

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 111

Representatives Carfagna, Ryan

**Cosponsors: Representatives Brenner, Butler, Cupp, Dever, Duffey, Goodman,
Hambley, LaTourette, Riedel, Schaffer, Seitz, Stein, Wiggam, Young, Holmes,
O'Brien**

A BILL

To amend sections 5122.01 and 5122.10 of the 1
Revised Code to authorize certain advanced 2
practice registered nurses to have a person 3
involuntarily transported to a hospital for a 4
mental health examination. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5122.01 and 5122.10 of the 6
Revised Code be amended to read as follows: 7

Sec. 5122.01. As used in this chapter and Chapter 5119. of 8
the Revised Code: 9

(A) "Mental illness" means a substantial disorder of 10
thought, mood, perception, orientation, or memory that grossly 11
impairs judgment, behavior, capacity to recognize reality, or 12
ability to meet the ordinary demands of life. 13

(B) "Mentally ill person subject to court order" means a 14
mentally ill person who, because of the person's illness: 15

(1) Represents a substantial risk of physical harm to self 16

as manifested by evidence of threats of, or attempts at, suicide 17
or serious self-inflicted bodily harm; 18

(2) Represents a substantial risk of physical harm to 19
others as manifested by evidence of recent homicidal or other 20
violent behavior, evidence of recent threats that place another 21
in reasonable fear of violent behavior and serious physical 22
harm, or other evidence of present dangerousness; 23

(3) Represents a substantial and immediate risk of serious 24
physical impairment or injury to self as manifested by evidence 25
that the person is unable to provide for and is not providing 26
for the person's basic physical needs because of the person's 27
mental illness and that appropriate provision for those needs 28
cannot be made immediately available in the community; 29

(4) Would benefit from treatment for the person's mental 30
illness and is in need of such treatment as manifested by 31
evidence of behavior that creates a grave and imminent risk to 32
substantial rights of others or the person; 33

(5) (a) Would benefit from treatment as manifested by 34
evidence of behavior that indicates all of the following: 35

(i) The person is unlikely to survive safely in the 36
community without supervision, based on a clinical 37
determination. 38

(ii) The person has a history of lack of compliance with 39
treatment for mental illness and one of the following applies: 40

(I) At least twice within the thirty-six months prior to 41
the filing of an affidavit seeking court-ordered treatment of 42
the person under section 5122.111 of the Revised Code, the lack 43
of compliance has been a significant factor in necessitating 44
hospitalization in a hospital or receipt of services in a 45

forensic or other mental health unit of a correctional facility, 46
provided that the thirty-six-month period shall be extended by 47
the length of any hospitalization or incarceration of the person 48
that occurred within the thirty-six-month period. 49

(II) Within the forty-eight months prior to the filing of 50
an affidavit seeking court-ordered treatment of the person under 51
section 5122.111 of the Revised Code, the lack of compliance 52
resulted in one or more acts of serious violent behavior toward 53
self or others or threats of, or attempts at, serious physical 54
harm to self or others, provided that the forty-eight-month 55
period shall be extended by the length of any hospitalization or 56
incarceration of the person that occurred within the forty- 57
eight-month period. 58

(iii) The person, as a result of the person's mental 59
illness, is unlikely to voluntarily participate in necessary 60
treatment. 61

(iv) In view of the person's treatment history and current 62
behavior, the person is in need of treatment in order to prevent 63
a relapse or deterioration that would be likely to result in 64
substantial risk of serious harm to the person or others. 65

(b) An individual who meets only the criteria described in 66
division (B) (5) (a) of this section is not subject to 67
hospitalization. 68

