

1 SB402
2 197858-2
3 By Senator Beasley (N & P)
4 RFD: Local Legislation
5 First Read: 14-MAY-19

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4 With Notice and Proof

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6 ENGROSSED

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to Barbour 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 liability to law enforcement officers
20 who, in good faith, place individuals with mental illness into
21 protective custody.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act shall only apply in Barbour
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 Barbour 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) (1) It is the policy of this state to encourage
23 a law enforcement officer, hospital, physician, medical
24 provider, or other designated treatment facility to act in the
25 best interests of the state by detaining individuals who are
26 mentally ill and a danger to themselves or others for
27 evaluation and treatment. The state finds that these actions

1 are necessary to protect the individuals and the public. These
2 entities and individuals are acting in the name of the state
3 and are acting as state agents, when acting pursuant to this
4 act in making determinations, detaining, releasing, admitting,
5 discharging, or otherwise taking action under this act. When
6 acting pursuant to this act, a law enforcement officer,
7 hospital, physician, medical provider, or other designated
8 treatment facility shall be afforded immunity under Section
9 36-1-12, Code of Alabama 1975, as any other state employee or
10 agent of the state.

11 (2) Nothing in this act shall modify, amend, repeal,
12 or supersede any provision of Section 6-5-333, Code of Alabama
13 1975, the Alabama Medical Liability Act of 1987, commencing
14 with Section 6-5-540, Code of Alabama 1975, or the Alabama
15 Medical Liability Act of 1996, commencing with Section
16 6-5-548, Code of Alabama 1975, or any amendment to any of
17 these laws or any judicial interpretation of these laws.

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

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Senate

Read for the first time and referred to the Senate
committee on Local Legislation..... 14-MAY-19

Read for the second time and placed on the calen-
dar..... 28-MAY-19

Read for the third time and passed as amended 29-MAY-19

Yeas 25
Nays 0

Patrick Harris,
Secretary.