

1 HB489
2 205020-1
3 By Representatives Baker and Jones (M) (N & P)
4 RFD: Local Legislation
5 First Read: 04-MAY-20

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

13 Relating to Escambia 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 Escambia
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 Escambia County that is authorized
3 by the sheriff to exercise the authority described in this
4 act.

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

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

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

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

23 c. The individual shall be released from the
24 hospital or designated treatment facility within 72 hours,
25 exclusive of Saturday, Sunday, or any legal holiday, unless a
26 judge of probate orders further inpatient or outpatient

1 treatment for the individual as provided in Article 1 of
2 Chapter 52 of Title 22, Code of Alabama 1975.

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

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

24 (d) (1) It is the policy of this state to encourage a
25 law enforcement officer, hospital, physician, medical
26 provider, or other designated treatment facility to act in the
27 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,
7 admitting, discharging, or otherwise taking action under this
8 act. When acting pursuant to this act, a law enforcement
9 officer, hospital, physician, medical provider, or other
10 designated treatment facility shall be afforded immunity under
11 Section 36-1-12, Code of Alabama 1975, as any other state
12 employee or 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.