

House Bill 939

By: Representatives Mainor of the 56<sup>th</sup>, Cantrell of the 22<sup>nd</sup>, Paris of the 142<sup>nd</sup>, Jackson of the 128<sup>th</sup>, Hagan of the 156<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 6 of Chapter 3 of Title 37 of the Official Code of Georgia  
2 Annotated, relating to general provisions relative to the rights and privileges of patients and  
3 their representatives regarding examination and treatment for mental illness, so as to provide  
4 for notice of admission and daily updates from a facility to the parent or legal guardian of an  
5 involuntary minor patient under 12 years of age; to provide for related matters; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 6 of Chapter 3 of Title 37 of the Official Code of Georgia Annotated,  
10 relating to general provisions relative to the rights and privileges of patients and their  
11 representatives regarding examination and treatment for mental illness, is amended by  
12 revising Code Section 37-3-147, relating to patient representatives and guardians ad litem,  
13 notification provisions, and duration and scope of guardianship ad litem, as follows:

14 "37-3-147.

15 (a) At the time a person who has mental illness is admitted to any facility under this  
16 chapter or as soon thereafter as reasonably possible given the person's condition or mental

17 state at the time of admission, such facility shall use diligent efforts to secure the names  
18 and addresses of at least two representatives, which names and addresses shall be entered  
19 in the person's clinical record.

20 (b) The patient may designate one representative; the second representative or, in the  
21 absence of designation of one representative by the patient, both representatives shall be  
22 selected by the facility. If the facility is to select both representatives, it must make one  
23 selection from among the following persons in the order of listing: the patient's legal  
24 guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided  
25 that, in the case of a patient whose representative or representatives have been appointed  
26 by the court under Code Section 37-3-62, the facility shall not select a different  
27 representative. The second representative shall also be selected from the above list but  
28 without regard to the order of listing, provided that the second representative shall not be  
29 the person who filed the petition to have the patient admitted to the facility. In the case of  
30 a minor patient under 12 years of age who is the subject of an order issued pursuant to  
31 Code Section 37-3-41, one representative shall be the minor patient's parent or legal  
32 guardian.

33 (c) If the facility is unable to secure at least two representatives after diligent search or if  
34 the department is the guardian of the patient, that fact shall be entered in the patient's  
35 clinical record and the facility shall apply to the court in the county of the patient's  
36 residence for the appointment of a guardian ad litem, which guardian ad litem shall not be  
37 the department. On application of any person or on its own motion, the court may also  
38 appoint a guardian ad litem for a patient for whom two representatives have been named  
39 whenever the appointment of a guardian ad litem is deemed necessary for protection of the  
40 patient's rights. Such guardian ad litem shall also act as representative of the patient and  
41 shall have the powers granted to representatives by this chapter.

42 (d) At any time notice is required by this chapter to be given to the patient's  
43 representatives, such notice shall be served on the representatives designated under this

44 Code section. The patient's guardian ad litem, if any, shall likewise be served. Unless  
45 otherwise provided, notice may be served in person or by first-class mail. When notice is  
46 served by mail, a record shall be made of the date of mailing and shall be placed in the  
47 patient's clinical record. Service shall be completed upon mailing.

48 (e) At any time notice is required by this chapter to be given to the patient, the date on  
49 which notice is given shall be entered on the patient's clinical record. If the patient is  
50 unable to comprehend the written notice, a reasonable effort shall be made to explain the  
51 notice to him or her.

52 (f) At the time a court enters an order pursuant to this chapter, such order and notice of the  
53 date of entry of the order shall be served on the patient and his or her representatives as  
54 provided in subsection (d) of this Code section.

55 (g) Notice of an involuntary patient's admission to a facility shall be given to his or her  
56 representatives in writing. If such involuntary admission is to an emergency receiving  
57 facility, notice shall also be given by that facility to the patient's representatives by  
58 telephone or in person as soon as possible.

59 (g.1) Notwithstanding the provisions of subsection (g) of this Code section, notice of  
60 admission of an involuntary patient under 12 years of age to any facility under this chapter  
61 shall be given to his or her parent or legal guardian representative by telephone or in person  
62 as soon as possible. Any such facility shall provide such parent or legal guardian  
63 representative with at least one update per calendar day as to the minor patient's state of  
64 health and well-being. The parent or legal guardian representative of a minor patient under  
65 12 years of age may consult with the facility regarding the development of such minor  
66 patient's individualized service plan and the minor patient's treatment under such plan.

67 (h) In every instance in which a court shall appoint a guardian ad litem for any person  
68 pursuant to the terms of this chapter, such guardianship shall be for the limited purpose  
69 stated in the order of the court and shall expire automatically after 90 days or after a lesser

70 time stated in the order. The responsibility of the guardian ad litem shall not extend  
71 beyond the specific purpose of the appointment."

72 **SECTION 2.**

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