

1 SB105
2 215875-2
3 By Senator Beasley (N & P)
4 RFD: Local Legislation
5 First Read: 18-JAN-22

1 SB105

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4 With Notice and Proof

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6 ENROLLED, An Act,

7 Relating to Henry County; to authorize a law
8 enforcement officer from a designated law enforcement agency
9 to take an individual whom the officer believes has a mental
10 illness into protective custody under certain conditions; to
11 provide for the transportation of the individual to a hospital
12 or other facility for evaluation and treatment; and to provide
13 protection from civil liability to law enforcement officers
14 who, in good faith, place individuals with mental illness into
15 protective custody.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. This act shall only apply in Henry
18 County.

19 Section 2. (a) For the purposes of this section, the
20 following terms have the following meanings:

21 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law
22 enforcement agency within Henry County that is authorized by
23 the sheriff to exercise the authority described in this
24 section.

1 (2) LAW ENFORCEMENT OFFICER. Any state, county, or
2 municipal officer certified by the Alabama Peace Officers'
3 Standards and Training Commission.

4 (b) (1) Concurrently with Article 5 of Chapter 52 of
5 Title 22, Code of Alabama 1975, a law enforcement officer from
6 a designated law enforcement agency may take an individual
7 into protective custody when the officer has reasonable cause
8 to believe that the individual has a mental illness and is an
9 immediate danger to himself or herself or others.

10 (2)a. Upon placement of an individual under
11 protective custody pursuant to subdivision (1), the law
12 enforcement officer shall transport the individual to a
13 hospital providing care and treatment to those with mental
14 illnesses or other designated treatment facility for an
15 evaluation and treatment.

16 b. If the individual does not consent to the
17 transport, the officer may use reasonable force necessary to
18 carry out the transport.

19 c. The individual shall be released from the
20 hospital or designated treatment facility within 72 hours,
21 exclusive of Saturday, Sunday, or any legal holiday, unless a
22 judge of probate orders further inpatient or outpatient
23 treatment for the individual as provided in Article 1 of
24 Chapter 52 of Title 22, Code of Alabama 1975.

1 d. Upon a determination by an attending physician,
2 nurse practitioner, or physician assistant at a hospital
3 licensed in this state that an individual transported to the
4 hospital pursuant to this section does not have a mental
5 illness or is not a danger to self or others, the hospital
6 shall promptly communicate this information to the appropriate
7 law enforcement officer. The law enforcement officer shall
8 coordinate the immediate release of the individual from the
9 hospital and shall release the individual from protective
10 custody unless the law enforcement officer has some legal
11 cause for detaining the individual other than the individual's
12 mental condition. After the individual is released, and upon
13 request of the individual, the law enforcement officer shall
14 transport the individual to his or her residence or other
15 place of abode if it is within the county.

16 (c) Protective custody by a law enforcement officer
17 under this section shall not be considered an arrest for any
18 purpose, and no entry or other record may be made to indicate
19 that an individual subject to temporary protective custody by
20 a law enforcement officer under this section has been detained
21 or charged with any crime.

22 (d) (1) It is the policy of this state to encourage a
23 law enforcement officer, hospital, physician, medical
24 provider, or other designated treatment facility to act in the
25 best interests of the state by detaining individuals who have

1 mental illnesses and are a danger to themselves or others for
2 evaluation and treatment. The state finds that these actions
3 are necessary to protect the individuals and the public. These
4 entities and individuals are acting in the name of the state
5 and are acting as state agents when acting pursuant to this
6 section in making determinations, detaining, releasing,
7 admitting, discharging, or otherwise taking action under this
8 section. When acting pursuant to this section, a law
9 enforcement officer, hospital, physician, medical provider, or
10 other designated treatment facility shall be afforded immunity
11 under Section 36-1-12, Code of Alabama 1975, as any other
12 state employee or agent of the state.

13 (2) Nothing in this act shall modify, amend, repeal,
14 or supersede any provision of Section 6-5-333, Code of Alabama
15 1975, the Alabama Medical Liability Act of 1987, commencing
16 with Section 6-5-540, Code of Alabama 1975, or the Alabama
17 Medical Liability Act of 1996, commencing with Section
18 6-5-548, Code of Alabama 1975, or any amendment to any of
19 these laws or any judicial interpretation of these laws.

20 Section 3. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB105

Senate 16-FEB-22

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 24-FEB-22

By: Senator Beasley