

1 SB246
2 198748-2
3 By Senator Gudger
4 RFD: Healthcare
5 First Read: 04-APR-19

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT
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11 To amend Sections 22-52-10.2 and 22-52-10.3, Code of
12 Alabama 1975, to provide that a probate court may issue a
13 renewal of an involuntary commitment order for treatment for a
14 mentally ill person if it finds, after a hearing, that the
15 person is in need of further care; to add a new Section
16 22-52-10.10, Code of Alabama 1975, to provide procedural
17 requirements for such a renewal.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 22-52-10.2 and 22-52-10.3, Code
20 of Alabama 1975, are amended to read as follows:

21 "§22-52-10.2.

22 "(a) A respondent may be committed to outpatient
23 treatment if the probate court finds, based upon clear and
24 convincing evidence, that all of the following:

25 "~~(i)~~ (1) ~~the~~ The respondent is mentally ill~~;~~.

26 "~~(ii)~~ (2) ~~as~~ As a result of the mental illness, the
27 respondent will, if not treated, continue to suffer mental

1 distress and will continue to experience deterioration of the
2 ability to function independently; ~~and.~~

3 ~~"(iii)(3) the~~ The respondent is unable to make a
4 rational and informed decision as to whether or not treatment
5 for mental illness would be desirable.

6 "(b) Upon a recommendation, made by the designated
7 mental health facility currently providing outpatient
8 treatment, that the respondent's outpatient commitment order
9 should be renewed, a probate court may enter an order to renew
10 the commitment order upon the expiration of time allotted for
11 treatment by the original outpatient treatment order if the
12 probate court finds, based upon clear and convincing evidence,
13 all of the following:

14 "(1) The respondent is mentally ill.

15 "(2) As a result of mental illness, the respondent
16 will, if treatment is not continued, continue to suffer mental
17 distress and will continue to experience deterioration of the
18 ability to function independently.

19 "(3) The respondent is unable to independently make
20 a rational and informed decision as to whether or not he or
21 she needs treatment for mental illness.

22 "§22-52-10.3.

23 "(a) At the final hearing on a petition for
24 commitment seeking the involuntary commitment of a respondent,
25 the probate court may order that the respondent participate in
26 outpatient treatment provided by a designated mental health
27 facility.

1 "(b) The probate court shall not order outpatient
2 treatment unless the designated mental health facility has
3 consented to treat the respondent on an outpatient basis under
4 the terms and conditions set forth by the probate court.

5 "(c) If outpatient treatment is ordered, the order
6 of the probate court may state the specific conditions to be
7 followed and shall include the general condition that the
8 respondent follow the directives and treatment plan
9 established by the designated mental health facility.

10 "(d) Pursuant to this section, an order for
11 outpatient treatment shall not exceed 150 days unless the
12 order pertains to a renewal of an outpatient commitment order
13 up to one year as provided for by this article.

14 "(e) The designated mental health facility shall
15 immediately report to the probate court any material
16 noncompliance with the outpatient treatment order. The report
17 shall set forth the need for revocation of the outpatient
18 treatment order and shall be verified and filed with the
19 probate court.

20 "(f) The probate court shall set a hearing to
21 consider the motion for revocation of the outpatient treatment
22 order. The hearing procedures and safeguards set forth in this
23 article, applicable to a petition for involuntary commitment,
24 shall be followed. If at the hearing, the probate court finds,
25 based upon clear and convincing evidence, that the conditions
26 of outpatient treatment have not been met, and that the

1 respondent meets inpatient criteria, the probate court may
2 enter an order for commitment to inpatient treatment.

3 "(g) No county shall be financially responsible for
4 the cost of provision of outpatient mental health services
5 ordered pursuant to this article. The cost for the provision
6 of outpatient services are not allowable costs under Section
7 22-52-14.

8 Section 22-52-10.10, is added to the Code of Alabama
9 1975, to read as follows:

10 §22-52-10.10

11 (a) A petition for renewal of an outpatient
12 commitment order may be filed by the director of a designated
13 mental health facility or his or her designee at least 30 days
14 prior to the expiration of the current commitment order. The
15 petition, together with a copy of the original commitment
16 order and copies of any subsequent renewal commitment orders,
17 shall be filed with the probate court of the county where the
18 ~~facility is located~~ commitment was originally ordered. The
19 petition shall explain in detail why renewal of the order is
20 being requested and shall include testimony affirming the
21 facility's belief that the respondent meets the requirements
22 for renewal pursuant to Section 22-52-10.2.

23 (b) The judge of probate shall conduct a hearing,
24 within 30 days after the date of petition, to consider the
25 petition for renewal of the commitment order.

26 (c) Adequate written notice shall be provided to the
27 respondent prior to the hearing.

1 (d) The hearing shall be conducted in accordance
2 with Section 22-52-9. A copy of the order shall be forwarded
3 to the probate court having original jurisdiction. The burden
4 of proof shall be to prove, based on clear and convincing
5 evidence, the criteria as prescribed in Section 22-52-10.2.

6 (e) Any order renewing an order for commitment to
7 outpatient treatment shall not exceed a period of one year.

8 (f) In cases where outpatient treatment has been
9 renewed, a revocation petition seeking inpatient treatment may
10 not be filed and a new petition seeking inpatient treatment
11 shall be required.

12 Section 2. This act shall become effective on the
13 first day of the third month following its passage and
14 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 Healthcare..... 04-APR-19

Read for the second time and placed on the calen-
dar..... 16-APR-19

Read for the third time and passed as amended 18-APR-19

Yeas 31
Nays 0

Patrick Harris,
Secretary.