

By Senator Diaz-Balart

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A bill to be entitled  
An act relating to treatment of forensic  
clients; amending s. 916.107, F.S.; revising  
guidelines for when a court order is necessary  
in providing treatment to a forensic client of  
the Department of Children and Family Services;  
providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section  
916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.--

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.--

(a) A client committed to the department pursuant to  
this act shall be asked to give express and informed written  
consent for treatment. If a client in a forensic facility  
refuses ~~such~~ treatment with psychotropic medications as is  
deemed necessary by the attending psychiatrist or the client's  
multidisciplinary treatment team at the forensic facility for  
the appropriate care of the client ~~and the safety of the~~  
~~client or others~~, such treatment may be provided without the  
consent of the client under the following circumstances:

1. In the case of a new admission to the forensic  
facility, or in a case in which a client withdraws consent  
previously provided by the client, when the attending  
psychiatrist on the client's multidisciplinary treatment team  
at the forensic facility determines that psychotropic  
medications are necessary and essential for the appropriate  
treatment of the client, such medications ~~an emergency~~  
~~situation in which there is immediate danger to the safety of~~

1 ~~the client or others, such treatment~~ may be provided upon the  
2 written order of a physician for a period not to exceed 48  
3 hours, excluding weekends and legal holidays. If, after the  
4 48-hour period, the client has not given or is unable to give  
5 ~~express and informed~~ consent to such medications ~~the treatment~~  
6 ~~initially refused~~, the administrator or designee of the  
7 forensic facility shall, within 48 hours, excluding weekends  
8 and legal holidays, petition ~~the committing court or the~~  
9 circuit court serving the county in which the facility is  
10 located, ~~at the option of the facility administrator or~~  
11 ~~designee~~, for an order authorizing the medications deemed  
12 necessary by the attending psychiatrist ~~continued treatment of~~  
13 ~~the client~~. In the interim, once the petition has been filed  
14 treatment may be continued upon the original physician's order  
15 without the consent of the client until such time as the court  
16 determines the issue ~~upon the continued written order of a~~  
17 ~~physician who has determined that the emergency situation~~  
18 ~~continues to present a danger to the safety of the client or~~  
19 ~~others~~.

20         2. The order entered by the court authorizing the  
21 psychotropic medications shall expire 6 months after the date  
22 it is entered. If, during this 6-month period, an addition to  
23 the previously approved medications is determined to be  
24 necessary and essential by the attending psychiatrist and the  
25 client remains unwilling or unable to give express and  
26 informed consent, a new motion must be filed, a hearing must  
27 be held, and an order approving such additions must be entered  
28 before the change. ~~In a situation other than an emergency~~  
29 ~~situation, the administrator or designee of the forensic~~  
30 ~~facility shall petition the court for an order authorizing the~~  
31 ~~treatment to the client. The order shall allow such treatment~~

1 ~~for a period not to exceed 90 days from the date of the entry~~  
2 ~~of the order.~~ Unless the court is notified in writing that the  
3 client has provided express and informed consent in writing or  
4 that the client has been discharged by the committing court,  
5 the administrator or designee shall, prior to the expiration  
6 of the initial 6-month ~~90-day~~ order, petition the court for an  
7 order authorizing the continuation of the medications  
8 ~~treatment~~ for another 6-month ~~90-day~~ period. This procedure  
9 shall be repeated until the client provides express and  
10 informed consent or is discharged from the custody of the the  
11 department by the committing court.

12           3. At the hearing on the issue of whether the court  
13 should enter an order authorizing treatment for which a client  
14 has refused to give express and informed consent, the court  
15 shall determine by clear and convincing evidence that the  
16 client is mentally ill, retarded, or autistic as defined in  
17 this chapter, that the treatment not consented to is essential  
18 to the care of the client, and that the treatment not  
19 consented to is not experimental and does not present an  
20 unreasonable risk of serious, hazardous, or irreversible side  
21 effects. In arriving at the substitute judgment decision, the  
22 court must consider at least the following factors:

- 23           a. The client's expressed preference regarding  
24 treatment;
- 25           b. The probability of adverse side effects;
- 26           c. The prognosis without treatment; and
- 27           d. The prognosis with treatment.

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29 The hearing shall be as convenient to the client as may be  
30 consistent with orderly procedure and shall be conducted in  
31 physical settings not likely to be injurious to the client's

1 condition. The court may appoint a master to preside at the  
2 hearing. The client or the client's guardian, and the  
3 representative, shall be provided with a copy of the petition  
4 and the date, time, and location of the hearing. The client  
5 has the right to have an attorney represent him or her at the  
6 hearing, and, if the client is indigent, the court shall  
7 appoint the office of the public defender to represent the  
8 client at the hearing. The client may testify or not, as he  
9 or she chooses, and has the right to cross-examine witnesses  
10 and may present his or her own witnesses.

11 Section 2. This act shall take effect upon becoming a  
12 law.

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15 SENATE SUMMARY

16 Requires a hearing and court order when a forensic client  
17 of the Department of Children and Family Services refuses  
18 treatment with psychotropic medications or when a client  
19 is newly admitted to a forensic facility. Requires a  
rehearing if the client is found to need additional  
medication. Limits the effective period of such an order  
to 6 months.

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