

1 HB431  
2 197433-2  
3 By Representatives Clouse and Allen (N & P)  
4 RFD: Local Legislation  
5 First Read: 16-APR-19

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2 ENROLLED, An Act,

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13           Section 1. This act shall only apply in Dale County.

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

16           (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law  
17 enforcement agency within Dale County that is authorized by  
18 the sheriff to exercise the authority described in this act.

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

22           (b) (1) Concurrently with Article 1 of Chapter 52 of  
23 Title 22, Code of Alabama 1975, a law enforcement officer from  
24 a designated law enforcement agency may take an individual  
25 into protective custody when the officer has reasonable cause

1 to believe that the individual is mentally ill and is an  
2 immediate danger to himself or herself or others.

3 (2)a. Upon placement of an individual under  
4 protective custody pursuant to subdivision (1), the law  
5 enforcement officer shall transport the individual to a  
6 hospital providing care and treatment to those with mental  
7 illnesses or other designated treatment facility for an  
8 evaluation and treatment.

9 b. If the individual does not consent to the  
10 transport, the officer may use reasonable force necessary to  
11 carry out the transport.

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

18 d. Upon a determination by an attending physician,  
19 nurse practitioner, or physician assistant at a hospital  
20 licensed in this state that an individual transported to the  
21 hospital pursuant to this section is not mentally ill or a  
22 danger to self or others, the hospital shall promptly  
23 communicate this information to the appropriate law  
24 enforcement officer. The law enforcement officer shall  
25 coordinate the immediate release of the individual from the

1 hospital and shall release the individual from protective  
2 custody unless the law enforcement officer has some legal  
3 cause for detaining the individual other than the individual's  
4 mental condition. After the individual is released, and upon  
5 request of the individual, the law enforcement officer shall  
6 transport the individual to his or her residence or other  
7 place of abode if it is within the county.

8 (c) Protective custody by a law enforcement officer  
9 under this section shall not be considered an arrest for any  
10 purpose, and no entry or other record may be made to indicate  
11 that an individual subject to temporary protective custody by  
12 a law enforcement officer under this section has been detained  
13 or charged with any crime.

14 ~~(d) A law enforcement officer acting in good faith~~  
15 ~~pursuant to this section may not be held civilly or criminally~~  
16 ~~liable for false imprisonment, and a hospital or other~~  
17 ~~designated treatment facility shall not be civilly or~~  
18 ~~criminally liable for the admission or release of an~~  
19 ~~individual pursuant to this section.~~

20 (d) (1) It is the policy of this state to encourage a  
21 law enforcement officer, hospital, physician, medical  
22 provider, or other designated treatment facility to act in the  
23 best interests of the state by detaining individuals who are  
24 mentally ill and a danger to themselves or others for  
25 evaluation and treatment. The state finds that these actions

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

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

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 25-APR-19.

Jeff Woodard  
Clerk

Senate	29-MAY-19	Amended and Passed
House	30-MAY-19	Concurred in Senate Amendment