

1 HB471  
2 197531-2  
3 By Representative Allen (N & P)  
4 RFD: Local Legislation  
5 First Read: 18-APR-19

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2 ENROLLED, An Act,

3           Relating to Pike County; to authorize an attending  
4 physician, nurse practitioner, or physician assistant at a  
5 hospital licensed in this state to detain and provide  
6 emergency treatment to an individual with a mental illness for  
7 up to 72 hours under certain conditions and to provide  
8 protection from civil or criminal liability when acting in  
9 good faith for actions taken related to the admission or  
10 discharge of the patient; to authorize a law enforcement  
11 officer from a designated law enforcement agency to take an  
12 individual whom the officer believes has a mental illness into  
13 protective custody under certain conditions; to provide for  
14 the transportation of the individual to a hospital or other  
15 facility for evaluation and treatment; and to provide  
16 protection from civil liability to law enforcement officers  
17 who, in good faith, place individuals with mental illness into  
18 protective custody.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20           Section 1. This act shall only apply in Pike County.

21           Section 2. For the purposes of this act, the  
22 following terms have the following meanings:

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

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

4           (3) REGIONAL MENTAL HEALTH PROVIDER. An organization  
5 created pursuant to Section 22-51-1 et seq., Code of Alabama  
6 1975.

7           Section 3. (a) (1) Concurrently with Article 1 of  
8 Chapter 52 of Title 22, Code of Alabama 1975, an attending  
9 physician, nurse practitioner, or physician assistant at a  
10 hospital licensed in this state may execute a certificate  
11 stating that he or she has personally evaluated an individual  
12 and has found, based upon the observations set forth in detail  
13 in the certificate, that the individual appears to be mentally  
14 ill, is a danger to himself or herself or others, and requires  
15 immediate treatment.

16           (2) Upon execution of the certificate described in  
17 subdivision (1), the attending physician, nurse practitioner,  
18 or physician assistant may detain and provide emergency  
19 treatment to the individual for up to 72 hours, and consent  
20 for medical treatment shall be presumed as provided in Section  
21 22-8-1, Code of Alabama 1975.

22           (3) After execution of the certificate, but no more  
23 than 36 hours from execution of the certificate, the executor  
24 of the certificate shall send the certificate to a person  
25 designated by the regional mental health provider for Pike

1 County in order to facilitate the evaluation of the individual  
2 and determine need for a petition as provided in Article 1 of  
3 Chapter 52 of Title 22, Code of Alabama 1975.

4 (b) An individual treated pursuant to subsection (a)  
5 shall be discharged within 72 hours, unless the Pike County  
6 Judge of Probate orders further inpatient or outpatient  
7 treatment for the individual as provided in Article 1 of  
8 Chapter 52 of Title 22, Code of Alabama 1975.

9 (c) If a petition is filed and accepted as provided  
10 for in Article 1 of Chapter 52 of Title 22, Code of Alabama  
11 1975, and the Pike County Judge of Probate determines that the  
12 individual needs to be detained pending a probable cause  
13 hearing, the time allowed under Section 22-52-8, Code of  
14 Alabama 1975, will be computed from the date of admission.

15 (d) An attending physician, nurse practitioner, or  
16 physician assistant and hospital providing treatment pursuant  
17 to subsection (a) shall make reasonable efforts to contact any  
18 designated emergency contact for the individual.

19 (e) A licensed hospital and an attending physician,  
20 nurse practitioner, or physician assistant who acts in good  
21 faith compliance with this section shall be immune from civil  
22 or criminal liability for any actions in connection with the  
23 admission of a patient to a facility or the discharge of a  
24 patient from a facility.

1           (f) If an individual is discharged without further  
 2 orders of inpatient treatment by the Pike County Judge of  
 3 Probate, and that individual arrived as a result of law  
 4 enforcement intervention, the hospital shall promptly  
 5 communicate this information to the appropriate law  
 6 enforcement agency. A law enforcement officer from that agency  
 7 shall coordinate the immediate release of the individual from  
 8 the hospital and shall release the individual from protective  
 9 custody unless the law enforcement officer from that agency  
 10 has some legal cause for detaining the individual other than  
 11 the individual's mental condition. After the individual is  
 12 released, and upon request of the individual, a law  
 13 enforcement officer from that agency shall transport the  
 14 individual to his or her residence or other place of abode if  
 15 it is within the county.

