

House Bill 717

By: Representatives Cooper of the 43rd, Hitchens of the 161st, Lumsden of the 12th, and Dempsey of the 13th

**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 and treatment for mental illness, so as to provide for authorization of peace
3 officers to take a person to a physician or emergency receiving facility for emergency
4 examination under certain circumstances; to provide for immunity; to provide for reports; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination and
9 treatment for mental illness, is amended by revising Code Section 37-3-4, relating to
10 immunity of hospitals, physicians, peace officers, or other private or public hospital
11 employees from liability for certain actions taken in good faith, as follows:

12 "37-3-4.

13 Any hospital or any physician, psychologist, peace officer, attorney, or health official, or
14 any hospital official, agent, or other person employed by a private hospital or at a facility
15 operated by the state, by a political subdivision of the state, or by a hospital authority
16 created pursuant to Article 4 of Chapter 7 of Title 31, who acts in good faith in compliance

17 with the transport, admission, and discharge provisions of this chapter shall be immune
18 from civil or criminal liability for his or her actions in connection with the transport of a
19 patient to a physician or facility, the admission of a patient to a facility, or the discharge
20 of a patient from a facility; provided, however, that nothing in this Code section shall be
21 construed to relieve any hospital or any physician, psychologist, peace officer, attorney, or
22 health official, or any hospital official, agent, or other person employed by a private
23 hospital or at a facility operated by the state, by a political subdivision of the state, or by
24 a hospital authority created pursuant to Article 4 of Chapter 7 of Title 31, from liability for
25 failing to meet the applicable standard of care in the provision of treatment to a patient."

26 **SECTION 2.**

27 Said chapter is further amended by revising Code Section 37-3-42, relating to emergency
28 admission of persons arrested for penal offenses, report by officer, and entry of report into
29 clinical record, as follows:

30 "37-3-42.

31 (a) A peace officer may take any person to a physician within the county or an adjoining
32 county for emergency examination by the physician, as provided in Code Section 37-3-41,
33 or directly to an emergency receiving facility if:

- 34 (1) The ~~the~~ person is committing a penal offense; and
- 35 (2) The ~~the~~ peace officer has probable cause for believing that the person is a mentally
36 ill person requiring involuntary treatment.

37 The peace officer need not formally tender charges against the individual prior to taking
38 the individual to a physician or an emergency receiving facility under this ~~Code section~~
39 subsection. The peace officer shall execute a written report detailing the circumstances
40 under which the person was taken into custody; and this report shall be made a part of the
41 patient's clinical record.

42 (b) A peace officer may take any person to a physician within the county or an adjoining
43 county for emergency examination by the physician, as provided in Code Section 37-3-41,
44 or directly to an emergency receiving facility if:

45 (1) The peace officer has probable cause for believing that the person:
46 (A) Presents a substantial risk of imminent harm to himself or herself or others, as
47 manifested by either recent overt acts or recent expressed threats of violence which
48 present a probability of physical injury to himself or herself or other persons; or
49 (B) Is so unable to care for his or her own physical health and safety as to create an
50 imminently life-endangering crisis; and
51 (2) The person has refused voluntary examination after conscientious explanation and
52 disclosure of the purpose of the examination.

53 The peace officer shall execute a written report detailing the circumstances under which
54 the person was taken into custody, and such report shall be made a part of the patient's
55 clinical record.

56 (b)(c) Any psychologist may perform any act specified by this Code section to be
57 performed by a physician. Any reference in any part of this chapter to a physician acting
58 under this Code section shall be deemed to refer equally to a psychologist acting under this
59 Code section. For purposes of this subsection, the term 'psychologist' means any person
60 authorized under the laws of this state to practice as a licensed psychologist."

61 **SECTION 3.**

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