(C) (1) "Patient" means, subject to division (C) (2) of this 69
section, a person who is admitted either voluntarily or 70
involuntarily to a hospital or other place under section 71
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 72
subsequent to a finding of not guilty by reason of insanity or 73
incompetence to stand trial or under this chapter, who is under 74

observation or receiving treatment in such place. 75

(2) "Patient" does not include a person admitted to a 76
hospital or other place under section 2945.39, 2945.40, 77
2945.401, or 2945.402 of the Revised Code to the extent that the 78
reference in this chapter to patient, or the context in which 79
the reference occurs, is in conflict with any provision of 80
sections 2945.37 to 2945.402 of the Revised Code. 81

(D) "Licensed physician" means a person licensed under the 82
laws of this state to practice medicine or a medical officer of 83
the government of the United States while in this state in the 84
performance of the person's official duties. 85

(E) "Psychiatrist" means a licensed physician who has 86
satisfactorily completed a residency training program in 87
psychiatry, as approved by the residency review committee of the 88
American medical association, the committee on post-graduate 89
education of the American osteopathic association, or the 90
American osteopathic board of neurology and psychiatry, or who 91
on July 1, 1989, has been recognized as a psychiatrist by the 92
Ohio state medical association or the Ohio osteopathic 93
association on the basis of formal training and five or more 94
years of medical practice limited to psychiatry. 95

(F) "Hospital" means a hospital or inpatient unit licensed 96
by the department of mental health and addiction services under 97
section 5119.33 of the Revised Code, and any institution, 98
hospital, or other place established, controlled, or supervised 99
by the department under Chapter 5119. of the Revised Code. 100

(G) "Public hospital" means a facility that is tax- 101
supported and under the jurisdiction of the department of mental 102
health and addiction services. 103

(H) "Community mental health services provider" means an 104
agency, association, corporation, individual, or program that 105
provides community mental health services that are certified by 106
the director of mental health and addiction services under 107
section 5119.36 of the Revised Code. 108

(I) "Licensed clinical psychologist" means a person who 109
holds a current, valid psychologist license issued under section 110
4732.12 of the Revised Code, and in addition, meets the 111
educational requirements set forth in division (B) of section 112
4732.10 of the Revised Code and has a minimum of two years' 113
full-time professional experience, or the equivalent as 114
determined by rule of the state board of psychology, at least 115
one year of which shall be a predoctoral internship, in clinical 116
psychological work in a public or private hospital or clinic or 117
in private practice, diagnosing and treating problems of mental 118
illness or intellectual disability under the supervision of a 119
psychologist who is licensed or who holds a diploma issued by 120
the American board of professional psychology, or whose 121
qualifications are substantially similar to those required for 122
licensure by the state board of psychology when the supervision 123
has occurred prior to enactment of laws governing the practice 124
of psychology. 125

(J) "Health officer" means any public health physician; 126
public health nurse; or other person authorized or designated by 127
a city or general health district or a board of alcohol, drug 128
addiction, and mental health services to perform the duties of a 129
health officer under this chapter. 130

(K) "Chief clinical officer" means the medical director of 131
a hospital, community mental health services provider, or board 132
of alcohol, drug addiction, and mental health services, or, if 133

there is no medical director, the licensed physician responsible 134
for the treatment provided by a hospital or community mental 135
health services provider. The chief clinical officer may 136
delegate to the attending physician responsible for a patient's 137
care the duties imposed on the chief clinical officer by this 138
chapter. ~~Within~~ In the case of a community mental health 139
services provider, the chief clinical officer shall be 140
designated by the governing body of the services provider and 141
shall be a licensed physician or licensed clinical psychologist 142
who supervises diagnostic and treatment services. A licensed 143
physician or licensed clinical psychologist designated by the 144
chief clinical officer may perform the duties and accept the 145
responsibilities of the chief clinical officer in the chief 146
clinical officer's absence. 147

(L) "Working day" or "court day" means Monday, Tuesday, 148
Wednesday, Thursday, and Friday, except when such day is a 149
holiday. 150

(M) "Indigent" means unable without deprivation of 151
satisfaction of basic needs to provide for the payment of an 152
attorney and other necessary expenses of legal representation, 153
including expert testimony. 154

