

Florida State University College of Law

Scholarship Repository

Staff Analyses & Legislative Documents

Florida Legislative Documents

1998

Session Law 98-064

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Law Commons

Recommended Citation

.

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analyses & Legislative Documents by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

Documentation List
Laws of Florida, 1998
Page 1

This list corresponds to Florida Information Associates' compilation of all computer retrieved legislative documents relative to this session law. (Adobe Acrobat File Name: 98064 pdf). The majority of these documents were copied from the Florida Legislature's ON-LINE SUNSHINE Internet site (www.leg.state.fl.us). Page numbers in brackets [] at the end of each entry refer to the electronic file.

1. Laws of Florida, 1998, Chapter 98-64, "An Act Relating to Sexual Predators". In Volume I, part 1, pp. 445-455. [Note: the published version of this law is not included in the electronic file, but the text is identical to CS/HB 3327, Third Engrossed, Enrolled - Item 14 below].
2. Bill history of passed bill, Committee Substitute for House Bill (CS/HB) 3327. [reprinted from On-line Sunshine]. [pp. 6-7].
3. House Bill (HB) 3327 (1998). [pp. 8-22].
4. House. Committee on Family Law and Children. Bill Research & Economic Impact Statement for HB 3327, February 27, 1998. [pp. 23-45]
5. Committee Substitute for House Bill (CS/HB) 3327 (1998). [pp. 46-62]
6. House Committee on Family Law and Children. Bill Research & Economic Impact Statement for CS/HB 3327, March 14, 1998. [pp. 63-86]
7. House Committee on Health and Human Services Appropriations. Bill Research & Economic Impact Statement for CS/HB 3327, March 25, 1998. [pp. 87-110].
8. House. Committee on Health and Human Services Appropriations. Bill Research & Economic Impact Statement for CS/HB 3327, March 26, 1998. [pp. 111-134].
9. AMENDMENTS TO CS/HB 3327 (1998) (The amendments listed below consist of 16 files from the On-Line Sunshine Legislative database and for user convenience have been combined in one file Notes are attached to the first page of each amendment giving the amendment number and Journal page cite)
 - a. House Amendment 1 by the House Committee on Health and Human Services Appropriations, 3/26/98 (House Journal (HJ) p. 629) [pp 137-138].
 - b. House Amendment 2 by Rep. Villalobos, 4/14/98 (HJ p. 629) [pp. 139-141]

Documentation List
Laws of Florida, 1998
Page 2

- c House Amendment 3 by Rep. Villalobos, 4/14/98 (HJ p.629). [pp. 142-143].
 - d House Amendment 4 by Rep. Villalobos, 4/16/98 (HJ p. 713) . [p 144].
 - e. Senate Amendment 1 by Sens. Klein and Gutman, 4/23/98 [deletes everything after the enacting clause and inserts all new text] (Senate Journal (SJ) pp.887-890) [pp. 145-162].
 - f Senate Amendment 1A : includes 3 versions; (a) by Sen. Gutman, 4/23/98, (b) by Sen Silver, 4/23/98, and (c) by Sen. Silver, 4/24/98 (SJ p 890). [pp. 163-165].
 - g Senate Amendment 1B by Sens Klein and Gutman, 4/24/98 (SJ p. 890) . [pp. 166-167].
 - h Senate Amedment 1C: includes 2 versions; (a) by Sen Klein, 4/23/98, and (b) by Sen. Klein, 4/24/98 (SJ p. 890). [pp. 168-169].
 - i. Senate Amendment 1D by Sens. Klein and Gutman, [4/24/98] (SJ pp 890-891). [p 170].
 - j. Senate Amendment 1E by Sen. Gutman, 4/23/98 (SJ p 891). [p 171].
 - k. Senate Amendment 2 by Sens. Klein and Gutman, 4/24/98 (SJ pp.1628-1631) [deletes everything after the enacting clause and inserts new text]. [pp. 172-190].
 - l. Senate Amendment 2 (substitute amendment) by Sens. Klein and Gutman, 4/30/98 (SJ p.1628). [pp. 191-206].
- 10. Senate Committee on Criminal Justice House Message Summary for CS/HB 3327, Second Engrossed (CS/CS/SB 646, First Engrossed). [p. 207]
 - 11. CS/HB 3327 (1998), First Engrossed [pp. 208-224].
 - 12. CS/HB 3327 (1998), Second Engrossed. [pp 225-241].
 - 13. CS/HB 3327 (1998), Third Engrossed. [pp. 242-260].
 - 14. CS/HB 3327 (1998), Third Engrossed, Enrolled. (Same as Laws of Florida, 1998, Chapter 98-64 - Item 1 above). [pp. 261-280]

Documentation List
Laws of Florida, 1998
Page 3

- 15 House. Committee on Family Law and Children. Final Bill Research & Economic Impact Statement for CS/HB 3327, May 26, 1998. [pp. 281-299]
16. Bill history of substituted bill, Committee Substitute for Committee Substitute (CS/CS/SB) 646 [reprinted from On-Line Sunshine]. [p 300].
- 17 Senate Bill (SB) 646 (1998). [pp 301-314]
- 18 CS/SB 646 (1998). [pp 315-332]
- 19 Senate. Committee on Criminal Justice Staff Analysis and Economic Impact Statement of CS/SB 646, February 4, 1998. [pp. 333-344].
20. CS/CS/SB 646 (1998). [pp. 345-361].
21. Senate. Committee on Children, Family and Seniors. Staff Analysis and Economic Impact Statement of CS/CS/SB 646, March 2, 1998 [pp 362-372]
22. Senate. Committee on Ways & Means Staff Analysis and Economic Impact Statement of CS/CS/SB 646, March 26, 1998. [pp. 373-383].
- 23 AMENDMENTS TO CS/CS/SB 646 (1998) (The amendments listed below consist of 10 files from the On-Line Sunshine Legislative database and for user convenience have been combined in one file. Notes are attached to the first page of each amendment giving the amendment number and Journal page cite).
 - a Senate Amendment 1 by Senator Klein, 4/22/98 (Senate Journal (SJ) p. 841. [p. 385]
 - b Senate Amendment 2 by Senator Klein, [4/23/98] (SJ p. 841). [p 386].
 - c Senate Amendment 3 by Senator Klein, 4/22/98 (SJ p. 841). [p 387].
 - d Senate Amendment 4, by Senator Klein, 4/23/98 (SJ p. 841). [pp 388-389].
 - e. Senate Amendment 5 by Senators Klein and Gutman, 4/23/98 (no file in legislative database. See Senate Journal for 4/23/98, p. 841).
 - f Senate Amendment 6 by Senator Klein, 4/23/98 (SJ p. 841). [p 390].

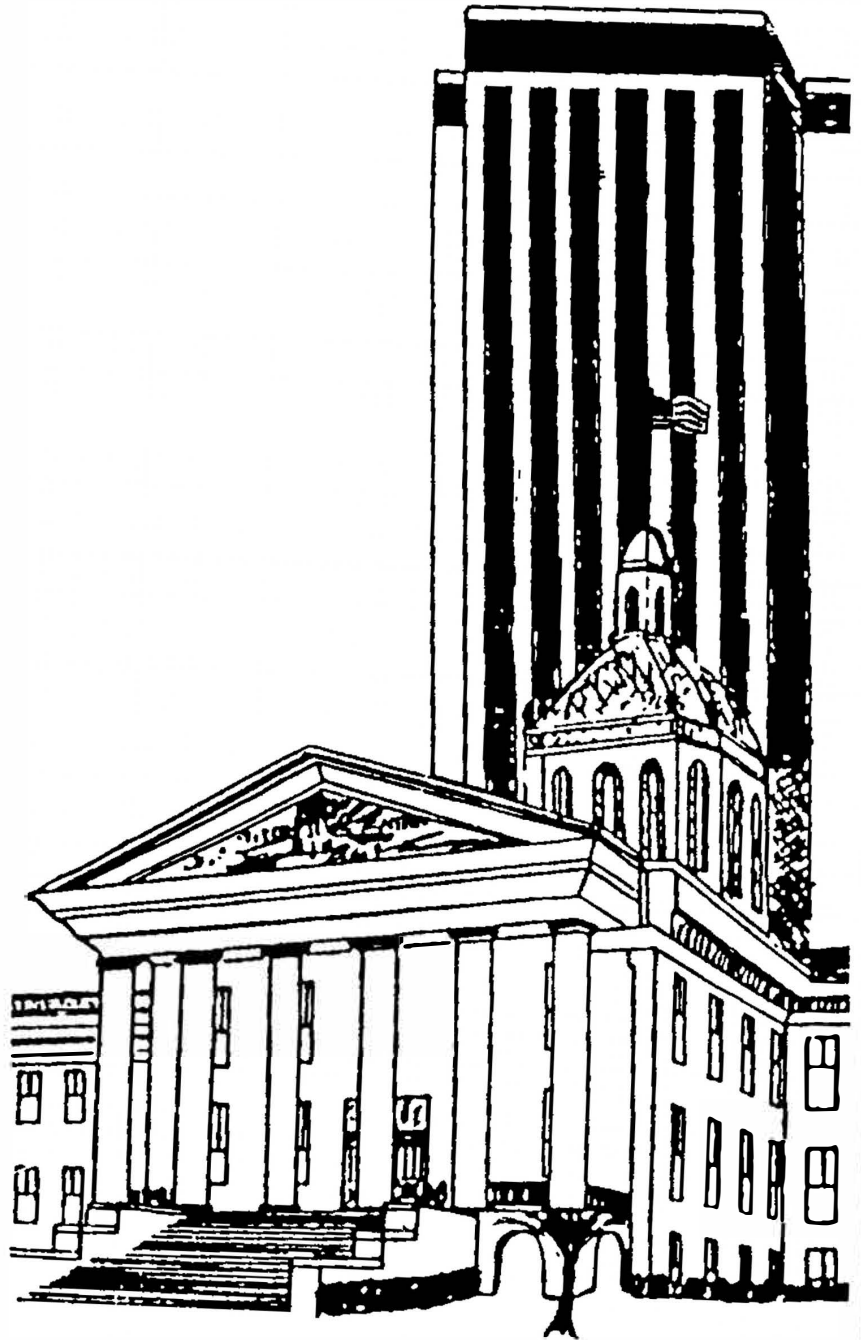
Documentation List
Laws of Florida, 1998
Page 4

- g Senate Amendment 7 by Senator Klein, 4/23/98 (SJ p. 841). [p. 391].
 - h Senate Amendment 8 : includes 2 versions; (a) by Senator Gutman, 3/30/98 and (b) by Senator Klein, 4/23/98 (SJ p. 841). [pp. 392-395].
 - i Senate Amendment 9 by Senator Klein, 4/23/98 (SJ p. 842). [p. 396].
24. CS/CS/SB 646 (1998), First Engrossed. [pp 397-414].
 25. Bill history of similar bill, SB 398. [reprinted from On-Line Sunshine]. [p. 415].
 26. SB 398 (1998). [note: as this bill was not formally considered in any committee, no staff analysis is available]. [pp. 416-438].
 27. Bill history of similar bill, SB 788. [reprinted from On-Line Sunshine]. [p. 439].
 28. SB 788 (1998). [note: as this bill was not formally considered in any committee, no staff analysis is available]. [pp. 440-454 (end)].

FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION “CITATOR”

*1998 Regular Session
1997 Special Session A*



prepared by:

**LEGISLATIVE INFORMATION SERVICES DIVISION
OFFICE OF LEGISLATIVE SERVICES**

Claude Pepper Building, Room 704

111 West Madison Street

Tallahassee, Florida 32399-1400

Telephone (850) 488-4371

HISTORY OF HOUSE BILLS

H 3323 (CONTINUED)

- 03/03/98 HOUSE Introduced, referred to Crime & Punishment (JC), Civil Justice & Claims (JC) —HJ 00027
- 03/12/98 HOUSE On Committee agenda—Crime & Punishment (JC), 03/19/98, 8 00 am, 21—HOB
- 03/19/98 HOUSE Comm Action Unanimously Favorable with 1 amendment(s) by Crime & Punishment (JC) —HJ 00312
- 03/23/98 HOUSE Now in Civil Justice & Claims (JC) —HJ 00312
- 04/13/98 HOUSE Withdrawn from Civil Justice & Claims (JC) —HJ 00525, Pending Consent Calendar
- 04/16/98 HOUSE Available for Consent Calendar
- 04/24/98 HOUSE Placed on Consent Calendar, Read second time —HJ 01238, Amendment(s) adopted —HJ 01238
- 04/28/98 HOUSE Read third time —HJ 01438, Passed as amended, YEAS 100 NAYS 10 —HJ 01438
- 04/28/98 SENATE In Messages
- 05/01/98 SENATE Died in Messages

H 3325 GENERAL BILL by Cosgrove (Identical S 0848, Compare H 3317, S 0850)

Art Therapy/Regulation, provides for regulation of practice of art therapy under provisions re clinical social work, marriage & family therapy, & mental health counseling, provides intent, revises & provides definitions, provides for registration of art therapist interns, provides licensure requirements, provides penalties re use of certain titles & terms & re unlicensed practice, requires display of license at each practice location, etc Amends FS Effective Date Contingent

- 12/23/97 HOUSE Prefiled
- 03/03/98 HOUSE Introduced —HJ 00027
- 04/09/98 HOUSE Withdrawn from further consideration —HJ 00504

H 3327 GENERAL BILL/CS/3RD ENG by Family Law & Children (JC); Villalobos; Murman; (CO-SPONSORS) Fasano; Flanagan; Cosgrove; Heyman; Kelly; Crist, Byrd; Silver; Brown, Valdes; Putnam; Harrington; Bloom (Similar S 0398, CS/CS/1ST ENGS 0646, S 0788)

Sexually Violent Predator Treatment, creates "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment & Care Act", requires certain notice to state attorney of anticipated release of specified persons who may meet criteria for said predator, provides that CFS Dept is responsible for specified evaluation & treatment costs, provides court orders for certain disclosures to dept by committed person of income & assets, etc Amends Ch 916 Appropriation \$6,400,000 Effective Date 01/01/1999

- 12/30/97 HOUSE Prefiled
- 01/16/98 HOUSE Referred to Family Law & Children (JC), Health & Human Services Appropriations
- 02/27/98 HOUSE On Committee agenda—Family Law & Children (JC), 03/05/98, 3 15 pm, 16—HOB
- 03/03/98 HOUSE Introduced, referred to Family Law & Children (JC), Health & Human Services Appropriations —HJ 00027, On Committee agenda—Family Law & Children (JC), 03/05/98, 3 15 pm, 16—HOB
- 03/05/98 HOUSE Comm Action Unanimously CS by Family Law & Children (JC) —HJ 00307
- 03/20/98 HOUSE CS read first time on 03/20/98 —HJ 00303, Now in Health & Human Services Appropriations —HJ 00307, On Committee agenda—Health & Human Services Appropriations, 03/26/98, 9 30 am, 317C
- 03/26/98 HOUSE Comm Action—Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations —HJ 00388
- 03/27/98 HOUSE Pending Consent Calendar —HJ 00388
- 03/30/98 HOUSE Objection filed, In Justice Council, pending ranking
- 04/09/98 HOUSE Placed on Justice Council Calendar —HJ 00520
- 04/14/98 HOUSE Temporarily postponed, on Second Reading —HJ 00579
- 04/15/98 HOUSE Temporarily postponed, on Second Reading —HJ 00602
- 04/16/98 HOUSE Read second time —HJ 00628, Amendment(s) adopted —HJ 00629
- 04/20/98 HOUSE Read third time —HJ 00712, Amendment(s) adopted —HJ 00713, CS passed as amended, YEAS 115 NAYS 0 —HJ 00713
- 04/21/98 SENATE In Messages
- 04/22/98 SENATE Received, referred to Criminal Justice, Children, Families and Seniors, Ways and Means —SJ 00825
- 04/24/98 SENATE Withdrawn from Criminal Justice, Children, Families and Seniors, Ways and Means —SJ 00887, Substituted for CS/CS/SB 646 —SJ 00887, Read second time —SJ 00887, Amendment(s) adopted —SJ 00887, Read third time —SJ 00891, CS passed as amended, YEAS 39 NAYS 0 —SJ 00891, Immediately certified —SJ 00891
- 04/24/98 HOUSE In returning messages
- 04/29/98 HOUSE Was taken up —HJ 01555, Refused to concur, requested Senate to recede —HJ 01559
- 04/29/98 SENATE In returning messages

H 3327 (CONTINUED)

- 05/01/98 SENATE Reconsidered —SJ 01628, Amendment(s) reconsidered, substitute amendment adopted —SJ 01628, Requested House to concur —SJ 01631, CS passed as amended, YEAS 38 NAYS 0 —SJ 01631
- 05/01/98 HOUSE In returning messages, Concurred —HJ 02247, CS passed as amended, YEAS 118 NAYS 0 —HJ 02250, Ordered engrossed, then enrolled —HJ 02250
- 05/15/98 Signed by Officers and presented to Governor
- 05/19/98 Approved by Governor, Chapter No 98—64

H 3329 GENERAL BILL by Argenziano; (CO-SPONSORS) Spratt, Feeney (Compare CS/H 3503)

Water Resource/Ground or Surface, (THIS BILL COMBINED IN CS/H3503,3329) prescribes conditions for certain transport & use of ground or surface waters under consumptive use permit issued by water management district or Environmental Protection Department Amends 373 223 Effective Date Upon becoming law

- 12/30/97 HOUSE Prefiled
- 01/16/98 HOUSE Referred to Water & Resource Management (GRC)
- 02/02/98 HOUSE On Committee agenda—Water & Resource Management (GRC), 02/18/98, 1 00 pm, 102—HOB
- 02/18/98 HOUSE CS combines this bill with 3503, Comm Action CS by Water & Resource Management (GRC)
- 03/03/98 HOUSE Introduced, referred to Water & Resource Management (GRC) —HJ 00027, On Committee agenda—Water & Resource Management (GRC), 02/18/98, 1 00 pm, 102—HOB, CS combines this bill with 3503, Comm Action CS by Water & Resource Management (GRC), Original bill laid on Table, refer to combined CS/HB 3503 (Died in Senate Natural Resources Committee)

H 3331 GENERAL BILL by Argenziano (Identical S 0530)

Organic Material Removal/State Water, provides exception from permitting requirements for removal by property owner of unconsolidated organic detrital material from water bodies adjacent to owner's property under specified circumstances Amends 403 813 Effective Date Upon becoming law

- 12/30/97 HOUSE Prefiled
- 01/16/98 HOUSE Referred to Water & Resource Management (GRC), General Government Appropriations
- 02/02/98 HOUSE On Committee agenda—Water & Resource Management (GRC), 02/18/98, 1 00 pm, 102—HOB—Temporarily deferred
- 02/26/98 HOUSE On Committee agenda—Water & Resource Management (GRC), 03/05/98, 10 15 am, 102—HOB
- 03/03/98 HOUSE Introduced, referred to Water & Resource Management (GRC), General Government Appropriations —HJ 00027, On Committee agenda—Water & Resource Management (GRC), 02/18/98, 1 00 pm, 102—HOB—Temporarily deferred, On Committee agenda—Water & Resource Management (GRC), 03/05/98, 10 15 am, 102—HOB
- 03/05/98 HOUSE Comm Action Unfavorable by Water & Resource Management (GRC), laid on Table —HJ 00149

H 3333 GENERAL BILL/CS by Civil Justice & Claims (JC); Crow; (CO-SPONSORS) Fasano; Heyman; Silver; Byrd; Livingston; Harrington; Lynn (Similar S 1210)

Stalking Offenses, provides for court revocation for specified period of driver's license of person who has used motor vehicle in course committing stalking or aggravated stalking, provides for forfeiture as contraband of such motor vehicle, provides for booting or immobilization of vehicle for specified period, redefines term "contraband article," to conform to changes made by Contraband Forfeiture Act, etc Amends 784 048, 932 701, reenacts 932 703 Effective Date Contingent

- 12/30/97 HOUSE Prefiled
- 01/16/98 HOUSE Referred to Crime & Punishment (JC), Civil Justice & Claims (JC), Criminal Justice Appropriations
- 01/30/98 HOUSE On Committee agenda—Crime & Punishment (JC), 02/17/98, 1 30 pm, 21—HOB
- 02/17/98 HOUSE Comm Action Unanimously Favorable by Crime & Punishment (JC)
- 02/19/98 HOUSE Now in Civil Justice & Claims (JC)
- 03/03/98 HOUSE Introduced, referred to Crime & Punishment (JC), Civil Justice & Claims (JC), Criminal Justice Appropriations —HJ 00027, On Committee agenda—Crime & Punishment (JC), 02/17/98, 1 30 pm, 21—HOB, Comm Action Unanimously Favorable by Crime & Punishment (JC) —HJ 00082, Now in Civil Justice & Claims (JC) —HJ 00082
- 03/04/98 HOUSE On Committee agenda—Civil Justice & Claims (JC), 03/11/98, 3 45 pm, 102—HOB—Workshop—Discussed
- 03/11/98 HOUSE On Committee agenda—Civil Justice & Claims (JC), 03/17/98, 3 45 pm, 102—HOB
- 03/18/98 HOUSE Comm Action Unanimously CS by Civil Justice & Claims (JC) —HJ 00388
- 03/31/98 HOUSE CS read first time on 03/31/98 —HJ 00381

FLORIDA LEGISLATURE—REGULAR SESSION—1998

HISTORY OF SENATE BILLS

S 386 (CONTINUED)

03/03/98 SENATE Introduced, referred to Education, Ways and Means -SJ 00030, On Committee agenda—Education, 02/04/98, 2 30 pm, Room-A(LL-37), Comm Action CS by Education -SJ 00008, CS read first time on 03/03/98 -SJ 00099, Now in Ways and Means -SJ 00008

03/27/98 SENATE On Committee agenda—Ways and Means, 04/01/98, 12 30 pm, Room-EL—Not considered

04/01/98 SENATE On Committee agenda—Ways and Means, 04/06/98, 2 00 pm, Room-EL

04/06/98 SENATE Comm Action -Favorable with 1 amendment(s) by Ways and Means -SJ 00407

04/07/98 SENATE Placed on Calendar -SJ 00407

04/15/98 SENATE Placed on Special Order Calendar -SJ 00478, Read second time -SJ 00475, Amendment(s) adopted -SJ 00476, Ordered engrossed -SJ 00476

04/16/98 SENATE Read third time -SJ 00493, Amendment(s) adopted -SJ 00493, CS passed as amended, YEAS 35 NAYS 0 -SJ 00493, Immediately certified -SJ 00493

04/16/98 HOUSE In Messages

05/01/98 HOUSE Died in Messages

S 388 GENERAL BILL/CS/CS by Ways and Means; Education; Holzendorf (Similar CS/IST ENGH 1159)

Math & Sciences Academy/Study Comm, establishes study commission to determine feasibility of creating residential mathematics & sciences academy, provides for commission's membership & duties, requires report Appropriation \$75,000 Effective Date Upon becoming law

12/01/97 SENATE Prefiled

12/16/97 SENATE Referred to Education, Ways and Means

01/26/98 SENATE On Committee agenda—Education, 02/04/98, 2 30 pm, Room-A(LL-37)

02/04/98 SENATE Comm Action CS by Education

02/06/98 SENATE Now in Ways and Means

03/03/98 SENATE Introduced, referred to Education, Ways and Means -SJ 00030, On Committee agenda—Education, 02/04/98, 2 30 pm, Room-A(LL-37), Comm Action CS by Education -SJ 00008, CS read first time on 03/03/98 -SJ 00099, Now in Ways and Means -SJ 00008

03/27/98 SENATE On Committee agenda—Ways and Means, 04/01/98, 12 30 pm, Room-EL—Not considered

04/01/98 SENATE On Committee agenda—Ways and Means, 04/06/98, 2 00 pm, Room-EL—Not considered

04/06/98 SENATE On Committee agenda—Ways and Means, 04/08/98, 3 00 pm, Room-EL—Not considered

04/10/98 SENATE On Committee agenda—Ways and Means, 04/15/98, 2 00 pm, Room-EL

04/15/98 SENATE Comm Action -CS/CS by Ways and Means -SJ 00743, CS read first time on 04/21/98 -SJ 00743

04/17/98 SENATE Placed on Calendar -SJ 00743

04/28/98 SENATE Placed on Special Order Calendar -SJ 01092

04/29/98 SENATE Placed on Special Order Calendar -SJ 01092

04/30/98 SENATE Placed on Special Order Calendar -SJ 01222, -SJ 01522

05/01/98 SENATE Placed on Special Order Calendar -SJ 01522, -SJ 01808, Died on Special Order Calendar

S 390 GENERAL BILL/CS by Education; Holzendorf (Similar CS/3RD ENGH 0159)

Community College Faculty Diversity, establishes Community College Faculty Diversity Program, provides for awarding fellowships, requires service or repayment, provides requirements of participants' employers Amends 240 498 Effective Date 07/01/1998

12/01/97 SENATE Prefiled

12/16/97 SENATE Referred to Education, Ways and Means

01/26/98 SENATE On Committee agenda—Education, 02/04/98, 2 30 pm, Room-A(LL-37)

02/04/98 SENATE Comm Action CS by Education

02/09/98 SENATE Now in Ways and Means

03/03/98 SENATE Introduced, referred to Education, Ways and Means -SJ 00030, On Committee agenda—Education, 02/04/98, 2 30 pm, Room-A(LL-37), Comm Action CS by Education -SJ 00008, CS read first time on 03/03/98 -SJ 00099, Now in Ways and Means -SJ 00008

03/27/98 SENATE On Committee agenda—Ways and Means, 04/01/98, 12 30 pm, Room-EL—Not considered

04/01/98 SENATE On Committee agenda—Ways and Means, 04/06/98, 2 00 pm, Room-EL—Not considered

04/06/98 SENATE On Committee agenda—Ways and Means, 04/08/98, 3 00 pm, Room-EL—Not considered

04/10/98 SENATE On Committee agenda—Ways and Means, 04/15/98, 2 00 pm, Room-EL

04/15/98 SENATE Comm Action -Favorable by Ways and Means -SJ 00528

S 390 (CONTINUED)

04/16/98 SENATE Placed on Calendar -SJ 00528

04/22/98 SENATE Placed on Special Order Calendar -SJ 00813, House Bill substituted -SJ 00811, Laid on Table, refer to CS/HB 159 (Died in House Returning Messages)

S 392 GENERAL BILL by Holzendorf; (CO-SPONSORS) Forman (Compare CS/H 3227)
Substance Abuse Treatment, redefines term "qualified professional" for purposes of providing certain substance abuse assessment or treatment services Amends 397 311 Effective Date Contingent

12/01/97 SENATE Prefiled

12/16/97 SENATE Referred to Children, Families and Seniors

01/26/98 SENATE On Committee agenda—Children, Families and Seniors, 02/03/98, 2 30 pm, Room-A(LL-37)—Temporarily postponed

02/09/98 SENATE On Committee agenda—Children, Families and Seniors, 02/19/98, 9 00 am, Room-A(LL-37)—Temporarily postponed

03/03/98 SENATE Introduced, referred to Children, Families and Seniors -SJ 00030, On Committee agenda—Children, Families and Seniors, 02/03/98, 2 30 pm, Room-A(LL-37)—Temporarily postponed, On Committee agenda—Children, Families and Seniors, 02/19/98, 9 00 am, Room-A(LL-37)—Temporarily postponed

03/13/98 SENATE On Committee agenda—Children, Families and Seniors, 03/18/98, 9 00 am, Room-A(LL-37)

03/18/98 SENATE Comm Action -Favorable with 1 amendment(s) by Children, Families and Seniors -SJ 00222

03/19/98 SENATE Placed on Calendar -SJ 00222

04/17/98 SENATE Placed on Special Order Calendar -SJ 00528

04/21/98 SENATE Placed on Special Order Calendar -SJ 00528

04/22/98 SENATE Placed on Special Order Calendar -SJ 00741, Read second time -SJ 00784, Amendment(s) adopted -SJ 00784, House Bill substituted -SJ 00784, Laid on Table, Ident / Sim / Compare Bill(s) passed, refer to CS/HB 3227 (Ch 98-262)

S 394 GENERAL BILL by Forman (Similar H 1983, Compare CS/H 1985, 1ST ENGH 4709, S 0396)

Human Rights Committee, provides legislative intent re duties & powers of Statewide Human Rights Advocacy Committee & district human rights advocacy committee, provides for Statewide Human Rights Advocacy Committee to monitor activities of, & investigate complaints against, CFS Dept, Health Dept & AHCA, revises duties of district human rights advocacy committee to conform to expanded duties of statewide committee, etc Amends Ch 402 Effective Date 07/01/1998

12/01/97 SENATE Prefiled

12/16/97 SENATE Referred to Judiciary

02/09/98 SENATE On Committee agenda—Judiciary, 02/18/98, 9 00 am, Room-309C

02/18/98 SENATE Comm Action -Favorable by Judiciary

02/20/98 SENATE Placed on Calendar

03/03/98 SENATE Introduced, referred to Judiciary -SJ 00030, On Committee agenda—Judiciary, 02/18/98, 9 00 am, Room-309C, Comm Action -Favorable by Judiciary -SJ 00007, Placed on Calendar -SJ 00008

05/01/98 SENATE Died on Calendar

S 396 GENERAL BILL by Forman (Similar CS/H 1985, Compare H 1983, 1ST ENGH 4709, S 0394)

Human Rights Advocacy Council, redesignates Statewide Human Rights Advocacy Committee as Statewide Human Rights Advocacy Council, redesignates district human rights advocacy committees as local human rights advocacy councils & provides for additional local councils to be established, provides for local councils to monitor activities of, & investigate complaints against, CFS Dept, conforms terminology to changes made by act, etc Amends FS Effective Date 07/01/1998

12/01/97 SENATE Prefiled

12/16/97 SENATE Referred to Children, Families and Seniors

01/26/98 SENATE On Committee agenda—Children, Families and Seniors, 02/03/98, 2 30 pm, Room-A(LL-37)

02/03/98 SENATE Comm Action -Favorable by Children, Families and Seniors

02/05/98 SENATE Placed on Calendar

03/03/98 SENATE Introduced, referred to Children, Families and Seniors -SJ 00030, On Committee agenda—Children, Families and Seniors, 02/03/98, 2 30 pm, Room-A(LL-37), Comm Action -Favorable by Children, Families and Seniors -SJ 00007, Placed on Calendar -SJ 00008

05/01/98 SENATE Died on Calendar

S 398 GENERAL BILL by Klein; (CO-SPONSORS) Williams; Latvala; Brown-Waite; Bronson; Casas; Meadows; Myers; Kurth (Similar

(CONTINUED ON NEXT PAGE)

HISTORY OF SENATE BILLS

S 398 (CONTINUED)

