and evaluation process. A clinical evaluation of the
170 person may be conducted. A second clinical evaluation must be
171 conducted if a member of the multidisciplinary team questions
172 the conclusion of the first clinical evaluation. All members of
173 the multidisciplinary team shall review, at a minimum, the
174 information provided in subsection (2) and any clinical
175 evaluation before making a recommendation pursuant to paragraph
176 (f).

177 (e) ~~(e)~~ Before recommending that a person meets the
178 definition of a sexually violent predator, the person must be
179 offered a personal interview. If the person agrees to
180 participate in a personal interview, at least one member of the
181 team who is a licensed psychiatrist or psychologist must conduct
182 a personal interview of the person. If the person refuses to
183 fully participate in a personal interview, the multidisciplinary



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184 team may proceed with its recommendation without the a personal
185 interview of the person.

186 (f) After all clinical evaluations have been completed, the
187 department shall provide to the state attorney a written
188 assessment and recommendation as to whether the person meets the
189 definition of a sexually violent predator.

190 1. The department must recommend that the state attorney
191 file a petition for civil commitment if at least two members of
192 the multidisciplinary team determine that the person meets the
193 definition of a sexually violent predator.

194 2. When the department determines that a person who has
195 received a clinical evaluation does or does not meet the
196 definition of a sexually violent predator, the written
197 assessment and recommendation shall be sent to the state
198 attorney. If the state attorney questions, in writing, the
199 determination that the person does or does not meet the
200 definition of a sexually violent predator, the multidisciplinary
201 team must reexamine the case before a final written assessment
202 and recommendation is provided to the state attorney.

203 (g) ~~(d)~~ The Attorney General's Office shall serve as legal
204 counsel to the multidisciplinary team.

205 (h) ~~(e)~~ 1. After all clinical evaluations have been
206 completed, but at least 1 month before the person's scheduled
207 release date, if the referral date is at least 90 days before
208 the person's expiration of sentence, the multidisciplinary team
209 shall provide to the state attorney ~~Within 180 days after~~
210 receiving notice, there shall be a written assessment and
211 recommendation as to whether the person meets the definition of
212 a sexually violent predator and a written recommendation, which



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213 ~~shall be provided to the state attorney. If the referral date is~~
214 ~~less than 90 days before the person's expiration of sentence,~~
215 ~~the multidisciplinary team shall provide to the state attorney a~~
216 ~~written assessment and recommendation as to whether the person~~
217 ~~meets the definition of a sexually violent predator as soon as~~
218 ~~is practicable before the person's expiration of sentence. The~~
219 ~~written recommendation shall be provided by the Department of~~
220 ~~Children and Families Family Services and must shall include the~~
221 ~~written report of the multidisciplinary team.~~

222 ~~2. Notwithstanding subparagraph 1., in the case of a person~~
223 ~~for whom the written assessment and recommendation has not been~~
224 ~~completed at least 365 days before his or her release from total~~
225 ~~confinement, the department shall prioritize the assessment of~~
226 ~~that person based upon the person's release date.~~

227 ~~(4) The multidisciplinary team shall give equal~~
228 ~~consideration in the evaluation and assessment of an offender~~
229 ~~whose sexually violent offense was an attempt, criminal~~
230 ~~solicitation, or conspiracy, in violation of s. 777.04, to~~
231 ~~commit a sexually violent offense enumerated in s. 394.912(9) as~~
232 ~~it does in the evaluation and assessment of an offender who~~
233 ~~completed such an enumerated sexually violent offense. A rule or~~
234 ~~policy may not be established which reduces the level of~~
235 ~~consideration because the sexually violent offense was an~~
236 ~~attempt, criminal solicitation, or conspiracy.~~

237 ~~(5)-(4) The provisions of This section is are not~~
238 ~~jurisdictional, and failure to comply with it them in no way~~
239 ~~prevents the state attorney from proceeding against a person~~
240 ~~otherwise subject to the provisions of this part.~~

241 Section 4. Section 394.9135, Florida Statutes, is amended



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242 to read:

243 394.9135 Immediate releases from total confinement;
244 transfer of person to department; time limitations on
245 assessment, notification, and filing petition to hold in
246 custody; filing petition after release; order into custody of
247 department after release.—

248 (1) (a) If the anticipated release from total confinement of
249 a person who has been convicted of a sexually violent offense
250 becomes immediate for any reason, the agency with jurisdiction
251 shall upon immediate release from total confinement transfer
252 that person to the custody of the department ~~of Children and~~
253 ~~Family Services~~ to be held in an appropriate secure facility.

