

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

24  
 25    Be It Enacted by the Legislature of the State of Florida:  
 26

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

30 394.912 Definitions.—As used in this part, the term:

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

41 (3) "Department" means the Department of Children and  
 42 Families ~~Family Services~~.

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

45 (9) "Sexually violent offense" means:

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

49 (11) "Total confinement" means that the person is  
 50 currently being held in any physically secure facility being  
 51 operated or contractually operated for the Department of  
 52 Corrections, the Department of Juvenile Justice, or the

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

62 Section 2. Section 394.9125, Florida Statutes, is created  
 63 to read:

64 394.9125 State attorney; authority to refer a person for  
 65 civil commitment.-

66 (1) A state attorney may refer a person who meets all of  
 67 the following criteria to the department for civil commitment  
 68 proceedings:

69 (a) A person who is required to register as a sexual  
 70 offender pursuant to s. 943.0435;

71 (b) A person who has previously been convicted of a  
 72 sexually violent offense as defined in s. 394.912(9)(a)-(h); and

73 (c) A person who has been sentenced to a term of  
 74 imprisonment in a county or municipal jail for any criminal  
 75 offense except for violations of s. 316.193, s. 832.05, and s.  
 76 322.34.

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 one  
 80 week of such referral being made.

81 Section 3. Paragraph (d) is added to subsection (1), and  
 82 paragraph (e) of subsection (3) of section 394.913, Florida  
 83 Statutes, is amended to read:

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

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

105 circuit where the facility from which the person to be released  
 106 is located. Except as provided in s. 394.9135, the written  
 107 notice must be given:

108 (d) At least 180 days prior to the anticipated release from  
 109 total confinement of a person serving a sentence in a county or  
 110 municipal jail; except that in the case of persons who are  
 111 totally confined for a period of less than 180 days, written  
 112 notice must be given as soon as practicable.

113 (3)

114 (e) ~~1. Within 180 days after receiving notice, there~~ The  
 115 department shall conduct ~~be~~ a written assessment as to whether  
 116 the person meets the definition of a sexually violent predator  
 117 and provide ~~a~~ written recommendation, including the written  
 118 report of the multidisciplinary team, ~~which shall be provided to~~  
 119 ~~the state attorney. The written recommendation shall be provided~~  
 120 ~~by the Department of Children and Family Services and shall~~  
 121 ~~include the written report of the multidisciplinary team.~~

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

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

129 394.9135 Immediate releases from total confinement;  
 130 transfer of person to department; time limitations on

131 assessment, notification, and filing petition to hold in  
 132 custody; filing petition after release.-

133 (1) (a) If the anticipated release from total confinement  
 134 of a person who has been convicted of a sexually violent offense  
 135 becomes immediate for any reason, the agency with jurisdiction  
 136 shall upon immediate release from total confinement transfer  
 137 that person to the custody of the Department ~~of Children and~~  
 138 ~~Family Services~~ to be held in an appropriate secure facility.

139 (b) If the release from total confinement of a person who  
 140 has been convicted of a sexually violent offense occurs due to a  
 141 reason specified in subparagraphs 1. or 2., the state attorney  
 142 may file a petition with the circuit court within 120 hours of  
 143 such person's release requesting the court to order such person  
 144 into the department's custody for purposes of initiating civil  
 145 commitment proceedings. The petition must allege that:

146 1. Part V of chapter 394 required that the person be  
 147 referred for civil commitment proceedings prior to such person's  
 148 release, but the person was not referred due to mistake,  
 149 oversight, or intentional act; or

150 2. The person was referred for civil commitment proceedings  
 151 but, through mistake, oversight, or intentional act, the person  
 152 was released rather than transferred to the custody of the  
 153 department.

154  
 155 If the judge determines that there is probable cause to believe  
 156 that the person was released due to the reasons specified in

157 subparagraphs 1. or 2., the judge shall order that the person be  
 158 taken into custody and delivered to the custody of the  
 159 department for civil commitment proceedings.

160 (2) Within 72 hours after transfer pursuant to paragraph  
 161 (1) (a) or receipt into the department's custody pursuant to  
 162 paragraph (1) (b), the multidisciplinary team shall assess  
 163 whether the person meets the definition of a sexually violent  
 164 predator. If the multidisciplinary team determines that the  
 165 person does not meet the definition of a sexually violent  
 166 predator, that person shall be immediately released. If the  
 167 multidisciplinary team determines that the person meets the  
 168 definition of a sexually violent predator, the team shall  
 169 provide the state attorney, as designated by s. 394.913, with  
 170 its written assessment and recommendation within the 72-hour  
 171 period or, if the 72-hour period ends after 5 p.m. on a working  
 172 day or on a weekend or holiday, within the next working day  
 173 thereafter.

174 Section 5. Section 394.9151, Florida Statutes, is amended  
 175 to read:

176 394.9151 Contract authority.—The Department of Children  
 177 and Family Services may contract with a private entity or state  
 178 agency for use of and operation of facilities to comply with the  
 179 requirements of this act. The Department ~~of Children and Family~~  
 180 ~~Services~~ may also contract with the Department of Management  
 181 Services to issue a request for proposals and monitor contract  
 182 compliance for these services.