CS/3RD ENG/H 3327, CS/CS/1ST ENG/S 0646, S 0788, Compare CS/H 1259, S 0410, S 1534

Sexually Violent Predator Treatment, requires notice of release from custody of person alleged to be sexually violent predator, provides for evaluation of such person, provides for petition to have such person declared sexually violent predator, provides for determination of probable cause, hearings, taking such person into custody, provides for commitment of person determined to be sexually violent predator, etc Creates 916 30- 46, amends 775 084 Effective Date 07/01/1998

12/02/97 SENATE Prefiled
 12/16/97 SENATE Referred to Criminal Justice, Children, Families and Seniors, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Children, Families and Seniors, Ways and Means -SJ 00030
 05/01/98 SENATE Died in Committee on Criminal Justice, Iden /Sim / Compare Bill(s) passed, refer to CS/HB 3327 (Ch 98-64)

S 400 GENERAL BILL/1ST ENG by Burt (Similar CS/1ST ENG/H 1757)

Florida Single Audit Act, creates said act, provides intent & findings, provides purposes of act, provides definitions, provides duties of Executive Office of Governor, Comptroller, & state agencies that award state funds to non-state agencies to carry out state projects, provides conditions on nonstate agencies' receipt of state funds, requires recipients & subrecipients of state funds to obtain audits, etc Creates 216 3491, amends 265 2861, repeals 216 349 Effective Date 07/01/2000

12/02/97 SENATE Prefiled
 12/16/97 SENATE Referred to Governmental Reform and Oversight, Ways and Means
 01/12/98 SENATE On Committee agenda—Governmental Reform and Oversight, 01/22/98, 9 00 am, Room-309C
 01/22/98 SENATE Comm Action Favorable by Governmental Reform and Oversight, Now in Ways and Means
 03/03/98 SENATE Introduced, referred to Governmental Reform and Oversight, Ways and Means -SJ 00031, On Committee agenda—Governmental Reform and Oversight, 01/22/98, 9 00 am, Room-309C, Comm Action Favorable by Governmental Reform and Oversight -SJ 00007, Now in Ways and Means -SJ 00007
 03/27/98 SENATE On Committee agenda—Ways and Means, 04/01/98, 12 30 pm, Room-EL—Not considered
 04/01/98 SENATE On Committee agenda—Ways and Means, 04/06/98, 2 00 pm, Room-EL—Not considered
 04/06/98 SENATE On Committee agenda—Ways and Means, 04/08/98, 3 00 pm, Room-EL—Not considered
 04/10/98 SENATE On Committee agenda—Ways and Means, 04/15/98, 2 00 pm, Room-EL—Withdrawn
 04/13/98 SENATE Withdrawn from Ways and Means -SJ 00433, Placed on Calendar
 04/22/98 SENATE Placed on Special Order Calendar -SJ 00813
 04/23/98 SENATE Placed on Special Order Calendar -SJ 00813
 04/24/98 SENATE Placed on Special Order Calendar -SJ 00868, Read second time -SJ 00925, Amendment(s) adopted -SJ 00925, Ordered engrossed -SJ 00925
 04/27/98 SENATE Read third time -SJ 00974, Passed as amended, YEAS 38 NAYS 0 -SJ 00974
 04/27/98 HOUSE In Messages
 04/28/98 HOUSE Received -HJ 01430, In Governmental Responsibility Council, pending ranking -HJ 01430, Substituted for CS/HB 1757 -HJ 01528, Read second and third times -HJ 01528, Passed, YEAS 120 NAYS 0 -HJ 01528
 04/28/98 SENATE Ordered enrolled -SJ 01097
 05/06/98 Signed by Officers and presented to Governor
 05/22/98 Became Law without Governor's Signature, Chapter No 98-91

S 402 GENERAL BILL/CS by Health Care; Meadows; (CO-SPONSORS) Childers (Similar CS/CS/H 3207, Compare CS/CS/H 3208, CS/S 0870)

Nonclinical Social Work Practice, provides regulatory provisions applicable to certain social work practice, creates advisory council within Health Dept., provides for different levels of licensure & practice, provides for licensure by examination or endorsement, requires instruction on HIV & AIDS, provides continuing education requirements, provides grounds for disciplinary action & specifies criminal violations, etc Amends FS Effective Date 07/01/1998
 12/02/97 SENATE Prefiled
 12/16/97 SENATE Referred to Health Care, Governmental Reform and Oversight, Ways and Means
 03/03/98 SENATE Introduced, referred to Health Care, Governmental Reform and Oversight, Ways and Means -SJ 00031
 04/02/98 SENATE On Committee agenda—Health Care, 04/07/98, 2 00 pm, Room EL

S 402 (CONTINUED)

04/07/98 SENATE Comm Action CS by Health Care -SJ 00424, CS read first time on 04/09/98 -SJ 00425
 04/09/98 SENATE Now in Governmental Reform and Oversight -SJ 00424
 05/01/98 SENATE Died in Committee on Governmental Reform and Oversight

S 404 GENERAL BILL by Bronson; (CO-SPONSORS) Cowin; Forman (Similar CS/H 3527)

Criminal Penalty/Jail Rules, provides criminal penalty for refusing to obey jail rules & regulations Amends 951 23 Effective Date Upon becoming law
 12/02/97 SENATE Prefiled
 01/06/98 SENATE Referred to Criminal Justice
 01/26/98 SENATE On Committee agenda—Criminal Justice, 02/03/98, 9 00 am, Room-A(LL-37)
 02/03/98 SENATE Comm Action -Favorable with 1 amendment(s) by Criminal Justice
 02/05/98 SENATE Placed on Calendar
 03/03/98 SENATE Introduced, referred to Criminal Justice -SJ 00031, On Committee agenda—Criminal Justice, 02/03/98, 9 00 am, Room-A(LL-37), Comm Action -Favorable with 1 amendment(s) by Criminal Justice -SJ 00007, Placed on Calendar -SJ 00008
 04/27/98 SENATE Placed on Special Order Calendar -SJ 00982
 04/28/98 SENATE Placed on Special Order Calendar -SJ 00982, -SJ 01092
 04/29/98 SENATE Placed on Special Order Calendar -SJ 01092, Read second time -SJ 01181, Amendment(s) failed -SJ 01181, Amendment(s) adopted -SJ 01181, Amendment pending -SJ 01181
 04/30/98 SENATE Placed on Special Order Calendar -SJ 01222, -SJ 01522, Pending amendment withdrawn -SJ 01236, House Bill substituted -SJ 01236, Laid on Table, refer to CS/HB 3527 (Died in Senate Returning Messages)

S 406 GENERAL BILL/CS by Regulated Industries; Clary (Identical CS/H 3223, Compare 2ND ENG/H 2011)

Land Platting defines terms re platting, requires plats & replats of subdivisions submitted for approval to be accompanied by boundary survey of platted lands, revises provisions re naming & replatting subdivisions, provides requirements for recording of plat, revises provisions re approval of plats by governing bodies, requires plats to be reviewed by professional surveyor & mapper before approval by governing body, etc Amends Ch 177 Effective Date 07/01/1998
 12/02/97 SENATE Prefiled
 01/06/98 SENATE Referred to Regulated Industries
 02/09/98 SENATE On Committee agenda—Regulated Industries, 02/18/98, 9 00 am, Room-EL
 02/18/98 SENATE Comm Action -CS by Regulated Industries
 02/20/98 SENATE Placed on Calendar
 03/03/98 SENATE Introduced, referred to Regulated Industries -SJ 00031, On Committee agenda—Regulated Industries, 02/18/98, 9 00 am, Room-EL, Comm Action -CS by Regulated Industries -SJ 00009, CS read first time on 03/03/98 -SJ 00099, Placed on Calendar -SJ 00009
 04/01/98 SENATE Placed on Special Order Calendar -SJ 00343
 04/02/98 SENATE Placed on Special Order Calendar -SJ 00343
 04/08/98 SENATE Placed on Special Order Calendar -SJ 00406, House Bill substituted -SJ 00401, Laid on Table, Iden /Sim / Compare Bill(s) passed, refer to CS/HB 3223 (Ch 98-20)

S 408 JOINT RESOLUTION/CS by Community Affairs; Gutman (Similar CS/H 3071, H 3151, S 0246, Compare H 3097)

Homestead Exemption/Age 65 or Older, constitutional amendment to authorize Legislature to allow counties & municipalities to grant additional homestead tax exemption not exceeding \$25,000 to certain persons 65 years of age or older whose household income does not exceed specified amount Amends s 6, Art VII
 12/03/97 SENATE Prefiled
 01/06/98 SENATE Referred to Community Affairs, Ways and Means, Rules and Calendar
 01/23/98 SENATE On Committee agenda—Community Affairs, 02/03/98, 9 00 am, Room-309C
 02/03/98 SENATE Comm Action CS by Community Affairs
 02/06/98 SENATE Now in Ways and Means
 03/03/98 SENATE Introduced, referred to Community Affairs, Ways and Means, Rules and Calendar -SJ 00031, On Committee agenda—Community Affairs, 02/03/98, 9 00 am, Room-309C, Comm Action CS by Community Affairs -SJ 00008, CS read first time on 03/03/98 -SJ 00099, Now in Ways and Means -SJ 00008
 04/23/98 SENATE Withdrawn from Ways and Means -SJ 00828, Now in Rules and Calendar

HISTORY OF SENATE BILLS

S 642 (CONTINUED)

- 03/03/98 SENATE Introduced, referred to Children, Families and Seniors, Rules and Calendar—SJ 00044, On Committee agenda—Children, Families and Seniors, 02/19/98, 9 00 am, Room—A(LL-37), Comm Action CS by Children, Families and Seniors—SJ 00008, CS read first time on 03/03/98—SJ 00101, Now in Rules and Calendar—SJ 00008
- 04/13/98 SENATE On Committee agenda—Rules and Calendar, 04/16/98, 2 30 pm, Room—A(LL-37)
- 04/16/98 SENATE Comm Action—Favorable by Rules and Calendar—SJ 00528
- 04/17/98 SENATE Placed on Calendar—SJ 00528
- 04/24/98 SENATE Placed on Special Order Calendar—SJ 00927
- 04/27/98 SENATE Placed on Special Order Calendar—SJ 00927, House Bill substituted—SJ 00970, Laid on Table, Iden/Sim/Compare Bill(s) passed, refer to HB 4483 (Ch 98-224)

S 644 GENERAL BILL/CS by Judiciary, Silver; (CO-SPONSORS) Dudley (Similar 1ST ENG/H 1083)

- UCC/Investment Securities, revises provisions re Uniform Commercial Code Investment Securities, provides rules for determining whether certain obligations & interests are securities or financial assets, provides for acquisition of security or financial assets or interests, provides for control of certain securities, revises certain provisions re issue & issuer, provides rights & duties of issuer re registered owners, provides for issuer's liens, etc Amends FS Effective Date 10/01/1998
- 01/09/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Judiciary, Commerce and Economic Opportunities
- 02/09/98 SENATE On Committee agenda—Judiciary, 02/18/98, 9 00 am, Room—309C
- 02/18/98 SENATE Comm Action CS by Judiciary
- 02/23/98 SENATE Now in Commerce and Economic Opportunities
- 03/03/98 SENATE Introduced, referred to Judiciary, Commerce and Economic Opportunities—SJ 00044, On Committee agenda—Judiciary, 02/18/98, 9 00 am, Room 309C, Comm Action CS by Judiciary—SJ 00008, CS read first time on 03/03/98—SJ 00101, Now in Commerce and Economic Opportunities—SJ 00008, On Committee agenda—Commerce and Economic Opportunities, 03/04/98, 9 00 am, Room—EL
- 03/04/98 SENATE Comm Action—Favorable by Commerce and Economic Opportunities—SJ 00119, Placed on Calendar—SJ 00119
- 03/25/98 SENATE Placed on Special Order Calendar—SJ 00303, Read second time—SJ 00279
- 04/01/98 SENATE House Bill substituted—SJ 00330, Laid on Table, Iden/Sim/Compare Bill(s) passed, refer to HB 1083 (Ch 98-11)

S 646 GENERAL BILL/CS/CS/1ST ENG by Children, Families and Seniors, Criminal Justice; Gutman; (CO-SPONSORS) Horne; Klein; Diaz-Balart; Cowin (Similar CS/3RD ENG/H 3327, S 0398, S 0788)

- The Jimmy Ryce Act of 1998, requires notice of release from custody of person alleged to be sexually violent predator, provides for evaluation of such person, provides for petition to have such person declared sexually violent predator, provides for trial on issue of whether such person is sexually violent predator, provides that CFS Dept is responsible for costs, & authorizes said dept to contract for use of facilities, etc Amends Ch 916 Effective Date 01/01/1999
- 01/12/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Criminal Justice, Children, Families and Seniors, Ways and Means
- 01/26/98 SENATE On Committee agenda—Criminal Justice, 02/03/98, 9 00 am, Room A(LL-37)
- 02/03/98 SENATE Comm Action CS by Criminal Justice
- 02/06/98 SENATE Now in Children, Families and Seniors
- 03/03/98 SENATE Introduced, referred to Criminal Justice, Children, Families and Seniors, Ways and Means—SJ 00045, On Committee agenda—Criminal Justice, 02/03/98, 9 00 am, Room A(LL-37), Comm Action CS by Criminal Justice—SJ 00008, CS read first time on 03/03/98—SJ 00102, Now in Children, Families and Seniors—SJ 00008, On Committee agenda—Children, Families and Seniors, 03/04/98, 9 00 am, Room—A(LL-37)—Temporarily postponed
- 03/09/98 SENATE On Committee agenda—Children, Families and Seniors, 03/12/98, 9 00 am, Room—A(LL-37)
- 03/12/98 SENATE Comm Action CS/CS by Children, Families and Seniors—SJ 00182, CS read first time on 03/18/98—SJ 00208
- 03/17/98 SENATE Now in Ways and Means—SJ 00182

S 646 (CONTINUED)

- 03/23/98 SENATE On Committee agenda—Ways and Means, 03/26/98, 2 30 pm, Room—EL
- 03/26/98 SENATE Comm Action—Favorable by Ways and Means—SJ 00344
- 03/27/98 SENATE Placed on Calendar—SJ 00344
- 04/22/98 SENATE Placed on Special Order Calendar—SJ 00813
- 04/23/98 SENATE Placed on Special Order Calendar—SJ 00813, Read second time—SJ 00841, Amendment(s) adopted—SJ 00841, Ordered engrossed—SJ 00842
- 04/24/98 SENATE House Bill substituted—SJ 00887, Laid on Table, Iden/Sim/Compare Bill(s) passed, refer to CS/HB 3327 (Ch 98-64)

S 648 GENERAL BILL by Kirkpatrick; (CO-SPONSORS) Sullivan; Forman (Identical H 3383)

- State Purchasing Guidelines, requires DMS to develop & publish guidelines for state agencies re purchase of computer mainframes, establishes minimum requirements Effective Date Upon becoming law
- 01/12/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Governmental Reform and Oversight
- 03/03/98 SENATE Introduced, referred to Governmental Reform and Oversight—SJ 00045, Withdrawn from Governmental Reform and Oversight—SJ 00003, Withdrawn from further consideration—SJ 00003

S 850 GENERAL BILL/CS by Health Care, Clary

- Medicaid/Healthy Start Program, authorizes AHCA to pay for certain types of services for Healthy Start program, pursuant to federal waiver, provides for certain limits on such services, directs agency to seek such waiver Amends 409 906 Effective Date 07/01/1998
- 01/12/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Health Care, Ways and Means
- 01/26/98 SENATE On Committee agenda—Health Care, 02/04/98, 2 30 pm, Room—EL—Temporarily postponed
- 03/03/98 SENATE Introduced, referred to Health Care, Ways and Means—SJ 00045, On Committee agenda—Health Care, 02/04/98, 2 30 pm, Room—EL—Temporarily postponed, On Committee agenda—Health Care, 03/04/98, 1 00 pm, Room—EL
- 03/04/98 SENATE Comm Action CS by Health Care—SJ 00119, CS read first time on 03/05/98—SJ 00124
- 03/05/98 SENATE Now in Ways and Means—SJ 00119
- 03/25/98 SENATE Withdrawn from Ways and Means—SJ 00272, Placed on Calendar
- 04/01/98 SENATE Placed on Special Order Calendar—SJ 00343, Read second time—SJ 00338
- 04/02/98 SENATE Read third time—SJ 00358, CS passed, YEAS 38 NAYS 0—SJ 00358, Immediately certified—SJ 00358
- 04/02/98 HOUSE In Messages
- 05/01/98 HOUSE Died in Messages

S 652 GENERAL BILL by Turner

- Minority Business Enterprises, requires certain persons doing business with state to submit minority business development plan, provides that failure to submit plan disqualifies person from bidding on state contracts for period of time Amends 287 09451 Effective Date 07/01/1998
- 01/13/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Commerce and Economic Opportunities, Governmental Reform and Oversight
- 03/03/98 SENATE Introduced, referred to Commerce and Economic Opportunities, Governmental Reform and Oversight—SJ 00045
- 04/24/98 SENATE Withdrawn from Commerce and Economic Opportunities, Governmental Reform and Oversight—SJ 00877, Withdrawn from further consideration—SJ 00877

S 654 GENERAL BILL by Turner (Identical H 4187)

- School Pesticide Safety, provides definitions, requires school pest management plan, requires notification to students, parents, & staff of pesticide application, provides notice requirements, requires school pesticide registry, requires records & reports Creates 232 365 Effective Date 07/01/1998
- 01/13/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Education
- 03/03/98 SENATE Introduced, referred to Education—SJ 00045
- 04/24/98 SENATE Withdrawn from Education—SJ 00877, Withdrawn from further consideration—SJ 00877

S 656 GENERAL BILL by Turner; (CO-SPONSORS) Casas, Forman (Similar H 0701)

- School Curriculum/History of Labor, encourages school districts to provide instruction in history of labor & business Amends 233 061 Effective Date 07/01/1998
- 01/13/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Education, Ways and Means

HISTORY OF SENATE BILLS

S 776 (CONTINUED)

- 03/06/98 SENATE Placed on Calendar—SJ 00136
 04/01/98 SENATE Placed on Special Order Calendar—SJ 00343
 04/02/98 SENATE Placed on Special Order Calendar—SJ 00343
 04/08/98 SENATE Placed on Special Order Calendar—SJ 00406
 04/09/98 SENATE Placed on Special Order Calendar—SJ 00406
 04/13/98 SENATE Placed on Special Order Calendar—SJ 00424, Read second time—SJ 00447, Amendment pending—SJ 00447
 04/15/98 SENATE Placed on Special Order Calendar—SJ 00478, Pending amendment adopted—SJ 00474, Amendment(s) adopted—SJ 00474, Ordered engrossed—SJ 00474
 04/16/98 SENATE Read third time—SJ 00492, CS passed as amended, YEAS 38 NAYS 0—SJ 00492, Immediately certified—SJ 00492
 04/16/98 HOUSE In Messages
 04/20/98 HOUSE Received—HJ 00693, Placed on Economic Impact Council Calendar—HJ 00693
 04/22/98 HOUSE Substituted for HB 4427—HJ 00989, Read second time—HJ 00989
 04/23/98 HOUSE Temporarily postponed, on Thrd Reading
 04/27/98 HOUSE Read third time—HJ 01400, CS passed, YEAS 113 NAYS 3—HJ 01400
 04/27/98 SENATE Ordered enrolled—SJ 00983
 05/06/98 Signed by Officers and presented to Governor
 05/12/98 Approved by Governor, Chapter No 98-49

S 778 GENERAL BILL by Gutman (Compare H 3757)

- Controlled Substances, provides inferences that may be drawn from possession of specified amounts of cocaine, marijuana, heroin, amphetamine, or methamphetamine re intent to deliver or sell such substance Creates 893 133 Effective Date 10/01/1998
 01/22/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Ways and Means—SJ 00052
 03/12/98 SENATE On Committee agenda—Criminal Justice, 03/17/98, 9 00 am, Room—A(LL)-37—Temporarily postponed
 05/01/98 SENATE Died in Committee on Criminal Justice

S 780 GENERAL BILL by Gutman (Compare H 4667, CS/1ST ENG/S 1522)

- Felony Offenders, provides that for purposes of sentencing offender as violent career criminal, habitual felony offender, or habitual violent felony offender, placement of offender on community control without adjudication of guilt is considered prior conviction under certain circumstances Amends 775 084 Effective Date 07/01/1998
 01/22/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Ways and Means—SJ 00052
 03/09/98 SENATE On Committee agenda—Criminal Justice, 03/12/98, 1 00 pm, Room—A(LL)-37
 03/12/98 SENATE Comm Action Favorable by Criminal Justice—SJ 00181
 03/16/98 SENATE Now in Ways and Means—SJ 00181
 04/15/98 SENATE Withdrawn from Ways and Means—SJ 00462, Placed on Calendar
 05/01/98 SENATE Died on Calendar, Iden./Sim./Compare Bill(s) passed, refer to CS/5B 1522 (Ch 98-204)

S 782 GENERAL BILL by Gutman (Similar CSH 3279)

- Obstruction of Law Enforcement, reclassifies or increases penalties for offenses of falsely assuming or pretending to be, or falsely personating specified law enforcement positions, provides that such false assumption or pretense is felony of second degree, provides that such false personation during commission of felony which results in death or personal injury of another human being is felony of first degree punishable by life imprisonment, etc Amends 843 08, 921 0022 Effective Date Contingent
 01/22/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Ways and Means—SJ 00052
 03/09/98 SENATE On Committee agenda—Criminal Justice, 03/12/98, 1 00 pm, Room A(LL)-37
 03/12/98 SENATE Comm Action Favorable with 1 amendment(s) by Criminal Justice—SJ 00181
 03/16/98 SENATE Now in Ways and Means—SJ 00181
 04/01/98 SENATE Withdrawn from Ways and Means—SJ 00324, Placed on Calendar
 05/01/98 SENATE Died on Calendar

S 784 GENERAL BILL/CS by Criminal Justice; Gutman

- Federal Proceeds Trust Fund, creates said trust fund for FDLE to deposit revenue received as result of federal forfeiture proceedings & asset-sharing

S 784 (CONTINUED)

- programs, provides that trust fund is exempt from service charge levied against state trust funds, requires that expenditures from trust fund comply with certain federal guidelines, provides for future review & termination or re-creation of trust fund Amends 943 362 Effective Date Upon becoming law if enacted by at least 3/5ths vote of membership of each house of Legislature
 01/22/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice
 03/03/98 SENATE Introduced, referred to Criminal Justice—SJ 00053
 04/02/98 SENATE On Committee agenda—Criminal Justice, 04/07/98, 10 00 am, Room—A(LL)-37
 04/07/98 SENATE Comm Action—CS by Criminal Justice—SJ 00425, CS read first time on 04/09/98—SJ 00425
 04/09/98 SENATE Placed on Calendar—SJ 00425
 05/01/98 SENATE Died on Calendar

S 786 GENERAL BILL/CS by Criminal Justice; Gutman

- Trespass, provides enhanced penalty for trespass in structure or conveyance if offender commits assault or battery upon any person in structure or conveyance, provides for level-4 rank in offense severity ranking chart of Criminal Punishment Code Amends 810 08, 921 0022 Effective Date 10/01/1998
 01/22/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Ways and Means—SJ 00053, On Committee agenda—Criminal Justice, 03/03/98, 2 30 pm, Room—A(LL)-37, Comm Action CS by Criminal Justice—SJ 00119, CS read first time on 03/05/98—SJ 00124
 03/05/98 SENATE Now in Ways and Means—SJ 00119
 03/18/98 SENATE Withdrawn from Ways and Means—SJ 00168, Placed on Calendar
 05/01/98 SENATE Died on Calendar

S 788 GENERAL BILL by Klein; (CO-SPONSORS) Diaz-Balart; Crist; Dudley; Horne; Silver; Lee; Kirkpatrick; Dyer; Holzendorf (Similar CS/3RD ENG/H 3327, S 0398, CS/CS/1ST ENG/S 0646)

- Sexually Violent Predator Treatment, creates "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment & Care Act", requires notice of release from custody of person alleged to be sexually violent predator, provides for such person's evaluation, provides for petition to have such person declared sexually violent predator, provides for determination of probable cause, evaluations, taking such person into custody, etc Creates 916 30-43 Effective Date Contingent
 01/23/98 SENATE Prefiled
 02/06/98 SENATE Referred to Criminal Justice, Children, Families and Seniors, Ways and Means
 03/03/98 SENATE Introduced, referred to Criminal Justice, Children, Families and Seniors, Ways and Means—SJ 00053
 05/01/98 SENATE Died in Committee on Criminal Justice, Iden./Sim./Compare Bill(s) passed, refer to CS/HB 3327 (Ch 98-64)

S 790 GENERAL BILL/1ST ENG by Crist; (CO-SPONSORS) Latvala (Similar 1ST ENG/H 3525)

- Everglades River Grass License Plate, creates Everglades River of Grass license plate, provides for distribution of annual use fees received from sale of such plates Amends 320 08056, 08058 Effective Date 07/01/1998
 01/23/98 SENATE Prefiled
 02/06/98 SENATE Referred to Transportation, Ways and Means
 03/03/98 SENATE Introduced, referred to Transportation, Ways and Means—SJ 00053
 03/26/98 SENATE On Committee agenda—Transportation, 03/31/98, 1 30 pm, Room-301C
 03/31/98 SENATE Comm Action Favorable by Transportation—SJ 00344
 04/01/98 SENATE Now in Ways and Means—SJ 00344
 04/08/98 SENATE Withdrawn from Ways and Means—SJ 00386, Placed on Calendar
 04/24/98 SENATE Placed on Consent Calendar, Read second time—SJ 00902, Amendment(s) adopted—SJ 00902, Read third time—SJ 00902, Passed as amended, YEAS 36 NAYS 0—SJ 00902, Immediately certified—SJ 00902
 04/24/98 HOUSE In Messages
 04/27/98 HOUSE Received—HJ 01406, In Economic Impact Council, pending ranking—HJ 01406
 04/28/98 HOUSE Substituted for HB 3525—HJ 01473, Read second and third times—HJ 01473, Passed, YEAS 117 NAYS 0—HJ 01473
 04/28/98 SENATE Ordered enrolled—SJ 01097
 05/06/98 Signed by Officers and presented to Governor
 05/21/98 Approved by Governor, Chapter No 98-72

S 792 GENERAL BILL/CS by Banking and Insurance; Latvala; (CO-SPONSORS) Myers; Gutman; Bronson; Casas; Campbell (Similar CS/1ST ENG/H 3487)

H 3327: Sexually Violent Predator Treatment

H 3327 GENERAL BILL/CS/3RD ENG by Family Law & Children (JC); Villalobos; Murman; (CO-SPONSORS) Fasano; Flanagan; Cosgrove; Heyman; Kelly; Crist; Byrd; Silver; Brown; Valdes; Putnam; Harrington; Bloom (Similar S 0398, CS/CS/1ST ENG/S 0646, S 0788)
Sexually Violent Predator Treatment; creates "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment & Care Act"; requires certain notice to state attorney of anticipated release of specified persons who may meet criteria for said predator; provides that CFS Dept. is responsible for specified evaluation & treatment costs; provides court orders for certain disclosures to dept. by committed person of income & assets, etc. Amends Ch. 916. APPROPRIATION: \$6,400,000. EFFECTIVE DATE: 01/01/1999.

12/30/97 HOUSE Prefiled

01/16/98 HOUSE Referred to Family Law & Children (JC); Health & Human Services Appropriations

02/27/98 HOUSE On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

03/03/98 HOUSE Introduced, referred to Family Law & Children (JC); Health & Human Services Appropriations -HJ 00027; On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

03/05/98 HOUSE Comm. Action: Unanimously CS by Family Law & Children (JC) -HJ 00307

03/20/98 HOUSE CS read first time on 03/20/98 -HJ 00303; Now in Health & Human Services Appropriations -HJ 00307; On Committee agenda-- Health & Human Services Appropriations, 03/26/98, 9:30 am, 317C

03/26/98 HOUSE Comm. Action:-Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations -HJ 00388

03/27/98 HOUSE Pending Consent Calendar -HJ 00388

03/30/98 HOUSE Objection filed, In Justice Council, pending ranking

04/09/98 HOUSE Placed on Justice Council Calendar -HJ 00520

04/14/98 HOUSE Temporarily postponed, on Second Reading -HJ 00579

04/15/98 HOUSE Temporarily postponed, on Second Reading -HJ 00602

04/16/98 HOUSE Read second time -HJ 00628; Amendment(s) adopted -HJ 00629

04/20/98 HOUSE Read third time -HJ 00712; Amendment(s) adopted -HJ 00713; CS passed as amended; YEAS 115 NAYS 0 -HJ 00713

04/21/98 SENATE In Messages

04/22/98 SENATE Received, referred to Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00825

04/24/98 SENATE Withdrawn from Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00887; Substituted for CS/CS/SB 646 -SJ 00887; Read second time -SJ 00887; Amendment(s) adopted -SJ 00887; Read third time -SJ 00891; CS passed as amended; YEAS 39 NAYS 0 -SJ 00891; Immediately certified -SJ 00891

04/24/98 HOUSE In returning messages

04/29/98 HOUSE Was taken up -HJ 01555; Refused to concur, requested Senate to recede -HJ 01559

04/29/98 SENATE In returning messages

05/01/98 SENATE Reconsidered -SJ 01628; Amendment(s) reconsidered, substitute amendment adopted -SJ 01628; Requested House to concur -SJ 01631; CS passed as amended; YEAS 38 NAYS 0 -SJ 01631

05/01/98 HOUSE In returning messages; Concurred -HJ 02247; CS passed as amended; YEAS 118 NAYS 0 -HJ 02250; Ordered engrossed, then enrolled -HJ 02250

05/15/98 Signed by Officers and presented to Governor

05/19/98 Approved by Governor; Chapter No. 98-64

S 646 : The Jimmy Ryce Act of 1998

S 646 GENERAL BILL/CS/CS/1ST ENG by Children, Families and Seniors; Criminal Justice; Gutman; (CO-SPONSORS) Horne; Klein; Diaz-Balart; Cowin
(Similar CS/3RD ENG/H 3327, S 0398, S 0788)

The Jimmy Ryce Act of 1998; requires notice of release from custody of person alleged to be sexually violent predator; provides for evaluation of such person; provides for petition to have such person declared sexually violent predator; provides for trial on issue of whether such person is sexually violent predator; provides that CFS Dept. is responsible for costs, & authorizes said dept. to contract for use of facilities, etc. Amends Ch. 916. EFFECTIVE DATE: 01/01/1999.

