

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

1 SB402

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4 With Notice and Proof

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6 ENROLLED, An Act,

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. This act shall only apply in Barbour  
18 County.

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

21 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law  
22 enforcement agency within Barbour County that is authorized by  
23 the sheriff to exercise the authority described in this act.

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

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

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

16           b. If the individual does not consent to the  
17 transport, the officer may use reasonable force necessary to  
18 carry out the transport.

19           c. The individual shall be released from the  
20 hospital or designated treatment facility within 72 hours,  
21 exclusive of Saturday, Sunday, or any legal holiday, unless a  
22 judge of probate orders further inpatient or outpatient  
23 treatment for the individual as provided in Article 1 of  
24 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

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

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB402

Senate 29-MAY-19

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 31-MAY-19

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By: Senator Beasley