

By Senator Grimsley

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1                   A bill to be entitled  
2       An act relating to involuntary civil commitment of  
3       sexually violent predators; amending s. 394.913, F.S.;  
4       requiring the agency with jurisdiction over a person  
5       who has been convicted of a sexually violent offense  
6       to give written notice to the multidisciplinary team  
7       as soon as practicable after receipt into custody of  
8       such person in a local detention facility; designating  
9       certain licensed professionals as "primary members" of  
10      the multidisciplinary team; expanding the membership  
11      of the multidisciplinary team to include three  
12      advisory members; requiring that advisory members  
13      demonstrate certain qualifications; requiring the  
14      primary members of the multidisciplinary team to  
15      prepare a written assessment as to whether a person  
16      who has been convicted of a sexually violent offense  
17      meets the definition of a sexually violent predator  
18      and to submit a written recommendation to the state  
19      attorney; requiring the victim advocate to prepare a  
20      victim impact statement; requiring the  
21      multidisciplinary team to give equal consideration to  
22      an attempt, criminal solicitation, or conspiracy to  
23      commit certain offenses as it does to the commission  
24      of such offenses; amending s. 394.9135, F.S.;  
25      providing for certain released persons to be taken  
26      into custody by the Department of Children and  
27      Families; authorizing the state attorney to file,  
28      within a specific timeframe, a petition alleging that  
29      a person released from a local detention facility was

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not referred as required before release because of a mistake, oversight, or intentional act or was referred for commitment consideration but released rather than transferred to custody, as required, due to a mistake, oversight, or intentional act; requiring a judge to order that a person so released be taken into custody and delivered to an appropriate secure facility under certain circumstances; amending s. 394.926, F.S.; requiring the department to provide written notice of placement of a person in the department's custody for a commitment hearing to a victim of such person; requiring the department to notify the Department of Corrections of the release of a sexually violent predator or a person who is in custody pending sexually violent predator commitment proceedings; requiring the Department of Children and Families to send notification of the release of a sexually violent predator, or a person who is in custody pending sexually violent predator commitment proceedings, to the sheriff of the county in which such person intends to reside; amending s. 394.931, F.S.; requiring the Department of Corrections to collect recidivism information and prepare an annual report by a specified date; specifying minimum requirements for the report; requiring the department to provide necessary information; amending s. 394.912, F.S.; redefining the term "agency with jurisdiction" to include an agency that releases certain persons from the custody of a local detention facility; redefining

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the term "total confinement" to include persons being held in a local detention facility and certain persons held in custody beyond their lawful release date; providing severability; providing an effective date.

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

Section 1. Section 394.913, Florida Statutes, is amended to read:

394.913 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams; requirement for recommendation and victim impact statement.—

(1) The agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the multidisciplinary team, and shall provide a copy of the notice to the state attorney of the circuit in which ~~where~~ that person was last convicted of a sexually violent offense. If the person has never been convicted of a sexually violent offense in this state but has been convicted of a sexually violent offense in another state or in federal court, the agency with jurisdiction shall give written notice to the multidisciplinary team and a copy to the state attorney of the circuit in which ~~where~~ the person was last convicted of any offense in this state. If the person is being confined in this state pursuant to interstate compact and has a prior or current conviction for a sexually violent offense, the agency with jurisdiction shall give written notice to the multidisciplinary

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88 team and shall provide a copy to the state attorney of the  
89 circuit in which ~~where~~ the person plans to reside upon release  
90 or, if no residence in this state is planned, the state attorney  
91 in the circuit in which ~~where~~ the facility from which the person  
92 to be released is located. Except as provided in s. 394.9135,  
93 the written notice shall ~~must~~ be given:

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

100 (b) As soon as practicable after receipt into custody of a  
101 person who is sentenced to confinement in a local detention  
102 facility;

103 (c) ~~(b)~~ At least 180 days before ~~prior to~~ the anticipated  
104 release from residential commitment of a person committed to the  
105 custody of the Department of Juvenile Justice, except that in  
106 the case of a person ~~persons~~ who is ~~are~~ committed to a low or  
107 moderate risk facility, written notice must be given as soon as  
108 practicable; or

109 (d) ~~(c)~~ At least 180 days before ~~prior to~~ the anticipated  
110 hearing regarding possible release of a person committed to the  
111 custody of the department who has been found not guilty by  
112 reason of insanity or mental incapacity of a sexually violent  
113 offense.