01/12/98 SENATE Prefiled

01/23/98 SENATE Referred to Criminal Justice; Children, Families and Seniors; Ways and Means

01/26/98 SENATE On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37)

02/03/98 SENATE Comm. Action: CS by Criminal Justice

02/06/98 SENATE Now in Children, Families and Seniors

03/03/98 SENATE Introduced, referred to Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00045; On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37); Comm. Action: CS by Criminal Justice -SJ 00008; CS read first time on 03/03/98 -SJ 00102; Now in Children, Families and Seniors -SJ 00008; On Committee agenda-- Children, Families and Seniors, 03/04/98, 9:00 am, Room-A(LL-37) --Temporarily postponed

03/09/98 SENATE On Committee agenda-- Children, Families and Seniors, 03/12/98, 9:00 am, Room-A(LL-37)

03/12/98 SENATE Comm. Action: CS/CS by Children, Families and Seniors -SJ 00182; CS read first time on 03/18/98 -SJ 00208

03/17/98 SENATE Now in Ways and Means -SJ 00182

03/23/98 SENATE On Committee agenda-- Ways and Means, 03/26/98, 2:30 pm, Room-EL

03/26/98 SENATE Comm. Action:-Favorable by Ways and Means -SJ 00344

03/27/98 SENATE Placed on Calendar -SJ 00344

04/22/98 SENATE Placed on Special Order Calendar -SJ 00813

04/23/98 SENATE Placed on Special Order Calendar -SJ 00813; Read second time -SJ 00841; Amendment(s) adopted -SJ 00841; Ordered engrossed -SJ 00842

04/24/98 SENATE House Bill substituted -SJ 00887; Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to CS/HB 3327 (Ch. 98-64)

H 3327: Sexually Violent Predator Treatment

H 3327 GENERAL BILL/CS/3RD ENG by Family Law & Children (JC); Villalobos; Murman; (CO-SPONSORS) Fasano; Flanagan; Cosgrove; Heyman; Kelly; Crist; Byrd; Silver; Brown; Valdes; Putnam; Harrington; Bloom (Similar S 0398, CS/CS/1ST ENG/S 0646, S 0788)

Sexually Violent Predator Treatment; creates "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment & Care Act"; requires certain notice to state attorney of anticipated release of specified persons who may meet criteria for said predator; provides that CFS Dept. is responsible for specified evaluation & treatment costs; provides court orders for certain disclosures to dept. by committed person of income & assets, etc. Amends Ch. 916. APPROPRIATION: \$6,400,000. EFFECTIVE DATE: 01/01/1999.

12/30/97 HOUSE Prefiled

01/16/98 HOUSE Referred to Family Law & Children (JC); Health & Human Services Appropriations

02/27/98 HOUSE On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

03/03/98 HOUSE Introduced, referred to Family Law & Children (JC); Health & Human Services Appropriations -HJ 00027; On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

03/05/98 HOUSE Comm. Action: Unanimously CS by Family Law & Children (JC) -HJ 00307

03/20/98 HOUSE CS read first time on 03/20/98 -HJ 00303; Now in Health & Human Services Appropriations -HJ 00307; On Committee agenda-- Health & Human Services Appropriations, 03/26/98, 9:30 am, 317C

03/26/98 HOUSE Comm. Action:-Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations -HJ 00388

03/27/98 HOUSE Pending Consent Calendar -HJ 00388

03/30/98 HOUSE Objection filed, In Justice Council, pending ranking

04/09/98 HOUSE Placed on Justice Council Calendar -HJ 00520

04/14/98 HOUSE Temporarily postponed, on Second Reading -HJ 00579

04/15/98 HOUSE Temporarily postponed, on Second Reading -HJ 00602

04/16/98 HOUSE Read second time -HJ 00628; Amendment(s) adopted -HJ 00629

04/20/98 HOUSE Read third time -HJ 00712; Amendment(s) adopted -HJ 00713; CS passed as amended; YEAS 115 NAYS 0 -HJ 00713

04/21/98 SENATE In Messages

04/22/98 SENATE Received, referred to Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00825

04/24/98 SENATE Withdrawn from Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00887; Substituted for CS/CS/SB 646 -SJ 00887; Read second time -SJ 00887; Amendment(s) adopted -SJ 00887; Read third time -SJ 00891; CS passed as amended; YEAS 39 NAYS 0 -SJ 00891; Immediately certified -SJ 00891

04/24/98 HOUSE In returning messages

04/29/98 HOUSE Was taken up -HJ 01555; Refused to concur, requested Senate to recede -HJ 01559

04/29/98 SENATE In returning messages

05/01/98 SENATE Reconsidered -SJ 01628; Amendment(s) reconsidered, substitute

amendment adopted -SJ 01628; Requested House to concur

-SJ 01631; CS passed as amended; YEAS 38 NAYS 0 -SJ 01631

05/01/98 HOUSE In returning messages; Concurred -HJ 02247; CS passed as amended; YEAS 118 NAYS 0 -HJ 02250; Ordered engrossed, then enrolled -HJ 02250

05/15/98 Signed by Officers and presented to Governor

05/19/98 Approved by Governor; Chapter No. 98-64

Journals

of the

Florida House of Representatives



One Hundredth
Regular Session

since Statehood in 1845

March 3 through May 1, 1998

[Including a record of transmittal of Acts subsequent to *sine die* adjournment]

—was read the third time by title

On motion by Rep Byrd, further consideration of CS/HB 3733 was temporarily postponed under Rule 147

HB 3547 was taken up On motion by Rep Littlefield the rules were suspended and—

SB 830—A bill to be entitled An act relating to homestead tax exemptions, amending s 196 011, F S, deleting requirements for social security numbers to be included on applications for homestead exemptions, providing an effective date

—was substituted for HB 3547 and read the second time by title Under Rule 99, the House bill was laid on the table

On motion by Rep Littlefield, the rules were suspended and the bill was read the third time by title On passage, the vote was

Yeas—95

The Chair	Crow	Lacasa	Rodriguez-Chomat
Albright	Culp	Lippman	Rojas
Alexander	Dennis	Littlefield	Sanderson
Andrews	Dockery	Livingston	Saunders
Argenziano	Effman	Logan	Semler
Arnall	Fasano	Lynn	Sindler
Banter	Feeney	Mackenzie	Smith
Ball	Fischer	Maygarden	Spratt
Barreiro	Flanagan	Meek	Stabins
Betancourt	Futch	Melvin	Starks
Bitner	Garcia	Merchant	Sublette
Boyd	Gay	Minton	Tamargo
Bradley	Goode	Morrone	Thrasher
Brennan	Gottlieb	Morse	Trovillion
Bronson	Greene	Murman	Turnbull
Brooks	Hafner	Ogles	Valdes
Burroughs	Harrington	Peaden	Villalobos
Bush	Heyman	Posey	Wallace
Byrd	Hill	Pruitt, K	Warner
Casey	Horan	Putnam	Westbrook
Chestnut	Jones	Rayson	Wiles
Constantine	Kelly	Reddick	Wise
Crady	King	Ritchie	Ziebarth
Crist	Kosmas	Ritter	

Nays—16

Arnold	Clemons	Healey	Prewitt, D
Bloom	Cosgrove	Jacobs	Silver
Brown	Edwards	Mackey	Stafford
Carlton	Frankel	Miller	Tobin

Excused from time to time for Conference Committee—Albright, Banter, Barreiro, Bitner, Boyd, Bradley, Bronson, Byrd, Chestnut, Clemons, Constantine, Crady, Culp, Dennis, Eggelletion, Feeney, Flanagan, Garcia, Hafner, Jones, King, Lacasa, Lawson, Lippman, Littlefield, Livingston, Logan, Lynn, Mackey, Meek, Melvin, Merchant, Minton, Morse, Posey, K. Pruitt, Reddick, Ritchie, Roberts-Burke, Sanderson, Smith, Sublette, Thrasher, Turnbull, Valdes, Villalobos, Warner, Wasserman Schultz, Wise

Votes after roll call

Yeas—Wasserman Schultz
Nays to Yeas—Carlton

So the bill passed and was certified to the Senate

CS/HB 3511—A bill to be entitled An act relating to driver license revocations, amending s 322 26, F S, providing for permanent revocation of a driver license for murder resulting from the operation of a motor vehicle and for vehicular homicide, amending s 322 271, F S, providing for petition for reinstatement under certain circumstances, creating s 322 275, F S, providing for the authority of the court to authorize reinstatement of permanently revoked driver license

amending s 322 28 F S, revising language with respect to the period of suspension or revocation, conforming current language to the act, creating s 322 283 F S, providing for the commencement of the period of suspension or revocation for incarcerated offenders, providing for notification to the Department of Highway Safety and Motor Vehicles, creating s 322 341, F S, providing penalties for driving while a license is permanently revoked, providing an effective date

—was read the third time by title On passage, the vote was

Yeas—109

The Chair	Crow	Lacasa	Roberts-Burke
Albright	Culp	Lawson	Rodriguez-Chomat
Andrews	Dennis	Lippman	Rojas
Argenziano	Dockery	Littlefield	Sanderson
Arnall	Edwards	Livingston	Saunders
Arnold	Effman	Logan	Semler
Banter	Fasano	Lynn	Silver
Ball	Feeney	Mackenzie	Sindler
Barreiro	Fischer	Mackey	Smith
Betancourt	Flanagan	Maygarden	Spratt
Bitner	Frankel	Meek	Stabins
Bloom	Futch	Melvin	Starks
Boyd	Garcia	Merchant	Sublette
Bradley	Gay	Miller	Tamargo
Brennan	Goode	Minton	Thrasher
Bronson	Gottlieb	Morrone	Trovillion
Brooks	Greene	Morse	Valdes
Brown	Hafner	Murman	Villalobos
Burroughs	Harrington	Ogles	Wallace
Bush	Healey	Peaden	Warner
Byrd	Heyman	Posey	Wasserman Schultz
Carlton	Hill	Prewitt D	Westbrook
Casey	Horan	Pruitt, K	Wiles
Chestnut	Jacobs	Putnam	Wise
Clemons	Jones	Rayson	Ziebarth
Cosgrove	Kelly	Reddick	
Crady	King	Ritchie	
Crist	Kosmas	Ritter	

Nays—None

Excused from time to time for Conference Committee—Albright, Banter, Barreiro, Bitner, Boyd, Bradley, Bronson, Byrd, Chestnut, Clemons, Constantine, Crady, Culp, Dennis, Eggelletion, Feeney, Flanagan, Garcia, Hafner, Jones, King, Lacasa, Lawson, Lippman, Littlefield, Livingston, Logan, Lynn, Mackey, Meek, Melvin, Merchant, Minton, Morse, Posey, K. Pruitt, Reddick, Ritchie, Roberts-Burke, Sanderson, Smith, Sublette, Thrasher, Turnbull, Valdes, Villalobos, Warner, Wasserman Schultz, Wise

Votes after roll call

Yeas—Alexander, Constantine, Stafford

So the bill passed and was certified to the Senate

Bills and Joint Resolutions on Second Reading

CS/HB 3327—A bill to be entitled An act relating to sexual predators, creating the "Jimmy Rvce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act", creating s 916 30, F S, providing findings and intent, creating s 916 31, F S, providing definitions, creating s 916 32, F S, requiring certain notice to the state attorney and multidisciplinary team of anticipated release of specified persons who may meet the criteria for a sexually violent predator requiring the Secretary of Children and Family Services to establish a multidisciplinary team to assess the person whose release is anticipated, requiring provision of certain records and information by the agency with jurisdiction to the state attorney and multidisciplinary team, providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, prescribing duties of the multidisciplinary team and guidelines and time limits relating to assessment of the person and

notice of the assessment to the state attorney, creating s 916 33, F.S., providing for petition to have such person declared a sexually violent predator, creating s 916 34, F.S., providing for determination of probable cause hearing, taking respondent into custody, and transfer of the respondent to a secure facility for evaluation, providing guidelines and time limits for notice to the respondent and holding of the adversarial probable cause hearing, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator, creating s 916 35, F.S., providing for trial on the issue of whether a person is a sexually violent predator, creating s 916 36, F.S., providing for commitment of a person determined to be a sexually violent predator, creating s 916 37, F.S., requiring annual examination of persons committed, creating s 916 38, F.S., requiring detention and commitment to conform to constitutional requirements, creating s 916 39, F.S., providing for petitions for release, creating s 916 40, F.S., providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs, providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets, providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria, providing for notice and contest of the assessment, providing for survival of the order directing payment against the person's estate, creating s 916 41, F.S., providing for notice to victims, creating s 916 42, F.S., providing severability, creating s 916 43, F.S., providing for access to certain records, providing an effective date

—was read the second time by title

The Committee on Health & Human Services Appropriations offered the following

Amendment 1—On page 17, line 25, of the bill

insert

Section 16 *The Department of Children and Families shall utilize existing facilities for this program, or may contract with the Department of Corrections for facility and security costs*

Section 17 *There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Families the sum of \$3,400,000 and 50 full time equivalent positions, and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act From the funds appropriated to the Department of Children and Families, the department may, at the counties request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons*

Rep Villalobos moved the adoption of the amendment, which was adopted

Representative(s) Villalobos offered the following

Amendment 2 (with title amendment)—On page 6, line 15 through page 7, line 29, remove from the bill all of said lines

and insert in lieu thereof

916 32 *Notice to state attorney of release of sexually violent predator, immunity from liability —*

(1) *When it appears that the person may meet the criteria of a sexually violent predator, as defined in s 916 31, the agency with jurisdiction shall give written notice of that fact to the state attorney of the county 180 days before*

(a) *The anticipated release from total confinement from the Department of Corrections or the Department of Juvenile Justice of a person who has been convicted of a sexually violent offense*

(b) *The anticipated release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial under s 916 12,*

(c) *The anticipated release of a person who has been adjudicated not guilty by reason of insanity of a sexually violent offense and involuntarily committed under s 916 15, or*

(d) *The anticipated release from a juvenile delinquency commitment program of a person found to have committed a sexually violent offense as a juvenile*

(2) *The agency with jurisdiction shall provide to the state attorney all relevant information, including, but not limited to*

(a) *The person's name, identifying factors, anticipated future residence, and offense history*

(b) *A complete copy of the institutional records compiled by the agency with jurisdiction relating to the person and any out-of-state correctional records, if available*

(c) *All records relating to the psychological or psychiatric evaluation and treatment of the person*

(3) *The agency with jurisdiction and the state attorney, and their employees and individuals contracting, appointed, or volunteering to perform services, are immune from liability for any good-faith conduct under this section*

And the title is amended as follows

On page 1, lines 9 through 25, remove from the title of the bill all of said lines

and insert in lieu thereof attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator, requiring provision of certain records and information by the agency with jurisdiction to the state attorney, providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, creating s

Rep Villalobos moved the adoption of the amendment, which was adopted

Representative(s) Villalobos offered the following

Amendment 3 (with title amendment)—On page 8, line 13, through page 9, line 13, remove from the bill all of said lines

and insert in lieu thereof

916 34 *Determination of probable cause, respondent taken into custody, evaluation —Upon the filing of a petition under s 916 33, the court shall make a nonadversarial determination whether the petition sets forth sufficient grounds to believe probable cause exists that the respondent is a sexually violent predator If the court finds probable cause to believe that the respondent is a sexually violent predator, the court shall direct that the respondent be transferred to an appropriate secure facility, for an evaluation as to whether the respondent is a sexually violent predator The evaluation shall be conducted by a person who is professionally qualified to conduct such an examination*

And the title is amended as follows

On page 1, line 29, through page 2, line 8, remove from the title of the bill all of said lines

and insert in lieu thereof for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator, creating s 916 35,

Rep Villalobos moved the adoption of the amendment which was adopted

Under Rule 127, the bill was referred to the Engrossing Clerk

CS/HB 1381—A bill to be entitled An act relating to collection of court costs and fines, creating the "Comprehensive Court Enforcement Program Act", providing legislative intent, creating s 938.30, F.S., providing for supplementary proceedings for enforcement of court-ordered payment of financial obligations in criminal cases, providing for examination under oath regarding a person's ability to pay financial obligations in a criminal case, providing for reduction of the obligation based on a person's ability to pay, providing for service or actual notice of orders to appear, providing for taking of testimony, providing for orders that nonexempt property in the hands of another be applied toward satisfying an obligation, providing for a judgment of civil lien, providing for applicability of the Uniform Fraudulent Transfer Act in certain collection matters, providing for payment schedules, providing for civil contempt sanctions for failure to appear or comply with certain orders, providing for specified enforcement costs and fees and attorney's fees to be assessed to offset the costs of operating the program, providing for the use of special masters, providing that the clerk of court shall make quarterly reports to the chief judge, permitting county commissions to refer certain court-imposed financial obligations to collection agents, permitting use of the new provisions in addition to or in lieu of other provisions of law, providing for certain court orders, providing an effective date

—was read the second time by title

Representative(s) Heyman offered the following

Amendment 1—On page 5, lines 10-11, remove from the bill all of said lines

and insert in lieu thereof *commission to a collection agent who is registered and in good standing pursuant to chapter 559 or a private attorney. Such referrals must be*

Rep Heyman moved the adoption of the amendment, which was adopted

Representative(s) Heyman offered the following

Amendment 2—On page 4, line 6, of the bill

after the word *property* insert *, when recorded pursuant to s 55 10,*

Rep Heyman moved the adoption of the amendment, which was adopted

Under Rule 127, the bill was referred to the Engrossing Clerk

CS/HB 3373—A bill to be entitled An act relating to pretrial detention, amending s 907.041, F.S., revising criteria for pretrial detention, deleting requirement for additional court findings for pretrial detention, permitting pretrial detention for any violation of conditions of pretrial release or bond which, in the discretion of the court, supports a finding that no condition of release can reasonably protect the community from physical harm, assure the presence of the accused at trial, or assure the integrity of the judicial process, deleting limitation upon detention period when detention is based on threat of harm to the community, authorizing a court to detain a defendant at a bail hearing without separate hearing or motion for pretrial detention, authorizing the state to orally move for pretrial detention anytime the defendant is before the court for a bail hearing, providing for construction, repealing Rules 3.131 and 3.132, Florida Rules of Criminal Procedure, relating to pretrial release and pretrial detention, to the extent of inconsistency with the act, providing an effective date

—was read the second time by title

Representative(s) Crist, Tamargo, and Murman offered the following

Amendment 1 (with title amendment)—On page 6, between lines 24 & 25,

insert

Section 3 Section 903.301 Florida Statutes is amended to read

903.31 Canceling the bond —

(1) Within 10 business days after the conditions of a bond have been satisfied or the forfeiture discharged or remitted, the court shall order the bond canceled and if the surety has attached a certificate of cancellation to the original bond, shall furnish an executed certificate of cancellation to the surety without cost. An adjudication of guilt or innocence of the defendant shall satisfy the conditions of the bond. The original appearance bond shall not be construed to guarantee deferred sentences, appearance during or after a presentence investigation, appearance during or after appeals, conduct during or appearance after admission to a pretrial intervention program, payment of fines, or attendance at educational or rehabilitation facilities the court otherwise provides in the judgment.

(2) In any case where no formal charges have been brought against defendant within 365 days of arrest, the court shall order the bond canceled unless good cause is shown by the state.

And the title is amended as follows

On page 1, line 25, after the semicolon,

insert amending s 901.31, F.S.,

Rep Tamargo moved the adoption of the amendment, which was adopted

Representative(s) Heyman, Tamargo, and Crist offered the following

Amendment 2—On page 3, lines 11 and 12 remove from the bill all of said lines

and insert in lieu thereof

release will reasonably prevent the obstruction of the judicial process.

Rep Heyman moved the adoption of the amendment, which was adopted

Representative(s) Heyman, Tamargo, and Crist offered the following

Amendment 3—On page 4, lines 13 and 14, remove from the bill all of said lines

and insert in lieu thereof

persons, assure the presence of the accused at trial

Rep Heyman moved the adoption of the amendment, which was adopted

Under Rule 127, the bill was referred to the Engrossing Clerk

Consent Calendar

Bills and Joint Resolutions on Second Reading

HB 1447—A bill to be entitled An act relating to veterinary medical practice, amending s 474.203, F.S., revising and providing exemptions from regulation under chapter 474, F.S., relating to veterinary medical practice, amending s 474.207, F.S., relating to licensure by examination, eliminating obsolete provisions, amending s 474.211, F.S., requiring criteria for providers of continuing education to be approved by the board, amending s 474.2125, F.S., exempting veterinarians licensed in another state from certain requirements for temporary licensure in this state, correcting a cross reference, amending s 474.214, F.S., increasing the administrative fine, amending s 474.215, F.S., requiring limited service permittees to register each location and providing a registration fee, providing requirements for certain temporary rabies vaccination efforts, providing permit and other requirements for persons who are not licensed veterinarians but who desire to own and operate a veterinary medical establishment, providing disciplinary actions applicable to holders of premises permits reenacting s 474.217(2), F.S., relating to licensure by endorsement, to incorporate the amendment to s 474.214, F.S., in a reference thereto, providing an effective date

—was read the second time by title

Justice Council Calendar

Bills and Joint Resolutions on Third Reading

CS/HB 3327—A bill to be entitled An act relating to sexual predators, creating the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act", creating s 916 30, F S , providing findings and intent, creating s 916 31, F S , providing definitions, creating s 916 32, F S , requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator, requiring provision of certain records and information by the agency with jurisdiction to the state attorney, providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, creating s 916 33, F S , providing for petition to have such person declared a sexually violent predator, creating s 916 34, F S , providing for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator, creating s 916 35, F S , providing for trial on the issue of whether a person is a sexually violent predator, creating s 916 36, F S , providing for commitment of a person determined to be a sexually violent predator, creating s 916 37, F S , requiring annual examination of persons committed, creating s 916 38, F S , requiring detention and commitment to conform to constitutional requirements, creating s 916 39, F S , providing for petitions for release, creating s 916 40, F S , providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs, providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets, providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria, providing for notice and contest of the assessment, providing for survival of the order directing payment against the person's estate, creating s 916 41, F S , providing for notice to victims, creating s 916 42, F S , providing severability, creating s 916 43, F S , providing for access to certain records, providing an effective date

—was read the third time by title

Representative(s) Villalobos offered the following

Amendment 4—On page 7, line 28, of the bill

after the word "be" insert taken into custody and

Rep Villalobos moved the adoption of the amendment, which was adopted by the required two-thirds vote

The question recurred on the passage of CS/HB 3327 The vote was

Yeas—115

Table with 4 columns of names: The Chair, Albright, Alexander, Andrews, Argenziano, Arnall, Arnold, Baister, Ball, Barreiro, Betancourt, Bitner, Bloom, Boyd, Bradley, Brennan, Bronson, Brooks, Brown, Bullard, Bush, Byrd, Carlton, Casey, Chestnut, Clemons, Constantine, Cosgrove, Crist, Crow, Dawson-White, Dennis, Dockery, Edwards, Eifman, Eggleston, Fanning, Fischer, Frankel, Fuller, Futch, Garcia, Gay, Goode, Gottlieb, Greene, Hafner, Harrington, Healey, Hevman, Hill, Horn, Jacobs, Jones, Kelly, King, Kosmas, Lacasa, Lawson, Lippman, Littlefield, Livingston, Logan, Lynn, Mackenzie, Mackey, Maygarden, Meek, Melvin, Merchant, Miller, Minton, Morrison, Morse, Murman

Table with 4 columns of names: Ogles, Peaden, Posev, Prewitt, D, Pruitt, K, Putnam, Rayson, Reddick, Ritchie, Ritter, Roberts-Burke, Rodriguez Chomat, Rojas, Sailey, Sanderson, Saunders, Sembler, Silver, Sindler, Smith, Spratt, Stabins, Stafford, Starks, Sublette, Tamargo, Thrasher, Tobin, Trovillion, Turnbull, Valdes, Villalobos, Wallace, Warner, Wasserman Schultz, Westbrook, Wiles, Wise, Ziebarth

Navs—None

Excused from time to time for Conference Committee—Bradley, Byrd, Clemons, Lippman, Sailey, Thrasher, Warner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

CS/HB 3733—A bill to be entitled An act relating to offenders under correctional supervision, amending s 947 1405, F S , relating to conditional release, providing that a conditional releasee must submit to searches of his or her person, property, or residence as requested by a correctional probation officer, reenacting s 775 084(4)(1), F S , relating to habitual felony offenders and habitual violent felony offenders, to incorporate said amendment in a reference, amending s 947 18, F S , relating to conditions of parole, providing that a parolee must submit to searches of his or her person, property, or residence as requested by a correctional probation officer, amending s 947 22, F S , providing for issuance of arrest warrant for a parole violator by a correctional probation officer, under specified circumstances, authorizing a correctional probation officer to arrest without warrant a parolee, control releasee, or conditional releasee, or to search or request search by a law enforcement officer of the parolee or releasee's person, property, or residence, under specified circumstances if there are reasonable grounds to believe a violation has occurred or if there are reasonable grounds to believe the parolee or releasee possesses prohibited items, providing that evidence is admissible at a hearing for violation of supervision even if no reasonable ground for seizure exists, amending s 948 03, F S , relating to probation and community control, requiring a probationer or community controllee on supervision to submit to certain searches of his or her person, property, or residence, prohibiting a probationer or community controllee from having "contact," as defined, with the victim unless authorized by the court, reenacting s 947 23(6), F S , relating to action of Parole Commission upon arrest of parolee, s 948 001(5), F S , relating to definition of "probation" with respect to chapter 948, F S , and s 958 03(4), F S , relating to definition of "probation" with respect to specified provisions in chapter 958, F S , to incorporate said amendment in references, amending s 948 06, F S , relating to violations of probation or community control, authorizing law enforcement officers and probation or community control officers to search without a warrant the person, property, or residence of any of specified offenders under certain circumstances, prohibiting the exclusion or suppression of evidence from trials for subsequent offenses by offenders on probation, parole, conditional release, or community control under certain circumstances when there were "reasonable grounds," defined as the reasonable suspicion standard, to believe that at the time of the search the offender violated the law or the terms of supervision, providing that evidence is admissible at a hearing for violation of supervision even if no reasonable ground for seizure exists, prohibiting the exclusion or suppression of evidence from hearings for violation of supervision of offenders on probation, parole, conditional release, or community control, reenacting s 948 01(9), (11)(b), and (13)(b) F S relating to circumstances when a court may place a defendant on probation or into community control, and s 958 11, F S , relating to violation of probation or community control program to incorporate said amendment in references, providing an effective date

—was taken up having been read the third time on April 16

On motion by Rep Byrd, under Rule 148(h) the following late-filed amendment was considered



Journal of the Senate

(3)

Number 20—Regular Session

Friday, April 24, 1998

CONTENTS

Bills on Third Reading	877, 900
Call to Order	875, 901
Co-Sponsors	938
Committee Substitutes, First Reading	928
Communications	882, 891, 904
Conference Committee Reports	892
Consent Calendar	901
House Messages, Final Action	938
House Messages, First Reading	929
Introduction and Reference of Bills	927
Motions	877, 901, 927
Motions Relating to Committee Meetings	877
Motions Relating to Committee Reference	877
Reports of Committees	927
Resolutions	875
Special Guests	885
Special Order Calendar	909

[See end of Journal for Bill Action Summary]

CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.m. A quorum present—33:

Madam President	Crist	Kirkpatrick	Ostalciewicz
Bankhead	Dudley	Klem	Rossin
Bronson	Dyer	Kurth	Silver
Brown-Waite	Forman	Latvala	Thomas
Burt	Geller	Laurent	Turner
Casas	Grant	Lee	Williams
Childers	Harris	McKay	
Clary	Holzendorf	Meadows	
Cowan	Horne	Myers	

Excused Senator Jones

PRAYER

The following prayer was offered by Rhett O'Doski, Legislative Assistant to Senator Williams:

Our gracious Heavenly Father, we pause at the start of another busy day to ask your blessing upon the elected men and women who serve the citizens of Florida. For those who have the awesome responsibility to make decisions that will greatly affect the future of our state, we ask that you provide us wisdom, patience, courage, and most of all—brevity

Lord, help us maintain a genuine spirit of cooperation, collegiality, dignity and respect for honest differences of opinion, for we are all here with a sincere desire to be your humble servants. Let us not trifle with selfish motives, but remember we are here for a higher purpose—to better our cities, our state and this great nation we call our own.

Finally, we ask that you guide us with your loving hand and bless us in the proceedings of the day. In your blessed name we pray. Amen

PLEDGE

Senate Pages Richie Robmson of Tampa and Lisa Vinson of St. Petersburg, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Forman—

By Senator Forman—

SR 838—A resolution recognizing May 18 to May 24, 1998, as child, domestic, and elder abuse awareness week.

WHEREAS, residents of this state should have a safe home environment in which to live, and

WHEREAS, many children, spouses, and elders living in this state are subjected to abuses, both physical and mental, which drastically reduce the quality of their life, and

WHEREAS, child, domestic, and elder abuse is increasing both within this state and nationally, and

WHEREAS, the Florida Senate recognizes the needs of children, spouses, and elders, and the detrimental effects of abuse and wishes to emphasize the plight of victims of child, domestic, and elder abuse in the state, who are in need of help, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida.

That May 18 to May 24, 1998, is recognized as child, domestic, and elder abuse awareness week.

—SR 838 was introduced, read and adopted by publication.

At the request of Senator Rossin—

By Senator Rossin—

SR 858—A resolution honoring youths 15 years of age and older who are in foster care and honoring the State Youth Advisory Board of the Department of Children and Family Services.

WHEREAS, youths who enter the foster care system have not experienced the benefit of traditional family support and values that come with a stable family background, and frequently there is a stigma associated with being in foster care which creates the perception that youths in foster care are different from other young people or are to blame for their circumstances, and

WHEREAS, the Independent Living Program of the Department of Children and Family Services has been in existence for over 11 years and has proven to be a highly effective program in assisting youths who are in foster care to become independent of the welfare system, and

WHEREAS, youths who complete the Independent Living Program go on to work and live in their communities as taxpaying citizens who contribute to the state's economy, and

WHEREAS, youths who do not complete the Independent Living Program are more likely to become homeless, more likely to commit crimes, and more likely to continue to depend on the welfare system, and

WHEREAS, there are currently 2,919 youths in foster care who are between the ages of 15-21 and are eligible for the Independent Living Program, and

WHEREAS, the National Resource Center for Youth Services, University of Oklahoma, has named the Florida Department of Children and Family Services as having the most successful state youth board in the nation, and

allowing municipalities to exempt certain government financed or insured housing facilities from special assessments for emergency medical services; creating s. 213 68, F.S., specifying the garnishment authority and procedures applicable to counties which self-administer the local option tourist development tax, providing an effective date

—as amended April 23 was read the third time by title

On motions by Senator McKay, SB 2222 as amended was passed and by two-thirds vote immediately certified to the House. The vote on passage was.

