

1 HB284
2 208153-1
3 By Representative Allen
4 RFD: Judiciary
5 First Read: 02-FEB-21

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8 SYNOPSIS: Existing law provides that a person may file
9 a petition in the probate court seeking the
10 involuntary commitment of another person. The law
11 also provides for the proper procedure to be
12 followed by the probate court in making
13 determinations arising from these petitions.

14 This bill would authorize a law enforcement
15 officer from a designated law enforcement agency
16 to, under certain circumstances, bypass the
17 traditional involuntary commitment process in order
18 to take an individual whom the officer believes has
19 a mental illness into protective custody.

20 This bill would provide for the
21 transportation of the individual to a hospital or
22 other facility for evaluation and treatment.

23 This bill would provide protection from
24 civil liability to law enforcement officers,
25 medical facilities, and medical personnel.

26 This bill would also repeal any local law
27 that conflicts with the provisions of this bill or

1 that establishes a similar program for placing
2 individuals in protective custody for mental health
3 issues.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 Relating to emergency treatment of mental illness;
10 to authorize a law enforcement officer from a designated law
11 enforcement agency to take an individual whom the officer
12 believes has a mental illness into protective custody under
13 certain conditions; to provide for the transportation of the
14 individual to a hospital or other facility for evaluation and
15 treatment; to provide protection from civil liability to law
16 enforcement officers, medical facilities, and medical
17 personnel under certain conditions; and to repeal Sections
18 45-3-172, 45-23-171, 45-27-171, and 45-35-171, Code of Alabama
19 1975, pertaining to emergency treatment of mental illness.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Article 6 is added to Chapter 52,
22 Subtitle 2, Title 22, Code of Alabama 1975, to appear as
23 follows:

24 §22-52-100.

25 For the purposes of this article, the following
26 terms have the following meanings:

1 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law
2 enforcement agency within a particular county that is
3 authorized by a judge of probate to exercise the authority
4 described in this article.

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

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

13 (4) MENTAL ILLNESS. As defined in Section 22-52-1.1,
14 Code of Alabama 1975.

15 §22-52-101.

16 (a) A law enforcement officer from a designated law
17 enforcement agency may take an individual 17 years of age or
18 older into protective custody when the officer has reasonable
19 cause to believe that the individual has a mental illness and
20 is an immediate danger to himself or herself or others.

21 (b) Protective custody by a law enforcement officer
22 under this section shall not be considered an arrest for any
23 purpose, and no entry or other record may be made to indicate
24 that an individual subject to temporary protective custody by
25 a law enforcement officer under this section has been detained
26 or charged with any crime.

27 §22-52-102.

1 (a) Upon placement of an individual under protective
2 custody pursuant to Section 22-52-101, Code of Alabama 1975,
3 the law enforcement officer shall transport the individual to
4 a designated treatment facility for evaluation and treatment.
5 While in protective custody, the individual shall have the
6 opportunity to contact a person of the individual's choice in
7 a timely manner.

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

11 (c) Two or more licensed physicians, or one licensed
12 physician and one or more nurse practitioners or physician
13 assistants, after having consultation, shall sign a written
14 statement finding, in his or her judgment, that each
15 tentatively and independently has observed and found the
16 individual to appear to have a mental illness and to be a
17 danger to self or others and needing further observation and
18 attention. The statement shall be signed and the judge of
19 probate shall be contacted within 24 hours of the finding in
20 this subdivision.

21 (d) The individual shall be released from the
22 designated treatment facility within 72 hours, exclusive of
23 Saturday, Sunday, or any legal holiday, unless a judge of
24 probate orders further inpatient or outpatient treatment for
25 the individual as provided in Article 1 of this chapter.

26 (e) Upon a determination by an attending physician,
27 nurse practitioner, or physician assistant at a designated

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

17 §22-52-103.

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

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

9 §22-52-104.

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

17 Section 2. Sections 45-3-172, 45-23-171, 45-27-171,
18 and 45-35-171, Code of Alabama 1975, are repealed.

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