

House Bill 381

By: Representatives Sims of the 167<sup>th</sup>, McCall of the 90<sup>th</sup>, Skipper of the 137<sup>th</sup>, Stokes of the 92<sup>nd</sup>, Coleman of the 142<sup>nd</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to  
2 examination, treatment, and care for mental illness, so as to change the provisions relating  
3 to emergency admission based on physician's certification or court order; to change the  
4 provisions relating to procedure upon admission and notice of proposed discharge; to change  
5 the provisions relating to transportation of patients generally; to provide procedures; to  
6 change a certain reference; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination,  
10 treatment, and care for mental illness, is amended by striking in its entirety Code Section  
11 37-3-41, relating to emergency admission based on physician's certification or court order,  
12 and inserting in lieu thereof a new Code Section 37-3-41 to read as follows:

13 "37-3-41.

14 (a)(1) Any physician within this state may execute a certificate stating that he has  
15 personally examined a person within the preceding 48 hours and found that, based upon  
16 observations set forth in the certificate, the person appears to be a mentally ill person  
17 requiring involuntary treatment. A physician's certificate shall expire seven days after it  
18 is executed. ~~Any peace officer, within 72 hours after receiving such certificate, shall~~  
19 ~~make diligent efforts to take into custody the person named in the certificate and to~~  
20 ~~deliver him forthwith to the nearest available emergency receiving facility serving the~~  
21 ~~county in which the patient is found, where he shall be received for examination.~~

22 (2) Any peace officer may, upon reasonable cause based upon his or her observations,  
23 bring a person whom he or she believes to be a mentally ill person requiring treatment  
24 before any physician within the officer's jurisdiction who has been designated for such  
25 examination purposes for an examination and the execution of a certificate as set forth  
26 in paragraph (1) of this subsection.

1 (3) The physician's certificate shall be delivered to the sheriff of the county where the  
2 person is found or located. The sheriff or his or her deputy shall, within 72 hours after  
3 receiving such certificate, make diligent efforts to take into custody the person named in  
4 the certificate and to deliver such person forthwith to the nearest available state  
5 designated emergency receiving facility serving the county in which the person is found  
6 for the purpose of examination.

7 (b) The appropriate court of the county in which a person may be found may issue an order  
8 commanding ~~any peace officer~~ the sheriff to take such person into custody and deliver him  
9 or her forthwith for examination, either to the nearest available state designated emergency  
10 receiving facility serving the county in which the patient is found, where such person shall  
11 be received for examination, or to a physician who has agreed to examine such patient and  
12 who will provide, where appropriate, a certificate pursuant to subsection (a) of this Code  
13 section to permit delivery of such patient to ~~an~~ a state designated emergency receiving  
14 facility pursuant to subsection (a) of this Code section. Such order may only be issued if  
15 based either upon an unexpired physician's certificate, as provided in subsection (a) of this  
16 Code section, or upon the affidavits of at least two persons who attest that, within the  
17 preceding 48 hours, they have seen the person to be taken into custody and that, based upon  
18 observations contained in their affidavit, they have reason to believe such person is a  
19 mentally ill person requiring involuntary treatment. The court order shall expire seven days  
20 after it is executed.

21 (c) Any peace officer taking into custody and delivering for examination a person, as  
22 authorized by subsection (a) or (b) of this Code section, shall execute a written report  
23 detailing the circumstances under which such person was taken into custody. The report  
24 and either the physician's certificate or court order authorizing such taking into custody  
25 shall be made a part of the patient's clinical record.

26 (d) Any psychologist, clinical social worker, or clinical nurse specialist in  
27 psychiatric/mental health may perform any act specified by this Code section to be  
28 performed by a physician. Any reference in any part of this chapter to a physician acting  
29 under this Code section shall be deemed to refer equally to a psychologist, a clinical social  
30 worker, or a clinical nurse specialist in psychiatric/mental health acting under this Code  
31 section. For purposes of this subsection, the term 'psychologist' means any person  
32 authorized under the laws of this state to practice as a licensed psychologist, the term  
33 'clinical social worker' means any person authorized under the laws of this state to practice  
34 as a licensed clinical social worker, and the term 'clinical nurse specialist in  
35 psychiatric/mental health' means any person authorized under the laws of this state to  
36 practice as a registered professional nurse and who is recognized by the Georgia Board of

1 Nursing to be engaged in advanced nursing practice as a clinical nurse specialist in  
2 psychiatric/mental health."

3 **SECTION 2.**

4 Said chapter is further amended by striking in its entirety Code Section 37-3-43, relating to  
5 procedure upon admission and notice of proposed discharge, and inserting in lieu thereof a  
6 new Code Section 37-3-43 to read as follows:

7 "37-3-43.