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalloewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

On motion by Senator Gutman, by two-thirds vote CS for HB 3327 was withdrawn from the Committees on Criminal Justice, Children, Families and Seniors, and Ways and Means

On motion by Senator Gutman, by two-thirds vote—

CS for HB 3327—A bill to be entitled An act relating to sexual predators; creating the “Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators’ Treatment and Care Act”; creating s. 916 30, F.S.; providing findings and intent, creating s 916.31, F.S.; providing definitions; creating s 916.32, F.S., requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator; requiring provision of certain records and information by the agency with jurisdiction to the state attorney; providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, creating s. 916 33, F.S.; providing for petition to have such person declared a sexually violent predator; creating s 916.34, F.S., providing for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator; creating s 916.35, F.S.; providing for trial on the issue of whether a person is a sexually violent predator; creating s. 916.36, F.S., providing for commitment of a person determined to be a sexually violent predator; creating s 916 37, F.S.; requiring annual examination of persons committed, creating s. 916 38, F.S., requiring detention and commitment to conform to constitutional requirements, creating s. 916 39, F.S.; providing for petitions for release, creating s 916 40, F.S., providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs; providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets, providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria, providing for notice and contest of the assessment; providing for survival of the order directing payment against the person’s estate, creating s 916.41, F.S., providing for notice to victims, creating s. 916.42, F.S.; providing severability; creating s. 916 43, F.S., providing for access to certain records, providing an effective date

—a companion measure, was substituted for CS for CS for SB 646 as amended and read the second time by title

Senators Klein and Gutman offered the following amendment which was moved by Senator Klein:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert

Section 1. *The Division of Statutory Revision of the Joint Legislative Management Committee shall change the name of chapter 916, Florida Statutes, from “Mentally Deficient and Mentally Ill Defendants” to “Mentally Deficient and Mentally Ill Defendants, Civil Commitment of Sexually Violent Predators ”*

Section 2 Section 916 10, Florida Statutes, is amended to read

916 10 Short title.—Sections 916 10-916 20 ~~This chapter~~ may be cited as the “Forensic Client Services Act ”

Section 3. Section 916 30, Florida Statutes, is created to read

916 30 Sections 916 30-916 49 may be cited as the “The Jimmy Ryce Act of 1998 ”

Section 4 Section 916.31, Florida Statutes, is created to read

916 31 *Legislative findings and intent.—The Legislature finds that a mentally abnormal and extremely dangerous group of sexually violent predators exists and requires involuntary civil commitment for long-term control, care, and treatment. The Legislature further finds that the likelihood that sexually violent predators will engage in repeat acts of sexual violence, if not treated for their mental conditions, is significant. Because the existing civil commitment process under the Baker Act is inadequate to address the special needs of sexually violent predators and the risks that they present to society, the Legislature determines that a separate involuntary civil commitment process for the long-term control, care, and treatment of sexually violent predators is necessary. The Legislature also determines that, because of the nature of the mental conditions from which sexually violent predators suffer and the dangers they present, it is necessary to house involuntarily committed sexually violent predators in an environment separate from persons involuntarily committed under traditional civil commitment statutes*

Section 5 Section 916 32, Florida Statutes, is created to read

916 32 *Definitions —As used in ss 916.30-916.49, the term:*

(1) *“Agency with jurisdiction” means the agency that releases, upon lawful order or authority, a person serving a sentence in the custody of the Department of Corrections, a person adjudicated delinquent and 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 Family Services upon an adjudication of not guilty by reason of insanity.*

(2) *“Convicted of a sexually violent offense” means a person who has been.*

(a) *Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere;*

(b) *Adjudicated not guilty by reason of insanity of a sexually violent offense; or*

(c) *Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere.*

(3) *“Department” means the Department of Children and Family Services.*

(4) *“Likely to engage in acts of sexual violence” means the person’s propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.*

(5) *“Mental abnormality” means a mental condition affecting a person’s emotional or volitional capacity which predisposes the person to commit sexually violent offenses*

(6) *“Person” means an individual 18 years of age or older who is a potential or actual subject of proceedings under ss. 916.30-916.49*

(7) *“Sexually motivated” means that one of the purposes for which the defendant committed the crime was for sexual gratification.*

(8) *“Sexually violent offense” means*

(a) *Murder of a human being while engaged in sexual battery in violation of s 782 04(1)(a)2 .*

(b) *Kidnapping of a child under the age of 16 and, in the course of that offense, committing*

1. *Sexual battery, or*

2. *A lewd, lascivious, or indecent assault or act upon or in the presence of the child,*

(c) *Committing the offense of false imprisonment upon a child under the age of 16 and, in the course of that offense, committing:*

1. *Sexual battery; or*

2. *A lewd, lascivious or indecent assault or act upon or in the presence of the child;*

(d) *Sexual battery in violation of s. 794.011,*

(e) *Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800.04;*

(f) *An attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, of a sexually violent offense;*

(g) *Any conviction for a felony offense in effect at any time before July 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; or*

(h) *Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under ss. 916.30-916.49, has been determined beyond a reasonable doubt to have been sexually motivated.*

(9) *"Sexually violent predator" means any person who:*

(a) *Has been convicted of a sexually violent offense, and*

(b) *Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.*

(10) *"Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services*

Section 6. Section 916.33, Florida Statutes, is created to read:

916.33 *Notice to state attorney and multidisciplinary team of release of sexually violent predator, establishing multidisciplinary team —*

(1) *The agency having 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, 180 days or, in the case of an adjudicated committed delinquent, 90 days before*

(a) *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 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) *The anticipated hearing regarding possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense*

(2) *The agency having 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; and*

(b) *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.*

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 ss. 916.30-916.49. However, the state attorney has no lawful authority to file a petition with the circuit court alleging that a person is a sexually violent predator without a written assessment and recommendation from the multidisciplinary team.

(3) *The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include a person knowledgeable in the field of law enforcement designated by the Department of Law Enforcement, a licensed psychologist, a licensed psychiatrist, a person who is knowledgeable in the treatment of sexual offenders, and a mental health counselor licensed under chapter 491, to review available records of each person referred to such team under subsection (1). The Attorney General's Office shall serve as legal counsel to the multidisciplinary team. The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent predator and provide the state attorney with its written assessment and recommendation.*

Section 7. Section 916.34, Florida Statutes, is created to read:

916.34 *Petition; time, contents —When a multidisciplinary team determines that a person meets the definition of a sexually violent predator as provided in s. 916.32, the state attorney in the judicial circuit where the person committed the sexually violent offense 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.*

Section 8. Section 916.35, Florida Statutes, is created to read:

916.35 *Determination of probable cause; hearing, evaluation, respondent taken into custody, bail —*

(1) *When the state attorney files a petition seeking to have a person declared a sexually violent predator, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall direct that the person be taken into custody and held in an appropriate secure facility*

(2) *Before the release from custody of a person whom the multidisciplinary team recommends for civil commitment, but after the state attorney files a petition under s. 916.33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge shall:*

(a) *Receive evidence and hear argument from the person and the state attorney, and*

(b) *Determine whether probable cause exists to believe that the person is a sexually violent predator*

(3) *At the probable cause hearing, the person has the right to*

(a) *Be represented by counsel,*

(b) *Present evidence;*

(c) *Cross-examine any witnesses who testify against the person; and*

(d) *View and copy all petitions and reports in the court file.*

(4) *If the court again concludes that there is probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in a county jail or a detention facility in the county where the petition was filed for an evaluation by a mental health professional*

(5) *After a court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility without opportunity for pretrial release or release during the trial proceedings.*

Section 9. Section 916.36, Florida Statutes, is created to read:

916 36 Trial, counsel and experts; indigent persons, jury —

(1) Within 30 days after the determination of probable cause, the court shall conduct a trial to determine whether the person is a sexually violent predator

(2) The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced

(3) At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person.

(4) If the person is subjected to a mental health examination under this chapter, the person also may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner must be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether such an examination is necessary. If the court determines that an examination is necessary, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services

(5) The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days before the trial. If no demand is made, the trial shall be to the court.

Section 10 Section 916.37, Florida Statutes, is created to read

916 37 Determination; commitment procedure, mistrials, housing.—

(1) The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceed according to the provisions of ss. 916.30-916.49. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s. 916 36(2). The determination that a person is a sexually violent predator may be appealed.

(2) If the court or jury determines that the person is a sexually violent predator, 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. Such control, care, and treatment shall be provided at a facility operated by the Department of Children and Family Services. At all times, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 11. Section 916 38, Florida Statutes, is created to read:

916.38 Examinations.—

(1) A person committed under ss. 916.30-916 49 shall have an examination of his or her mental condition once every 3 years or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. Such a professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person under ss. 916 30-916 49. Upon receipt of the report, the court shall conduct a review of the person's status

(2) The department shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.

(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed

that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing, but the person is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

(4) At the trial before the court, the person is entitled to be present and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. At the hearing the state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 12. Section 916 39, Florida Statutes, is created to read

916.39 Authorized petition for release; procedure.—

(1) If the Secretary of Children and Family Services or the secretary's designee at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged, the secretary or the secretary's designee shall authorize the person to petition the court for release. The petition shall be served upon the court and the state attorney. The court, upon receipt of such a petition, shall order a trial before the court within 30 days, unless continued for good cause

(2) The state attorney shall represent the state, and has the right to have the person examined by professionals of the state attorney's choice. The state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence

Section 13 Section 916 40, Florida Statutes, is created to read

916 40 Petition for release.—Sections 916.30-916.49 do not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed such a petition without the approval of the Secretary of Children and Family Services or the secretary's designee and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable-cause hearing is warranted

Section 14 Section 916.41, Florida Statutes, is created to read

916.41 Release of records to state attorney —

(1) In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirements of ss. 916 30-916 49 and determining whether a person is or continues to be a sexually violent predator.

(2) Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, or victim impact statements that have been submitted to the court or admitted into evidence under ss. 916.30-916.49 shall be part of the record, but shall be sealed and may be opened only pursuant to a court order.

Section 15 Section 916.42, Florida Statutes, is created to read:

916.42 Constitutional requirements—The long-term control, care, and treatment of a person committed under ss. 916 30-916 49 must conform to constitutional requirements.

Section 16. Section 916 43, Florida Statutes, is created to read.

916 43 Immunity from civil liability —The agency with jurisdiction and its officers and employees; the department and its officers and employees, members of the multidisciplinary team, the state attorney and the state attorney's employees; and those involved in the evaluation, care, and treatment of sexually violent persons committed under ss. 916.30-916.49, are immune from any civil liability for good-faith conduct under ss. 916 30-916 49

Section 17 Section 916.44, Florida Statutes, is created to read:

916.44 Severability.—If any section, subsection, or provision of ss 916.30-916.49 is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of ss 916.30-916.49 shall be unaffected because the Legislature declares that the provisions of ss 916.30-916.49 are severable from each other.

Section 18. Section 916.45, Florida Statutes, is created to read

916.45 Applicability of act—Sections 916.30-916.49 apply to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in s 916.32(8), as well as to all persons convicted of a sexually violent offense in the future.

Section 19 Section 916.46, Florida Statutes, is created to read:

916.46 Notice to victims of release of persons committed as sexually violent predators—As soon as is practicable, the department shall give written notice of the release of a person committed as 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 ss 916.30-916.49

Section 20 Section 916.47, Florida Statutes, is created to read

916.47 Escape while in lawful custody—A person who is held in lawful custody pursuant to a judicial finding of probable cause under s 916.35 or pursuant to a commitment as a sexually violent predator under s. 916.36 and who escapes or attempts to escape while in such custody commits a felony of the second degree, punishable as provided in s 775.082, s 775.083, or s 775.084

Section 21. Section 916.48, Florida Statutes, is created to read

916.48 Subsistence fees and costs of treatment—

(1) In recognition of the fact that persons committed under ss. 916.30-916.49 may have sources of income and assets, which may include bank accounts, inheritances, real estate, social security payments, veteran's payments, and other types of financial resources, and in recognition of the fact that the daily subsistence cost and costs of treatment of persons committed under ss. 916.30-916.49 are a burden on the taxpayers of the state, each person so committed shall:

(a) Upon order of the court committing the person, disclose all revenue or assets to the department

(b) Pay from such income and assets, except where such income is exempt by state or federal law, all or a fair portion of the person's daily subsistence and treatment costs, based upon the person's ability to pay, the liability or potential liability of the person to the victim or the guardian or the estate of the victim, and the needs of his or her dependents

(2)(a) Any person who is directed to pay all or a fair portion of daily subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposition to the assessment.

(b) An order directing payment of all or a fair portion of a person's daily subsistence costs may survive against the estate of the person

Section 22. Section 916.49, Florida Statutes, is created to read

916.49 Department of Children and Family Services responsible for costs—The Department of Children and Family Services is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. A county is not obligated to fund costs for psychological examinations, expert witnesses, court-appointed counsel, or other costs required by ss 916.30-916.49. Other costs for psychological examinations, expert witnesses, and court-appointed counsel required by ss. 916.30-916.49 shall be paid from state funds appropriated by general law

Section 23. The Department of Children and Family Services may contract with a private entity or state agency for use of facilities to comply with the requirements of this act.

Section 24 There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$3,400,000 and 50 full-time equivalent positions, and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act. From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons

Section 25. This act shall take effect January 1, 1999

And the title is amended as follows:

Delete everything before the enacting clause and insert. An act relating to sexually violent predators; requesting that the Division of Statutory Revision redesignate ch. 916, F.S.; amending s 916.10, F.S.; providing a short title, creating s 916.30, F.S., providing a short title, creating s. 916.31, F.S.; providing legislative findings and intent, creating s. 916.32, F.S., defining terms, creating s. 916.33, F.S.; requiring notice of release from custody of a person alleged to be a sexually violent predator; providing for evaluation of such person; providing for legal counsel to the evaluation team, creating s. 916.34, F.S., providing for petition to have such person declared a sexually violent predator; creating s 916.35, F.S.; providing for determination of probable cause, for hearings, and for taking such person into custody; creating s 916.36, F.S., providing for trial on the issue of whether such person is a sexually violent predator; creating s. 916.37, F.S., providing for commitment of a person determined to be a sexually violent predator, creating s 916.38, F.S.; requiring examinations of persons committed; creating s 916.39, F.S.; providing for petitions for release, creating s 916.40, F.S., authorizing petition for release, creating s 916.41, F.S.; providing for access to certain records, creating s 916.42, F.S.; requiring detention and commitment to conform to constitutional requirements, creating s 916.43, F.S.; providing immunity from civil liability; creating s 916.44; providing severability; creating s 916.45, F.S.; providing for retrospective and prospective application, creating s 916.46, F.S.; providing for notice to victims; creating s. 916.47, F.S., penalizing escape; creating s 916.48, F.S., authorizing subsistence fees and costs; creating s. 916.49, F.S.; providing that the Department of Children and Family Services is responsible for costs; providing that other costs for psychological evaluations, expert witnesses, and court-appointed counsel are paid from state funds; authorizing the Department of Children and Family Services to contract for the use of facilities, providing an appropriation, providing an effective date

Senator Silver moved the following amendment to Amendment 1 which was adopted

Amendment 1A—On page 6, line 15, after "team" insert: *that the state attorney file a petition seeking civil commitment*

Senators Klein and Gutman offered the following amendment to Amendment 1 which was moved by Senator Klein and adopted

Amendment 1B—On page 6, lines 18-24, delete those lines and insert: *two licensed psychiatrists or psychologists, or one licensed psychiatrist and one licensed psychologist, designated by the Secretary of Children and Family Services. Both evaluators must concur. If one of the professionals performing the evaluation does not concur that the person meets the criteria for civil commitment, but the other professional concludes that the person meets the criteria, the Secretary of Children and Family Services shall arrange for further examination of the person by two independent licensed psychiatrists or psychologists or by one independent licensed psychiatrist and one independent licensed psychologist. If an examination by independent professionals is conducted, a petition to seek commitment under this act shall only be filed if both independent professionals who evaluate the person pursuant to this subsection concur that the person meets the criteria for civil commitment. The Attorney General's Office shall serve as*

Senator Klein moved the following amendment to Amendment 1 which was adopted

Amendment 1C—On page 8, line 13, delete "county jail or a detention" and insert: *appropriate secure*

Senators Klein and Gutman offered the following amendment to Amendment 1 which was moved by Senator Klein and adopted

Amendment 1D—On page 10, lines 11-13, delete those lines and insert. *changed that it is safe for the person to be at large At*

Senator Gutman moved the following amendments to Amendment 1 which were adopted

Amendment 1E (with title amendment)—On page 16, line 14, after "for use of" insert. *and operations of*

And the title is amended as follows

On page 18, line 21, after "the use of" insert. *and operations of*

Amendment 1F (with title amendment)—On page 16, line 15, after the period () insert: *The Department of Children and Family Services may also contract with the Correctional Privatization Commission as defined in chapter 957 to issue a request for proposals and monitor contract compliance for these services*

And the title is amended as follows:

On page 18, line 21, after "facilities" insert: *and for monitoring contract compliance*

Amendment 1 as amended was adopted

On motions by Senator Gutman, by two-thirds vote CS for HB 3327 as amended was read the third time by title, passed and immediately certified to the House The vote on passage was.

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalkewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

RECONSIDERATION OF BILL

On motion by Senator Hargrett, the rules were waived and the Senate reconsidered the vote by which—

SB 2242—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; creating s. 932.7051, F S ; creating the Federal Law Enforcement Trust Fund, providing an effective date

—passed this day.

Pending further consideration of SB 2242, on motion by Senator Hargrett, by two-thirds vote HB 4713 was withdrawn from the Committees on Transportation; and Ways and Means.

On motion by Senator Hargrett, by two-thirds vote—

HB 4713—A bill to be entitled An act relating to trust funds; amending s 932.705, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Highway Safety and Motor Vehicles, providing for sources of funds, exempting the trust fund from various service charges; providing for annual carryforward of funds, providing for future review and termination or re-creation of the trust fund, amending ss. 895.09 and 932.7055, F.S., relating to duties of various agencies with respect to the deposit of certain moneys, to conform, providing an effective date.

—a companion measure, was substituted for SB 2242 and by two-thirds vote read the second time by title. On motions by Senator Hargrett, by two-thirds vote HB 4713 was read the third time by title, passed by the required constitutional three-fifths vote of the membership and immediately certified to the House. The vote on passage was

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalkewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

The Senate resumed consideration of—

CS for SB 1460—A bill to be entitled An act relating to amusement rides, amending s 616.242, F.S.; providing safety standards for amusement rides, providing for owner responsibility; providing scope; providing definitions; requiring adoption of specified standards and rules; prohibiting the operation of amusement rides without a permit and affidavit of compliance, providing for testing of amusement rides; requiring inspections; providing fees; providing insurance requirements, providing exemptions; prescribing inspections standards for amusement rides, authorizing employees of the Department of Agriculture and Consumer Services to inspect and investigate, requiring owners to inspect amusement rides, providing for the training of employees of amusement rides; prohibiting specified bungy operations, providing fees; providing for denial, suspension, and revocation of permits and inspection certificates, providing for issuance of orders, enforcement, and penalties; providing for liens for unpaid fees, fines, interest, and costs; amending ss. 212.08, 570.46, 616 13, F S , conforming provisions; providing an effective date

—as amended which was previously considered this day Pending Amendment 1 by Senator Silver was withdrawn

On motions by Senator Forman, CS for SB 1460 as amended was passed and by two-thirds vote immediately certified to the House. The vote on passage was

Yeas—38

Madam President	Diaz-Balart	Horne	Ostalkewicz
Bankhead	Dudley	Kirkpatrick	Rossin
Bronson	Dyer	Klein	Scott
Brown-Waite	Forman	Kurth	Silver
Burt	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	

Nays—None

COMMUNICATION

The Honorable Toni Jennings, President The Florida Senate April 23, 1998

Dear Madam President:

Pursuant to Senate Rule 4 5, copies of the Conference Committee Report on CS for SB 1402, relating to Elections, have been furnished to each member of the Senate

Delivery was completed April 23, 1998, at 3 45 p m., EDT

Respectfully submitted, Faye W Blanton, Secretary

By direction of the President the following Conference Committee Report was read

Journals
of the
Florida
House of Representatives

Volume II



Continuation of Regular Session, 1998
April 21 through April 29, 1998

The Journals with indices are available on the
Internet at <http://www.leg.state.fl.us/>



Printed on Recycled Paper

managing timber in land management plans, providing legislative intent, providing for the reimbursement of management services performed by the division, amending s 259 035, F S, requiring the Land Acquisition and Management Advisory Council to consider timber management as a feasible multiple-use strategy, amending s 373 591, F S, specifying circumstances under which the land managing agency must provide an explanation to the management review team concerning the management of lands, amending s 589 04, F S, directing the Division of Forestry to begin certain forestation programs on certain lands, providing appropriations, providing an effective date

Senate Amendment 1 (with title amendment)—On page 4, lines 12-15, delete those lines

and insert *bill*

And the title is amended as follows

On page 1, line 21, delete that line

and insert providing an appropriation, providing an

Representative(s) Sembler offered the following

House Amendment 1 to Senate Amendment 1 (with title amendment)—On page 1, line 16, after the period

insert *In addition, \$1,000,000 is hereby appropriated to the Department of Agriculture and Consumer Services from the General Revenue Fund for fiscal year 1998-1999 for reforestation activities authorized in this bill*

And the title is amended as follows

On page 1, line 24, of the amendment remove all of said lines

and insert in lieu thereof providing appropriations, providing an

Rep Sembler moved the adoption of the amendment to the amendment, which was adopted

On motion by Rep Sembler, the House concurred in Senate Amendment 1, as amended The question recurred on the passage of CS/HB 3671 The vote was

Yeas—101

The Chair	Crist	Kelly	Putnam
Alexander	Culp	King	Rayson
Andrews	Dawson-White	Kosmas	Reddick
Argenziano	Dennis	Lacasa	Ritchie
Arnold	Dockery	Littlefield	Ritter
Bainter	Effman	Livingston	Roberts-Burke
Ball	Eggelletion	Logan	Sanderson
Betancourt	Fasano	Lynn	Saunders
Bloom	Feeney	Mackenzie	Sembler
Boyd	Fischer	Mackey	Silver
Bradley	Flanagan	Maygarder	Sindler
Brennan	Fuller	Meek	Smith
Bronson	Futch	Melvin	Spratt
Brooks	Garcia	Merchant	Stabins
Brown	Gay	Miller	Stafford
Bullard	Goode	Minton	Starks
Burroughs	Gottheb	Morrone	Tamarco
Bush	Greene	Morse	Thrasher
Byrd	Hafner	Murman	Tobin
Carlton	Harrington	Ogles	Trovillion
Casev	Healev	Peaden	Valdes
Chestnut	Heyman	Posey	Villalobos
Cosgrove	Hill	Preut D	Wallace
Crady	Horan	Preut K	Warner

Wasserman Schultz Wiles Wise Ziebarth Westbrook

Nays—None

Excused from time to time for Conference Committee—Bitner, Bradley, Byrd, Clemons, Lippman, Safley, Thrasher, Warner

Votes after roll call

Yeas—Arnall, Bitner, Clemons, Constantine, Edwards, Frankel, Jacobs, Rodriguez-Chomat, Sublette, Turnbull

So the bill passed, as amended The action, together with the bill and amendments thereto, was immediately certified to the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS/HB 3327, with amendment, and requests the concurrence of the House

Faye W Blanton, Secretary

CS/HB 3327—A bill to be entitled An act relating to sexual predators, creating the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act", creating s 916 30, F S, providing findings and intent, creating s 916 31, F S, providing definitions, creating s 916 32, F S, requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator, requiring provision of certain records and information by the agency with jurisdiction to the state attorney, providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, creating s 916 33, F S, providing for petition to have such person declared a sexually violent predator, creating s 916 34, F S, providing for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator, creating s 916 35, F S, providing for trial on the issue of whether a person is a sexually violent predator, creating s 916 36, F S, providing for commitment of a person determined to be a sexually violent predator, creating s 916 37, F S, requiring annual examination of persons committed, creating s 916 38, F S, requiring detention and commitment to conform to constitutional requirements, creating s 916 39, F S, providing for petitions for release, creating s 916 40, F S, providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs, providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets, providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria, providing for notice and contest of the assessment, providing for survival of the order directing payment against the person's estate, creating s 916 41, F S, providing for notice to victims, creating s 916 42, F S, providing severability, creating s 916 43, F S, providing for access to certain records, providing an effective date

Senate Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert

Section 1 *The Division of Statutory Revision of the Joint Legislative Management Committee shall change the name of chapter 916, Florida Statutes, from "Mentally Deficient and Mentally Ill Defendants" to "Mentally Deficient and Mentally Ill Defendants, Civil Commitment of Sexually Violent Predators."*

Section 2 Section 916 10, Florida Statutes, is amended to read

916 10 Short title —Sections 916 10 916 20 This chapter may be cited as the Forensic Client Services Act "

Section 3 Section 916 30 Florida Statutes, is created to read

916 30 Sections 916 30-916 49 may be cited as the "The Jimmy Ryce Act of 1998"

Section 4 Section 916 31, Florida Statutes is created to read

916 31 *Legislative findings and intent*—The Legislature finds that a mentally abnormal and extremely dangerous group of sexually violent predators exists and requires involuntary civil commitment for long-term control, care, and treatment. The Legislature further finds that the likelihood that sexually violent predators will engage in repeat acts of sexual violence, if not treated for their mental conditions, is significant. Because the existing civil commitment process under the Baker Act is inadequate to address the special needs of sexually violent predators and the risks that they present to society, the Legislature determines that a separate involuntary civil commitment process for the long-term control, care, and treatment of sexually violent predators is necessary. The Legislature also determines that, because of the nature of the mental conditions from which sexually violent predators suffer and the dangers they present, it is necessary to house involuntarily committed sexually violent predators in an environment separate from persons involuntarily committed under traditional civil commitment statutes.

Section 5 Section 916 32, Florida Statutes, is created to read

916 32 *Definitions*—As used in ss 916 30 916 49, the term

(1) "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person serving a sentence in the custody of the Department of Corrections, a person adjudicated delinquent and 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 Family Services upon an adjudication of not guilty by reason of insanity.

(2) "Convicted of a sexually violent offense" means a person who has been

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of *nolo contendere*,

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense, or

(c) Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of *nolo contendere*.

(3) "Department" means the Department of Children and Family Services.

(4) "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(5) "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

(6) "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under ss 916 30-916 49.

(7) "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

(8) "Sexually violent offense" means

(a) Murder of a human being while engaged in sexual battery in violation of s 782 04(1)(a)2,

(b) Kidnapping of a child under the age of 16 and, in the course of that offense, committing

Sexual battery, or

2 A lewd, lascivious, or indecent assault or act upon or in the presence of the child,

(c) Committing the offense of false imprisonment upon a child under the age of 16 and, in the course of that offense, committing

1 Sexual battery, or

2 A lewd, lascivious or indecent assault or act upon or in the presence of the child

(d) Sexual battery in violation of s 794 011,

(e) Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s 800 04,

(f) An attempt, criminal solicitation, or conspiracy, in violation of s 777 04, of a sexually violent offense,

(g) Any conviction for a felony offense in effect at any time before July 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense, or

(h) Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under ss 916 30 916 49, has been determined beyond a reasonable doubt to have been sexually motivated.

(9) "Sexually violent predator" means any person who

(a) Has been convicted of a sexually violent offense, and

(b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.

(10) "Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services.

Section 6 Section 916 33, Florida Statutes, is created to read

916 33 *Notice to state attorney and multidisciplinary team of release of sexually violent predator, establishing multidisciplinary team*—

(1) The agency having 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, 180 days or, in the case of an adjudicated committed delinquent, 90 days before

(a) 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 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) The anticipated hearing regarding possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense.

(2) The agency having 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, and

(b) 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.

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 ss 916 30 916 49. However, the state attorney has no lawful authority to file a petition with the circuit court alleging that a person is a sexually violent predator without a written assessment and recommendation from the multidisciplinary team that the state attorney file a petition seeking civil commitment.

(3) *The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include two licensed psychiatrists or psychologists, or one licensed psychiatrist and one licensed psychologist, designated by the Secretary of Children and Family Services. Both evaluators must concur. If one of the professionals performing the evaluation does not concur that the person meets the criteria for civil commitment, but the other professional concludes that the person meets the criteria, the Secretary of Children and Family Services shall arrange for further examination of the person by two independent licensed psychiatrists or psychologists or by one independent licensed psychiatrist and one independent licensed psychologist. If an examination by independent professionals is conducted, a petition to seek commitment under this act shall only be filed if both independent professionals who evaluate the person pursuant to this subsection concur that the person meets the criteria for civil commitment. The Attorney General's Office shall serve as legal counsel to the multidisciplinary team. The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent predator and provide the state attorney with its written assessment and recommendation.*

Section 7 Section 916 34, Florida Statutes, is created to read

916 34 *Petition, time, contents—When a multidisciplinary team determines that a person meets the definition of a sexually violent predator as provided in s 916 32, the state attorney in the judicial circuit where the person committed the sexually violent offense 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.*

Section 8 Section 916 35, Florida Statutes, is created to read

916 35 *Determination of probable cause, hearing, evaluation, respondent taken into custody, bail—*

(1) *When the state attorney files a petition seeking to have a person declared a sexually violent predator, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall direct that the person be taken into custody and held in an appropriate secure facility.*

(2) *Before the release from custody of a person whom the multidisciplinary team recommends for civil commitment, but after the state attorney files a petition under s 916 33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge shall*

(a) *Receive evidence and hear argument from the person and the state attorney, and*

(b) *Determine whether probable cause exists to believe that the person is a sexually violent predator.*

(3) *At the probable cause hearing, the person has the right to*

(a) *Be represented by counsel,*

(b) *Present evidence,*

(c) *Cross examine any witnesses who testify against the person, and*

(d) *View and copy all petitions and reports in the court file.*

(4) *If the court again concludes that there is probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility in the county where the petition was filed for an evaluation by a mental health professional.*

(5) *After a court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility without opportunity for pretrial release or release during the trial proceedings.*

Section 9 Section 916 36, Florida Statutes, is created to read

916 36 *Trial, counsel and experts, indigent persons, jury—*

(1) *Within 30 days after the determination of probable cause, the court shall conduct a trial to determine whether the person is a sexually violent predator.*

(2) *The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced.*

(3) *At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person.*

(4) *If the person is subjected to a mental health examination under this chapter, the person also may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner must be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether such an examination is necessary. If the court determines that an examination is necessary, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services.*

(5) *The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days before the trial. If no demand is made, the trial shall be to the court.*

Section 10 Section 916 37, Florida Statutes, is created to read

916 37 *Determination, commitment procedure, mistrials, housing—*

(1) *The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceed according to the provisions of ss 916 30-916 49. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s 916 36(2). The determination that a person is a sexually violent predator may be appealed.*

(2) *If the court or jury determines that the person is a sexually violent predator, 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, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section.*

Section 11 Section 916 38, Florida Statutes, is created to read

916 38 *Examinations—*

(1) *A person committed under ss 916 30-916 49 shall have an examination of his or her mental condition once every 3 years or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. Such a professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person under ss 916 30-916 49. Upon receipt of the report, the court shall conduct a review of the person's status.*

(2) *The department shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.*

(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing, but the person is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

(4) At the trial before the court, the person is entitled to be present and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. At the hearing the state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 12 Section 916 39, Florida Statutes, is created to read

916 39 Authorized petition for release, procedure —

(1) If the Secretary of Children and Family Services or the secretary's designee at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged, the secretary or the secretary's designee shall authorize the person to petition the court for release. The petition shall be served upon the court and the state attorney. The court, upon receipt of such a petition, shall order a trial before the court within 30 days, unless continued for good cause.

