

1 HB340
2 206614-2
3 By Representatives Allen, Marques, Reynolds, Ledbetter,
4 Simpson, Ingram, Greer, McMillan, Pettus, Kiel, Lee,
5 Easterbrook, Hurst, Shaver, Wood (D), Sorrells, Shedd, Brown
6 (K), Rich, Hanes, Fincher, Whorton, Kitchens, Shiver, Faust,
7 Farley, Ball, Isbell, Gray, Clarke, Lawrence, Daniels and
8 Hollis
9 RFD: Judiciary
10 First Read: 27-FEB-20

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to emergency treatment of mental illness;
9 to authorize a law enforcement officer from a designated law
10 enforcement agency to take an individual whom the officer
11 believes has a mental illness into protective custody under
12 certain conditions; to provide for the transportation of the
13 individual to a hospital or other facility for evaluation and
14 treatment; to provide protection from civil liability to law
15 enforcement officers, medical facilities, and medical
16 personnel when acting pursuant to the provisions of this bill;
17 and to repeal any local law that conflicts with the provisions
18 of this bill or that establishes a similar program for placing
19 individuals in protective custody for mental health issues.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) For the purposes of this section, the
22 following terms have the following meanings:

23 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law
24 enforcement agency within a particular county that is
25 authorized by a judge of probate to exercise the authority
26 described in this act.

1 (2) DESIGNATED TREATMENT FACILITY. A health care
2 facility that has a written agreement with the county to
3 provide evaluation, treatment, and care to individuals placed
4 in protective custody pursuant to this act and is designated
5 by the Department of Mental Health.

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

9 (4) MENTAL ILLNESS. As defined in Section 22-52-1.1.

10 (b) (1) Concurrently with Article 1 of Chapter 52 of
11 Title 22, Code of Alabama 1975, a law enforcement officer from
12 a designated law enforcement agency may take an individual ~~14~~
13 17 years of age or older into protective custody when the
14 officer has reasonable cause to believe that the individual is
15 mentally ill and is an immediate danger to himself or herself
16 or others.

17 (2)a. Upon placement of an individual under
18 protective custody pursuant to subdivision (1), the law
19 enforcement officer shall transport the individual to a
20 designated treatment facility for an evaluation and treatment.
21 While in protective custody, the individual shall have the
22 opportunity to contact an adult of the individual's choice in
23 a timely manner.

24 b. If the individual does not consent to the
25 transport, the officer may use reasonable force necessary to
26 carry out the transport.

1 c. Two or more licensed physicians or one licensed
2 physician and one or more nurse practitioners or physician
3 assistants, after having consultation, shall sign a written
4 statement finding, in his or her judgment, that each
5 tentatively and independently has observed and found the
6 individual as appearing mentally ill and in need of further
7 observation and attention, as the individual is a danger to
8 self or others. The statement shall be signed and the judge of
9 probate shall be contacted within 24 hours of the finding in
10 this paragraph.

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

17 e. Upon a determination by an attending physician,
18 nurse practitioner, or physician assistant at a designated
19 treatment facility in this state that an individual
20 transported to the designated treatment facility pursuant to
21 this section is not mentally ill or a danger to self or
22 ~~others, it shall promptly communicate this information to the~~
23 ~~appropriate law enforcement officer. The law enforcement~~
24 ~~officer shall coordinate the immediate release of the others,~~
25 this information shall be promptly communicated to the
26 designated law enforcement agency. The designated law
27 enforcement agency shall coordinate the immediate release of

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

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

17 (d) (1) It is the policy of this state to encourage a
18 law enforcement officer, hospital, physician, medical
19 provider, regional mental health center, or other designated
20 treatment facility to act in the best interests of the
21 individual and the state by detaining individuals who are
22 mentally ill and a danger to themselves or others for
23 evaluation and treatment, and protecting the rights of those
24 individuals. The state finds that these actions are necessary
25 to protect the individuals and the public. These entities and
26 individuals are acting in the name of the state and are acting
27 as state agents, when acting pursuant to this act, in making

1 determinations, detaining, releasing, admitting, discharging,
2 or otherwise taking action under this act. When acting
3 pursuant to this act, a law enforcement officer, hospital,
4 physician, medical provider, regional mental health center, or
5 other designated treatment facility shall be afforded immunity
6 under Section 36-1-12, Code of Alabama 1975, as any other
7 state employee or agent of the state.

8 (2) Nothing in this act shall modify, amend, repeal,
9 or supersede any provision of Section 6-5-333, Code of Alabama
10 1975, the Alabama Medical Liability Act of 1987, commencing
11 with Section 6-5-540, Code of Alabama 1975, or the Alabama
12 Medical Liability Act of 1996, commencing with Section
13 6-5-548, Code of Alabama 1975, or any amendment to any of
14 these laws or any judicial interpretation of these laws.

15 Section 2. (a) This act shall not be applicable to
16 any county unless and until the judge of probate with the
17 approval of the county commission of that particular county
18 makes a finding that there exists in the county provisions for
19 implementation of this act and the necessary designated
20 treatment facilities to detain persons pursuant to this act.
21 In that event, the judge of probate shall open a case under a
22 docket number and enter findings upon the records of the court
23 that shall expressly state the intention to invoke this act.
24 Notification and a copy of the court's findings and statement
25 shall be served on all designated treatment facilities located
26 within the county, all law enforcement agencies within the
27 county, the Commissioner of the Department of Mental Health,

1 the Attorney General, the Secretary of State, the Governor,
2 and any other individuals deemed appropriate by the judge of
3 probate. In the event of changed circumstances, the judge of
4 probate may terminate the opened case with procedures set
5 forth in Article 1 of Chapter 52 of Title 22, Code of Alabama
6 1975, and shall make findings accordingly and serve the
7 parties named herein and others previously notified.

8 (b) Notwithstanding any provision in this act to the
9 contrary, a petition for commitment pursuant to Article 1 of
10 Chapter 52 of Title 22, Code of Alabama 1975, may be filed in
11 the probate court of the county where the respondent is
12 located, and any subsequent proceedings held to determine
13 probable cause and final hearings on the merits shall be held
14 by that probate court.

15 (c) All costs associated with a probable cause
16 hearing, including cost of counsel, shall be paid by the State
17 General Fund upon order of the judge of probate. However, if
18 the petition is denied and the petitioner is not indigent and
19 is not a law enforcement officer or other public official
20 acting within the line and scope of his or her duties, all
21 costs may be taxed against the petitioner, or if the petition
22 is granted and the person sought to be committed is not
23 indigent, the judge of probate may order all costs paid from
24 the estate of the person committed.

25 Section 3. Any local law that conflicts with this
26 act or that establishes a similar program for placing
27 individuals in protective custody for mental health issues,

1 including Act No. 17 of the 1975 Second Special Session, (Acts
2 1975, Vol. I, p. 127), as amended by Act No. 353 of the 1975
3 Regular Session, (Acts 1975, Vol. II, p. 891), is hereby
4 repealed.

5 Section 4. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 27-FEB-20

Read for the second time and placed
on the calendar..... 05-MAR-20

Read for the third time and passed
as amended..... 12-MAR-20

Yeas 99, Nays 0, Abstains 5

Jeff Woodard
Clerk