16           Section 4. (a) (1) Concurrently with Article 1 of  
 17 Chapter 52 of Title 22, Code of Alabama 1975, a law  
 18 enforcement officer from a designated law enforcement agency  
 19 may take an individual into protective custody when the  
 20 officer has reasonable cause to believe that the individual is  
 21 mentally ill and is an immediate danger to himself or herself  
 22 or others.

23           (2)a. Upon placement of an individual under  
 24 protective custody pursuant to subdivision (1), the law  
 25 enforcement officer shall transport the individual to a

1 hospital providing care and treatment to those with mental  
2 illnesses or other designated treatment facility for an  
3 evaluation and treatment.

4 b. If the individual does not consent to the  
5 transport, the officer may use reasonable force necessary to  
6 carry out the transport.

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

13 d. Upon a determination by an attending physician,  
14 nurse practitioner, or physician assistant at a hospital  
15 licensed in this state that an individual transported to the  
16 hospital pursuant to this section is not mentally ill or a  
17 danger to self or others, the hospital shall promptly  
18 communicate this information to the appropriate law  
19 enforcement officer. The law enforcement officer shall  
20 coordinate the immediate release of the individual from the  
21 hospital and shall release the individual from protective  
22 custody unless the law enforcement officer has some legal  
23 cause for detaining the individual other than the individual's  
24 mental condition. After the individual is released, and upon  
25 request of the individual, the law enforcement officer shall

1 transport the individual to his or her residence or other  
2 place of abode if it is within the county.

3 (b) Protective custody by a law enforcement officer  
4 under this section shall not be considered an arrest for any  
5 purpose, and no entry or other record may be made to indicate  
6 that an individual subject to temporary protective custody by  
7 a law enforcement officer under this section has been detained  
8 or charged with any crime.

9 ~~(c) A law enforcement officer acting in good faith  
10 pursuant to this section may not be held civilly or criminally  
11 liable for false imprisonment, and a hospital or other  
12 designated treatment facility shall not be civilly or  
13 criminally liable for the admission or release of an  
14 individual pursuant to this section.~~

15 (c) (1) It is the policy of this state to encourage a  
16 law enforcement officer, hospital, physician, medical  
17 provider, or other designated treatment facility to act in the  
18 best interests of the state by detaining individuals who are  
19 mentally ill and a danger to themselves or others for  
20 evaluation and treatment. The state finds that these actions  
21 are necessary to protect the individuals and the public. These  
22 entities and individuals are acting in the name of the state  
23 and are acting as state agents, when acting pursuant to this  
24 act, in making determinations, detaining, releasing,  
25 admitting, discharging, or otherwise taking action under this

1 act. When acting pursuant to this act, a law enforcement  
2 officer, hospital, physician, medical provider, or other  
3 designated treatment facility shall be afforded immunity under  
4 Section 36-1-12, Code of Alabama 1975, as any other state  
5 employee or agent of the state.

6 (2) Nothing in this act shall modify, amend, repeal,  
7 or supersede any provision of Section 6-5-333, Code of Alabama  
8 1975, the Alabama Medical Liability Act of 1987, commencing  
9 with Section 6-5-540, Code of Alabama 1975, or the Alabama  
10 Medical Liability Act of 1996, commencing with Section  
11 6-5-548, Code of Alabama 1975, or any amendment to any of  
12 these laws or any judicial interpretation of these laws.

13 Section 5. (a) This act shall not be construed to  
14 modify any provisions of Section 22-8-1, Code of Alabama 1975.

15 (b) The Pike County Judge of Probate shall give  
16 notice and set a hearing for cause shown when de-authorizing  
17 any designated law enforcement agency.

18 (c) The Pike County Judge of Probate shall not be  
19 liable for the acts of any designated law enforcement agency  
20 or officer pursuant to this act.

21 Section 6. This act shall become effective on the  
22 first day of the third month following its passage and  
23 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 30-APR-19.

Jeff Woodard  
Clerk

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