

By the Committee on Judiciary and Senator Gutman

308-2083-98

1 A bill to be entitled
2 An act relating to mental health; creating the
3 "Robert Newman and Stuart Simon Act of 1998";
4 amending s. 394.463, F.S.; providing for court
5 hearings on requests for ex parte orders for
6 involuntary examination of mentally ill
7 persons; providing for findings; providing for
8 rescission of orders under certain
9 circumstances; providing for release of persons
10 being held for examination; prohibiting certain
11 administration of drugs without informed
12 consent or a court order; providing an
13 exception; providing penalties; amending s.
14 394.4599, F.S.; requiring certain notice to the
15 parent or guardian when a minor is
16 involuntarily held; providing an effective
17 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 of 1998."

23 Section 2. Present paragraph (f) of subsection (2) of
24 section 394.463, Florida Statutes, is amended, present
25 paragraphs (b) through (i) are redesignated as paragraphs (c)
26 through (j), respectively, a new paragraph (b) is added to
27 said subsection, and subsection (4) is added to said section,
28 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. A hearing
6 authorized under this paragraph shall be held on an expedited
7 basis. If, at the hearing, the court finds that the person
8 does not appear to meet the criteria for involuntary
9 examination as provided in this section, the court shall
10 rescind the ex parte order, if any has been entered, and
11 notify the receiving facility or its contractor to release the
12 person being held.

13 (g)(f) A patient shall be examined by a physician or
14 clinical psychologist at a receiving facility without
15 unnecessary delay and may, during the involuntary examination,
16 upon the order of a physician, be given emergency treatment if
17 it is determined that such treatment is necessary for the
18 safety of the patient or others. However, no patient may be
19 administered a psychotropic drug immediately prior to or
20 during the involuntary examination without informed consent or
21 a court order, unless the actions of the patient endanger the
22 health or safety of the patient or others, or unless the
23 patient's treatment regimen, including medications, is known
24 to the facility personnel and clinical evidence exists for
25 administering medication. The patient shall not be released
26 by the receiving facility or its contractor without the
27 documented approval of a psychiatrist or clinical
28 psychologist, except pursuant to notice of rescission of an ex
29 parte order as provided in paragraph (b). However, a patient
30 may not be held in a receiving facility for involuntary
31 examination longer than 72 hours.

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

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

8 (b) A person who causes or otherwise secures, or
9 conspires with or assists another to cause or secure, without
10 reason for believing a person to be mentally ill, any
11 emergency or other involuntary procedure for the person
12 commits a misdemeanor of the first degree, punishable as
13 provided in s. 775.082 and by a fine not to exceed \$5,000.

14 Section 3. Paragraph (b) of subsection (2) of section
15 394.4599, Florida Statutes, is amended to read:

16 394.4599 Notice.--

17 (2) INVOLUNTARY PATIENTS.--

18 (b) A receiving facility shall give prompt notice of
19 the whereabouts of a patient who is being involuntarily held
20 for examination, by telephone or in person within 24 hours
21 after the patient's arrival at the facility, unless the
22 patient, if an adult, requests that no notification be made.
23 With respect to a minor, the receiving or psychiatric facility
24 must attempt to provide immediate notice of the whereabouts of
25 the patient to the parent or guardian. If the parent or
26 guardian cannot be immediately located, attempts to notify
27 must be repeated at least every 6 hours until notification is
28 effected. Contact attempts shall be documented in the
29 patient's clinical record and shall begin as soon as
30 reasonably possible after the patient's arrival. Notice that
31 a patient is being admitted as an involuntary patient shall be

1 given to the local human rights advocacy committee no later
2 than the next working day after the patient is admitted.

3 Section 4. This act shall take effect October 1, 1998.
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1012

8 The Committee Substitute for Senate Bill 1012:

- 9 - Deletes provisions for an administrative fine.
10 - Requires that hearings be held on an expedited basis.
11 - Corrects a technical error, requiring repeat attempts to
12 locate the parent or guardian of a minor who is held for
13 examination every 6 hours, not every 6 days.
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