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

116 (a) The person's name; identifying characteristics;

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117 anticipated future residence; the type of supervision the person  
118 will receive in the community, if any; and the person's offense  
119 history;

120 (b) The person's criminal history, including police  
121 reports, victim statements, presentence investigation reports,  
122 postsentence investigation reports, if available, and any other  
123 documents containing facts of the person's criminal incidents or  
124 indicating whether the criminal incidents included sexual acts  
125 or were sexually motivated;

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

128 (d) Documentation of institutional adjustment and any  
129 treatment received and, in the case of an adjudicated delinquent  
130 committed to the Department of Juvenile Justice, copies of the  
131 most recent performance plan and performance summary; and

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

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

137 (b) Each team shall include, but need ~~is~~ not be limited to,  
138 two licensed psychiatrists or psychologists or one licensed  
139 psychiatrist and one licensed psychologist as primary members.  
140 The team shall include as advisory members an assistant state  
141 attorney with at least 5 years' experience prosecuting sexual  
142 offenses; a certified law enforcement officer with at least 10  
143 years' experience investigating sexual offenses; and a victim  
144 advocate who has a master's or doctoral degree in social work,  
145 psychology, sociology, or a related field and at least 5 years'

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146 experience representing victims of sexual violence. The  
147 multidisciplinary team shall assess and evaluate each person  
148 referred to the team. The assessment and evaluation must ~~shall~~  
149 include a review of the person's institutional history and  
150 treatment record, if any, the person's criminal background, and  
151 any other factor that is relevant to the determination of  
152 whether the ~~such~~ person is a sexually violent predator.

153 (c) Before recommending that a person meets the definition  
154 of a sexually violent predator, the person must be offered a  
155 personal interview. If the person agrees to participate in a  
156 personal interview, at least one member of the team who is a  
157 licensed psychiatrist or psychologist must conduct a personal  
158 interview of the person. If the person refuses to fully  
159 participate in a personal interview, the multidisciplinary team  
160 may proceed with its recommendation without the ~~a personal~~  
161 interview ~~of the person.~~

162 (d) The Attorney General's Office shall serve as legal  
163 counsel to the multidisciplinary team.

164 (e)1. Within 180 days after receiving notice, the primary  
165 members shall prepare ~~there shall be~~ a written assessment as to  
166 whether the person meets the definition of a sexually violent  
167 predator and make a written recommendation, which shall be  
168 provided by the department to the state attorney. The written  
169 recommendation ~~shall be provided by the Department of Children~~  
170 ~~and Family Services and~~ shall include the written report of the  
171 primary members of the multidisciplinary team, as well as a  
172 victim impact statement prepared by the victim's advocate.

173 2. Notwithstanding subparagraph 1., in the case of a person  
174 for whom the written assessment and recommendation has not been

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completed at least 365 days before his or her release from total confinement, the department shall prioritize the assessment of that person based upon the person's release date.

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

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

Section 2. Section 394.9135, Florida Statutes, is amended to read:

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

(1)(a) If the anticipated release from total confinement of a person who has been convicted of a sexually violent offense becomes immediate for any reason, the agency with jurisdiction shall upon immediate release from total confinement transfer that person to the custody of the department ~~of Children and~~

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204 ~~Family Services~~ to be held in an appropriate secure facility.

205 (b) If a person who committed a sexually violent offense  
206 and who is serving an incarcerative sentence under the custody  
207 of the Department of Corrections or the Department of Juvenile  
208 Justice is released from a local detention facility, the state  
209 attorney, as designated in s. 394.913, may file a petition with  
210 the circuit court within 120 hours after the person's release  
211 alleging that:

212 1. Section 394.913 or this section requires that the person  
213 be referred for consideration for civil commitment before  
214 release and the person was not referred because of mistake,  
215 oversight, or intentional act; or

216 2. The person was referred for commitment consideration  
217 and, through mistake, oversight, or intentional act, was  
218 released rather than transferred to the custody of the  
219 Department of Children and Families as required by this part.

