

By Senator Gutman

34-504A-98

1 A bill to be entitled
2 An act relating to mental health; creating the
3 "Robert Newman and Stuart Simon Act"; amending
4 s. 394.463, F.S.; providing for court hearings
5 on requests for ex parte orders for involuntary
6 examination of mentally ill persons; providing
7 for findings; providing for rescission of
8 orders under certain circumstances; providing
9 for release of persons being held for
10 examination; providing penalties; prohibiting
11 the administration of certain drugs during
12 examinations; prohibiting certain activities
13 related to involuntary examination orders;
14 amending s. 394.4599, F.S.; requiring receiving
15 facilities to provide notice to parents or
16 guardians of minors being held for examination;
17 providing an effective date.

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

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21 Section 1. This act may be cited as the "Robert Newman
22 and Stuart Simon Act."

23 Section 2. Present paragraph (f) of subsection (2) of
24 section 394.463, Florida Statutes, is amended, present
25 paragraphs (b) through (i) of that subsection are redesignated
26 as paragraphs (c) through (j), respectively, a new paragraph
27 (b) is added to that subsection, and a subsection (4) is added
28 to that section, to read:

29 394.463 Involuntary examination.--

30 (2) INVOLUNTARY EXAMINATION.--

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1 (b) The court, at its discretion, may order a hearing
2 on a request for an ex parte order for involuntary examination
3 of a mentally ill person before entering such order, or at any
4 time thereafter while the person is being held for examination
5 at a receiving facility or its contractor. If, at the hearing,
6 the court finds that the person does not appear to meet the
7 criteria for involuntary examination as provided in this
8 section, the court shall rescind the ex parte order, if any
9 has been entered, and notify the receiving facility or its
10 contractor to release the person being held. The court may
11 further find that sworn testimony leading to an ex parte order
12 was perjured, and may impose the penalty for perjury
13 prescribed by law. In addition to any other penalty allowed,
14 the court may impose an administrative fine, not to exceed
15 \$10,000, upon any person who knowingly requested an ex parte
16 order for the involuntary examination of a person who does not
17 meet the criteria for involuntary examination provided in this
18 section.

19 (g)(f) A patient shall be examined by a physician or
20 clinical psychologist at a receiving facility without
21 unnecessary delay and may, during the involuntary examination,
22 upon the order of a physician, be given emergency treatment if
23 it is determined that such treatment is necessary for the
24 safety of the patient or others. However, a patient may not be
25 administered a psychotropic drug immediately before or during
26 the involuntary examination without a court order, unless the
27 actions of the patient endanger the health or safety of the
28 patient or others or the patient's treatment regimen,
29 including medications, is known to the facility personnel and
30 clinical evidence supports administering medication.The
31 patient may ~~shall~~ not be released by the receiving facility or

1 its contractor without the documented approval of a
2 psychiatrist or clinical psychologist, except pursuant to
3 notice of rescission of an ex parte order as provided in
4 paragraph (b). However, a patient may not be held in a
5 receiving facility for involuntary examination longer than 72
6 hours.

7 (4) UNLAWFUL ACTIVITIES RELATING TO OBTAINING ORDER
8 FOR INVOLUNTARY EXAMINATION OR TREATMENT; PENALTIES.--

9 (a) A person who knowingly furnishes false information
10 for the purpose of obtaining emergency or other involuntary
11 examination or treatment for any person commits a misdemeanor
12 of the first degree, punishable as provided in s. 775.082 and
13 by a fine not to exceed \$5,000.

14 (b) A person who causes or otherwise secures, or
15 conspires with or assists another to cause or secure any
16 emergency or other involuntary examination or treatment of a
17 person without reason for believing the person to be mentally
18 ill commits a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 and by a fine not to exceed \$5,000.

20 Section 3. Paragraph (b) of subsection (2) of section
21 394.4599, Florida Statutes, is amended to read:

22 394.4599 Notice.--

23 (2) INVOLUNTARY PATIENTS.--

24 (b) A receiving facility shall give prompt notice of
25 the whereabouts of a patient who is being involuntarily held
26 for examination, by telephone or in person within 24 hours
27 after the patient's arrival at the facility, unless the
28 patient, if an adult, requests that no notification be made.
29 The facility must attempt to provide immediate notification of
30 the whereabouts of any minor patient to the parents or
31 guardian of the patient. If the parent or guardian is not

1 immediately located, the facility must reattempt to locate the
2 parent or guardian at least every 6 days.Contact attempts
3 shall be documented in the patient's clinical record and shall
4 begin as soon as reasonably possible after the patient's
5 arrival. Notice that a patient is being admitted as an
6 involuntary patient shall be given to the local human rights
7 advocacy committee no later than the next working day after
8 the patient is admitted.

9 Section 4. This act shall take effect upon becoming a
10 law.

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12 SENATE SUMMARY

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14 Provides for a hearing, at the discretion of the court,
15 on a request for an ex parte order for involuntary
16 examination of a mentally ill person. Provides for court
17 findings that the person does not meet the criteria for
18 involuntary examination and that the request for the ex
19 parte order was made by perjured testimony or a knowing
20 misrepresentation of a person as meeting the criteria for
21 involuntary examination. Provides for rescission of
22 orders entered under such circumstances and for release
23 of patients held pursuant to such orders. Authorizes the
24 court to impose the penalty for perjury and an
25 administrative fine of up to \$10,000. Prohibits the
26 administration of certain drugs during examinations.
27 Prohibits certain activities in actions to obtain
28 involuntary examination or treatment and provides
29 penalties for violations. Requires receiving facilities
30 to provide notification to the parent or guardian of a
31 minor being held for examination.