

1 A bill to be entitled

2 An act relating to civil commitment of sexually
3 violent predators; amending s. 394.912, F.S.; revising
4 definitions; creating s. 394.9125, F.S.; authorizing a
5 state attorney to refer certain persons for civil
6 commitment; requiring the state attorney to notify
7 county and municipal jails of a referral within a
8 specified period; amending s. 394.913, F.S.; requiring
9 county and municipal jails to give notice of specified
10 persons' release to the multidisciplinary team within
11 certain periods; requiring the Department of Children
12 and Families to prioritize the assessment of a person
13 referred for civil commitment based upon the person's
14 release date; amending s. 394.9135, F.S.; providing a
15 process whereby civil commitment proceedings may be
16 commenced upon certain released persons; amending ss.
17 394.9151 and 394.917, F.S.; correcting references to
18 the Department of Children and Families; amending s.
19 394.918, F.S., permitting the petitioner and
20 respondent to present evidence at a civil commitment
21 probable cause hearing; amending ss. 394.9215,
22 394.929, 394.930, and 394.931, F.S.; correcting
23 references to the Department of Children and Families;
24 deleting obsolete provisions; providing an effective
25 date.

26

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

28
 29 Section 1. Subsections (1), (3), (7), and (11) of section
 30 394.912, Florida Statutes, are amended, and paragraph (i) is
 31 added to subsection (9) of that section, to read:

32 394.912 Definitions.—As used in this part, the term:

33 (1) "Agency with jurisdiction" means the entity ~~agency~~
 34 that releases, upon lawful order or authority, a person who is
 35 serving a sentence in the custody of the Department of
 36 Corrections, a person who was adjudicated delinquent and is
 37 committed to the custody of the Department of Juvenile Justice,
 38 ~~or~~ a person who was involuntarily committed to the custody of
 39 the Department of Children and Families ~~Family Services~~ upon an
 40 adjudication of not guilty by reason of insanity, or a person
 41 who is serving a sentence in a county or municipal jail for a
 42 sexually violent offense as defined in s. 394.912(9)(i).

43 (3) "Department" means the Department of Children and
 44 Families ~~Family Services~~.

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

47 (9) "Sexually violent offense" means:

48 (i) Any criminal offense in which the state attorney
 49 refers a person to the department for civil commitment
 50 proceedings pursuant to s. 394.9125.

51 (11) "Total confinement" means that the person is
 52 currently being held in any physically secure facility being

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53 operated or contractually operated for the Department of
54 Corrections, the Department of Juvenile Justice, or the
55 Department of Children and Families ~~Family Services~~. A person
56 shall also be deemed to be in total confinement for
57 applicability of provisions under this part if the person is
58 serving an incarcerative sentence under the custody of the
59 Department of Corrections or the Department of Juvenile Justice
60 and is being held in any other secure facility for any reason. A
61 person shall also be deemed to be in total confinement if the
62 person is serving a sentence in a county or municipal jail for a
63 sexually violent offense as defined in s. 394.912(9)(i).

64 Section 2. Section 394.9125, Florida Statutes, is created
65 to read:

66 394.9125 State attorney; authority to refer a person for
67 civil commitment.-

68 (1) A state attorney may refer a person to the department
69 for civil commitment proceedings if the person:

70 (a) Is required to register as a sexual offender pursuant
71 to s. 943.0435;

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

74 (c) Has been sentenced to a term of imprisonment in a
75 county or municipal jail for any criminal offense except for
76 violations of ss. 316.193, 322.34, and 832.05.

77 (2) A state attorney who refers a person for civil
78 commitment pursuant to subsection (1) must notify the county or

79 municipal jail to which the person has been sentenced within 1
80 week of such referral being made.

81 Section 3. Subsection (1) and paragraph (e) of subsection
82 (3) of section 394.913, Florida Statutes, are amended to read:

83 394.913 Notice to state attorney and multidisciplinary
84 team of release of sexually violent predator; establishing
85 multidisciplinary teams; information to be provided to
86 multidisciplinary teams.—

87 (1) The agency with jurisdiction over a person who has
88 been convicted of a sexually violent offense shall give written
89 notice to the multidisciplinary team, and a copy to the state
90 attorney of the circuit where that person was last convicted of
91 a sexually violent offense. If the person has never been
92 convicted of a sexually violent offense in this state but has
93 been convicted of a sexually violent offense in another state or
94 in federal court, the agency with jurisdiction shall give
95 written notice to the multidisciplinary team and a copy to the
96 state attorney of the circuit where the person was last
97 convicted of any offense in this state. If the person is being
98 confined in this state pursuant to interstate compact and has a
99 prior or current conviction for a sexually violent offense, the
100 agency with jurisdiction shall give written notice to the
101 multidisciplinary team and a copy to the state attorney of the
102 circuit where the person plans to reside upon release or, if no
103 residence in this state is planned, the state attorney in the
104 circuit where the facility from which the person to be released