254 (b) If a person who committed a sexually violent offense
255 and who is serving an incarcerative sentence under the custody
256 of the Department of Corrections or the Department of Juvenile
257 Justice is released from a local detention facility, the state
258 attorney, as designated in s. 394.913, may file a petition with
259 the circuit court within 120 hours after the person's release
260 alleging that:

261 1. Section 394.913 or this section requires that the person
262 be referred for consideration for civil commitment before
263 release and the person was not referred because of a mistake,
264 oversight, or intentional act; or

265 2. The person was referred for commitment consideration
266 but, through a mistake, oversight, or intentional act, was
267 released rather than transferred to the custody of the
268 Department of Children and Families as required by this part.

269
270 If the judge determines that there is probable cause to believe



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271 that the person was released in contravention of s. 394.913 or
272 this section, the judge shall order the person to be taken into
273 custody and delivered to an appropriate secure facility
274 designated by the Department of Children and Families.

275 (2) Within 72 hours after transfer pursuant to paragraph
276 (1) (a) or receipt into the department's custody pursuant to
277 paragraph (1) (b) or s. 394.9125(4), the multidisciplinary team
278 shall assess whether the person meets the definition of a
279 sexually violent predator as defined in s. 394.912. If at least
280 two members of the multidisciplinary team, after all clinical
281 evaluations have been conducted, determine ~~determines~~ that the
282 person does not meet the definition of a sexually violent
283 predator, that person shall be immediately released. If the
284 multidisciplinary team determines that the person meets the
285 definition of a sexually violent predator, the team shall
286 provide the state attorney, as designated by s. 394.913, with
287 its written assessment and recommendation within the 72-hour
288 period or, if the 72-hour period ends after 5 p.m. on a working
289 day or on a weekend or holiday, within the next working day
290 thereafter.

291 (3) Within 48 hours after receipt of the written assessment
292 and recommendation from the multidisciplinary team, the state
293 attorney, as designated in s. 394.913, may file a petition with
294 the circuit court alleging that the person is a sexually violent
295 predator and stating facts sufficient to support the ~~such~~
296 allegation. If a petition is not filed within 48 hours after
297 receipt of the written assessment and recommendation by the
298 state attorney, the person shall be immediately released, except
299 that, if the 48-hour period ends after 5 p.m. on a working day



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300 or on a weekend or holiday, the petition may be filed on the
301 next working day without resulting in the person's release. If a
302 petition is filed pursuant to this section and the judge
303 determines that there is probable cause to believe that the
304 person is a sexually violent predator, the judge shall order
305 that the person be maintained in custody and held in an
306 appropriate secure facility for further proceedings in
307 accordance with this part.

308 (4) ~~The provisions of~~ This section is ~~are~~ not
309 jurisdictional, and failure to comply with the time limitations,
310 which results in the release of a person who has been convicted
311 of a sexually violent offense, ~~is~~ not dispositive of the case
312 and does not prevent the state attorney from proceeding against
313 a person otherwise subject to ~~the provisions of~~ this part.

314 Section 5. Section 394.914, Florida Statutes, is amended to
315 read:

316 394.914 Petition; contents.—After ~~Following~~ receipt from
317 the multidisciplinary team of the written assessment and
318 positive or negative recommendation as to whether the person
319 meets the definition of a sexually violent predator ~~from the~~
320 ~~multidisciplinary team~~, the state attorney, in accordance with
321 s. 394.913, may file a petition with the circuit court alleging
322 that the person is a sexually violent predator and stating facts
323 sufficient to support such allegation. A ~~No~~ fee may not ~~shall~~ be
324 charged for the filing of a petition under this section.

