

House Bill No. 949

An act relating to sexually violent offenders; amending s. 394.913, F.S.; requiring the agency with jurisdiction over a person convicted of a sexually violent offense to provide earlier notice of the offender's anticipated release; revising the time for preparing the assessment as to whether the offender is a sexually violent predator; amending s. 394.917, F.S.; requiring detainees to be segregated from other patients; amending s. 394.929, F.S.; revising a catchline; 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.—

(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 a copy to the state attorney of the circuit 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 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 team and a copy to the state attorney of the circuit where the person plans to reside upon release or, if no residence in this state is planned, the state attorney in the circuit where the facility from which the person to be released is located. Except as provided in s. 394.9135, the written notice must be given to the multidisciplinary team and the state attorney at least 365 days or, in the case of an adjudicated committed delinquent, at least 90 days before:

(a) At least 545 days prior to the anticipated release from total confinement of a person serving a sentence in the custody of the Department of Corrections, except that in the case of persons who are totally confined for a period of less than 545 days, written notice must be given as soon as practicable ~~The anticipated release from total confinement of a person who has been convicted of a sexually violent offense, except that in the case of persons who have been returned to total confinement for no more than 90 days, written notice must be given as soon as practicable following the person's return to confinement; or~~

(b) At least 180 days prior to the anticipated release from residential commitment of a person committed to the custody of the Department of

Juvenile Justice, except that in the case of persons who are committed to low or moderate risk, written notice must be given as soon as practicable; or

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

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

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

(b) The person's criminal history, including police reports, victim statements, presentence investigation reports, postsentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents;

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

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

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

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

(b) Each team shall include, but is not limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist. The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation shall include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether such person is a sexually violent predator.

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

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

(e) Within ~~180~~ 90 days after receiving notice, there shall be a written assessment as to whether the person meets the definition of a sexually violent predator and a written recommendation, which shall be provided to the state attorney. The written recommendation shall be provided by the Department of Children and Family Services and shall include the written report of the multidisciplinary team.

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

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

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

(2) If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers other than detainers for deportation by the United States Immigration and Naturalization Service, the person shall be committed to the custody of the Department of Children and Family Services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that it is safe for the person to be at large. At all times, persons sexually violent predators who are ~~detained or committed for control, care, and treatment by the Department of Children and Family Services under this part section~~ shall be kept in a secure facility segregated from patients of the department who are not ~~detained or committed under this part section~~.

Section 3. The catchline to section 394.929, Florida Statutes, is amended to read:

394.929 Program Department of Children and Family Services responsible for costs.—

Section 4. This act shall take effect July 1, 2002.

Approved by the Governor April 22, 2002.

Filed in Office Secretary of State April 22, 2002.