(2) The state attorney shall represent the state, and has the right to have the person examined by professionals of the state attorney's choice. The state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 13 Section 916 40, Florida Statutes, is created to read

916 40 Petition for release —Sections 916 30-916 49 do not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed such a petition without the approval of the Secretary of Children and Family Services or the secretary's designee and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable-cause hearing is warranted.

Section 14 Section 916 41, Florida Statutes, is created to read

916 41 Release of records to state attorney —

(1) In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirements of ss 916 30-916 49 and determining whether a person is or continues to be a sexually violent predator.

(2) Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, or victim impact statements that have been submitted to the court or admitted into evidence under ss 916 30-916 49 shall be part of the record, but shall be sealed and may be opened only pursuant to a court order.

Section 15 Section 916 42, Florida Statutes, is created to read

916 42 Constitutional requirements —The long-term control, care, and treatment of a person committed under ss 916 30 916 49 must conform to constitutional requirements.

Section 16 Section 916 43, Florida Statutes, is created to read

916 43 Immunity from civil liability —The agency with jurisdiction and its officers and employees, the department and its officers and employees, members of the multidisciplinary team, the state attorney and the state attorney's employees, and those involved in the evaluation, care,

and treatment of sexually violent persons committed under ss 916 30 916 49, are immune from any civil liability for good-faith conduct under ss 916 30-916 49.

Section 17 Section 916 44, Florida Statutes, is created to read

916 44 Severability —If any section, subsection, or provision of ss 916 30-916 49 is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of ss 916 30-916 49 shall be unaffected because the Legislature declares that the provisions of ss 916 30-916 49 are severable from each other.

Section 18 Section 916 45, Florida Statutes, is created to read

916 45 Applicability of act —Sections 916 30 916 49 apply to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in s 916 32(8), as well as to all persons convicted of a sexually violent offense in the future.

Section 19 Section 916 46, Florida Statutes, is created to read

916 46 Notice to victims of release of persons committed as sexually violent predators —As soon as is practicable, the department shall give written notice of the release of a person committed as 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 ss 916 30-916 49.

Section 20 Section 916 47, Florida Statutes, is created to read

916 47 Escape while in lawful custody —A person who is held in lawful custody pursuant to a judicial finding of probable cause under s 916 35 or pursuant to a commitment as a sexually violent predator under s 916 36 and who escapes or attempts to escape while in such custody commits a felony of the second degree, punishable as provided in s 775 082, s 775 083, or s 775 084.

Section 21 Section 916 48, Florida Statutes, is created to read

916 48 Subsistence fees and costs of treatment —

(1) In recognition of the fact that persons committed under ss 916 30 916 49 may have sources of income and assets, which may include bank accounts, inheritances, real estate, social security payments, veteran's payments, and other types of financial resources, and in recognition of the fact that the daily subsistence cost and costs of treatment of persons committed under ss 916 30-916 49 are a burden on the taxpayers of the state, each person so committed shall

(a) Upon order of the court committing the person, disclose all revenue or assets to the department.

(b) Pay from such income and assets, except where such income is exempt by state or federal law, all or a fair portion of the person's daily subsistence and treatment costs, based upon the person's ability to pay, the liability or potential liability of the person to the victim or the guardian or the estate of the victim, and the needs of his or her dependents.

(2)(a) Any person who is directed to pay all or a fair portion of daily subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposition to the assessment.

(b) An order directing payment of all or a fair portion of a person's daily subsistence costs may survive against the estate of the person.

Section 22 Section 916 49, Florida Statutes, is created to read

916 49 Department of Children and Family Services responsible for costs —The Department of Children and Family Services is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. A

county is not obligated to fund costs for psychological examinations, expert witnesses, court-appointed counsel, or other costs required by ss 916 30-916 49 Other costs for psychological examinations, expert witnesses, and court-appointed counsel required by ss 916 30-916 49 shall be paid from state funds appropriated by general law

Section 23 The Department of Children and Family Services may contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act The Department of Children and Family Services may also contract with the Correctional Privatization Commission as defined in chapter 957 to issue a request for proposals and monitor contract compliance for these services

Section 24 There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$3,400,000 and 50 full-time equivalent positions, and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons

Section 25 This act shall take effect January 1, 1999

And the title is amended as follows

Delete everything before the enacting clause

and insert An act relating to sexually violent predators, requesting that the Division of Statutory Revision redesignate ch 916, F S, amending s 916 10, F S, providing a short title, creating s 916 30, F S, providing a short title, creating s 916 31, F S, providing legislative findings and intent, creating s 916 32, F S, defining terms, creating s 916 33, F S, requiring notice of release from custody of a person alleged to be a sexually violent predator, providing for evaluation of such person, providing for legal counsel to the evaluation team, creating s 916 34, F S, providing for petition to have such person declared a sexually violent predator, creating s 916 35, F S, providing for determination of probable cause, for hearings, and for taking such person into custody, creating s 916 36, F S, providing for trial on the issue of whether such person is a sexually violent predator, creating s 916 37, F S, providing for commitment of a person determined to be a sexually violent predator, creating s 916 38, F S, requiring examinations of persons committed, creating s 916 39, F S, providing for petitions for release, creating s 916 40, F S, authorizing petition for release, creating s 916 41, F S, providing for access to certain records, creating s 916 42, F S, requiring detention and commitment to conform to constitutional requirements, creating s 916 43, F S, providing immunity from civil liability, creating s 916 44, providing severability, creating s 916 45, F S, providing for retrospective and prospective application, creating s 916 46, F S, providing for notice to victims, creating s 916 47, F S, penalizing escape, creating s 916 48, F S, authorizing subsistence fees and costs, creating s 916 49, F S, providing that the Department of Children and Family Services is responsible for costs, providing that other costs for psychological evaluations, expert witnesses, and court-appointed counsel are paid from state funds, authorizing the Department of Children and Family Services to contract for the use of and operations of facilities and for monitoring contract compliance, providing an appropriation, providing an effective date

On motion by Rep Villalobos, the House refused to concur in Senate Amendment 1 and requested the Senate to recede therefrom The action together with the bill and amendment thereto, was immediately certified to the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 3951, with amendments, and requests the concurrence of the House

Kaye W Blanton Secretary

HB 3951—A bill to be entitled An act relating to school attendance, amending s 228 041, F S, clarifying definition of the term "home education program", amending s 229 808, F S, providing that definition of the term "nonpublic school" does not include home education program for purpose of survey requirements, amending s 232 01, F S, relating to school attendance, clarifying provisions relating to state or school district control of home education programs, amending s 232 02, F S, providing that private tutoring may be used to meet regular school attendance requirements, revising provisions relating to home education programs, clarifying inspection of portfolio, providing for parental selection of method of evaluation, revising process for reporting and submitting written evaluation and test results to superintendent, creating s 232 0202, F S, providing requirements for private tutoring programs, amending s 232 021, F S, providing that attendance reporting requirements do not apply to home education programs, amending ss 232 425, 240 116, 240 321, 240 40202, 240 40205, and 240 40206, F S, correcting cross references and conforming provisions, providing an effective date

Senate Amendment 1 (with title amendment)—On page 3, lines 9-25, delete those lines

and insert

Section 3 Paragraphs (b) and (c) of subsection (1) of section 232 01, Florida Statutes, are amended to read

232 01 School attendance —

(1)

(b) Any child who has attained the age of 6 years on or before September 1 of the school year and who has been enrolled in a public school or who has attained the age of 6 years on or before September 1 and has satisfactorily completed the requirements for kindergarten in a nonpublic school from which the district school board accepts transfer of academic credit, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the district's pupil progression plan However, nothing in this section shall authorize the state or any school district to oversee or exercise control over the curricula or academic programs of nonpublic schools or home education programs

(c) A child who attains the age of 16 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the child files a formal declaration of intent to terminate school enrollment with the district school board The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the child and the child's parent or legal guardian The school district must notify the child's parent or legal guardian of receipt of the child's declaration of intent to terminate school enrollment A child who attains the age of 18 years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age

And the title is amended as follows

On page 1, line 11, after the semicolon

insert revising provisions relating to compulsory school attendance,

Senate Amendment 2—On page 6, line 9, after the word "teacher"

insert , at a location and under testing conditions approved by the school district

On motion by Rep Trovillion, the House concurred in Senate Amendments 1 and 2 The question recurred on the passage of HB 3951 The vote was

Yeas—110

The Chair	Andrews	Arnold	Betancourt
Albright	Arzeniano	Bainter	Bitner
Alexander	Arnall	Bail	Bloom



Journal of the Senate

5

Number 25—Regular Session

Friday, May 1, 1998

CONTENTS

Call to Order	1527, 1634
Co-Sponsors	1823
Executive Appointment Reports	1808
House Messages, Final Action	1818
House Messages, First Reading	1815
House Messages, Returning	1574, 1643, 1727, 1745, 1784
Local Bill Calendar	1538
Motions	1538
Point of Order	1718, 1727, 1735
Point of Order Ruling	1718, 1727, 1735
Reports of Committees	1807
Special Order Calendar	1527, 1633, 1634, 1710, 1730, 1768
Special Recognition	1784, 1807
Trust Fund Bill Calendar	1558

(See end of Journal for Bill Action Summary)

CALL TO ORDER

The Senate was called to order by President Jennings at 9:00 a.m. A quorum present—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalciewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Wilbams

Excused: Senator Holzendorf at 3:45 p.m.

PRAYER

The following prayer was offered by Faye Blanton, Secretary of the Senate

Dear God, it is our prayer that your will has been done during the 60 days of this session, and that we have truly served the people of our great State

Please guide and bless each member of this Legislature, their staff, and even the members of the Third House, as they return to their homes and their families

We pray also that our point is well taken and that you concur as we send the final message for this 1998 Legislative Session—we did our best.

God bless us all and the citizens of the State of Florida that we serve. In your name we pray. Amen

PLEDGE

Senate Pages Stephanie Ford of Bristol and Kyra Jennings of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

CS for CS for HB's 683 and 2131—A bill to be entitled An act relating to school readiness, creating the "Children First Act of 1998, renaming ch 411, F.S., creating s 411 01, F.S., providing legislative intent relating to early childhood health care, child care, and education, providing that early childhood health care, child care, and education programs shall be school readiness programs; creating the Florida Partnership for Children First, Inc (Children First Partnership), creating the Children First Governing Board to operate as the board of directors of the Children First Partnership; providing Children First Partnership and governing board responsibilities and duties; providing membership of the governing board and meeting requirements, providing that the Children First Partnership is subject to public records and public meeting requirements, providing for hiring of certain employees; providing powers as a corporation, providing for staff of the governing board and Children First Partnership, requiring the Children First Partnership to phase in a program meeting specified requirements, requiring recommendations to revise provision of services to children of teenage parents, providing for establishment of a Children First Coalition in each county or combination of counties, specifying services to be provided by coalitions, providing for designation and approval of a fiscal agent, providing for the transfer of funds, providing for coalition initiation grants to develop children first plans and block grant funding to implement such plans, providing for award of an incentive bonus; providing requirements for such plans, providing for parental choice and payment arrangements, providing for evaluation and performance measures, providing responsibility for implementation, providing for phase-out of the State Coordinating Council for Early Childhood Services, creating s 411 02, F.S., providing for a Children First Appropriation Allocation Conference; amending s 216.136, F.S., creating the School Readiness Program Estimating Conference; providing duties and principals, conforming provisions; amending and renumbering s 230 2303, F.S., relating to the Florida First Start Program, revising provisions; providing for implementation pursuant to a children first plan developed by the Children First Coalition and approved by the Children First Partnership, amending and renumbering s 230 2305, F.S., relating to the prekindergarten early intervention program, revising provisions, providing for administration by a district school board or other Children First Coalition provider; providing Children First Coalition responsibility for programs, providing for oversight by the Children First Partnership and Children First Coalition and specifying duties, creating s 411 05, F.S., requiring the Department of Education to adopt the school readiness screening instruments developed by the Children First Partnership and to require their use by the school districts, creating s 411 06, F.S., recognizing the nationwide Parents as Teachers Program, establishing the Florida Parents as Teachers Program under the jurisdiction of the Children First Partnership, providing program requirements; amending and renumbering s. 402 281, F.S., relating to the Gold Seal Quality Care program, providing duties of the Children First Partnership, amending s 411 202, F.S., revising definitions, amending s 411 203, F.S., revising provisions relating to a continuum of comprehensive services, amending ss 411 24 and 411 242, F.S., to conform, amending and renumbering s 402 305, F.S., relating to licensing standards for child care facilities, providing duties of the Children First Partnership, removing provisions relating to a child care technical review panel, amending and renumbering s 402 3052, F.S., relating to child development associate training grants, providing for consultation with the Children First Partnership, amending s 20 19, F.S., relating to the Department of Children and Family Services, requiring cooperation with the Children First Partnership and Children First Coalitions, amending s 229 591, F.S., relating to the school improvement and education accountability system, conforming school readiness goals, amending s 288 9620, F.S., relating to

identify the factors that contribute to various program ratings, amending s 985.406, F.S., relating to juvenile justice training academies and Juvenile Justice Standards and Training Commission, revising membership qualifications for the commission, eliminating requirement for member who is a community control counselor, providing for membership of a juvenile probation officer supervisor and a juvenile probation officer, conforming terminology; amending s 985 41, F.S., requiring a determination whether a proposed site for a juvenile justice facility is appropriate for public use under local government plans and ordinances, amending s. 985 412, F.S., relating to quality assurance, requiring evaluation of each program operated by the department; requiring program changes and notification to the Executive Office of the Governor and Legislature of corrective action, under specified circumstances when a department-operated program fails to meet established minimum thresholds, providing for appropriate corrective action, including disciplinary action against employees under specified circumstances, providing for the Department of Juvenile Justice to ensure the reliability of the annual report, reenacting s 985.315(4)(b), F.S., relating to vocational/work training programs to incorporate said amendment in a reference, amending s 985 413, F.S.; increasing the maximum number of terms for district juvenile justice board members, removing an exception to the limitation upon the number of terms of members, amending s 985 414, F.S., requiring certain participants in interagency agreements for the development of county juvenile justice plans, revising requirements for contents of the agreements, amending s 985.415, F.S., revising requirements for applications for community juvenile justice partnership grants, conforming references and terminology, providing an effective date.

House Amendment 1 to House Amendment 1—On page 19, line 16 after “pre-”, remove from the amendment and post-

On motion by Senator Gutman, the Senate concurred in the House amendment

CS for CS for SB 2288 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jones	Ostalkiewicz
Brown-Waite	Dyer	Kirkpatrick	Rossin
Burt	Forman	Klein	Scott
Campbell	Geller	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Laurent	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment(s) to CS for HB 3327 and requests the Senate to recede.

John B. Phelps, Clerk

CS for HB 3327—A bill to be entitled An act relating to sexual predators; creating the “Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators’ Treatment and Care Act”, creating s. 916 30, F.S., providing findings and intent; creating s 916 31, F.S., providing definitions, creating s. 916 32, F.S., requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator, requiring provision of certain records and information by the agency with jurisdiction to the state attorney; providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers; creating s. 916.33, F.S., providing for petition to have such person declared a sexually violent predator; creating s 916 34, F.S.; providing for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to

believe that the respondent is a sexually violent predator; creating s 916.35, F.S., providing for trial on the issue of whether a person is a sexually violent predator; creating s 916 36, F.S., providing for commitment of a person determined to be a sexually violent predator; creating s 916 37, F.S., requiring annual examination of persons committed, creating s 916.38, F.S., requiring detention and commitment to conform to constitutional requirements, creating s 916 39, F.S., providing for petitions for release, creating s 916.40, F.S., providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs, providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets; providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria; providing for notice and contest of the assessment, providing for survival of the order directing payment against the person’s estate; creating s 916.41, F.S., providing for notice to victims, creating s 916 42, F.S.; providing severability; creating s 916 43, F.S., providing for access to certain records, providing an effective date

RECONSIDERATION OF BILL

On motion by Senator Gutman, the Senate reconsidered the vote by which CS for HB 3327 as amended passed April 24

On motion by Senator Gutman, by two-thirds vote the Senate reconsidered the vote by which CS for HB 3327 was read the third time

On motion by Senator Gutman, the Senate reconsidered the vote by which Amendment 1 was adopted

Senators Gutman and Klein offered the following substitute amendment which was moved by Senator Gutman and adopted

Amendment 2 (with title amendment)—On page 2, line 2 through page 17, line 9, delete those lines and insert

916 31 Legislative findings and intent—The Legislature finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under the Baker Act, ss 394 451-394 4789, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under the Baker Act, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities and those features render them likely to engage in criminal, sexually violent behavior. The Legislature further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures under the Baker Act for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment under the Baker Act. It is therefore the intent of the Legislature to create a civil commitment procedure for the long-term care and treatment of sexually violent predators

Section 5 Section 916 32, Florida Statutes, is created to read

916.32 Definitions.—As used in ss. 916 30-916.49, the term:

(1) “Agency with jurisdiction” means the agency that releases, upon lawful order or authority, a person serving a sentence in the custody of the Department of Corrections, a person adjudicated delinquent and 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 Family Services upon an adjudication of not guilty by reason of insanity

(2) “Convicted of a sexually violent offense” means a person who has been

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere,

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense, or

(c) *Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere*

(3) *"Department" means the Department of Children and Family Services*

(4) *"Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others*

(5) *"Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.*

(6) *"Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under ss 916 30-916 49*

(7) *"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.*

(8) *"Sexually violent offense" means:*

(a) *Murder of a human being while engaged in sexual battery in violation of s 782 04(1)(a)2,*

(b) *Kidnapping of a child under the age of 16 and, in the course of that offense, committing*

1 *Sexual battery; or*

2 *A lewd, lascivious, or indecent assault or act upon or in the presence of the child,*

(c) *Committing the offense of false imprisonment upon a child under the age of 16 and, in the course of that offense, committing*

1 *Sexual battery; or*

2 *A lewd, lascivious or indecent assault or act upon or in the presence of the child,*

(d) *Sexual battery in violation of s. 794 011,*

(e) *Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800 04,*

(f) *An attempt, criminal solicitation, or conspiracy, in violation of s 777 04, of a sexually violent offense,*

(g) *Any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense, or*

(h) *Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under ss 916 30-916 49, has been determined beyond a reasonable doubt to have been sexually motivated.*

(9) *"Sexually violent predator" means any person who*

(a) *Has been convicted of a sexually violent offense; and*

(b) *Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.*

(10) *"Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services*

Section 6 Section 916 33, Florida Statutes, is created to read

916 33 *Notice to state attorney and multidisciplinary team of release of sexually violent predator, establishing multidisciplinary team —*

(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, 180 days or, in the case of an adjudicated committed delinquent, 90 days before

(a) *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 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) *The anticipated hearing regarding possible release of a person 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; and*

(b) *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*

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 ss 916 30-916.49.

(3) *The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include two licensed psychiatrists or psychologists, or one licensed psychiatrist and one licensed psychologist, designated by the Secretary of Children and Family Services. The Attorney General's Office shall serve as legal counsel to the multidisciplinary team. The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent predator and provide the state attorney with its written assessment and recommendation*

Section 7 Section 916 34, Florida Statutes, is created to read

916 34 *Petition, time, contents.—Following receipt of the written assessment and recommendation from the multidisciplinary team, the state attorney in the judicial circuit where the person committed the sexually violent offense 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*

Section 8 Section 916.35, Florida Statutes, is created to read

916 35 *Determination of probable cause; hearing, evaluation; respondent taken into custody; bail —*

(1) *When the state attorney files a petition seeking to have a person declared a sexually violent predator, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall direct that the person be taken into custody and held in an appropriate secure facility.*

(2) *Before the release from custody of a person whom the multidisciplinary team recommends for civil commitment, but after the state attorney files a petition under s. 916 33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge shall:*

(a) *Receive evidence and hear argument from the person and the state attorney, and*

(b) *Determine whether probable cause exists to believe that the person is a sexually violent predator*

(3) *At the probable cause hearing, the person has the right to*

(a) *Be represented by counsel,*

(b) *Present evidence,*

(c) Cross-examine any witnesses who testify against the person, and

(d) View and copy all petitions and reports in the court file

(4) If the court again concludes that there is probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility in the county where the petition was filed for an evaluation by a mental health professional.

(5) After a court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility without opportunity for pretrial release or release during the trial proceedings

Section 9 Section 916 36, Florida Statutes, is created to read

916 36 Trial, counsel and experts, indigent persons, jury —

(1) Within 30 days after the determination of probable cause, the court shall conduct a trial to determine whether the person is a sexually violent predator.

(2) The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced.

(3) At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel, and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person

(4) If the person is subjected to a mental health examination under this chapter, the person also may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner must be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether such an examination is necessary. If the court determines that an examination is necessary, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services.

(5) The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days before the trial. If no demand is made, the trial shall be to the court

Section 10. Section 916 37, Florida Statutes, is created to read

916 37 Determination, commitment procedure, mistrials, housing —

(1) The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceed according to the provisions of ss 916 30-916 49. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s. 916 36(2). The determination that a person is a sexually violent predator may be appealed

(2) If the court or jury determines that the person is a sexually violent predator, 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, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 11. Section 916.38, Florida Statutes, is created to read

916 38 Examinations —

(1) A person committed under ss 916 30-916 49 shall have an examination of his or her mental condition once every year or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to

examine the person. Such a professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person under ss 916.30-916 49. Upon receipt of the report, the court shall conduct a review of the person's status

(2) The department shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court

(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing, but the person is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue

(4) At the trial before the court, the person is entitled to be present and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. At the hearing the state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence

Section 12 Section 916 39, Florida Statutes, is created to read

916 39 Authorized petition for release, procedure —

(1) If the Secretary of Children and Family Services or the secretary's designee at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged, the secretary or the secretary's designee shall authorize the person to petition the court for release. The petition shall be served upon the court and the state attorney. The court, upon receipt of such a petition, shall order a trial before the court within 30 days, unless continued for good cause

(2) The state attorney shall represent the state, and has the right to have the person examined by professionals of the state attorney's choice. The state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence

Section 13 Section 916 40, Florida Statutes, is created to read

916.40 Petition for release.—Sections 916.30-916.49 do not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed such a petition without the approval of the Secretary of Children and Family Services or the secretary's designee and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable-cause hearing is warranted

Section 14 Section 916 41, Florida Statutes, is created to read

916 41 Release of records to state attorney —

(1) In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirements of ss 916 30-916 49 and determining whether a person is or continues to be a sexually violent predator

(2) Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, or victim impact statements that have been submitted to the court or admitted into evidence under ss 916 30-916 49 shall be part of the record, but shall be sealed and may be opened only pursuant to a court order

Section 15 Section 916.42, Florida Statutes, is created to read

916 42 *Constitutional requirements.—The long-term control, care, and treatment of a person committed under ss 916.30-916 49 must conform to constitutional requirements*

Section 16 Section 916 43, Florida Statutes, is created to read

916 43 *Immunity from civil liability —The agency with jurisdiction and its officers and employees, the department and its officers and employees; members of the multidisciplinary team, the state attorney and the state attorney's employees; and those involved in the evaluation, care, and treatment of sexually violent persons committed under ss 916 30-916.49, are immune from any civil liability for good-faith conduct under ss 916 30-916.49*

Section 17 Section 916 44, Florida Statutes, is created to read

916.44 *Severability —If any section, subsection, or provision of ss. 916.30-916 49 is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of ss 916 30-916 49 shall be unaffected because the Legislature declares that the provisions of ss 916.30-916 49 are severable from each other*

Section 18 Section 916.45, Florida Statutes, is created to read

916.45 *Applicability of act.—Sections 916.30-916 49 apply to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in s 916 32(8), as well as to all persons convicted of a sexually violent offense in the future*

Section 19 Section 916 46, Florida Statutes, is created to read

916 46 *Notice to victims of release of persons committed as sexually violent predators.—As soon as is practicable, the department shall give written notice of the release of a person committed as 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 ss 916 30-916 49.*

Section 20 Section 916.47, Florida Statutes, is created to read

916 47 *Escape while in lawful custody.—A person who is held in lawful custody pursuant to a judicial finding of probable cause under s 916 35 or pursuant to a commitment as a sexually violent predator under s. 916 36 and who escapes or attempts to escape while in such custody commits a felony of the second degree, punishable as provided in s. 775 082, s 775 083, or s 775 084*

Section 21. Section 916 48, Florida Statutes, is created to read

916 48 *Subsistence fees and costs of treatment —*

(1) *In recognition of the fact that persons committed under ss 916.30-916 49 may have sources of income and assets, which may include bank accounts, inheritances, real estate, social security payments, veteran's payments, and other types of financial resources, and in recognition of the fact that the daily subsistence cost and costs of treatment of persons committed under ss 916.30-916 49 are a burden on the taxpayers of the state, each person so committed shall*

(a) *Upon order of the court committing the person, disclose all revenue or assets to the department*

(b) *Pay from such income and assets, except where such income is exempt by state or federal law, all or a fair portion of the person's daily subsistence and treatment costs, based upon the person's ability to pay, the liability or potential liability of the person to the victim or the guardian or the estate of the victim, and the needs of his or her dependents*

(2)(a) *Any person who is directed to pay all or a fair portion of daily subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposition to the assessment*

(b) *An order directing payment of all or a fair portion of a person's daily subsistence costs may survive against the estate of the person*

Section 22. Section 916 49, Florida Statutes, is created to read

916 49 *Department of Children and Family Services responsible for costs —The Department of Children and Family Services is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators A county is not obligated to fund costs for psychological examinations, expert witnesses, court-appointed counsel, or other costs required by ss 916 30-916 49. Other costs for psychological examinations, expert witnesses, and court-appointed counsel required by ss. 916.30-916 49 shall be paid from state funds appropriated by general law*

Section 23 *The Department of Children and Family Services may contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act. The Department of Children and Family Services may also contract with the Correctional Privatization Commission as defined in chapter 957 to issue a request for proposals and monitor contract compliance for these services*

Section 24. *There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$4,900,000, of which \$1,500,000 is from nonrecurring funds, and 50 full-time equivalent positions and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons*

And the title is amended as follows

On page 19, lines 4 and 5, delete those lines and insert monitoring contract compliance, providing for appropriation of funds; providing for 50 full-time equivalent positions; providing an effective date

On motion by Senator Gutman, the Senate requested the House to concur in the Senate amendment

CS for HB 3327 passed as amended and the action of the Senate was certified to the House The vote on passage was

Yeas—38

Bankhead	Diaz-Balart	Jones	Ostalkiewicz
Bronson	Dudley	Kirkpatrick	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Campbell	Geller	Latvala	Sullivan
Casas	Grant	Laurent	Thomas
Childers	Gutman	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment(s) 1, 3, 4 and 6, amended Senate Amendment(s) 5 and concurred in same as amended, and passed HB 3509 as further amended, and requests the concurrence of the Senate

John B Phelps, Clerk

HB 3509—A bill to be entitled An act relating to motor vehicle specialty license plates, amending s 320 08053, F.S., revising language with respect to requirements for requests to establish specialty license plates, amending s 320.08056, F.S.; revising language with respect to specialty license plates to provide criteria for the discontinuance of the issuance of an approved plate, amending s 320.08062, F.S., revising language with respect to an annual required audit or report, revising language with respect to annual use fees of special license plates, providing an effective date

Journals
of the
Florida
House of Representatives

Volume III



Continuation of Regular Session, 1998
April 30 through May 1, 1998

The Journals with indices are available on the
Internet at <http://www.leg.state.fl.us/>



Printed on Recycled Paper

1997-1998 General Appropriations Act which are unexpended on June 30, 1998, are reappropriated for fiscal year 1998-1999 to the Tampa Port Authority. The proviso language following Specific Appropriation 1355A shall be met before distribution of these reappropriated funds.

And the title is amended as follows:

On page 112, line 23, after the semicolon of the amendment

insert providing for reappropriation to the Tampa Port Authority of specified funds appropriated for the 1997-1998 fiscal year,

Rep Bradley moved the adoption of the amendment to the amendment.

Further consideration of CS for CS for SB 2524, with pending amendments, was temporarily postponed under Rule 147.

Messages from the Senate

The Honorable Daniel Webster, Speaker

I am directed to inform the House of Representatives that the Senate has receded from Senate Amendment 1, amended CS/HB 3327 and passed as further amended and requests the concurrence of the House.

Faye W Blanton, Secretary

CS/HB 3327—A bill to be entitled An act relating to sexual predators, creating the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act", creating s 916 30, F S, providing findings and intent, creating s 916 31, F S, providing definitions, creating s 916 32, F S, requiring certain notice to the state attorney of anticipated release of specified persons who may meet the criteria for a sexually violent predator, requiring provision of certain records and information by the agency with jurisdiction to the state attorney, providing certain immunity from liability of the agency with jurisdiction, the state attorney, and their employees and service providers, creating s 916 33, F S, providing for petition to have such person declared a sexually violent predator, creating s 916 34, F S, providing for determination of probable cause and taking respondent into custody, providing for transfer of the respondent to a secure facility for evaluation under specified circumstances when the court finds probable cause to believe that the respondent is a sexually violent predator, creating s 916 35, F S, providing for trial on the issue of whether a person is a sexually violent predator, creating s 916 36, F S, providing for commitment of a person determined to be a sexually violent predator, creating s 916 37, F S, requiring annual examination of persons committed, creating s 916 38, F S, requiring detention and commitment to conform to constitutional requirements, creating s 916 39, F S, providing for petitions for release, creating s 916 40, F S, providing that the Department of Children and Family Services is responsible for specified evaluation and treatment costs, providing for reimbursement, providing for court orders for certain disclosures to the department by the committed person of income and assets, providing for imposition and assessment of certain financial liabilities for payment of daily subsistence and treatment costs based on specified criteria, providing for notice and contest of the assessment, providing for survival of the order directing payment against the person's estate, creating s 916 41, F S, providing for notice to victims, creating s 916 42, F S, providing severability, creating s 916 43, F S, providing for access to certain records, providing an effective date.

(Senate Amendment 1 attached to original bill and shown in the Journal on pages 1555-1559, April 29.)

Senate Amendment 2 (with title amendment)—On page 2, line 2 through page 17, line 9, delete those lines and insert

916 31 Legislative findings and intent—The Legislature finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under the Baker Act ss 394 451 394 4789, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment

under the Baker Act, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities and those features render them likely to engage in criminal, sexually violent behavior. The Legislature further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures under the Baker Act for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment under the Baker Act. It is therefore the intent of the Legislature to create a civil commitment procedure for the long-term care and treatment of sexually violent predators.