325 Section 6. Subsection (3) of section 394.918, Florida
326 Statutes, is amended to read:

327 394.918 Examinations; notice; court hearings for release of
328 committed persons; burden of proof.—



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329 (3) The court shall hold a limited hearing to determine
330 whether there is probable cause to believe that the person's
331 condition has so changed that it is safe for the person to be at
332 large and that the person will not engage in acts of sexual
333 violence if discharged. The person has the right to be
334 represented by counsel at the probable cause hearing and the
335 right, but the person is not entitled to be present. Both the
336 petitioner and the respondent may present evidence that the
337 court may weigh and consider. If the court determines that there
338 is probable cause to believe it is safe to release the person,
339 the court shall set a trial before the court on the issue.

340 Section 7. Section 394.926, Florida Statutes, is amended to
341 read:

342 394.926 Notice to victims and others of release of persons
343 in the custody of the department ~~committed as sexually violent~~
344 ~~predators; notice to Department of Corrections and Parole~~
345 ~~Commission.-~~

346 (1) As soon as is practicable, the department shall give
347 written notice of the release of a person in the custody of the
348 department ~~committed as a sexually violent predator~~ to any
349 victim of the ~~committed~~ person who is alive and whose address is
350 known to the department or, if the victim is deceased, to the
351 victim's family, if the family's address is known to the
352 department. Failure to notify is not a reason for postponement
353 of release. This section does not create a cause of action
354 against the state or an employee of the state acting within the
355 scope of the employee's employment as a result of the failure to
356 notify pursuant to this part.

357 (2) If a person in the custody of the department ~~sexually~~



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358 ~~violent predator~~ who has an active or pending term of probation,
359 community control, parole, conditional release, or other court-
360 ordered or postprison release supervision is released ~~from~~
361 ~~custody~~, the department must immediately notify the Department
362 of Corrections' Office of Community Corrections in Tallahassee.
363 The Parole Commission must also be immediately notified of any
364 releases of a person ~~sexually violent predator~~ who has an active
365 or pending term of parole, conditional release, or other
366 postprison release supervision that is administered by the
367 Parole Commission.

368 (3) If a person in the custody of the department is
369 released, the department must notify the Department of Law
370 Enforcement and the sheriff of the county in which the person
371 intends to reside, or if unknown, the sheriff of the county in
372 which the person was last convicted.

373 (4) (a) The department, in conjunction with the Department
374 of Law Enforcement, shall enroll and maintain a sexually violent
375 offender in the arrest notification program through the Florida
376 Criminal Justice Network maintained by the Department of Law
377 Enforcement upon such offender's release from the department's
378 custody. Upon receiving an alert that a sexually violent
379 offender has been arrested for a criminal offense subsequent to
380 his or her release, the department must immediately notify the
381 state attorney of the circuit in which the arrest occurred.

382 (b) As used in this subsection, the term "sexually violent
383 offender" means a person who has been committed to the
384 department as a sexually violent predator or who has been in the
385 department's custody based upon a court finding of probable
386 cause to believe the person is a sexually violent predator.



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387 Section 8. Section 394.931, Florida Statutes, is amended to
388 read:

389 394.931 Quarterly and annual reports. ~~Beginning July 1,~~
390 ~~1999,~~ The Department of Corrections shall collect information
391 and compile quarterly reports with statistics profiling inmates
392 released the previous quarter who fit the criteria and were
393 referred to the Department of Children and Families Family
394 ~~Services~~ pursuant to this act. ~~The quarterly reports must be~~
395 ~~produced beginning October 1, 1999.~~ At a minimum, the
396 information that must be collected and compiled for inclusion in
397 the reports includes: whether the qualifying offense was the
398 current offense or the prior offense; the offender's most
399 serious sexual offense; the total number of distinct victims of
400 the sexual offense; whether the victim was known to the
401 offender; whether the sexual act was consensual; whether the
402 sexual act involved multiple victims; whether direct violence
403 was involved in the sexual offense; the age of each victim at
404 the time of the offense; the age of the offender at the time of
405 the first sexual offense; whether a weapon was used; length of
406 time since the most recent sexual offense; and the total number
407 of prior and current sexual offense ~~sexual-offense~~ convictions.
408 The Department of Corrections shall compile recidivism data on
409 those referred, detained, or committed to the department ~~In~~
410 ~~addition, the department of Children and Family Services shall~~
411 ~~implement a long term study to determine the overall efficacy of~~
412 ~~the provisions of this part.~~

413 Section 9. Subsection (14) is added to section 943.053,
414 Florida Statutes, to read:

415 943.053 Dissemination of criminal justice information;



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416 fees.-

417 (14) Notwithstanding any other law, the department shall
418 provide to the Sexually Violent Predator Program within the
419 Department of Children and Families online access to the arrest
420 notification program through the Florida Criminal Justice
421 Network to be used solely in support of the duties of the
422 Department of Children and Families as provided in s.
423 394.926(4).