220  
221 If the judge determines that there is probable cause to believe  
222 the person was released in contravention of s. 394.913 or this  
223 section, the judge shall order the person to be taken into  
224 custody and delivered to an appropriate secure facility  
225 designated by the Department of Children and Families.

226 (2) Within 72 hours after transfer pursuant to paragraph  
227 (1)(a) or receipt into the department's custody pursuant to  
228 paragraph (1)(b), the multidisciplinary team shall assess  
229 whether the person meets the definition of a sexually violent  
230 predator as defined in s. 394.912. If the multidisciplinary team  
231 determines that the person does not meet the definition of a  
232 sexually violent predator, that person shall be immediately



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233 released. If the multidisciplinary team determines that the  
234 person meets the definition of a sexually violent predator, the  
235 team shall provide the state attorney, as designated by s.  
236 394.913, with its written assessment and recommendation within  
237 the 72-hour period or, if the 72-hour period ends after 5 p.m.  
238 on a working day or on a weekend or holiday, within the next  
239 working day ~~thereafter~~.

240 (3) Within 48 hours after receipt of the written assessment  
241 and recommendation from the multidisciplinary team, the state  
242 attorney, as designated in s. 394.913, may file a petition with  
243 the circuit court alleging that the person is a sexually violent  
244 predator and stating facts sufficient to support the ~~such~~  
245 allegation. If a petition is not filed within 48 hours after  
246 receipt of the written assessment and recommendation by the  
247 state attorney, the person shall be immediately released, except  
248 that, if the 48-hour period ends after 5 p.m. on a working day  
249 or on a weekend or holiday, the petition may be filed on the  
250 next working day without resulting in the person's release. If a  
251 petition is filed pursuant to this section and the judge  
252 determines that there is probable cause to believe that the  
253 person is a sexually violent predator, the judge shall order  
254 that the person be maintained in custody and held in an  
255 appropriate secure facility for further proceedings in  
256 accordance with this part.

257 (4) ~~The provisions of~~ This section is ~~are~~ not  
258 jurisdictional, and failure to comply with the time limitations,  
259 which results in the release of a person who has been convicted  
260 of a sexually violent offense, ~~is~~ is not dispositive of the case  
261 and does not prevent the state attorney from proceeding against

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a person otherwise subject to ~~the provisions of~~ this part.

Section 3. Section 394.926, Florida Statutes, is amended to read:

394.926 Notice to victims of release of persons committed as sexually violent predators or in custody for commitment proceedings; notice to Department of Corrections and Parole Commission; notice to sheriff.—

(1) As soon as is practicable, the department shall give written notice of the release of a person who is committed as a sexually violent predator, or who is in the department's custody based upon a court finding of probable cause to believe that the person is a sexually violent predator, to any victim of the committed person who is alive and whose address is known to the department or, if the victim is deceased, to the victim's family, if the family's address is known to the department. Failure to notify is not a reason for postponement of release. This section does not create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this part.

(2) The department shall immediately give written notice to the Department of Corrections' Office of Community Corrections of the release of a person who is committed as ~~if~~ a sexually violent predator, or who is in the department's custody based upon a court finding of probable cause to believe that the person is a sexually violent predator, who has an active or pending term of probation, community control, parole, conditional release, or other court-ordered or postprison release supervision ~~is released from custody, the department~~

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291 ~~must immediately notify the Department of Corrections' Office of~~  
292 ~~Community Corrections in Tallahassee.~~ The Parole Commission must  
293 also be immediately notified of the release ~~any releases~~ of any  
294 such a sexually violent predator who has an active or pending  
295 term of parole, conditional release, or other postprison release  
296 supervision that is administered by the Parole Commission.

297 (3) The department shall give written notice of the release  
298 of a person who is committed as a sexually violent predator, or  
299 who is in the department's custody based upon a court finding of  
300 probable cause to believe that the person is a sexually violent  
301 predator, to the sheriff of the county in which the person  
302 intends to reside or, if unknown, the sheriff of the county in  
303 which the person was last convicted.

