

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

Amendment No. ____ Barcode 503410

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, paragraph (a) of
subsection (2) of section 394.463, Florida Statutes, is
amended to read:

394.463 Involuntary examination.--

(2) INVOLUNTARY EXAMINATION.--

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

1. A court may enter an ex parte order stating that a
person appears to meet the criteria for involuntary
examination, giving the findings on which that conclusion is
based. The ex parte order for involuntary examination must be
based on sworn testimony, written or oral. If other less
restrictive means are not available, such as voluntary
appearance for outpatient evaluation, a law enforcement

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1 officer, or other designated agent of the court, shall take
2 the person into custody and deliver him or her to the nearest
3 receiving facility for involuntary examination. The order of
4 the court shall be made a part of the patient's clinical
5 record. No fee shall be charged for the filing of an order
6 under this subsection. Any receiving facility accepting the
7 patient based on this order must send a copy of the order to
8 the Agency for Health Care Administration on the next working
9 day. The order shall be valid only until executed or, if not
10 executed, for the period specified in the order itself. If no
11 time limit is specified in the order, the order shall be valid
12 for 7 days after the date that the order was signed.

13 2. A law enforcement officer shall take a person who
14 appears to meet the criteria for involuntary examination into
15 custody and deliver the person or have him or her delivered to
16 the nearest receiving facility for examination. The officer
17 shall execute a written report detailing the circumstances
18 under which the person was taken into custody, and the report
19 shall be made a part of the patient's clinical record. Any
20 receiving facility accepting the patient based on this report
21 must send a copy of the report to the Agency for Health Care
22 Administration on the next working day.

23 3. A physician, clinical psychologist, psychiatric
24 nurse, mental health counselor, or clinical social worker may
25 execute a certificate stating that he or she has examined a
26 person within the preceding 48 hours and finds that the person
27 appears to meet the criteria for involuntary examination and
28 stating the observations upon which that conclusion is based.
29 If other less restrictive means are not available, such as
30 voluntary appearance for outpatient evaluation, a law
31 enforcement officer shall take the person named in the

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

10 Section 5. Effective January 1, 2005, subsection (1)
11 and paragraphs (e), (g), and (i) of subsection (2) of section
12 394.463, Florida Statutes, are amended to read:

13 394.463 Involuntary examination.--

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

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

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

23 (b)1. Without care or treatment, the person is likely
24 to suffer from neglect or refuse to care for himself or
25 herself; such neglect or refusal poses a real and present
26 threat of substantial harm to his or her well-being; and it is
27 not apparent that such harm may be avoided through the help of
28 willing family members or friends or the provision of other
29 services; or

30 2. There is a substantial likelihood that without care
31 or treatment the person will cause serious bodily harm to

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1 himself or herself or others in the near future, as evidenced
2 by recent behavior.

3 (2) INVOLUNTARY EXAMINATION.--

4 (e) The Agency for Health Care Administration shall
5 receive and maintain the copies of ex parte orders,
6 involuntary outpatient placement orders issued pursuant to s.
7 394.4655, involuntary inpatient placement orders issued
8 pursuant to s. 394.467, professional certificates, and law
9 enforcement officers' reports. These documents shall be
10 considered part of the clinical record, governed by the
11 provisions of s. 394.4615. The agency shall prepare annual
12 reports analyzing the data obtained from these documents,
13 without information identifying patients, and shall provide
14 copies of reports to the department, the President of the
15 Senate, the Speaker of the House of Representatives, and the
16 minority leaders of the Senate and the House of
17 Representatives.

18 (g) A person for whom an involuntary examination has
19 been initiated who is being evaluated or treated at a hospital
20 for an emergency medical condition specified in s. 395.002
21 must be examined by a receiving facility within 72 hours. The
22 72-hour period begins when the patient arrives at the hospital
23 and ceases when the attending physician documents that the
24 patient has an emergency medical condition. If the patient is
25 examined at a hospital providing emergency medical services by
26 a professional qualified to perform an involuntary examination
27 and is found as a result of that examination not to meet the
28 criteria for involuntary outpatient placement pursuant to s.
29 394.4655(1) or involuntary inpatient placement pursuant to s.
30 394.467(1), the patient may be offered voluntary placement, if
31 appropriate, or released directly from the hospital providing

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1 emergency medical services. The finding by the professional
2 that the patient has been examined and does not meet the
3 criteria for involuntary inpatient placement or involuntary
4 outpatient placement must be entered into the patient's
5 clinical record. Nothing in this paragraph is intended to
6 prevent a hospital providing emergency medical services from
7 appropriately transferring a patient to another hospital prior
8 to stabilization, provided the requirements of s.
9 395.1041(3)(c) have been met.

10 (i) Within the 72-hour examination period or, if the
11 72 hours ends on a weekend or holiday, no later than the next
12 working day thereafter, one of the following actions must be
13 taken, based on the individual needs of the patient:

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

17 2. The patient shall be released, subject to the
18 provisions of subparagraph 1., for voluntary outpatient
19 treatment;

20 3. The patient, unless he or she is charged with a
21 crime, shall be asked to give express and informed consent to
22 placement as a voluntary patient, and, if such consent is
23 given, the patient shall be admitted as a voluntary patient;
24 or

25 4. A petition for involuntary placement shall be filed
26 in the circuit ~~appropriate~~ court ~~by the facility administrator~~
27 ~~when outpatient or inpatient treatment is deemed necessary.~~
28 When inpatient treatment is deemed necessary; in which case,
29 the least restrictive treatment consistent with the optimum
30 improvement of the patient's condition shall be made
31 available. When a petition is to be filed for involuntary

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1 outpatient placement, it shall be filed by one of the
2 petitioners specified in s. 394.4655(3)(a). A petition for
3 involuntary inpatient placement shall be filed by the facility
4 administrator.

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6 (Redesignate subsequent sections.)

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

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

12

13 insert:

14 adding mental health counselors to the persons
15 who can initiate an involuntary examination;

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