

Bill No. CS for CS for CS for CS for SB 700

Amendment No. ____ Barcode 142306

CHAMBER ACTION

Senate

House

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Senator Smith moved the following amendment:

Senate Amendment (with title amendment)

On page 5, line 4, through
page 8, line 6, delete those lines

and insert:

Section 4. Effective July 1, 2005, subsection (1) and paragraphs (e), (g), and (i) of subsection (2) of section 394.463, Florida Statutes, are amended to read:

394.463 Involuntary examination.--

(1) CRITERIA.--A person may be taken to a receiving facility for involuntary examination if there is reason to believe that the person has a mental illness ~~he or she is mentally ill~~ and because of his or her mental illness:

(a)1. The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or

2. The person is unable to determine for himself or herself whether examination is necessary; and

(b)1. Without care or treatment, the person is likely

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1 to suffer from neglect or refuse to care for himself or
2 herself; such neglect or refusal poses a real and present
3 threat of substantial harm to his or her well-being; and it is
4 not apparent that such harm may be avoided through the help of
5 willing family members or friends or the provision of other
6 services; or

7 2. There is a substantial likelihood that without care
8 or treatment the person will cause serious bodily harm to
9 himself or herself or others in the near future, as evidenced
10 by recent behavior.

11 (2) INVOLUNTARY EXAMINATION.--

12 (a) An involuntary examination may be initiated by any
13 one of the following means:

14 1. A court may enter an ex parte order stating that a
15 person appears to meet the criteria for involuntary
16 examination, giving the findings on which that conclusion is
17 based. The ex parte order for involuntary examination must be
18 based on sworn testimony, written or oral. If other less
19 restrictive means are not available, such as voluntary
20 appearance for outpatient evaluation, a law enforcement
21 officer, or other designated agent of the court, shall take
22 the person into custody and deliver him or her to the nearest
23 receiving facility for involuntary examination. The order of
24 the court shall be made a part of the patient's clinical
25 record. No fee shall be charged for the filing of an order
26 under this subsection. Any receiving facility accepting the
27 patient based on this order must send a copy of the order to
28 the Agency for Health Care Administration on the next working
29 day. The order shall be valid only until executed or, if not
30 executed, for the period specified in the order itself. If no
31 time limit is specified in the order, the order shall be valid

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1 for 7 days after the date that the order was signed.

2 2. A law enforcement officer shall take a person who
3 appears to meet the criteria for involuntary examination into
4 custody and deliver the person or have him or her delivered to
5 the nearest receiving facility for examination. The officer
6 shall execute a written report detailing the circumstances
7 under which the person was taken into custody, and the report
8 shall be made a part of the patient's clinical record. Any
9 receiving facility accepting the patient based on this report
10 must send a copy of the report to the Agency for Health Care
11 Administration on the next working day.

12 3. A physician, clinical psychologist, psychiatric
13 nurse, mental health counselor, or clinical social worker may
14 execute a certificate stating that he or she has examined a
15 person within the preceding 48 hours and finds that the person
16 appears to meet the criteria for involuntary examination and
17 stating the observations upon which that conclusion is based.
18 If other less restrictive means are not available, such as
19 voluntary appearance for outpatient evaluation, a law
20 enforcement officer shall take the person named in the
21 certificate into custody and deliver him or her to the nearest
22 receiving facility for involuntary examination. The law
23 enforcement officer shall execute a written report detailing
24 the circumstances under which the person was taken into
25 custody. The report and certificate shall be made a part of
26 the patient's clinical record. Any receiving facility
27 accepting the patient based on this certificate must send a
28 copy of the certificate to the Agency for Health Care
29 Administration on the next working day.

30 (e) The Agency for Health Care Administration shall
31 receive and maintain the copies of ex parte orders,

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1 involuntary outpatient placement orders issued pursuant to s.
2 394.4655, involuntary inpatient placement orders issued
3 pursuant to s. 394.467, professional certificates, and law
4 enforcement officers' reports. These documents shall be
5 considered part of the clinical record, governed by the
6 provisions of s. 394.4615. The agency shall prepare annual
7 reports analyzing the data obtained from these documents,
8 without information identifying patients, and shall provide
9 copies of reports to the department, the President of the
10 Senate, the Speaker of the House of Representatives, and the
11 minority leaders of the Senate and the House of
12 Representatives.

13 (g) A person for whom an involuntary examination has
14 been initiated who is being evaluated or treated at a hospital
15 for an emergency medical condition specified in s. 395.002
16 must be examined by a receiving facility within 72 hours. The
17 72-hour period begins when the patient arrives at the hospital
18 and ceases when the attending physician documents that the
19 patient has an emergency medical condition. If the patient is
20 examined at a hospital providing emergency medical services by
21 a professional qualified to perform an involuntary examination
22 and is found as a result of that examination not to meet the
23 criteria for involuntary outpatient placement pursuant to s.
24 394.4655(1) or involuntary inpatient placement pursuant to s.
25 394.467(1), the patient may be offered voluntary placement, if
26 appropriate, or released directly from the hospital providing
27 emergency medical services. The finding by the professional
28 that the patient has been examined and does not meet the
29 criteria for involuntary inpatient placement or involuntary
30 outpatient placement must be entered into the patient's
31 clinical record. Nothing in this paragraph is intended to

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1 prevent a hospital providing emergency medical services from
2 appropriately transferring a patient to another hospital prior
3 to stabilization, provided the requirements of s.
4 395.1041(3)(c) have been met.

5 (i) Within the 72-hour examination period or, if the
6 72 hours ends on a weekend or holiday, no later than the next
7 working day thereafter, one of the following actions must be
8 taken, based on the individual needs of the patient:

9 1. The patient shall be released, unless he or she is
10 charged with a crime, in which case the patient shall be
11 returned to the custody of a law enforcement officer;

12 2. The patient shall be released, subject to the
13 provisions of subparagraph 1., for voluntary outpatient
14 treatment;

15 3. The patient, unless he or she is charged with a
16 crime, shall be asked to give express and informed consent to
17 placement as a voluntary patient, and, if such consent is
18 given, the patient shall be admitted as a voluntary patient;
19 or

20 4. A petition for involuntary placement shall be filed
21 in the circuit ~~appropriate~~ court ~~by the facility administrator~~
22 when outpatient or inpatient treatment is deemed necessary.
23 ~~When inpatient treatment is deemed necessary; in which case,~~
24 the least restrictive treatment consistent with the optimum
25 improvement of the patient's condition shall be made
26 available. When a petition is to be filed for involuntary
27 outpatient placement, it shall be filed by one of the
28 petitioners specified in s. 394.4655(3)(a). A petition for
29 involuntary inpatient placement shall be filed by the facility
30 administrator.
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 13, after the semicolon,

4

5 insert:

6 adding mental health counselors to the persons

7 who can initiate an involuntary examination;

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