304 Section 4. Section 394.931, Florida Statutes, is amended to  
305 read:

306 394.931 Quarterly and annual reports.—

307 (1) Beginning July 1, 1999, The Department of Corrections  
308 shall collect information and compile quarterly reports with  
309 statistics profiling inmates released the previous quarter who  
310 fit the criteria and were referred to the Department of Children  
311 and Families ~~Family Services~~ pursuant to this act. ~~The quarterly~~  
312 ~~reports must be produced beginning October 1, 1999.~~ At a  
313 minimum, the information that must be collected and compiled for  
314 inclusion in the reports includes: whether the qualifying  
315 offense was the current offense or the prior offense; the  
316 offender's most serious sexual offense; the total number of  
317 distinct victims of the sexual offense; whether the victim was  
318 known to the offender; whether the sexual act was consensual;  
319 whether the sexual act involved multiple victims; whether direct

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320 violence was involved in the sexual offense; the age of each  
321 victim at the time of the offense; the age of the offender at  
322 the time of the first sexual offense; whether a weapon was used;  
323 length of time since the most recent sexual offense; and the  
324 total number of prior and current sexual offense ~~sexual offense~~  
325 convictions. In addition, the department ~~of Children and Family~~  
326 ~~Services~~ shall implement a long-term study to determine the  
327 overall efficacy of ~~the provisions of~~ this part.

328 (2)(a) Beginning July 1, 2014, the Department of  
329 Corrections shall collect information necessary to produce an  
330 annual report to the Legislature documenting recidivism rates  
331 for offenders referred to and released from the civil  
332 confinement facility. The Department of Children and Families  
333 shall provide the necessary offender information to the  
334 Department of Corrections to facilitate the recidivism report.

335 (b) The first report shall be submitted to the Legislature  
336 by July 1, 2015, and annually thereafter. At a minimum, the  
337 report must:

338 1. Separately report recidivism rates for persons released  
339 from detention and for persons released from commitment;

340 2. Define recidivism as return to prison or community  
341 supervision for a new sexual offense; and

342 3. Include an analysis of technical violations.

343 Section 5. Subsections (1) and (11) of section 394.912,  
344 Florida Statutes, are amended to read:

345 394.912 Definitions.—As used in this part, the term:

346 (1) "Agency with jurisdiction" means:

347 (a) The agency that releases, upon lawful order or  
348 authority, a person who is serving a sentence in the custody of

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the Department of Corrections, a person who was adjudicated delinquent and is committed to the custody of the Department of Juvenile Justice, or a person who was involuntarily committed to the custody of the Department of Children and Families ~~Family Services~~ upon an adjudication of not guilty by reason of insanity.

(b) The agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of a local detention facility for any offense other than a violation of s. 316.193 or s. 832.05 and who is:

1. Designated as a sexual predator pursuant to s. 775.21 or a sexual offender pursuant to s. 943.0435 as the result of being convicted of a sexually violent offense; or

2. A person for whom the state attorney has provided the agency with written notification that the person has been convicted of committing a sexually violent offense;

unless the person is to be transferred or returned to total confinement in the custody of the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Families.

(c) The agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of a local detention facility and for whom the state attorney has provided the agency with written notification that, in the opinion of the state attorney, the offense for which the person is in custody was a sexually motivated offense.

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

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378 contractually operated for the Department of Corrections, the  
379 Department of Juvenile Justice, or the Department of Children  
380 and Families or in a local detention facility ~~Family Services~~. A  
381 person ~~is shall also be~~ deemed to be in total confinement and  
382 subject to for applicability of provisions under this part if:

383       (a) The person is serving an incarcerative sentence under  
384 the custody of the Department of Corrections or the Department  
385 of Juvenile Justice and is being held in any other secure  
386 facility for any reason; or

387       (b) A court or the agency with jurisdiction determines that  
388 the person who is being held should have been lawfully released  
389 at an earlier date and that the provisions of this part would  
390 have been applicable to the person on the date that he or she  
391 should have been lawfully released.

392       Section 6. If any provision of this act or its application  
393 to any person or circumstance is held invalid, the invalidity  
394 does not affect other provisions or applications of this act  
395 which can be given effect without the invalid provision or  
396 application, and to this end the provisions of this act are  
397 severable.

398       Section 7. This act shall take effect July 1, 2014.