

1 HB340  
2 205082-3  
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

SYNOPSIS:           This bill would authorize a law enforcement officer from a designated law enforcement agency to take an individual whom the officer believes has a mental illness into protective custody under certain conditions.

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

                  This bill would also provide protection from civil liability to law enforcement officers, medical facilities, and medical personnel when acting pursuant to the provisions of this bill.

A BILL  
TO BE ENTITLED  
AN ACT

                  Relating to emergency treatment of mental illness;  
to authorize a law enforcement officer from a designated law enforcement agency to take an individual whom the officer

1 believes has a mental illness into protective custody under  
2 certain conditions; to provide for the transportation of the  
3 individual to a hospital or other facility for evaluation and  
4 treatment; and to provide protection from civil liability to  
5 law enforcement officers, medical facilities, and medical  
6 personnel when acting pursuant to the provisions of this bill.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law  
11 enforcement agency within a particular county that is  
12 authorized by a judge of probate to exercise the authority  
13 described in this act.

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

17 (3) MENTAL ILLNESS. As defined in Section 22-52-1.1.

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

24 (2)a. Upon placement of an individual under  
25 protective custody pursuant to subdivision (1), the law  
26 enforcement officer shall transport the individual to a  
27 hospital providing care and treatment to those with mental

1 illnesses or other designated treatment facility for an  
2 evaluation and treatment.

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

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

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

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

7           (d) (1) It is the policy of this state to encourage a  
8 law enforcement officer, hospital, physician, medical  
9 provider, or other designated treatment facility to act in the  
10 best interests of the individual and the state by detaining  
11 individuals who are mentally ill and a danger to themselves or  
12 others for evaluation and treatment, and protecting the rights  
13 of those individuals. The state finds that these actions are  
14 necessary to protect the individuals and the public. These  
15 entities and individuals are acting in the name of the state  
16 and are acting as state agents, when acting pursuant to this  
17 act, in making determinations, detaining, releasing,  
18 admitting, discharging, or otherwise taking action under this  
19 act. When acting pursuant to this act, a law enforcement  
20 officer, hospital, physician, medical provider, or other  
21 designated treatment facility shall be afforded immunity under  
22 Section 36-1-12, Code of Alabama 1975, as any other state  
23 employee or agent of the state.

24           (2) Nothing in this act shall modify, amend, repeal,  
25 or supersede any provision of Section 6-5-333, Code of Alabama  
26 1975, the Alabama Medical Liability Act of 1987, commencing  
27 with Section 6-5-540, Code of Alabama 1975, or the Alabama

1 Medical Liability Act of 1996, commencing with Section  
2 6-5-548, Code of Alabama 1975, or any amendment to any of  
3 these laws or any judicial interpretation of these laws.

4 Section 2. (a) This act shall not be applicable to  
5 any county unless and until the judge of probate with the  
6 approval of the county commission of that particular county  
7 makes a finding that there exists in the county provisions for  
8 implementation of the County Mental Health Crisis Intervention  
9 Program and the necessary facilities to detain persons  
10 pursuant to this act. In that event, the judge of probate  
11 shall open a case under a docket number and enter findings  
12 upon the records of the court that shall expressly state the  
13 intention to invoke this act. Notification and a copy of the  
14 court's findings and statement shall be served on all  
15 hospitals and designated mental health facilities located  
16 within the county, all law enforcement agencies within the  
17 county, the Commissioner of the Department of Mental Health,  
18 the Attorney General, the Secretary of State, the Governor,  
19 and any other individuals deemed appropriate by the judge of  
20 probate. In the event of changed circumstances, the judge of  
21 probate may terminate the procedures set forth in Article 1 of  
22 Chapter 52 of Title 22, Code of Alabama 1975, and shall make  
23 findings accordingly and serve the parties named herein and  
24 others previously notified.

25 (b) Notwithstanding any provision in this act to the  
26 contrary, a petition for commitment pursuant to Article 1 of  
27 Chapter 52 of Title 22, Code of Alabama 1975, may be filed in

1 the probate court of the county where the respondent is  
2 located, and any subsequent proceedings held to determine  
3 probable cause and final hearings on the merits shall be held  
4 by that probate court.

5 (c) No county shall be required to pay costs  
6 associated with the temporary confinement or commitment of a  
7 person to a designated mental health facility, including, but  
8 not limited to, the cost of housing and treatment. All costs  
9 associated with a probable cause hearing, including cost of  
10 counsel, shall be paid by the State General Fund upon order of  
11 the judge of probate. However, if the petition is denied and  
12 the petitioner is not indigent and is not a law enforcement  
13 officer or other public official acting within the line and  
14 scope of his or her duties, all costs may be taxed against the  
15 petitioner, or if the petition is granted and the person  
16 sought to be committed is not indigent, the judge of probate  
17 may order all costs paid from the estate of the person  
18 committed.

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.