

By Representative Rodriguez-Chomat

1                                   A bill to be entitled  
2           An act relating to mental health; creating the  
3           "Robert Newman and Stuart Simon Act of 1997";  
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; providing  
11          penalties; providing an effective date.

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

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15           Section 1. This act may be cited as the "Robert Newman  
16 and Stuart Simon Act of 1997."

17           Section 2. Present paragraph (f) of subsection (2) of  
18 section 394.463, Florida Statutes, 1996 Supplement, is  
19 amended, present paragraphs (b) through (i) are redesignated  
20 as paragraphs (c) through (j), respectively, and a new  
21 paragraph (b) is added to said subsection, to read:

22           394.463 Involuntary examination.--

23           (2) INVOLUNTARY EXAMINATION.--

24           (b) The court, at its discretion, may order a hearing  
25 on a request for an ex parte order for involuntary examination  
26 of a mentally ill person before entering such order, or at any  
27 time thereafter while the person is being held for examination  
28 at a receiving facility or its contractor. If, at the hearing,  
29 the court finds that the person does not appear to meet the  
30 criteria for involuntary examination as provided in this  
31 section, the court shall rescind the ex parte order, if any

1 has been entered, and notify the receiving facility or its  
2 contractor to release the person being held. The court may  
3 further find that sworn testimony leading to an ex parte order  
4 was perjured, and may impose the penalty for perjury  
5 prescribed by law. The court may impose an administrative  
6 fine, not to exceed \$10,000, upon any person who the court  
7 finds has knowingly requested an ex parte order for the  
8 involuntary examination of a person who does not meet the  
9 criteria for involuntary examination provided in this section.  
10 This fine shall be in addition to any other penalty provided  
11 by this section or by law.

12 (g)(f) A patient shall be examined by a physician or  
13 clinical psychologist at a receiving facility without  
14 unnecessary delay and may, upon the order of a physician, be  
15 given emergency treatment if it is determined that such  
16 treatment is necessary for the safety of the patient or  
17 others. The patient shall not be released by the receiving  
18 facility or its contractor without the documented approval of  
19 a psychiatrist or clinical psychologist, except pursuant to  
20 notice of rescission of an ex parte order as provided in  
21 paragraph (b). However, a patient may not be held in a  
22 receiving facility for involuntary examination longer than 72  
23 hours.

24 Section 3. This act shall take effect upon becoming a  
25 law.

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HOUSE SUMMARY

Provides for a hearing, at the discretion of the court, on a request for an ex parte order for involuntary examination of a mentally ill person. Provides for court findings that the person does not meet the criteria for involuntary examination and that the request for the ex parte order was made by perjured testimony or a knowing misrepresentation of a person as meeting the criteria for involuntary examination. Provides for rescission of orders entered under such circumstances and for release of patients held pursuant to such orders. Authorizes the court to impose the penalty for perjury and an administrative fine of up to \$10,000.