

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

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2 ENROLLED, An Act,

3 Relating to Houston County; to authorize a law
4 enforcement officer from a designated law enforcement agency
5 to take an individual whom the officer believes has a mental
6 illness into protective custody under certain conditions; to
7 provide for the transportation of the individual to a hospital
8 or other facility for evaluation and treatment; and to provide
9 protection from civil liability to law enforcement officers
10 who, in good faith, place individuals with mental illness into
11 protective custody.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. This act shall only apply in Houston
14 County.

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

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

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

23 (b) (1) Concurrently with Article 1 of Chapter 52 of
24 Title 22, Code of Alabama 1975, a law enforcement officer from
25 a designated law enforcement agency may take an individual

1 into protective custody when the officer has reasonable cause
2 to believe that the individual is mentally ill and is an
3 immediate danger to himself or herself or others.

4 (2)a. Upon placement of an individual under
5 protective custody pursuant to subdivision (1), the law
6 enforcement officer shall transport the individual to a
7 hospital providing care and treatment to those with mental
8 illnesses or other designated treatment facility for an
9 evaluation and treatment.

10 b. If the individual does not consent to the
11 transport, the officer may use reasonable force necessary to
12 carry out the transport.

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

19 d. Upon a determination by an attending physician,
20 nurse practitioner, or physician assistant at a hospital
21 licensed in this state that an individual transported to the
22 hospital pursuant to this section is not mentally ill or a
23 danger to self or others, the hospital shall promptly
24 communicate this information to the appropriate law
25 enforcement officer. The law enforcement officer shall

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

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

15 ~~(d) A law enforcement officer acting in good faith~~
16 ~~pursuant to this section may not be held civilly or criminally~~
17 ~~liable for false imprisonment, and a hospital or other~~
18 ~~designated treatment facility shall not be civilly or~~
19 ~~criminally liable for the admission or release of an~~
20 ~~individual pursuant to this section.~~

21 (d) (1) It is the policy of this state to encourage a
22 law enforcement officer, hospital, physician, medical
23 provider, or other designated treatment facility to act in the
24 best interests of the state by detaining individuals who are
25 mentally ill and a danger to themselves or others for

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

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

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.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 30-APR-19.

Jeff Woodard
Clerk

Senate	29-MAY-19	Amended and Passed
House	30-MAY-19	Concurred in Senate Amendment