

House Bill 1065

By: Representatives Lim of the 99<sup>th</sup>, Efstration of the 104<sup>th</sup>, Oliver of the 82<sup>nd</sup>, and Kelley of the 16<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so  
2 as to revise procedures regarding emergency involuntary treatment for mental health and  
3 alcohol and drug dependency; to require that certain documents become part of the patient's  
4 clinical record; to provide for redactions; to require examination for involuntary treatment  
5 for mental health or alcohol and drug dependency by a physician within eight hours of  
6 admission; to require physician review of certain information; to provide for related matters;  
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
11 revising subsections (b) and (c) of Code Section 37-3-41, relating to emergency admission  
12 based on physician's certification or court order, report by apprehending officer, entry of  
13 treatment order into patient's clinical record, and authority of other personnel to act under  
14 statute, as follows:

15 "(b) The appropriate court of the county in which a person may be found may issue an  
16 order commanding any peace officer to take such person into custody and deliver him or

17 her forthwith for examination, either to the nearest available emergency receiving facility  
18 serving the county in which the patient is found, where such person shall be received for  
19 examination, or to a physician who has agreed to examine such patient and who will  
20 provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to  
21 permit delivery of such patient to an emergency receiving facility pursuant to subsection  
22 (a) of this Code section. Such order may only be issued if based either upon an unexpired  
23 physician's certificate, as provided in subsection (a) of this Code section, or upon the  
24 affidavits of at least two persons who attest that, within the preceding 48 hours, they have  
25 seen the person to be taken into custody and that, based upon observations contained in  
26 their affidavit, they have reason to believe such person is a mentally ill person requiring  
27 involuntary treatment. Such physician's certificate or affidavits shall be affixed to the court  
28 order; provided, however, that information personally identifying the affiants shall be  
29 redacted and concealed. The court order shall expire seven days after it is executed.  
30 (c) Any peace officer taking into custody and delivering for examination a person, as  
31 authorized by subsection (a) or (b) of this Code section, shall execute a written report  
32 detailing the circumstances under which such person was taken into custody. The report  
33 and ~~either the physician's certificate or court order~~ authorizing such taking into custody,  
34 including such information which is required to be affixed pursuant to subsection (b) of this  
35 Code section, shall be made a part of the patient's clinical record."

36 **SECTION 2.**

37 Said title is further amended by revising subsection (a) of Code Section 37-3-43, relating to  
38 procedure upon admission and notice of proposed discharge, as follows:

39 "(a) A patient who is admitted to an emergency receiving facility shall be examined by a  
40 physician as soon thereafter as possible but in any event within ~~48~~ eight hours and may,  
41 after such examination, be discharged, be held for further examination if the physician  
42 believes such further examination may reveal that a certificate under paragraph (1) of this

43 subsection should be executed, or be given such emergency treatment as is indicated by  
44 good medical practice. The examining physician shall also review any written reports,  
45 physician's certificates or affidavits, court orders, or other documentation produced or  
46 issued pursuant to Code Section 37-3-41 in making any determination regarding such  
47 patient. The patient must be discharged within 48 hours of his or her admission unless:  
48 (1) An examining physician or psychologist concludes that there is reason to believe that  
49 the patient may be a mentally ill person requiring involuntary treatment and executes a  
50 certificate to that effect within such time; or  
51 (2) The patient is under criminal charges, notice of which has been given in writing to  
52 the facility, in which case the provisions of Code Section 37-3-95 shall apply.  
53 Nothing in this chapter shall be construed to prohibit a physician or psychologist who  
54 previously executed a certificate authorized by the provisions of this chapter from  
55 executing any other certificate provided for in this chapter for the same or any other  
56 patient."

57 **SECTION 3.**

58 Said title is further amended by revising subsections (b) and (c) of Code Section 37-7-41,  
59 relating to emergency involuntary treatment, who may certify need, delivery for examination,  
60 and report of delivery required, as follows:

61 "(b) The appropriate court of the county in which a person may be found may issue an  
62 order commanding any peace officer to take such person into custody and deliver him  
63 forthwith for examination, either to the nearest available emergency receiving facility  
64 serving the county in which the patient is found, where such person shall be received for  
65 examination, or to a physician who has agreed to examine such patient and who will  
66 provide, where appropriate, a certificate pursuant to subsection (a) of this Code section to  
67 permit delivery of such patient to an emergency receiving facility pursuant to subsection  
68 (a) of this Code section. Such order may only be issued if based either upon an unexpired

69 physician's certificate, as provided in subsection (a) of this Code section, or upon the  
70 affidavits of at least two persons who attest that, within the preceding 48 hours, they have  
71 seen the person to be taken into custody and that, based upon observations contained in  
72 their affidavit, they have reason to believe such person is an alcoholic, a drug dependent  
73 individual, or a drug abuser requiring involuntary treatment. Such physician's certificate  
74 or affidavits shall be affixed to the court order; provided, however, that information  
75 personally identifying the affiants shall be redacted and concealed. The court order shall  
76 expire seven days after it is executed.

77 (c) Any peace officer taking into custody and delivering for examination a person, as  
78 authorized by subsection (a) or (b) of this Code section, shall execute a written report  
79 detailing the circumstances under which such person was taken into custody. The report  
80 and ~~either the physician's certificate or court order authorizing such custody,~~ including such  
81 information which is required to be affixed pursuant to subsection (b) of this Code section,  
82 shall be made a part of the patient's record."

83 **SECTION 4.**

84 Said title is further amended by revising subsection (a) of Code Section 37-7-43, relating to  
85 procedure upon admission and notice of proposed discharge, as follows:

86 "(a) A patient who is admitted to an emergency receiving facility shall be examined by a  
87 physician as soon thereafter as possible but in any event within 48 eight hours and may,  
88 after such examination, be discharged, be held for further examination if the physician  
89 believes such further examination may reveal that a certificate under paragraph (1) of this  
90 subsection should be executed, or be given such emergency treatment as is indicated by  
91 good medical practice. The examining physician shall also review any written reports,  
92 physician's certificates or affidavits, court orders, or other documentation produced or  
93 issued pursuant to Code Section 37-7-41 in making any determination regarding such  
94 patient. The patient must be discharged within 48 hours of his or her admission unless:

95 (1) An examining physician or psychologist concludes that there is reason to believe that  
96 the patient may be an alcoholic, a drug dependent individual, or a drug abuser requiring  
97 involuntary treatment and executes a certificate to that effect within such time; or

98 (2) The patient is under criminal charges, notice of which has been given in writing to  
99 the facility, in which case the provisions of Code Section 37-7-95 shall apply.

100 Nothing in this chapter shall be construed to prohibit a physician or psychologist who  
101 previously executed a certificate authorized by the provisions of this chapter from  
102 executing any other certificate provided for in this chapter for the same or any other  
103 patient."

104 **SECTION 5.**

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