8 (a) A patient who is admitted to an a state designated emergency receiving facility shall  
9 be examined by a physician as soon thereafter as possible but in any event within 48 hours  
10 and may be given such emergency treatment as is indicated by good medical practice. The  
11 patient must be discharged within 48 hours of his or her admission unless:

12 (1) An examining physician or psychologist concludes that there is reason to believe that  
13 the patient may be a mentally ill person requiring involuntary treatment and executes a  
14 certificate to that effect within such time; or

15 (2) The patient is under criminal charges, notice of which has been given in writing to  
16 the facility, in which case the provisions of Code Section 37-3-95 shall apply.

17 Nothing in this chapter shall be construed to prohibit a physician or psychologist who  
18 previously executed a certificate authorized by the provisions of this chapter from  
19 executing any other certificate provided for in this chapter for the same or any other  
20 patient.

21 (b) Within 24 hours of the execution of the certificate under paragraph (1) of subsection  
22 (a) of this Code section, the patient shall be transported, ~~as provided in Code Section~~  
23 ~~37-3-101, from the immediate state designated emergency receiving facility to an a state~~  
24 designated evaluating facility ~~where he~~ but only if the immediate emergency receiving  
25 facility is not also designated by the state as an emergency evaluating facility.  
26 Transportation of the patient shall be as provided in Code Section 37-3-101.

27 (c) If the patient is required to be transported as provided in subsection (b) of this Code  
28 section, the patient shall be received pursuant to Code Section 37-3-63 unless the patient  
29 has been determined and certified to meet all of the outpatient treatment requirements of  
30 paragraphs (1) and (2) of subsection (c) of Code Section 37-3-90, in which event the  
31 patient shall be discharged under the conditions provided in Code Section 37-3-91, except  
32 that if the patient is under criminal charges, notice of which has been given in writing to  
33 the facility, the provisions of Code Section 37-3-95 shall apply.

34 ~~(c)~~(d) Notice of any proposed discharge shall be given to the patient and his or her  
35 representatives; if the patient was admitted to the facility under subsection (a) of Code  
36 Section 37-3-41, to the physician or psychologist who executed the certificate; if the patient

1 was admitted to the facility under subsection (b) of Code Section 37-3-41, to the court  
 2 which issued the order; and, if the patient was under criminal charges, written notice of  
 3 which had been given to the facility, by certified mail or statutory overnight delivery to the  
 4 law enforcement agency originally having custody of the patient."

### 5 SECTION 3.

6 Said chapter is further amended by striking in its entirety subsection (c) of Code Section  
 7 37-3-91, relating to the discharge of persons meeting outpatient care criteria, and inserting  
 8 in lieu thereof a new subsection (c) to read as follows:

9 "(c) A patient for whom interim outpatient treatment is arranged pursuant to subsection (b)  
 10 of this Code section shall obtain that treatment or be subject to the provisions of Code  
 11 Section 37-3-82. Written notice of the time, date, place, and address for that interim  
 12 outpatient treatment shall be provided the patient prior to the patient's discharge, along  
 13 with written notification that if the patient does not comply with the interim outpatient  
 14 treatment or attend or waive a hearing, the time and date of which hearing will later be  
 15 provided the patient, the patient may be involuntarily admitted for examination, treatment,  
 16 or both. Notice of the discharge shall be provided to persons other than the patient in the  
 17 same manner and under the same conditions as required by subsection ~~(c)~~ (d) of Code  
 18 Section 37-3-43 and subsection (d) of Code Section 37-3-64, and that notice shall also  
 19 include a notice regarding the interim outpatient treatment and the consequences if the  
 20 patient does not obtain the treatment or attend or waive the hearing."

### 21 SECTION 4.

22 Said chapter is further amended by striking in its entirety Code Section 37-3-101, relating  
 23 to transportation of patients generally, and inserting in lieu thereof a new Code Section  
 24 37-3-101 to read as follows:

25 "37-3-101.

26 (a) If a patient is required to be transported as provided in subsection (b) of Code Section  
 27 37-3-43 or is subsequently required to be transported from a state designated emergency  
 28 receiving, evaluation, or treatment facility to any other facility for any other purpose, the  
 29 ~~The~~ governing authority of the county of the patient's residence shall arrange for all  
 30 required transportation of the patient. The type of vehicle employed shall be in the  
 31 discretion of the governing authority of the county, provided that, whenever possible,  
 32 marked vehicles normally used for the transportation of criminals or those accused of  
 33 crimes shall not be used for the transportation of patients.

34 (b) The probate court of the county of the patient's residence may ~~shall~~, upon the request  
 35 of the community mental health center, order the sheriff of the county of the patient's

1 residence to transport the patient in such manner as the patient's condition demands. At  
2 any time the community mental health center is satisfied that the patient can be transported  
3 safely by family members or friends, such private transportation shall be encouraged and  
4 authorized. ~~No female patient shall be transported at any time without another female in~~  
5 ~~attendance who is not a patient, unless such female patient is accompanied by her husband,~~  
6 ~~father, adult brother, or adult son."~~

7 **SECTION 5.**

8 All laws and parts of laws in conflict with this Act are repealed.