

## CHAPTER 2012-79

### Committee Substitute for Committee Substitute for House Bill No. 1097

An act relating to sexually violent predators; amending s. 394.913, F.S.; providing for prioritization of written assessment and recommendation for a person scheduled or up for review for release when the assessment and recommendation have not been completed within a specified period; amending s. 394.9135, F.S.; revising provisions relating to petitions to hold a person in custody following release and transfer to the Department of Children and Family Services to provide for extension of certain time periods that expire after normal business hours; amending s. 394.917, F.S.; deleting an exception for detainers for deportation by the United States Bureau of Citizenship and Immigration Services to provisions requiring sexually violent predators to be committed to the custody of the Department of Children and Family Services upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers; creating s. 394.9265, F.S.; prohibiting the knowing and intentional bringing of contraband into or its removal from the grounds of any facility for commitment or detention of sexually violent predators; specifying items that constitute contraband; providing criminal penalties for violations; providing exceptions; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of 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.—

(3)

(e)1. Within 180 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.

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

Section 2. Subsections (2) and (3) of section 394.9135, Florida Statutes, are 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.—

(2) Within 72 hours after transfer, the multidisciplinary team shall assess whether the person meets the definition of a sexually violent predator. If the multidisciplinary team determines that the person does not meet the definition of a sexually violent predator, that person shall be immediately released. If the multidisciplinary team determines that the person meets the definition of a sexually violent predator, the team shall provide the state attorney, as designated by s. 394.913, with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends after 5 p.m. on a working day or on a weekend or holiday, within the next working day thereafter.

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

Section 3. 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 Bureau of Citizenship and Immigration Services~~, 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 who are detained or committed under this part shall be kept in a secure facility segregated from patients of the department who are not detained or committed under this part.

Section 4. Section 394.9265, Florida Statutes, is created to read:

394.9265 Introduction or removal of certain articles unlawful; penalty.

(1) Except as authorized by law or as specifically authorized by the person in charge of a secure facility providing secure confinement and treatment under this part, it is unlawful to knowingly and intentionally bring into any facility providing secure confinement and treatment under this part, or to take or attempt to take or send therefrom, any of the following articles:

(a) Any intoxicating beverage or beverage that causes or may cause an intoxicating effect;

(b) Any controlled substance as defined in chapter 893; or

(c) Any firearm or weapon.

(2) A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. This act shall take effect July 1, 2012.

Approved by the Governor April 6, 2012.

Filed in Office Secretary of State April 6, 2012.