Section 5 Section 916 32, Florida Statutes, is created to read

916 32 Definitions—As used in ss 916 30-916 49, the term

(1) "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person serving a sentence in the custody of the Department of Corrections, a person adjudicated delinquent and 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 Family Services upon an adjudication of not guilty by reason of insanity.

(2) "Convicted of a sexually violent offense" means a person who has been

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere,

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense, or

(c) Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere.

(3) "Department" means the Department of Children and Family Services.

(4) "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(5) "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

(6) "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under ss 916 30-916 49.

(7) "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

(8) "Sexually violent offense" means

(a) Murder of a human being while engaged in sexual battery in violation of s 782 04(1)(a)2,

(b) Kidnapping of a child under the age of 16 and, in the course of that offense, committing

Sexual battery, or

2 A lewd, lascivious, or indecent assault or act upon or in the presence of the child,

(c) Committing the offense of false imprisonment upon a child under the age of 16 and in the course of that offense, committing

Sexual battery, or

2 A lewd, lascivious or indecent assault or act upon or in the presence of the child.

(d) Sexual battery in violation of s 794 011,

(e) Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s 800 04,

(f) An attempt, criminal solicitation, or conspiracy, in violation of s 777 04, of a sexually violent offense,

(g) Any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense, or

(h) Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under ss 916 30-916 49, has been determined beyond a reasonable doubt to have been sexually motivated

(9) "Sexually violent predator" means any person who

(a) Has been convicted of a sexually violent offense, and

(b) Suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment

(10) "Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services

Section 6 Section 916 33, Florida Statutes, is created to read

916 33 Notice to state attorney and multidisciplinary team of release of sexually violent predator, establishing multidisciplinary team —

(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, 180 days or, in the case of an adjudicated committed delinquent, 90 days before

(a) 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 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) The anticipated hearing regarding possible release of a person 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, and

(b) 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

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 ss 916 30-916 49

(3) The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include two licensed psychiatrists or psychologists, or one licensed psychiatrist and one licensed psychologist, designated by the Secretary of Children and Family Services. The Attorney General's Office shall serve as legal counsel to the multidisciplinary team. The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent

predator and provide the state attorney with its written assessment and recommendation

Section 7 Section 916 34, Florida Statutes, is created to read

916 34 Petition, time, contents—Following receipt of the written assessment and recommendation from the multidisciplinary team, the state attorney in the judicial circuit where the person committed the sexually violent offense 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

Section 8 Section 916 35, Florida Statutes, is created to read

916 35 Determination of probable cause, hearing, evaluation, respondent taken into custody, bail —

(1) When the state attorney files a petition seeking to have a person declared a sexually violent predator, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall direct that the person be taken into custody and held in an appropriate secure facility

(2) Before the release from custody of a person whom the multidisciplinary team recommends for civil commitment, but after the state attorney files a petition under s 916 33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge shall

(a) Receive evidence and hear argument from the person and the state attorney, and

(b) Determine whether probable cause exists to believe that the person is a sexually violent predator

(3) At the probable cause hearing, the person has the right to

(a) Be represented by counsel,

(b) Present evidence,

(c) Cross-examine any witnesses who testify against the person, and

(d) View and copy all petitions and reports in the court file

(4) If the court again concludes that there is probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility in the county where the petition was filed for an evaluation by a mental health professional

(5) After a court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility without opportunity for pretrial release or release during the trial proceedings

Section 9 Section 916 36, Florida Statutes, is created to read

916 36 Trial, counsel and experts, indigent persons, jury —

(1) Within 30 days after the determination of probable cause, the court shall conduct a trial to determine whether the person is a sexually violent predator

(2) The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the interests of justice when the person will not be substantially prejudiced

(3) At all adversarial proceedings under this act, the person subject to this act is entitled to the assistance of counsel and, if the person is indigent, the court shall appoint the public defender or, if a conflict exists, other counsel to assist the person

(4) If the person is subjected to a mental health examination under this chapter, the person also may retain experts or mental health professionals to perform an examination. If the person wishes to be examined by a professional of the person's own choice, the examiner must

be provided reasonable access to the person as well as to all relevant medical and mental health records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether such an examination is necessary. If the court determines that an examination is necessary, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services.

(5) The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days before the trial. If no demand is made, the trial shall be to the court.

Section 10 Section 916 37, Florida Statutes, is created to read

916 37 Determination, commitment procedure, mistrials, housing —

(1) The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceed according to the provisions of ss 916 30-916 49. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s 916 36(2). The determination that a person is a sexually violent predator may be appealed.

(2) If the court or jury determines that the person is a sexually violent predator, 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, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 11 Section 916 38, Florida Statutes, is created to read

916 38 Examinations —

(1) A person committed under ss 916 30-916 49 shall have an examination of his or her mental condition once every year or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. Such a professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person under ss 916 30-916 49. Upon receipt of the report, the court shall conduct a review of the person's status.

(2) The department shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.

(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing, but the person is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

(4) At the trial before the court, the person is entitled to be present and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. At the hearing the state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 12 Section 916 39 Florida Statutes is created to read

916 39 Authorized petition for release procedure —

(1) If the Secretary of Children and Family Services or the secretary's designee at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged, the secretary or the secretary's designee shall authorize the person to petition the court for release. The petition shall be served upon the court and the state attorney. The court, upon receipt of such a petition, shall order a trial before the court within 30 days, unless continued for good cause.

(2) The state attorney shall represent the state, and has the right to have the person examined by professionals of the state attorney's choice. The state bears the burden of proving, by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 13 Section 916 40, Florida Statutes, is created to read

916 40 Petition for release — Sections 916 30-916 49 do not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed such a petition without the approval of the Secretary of Children and Family Services or the secretary's designee and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable-cause hearing is warranted.

Section 14 Section 916 41, Florida Statutes, is created to read

916 41 Release of records to state attorney —

(1) In order to protect the public, relevant information and records that are otherwise confidential or privileged shall be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirements of ss 916 30-916 49 and determining whether a person is or continues to be a sexually violent predator.

(2) Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records, or victim impact statements that have been submitted to the court or admitted into evidence under ss 916 30-916 49 shall be part of the record, but shall be sealed and may be opened only pursuant to a court order.

Section 15 Section 916 42, Florida Statutes, is created to read

916 42 Constitutional requirements — The long-term control, care, and treatment of a person committed under ss 916 30-916 49 must conform to constitutional requirements.

Section 16 Section 916 43, Florida Statutes, is created to read

916 43 Immunity from civil liability — The agency with jurisdiction and its officers and employees, the department and its officers and employees, members of the multidisciplinary team, the state attorney and the state attorney's employees, and those involved in the evaluation, care, and treatment of sexually violent persons committed under ss 916 30-916 49, are immune from any civil liability for good-faith conduct under ss 916 30-916 49.

Section 17 Section 916 44, Florida Statutes, is created to read

916 44 Severability — If any section, subsection, or provision of ss 916 30-916 49 is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining portions of ss 916 30-916 49 shall be unaffected because the Legislature declares that the provisions of ss 916 30-916 49 are severable from each other.

Section 18 Section 916 45, Florida Statutes, is created to read

916 45 Applicability of act — Sections 916 30-916 49 apply to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in s 916 32(8), as well as to all persons convicted of a sexually violent offense in the future.

Section 19 Section 916 46, Florida Statutes, is created to read

916 46 Notice to victims of release of persons committed as sexually violent predators—As soon as is practicable, the department shall give written notice of the release of a person committed as 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 ss 916 30-916 49

Section 20 Section 916 47, Florida Statutes, is created to read

916 47 Escape while in lawful custody—A person who is held in lawful custody pursuant to a judicial finding of probable cause under s 916 35 or pursuant to a commitment as a sexually violent predator under s 916 36 and who escapes or attempts to escape while in such custody commits a felony of the second degree, punishable as provided in s 775 082, s 775 083, or s 775 084

Section 21 Section 916 48, Florida Statutes, is created to read

916 48 Subsistence fees and costs of treatment—

(1) In recognition of the fact that persons committed under ss 916 30-916 49 may have sources of income and assets, which may include bank accounts, inheritances, real estate, social security payments, veteran's payments, and other types of financial resources, and in recognition of the fact that the daily subsistence cost and costs of treatment of persons committed under ss 916 30-916 49 are a burden on the taxpayers of the state, each person so committed shall

(a) Upon order of the court committing the person, disclose all revenue or assets to the department

(b) Pay from such income and assets except where such income is exempt by state or federal law, all or a fair portion of the person's daily subsistence and treatment costs, based upon the person's ability to pay, the liability or potential liability of the person to the victim or the guardian or the estate of the victim, and the needs of his or her dependents

(2)(a) Any person who is directed to pay all or a fair portion of daily subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposition to the assessment

(b) An order directing payment of all or a fair portion of a person's daily subsistence costs may survive against the estate of the person

Section 22 Section 916 49, Florida Statutes, is created to read

916 49 Department of Children and Family Services responsible for costs—The Department of Children and Family Services is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. A county is not obligated to fund costs for psychological examinations, expert witnesses, court-appointed counsel, or other costs required by ss 916 30-916 49. Other costs for psychological examinations, expert witnesses, and court-appointed counsel required by ss 916 30-916 49 shall be paid from state funds appropriated by general law

Section 23 The Department of Children and Family Services may contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act. The Department of Children and Family Services may also contract with the Correctional Privatization Commission as defined in chapter 957 to issue a request for proposals and monitor contract compliance for these services

Section 24 There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$1,900,000, of which \$1,500,000 is from nonrecurring funds, and 50 full-time equivalent positions and from the Grants and Donations Trust Fund \$1,500,000 to the Department of Corrections for the purpose

of carrying out the provisions of this act. From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons

And the title is amended as follows

On page 19, lines 4 and 5, delete those lines and insert monitoring contract compliance, providing for appropriation of funds, providing for 50 full-time equivalent positions, providing an effective date

On motion by Rep Villalobos, the House concurred in Senate Amendment 2. The question recurred on the passage of CS/HB 3327. The vote was

Yeas—118

The Chair	Crist	Kelly	Roberts-Burke
Albright	Crow	King	Rodriguez-Chomat
Alexander	Culp	Kosmas	Rojas
Andrews	Dawson-White	Lacasa	Sanderson
Argenziano	Dennis	Lawson	Saunders
Arnall	Diaz de la Portilla	Littlefield	Sembler
Arnold	Dockery	Livingston	Silver
Bahter	Edwards	Logan	Sindler
Ball	Effman	Lynn	Smith
Barreiro	Eggelton	Mackenzie	Spratt
Betancourt	Fasano	Mackey	Stabins
Bitner	Feeney	Mavgarden	Stafford
Bloom	Fischer	Meek	Starks
Boyd	Flanagan	Melvin	Sublette
Bradley	Frankel	Merchant	Tamargo
Brennan	Fuller	Miller	Thrasher
Bronson	Futch	Minton	Tobin
Brooks	Garcia	Morrone	Trovillion
Brown	Gay	Morse	Turnbull
Bullard	Goode	Murman	Valdes
Burroughs	Gottlieb	Ogles	Villalobos
Bush	Greene	Peaden	Wallace
Byrd	Hafner	Posey	Warner
Carlton	Harrington	Prewitt, D	Wasserman Schultz
Casey	Healey	Pruitt, K	Westbrook
Chestnut	Herman	Putnam	Wiles
Clemons	Hill	Rayson	Wise
Constantine	Horan	Reddick	Ziebarth
Cosgrove	Jacobs	Ritche	
Crady	Jones	Ritter	

Nays—None

So the bill passed, as amended. The action was immediately certified to the Senate and the bill was ordered enrolled after engrossment.

Bills and Joint Resolutions on Second Reading

CS for CS for SB 1660—A bill to be entitled An act relating to children and families, creating s 383.145, F.S., creating the Healthy Families Florida program providing legislative findings and intent, providing purpose, requiring integrated community-based delivery of services, specifying program requirements, providing responsibilities of the Department of Health and the Department of Children and Family Services, providing for development, implementation, and administration of the program specifying criteria for community program grant funding, requiring collaboration with existing community boards, coalitions, providers, and planning groups, authorizing contracts for training and evaluation, providing for quality assurance, establishing the Healthy Families Florida Advisory Committee, providing for application for a federal waiver providing appropriations providing an effective date

--was read the second time by title

AMENDMENTS TO CS/HB 3327 (1998)

The amendments listed below consist of 16 files from the On-Line Sunshine Legislative database and for user convenience have been combined in one file. Notes are attached to the first page of each amendment giving the amendment number and Journal page cite

- 1 House Amendment 1 by the House Committee on Health and Human Services Appropriations, 3/26/98 (House Journal (HJ) p. 629). (legislative file name: hb3327c1185899.pdf)
- 2 House Amendment 2 by Rep. Villalobos, 4/14/98 (HJ p. 629) (legislative file name: hb3327c1521095.pdf)
- 3 House Amendment 3 by Rep. Villalobos, 4/14/98 (HJ p 629) (legislative file name: hb3327c1113381.pdf)
- 4 House Amendment 4 by Rep. Villalobos, 4/16/98 (HJ p. 713) (legislative file name: hb3327e1704337.pdf)
- 5 Senate Amendment 1 by Sens Klein and Gutman, 4/23/98 [deletes everything after the enacting clause and inserts all new text] (Senate Journal (SJ) pp.887-890) (legislative file name: hb3327e2192526)
- 6 Senate Amendment 1A : includes 3 versions; (a) by Sen Gutman, 4/23/98, (b) by Sen. Silver, 4/23/98, and (c) by Sen Silver, 4/24/98 (SJ p 890) (legislative file names: hb3327e2044514.pdf, hb3327e2272334.pdf, and hb3327e2371284)
- 7 Senate Amendment 1B by Sens. Klein and Gutman, 4/24/98 (SJ p. 890) (legislative file name. hb3327e2233768.pdf)
- 8 Senate Amedment 1C: includes 2 versions; (a) by Sen. Klein, 4/23/98, and (b) by Sen. Klein, 4/24/98 (SJ p. 890) (legislative file names: hb3327e2795778.pdf and hb3327e2592326.pdf).
- 9 Senate Amendment 1D by Sens. Klein and Gutman, [4/24/98] (SJ pp. 890-891) (legislative file name: hb3327e2373828.pdf)
- 10 Senate Amendment 1E by Sen Gutman, 4/23/98 (SJ p. 891) (legislative file name: hb3327e2453102.pdf)
- 11 Senate Amendment 2 by Sens Klein and Gutman, 4/24/98 (SJ pp.1628-1631) [deletes everything after the enacting clause and inserts new text] (legislative file name: hb3327e2362116.pdf)

12. Senate Amendment 2 (substitute amendment) by Sens. Klein and Gutman, 4/30/98 (SJ p.1628). (legislative file name: hb3327e2634590.pdf)

STORAGE NAME. h3327s1z.flc
DATE: May 26, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
Family Law and Children
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3327

RELATING TO: Involuntary civil commitment for sexually violent predators.

SPONSOR(S): Committee on Family Law and Children, Representative Villalobos,
Representative Murman and others

COMPANION BILL(S): Identical S 788; S 398; CS/CS/SB 646

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) Family Law and Children YEAS 8 NAYS 0
- (2) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 12 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

CS/HB 3327 originally passed the House of Representatives on 4/20/98. The Senate substituted CS/HB 3327 for CS/CS/SB 646 and adopted an amendment on 5/1/98. The House passed CS/HB 3327 as amended by the Senate on 5/1/98. REFER TO CH. # 98-64.

II. SUMMARY:

CS/HB 3327 creates the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act." The Act establishes legal procedures by which sexually violent predators may be committed to 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 the person is safe to be at large.

III. SUBSTANTIVE RESEARCH:

A PRESENT SITUATION:

Several statutes provide for the involuntary commitment of individuals with the Department of Children and Family Services for care, custody and control.

- F.S. 985.223 provides that every child who is adjudicated incompetent to proceed may be involuntarily committed to DCF for treatment upon a finding by the court of clear and convincing evidence that:
 - the child is mentally ill or mentally retarded and because of the mental illness or retardation the child is manifestly incapable of surviving, and without treatment the child is likely to either suffer from neglect or refusal to care for self, and the neglect or refusal poses a real and present threat of substantial harm to the child's well being; OR there is a substantial likelihood that in the near future the child will inflict serious bodily harm on self or others as evidenced by recent behavior; AND
 - all available less restrictive alternatives are inappropriate.
- F.S. 916.13 provides that every person adjudicated incompetent to stand trial or incompetent for sentencing may be involuntarily committed for treatment upon a finding by the court of clear and convincing evidence that:
 - the person is mentally ill or mentally retarded and because of the mental illness or retardation the person is manifestly incapable of surviving alone or with the help of family or friends, and without treatment the person is likely to suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to his or her well being; OR there is a substantial likelihood that in the near future the person will inflict serious bodily harm on self or another person, as evidenced by recent behavior; AND
 - all available less restrictive treatment alternatives which would offer an opportunity for improvement of the person's condition have been judged to be inappropriate.
- F.S. 945.12 provides that a prisoner who has been determined by DCF and the Department of Corrections to be amenable to rehabilitative treatment for sexual deviation, and who has voluntarily agreed to participate in such rehabilitative treatment, may be transferred to DCF, provided appropriate bed space is available.
- F.S. 393.11 provides that when a person is mentally retarded and requires involuntary admission to residential services provided by DCF, the circuit court has jurisdiction to hold a hearing and enter an order involuntarily admitting the person in order that the person may receive the care, treatment, habilitation, and rehabilitation which the person needs. The court must find that:
 - the person is mentally retarded;
 - placement in a residential setting is the least restrictive and most appropriate alternative; and
 - because of the person's degree of mental retardation the person lacks sufficient capacity to give express and informed consent, and lacks basic survival and self-care skills to such a degree that close supervision is necessary and if not provided, would result in a real and present threat of

substantial harm to the person's well being; OR is likely to physically injure others if allowed to remain at liberty.

- F.S. 394.467 (commonly known as "The Baker Act") provides for involuntary placement for treatment upon a finding of the court by clear and convincing evidence that:
 - the person is mentally ill and because of the mental illness has refused voluntary placement; or is unable to determine for self whether placement is necessary; and is manifestly incapable of surviving alone or with the help of family and friends, and without treatment is likely to suffer from neglect or refuse to care for self, which poses a real and present threat of substantial harm to well being; or
 - there is substantial likelihood that in the near future the person will inflict serious bodily harm on self or others, as evidenced by recent behavior; AND
 - all available less restrictive alternative treatment alternatives which would offer an opportunity for improvement have been judged to be inappropriate.

SEXUAL PREDATORS

Florida's Sexual Predators Act (F.S. 775.21), is designed to track sex offenders during and after completion of their sentences. Designation as a sexual offender is mandatory for qualified offenders and requires an order from the court at sentencing. A sexual predator is defined as anyone convicted of specified capital, life or first degree felonies or specified second-degree felonies AND the offender has previously been convicted of another specified crime. The sexual predator is required to register directly with the Florida Department of Law Enforcement, provide certain information, and be fingerprinted. In lieu of initially registering with FDLE, the sexual predator may register with the Department of Corrections or any law enforcement agency. Each sexual predator who is residing permanently or temporarily in the state outside a correctional facility, jail, or secure treatment facility must register or be registered within 48 hours after entering the county of permanent or temporary residence. Any change in temporary or permanent address, also, must be provided within 48 hours. Typically, a designated sexual predator must maintain registration with the FDLE for the duration of the offender's life. However, current law contains an amnesty provision. If the offender breaks no laws for a period of 10 years, then he or she may petition the court for removal of the sexual predator designation. A sexual predator who fails to register or be registered, or who fails after registration, to provide location information, commits a third degree felony. Law enforcement must inform the community and the public of a sexual predator's presence. FDLE is responsible for the on-line maintenance of current information regarding each registered sexual predator.

Further, sexual predators may have their parental rights terminated pursuant to F.S. 39.464, or be denied visitation pursuant to F.S. 61.13((2)(b)2., if they are incarcerated in a state or federal institution and the period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years, and the court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child.

Currently, sex offender treatment is an unfunded program provided by the Department of Corrections as an adjunct to other mental health services. DOC offers group therapy for inmates with a diagnosed sexual disorder, who acknowledge the problem and who express an interest in treatment. Group therapy lasts approximately 6 months, typically meeting weekly for 90 minutes; the goal of the therapy is to reinforce the inmate's need for in-depth treatment, help the offender engage in the treatment process, and encourage continued treatment participation in the community upon release. The Director of Mental Health Services at the Department of Corrections reports that of 9,500 inmates screened, approximately 10% fit the criteria for sex offender treatment. Currently 450 offenders are in treatment, and another 500 are on waiting lists. An inmate's priority for treatment increases as the inmate approaches within 6 months of expiration of sentence.

CONSTITUTIONAL ISSUES

Article 1, Section 9 of the Florida Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. Substantive due process under the Florida Constitution protects the full panoply of individual rights from unwarranted encroachment by the government. Department of Law Enforcement v. Real Property, 588 So. 2d 957 (Fla. 1991). To ascertain whether the encroachment can be justified, courts have considered the propriety of the state's purpose; the nature of the party being subjected to state action; the substance of that individual's right being infringed upon; the nexus between the means chosen by the state and the goal it intended to achieve; whether less restrictive alternatives were available; and whether individuals are ultimately being treated in a fundamentally unfair manner in derogation of their substantive rights. Id. at 960. The courts have found that when placing persons involuntarily due to mental disorders, least restrictive alternatives must be actually available, and not just hypothetical possibilities. Williams v. Davis, 459 So. 2d 406 (Fla. 1st DCA 1984). Further, courts have found that to keep a mental patient committed when there are less restrictive alternatives available, would violate the constitutional rights of the patient. Handley v. Dennis, 642 So. 2d 115 (Fla. 1st DCA 1994).

Procedural due process serves as a vehicle to ensure fair treatment through the proper administration of justice where substantive rights are at issue. There is no single, inflexible test by which courts determine whether the requirements of procedural due process have been met. Department of Law Enforcement, at 960.

The United States Supreme Court, in a narrow 5 to 4 ruling, recently found a similar statute constitutional in Kansas v. Hendricks, 117 S.Ct 2072, 65 USLW 4564 (U.S. 1997). The Kansas Sexually Violent Predator Act establishes procedures for the civil commitment of persons who, due to mental abnormality or personality disorder, are likely to engage in predatory acts of sexual violence. Regarding substantive due process, the Court stated that it generally sustains commitment statutes if they couple proof of dangerousness with proof of some additional factor, such as mental illness or mental abnormality. The Court leaves to the States the task of defining terms of a medical nature that have legal significance. In finding that the Kansas Act did not violate Double Jeopardy or Ex Post Facto provisions of the U.S. Constitution, the Court held that the Kansas Act did not establish criminal

proceedings, and involuntary confinement under it was not punishment. The Court relied on the following arguments in making its determination:

- the State disavowed any punitive intent;
- the Act limited confinement to a small segment of particularly dangerous individuals;
- the Act provided strict procedural safeguards;
- the Act directed that confined persons be segregated from the general prison population and afforded the same status as others who have been civilly committed;
- the Act recommends treatment if such is possible;
- the Act permitted immediate release upon a showing that the individual is no longer dangerous or mentally impaired.

In Justice Breyer's dissent, in which three other Justices joined, he argued that because Kansas believed that treatment for the mental abnormality existed, but did not offer such treatment, the legislative scheme begins to look punitive. If treatment were the primary aim, the State could have required treatment during imprisonment. "When a State decides offenders can be treated and confines an offender to provide the treatment, but then refuses to provide it, the refusal to treat while a person is fully incapacitated begins to look punitive." If punitive, the Act would violate the Ex Post Facto clause, unless drafted to operate prospectively only. "Where so significant a restriction of an individual's basic freedoms is at issue, a State cannot cut corners."
Id. at 2098.

B. EFFECT OF PROPOSED CHANGES:

Section 1: Creates the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

Sections 2 and 3: Creates s. 916.30 and s. 916.31, F.S., to provide legislative findings and intent. ***Nearly identical to the Kansas Act. K.S.A. 59-29a01(1994).***

Section 4: Creates s. 916.32, F.S.: **Definitions.** Provides definitions of "agency with jurisdiction"; "convicted of a sexually violent offense"; "department"; "likely to engage in acts of sexual violence"; "mental abnormality"; "person"; "sexually motivated"; "sexually violent offense"; "sexually violent predator"; and "total confinement". ***Kansas includes persons charged with a sexually violent offense as a part of the definition of "sexually violent predator." K.S.A. 59-29a02(a) (1994).***

Section 5: Creates s. 916.33, F.S.: **Notice to state attorney and multi disciplinary team of release of sexually violent predator; establishing multi disciplinary team.** Requires that written notice be given to the multi disciplinary team 180 days, or in the case of an adjudicated committed delinquent, 90 days, before the anticipated release from total confinement of a person who has been convicted of a sexually violent offense, or the anticipated hearing regarding possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense. Requires the agency with jurisdiction to provide certain information to the multi disciplinary team. Establishes the multi disciplinary team, requires the team to assess

whether the person is a sexually violent predator, and provide the state attorney with its written assessment. ***The 1994 Kansas statute which was found constitutional by the U.S. Supreme Court, did not include a provision for a multi disciplinary team. The current version of the Kansas Act does include a provision for a multi disciplinary team as well as a prosecutor's review committee. K.S.A. 59-29a03 (1997 Supp.).***

Section 6: Creates s. 916.34, F S : **Petition; time; contents.** Allows the state attorney to file a petition following receipt of the written assessment and recommendation from the multi disciplinary team.

Section 7. Creates s. 916.35, F.S.: **Determination of probable cause; hearing; evaluation; respondent taken into custody; bail.** Requires the judge to make a determination whether probable cause exists to believe that the respondent is a sexually violent predator. If the judge finds probable cause, the judge shall direct that the person be taken into custody and held in an appropriate secure facility. Allows the state attorney to further petition the court for an adversarial probable cause hearing in certain circumstances. Requires the person to be given notice of and an opportunity to be heard at an adversary probable cause hearing. At this hearing, the judge shall receive evidence and hear argument and determine whether probable cause exists to believe that the person is a sexually violent predator. At the hearing the person has the right to be represented by counsel, present evidence, cross-examine any witnesses who testify against the person, and view and copy all petitions and reports in the court file. If the court again finds probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility for an evaluation. After the court finds probable cause, the person must be held in a secure facility without opportunity for pretrial release or release during the trial proceedings. ***The 1994 Kansas statute which was found constitutional by the U.S. Supreme Court, did not include an adversarial probable cause hearing, nor any provision regarding bail. The current version of the Kansas Act includes provision for an adversarial probable cause hearing. K.S.A. 59-29a05 (1997 Supp.).***

Section 8: Creates s. 916.36, F.S.: **Trial; counsel and experts; indigent persons; jury.** Requires the court to conduct a trial within 30 days of the determination of probable cause. The trial is to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced. At all adversarial proceedings under this act, the person subject to the act is entitled to the assistance of counsel, and if indigent, the court shall appoint the public defender. If a conflict exists, other counsel shall be appointed. The bill allows a person to retain qualified professionals to perform an examination on their behalf, if the person is subjected to an examination under this act. When the person wishes to be examined by a qualified professional of his or her own choice, the examiner shall be permitted to have reasonable access to the person and to all relevant medical and psychological records and reports. If the person is indigent, the court, upon the request of the person, shall determine whether such an examination is necessary. If so, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services. The bill also allows the person or the state attorney to demand that the trial be held before a jury. The demand must be filed in writing at least five days before the trial. If no demand is made, the trial shall

be held before the court. ***Similar to the Kansas Act. The 1994 Kansas statute which was found constitutional by the U.S. Supreme Court did not require a judicial finding of necessity in order to appoint a mental health professional to examine an indigent person. The current version of the Kansas Act requires a finding of necessity in order to appoint a mental health professional to examine an indigent person. K.S.A. 59-29a06 (1997 Supp.).***

Section 9: Creates s. 916.37, F.S.: **Determination; commitment procedure; mistrials; housing.** Subsection (1) requires the court or the jury to determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition. Any retrial must occur within 90 days after the previous trial, unless continued. The determination that a person is a sexually violent predator may be appealed. ***The burden of proof required by the Kansas Act is beyond a reasonable doubt. However, the burden of proof required in Florida for civil commitment proceedings pursuant to the Baker Act is clear and convincing evidence. F.S. 394.467. The Kansas Act has no provision for retrial. The Kansas Act includes a provision for persons charged with a sexually violent offense but who have been found incompetent to stand trial.***

Subsection (2) provides for the commitment of the person if the court or jury determines that the person is a sexually violent predator. The person shall be committed to the custody of the Department of Children and Family Services (DCF) for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. At all times, sexually violent predators who are committed to DCF shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 10: Creates s. 916.38, F.S.. **Examinations.** Subsection (1) requires each person committed to have an examination of his or her mental condition made once every year or more frequently at the court's discretion. The committed person may retain, or if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. Such person shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person, upon receipt of the report, the court shall conduct a review of the person's status.

Subsection (2) requires the department to provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.

Subsection (3) requires the court to hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel, but is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

Subsection (4) provides that the person is entitled to be present at the trial, and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state bears the burden of proving by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence. ***The burden of proof required in the Kansas Act is beyond a reasonable doubt. K.S.A. 59-29a08 (1994).***

Section 11 Creates s. 916.39, F.S.: **Authorized petition for release; procedure.** Allows the Secretary of Children and Family Services to authorize a person to petition for the court for release if the Secretary at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged. The petition shall be served upon the court and the state attorney. The court, upon receiving such a petition, shall order a trial within 30 days, unless continued for a good cause. At the trial, the state bears the burden of proving by clear and convincing evidence that the person's mental condition remains such that it is not safe for the person to be at large, and that, if released, the person is likely to engage in acts of sexual violence. ***The burden of proof required by the Kansas Act is beyond a reasonable doubt. K.S.A. 59-29a10 (1994).***

Section 12: Creates s. 916.40, F.S.: **Petition for release.** Provides that a person is not prohibited from filing a petition for discharge at any time. However, if the person has previously filed a petition without the approval of the Secretary of Children and Family Services and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable cause hearing is warranted.

Section 13: Creates s. 916.41, F.S.: **Release of records to state attorney.** Requires records that are otherwise confidential or privileged to be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirement and determining whether a person is or continues to be a sexually violent predator. Specified records that have been submitted to the court or admitted into evidence shall be a part of the record, but shall be sealed and may be opened only pursuant to court order. ***Included as part of the current version of the Kansas Act. K.S.A. 59-29a16 and 59-29a17 (1997 Supp.).***

Section 14: Creates s. 916.42, F.S.: **Constitutional requirements.** Requires the long-term control, care, and treatment of a person committed to conform to constitutional requirements. ***Identical to the Kansas Act. K.S.A. 59-29a09 (1994).***

Section 15: Creates s. 916.43, F.S.: **Immunity from civil liability.** Provides specified persons and agencies immunity from any civil liability for good-faith conduct under ss. 916.30-916.49. ***Similar to the Kansas Act. K.S.A. 59-29a03(c) (1994).***

Section 16: Creates s. 916.44, F.S.: **Severability.** Provides that if any section, subsection, or provision of this act is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall be unaffected because the

Legislature declares that the provisions of ss. 916.30 - 916.49 are severable from each other. ***The Kansas Act includes a severability provision. K.S.A. 59-29a15 (1994).***

Section 17: Creates s. 916.45, F.S. : **Applicability of act.** Provides that this act is applicable to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in this act, as well as to all persons convicted of a sexually violent offense in the future.

