

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

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8 SYNOPSIS: Existing law provides for the involuntary
9 commitment of mentally ill persons to outpatient
10 treatment, but does not provide a mechanism for
11 recommitment of patients who are in need of further
12 care after the expiration of the initial outpatient
13 commitment order.

14 This bill would provide that a probate
15 court, after a hearing, may enter a renewal order
16 for involuntary commitment of mentally ill persons
17 to a mental health facility, if needed, for a
18 period not to exceed one year.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 22-52-10.2 and 22-52-10.3, Code of
25 Alabama 1975, to provide that a probate court may issue a
26 renewal of an involuntary commitment order for treatment for a
27 mentally ill person if it finds, after a hearing, that the

1 person is in need of further care; to add a new Section
2 22-52-10.10, Code of Alabama 1975, to provide procedural
3 requirements for such a renewal.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§22-52-10.2.

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

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

12 "~~(ii)~~ (2) ~~as~~ As a result of the mental illness, ~~the~~
13 respondent will, if not treated, continue to suffer mental
14 distress and will continue to experience deterioration of the
15 ability to function independently~~;~~and.

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

19 "(b) Upon a recommendation, made by the designated
20 mental health facility currently providing outpatient
21 treatment, that the respondent's outpatient commitment order
22 should be renewed, a probate court may enter an order to renew
23 the commitment order upon the expiration of time allotted for
24 treatment by the original outpatient treatment order if the
25 probate court finds, based upon clear and convincing evidence,
26 all of the following:

27 "(1) The respondent is mentally ill.

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

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

8 "§22-52-10.3.

9 "(a) At the final hearing on a petition for
10 commitment seeking the involuntary commitment of a respondent,
11 the probate court may order that the respondent participate in
12 outpatient treatment provided by a designated mental health
13 facility.

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

18 "(c) If outpatient treatment is ordered, the order
19 of the probate court may state the specific conditions to be
20 followed and shall include the general condition that the
21 respondent follow the directives and treatment plan
22 established by the designated mental health facility.

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

1 "(e) The designated mental health facility shall
2 immediately report to the probate court any material
3 noncompliance with the outpatient treatment order. The report
4 shall set forth the need for revocation of the outpatient
5 treatment order and shall be verified and filed with the
6 probate court.

7 "(f) The probate court shall set a hearing to
8 consider the motion for revocation of the outpatient treatment
9 order. The hearing procedures and safeguards set forth in this
10 article, applicable to a petition for involuntary commitment,
11 shall be followed. If at the hearing, the probate court finds,
12 based upon clear and convincing evidence, that the conditions
13 of outpatient treatment have not been met, and that the
14 respondent meets inpatient criteria, the probate court may
15 enter an order for commitment to inpatient treatment.

16 "(g) No county shall be financially responsible for
17 the cost of provision of outpatient mental health services
18 ordered pursuant to this article. The cost for the provision
19 of outpatient services are not allowable costs under Section
20 22-52-14.

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

23 §22-52-10.10

24 (a) A petition for renewal of an outpatient
25 commitment order may be filed by the director of a designated
26 mental health facility or his or her designee at least 30 days
27 prior to the expiration of the current commitment order. The

1 petition, together with a copy of the original commitment
2 order and copies of any subsequent renewal commitment orders,
3 shall be filed with the probate court of the county where the
4 facility is located. The petition shall explain in detail why
5 renewal of the order is being requested and shall include
6 testimony affirming the facility's belief that the respondent
7 meets the requirements for renewal pursuant to Section
8 22-52-10.2.

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

12 (c) Adequate written notice shall be provided to the
13 respondent prior to the hearing.

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

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

21 (f) In cases where outpatient treatment has been
22 renewed, a revocation petition seeking inpatient treatment may
23 not be filed and a new petition seeking inpatient treatment
24 shall be required.

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

