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3 HOUSE JUDICIARY SUBSTITUTE FOR HB284  
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8 SYNOPSIS: This bill would authorize a law enforcement  
9 officer from a designated law enforcement agency to  
10 take an individual whom the officer believes has a  
11 mental illness into protective custody under  
12 certain conditions.

13 This bill would provide for the  
14 transportation of the individual to a hospital or  
15 other facility for evaluation and treatment.

16 This bill would provide protection from  
17 civil liability to law enforcement officers,  
18 medical facilities, and medical personnel when  
19 acting pursuant to the provisions of this bill.

20 This bill would also repeal any local law  
21 that conflicts with the provisions of this bill or  
22 that establishes a similar program for placing  
23 individuals in protective custody for mental health  
24 issues, after the adoption by the respective  
25 county.  
26

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to emergency treatment of mental illness;  
5 to authorize a law enforcement officer from a designated law  
6 enforcement agency to take an individual whom the officer  
7 believes has a mental illness into protective custody under  
8 certain conditions; to provide for the transportation of the  
9 individual to a hospital or other facility for evaluation and  
10 treatment; to provide protection from civil liability to law  
11 enforcement officers, medical facilities, and medical  
12 personnel when acting pursuant to the provisions of this bill;  
13 and to repeal any local law that conflicts with the provisions  
14 of this bill or that establishes a similar program for placing  
15 individuals in protective custody for mental health issues.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. (a) For the purposes of this section, the  
18 following terms have the following meanings:

19 (1) DESIGNATED LAW ENFORCEMENT AGENCY. A law  
20 enforcement agency within a particular county that is  
21 authorized by a judge of probate to exercise the authority  
22 described in this act.

23 (2) DESIGNATED TREATMENT FACILITY. A health care  
24 facility that has a written agreement with the county to  
25 provide evaluation, treatment, and care to individuals placed  
26 in protective custody pursuant to this act or is so designated  
27 by the Department of Mental Health.

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

4                   (4) MENTAL ILLNESS. As defined in Section 22-52-1.1.

5                   (5) REGIONAL MENTAL HEALTH PROVIDER. An organization  
6 created pursuant to Chapter 51 of Title 22, Code of Alabama  
7 1975.

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 19  
11 years of age or older into protective custody when the officer  
12 has reasonable cause to believe that the individual is  
13 mentally ill and is an immediate danger to himself or herself  
14 or others.

15                   (2)a. Upon placement of an individual under  
16 protective custody pursuant to subdivision (1), the law  
17 enforcement officer shall transport the individual to a  
18 designated treatment facility for an evaluation and treatment.  
19 A certificate providing identifying information regarding the  
20 agency, time of delivery to the facility, and statement of  
21 reasonable belief for protective custody and transport shall  
22 be completed by the law enforcement officer to be provided to  
23 the regional mental health provider. This certificate is not  
24 to be considered a medical record. The regional mental health  
25 provider shall forward the certificate to the judge of probate  
26 after evaluation of the individual. While in protective

1 custody, the individual shall have the opportunity to contact  
2 an adult of the individual's choice in a timely manner.

3 b. If the individual does not consent to the  
4 transport, the officer may use reasonable force necessary to  
5 carry out the transport.

6 c. Two or more licensed physicians or one licensed  
7 physician and one or more nurse practitioners or physician  
8 assistants, after having consultation, shall sign a written  
9 statement finding, in his or her judgment, that each  
10 tentatively and independently has observed and found the  
11 individual as appearing mentally ill and in need of further  
12 observation and attention, as the individual is a danger to  
13 self or others. The statement shall be signed, and the  
14 regional mental health provider shall be contacted within 24  
15 hours of the finding in this paragraph.

16 d. The individual shall be released from the  
17 designated treatment facility within 72 hours, exclusive of  
18 Saturday, Sunday, or any legal holiday, unless a judge of  
19 probate orders further inpatient or outpatient treatment for  
20 the individual as provided in Article 1 of Chapter 52 of Title  
21 22, Code of Alabama 1975.