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105 is located. Except as provided in s. 394.9135, the written
106 notice must be given:

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

113 (b) At least 180 days before ~~prior to~~ the anticipated
114 release from residential commitment of a person committed to the
115 custody of the Department of Juvenile Justice, except that in
116 the case of persons who are committed to low or moderate risk,
117 written notice must be given as soon as practicable; ~~or~~

118 (c) At least 180 days before ~~prior to~~ the anticipated
119 hearing regarding possible release of a person committed to the
120 custody of the department who has been found not guilty by
121 reason of insanity or mental incapacity of a sexually violent
122 offense; or

123 (d) At least 180 days before the anticipated release from
124 total confinement of a person serving a sentence in a county or
125 municipal jail; except that in the case of persons who are
126 totally confined for a period of less than 180 days, written
127 notice must be given as soon as practicable.

128 (3)

129 (e) The department ~~1. Within 180 days after receiving~~
130 ~~notice, there shall~~ conduct ~~be~~ a written assessment as to

131 whether the person meets the definition of a sexually violent
 132 predator and provide a written recommendation, including the
 133 written report of the multidisciplinary team, ~~which shall be~~
 134 ~~provided to the state attorney. The written recommendation shall~~
 135 ~~be provided by the Department of Children and Family Services~~
 136 ~~and shall include the written report of the multidisciplinary~~
 137 ~~team.~~

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

143 Section 4. Subsections (1) and (2) of section 394.9135,
 144 Florida Statutes, are amended to read:

145 394.9135 Immediate releases from total confinement;
 146 transfer of person to department; time limitations on
 147 assessment, notification, and filing petition to hold in
 148 custody; filing petition after release.-

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

155 (b) If the release from total confinement of a person who
 156 has been convicted of a sexually violent offense occurs due to a

157 reason specified in subparagraph 1. or subparagraph 2., the
158 state attorney may file a petition with the circuit court within
159 120 hours after such person's release requesting the court to
160 order such person into the department's custody for purposes of
161 initiating civil commitment proceedings. The petition must
162 allege that:

163 1. Part V of chapter 394 requires that the person be
164 referred for civil commitment proceedings before the person's
165 release, but the person was not referred due to mistake,
166 oversight, or intentional act; or

167 2. The person was referred for civil commitment
168 proceedings but, through mistake, oversight, or intentional act,
169 the person was released rather than transferred to the custody
170 of the department.

171
172 If the judge determines that there is probable cause to believe
173 that the person was released due to the reasons specified in
174 subparagraph 1. or subparagraph 2., the judge shall order that
175 the person be taken into custody and delivered to the custody of
176 the department for civil commitment proceedings.

177 (2) Within 72 hours after transfer pursuant to paragraph
178 (1) (a) or receipt into the department's custody pursuant to
179 paragraph (1) (b), the multidisciplinary team shall assess
180 whether the person meets the definition of a sexually violent
181 predator. If the multidisciplinary team determines that the
182 person does not meet the definition of a sexually violent

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183 predator, that person shall be immediately released. If the
184 multidisciplinary team determines that the person meets the
185 definition of a sexually violent predator, the team shall
186 provide the state attorney, as designated by s. 394.913, with
187 its written assessment and recommendation within the 72-hour
188 period or, if the 72-hour period ends after 5 p.m. on a working
189 day or on a weekend or holiday, within the next working day
190 thereafter.

191 Section 5. Section 394.9151, Florida Statutes, is amended
192 to read:

193 394.9151 Contract authority.—The department ~~of Children~~
194 ~~and Family Services~~ may contract with a private entity or state
195 agency for use of and operation of facilities to comply with the
196 requirements of this part act. The department ~~of Children and~~
197 ~~Family Services~~ may also contract with the Department of
198 Management Services to issue a request for proposals and monitor
199 contract compliance for these services.

200 Section 6. Subsection (2) of section 394.917, Florida
201 Statutes, is amended to read:

202 394.917 Determination; commitment procedure; mistrials;
203 housing; counsel and costs in indigent appellate cases.—

204 (2) If the court or jury determines that the person is a
205 sexually violent predator, upon the expiration of the
206 incarcerative portion of all criminal sentences and disposition
207 of any detainers, the person shall be committed to the custody
208 of the department ~~of Children and Family Services~~ for control,

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209 care, and treatment until such time as the person's mental
210 abnormality or personality disorder has so changed that it is
211 safe for the person to be at large. At all times, persons who
212 are detained or committed under this part shall be kept in a
213 secure facility segregated from patients of the department who
214 are not detained or committed under this part.