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

185 394.917 Determination; commitment procedure; mistrials;  
 186 housing; counsel and costs in indigent appellate cases.—

187 (2) If the court or jury determines that the person is a  
 188 sexually violent predator, upon the expiration of the  
 189 incarcerative portion of all criminal sentences and disposition  
 190 of any detainers, the person shall be committed to the custody  
 191 of the Department ~~of Children and Family Services~~ for control,  
 192 care, and treatment until such time as the person's mental  
 193 abnormality or personality disorder has so changed that it is  
 194 safe for the person to be at large. At all times, persons who  
 195 are detained or committed under this part shall be kept in a  
 196 secure facility segregated from patients of the department who  
 197 are not detained or committed under this part.

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

200 394.918 Examinations; notice; court hearings for release  
 201 of committed persons; burden of proof.—

202 (3) The court shall hold a limited hearing to determine  
 203 whether there is probable cause to believe that the person's  
 204 condition has so changed that it is safe for the person to be at  
 205 large and that the person will not engage in acts of sexual  
 206 violence if discharged. The person has the right to be  
 207 represented by counsel at the probable cause hearing, and the  
 208 right ~~but the person is not entitled to be present. Both the~~



209 petitioner and the respondent may present evidence that the  
 210 court may weigh and consider. If the court determines that there  
 211 is probable cause to believe it is safe to release the person,  
 212 the court shall set a trial before the court on the issue.

213 Section 8. Paragraph (b) of subsection (1) of section  
 214 394.9215, Florida Statutes, is amended to read:

215 394.9215 Right to habeas corpus.—

216 (1)

217 (b) Upon filing a legally sufficient petition stating a  
 218 prima facie case under paragraph (a), the court may direct the  
 219 Department ~~of Children and Family Services~~ to file a response.  
 220 If necessary, the court may conduct an evidentiary proceeding  
 221 and issue an order to correct a violation of state or federal  
 222 rights found to exist by the court. A final order entered under  
 223 this section may be appealed to the district court of appeal. A  
 224 nonfinal order may be appealed to the extent provided by the  
 225 Florida Rules of Appellate Procedure. An appeal by the  
 226 department shall stay the trial court's order until disposition  
 227 of the appeal.

228 Section 9. Section 394.929, Florida Statutes, is amended  
 229 to read:

230 394.929 Program costs.—The Department ~~of Children and~~  
 231 ~~Family Services~~ is responsible for all costs relating to the  
 232 evaluation and treatment of persons committed to the  
 233 department's custody as sexually violent predators. A county is  
 234 not obligated to fund costs for psychological examinations,

235 expert witnesses, court-appointed counsel, or other costs  
 236 required by this part. Other costs for psychological  
 237 examinations, expert witnesses, and court-appointed counsel  
 238 required by this part shall be paid from state funds  
 239 appropriated by general law.

240 Section 10. Section 394.930, Florida Statutes, is amended  
 241 to read:

242 394.930 Authority to adopt rules.—The Department of  
 243 ~~Children and Family Services~~ shall adopt rules for:

244 (1) Procedures that must be followed by members of the  
 245 multidisciplinary teams when assessing and evaluating persons  
 246 subject to this part;

247 (2) Education and training requirements for members of the  
 248 multidisciplinary teams and professionals who assess and  
 249 evaluate persons under this part;

250 (3) The criteria that must exist in order for a  
 251 multidisciplinary team to recommend to a state attorney that a  
 252 petition should be filed to involuntarily commit a person under  
 253 this part. The criteria shall include, but are not limited to,  
 254 whether:

255 (a) The person has a propensity to engage in future acts  
 256 of sexual violence;

257 (b) The person should be placed in a secure, residential  
 258 facility; and

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

260 (4) The designation of secure facilities for sexually

261 violent predators who are subject to involuntary commitment  
 262 under this part;

263 (5) The components of the basic treatment plan for all  
 264 committed persons under this part;

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

268 Section 11. Section 394.931, Florida Statutes, is amended  
 269 to read:

270 394.931 Quarterly reports.—Beginning July 1, 1999, the  
 271 Department of Corrections shall collect information and compile  
 272 quarterly reports with statistics profiling inmates released the  
 273 previous quarter who fit the criteria and were referred to the  
 274 Department ~~of Children and Family Services~~ pursuant to this act.  
 275 The quarterly reports must be produced beginning October 1,  
 276 1999. At a minimum, the information that must be collected and  
 277 compiled for inclusion in the reports includes: whether the  
 278 qualifying offense was the current offense or the prior offense;  
 279 the most serious sexual offense; the total number of distinct  
 280 victims of the sexual offense; whether the victim was known to  
 281 the offender; whether the sexual act was consensual; whether the  
 282 sexual act involved multiple victims; whether direct violence  
 283 was involved in the sexual offense; the age of each victim at  
 284 the time of the offense; the age of the offender at the time of  
 285 the first sexual offense; whether a weapon was used; length of  
 286 time since the most recent sexual offense; and the total number

PCB CRJS 14-06

ORIGINAL

2014

287 | of prior and current sexual-offense convictions. In addition,  
288 | the Department ~~of Children and Family Services~~ shall implement a  
289 | long-term study to determine the overall efficacy of the  
290 | provisions of this part.

291 |       Section 12. This act shall take effect July 1, 2014.