

House Bill 1107

By: Representatives Mainor of the 56th, Jones of the 25th, Mitchell of the 88th, Sainz of the 180th, and Daniel of the 117th

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 mental
24 health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or
25 adult friend, provided that, in the case of a patient whose representative or representatives
26 have been appointed by the court under Code Section 37-3-62, the facility shall not select
27 a different representative. The second representative shall also be selected from the above
28 list but without regard to the order of listing, provided that the second representative shall
29 not be the person who filed the petition to have the patient admitted to the facility. In the
30 case of a minor patient under 12 years of age who is the subject of an order issued pursuant
31 to 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 minor patient under 12 years of age to any facility under this
61 chapter shall be given to his or her parent or legal guardian representative by telephone or
62 in person 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.