22 e. Upon a determination by an attending physician,  
23 nurse practitioner, or physician assistant at a designated  
24 treatment facility in this state that an individual  
25 transported to the designated treatment facility pursuant to  
26 this section is not mentally ill or a danger to self or  
27 others, this information shall be promptly communicated to the

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

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

18 (d) (1) It is the policy of this state to encourage a  
19 law enforcement officer, hospital, physician, medical  
20 provider, regional mental health center, or other designated  
21 treatment facility to act in the best interests of the  
22 individual and the state by detaining individuals who are  
23 mentally ill and a danger to themselves or others for  
24 evaluation and treatment, and protecting the rights of those  
25 individuals. The state finds that these actions are necessary  
26 to protect the individuals and the public. These entities and  
27 individuals are acting in the name of the state and are acting

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

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

16 Section 2. (a) This act shall not be applicable to  
17 any county unless and until the judge of probate with the  
18 approval of the county commission of that particular county  
19 makes a finding that there exists in the county provisions for  
20 implementation of this act and the necessary designated  
21 treatment facilities to detain persons pursuant to this act.  
22 In that event, the judge of probate shall open a case under a  
23 docket number and enter findings upon the records of the court  
24 that shall expressly state the intention to invoke this act.  
25 Notification and a copy of the court's findings and statement  
26 shall be served on all designated treatment facilities located  
27 within the county, all law enforcement agencies within the

1 county, the Commissioner of the Department of Mental Health,  
2 the Attorney General, the Secretary of State, the Governor,  
3 and any other individuals deemed appropriate by the judge of  
4 probate. In the event of changed circumstances, the judge of  
5 probate may terminate the opened case with procedures set  
6 forth in Article 1 of Chapter 52 of Title 22, Code of Alabama  
7 1975, and shall make findings accordingly and serve the  
8 parties named herein and others previously notified.

9 (b) Notwithstanding any provision in this act to the  
10 contrary, a petition for commitment pursuant to Article 1 of  
11 Chapter 52 of Title 22, Code of Alabama 1975, may be filed in  
12 the probate court of the county where the respondent is  
13 located, and any subsequent proceedings held to determine  
14 probable cause and final hearings on the merits shall be held  
15 by that probate court.

16 (c) All costs associated with a probable cause  
17 hearing, including cost of counsel, shall be paid by the State  
18 General Fund upon order of the judge of probate. However, if  
19 the petition is denied and the petitioner is not indigent and  
20 is not a law enforcement officer or other public official  
21 acting within the line and scope of his or her duties, all  
22 costs may be taxed against the petitioner, or if the petition  
23 is granted and the person sought to be committed is not  
24 indigent, the judge of probate may order all costs paid from  
25 the estate of the person committed.

26 Section 3. Any local law that conflicts with this  
27 act or that establishes a similar program for placing

1 individuals in protective custody for mental health issues,  
2 including Act No. 17 of the 1975 Second Special Session, (Acts  
3 1975, Vol. I, p. 127), as amended by Act No. 353 of the 1975  
4 Regular Session, (Acts 1975, Vol. II, p. 891), is hereby  
5 repealed, upon the adoption of this act by the respective  
6 county as provided in subsection (a) of Section 2.

7 Section 4. A designated law enforcement agency may  
8 be deauthorized from this act by the judge of probate of the  
9 respective county after notice and hearing.

10 Section 5. This act shall not be construed to modify  
11 any provision of Section 22-8-1, Code of Alabama 1975.

12 Section 6. The written agreement referred to in  
13 Section 1 shall not financially obligate the county for the  
14 cost of evaluation, treatment, or care of individuals pursuant  
15 to this act.

16 Section 7. This act shall become effective on  
17 October 1, 2021, following its passage and approval by the  
18 Governor, or its otherwise becoming law.