Section 18: Creates s. 916.46, F.S.: **Notice to victims of release of persons committed as sexually violent predators.** Requires the Department of Children and Family Services to give written notice of the release of a person committed as 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 address is known to the department. Failure to notify is not a reason for postponement of the release. This section does not create a cause of action against the state or any employee of the state acting within the scope of the employee's employment as a result of the failure to notify. ***Similar to the Kansas Act. K.S.A. 59-29a13 (1994).***

Section 19: Creates s. 916.47, F S : **Escape while in lawful custody.** Provides that a person who escapes or attempts to escape under specified circumstances, commits a felony of the second degree.

Section 20: Creates s. 916 48, F.S : **Subsistence fees and costs of treatment.** Requires committed persons to disclose all revenue or assets to the department, to pay all or a fair portion of the person's daily subsistence and treatment costs, the liability to the victim, and the needs of dependents. Committed persons required to pay costs are entitled to a reasonable advance notice of the assessment, and are afforded an opportunity to present reasons for opposition. An order for payment may survive against the estate of the person.

Section 21: Creates s. 916.49, F.S.: **Department of Children and Family Services responsible for costs.** Makes the Department of Children and Family Services responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. Provides that a county is not obligated to fund specified costs. Requires costs for psychological examinations, expert witnesses, and court-appointed counsel be paid from state funds appropriated by general law.

Section 22: Allows the Department of Children and Family Services to contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act. Allows DCF to contract with the Correctional Privatization Commission to issue a request for proposals and monitor contract compliance for these services.

Section 23: Appropriates from the General Revenue Fund to the Department of Children and Family Services \$4.9 million, of which \$1.5 million is from non-recurring funds, and 50 full-time equivalent positions and from the Grants and Donations Trust Fund, \$1.5 million to the Department of Corrections for the purpose of carrying out this act. From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for specified expenses.

Section 24: Provides an effective date of January 1 after the year in which enacted.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

CS/HB 3327 creates a civil commitment process for the care, custody, and treatment of sexually violent predators.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

CS/HB 3327 will require a substantial amount of court involvement in the commitment and subsequent release of sexually violent predators.

Agencies with jurisdiction are required to notice the multi disciplinary team and the State Attorney 180 days prior to the anticipated release of specified persons

The State Attorney may file a petition alleging that a person is a sexually violent predator, and then is responsible for arguing the case through to trial, and representing the state when a committed person petitions for release.

The Office of the Public Defender is responsible for representing the alleged sexually violent predator, if indigent, during all adversary proceedings under this act.

The Department of Children and Families is responsible for housing and treating persons committed as sexually violent predators. DCF is also responsible for the annual examination of the committed person, and for the provision of an annual written notice to the committed person of their right to petition the court for discharge over the department's objection. The department is responsible for all costs relating to evaluation and treatment of a person committed to the department's custody as a sexually violent predator. The Department is required to notice victims or next of kin prior to the release of a committed person.

(3) any entitlement to a government service or benefit?

A committed person would have a strong argument pursuant to the dissent in *Kansas v. Hendricks*, that he or she is entitled to treatment.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Section 20 of CS/HB 3327 requires committed persons to pay for all or a fair portion of daily subsistence costs, based on ability to pay

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment.

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

CS/HB 3327 creates the following sections of the Florida Statutes. 916.30, 916.31, 916.32, 916.33, 916.34, 916.35, 916.36, 916.37, 916.38, 916.39, 916.40, 916.41, 916.42, 916.43, 916.44, 916.45, 916.46, 916.47, 916.48, and 916.49.

E SECTION-BY-SECTION RESEARCH:

Section 1: Creates the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

Sections 2 and 3: Creates s. 916.30 and s. 916.31, F.S., to provide legislative findings and intent.

Section 4: Creates s. 916.32, F.S., to provide definitions of "agency with jurisdiction"; "convicted of a sexually violent offense"; "department"; "likely to engage in acts of sexual violence"; "mental abnormality"; "person"; "sexually motivated"; "sexually violent offense"; "sexually violent predator"; and "total confinement".

Section 5: Creates s. 916.33, F.S., requiring that written notice be given to the multi disciplinary team 180 days, or in the case of an adjudicated committed delinquent, 90 days, before the anticipated release from total confinement of a person who has been convicted of a sexually violent offense, or the anticipated hearing regarding possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense. Requires the agency with jurisdiction to provide certain information to the multi disciplinary team. Establishes the multi disciplinary team, requires the team to assess whether the person is a sexually violent predator, and provide the state attorney with its written assessment.

Section 6: Creates s. 916.34, F.S., allowing the state attorney to file a petition following receipt of the written assessment and recommendation from the multi disciplinary team.

Section 7: Creates s. 916.35, F.S., requiring the judge to make a determination whether probable cause exists to believe that the respondent is a sexually violent predator. If the judge finds probable cause, the judge shall direct that the person be taken into custody and held in an appropriate secure facility. Allows the state attorney to further petition the court for an adversarial probable cause hearing in certain circumstances. Requires the person to be given notice of and an opportunity to be heard at an adversary probable cause hearing. At this hearing, the judge shall receive evidence and hear argument and determine whether probable cause exists to believe that the person is a sexually violent predator. At the hearing the person has the right to be represented by counsel, present evidence, cross-examine any witnesses who testify against the person, and view and copy all petitions and reports in the court file. If the court again finds probable cause to believe that the person is a sexually violent predator, the court shall direct that the person be held in an appropriate secure facility for an evaluation.

Section 8: Creates s. 916.36, F.S. requiring the court to conduct a trial within 30 days of the determination of probable cause. The trial is to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause or by the court on its own motion in the interests of justice, when the person will not be substantially prejudiced. At all adversarial proceedings under this act, the person subject to the act is entitled to the assistance of counsel, and if indigent, the court shall appoint the public defender. If a conflict exists, other counsel shall be appointed. The bill allows a person to retain qualified professionals to perform an examination on their behalf, if the person is subjected to an examination under this act. When the person wishes to be examined by a qualified professional of his or her own choice, the examiner shall be permitted to have reasonable access to the person and to all relevant medical and psychological records and reports. If the person is indigent, the court, upon the request of the person, shall determine whether such an examination is necessary. If so, the court shall appoint a mental health professional and determine the reasonable compensation for the professional's services. The bill also allows the person or the state attorney to demand that the trial be held before a jury. The demand must be filed in writing at least five days before the trial. If no demand is made, the trial shall be held before the court.

Section 9. Creates s. 916.37. Subsection (1) requires the court or the jury to determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the decision must be unanimous. If a majority of the jury finds that the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition. Any retrial must occur within 90

days after the previous trial, unless continued. The determination that a person is a sexually violent predator may be appealed.

Subsection (2) provides for the commitment of the person if the court or jury determines that the person is a sexually violent predator. The person shall be committed to the custody of the Department of Children and Family Services (DCF) for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. At all times, sexually violent predators who are committed to DCF shall be kept in a secure facility segregated from patients who are not committed under this section.

Section 10: Creates s. 916.38, F.S., which requires each person committed to have an examination of his or her mental condition made once every year or more frequently at the court's discretion. The committed person may retain , or if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. Such person shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person; upon receipt of the report, the court shall conduct a review of the person's status

Subsection (2) requires the department to provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is housed. The notice must contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court

Subsection (3) requires the court to hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel, but is not entitled to be present. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

Subsection (4) provides that the person is entitled to be present at the trial, and is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except for the right to a jury. The state bears the burden of proving by clear and convincing evidence, that the person's mental condition remains such that it is not safe for the person to be at large and that, if released, the person is likely to engage in acts of sexual violence.

Section 11 Creates s. 916.39, F.S., which allows the Secretary of Children and Family Services to authorize a person to petition for the court for release if the Secretary at any time determines that the person is not likely to commit acts of sexual violence if conditionally discharged. The petition shall be served upon the court and the state attorney. The court, upon receiving such a petition, shall order a trial within 30 days, unless continued for a good cause. At the trial, the state bears the burden of proving by clear and convincing evidence that the person's mental condition remains such that it is not safe for the person to be at large, and that, if released, the person is likely to engage in acts of sexual violence.

Section 12: Creates s. 916.40, F.S., which provides that a person is not prohibited from filing a petition for discharge at any time. However, if the person has previously filed a

petition without the approval of the Secretary of Children and Family Services and the court determined that the petition was without merit, a subsequent petition shall be denied unless the petition contains facts upon which a court could find that the person's condition has so changed that a probable cause hearing is warranted.

Section 13: Creates s. 916.41, F.S., which requires records that are otherwise confidential or privileged to be released to the agency having jurisdiction or to the state attorney for the purpose of meeting the notice requirement and determining whether a person is or continues to be a sexually violent predator. Specified records that have been submitted to the court or admitted into evidence shall be a part of the record, but shall be sealed and may be opened only pursuant to court order.

Section 14: Creates s. 916.42, F.S., which requires the long-term control, care, and treatment of a person committed to conform to constitutional requirements.

Section 15: Creates s. 916.43, F.S., which provides specified persons and agencies immunity from any civil liability for good-faith conduct under ss. 916.30-916.49.

Section 16: Creates s. 916.44, F.S., provides that if any section, subsection, or provision of this act is held to be unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall be unaffected because the Legislature declares that the provisions of ss. 916.30 - 916.49 are severable from each other.

Section 17: Creates s. 916.45, F.S. which provides that this act is applicable to all persons currently in custody who have been convicted of a sexually violent offense, as that term is defined in this act, as well as to all persons convicted of a sexually violent offense in the future.

Section 18: Creates s. 916.46, F.S., which requires the Department of Children and Family Services to give written notice of the release of a person committed as 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 address is known to the department. Failure to notify is not a reason for postponement of the release. This section does not create a cause of action against the state or any employee of the state acting within the scope of the employee's employment as a result of the failure to notify.

Section 19: Creates s. 916.47, F.S., which provides that a person who escapes or attempts to escape under specified circumstances, commits a felony of the second degree.

Section 20: Creates s. 916.48, F.S., which requires committed persons to disclose all revenue or assets to the department, to pay all or a fair portion of the person's daily subsistence and treatment costs, the liability to the victim, and the needs of dependents. Committed persons required to pay costs is entitled to a reasonable advance notice of the assessment, and is afforded an opportunity to present reasons for opposition. An order for payment may survive against the estate of the person.

Section 21: Creates s. 916.49, F.S., which makes the Department of Children and Family Services responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. Provides that a county is not obligated to fund specified costs. Requires costs for psychological examinations, expert witnesses, and court-appointed counsel be paid from state funds appropriated by general law.

Section 22: Allows the Department of Children and Family Services to contract with a private entity or state agency for use of and operations of facilities to comply with the requirements of this act. Allows DCF to contract with the Correctional Privatization Commission to issue a request for proposals and monitor contract compliance for these services.

Section 23: Appropriates from the General Revenue Fund to the Department of Children and Family Services \$4.9 million, of which \$1.5 million is from non-recurring funds, and 50 full-time equivalent positions, and from the Grants and Donations Trust Fund, \$1.5 million to the Department of Corrections for the purpose of carrying out this act. From the funds appropriated to the Department of Children and Family Services, the department shall, at the counties' request, reimburse counties for specified expenses.

Section 24: Provides an effective date of January 1 after the year in which enacted.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT.

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects.

See Fiscal Comments

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures: .

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

Based on several variables, each of which will affect the final cost of this program, the following fiscal impact is suggested.

1. Numbers of prison releases that will end up in this program The number of releases from prisons and juvenile justice facilities that might qualify for this category in the next fiscal year is approximately 1,413, based on information from the Departments of Corrections and Juvenile Justice. Of that number, based on other states' experience, it is estimated that approximately 60 will be committed to the program during the next fiscal year. However, the use of a multi-disciplinary team to assist in screening possible sexually violent predators before going to the State Attorney for filing may screen out as much as 90% of the persons who originally qualify, according to data from the state of Wisconsin.
2. Cost of Treatment. The two models analyzed were the staffing patterns of the Kansas Sexual Predator Treatment Program and the Mentally Disordered Sex Offender program used in Florida several years ago. The Kansas model uses a 30 bed concept with Mental Health Staff consisting of 22 professionals and direct service staff. The model could duplicate itself for each 30 bed increment. The Florida sex offender staffing model on the other hand, would utilize 27 professional and direct service staff for the same number of residents. The cost of 22 positions (Kansas model) as indicated in the State of Florida Pay Plan is \$817, 034, including \$74,200 for expenses, while the Florida estimation is \$939,796 including \$85,400 for expenses. A separate component for evaluations and re-evaluations consists of 2 teams which will conduct pre-commitment trial evaluations and will conduct yearly re-evaluations. The team would consist of a psychiatrist, psychologist and social worker, all at forensic/corrections pay level, and would cost approximately \$242,000 per year if the team consisted of state employees. It

is suggested that 2 teams would be sufficient to handle the numbers of assessments occurring in the first year. Other options regarding contracting for evaluations/re-evaluations could be explored, although at a significant increase in cost.

3. Location of Treatment Program. The calculated cost of using existing facilities with either contracted Department of Corrections staff and facility or Department of Children and Families Mental Health Institution facilities is in the neighborhood of \$15,000 to \$18,000 per bed for basic services and security. There may be additional costs to provide segregated secure fencing or other security schemes. The issue of separate adolescent facilities is mitigated by the assumption that a small number of persons under 18 who might eventually end up in this program would be tried as adults.
4. Public Defender and State Attorney. The Prosecution Coordination Office has indicated that the cost will be \$1,474,560 to fully manage the estimated number of petitions, hearings and commitment trial proceedings for which they would be responsible. The Public Defenders' Coordination Office has estimated an impact of 10 positions and \$330,000 to defend indigent clients, based on the number of persons being held for trial. However, without caseload and time study data, these estimates cannot be verified as appropriate costs for the services needed.
5. Summary of Costs, based on the Kansas model for 60 persons.

Treatment Program with 44 Staff for 60 beds	\$1,600,000
Evaluation Teams for initial evaluations and re-evaluations	\$500,000
Cost of basic services and security @ \$15,940 per bed	<u>\$1,000,000</u>
Total cost for 60 Sexually Violent Predators per year	\$3,100,000

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill will require counties to expend funds related to legal representation and psychological evaluations. The total statewide cost is not estimated to exceed \$1.4 million, so the bill is exempt from the requirement of Section 18, Article VII of the State Constitution as having an insignificant fiscal impact.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

STORAGE NAME: h3327s1z.flc

DATE: May 26, 1998

PAGE 20

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON Family Law and Children:

Prepared by:

Legislative Research Director:

Stephanie Olin

Stephanie Olin

**AS REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES
APPROPRIATIONS:**

Prepared by:

Legislative Research Director:

Robert M. Wagner

Lynn S. Dixon

FINAL RESEARCH PREPARED BY COMMITTEE ON Family Law and Children:

Prepared by:

Legislative Research Director:

Stephanie Olin

Stephanie Olin

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below)

Date: March 26, 1998 Revised: _____

Subject: Sexually Violent Predators

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Erickson</u>	<u>Miller</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
3.	<u>Martin</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 646 establishes procedures under which a person who is charged or convicted of certain sexually violent offenses may be adjudged a sexually violent predator and committed to the Department of Health for treatment in a secure facility until such time as an appropriate determination is made that the person can be discharged.

This CS/CS amends or creates the following sections of the Florida Statutes: 916.10, 916.30, 916.31, 916.32, 916.33, 916.34, 916.35, 916.36, 916.37, 916.38, 916.39, 916.40, 916.41, 916.42, 916.43, 916.44, 916.45, 916.46, 916.47, 916.48, and 916.49.

II. Present Situation:

Section 394.467(1), F.S., provides:

(1) CRITERIA--A person may be involuntarily placed for treatment upon a finding of the court by clear and convincing evidence that:

(a) He or she is mentally ill and because of his or her mental illness:

1 a. He or she has refused voluntary placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of placement for treatment; or

b. He or she is unable to determine for himself or herself whether placement is necessary; and

2.a. He or she is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; or

b. There is substantial likelihood that in the near future he or she will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available less restrictive treatment alternatives which would offer an opportunity for improvement of his or her condition have been judged to be inappropriate

“Mental illness” is defined in s. 394.455, F.S., as

[A]n impairment of the emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person’s ability to meet the ordinary demands of living, regardless of etiology. For the purposes of this part, the term does not include retardation or developmental disability as defined in chapter 393, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 916.12, F.S., provides, in part, that a person is incompetent to stand trial if the person does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding, or if the person has no rational, as well as factual, understanding of the proceedings against him or her.

Section 916.13(1), F.S., provides.

(1) CRITERIA.—Every person adjudicated incompetent to stand trial or incompetent for sentencing, pursuant to the applicable Florida Rules of Criminal Procedure, may be involuntarily committed for treatment upon a finding by the court of clear and convincing evidence that

(a) The person is mentally ill and because of her or his mental illness, or that the person is mentally retarded and because of her or his mental retardation:

1. The person is manifestly incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment, the person is likely to suffer from neglect or refuse to care for herself or himself and such neglect or refusal poses a real and present threat of substantial harm to her or his well-being; or

2. There is a substantial likelihood that in the near future the person will inflict serious bodily harm on herself or himself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm, and

(b) All available, less restrictive treatment alternatives, including treatment in community residential facilities or community inpatient or outpatient settings, which would offer an opportunity for improvement of the person’s condition have been judged to be inappropriate.

The definition of “mentally ill,” for the purpose of s. 916.13, F.S., is almost the same as the definition of the term in s. 394.455, F.S.

Section 916.15, F.S., provides, in part, that a person who is acquitted of criminal charges because of a finding of “not guilty by reason of insanity” may be involuntarily committed pursuant to such

a finding if the person is manifestly ill and, because of the person's illness, is manifestly dangerous to himself or herself or others.

Section 916 17, F S., provides, in part, that the court committing a defendant according to a finding of incompetency to stand trial or an adjudication of not guilty by reason of insanity, may order the person's conditional release based on an approved plan for providing appropriate outpatient care and treatment.

The Department of Health is created in s 20.43, F S , and is responsible for health care functions such as children's medical services, public health, environmental health, medical quality assurance, family health services, and disease control.

III. Effect of Proposed Changes:

Section 1. Directs the Division of Statutory Revision to change the name of chapter 916 from "Mentally Deficient and Mentally Ill Defendants" to "Mentally Deficient and Mentally Ill Defendants: Civil Commitment of Sexually Violent Predators."

Section 2. Provides a short title Sections 916.10-916.20 may be cited as the "Forensic Client Services Act."

Section 3. Creates s. 916 30, F.S., and provides that ss. 916.30-916 49, F.S., which are created by this legislation, may be cited as "The Jimmy Ryce Act of 1998 "

Section 4. Creates s 916 31, F S , which provides legislative findings and intent. The Legislature finds that a mentally abnormal and extremely dangerous group of sexually violent predators exists who require involuntary commitment for long-term control, care, and treatment. The Legislature finds that there is a significant likelihood that these sexually violent predators will engage in repeat acts of sexual violence if their mental conditions are not treated. The Legislature finds that the "Baker Act" commitment process is inadequate to address the special needs and risks to society posed by these sexually violent predators The Legislature determines that a separate involuntary civil commitment process for the long-term control, care, and treatment of these sexually violent predators is necessary, and because of the nature of these predators' mental conditions and the danger they present, it is necessary to house these predators in an environment separate from persons involuntarily committed under traditional civil commitment statutes.

Section 5. Creates s. 916 32, F.S , which provides definitions An "agency with jurisdiction" is defined as the "agency that releases upon lawful order or authority a person serving a sentence in the custody of the Department of Corrections (DOC), a person adjudicated delinquent and committed to the custody of the Department of Juvenile Justice (DJJ), or a person who was involuntarily committed to the Department of Children and Family Services (DCFS) upon an adjudication of not guilty by reason of insanity."

“Convicted of a sexually violent offense” is defined as a person who has been adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere; adjudicated not guilty by reason of insanity of a sexually violent offense; or adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere.

“Department” is defined as the Department of Health

“Likely to engage in acts of sexual violence” is defined as “the person’s propensity to commit acts of sexual violence is of such degree as to pose a menace to the health and safety of others.”

“Mental abnormality” is defined as “a mental condition affecting a person’s emotional or volitional capacity that predisposes the person to commit sexually violent offenses.”

“Person” is defined as an individual 18 years of age or older who is a potential or actual subject of proceedings under this act

“Sexually motivated” is defined as “one of the purposes for which the defendant committed the crime was sexual gratification ”

“Sexually violent offense” is defined as murder of a human being while engaged in sexual battery; kidnaping or false imprisonment of a child under 16 years of age (and, in the course of either of these offenses, commits sexual battery; or a lewd, lascivious, or indecent assault or act upon or in the presence of a child), sexual battery; a lewd, lascivious or indecent assault or act upon or in the presence of a child; any conviction for a felony offense in effect at any time before the effective date of the act that is comparable to a sexually violent offense as defined in the act or any federal conviction or conviction in another state that would be a sexually violent offense in this state; an attempt, criminal solicitation, or conspiracy of a sexually violent offense; or any act that either at sentencing for the offense or subsequently during civil commitment proceedings under the act has been determined beyond a reasonable doubt to have been sexually motivated.

“Sexually violent predator” is defined as a person who has been convicted of a sexually violent offense and suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.

“Total confinement” is defined as being held in any physically secure facility being operated or contractually operated by the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services.

Section 6. Creates s. 916.33, F S , which provides that the agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the state attorney of the circuit where that person was last convicted of a sexually violent offense 180 days before: 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 confinement for no

more than 90 days, written notice shall be provided as soon as practicable following the person's return to confinement, or the anticipated hearing regarding the possible release of a person who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense.

The agency with jurisdiction shall provide the state attorney with the following information: name, identifying characteristics; anticipated future residence, offense history; and documentation of institutional adjustment and any treatment reviewed.

Notice provisions in the section are not jurisdictional and failure to comply with those provisions does not prevent the state attorney from petitioning for the civil commitment of a person meeting the sexually violent predator criteria.

The Secretary of the Department of Health shall establish a multidisciplinary team, which may include individuals from other state agencies. The purpose of the team is to review records of each person referred to the team as meeting the sexually violent predator criteria. Within 30 days after receiving notice, the team shall assess whether the person meets the predator criteria, and within 60 days after receiving notice, shall provide the state attorney with its written assessment.

Section 7. Creates s. 916.34, F.S., which provides that, when a multidisciplinary team determines that a person meets the definition of sexually violent predator, the state attorney in the judicial circuit where the person committed the sexually violent offense may file a petition with the circuit court, alleging that the person is a sexually violent predator and stating facts sufficient to support this allegation.

Section 8. Creates s. 916.35, F.S., which provides that, when the petition is filed, the court shall determine whether probable cause exists that the person is a sexually violent predator. If a determination of probable cause is made, then the judge shall direct that the person be taken into custody and held in a county jail or county detention facility where the petition is filed. Within 72 hours after the person is taken into custody, the person must be provided with written notice of, and an opportunity to appear in person at, an adversary hearing to contest the probable cause determination. At this hearing, the judge shall receive evidence and hear arguments from the parties, and determine whether probable cause exists to believe that the person is a sexually violent predator.

At the adversary probable-cause hearing, the person shall have the right to be represented by counsel, to present evidence, to cross-examine any witness testifying against the person, and to view and copy all petitions and reports in the court file.

If the court finds probable cause to believe that the person is a sexually violent predator, the person must be held in custody in a secure facility, without opportunity for pretrial release.

Section 9. Creates s. 916.36, F.S., which provides that, within 60 days after the completion of an adversary probable-cause hearing, the court shall conduct a trial to determine if the respondent is a sexually violent predator. The trial may be continued upon the request of either party and a

showing of good cause, or by the court on its own motion in the administration of justice when the person will not be substantially prejudiced.

The person is entitled to assistance of counsel and, if the respondent is indigent, the court shall appoint counsel to represent the person. If the person is subject to a mental health examination, the person may retain experts or mental health professionals to perform an examination. If a person wishes to be examined by a professional of the person's own choice, the examiner must be provided reasonable access to the person, as well as to all relevant medical and mental health records and reports. If the respondent is indigent, the court, upon the person's request, shall appoint a mental health professional and determine reasonable compensation for the professional's services.

The person or the state attorney has the right to demand that the trial be before a jury. A demand for a jury trial must be filed, in writing, at least 5 days prior to trial. If no demand is made, the trial shall be to the court.

Section 10. Creates s. 916.37, F.S., which provides that the court or jury shall determine, by clear and convincing evidence, that the person is a sexually violent predator. If the jury determines the person is a sexually violent predator, the decision must be unanimous. If a majority of the jury finds the person is a sexually violent predator, but the decision is not unanimous, the state attorney may refile the petition and proceeding according to the provisions of the act. Any retrial shall occur within 90 days of the previous trial, unless the subsequent proceeding is continued. The jury's determination is appealable.

If the judge, in a trial to the court, or at least half of the jury, finds that the person is not a sexually violent predator, the court shall direct that the person be released.

A person determined to be a sexually violent predator shall be committed to the custody of the Department of Health for control, care, and treatment until such time as the person is not a threat to the public and has been ordered to be released pursuant to the provisions of the act. The committed person shall be kept in a secure facility operated by a private contractor. The facility operated by a private contractor and housing sexually violent predators must be operated exclusively to control, care for, and treat sexually violent predators and must only house sexually violent predators.

Section 11. Creates s. 916.38, FS., which provides that a person committed as a sexually violent predator shall have an examination of the person's mental condition once every 3 years, or more frequently at the court's discretion. The person may retain or, if the person is indigent and so requests, the court may appoint, a qualified professional to examine the person. This professional shall have access to all records concerning the person. The results of the examination shall be provided to the court that committed the person. Upon receipt of the report, the court shall conduct review of the person's status.

The Department of Health shall provide the person with annual written notice of the person's right to petition the court for release over the objection of the director of the facility where the person is committed. The notice shall contain a waiver of rights. The director of the facility shall forward the notice and waiver form to the court.

The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that the person is not a threat to the public and will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the hearing, but not to be present. If the court finds that probable cause exists, a trial is set, and the person is entitled to the benefit of all constitutional protections afforded the person at the initial trial, except trial by jury. The state attorney shall represent the state and has the right to have the person examined by professionals chosen by the state. The state must prove, by clear and convincing evidence, that the person's mental condition remains such that the person, if released, is a threat to the public and is likely to engage in acts of sexual violence.

Section 12. Creates s. 916.39, F.S., which provides that the Secretary of the Department of Health or the Secretary's designee may petition the court for the release of a person confined as a sexually violent predator, if the Secretary or the Secretary's designee determines that the person is not likely to commit acts of sexual violence if unconditionally discharged. The petition shall be served on the court and the state attorney. Upon receipt of the petition, the court shall order a trial within 30 days unless continued for good cause. The state attorney shall represent the state and has the right to have the person examined by professionals of the state attorney's choice. The state must prove by clear and convincing evidence that the person, if discharged, is a threat to the public and is likely to engage in acts of sexual violence.

Section 13. Creates s. 916.40, F.S., which provides that the act shall not prohibit a person from filing a petition for discharge at any time. However, if the person has previously filed a petition, without approval of the Secretary of the Department of Health or the Secretary's designee, and the court has determined that the petition was without merit, then a subsequent petition shall be denied unless there are new facts warranting a probable cause hearing.

Section 14. Creates s. 916.41, F.S., which provides for the release of relevant information and records that are otherwise confidential or privileged to the agency with jurisdiction or the state attorney for the purpose of meeting the notice requirements under the act and determining whether a person is or continues to be a sexually violent predator. Psychological or psychiatric reports, drug and alcohol reports, treatment records, medical records or victim impact statements submitted to the court or admitted into evidence shall be part of the record but sealed and may be opened only pursuant to a court record.

Section 15. Creates s. 916.42, F.S., which provides that long-term control, care, and treatment of sexually violent predators shall conform to constitutional requirements.

Section 16. Creates s. 916.43, F.S., which provides immunity from civil liability for good faith conduct under the act by the agency with jurisdiction, its officers, and its employees; the state

attorney and the state attorney's employees; and those involved in the evaluation, care and treatment of sexually violent predators committed under the act.

Section 17. Creates s. 916.44, F.S., which provides for the severability of any provision declared unconstitutional.

Section 18. Creates s. 916.45, F.S., which provides that the act applies to those persons who meet the definition of sexually violent predator, regardless of the date the sexually violent offense was committed.

Section 19. Creates s. 916.46, F.S., which provides that the victims of any person committed as a sexually violent predator shall be notified of the person's release from commitment. Failure to notify does not postpone release. The failure to meet notification requirements does not create a cause of action against the state or an employee acting with the scope of his or her employment.

Section 20. Creates s. 916.47, F.S., which provides that it is a second degree felony for a person to escape from lawful custody pursuant to the act

Section 21. Creates s. 916.48, F.S., which authorizes the court, upon committing a person as a sexually violent predator, to require the person to pay some or all of the daily subsistence costs and treatment costs, based upon the person's ability to pay, liability or potential liability to the victim or the guardian or estate of the victim, and the needs of the person's dependents. The person subject to paying subsistence and treatment costs is entitled to reasonable advance notice of the assessment and shall be afforded an opportunity to present reasons for opposing the assessment. An order directing payment of subsistence and treatment costs may survive against the person's estate.

Section 22. Creates s. 916.49, F.S., which provides that the Department of Health is responsible for all costs relating to the evaluation and treatment of persons committed to the department's custody as sexually violent predators. Other costs for psychological evaluations, expert witnesses, and court-appointed counsel required by ss. 916.30-916.49, F.S., must be paid from state funds appropriated by general law.

Section 23. Provides that the act shall take effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues

Under Section 14 of CS/CS/SB 646, the agency with jurisdiction or the state attorney shall have access to confidential or privileged records of persons who may meet the definition of a sexually violent predator. Section 14 does not make confidential or privileged those records that are currently public, nor does it provide the public at large with access to records that would be confidential or privileged under current law.

C. Trust Funds Restrictions

None.