424 Section 10. If any provision of this act or its application
425 to any person or circumstance is held invalid, the invalidity
426 does not affect other provisions or applications of this act
427 which can be given effect without the invalid provision or
428 application, and to this end the provisions of this act are
429 severable.

430 Section 11. This act shall take effect July 1, 2014.

431
432 ===== T I T L E A M E N D M E N T =====

433 And the title is amended as follows:

434 Delete everything before the enacting clause
435 and insert:

436 A bill to be entitled
437 An act relating to involuntary civil commitment of
438 sexually violent predators; amending s. 394.912, F.S.;
439 redefining terms; creating s. 394.9125, F.S.;
440 authorizing and requiring a state attorney to refer
441 certain persons for civil commitment under certain
442 circumstances; requiring the state attorney to notify
443 county and municipal jails of a referral within a
444 specified timeframe; authorizing the state attorney to



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445 file a petition requesting that a person be taken into
446 custody for civil commitment proceedings; requiring a
447 judge to order a person into custody for civil
448 commitment proceedings upon making specified findings;
449 amending s. 394.913, F.S.; requiring the agency with
450 jurisdiction over a person who has been convicted of a
451 sexually violent offense to give written notice to the
452 multidisciplinary team as soon as practicable after
453 receipt into custody of such person in a county or
454 municipal jail facility; authorizing the
455 multidisciplinary team to consult with law enforcement
456 agencies and victim advocate groups as part of the
457 assessment and evaluation process; authorizing a
458 clinical evaluation; requiring a second clinical
459 evaluation under certain circumstances; requiring the
460 Department of Children and Families to recommend that
461 the state attorney file a civil commitment petition
462 under certain circumstances; requiring the department
463 to send a recommendation to the state attorney for
464 further review under certain circumstances if a person
465 does not meet the definition of a sexually violent
466 predator; requiring the multidisciplinary team to
467 reexamine the case under certain circumstances;
468 revising the timeframes for the written assessment;
469 requiring the multidisciplinary team to give equal
470 consideration to an attempt, criminal solicitation, or
471 conspiracy to commit certain offenses as it does to
472 the commission of such offenses; amending s. 394.9135,
473 F.S.; providing for certain released persons to be



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474 taken into custody by the Department of Children and
475 Families; authorizing the state attorney to file,
476 within a specific timeframe, a petition alleging that
477 a person released from a local detention facility was
478 not referred as required before release because of a
479 mistake, oversight, or intentional act or was referred
480 for commitment consideration but released rather than
481 transferred to custody, as required, due to a mistake,
482 oversight, or intentional act; requiring a judge to
483 order that a person so released be taken into custody
484 and delivered to an appropriate secure facility under
485 certain circumstances; amending s. 394.914, F.S.;
486 authorizing the state attorney to file a petition for
487 civil commitment regardless of the multidisciplinary
488 team's recommendation; amending s. 394.918, F.S.,
489 authorizing the petitioner and respondent to present
490 evidence at a civil commitment probable cause hearing;
491 amending s. 394.926, F.S.; requiring the department to
492 provide written notice of placement of a person in the
493 department's custody to a victim of such person;
494 requiring the department to notify the Department of
495 Corrections, the Department of Law Enforcement, and
496 the sheriff of the county in which such person intends
497 to reside of the release of a sexually violent
498 predator or a person who is in custody; requiring the
499 Department of Children and Families to enroll certain
500 persons in an arrest notification program and to
501 notify the state attorney upon receiving an arrest
502 alert; amending s. 394.931, F.S.; requiring the



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503 Department of Corrections to collect recidivism
504 information; amending s. 943.053, F.S.; requiring the
505 Department of Law Enforcement to provide the
506 Department of Children and Families access to the
507 arrest notification program; providing for
508 severability; providing an effective date.