

1 HB435
2 197434-1
3 By Representatives Lee, Clouse and Sorrells (N & P)
4 RFD: Local Legislation
5 First Read: 16-APR-19

2
3
4
5
6
7
8
9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to Houston County; to authorize a law
14 enforcement officer from a designated law enforcement agency
15 to take an individual whom the officer believes has a mental
16 illness into protective custody under certain conditions; to
17 provide for the transportation of the individual to a hospital
18 or other facility for evaluation and treatment; and to provide
19 protection from civil or criminal liability to law enforcement
20 officers who, in good faith, place individuals with mental
21 illness into protective custody.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall only apply in Houston
24 County.

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

1 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law
2 enforcement agency within Houston County that is authorized by
3 the sheriff to exercise the authority described in this act.

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

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

13 (2)a. Upon placement of an individual under
14 protective custody pursuant to subdivision (1), the law
15 enforcement officer shall transport the individual to a
16 hospital providing care and treatment to those with mental
17 illnesses or other designated treatment facility for an
18 evaluation and treatment.

19 b. If the individual does not consent to the
20 transport, the officer may use reasonable force necessary to
21 carry out the transport.

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

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

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

22 (d) A law enforcement officer acting in good faith
23 pursuant to this section may not be held civilly or criminally
24 liable for false imprisonment, and a hospital or other
25 designated treatment facility shall not be civilly or
26 criminally liable for the admission or release of an
27 individual pursuant to this section.

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