

1 A bill to be entitled

2 An act relating to sexually violent predators;
3 amending s. 394.913, F.S.; requiring the Department of
4 Children and Families to prioritize assessments and
5 evaluations based upon the person's release date;
6 specifying experience, training, and contracting
7 requirements for the multidisciplinary team;
8 authorizing the multidisciplinary team to consult with
9 law enforcement agencies and victim advocate groups as
10 part of the assessment and evaluation process;
11 authorizing a clinical evaluation; requiring a second
12 clinical evaluation under certain circumstances;
13 mandating review of information by the
14 multidisciplinary team before making a recommendation
15 to the state attorney; requiring the multidisciplinary
16 team to give equal consideration to a criminal
17 attempt, criminal solicitation, or criminal conspiracy
18 to commit certain offenses as it does to the
19 commission of such offenses; requiring the
20 multidisciplinary team to provide the state attorney
21 with a recommendation as to whether the person meets
22 the definition of a sexually violent predator;
23 requiring the multidisciplinary team to recommend that
24 the state attorney file a civil commitment petition
25 under certain circumstances; requiring the
26 multidisciplinary team to send a recommendation to the

27 state attorney for further review under certain
28 circumstances; requiring the multidisciplinary team to
29 reexamine the case under certain circumstances;
30 requiring the department to maintain and annually
31 assess certain data; requiring state attorneys to
32 provide information to the department for maintenance
33 of the required data; revising the timeframes for the
34 written assessment; amending s. 394.9135, F.S.;
35 specifying the process for determining if a person
36 meets the definition of a sexually violent predator
37 when that person's release is imminent; amending
38 394.914, F.S.; authorizing the state attorney to file
39 a petition for civil commitment regardless of the
40 multidisciplinary team's recommendation; amending s.
41 394.930, F.S.; authorizing the department to adopt
42 rules for selecting, contracting with, providing
43 routine feedback to, and evaluating multidisciplinary
44 team members; providing an effective date.

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

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48 Section 1. Subsection (3) of section 394.913, Florida
49 Statutes, is amended to read:

50 394.913 Notice to state attorney and multidisciplinary
51 team of release of sexually violent predator; establishing
52 multidisciplinary teams; information to be provided to

53 multidisciplinary teams.—

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

56 (a) The person's name; identifying characteristics;
57 anticipated future residence; the type of supervision the person
58 will receive in the community, if any; and the person's offense
59 history;

60 (b) The person's criminal history, including police
61 reports, victim statements, presentence investigation reports,
62 postsentence investigation reports, if available, and any other
63 documents containing facts of the person's criminal incidents or
64 indicating whether the criminal incidents included sexual acts
65 or were sexually motivated;

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

68 (d) Documentation of institutional adjustment and any
69 treatment received and, in the case of an adjudicated delinquent
70 committed to the Department of Juvenile Justice, copies of the
71 most recent performance plan and performance summary; and

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

75 (3) (a) The department shall prioritize the assessment and
76 evaluation of persons referred under subsection (1) based upon
77 their release dates.

78 (b) (a) The secretary or his or her designee shall

79 establish a multidisciplinary team or teams.

80 (c) ~~(b)~~ Each team shall include, but is not limited to, two
81 licensed psychiatrists or psychologists or one licensed
82 psychiatrist and one licensed psychologist who shall each have
83 experience in or relevant to the evaluation or treatment of
84 persons with mental abnormalities. The department shall provide
85 annual training to all members of the multidisciplinary team on
86 topics, including, but not limited to, research on sexual
87 offending, clinical evaluation methods, and the civil commitment
88 process.

89 (d) Members of the team who are hired on contract are
90 limited to 1-year contracts that may be renewed. The department
91 shall regularly provide feedback to each multidisciplinary team
92 member and formally evaluate the member's performance at least
93 annually. Such evaluations must include, but need not be limited
94 to, the member's:

95 1. Scope of knowledge and understanding of clinical
96 research regarding risk factors for sexual deviance and
97 recidivism.

98 2. Ability to identify relevant clinical data from review
99 of criminal records and other information, including
100 recommendations of law enforcement and insights from victim
101 advocates.

102 3. Ability to apply clinical information in a structured
103 assessment of both static risk factors and dynamic predictors of
104 sexual recidivism.

105 (e) The multidisciplinary team shall assess and evaluate
106 each person referred to the team. The assessment and evaluation
107 shall include a review of the person's institutional history and
108 treatment record, if any, the person's criminal background, and
109 any other factor that is relevant to the determination of
110 whether such person is a sexually violent predator. The
111 multidisciplinary team may consult with law enforcement agencies
112 and victim advocate groups during the assessment and evaluation
113 process. A member of the multidisciplinary team may conduct a
114 clinical evaluation of the person. A second clinical evaluation
115 must be conducted if a member of the multidisciplinary team
116 questions the conclusion of the first clinical evaluation. All
117 members of the multidisciplinary team shall review, at a
118 minimum, the information provided in subsection (2) and any
119 clinical evaluations before making a recommendation.

120 (f) ~~(e)~~ Before recommending that a person meets the
121 definition of a sexually violent predator, the person must be
122 offered a personal interview. If the person agrees to
123 participate in a personal interview, at least one member of the
124 team who is a licensed psychiatrist or psychologist must conduct
125 a personal interview of the person. If the person refuses to
126 fully participate in a personal interview, the multidisciplinary
127 team may proceed with its recommendation without a personal
128 interview of the person.