D. Other Constitutional Issues:

Committee Substitute for Committee Substitute for Senate Bill 646 is substantially patterned after Kansas' sexual predator law, though it contains features of the sexual predator laws of Washington and Missouri

On June 23, 1997, the United States Supreme Court issued its holding in *Kansas v. Hendricks*, 1997 WL 338555, a case in which Kansas' sexual predator law was argued to be unconstitutional. The three issues before the Court were as follows: Kansas argued that substantive due process was not violated by a civil commitment based on a "mental abnormality," rather than a "mental illness", *Hendricks* (the first person committed under Kansas' sexual predator law) argued that his commitment amounted to double punishment in violation of double jeopardy; and *Hendricks* argued that Kansas' sexual predator law is an ex post facto law because it was passed after his last conviction and purportedly increased the punishment for his criminal behavior

The Supreme Court, in a five-to-four holding, upheld Kansas' sexual predator law. The Court found that a traditionally defined "mental illness" is not a prerequisite to a civil commitment. The double jeopardy and ex post facto issues were resolved in Kansas' favor after the Court determined that civil commitment of sexual predators under Kansas' law did not amount to a punishment. As a prerequisite to finding these issues, the conduct must be found to constitute a punishment. The Court's reasons for finding that civil commitment is not a punishment were: retribution or deterrence were not implicated (in fact, Kansas' law does not require a conviction); Kansas' law requires a prediction of dangerousness, not *mens rea*, sexually violent predators are confined under conditions similar to those of patients, not prisoners; the prospect of indefinite confinement indicates that confinement is until the person's mental condition is altered and not until a fixed amount of time is served. The Court determined that the elaborate and detailed procedural aspects accompanying the civil commitment process were not indicative that a punishment is being prescribed, but rather were indicative that Kansas intended to narrowly define the class of sexually violent predators.

It is unclear from the Supreme Court's opinion whether commitment under Kansas' sexual predator law requires a bona fide effort to treat the sexually violent predator's underlying mental disorder. Some comments of Justice Thomas, the author of the opinion, suggest that all that is required is that treatment be a legislatively-pronounced ancillary goal in order to satisfy federal due process concerns. Of course, if treatment is not provided under a Florida law authorizing civil commitment, nothing precludes a state court from addressing a "right to treatment" claim under Florida law. Section 4 of CS/CS/SB 646 provides that it is the Legislature's intent to provide treatment to sexually violent predators.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None

B. Private Sector Impact:

None

C. Government Sector Impact.

The Department of Corrections reports that "there are 9,311 inmates in the department who have committed one or more of the specified offenses and may be affected by this proposed bill." It is anticipated that of these inmates, 1,515 will be released within the next 12 months. The requirements of this bill will produce a significant but indeterminate workload increase for institutional staff who would be responsible for distributing to the appropriate agencies complete copies of the prison records and mental health records.

There is an anticipated significant fiscal impact on the Department of Health as a result of the requirements relating to multidisciplinary team reviews, mental health evaluations, treatment and care, and confinement. These annual costs are estimated to be at least \$63 million dollars and include professional evaluations by mental health professionals and costs associated with the operation of treatment programs. There will be an indeterminate fiscal impact on the Department of Corrections, the Department of Juvenile Justice, the state attorney, and the courts, as a result of notice requirements, copying and distributing records, hearings, and trials relating to civil confinement of sexually violent predators and any ensuing appeals.

The Association of Counties reports that the indeterminate fiscal impact will be significant. The counties' fiscal responsibilities will include court costs; housing in jail any person who is determined to be a sexually violent predator and who is awaiting a hearing or commitment; court appointed counsel for indigent persons; and court appointed experts.

VI. Technical Deficiencies:

None

VII. Related Issues:

The Mentally Disordered Sex Offender Program at the North Florida Evaluation and Treatment Center closed in August, 1989. The closure was due to budget reductions in the former Department of Health and Rehabilitative Services as well as the lack of program evaluation data to show that the program made a difference in the behaviors of the mentally disordered sex offenders to prevent the recurrence of sexual offenses.

VIII. Amendments:

None.

S 646 : The Jimmy Ryce Act of 1998

S 646 GENERAL BILL/CS/CS/1ST ENG by Children, Families and Seniors; Criminal Justice; Gutman; (CO-SPONSORS) Horne; Klein; Diaz-Balart; Cowin (Similar CS/3RD ENG/H 3327, S 0398, S 0788)

The Jimmy Ryce Act of 1998; requires notice of release from custody of person alleged to be sexually violent predator; provides for evaluation of such person; provides for petition to have such person declared sexually violent predator; provides for trial on issue of whether such person is sexually violent predator; provides that CFS Dept. is responsible for costs, & authorizes said dept. to contract for use of facilities, etc. Amends Ch. 916. EFFECTIVE DATE: 01/01/1999.

01/12/98 SENATE Prefiled

01/23/98 SENATE Referred to Criminal Justice; Children, Families and Seniors; Ways and Means

01/26/98 SENATE On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37)

02/03/98 SENATE Comm. Action: CS by Criminal Justice

02/06/98 SENATE Now in Children, Families and Seniors

03/03/98 SENATE Introduced, referred to Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00045; On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37); Comm. Action: CS by Criminal Justice -SJ 00008; CS read first time on 03/03/98 -SJ 00102; Now in Children, Families and Seniors -SJ 00008; On Committee agenda-- Children, Families and Seniors, 03/04/98, 9:00 am, Room-A(LL-37) --Temporarily postponed

03/09/98 SENATE On Committee agenda-- Children, Families and Seniors, 03/12/98, 9:00 am, Room-A(LL-37)

03/12/98 SENATE Comm. Action: CS/CS by Children, Families and Seniors -SJ 00182; CS read first time on 03/18/98 -SJ 00208

03/17/98 SENATE Now in Ways and Means -SJ 00182

03/23/98 SENATE On Committee agenda-- Ways and Means, 03/26/98, 2:30 pm, Room-EL

03/26/98 SENATE Comm. Action:-Favorable by Ways and Means -SJ 00344

03/27/98 SENATE Placed on Calendar -SJ 00344

04/22/98 SENATE Placed on Special Order Calendar -SJ 00813

04/23/98 SENATE Placed on Special Order Calendar -SJ 00813; Read second time -SJ 00841; Amendment(s) adopted -SJ 00841; Ordered engrossed -SJ 00842

04/24/98 SENATE House Bill substituted -SJ 00887; Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to CS/HB 3327 (Ch. 98-64)



Journal of the Senate

Number 19—Regular Session

Thursday, April 23, 1998

CONTENTS

Call to Order	828, 843
Co-Sponsors	834, 873
Committee Substitutes, First Reading	868
Communication	853
House Messages, First Reading	871
Motions	828, 868
Motions Relating to Committee Meetings	828
Motions Relating to Committee Reference	828
Point of Order	867
Point of Order Ruling	868
Reports of Committees	868
Special Order Calendar	828, 843, 866

[See end of Journal for Bill Action Summary]

CALL TO ORDER

The Senate was called to order by President Jennings at 9:45 a.m. A quorum present—37.

Madam President	Diaz-Balart	Horne	Rossin
Bankhead	Dudley	Kirkpatrick	Scott
Bronson	Dyer	Klem	Silver
Brown-Waite	Forman	Kurth	Sullivan
Campbell	Geller	Latvala	Thomas
Casas	Grant	Laurent	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	
Crist	Holzendorf	Ostalkiewicz	

Excused: Senator Jones; Conferees periodically for the purpose of working on Civil Litigation Reform Senator McKay, Chairman; Senators Burt, Bankhead, Dudley, Rossin, Dyer and Latvala

PRAYER

The following prayer was offered by the Rev. John Guns, Pastor, St. Paul Missionary Baptist Church, Jacksonville:

Eternal God, we thank you for the beauty and blessedness of another day. We acknowledge your presence in our midst. We ask that you will guide and govern our state; that you will bless our elected and appointed leadership; that you will enable them and connect us to them and them to us so that this state will be the best

We ask, Lord, that you will continue to encourage them and to empower them. Bless this day In the name of the living Lord, let us all say together, Amen.

PLEDGE

Senate Pages Taylor Gregory of Miami and Jason Suskey of Davie, led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Sullivan, by two-thirds vote CS for SJR 408, CS for SJR 528, CS for SB 1374, SB 1392, CS for CS for SB 1604,

CS for CS for SB 1994, CS for SB 2160, CS for SB 2488, SB 2540 and CS for HB 1373 were withdrawn from the Committee on Ways and Means

On motion by Senator Dudley, by two-thirds vote SB 68 was withdrawn from The Special Master on Claim Bills, the Committees on Criminal Justice; and Ways and Means, and referred to the Committees on Judiciary, and Ways and Means

On motion by Senator Sullivan, by two-thirds vote CS for SB 966, CS for SB 1216, CS for SB 1572, SB 1784, CS for SB 1814, CS for SB 1988, CS for SB 2204, CS for CS for SB 2352, CS for SB 2480 and SB 2610 were withdrawn from the Committee on Ways and Means

On motion by Senator Bankhead, by two-thirds vote CS for SB 1442 was withdrawn from the Committee on Community Affairs

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Bankhead, the rules were waived and the meeting of the Special Order Calendar Subcommittee of the Committee on Rules and Calendar scheduled this day was cancelled

MOTIONS

On motion by Senator Bankhead, the rules were waived and a deadline of 7:00 p.m. this day was set for filing amendments to the Special Order Calendar and Bills on Third Reading to be considered Friday, April 24

By direction of the President, the rules were waived and the Senate proceeded to—

SPECIAL ORDER CALENDAR

Consideration of CS for SB 2014, CS for SB 2054, CS for SB 228 and CS for CS for SB 484 was deferred.

On motion by Senator Kurth—

CS for CS for SB 1660—A bill to be entitled An act relating to children and families, creating s. 383.145, F.S., creating the Healthy Families Florida program, providing legislative findings and intent, providing purpose, requiring integrated community-based delivery of services, specifying program requirements; providing responsibilities of the Department of Health and the Department of Children and Family Services; providing for development, implementation, and administration of the program, specifying criteria for community program grant funding; requiring collaboration with existing community boards, coalitions, providers, and planning groups, authorizing contracts for training and evaluation, providing for quality assurance; establishing the Healthy Families Florida Advisory Committee, providing for application for a federal waiver, providing an effective date

—was read the second time by title.

Senator Kurth moved the following amendment which was adopted

Amendment 1—On page 3, lines 11-22, delete those lines and insert: *health outcomes. The following disclaimer shall be presented verbally and in writing at the initial contact with the parent, which may occur before or after the birth of a child. "Participation in the initial interview and assessment process and all services provided through the*

~~department~~ and its fiscal agents for payment of medical services under the Medicaid program

Section 3 This act shall take effect upon becoming a law and shall operate retroactively to July 1, 1994, except that any action filed prior to March 1, 1998, any appeal of such action, any matter related to such action, any enforcement of the terms of a settlement agreement entered in such action, or any action filed prior to March 1, 1998, in which the parties have agreed to settle and the trial court has approved the settlement agreement, whether or not the time to appeal the approval of such settlement has expired, remains covered by and shall proceed under the law as it existed on the date of the filing of such action. If any settlement agreement entered in any such action filed prior to March 1, 1998, is overturned, canceled, or terminated, or is altered in any material manner by subsequent court order, such action remains covered by and shall proceed under the law as it existed on the date of the filing of such action

And the title is amended as follows.

Delete everything before the enacting clause and insert. A bill to be entitled An act relating to Medicaid third-party liability; amending s 409.910, F.S.; limiting the scope of liability for which Medicaid benefits must be repaid, amending s 624.424, F.S., conforming a cross-reference and correcting an agency reference, providing for retroactive application; providing a savings clause for certain actions, providing an effective date.

Pursuant to Rule 4.19, HB 3077 as amended was placed on the calendar of Bills on Third Reading

On motion by Senator Gutman—

CS for CS for SB 646—A bill to be entitled An act relating to sexually violent predators, requesting that the Division of Statutory Revision redesignate ch 916, F.S., amending s. 916.10, F.S., providing a short title, creating s 916.30, F.S., providing a short title, creating s 916.31, F.S., providing legislative findings and intent; creating s 916.32, F.S., defining terms; creating s 916.33, F.S., requiring notice of release from custody of a person alleged to be a sexually violent predator, providing for evaluation of such person; creating s 916.34, F.S., providing for petition to have such person declared a sexually violent predator; creating s 916.35, F.S., providing for determination of probable cause, for hearings, and for taking such person into custody; creating s. 916.36, F.S., providing for trial on the issue of whether such person is a sexually violent predator; creating s 916.37, F.S., providing for commitment of a person determined to be a sexually violent predator, creating s 916.38, F.S.; requiring examinations of persons committed, creating s 916.39, F.S.; providing for petitions for release, creating s. 916.40, F.S., authorizing petition for release, creating s. 916.41, F.S.; providing for access to certain records, creating s. 916.42, F.S.; requiring detention and commitment to conform to constitutional requirements, creating s. 916.43, F.S.; providing immunity from civil liability; creating s 916.44; providing severability; creating s. 916.45, F.S.; providing for retrospective and prospective application, creating s 916.46, F.S., providing for notice to victims, creating s 916.47, F.S., penalizing escape; creating s. 916.48, F.S., authorizing subsistence fees and costs; creating s 916.49, F.S.; providing that the Department of Health is responsible for costs, providing that other costs for psychological evaluations, expert witnesses, and court-appointed counsel are paid from state funds, providing an effective date

—was read the second time by title

Senators Klein and Gutman offered the following amendments which were moved by Senator Klein and adopted

Amendment 1 (with title amendment)—On page 4, line 13, on page 12, line 27, on page 13, line 16, and on page 16, lines 28 and 29, delete "Health" and insert. *Children and Family Services*

And the title is amended as follows

On page 2, line 10, delete "Health" and insert: *Children and Family Services*

Amendment 2—On page 6, line 15, strike the comma (,) and insert: *to the multidisciplinary team, and a copy*

Amendment 3—On page 6, line 29, delete "state attorney" and insert. *multidisciplinary team*

Senators Klein and Gutman offered the following amendment which was moved by Senator Gutman and adopted

Amendment 4—On page 7, lines 12-21, delete those lines and insert *the provisions of ss 916.30-916.49. However, the state attorney has no lawful authority to file a petition with the circuit court alleging that a person is a sexually violent predator without a written assessment and recommendation from the multidisciplinary team.*

(3) *The Secretary of Children and Family Services shall establish a multidisciplinary team, which shall include a person knowledgeable in the field of law enforcement designated by the Attorney General, a licensed psychologist, a licensed psychiatrist, a person designated by the Department of Corrections who is knowledgeable in the treatment of sexual offenders, and a mental health counselor licensed under chapter 491, to review available records of each person referred to such team under subsection (1) The team, within 45 days after receiving notice, shall assess whether the person meets the definition of a sexually violent predator and provide the state attorney with its written assessment and recommendation*

Senators Klein and Gutman offered the following amendments which were moved by Senator Klein and adopted.

Amendment 5—On page 8, lines 12-19, delete those lines and insert. *held in an appropriate secure facility or, in the case of an adjudicated committed delinquent, the closest regional juvenile secure detention facility to the county where the petition was filed.*

(2) *Before the release from custody of a person whom the multidisciplinary team recommends for civil confinement, but after the state attorney files a petition under s 916.33, the state attorney may further petition the court for an adversarial probable cause hearing. The person shall be provided with notice of, and an opportunity to appear in person at, an adversary hearing. At this hearing, the judge*

Amendment 6—On page 9, lines 17 and 18, delete those lines and insert

(1) *Within 30 days after the determination of probable cause, the court shall conduct a trial to*

Amendment 7—On page 10, line 28 through page 11, line 14, delete those lines and insert.

(2) *If the court or jury determines that the person is a sexually violent predator, 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. Such control, care, and treatment shall be provided at a facility operated by the Department of Children and Family Services. At all times, sexually violent predators who are committed for control, care, and treatment by the Department of Children and Family Services under this section shall be kept in a secure facility segregated from patients who are not committed under this section*

Amendment 8 (with title amendment)—On page 17, between lines 3 and 4 insert.

Section 23. *The Department of Children and Family Services may contract with a private entity or state agency for use of facilities to comply with the requirements of this act.*

Section 24 *There is hereby appropriated from the General Revenue Fund in a lump sum to the Department of Children and Family Services the sum of \$3,400,000 and 50 full-time equivalent positions, and from the Grants and Donations Trust Fund, \$1,500,000 to the Department of Corrections for the purpose of carrying out the provisions of this act. From the funds appropriated to the Department of Children and Family Services, the department may, at the counties' request, reimburse counties for the cost of no more than one examination of each person subject to this act, provided that the department's reimbursement for each examination shall not exceed the cost to the department for examinations that it conducts of such persons*

(Redesignate subsequent sections.)

And the title is amended as follows

On page 2, line 14, after the semicolon (;) insert authorizing the Department of Children and Family Services to contract for the use of facilities, providing an appropriation,

Amendment 9—On page 17, line 4, delete "July 1, 1998" and insert. January 1, 1999

Pursuant to Rule 4 19, CS for SB 646 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Forman, the Senate resumed consideration of—

CS for SB 1460—A bill to be entitled An act relating to amusement rides; amending s 616 242, F.S.; providing safety standards for amusement rides; providing for owner responsibility; providing scope; providing definitions; requiring adoption of specified standards and rules, prohibiting the operation of amusement rides without a permit and affidavit of compliance, providing for testing of amusement rides; requiring inspections, providing fees, providing insurance requirements; providing exemptions; prescribing inspections standards for amusement rides; authorizing employees of the Department of Agriculture and Consumer Services to inspect and investigate, requiring owners to inspect amusement rides; providing for the training of employees of amusement rides; prohibiting specified bungy operations, providing fees; providing for denial, suspension, and revocation of permits and inspection certificates; providing for issuance of orders, enforcement, and penalties, amending ss 212 08, 570 46, 616 13, F.S., conforming provisions; providing an effective date

—which was previously considered and amended this day.

Senator Forman moved the following amendment which was adopted:

Amendment 5 (with title amendment)—On page 21, between lines 11 and 12, insert:

(20) **LIENS** —

(a)1 *All fees, fines, interest, and costs levied or assessed by the department against the owner of an amusement ride or rides and not paid by the owner shall constitute and operate as a lien in favor of the department. The lien shall arise as of the time the fees, fines, interest, and costs become due and payable and shall cover all real and personal property owned by the owner from the date the lien arises until paid. The lien shall secure all unpaid fees, fines, interest, and costs which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure. The lien may be recorded in the public records of any county where the owner owns real or personal property and shall state the name of the owner and the amount due*

2 *The department may enforce the lien upon real property in the manner in which a mortgage of real property is foreclosed. The lien may also be enforced against personal property in the manner provided for the enforcement of other liens on personal property in this state. Enforcement of a lien for fees, fines, interests, and costs shall not operate as a waiver of any other remedies available to the department, including an action to recover a money judgment for the unpaid fees, fines, interest, and costs, or enforcement of the lien provided in paragraph (b).*

(b)1 *In addition to the lien provided in subparagraph (a)1., the department shall have a special lien on all amusement rides owned by the owner. Notwithstanding any provisions under chapter 697 to the contrary, any special lien on amusement rides for fees, fines, interest, and costs, shall have equal dignity and the same priority as liens for taxes in favor of the state as described in s 197 122. The special lien shall arise as of the time the fees, fines, interest, and costs become due and payable and shall cover all amusement rides owned by the owner from the date the lien arises until paid. The lien shall secure all unpaid fees, fines, interest, and costs which are due and which may accrue prior to the enforcement of the lien.*

2 *The department may provide notice of a claim of lien to potential buyers by tagging all amusement rides owned by the owner as being subject to a lien or by mailing a copy of a claim of the lien. The claim of*

lien shall state the name of the owner, the date or dates of the unpaid fees, fines, interest, and costs, and the amount that is due.

3 *The special lien on all amusement rides owned by the owner may be enforced in the manner provided for the enforcement of other liens on personal property in this state. The lien shall also extend to the proceeds of a sale of any amusement ride owned by the owner to a buyer. If a buyer has not received written notice of the lien and the amusement rides are not tagged, then such buyer takes free of the lien. A buyer of amusement rides other than a person buying the amusement ride or rides from the owner takes free of the lien created by this paragraph. Nothing in this paragraph shall be construed to operate as a waiver of other remedies available to the department for unpaid fees, fines, interest, or costs, including an action to recover a money judgment for the unpaid fees, fines, interest, or costs, or enforcement of the lien provided in subparagraph (a)2*

And the title is amended as follows

On page 1, line 23, after the semicolon (;) insert: providing for liens for unpaid fees, fines, interest, and costs,

Pursuant to Rule 4 19, CS for SB 1460 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading

Consideration of SB 2316 and CS for SB 368 was deferred.

On motion by Senator Childers—

CS for SB 266—A bill to be entitled An act relating to the municipal firefighters' pension trust fund and the municipal police officers' retirement trust fund, amending ss. 175.071, 185 06, F.S., revising the powers of the board of trustees for each trust fund; providing guidelines for the investment of funds; requiring additional recordkeeping by the boards, providing qualifications for professionally qualified independent consultants; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, CS for SB 266 was placed on the calendar of Bills on Third Reading

On motion by Senator Turner—

CS for SB 1540—A bill to be entitled An act relating to children and families, creating s. 39.5085, F.S., directing the Department of Children and Family Services to establish and operate the Relative-Caregiver Program, providing financial assistance within available resources to relatives caring for children; providing for financial assistance and support services to relatives caring for children placed with them by the child protection system, providing for rules establishing eligibility guidelines, caregiver benefits, and payment schedule; naming a service center building; providing an effective date.

—was read the second time by title

Pursuant to Rule 4 19, CS for SB 1540 was placed on the calendar of Bills on Third Reading

On motion by Senator Latvala—

CS for SB 1440—A bill to be entitled An act relating to rulemaking authority with respect to marine resources (RAB), amending s 370 06, F.S., authorizing rulemaking for issuance of special-activities licenses; amending s 370 08, F.S., authorizing the adoption of rules defining food fish, amending s. 370.12, F.S., authorizing rulemaking for issuance of special permits for conservation of marine turtles, providing an effective date.

—was read the second time by title

Pursuant to Rule 4 19, CS for SB 1440 was placed on the calendar of Bills on Third Reading

AMENDMENTS TO CS/CS/SB 646 (1998)

The amendments listed below consist of 10 files from the On-Line Sunshine Legislative database and for user convenience have been combined in one file. Notes are attached to the first page of each amendment giving the amendment number and Journal page cite.

1. Senate Amendment 1 by Senator Klein, 4/22/98 (Senate Journal (SJ) p. 841 (legislative file name: sb0646c2152358.pdf)
2. Senate Amendment 2 by Senator Klein, [4/23/98] (SJ p. 841) (legislative file name: sb0646c2101300.pdf)
3. Senate Amendment 3 by Senator Klein, 4/22/98 (SJ p. 841) (legislative file name: sb0646c2925348.pdf)
4. Senate Amendment 4, by Senator Klein, 4/23/98 (SJ p. 841) (legislative file name: sb0646c2964200.pdf)
5. Senate Amendment 5 by Senators Klein and Gutman, 4/23/98 (no file in legislative database. See Senate Journal for 4/23/98, p. 841)
6. Senate Amendment 6 by Senator Klein, 4/23/98 (SJ p. 841) (legislative file name: sb0646c2561834.pdf)
7. Senate Amendment 7 by Senator Klein, 4/23/98 (SJ p. 841) (legislative file name: sb0646c2104940.pdf)
8. Senate Amendment 8 : includes 2 versions; (a) by Senator Gutman, 3/30/98 and (b) by Senator Klein, 4/23/98 (SJ p. 841) (legislative file names: sb0646c2223000.pdf and sb0646c2403066.pdf)
9. Senate Amendment 9 by Senator Klein, 4/23/98 (SJ p. 842) (legislative file name: sb0646c2734748.pdf)
10. Senate Amendment [not numbered and not in Journal] by Senator Brown-Waite, 4/8/98 (legislative file name: sb0646c2140416)

CH. 98-64 Tapes

"Sexually Violent Predators"

CS/HB 3327

Rita (2) ✓ H. Family Law + Children 3/5/98 419-9788
LYNN DICKSON ✓ HEALTH + Human Servs. Appeals 3/26/98 488-6204

OK (Judy) ✓ H. FLOOR AMPS/Debate 4/16/98 4/29/98
4/20/98 5/1/98

(43-5915) ✓ SEN. FLOOR AMPS/Debate 4/29/98 (Tape 2 + 3)
Judy ✓ 5/1/98 (Tape ?)
ordered 4/12

CS/CS/SB 646

✓ SEN. Criminal Justice 2/3/98
✓ SEN. Children, Families + Services 3/12/98 (2 Tapes 1 + 2)
✓ SEN. Ways + Means 3/26/98 (Tape 1)
✓ SEN. FLOOR 4/23/98 (Tape 1 + 2)

H 3327: Sexually Violent Predator Treatment

H 3327 GENERAL BILL/CS/3RD ENG by Family Law & Children (JC); Villalobos; Murman; (CO-SPONSORS) Fasano; Flanagan; Cosgrove; Heyman; Kelly; Crist; Byrd; Silver; Brown; Valdes; Putnam; Harrington; Bloom (Similar S 0398, CS/CS/1ST ENG/S 0646, S 0788)

Sexually Violent Predator Treatment; creates "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment & Care Act"; requires certain notice to state attorney of anticipated release of specified persons who may meet criteria for said predator; provides that CFS Dept. is responsible for specified evaluation & treatment costs; provides court orders for certain disclosures to dept. by committed person of income & assets, etc. Amends Ch. 916. APPROPRIATION: \$6,400,000. EFFECTIVE DATE: 01/01/1999.

12/30/97 HOUSE Prefiled

01/16/98 HOUSE Referred to Family Law & Children (JC); Health & Human Services Appropriations

02/27/98 HOUSE On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

03/03/98 HOUSE Introduced, referred to Family Law & Children (JC); Health & Human Services Appropriations -HJ 00027; On Committee agenda-- Family Law & Children (JC), 03/05/98, 3:15 pm, 16-HOB

①② 03/05/98 HOUSE Comm. Action: Unanimously CS by Family Law & Children (JC) -HJ 00307

03/20/98 HOUSE CS read first time on 03/20/98 -HJ 00303; Now in Health & Human Services Appropriations -HJ 00307; On Committee agenda-- Health & Human Services Appropriations, 03/26/98, 9:30 am, 317C

③ 03/26/98 HOUSE Comm. Action:-Unanimously Favorable with 1 amendment(s) by Health & Human Services Appropriations -HJ 00388

03/27/98 HOUSE Pending Consent Calendar -HJ 00388

03/30/98 HOUSE Objection filed, In Justice Council, pending ranking

04/09/98 HOUSE Placed on Justice Council Calendar -HJ 00520

04/14/98 HOUSE Temporarily postponed, on Second Reading -HJ 00579

04/15/98 HOUSE Temporarily postponed, on Second Reading -HJ 00602

④ A 04/16/98 HOUSE Read second time -HJ 00628; Amendment(s) adopted -HJ 00629

04/20/98 HOUSE Read third time -HJ 00712; Amendment(s) adopted -HJ 00713; CS passed as amended; YEAS 115 NAYS 0 -HJ 00713

04/21/98 SENATE In Messages

04/22/98 SENATE Received, referred to Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00825

⑤ ~~SENATE~~ 04/24/98 SENATE Withdrawn from Criminal Justice; Children, Families and Seniors; Ways and Means -SJ 00887; Substituted for CS/CS/SB 646 -SJ 00887; Read second time -SJ 00887; Amendment(s) adopted -SJ 00887; Read third time -SJ 00891; CS passed as amended; YEAS 39 NAYS 0 -SJ 00891; Immediately certified -SJ 00891

04/24/98 HOUSE In returning messages

④ B 04/29/98 HOUSE Was taken up -HJ 01555; Refused to concur, requested Senate to recede -HJ 01559

04/29/98 SENATE In returning messages

⑥ 05/01/98 SENATE Reconsidered -SJ 01628; Amendment(s) reconsidered, substitute

amendment adopted -SJ 01628; Requested House to concur -SJ 01631; CS passed as amended; YEAS 38 NAYS 0 -SJ 01631

⑦ B 05/01/98 HOUSE In returning messages; Concurred -HJ 02247; CS passed as amended; YEAS 118 NAYS 0 -HJ 02250; Ordered engrossed, then enrolled -HJ 02250

05/15/98 Signed by Officers and presented to Governor

05/19/98 Approved by Governor, Chapter No. 98-64

S 646 : The Jimmy Ryce Act of 1998

- S 646 GENERAL BILL/CS/CS/1ST ENG by Children, Families and Seniors; Criminal Justice; Gutman; (CO-SPONSORS) Horne; Klein; Diaz-Balart; Cowin (Similar CS/3RD ENG/H 3327, S 0398, S 0788)
- The Jimmy Ryce Act of 1998; requires notice of release from custody of person alleged to be sexually violent predator; provides for evaluation of such person; provides for petition to have such person declared sexually violent predator; provides for trial on issue of whether such person is sexually violent predator; provides that CFS Dept. is responsible for costs, & authorizes said dept. to contract for use of facilities, etc. Amends Ch. 916. EFFECTIVE DATE: 01/01/1999.
- 01/12/98 SENATE Prefiled
- 01/23/98 SENATE Referred to Criminal Justice; Children, Families and Seniors; Ways and Means
- 01/26/98 SENATE On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37)
- ⑦ 02/03/98 SENATE Comm. Action: CS by Criminal Justice
- 02/06/98 SENATE Now in Children, Families and Seniors
- 03/03/98 SENATE Introduced, referred to ~~Criminal Justice~~; Children, Families and Seniors; Ways and Means -SJ 00045; On Committee agenda-- Criminal Justice, 02/03/98, 9:00 am, Room-A(LL-37); Comm. Action: CS by Criminal Justice -SJ 00008; CS read first time on 03/03/98 -SJ 00102; Now in Children, Families and Seniors -SJ 00008; On Committee agenda-- Children, Families and Seniors, 03/04/98, 9:00 am, Room-A(LL-37) --Temporarily postponed
- 03/09/98 SENATE On Committee agenda-- Children, Families and Seniors, 03/12/98, 9:00 am, Room-A(LL-37)
- ⑧ ⑨ 03/12/98 SENATE Comm. Action: CS/CS by Children, Families and Seniors -SJ 00182; CS read first time on 03/18/98 -SJ 00208
- 03/17/98 SENATE Now in Ways and Means -SJ 00182
- 03/23/98 SENATE On Committee agenda-- Ways and Means, 03/26/98, 2:30 pm, Room-EL
- ⑩ 03/26/98 SENATE Comm. Action:-Favorable by Ways and Means -SJ 00344
- 03/27/98 SENATE Placed on Calendar -SJ 00344
- 04/22/98 SENATE Placed on Special Order Calendar -SJ 00813
- ⑪ 04/23/98 SENATE Placed on Special Order Calendar -SJ 00813; Read second time -SJ 00841; Amendment(s) adopted -SJ 00841; Ordered engrossed -SJ 00842
- ⑫ 04/24/98 SENATE House Bill substituted -SJ 00887; Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to CS/HB 3327 (Ch. 98-64)
-