215 Section 7. Subsection (3) of section 394.918, Florida
216 Statutes, is amended to read:

217 394.918 Examinations; notice; court hearings for release
218 of committed persons; burden of proof.—

219 (3) The court shall hold a limited hearing to determine
220 whether there is probable cause to believe that the person's
221 condition has so changed that it is safe for the person to be at
222 large and that the person will not engage in acts of sexual
223 violence if discharged. The person has the right to be
224 represented by counsel at the probable cause hearing, and the
225 right ~~but the person is not entitled~~ to be present. Both the
226 petitioner and the respondent may present evidence that the
227 court may weigh and consider. If the court determines that there
228 is probable cause to believe it is safe to release the person,
229 the court shall set a trial before the court on the issue.

230 Section 8. Paragraph (b) of subsection (1) of section
231 394.9215, Florida Statutes, is amended to read:

232 394.9215 Right to habeas corpus.—

233 (1)

234 (b) Upon filing a legally sufficient petition stating a

235 prima facie case under paragraph (a), the court may direct the
 236 department ~~of Children and Family Services~~ to file a response.
 237 If necessary, the court may conduct an evidentiary proceeding
 238 and issue an order to correct a violation of state or federal
 239 rights found to exist by the court. A final order entered under
 240 this section may be appealed to the district court of appeal. A
 241 nonfinal order may be appealed to the extent provided by the
 242 Florida Rules of Appellate Procedure. An appeal by the
 243 department shall stay the trial court's order until disposition
 244 of the appeal.

245 Section 9. Section 394.929, Florida Statutes, is amended
 246 to read:

247 394.929 Program costs.—The department ~~of Children and~~
 248 ~~Family Services~~ is responsible for all costs relating to the
 249 evaluation and treatment of persons committed to the
 250 department's custody as sexually violent predators. A county is
 251 not obligated to fund costs for psychological examinations,
 252 expert witnesses, court-appointed counsel, or other costs
 253 required by this part. Other costs for psychological
 254 examinations, expert witnesses, and court-appointed counsel
 255 required by this part shall be paid from state funds
 256 appropriated by general law.

257 Section 10. Section 394.930, Florida Statutes, is amended
 258 to read:

259 394.930 Authority to adopt rules.—The department ~~of~~
 260 ~~Children and Family Services~~ shall adopt rules for:

261 (1) Procedures that must be followed by members of the
 262 multidisciplinary teams when assessing and evaluating persons
 263 subject to this part.†

264 (2) Education and training requirements for members of the
 265 multidisciplinary teams and professionals who assess and
 266 evaluate persons under this part.†

267 (3) The criteria that must exist in order for a
 268 multidisciplinary team to recommend to a state attorney that a
 269 petition should be filed to involuntarily commit a person under
 270 this part. The criteria shall include, but are not limited to,
 271 whether:

272 (a) The person has a propensity to engage in future acts
 273 of sexual violence.†

274 (b) The person should be placed in a secure, residential
 275 facility.†~~and~~

276 (c) The person needs long-term treatment and care.

277 (4) The designation of secure facilities for sexually
 278 violent predators who are subject to involuntary commitment
 279 under this part.†

280 (5) The components of the basic treatment plan for all
 281 committed persons under this part.†

282 (6) The protocol to inform a person that he or she is
 283 being examined to determine whether he or she is a sexually
 284 violent predator under this part.

285 Section 11. Section 394.931, Florida Statutes, is amended
 286 to read:

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287 394.931 Quarterly reports. ~~Beginning July 1, 1999,~~ The
288 Department of Corrections shall collect information and compile
289 quarterly reports with statistics profiling inmates released the
290 previous quarter who fit the criteria and were referred to the
291 Department of Children and Families ~~Family Services~~ pursuant to
292 this part act. ~~The quarterly reports must be produced beginning~~
293 ~~October 1, 1999.~~ At a minimum, the information that must be
294 collected and compiled for inclusion in the reports includes:
295 whether the qualifying offense was the current offense or the
296 prior offense; the most serious sexual offense; the total number
297 of distinct victims of the sexual offense; whether the victim
298 was known to the offender; whether the sexual act was
299 consensual; whether the sexual act involved multiple victims;
300 whether direct violence was involved in the sexual offense; the
301 age of each victim at the time of the offense; the age of the
302 offender at the time of the first sexual offense; whether a
303 weapon was used; length of time since the most recent sexual
304 offense; and the total number of prior and current sexual-
305 offense convictions. In addition, the Department of Children and
306 Families ~~Family Services~~ shall implement a long-term study to
307 determine the overall efficacy of ~~the provisions of~~ this part.
308 Section 12. This act shall take effect July 1, 2014.