129 (g) The multidisciplinary team shall give equal
130 consideration in the evaluation and assessment of an offender

131 whose sexually violent offense was a criminal attempt, criminal
132 solicitation, or criminal conspiracy, in violation of s. 777.04,
133 to commit a sexually violent offense enumerated in s. 394.912(9)
134 as it does in the evaluation and assessment of an offender who
135 completed such an enumerated sexually violent offense. A rule or
136 policy may not be established which reduces the level of
137 consideration because the sexually violent offense was a
138 criminal attempt, criminal solicitation, or criminal conspiracy.

139 (h) After all clinical evaluations are completed, the
140 department shall provide to the state attorney a written
141 assessment and recommendation as to whether the person meets the
142 definition of a sexually violent predator.

143 1. The multidisciplinary team must recommend that the
144 state attorney file a petition for civil commitment if at least
145 two members of the multidisciplinary team determine that the
146 person meets the definition of a sexually violent predator.

147 2. If the multidisciplinary team recommends whether a
148 person who has received a clinical evaluation meets the
149 definition of a sexually violent predator, the written
150 assessment and recommendation shall be sent to the state
151 attorney. If the state attorney, in writing, questions the
152 recommendation as to whether the person meets the definition of
153 a sexually violent predator, the multidisciplinary team must
154 reexamine the case before a final written assessment and
155 recommendation is provided to the state attorney.

156 (i) The department shall maintain data for each case on

157 the recommendations of the clinical evaluators in their clinical
 158 evaluations, the final recommendations of the multidisciplinary
 159 team, the petitions filed by state attorneys, and the results of
 160 those petitions. The department shall analyze this data at least
 161 annually to assess inter-rater reliability between clinical
 162 evaluators and the level of agreement between an individual
 163 evaluator's recommendation and the multidisciplinary team's
 164 recommendation for the same individual. The department shall
 165 also assess trends in multidisciplinary team recommendations,
 166 the petitions filed by the state attorneys, and the results of
 167 such filings. State attorneys shall provide information to the
 168 department regarding petition filings and the results thereof as
 169 necessary for the department to maintain this data.

170 (j)~~(d)~~ The Attorney General's Office shall serve as legal
 171 counsel to the multidisciplinary team.

172 (k)~~(e)~~^{1.} After all clinical evaluations are completed, but
 173 at least 1 month before the person's scheduled release date, if
 174 the referral date is 90 days or more before the person's
 175 scheduled release date, the multidisciplinary team shall provide
 176 to the state attorney ~~Within 180 days after receiving notice,~~
 177 ~~there shall be a written assessment and recommendation~~ as to
 178 whether the person meets the definition of a sexually violent
 179 predator and a written recommendation, which shall be provided
 180 to the state attorney. If the referral date is less than 90 days
 181 before the person's scheduled release date, the
 182 multidisciplinary team shall provide to the state attorney a

183 written assessment and recommendation as to whether the person
 184 meets the definition of a sexually violent predator as soon as
 185 practicable before the person's scheduled release date. The
 186 written recommendation shall be provided by the Department of
 187 Children and Families ~~Family Services~~ and must ~~shall~~ include the
 188 written report of the multidisciplinary team.

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

194 Section 2. Subsection (2) of section 394.9135, Florida
 195 Statutes, is amended to read:

196 394.9135 Immediate releases from total confinement;
 197 transfer of person to department; time limitations on
 198 assessment, notification, and filing petition to hold in
 199 custody; filing petition after release.—

200 (2) Within 72 hours after transfer, the multidisciplinary
 201 team shall assess whether the person meets the definition of a
 202 sexually violent predator. If the multidisciplinary team
 203 determines that the person does not meet the definition of a
 204 sexually violent predator, that person shall be immediately
 205 released. If at least two members of the multidisciplinary team,
 206 after all clinical evaluations have been conducted, determine
 207 ~~determines~~ that the person meets the definition of a sexually
 208 violent predator, the team shall provide the state attorney, as

209 designated by s. 394.913, with its written assessment and
 210 recommendation within the 72-hour period or, if the 72-hour
 211 period ends after 5 p.m. on a working day or on a weekend or
 212 holiday, within the next working day thereafter.

213 Section 3. Section 394.914, Florida Statutes, is amended
 214 to read:

215 394.914 Petition; contents.—After ~~Following~~ receipt from
 216 the multidisciplinary team of the written assessment and
 217 positive or negative recommendation as to whether the person
 218 meets the definition of a sexually violent predator ~~from the~~
 219 ~~multidisciplinary team~~, the state attorney, in accordance with
 220 s. 394.913, may file a petition with the circuit court alleging
 221 that the person is a sexually violent predator and stating facts
 222 sufficient to support such allegation. No fee shall be charged
 223 for the filing of a petition under this section.

224 Section 4. Section 394.930, Florida Statutes, is amended
 225 to read:

226 394.930 Authority to adopt rules.—The Department of
 227 Children and Family Services shall adopt rules for:

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

231 (2) Education and training requirements for members of the
 232 multidisciplinary teams and professionals who assess and
 233 evaluate persons under this part.†

234 (3) The criteria that must exist in order for a

235 multidisciplinary team to recommend to a state attorney that a
 236 petition should be filed to involuntarily commit a person under
 237 this part. The criteria shall include, but are not limited to,
 238 whether:

239 (a) The person has a propensity to engage in future acts
 240 of sexual violence.~~†~~

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

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

244 (4) The designation of secure facilities for sexually
 245 violent predators who are subject to involuntary commitment
 246 under this part.~~†~~

247 (5) The components of the basic treatment plan for all
 248 committed persons under this part.~~†~~

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

252 (7) Procedures and requirements for selecting, contracting
 253 with, providing routine feedback to, and evaluating members of
 254 the multidisciplinary team who are under contract with the
 255 department.

256 Section 5. This act shall take effect July 1, 2014.