(N) "Respondent" means the person whose detention, 155
commitment, hospitalization, continued hospitalization or 156
commitment, or discharge is being sought in any proceeding under 157
this chapter. 158

(O) "Ohio protection and advocacy system" has the same 159
meaning as in section 5123.60 of the Revised Code. 160

(P) "Independent expert evaluation" means an evaluation 161
conducted by a licensed clinical psychologist, psychiatrist, or 162

licensed physician who has been selected by the respondent or 163
the respondent's counsel and who consents to conducting the 164
evaluation. 165

(Q) "Court" means the probate division of the court of 166
common pleas. 167

(R) "Expunge" means: 168

(1) The removal and destruction of court files and 169
records, originals and copies, and the deletion of all index 170
references; 171

(2) The reporting to the person of the nature and extent 172
of any information about the person transmitted to any other 173
person by the court; 174

(3) Otherwise insuring that any examination of court files 175
and records in question shall show no record whatever with 176
respect to the person; 177

(4) That all rights and privileges are restored, and that 178
the person, the court, and any other person may properly reply 179
that no such record exists, as to any matter expunged. 180

(S) "Residence" means a person's physical presence in a 181
county with intent to remain there, except that: 182

(1) If a person is receiving a mental health service at a 183
facility that includes nighttime sleeping accommodations, 184
residence means that county in which the person maintained the 185
person's primary place of residence at the time the person 186
entered the facility; 187

(2) If a person is committed pursuant to section 2945.38, 188
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 189
residence means the county where the criminal charges were 190

filed. 191

When the residence of a person is disputed, the matter of 192
residence shall be referred to the department of mental health 193
and addiction services for investigation and determination. 194
Residence shall not be a basis for a board's denying services to 195
any person present in the board's service district, and the 196
board shall provide services for a person whose residence is in 197
dispute while residence is being determined and for a person in 198
an emergency situation. 199

(T) "Admission" to a hospital or other place means that a 200
patient is accepted for and stays at least one night at the 201
hospital or other place. 202

(U) "Prosecutor" means the prosecuting attorney, village 203
solicitor, city director of law, or similar chief legal officer 204
who prosecuted a criminal case in which a person was found not 205
guilty by reason of insanity, who would have had the authority 206
to prosecute a criminal case against a person if the person had 207
not been found incompetent to stand trial, or who prosecuted a 208
case in which a person was found guilty. 209

(V) (1) "Treatment plan" means a written statement of 210
reasonable objectives and goals for an individual established by 211
the treatment team, with specific criteria to evaluate progress 212
towards achieving those objectives. 213

(2) The active participation of the patient in 214
establishing the objectives and goals shall be documented. The 215
treatment plan shall be based on patient needs and include 216
services to be provided to the patient while the patient is 217
hospitalized, after the patient is discharged, or in an 218
outpatient setting. The treatment plan shall address services to 219

be provided. In the establishment of the treatment plan, 220
consideration should be given to the availability of services, 221
which may include but are not limited to all of the following: 222

- (a) Community psychiatric supportive treatment; 223
- (b) Assertive community treatment; 224
- (c) Medications; 225
- (d) Individual or group therapy; 226
- (e) Peer support services; 227
- (f) Financial services; 228
- (g) Housing or supervised living services; 229
- (h) Alcohol or substance abuse treatment; 230
- (i) Any other services prescribed to treat the patient's 231
mental illness and to either assist the patient in living and 232
functioning in the community or to help prevent a relapse or a 233
deterioration of the patient's current condition. 234

(3) If the person subject to the treatment plan has 235
executed an advanced directive for mental health treatment, the 236
treatment team shall consider any directions included in such 237
advanced directive in developing the treatment plan. 238

(W) "Community control sanction" has the same meaning as 239
in section 2929.01 of the Revised Code. 240

(X) "Post-release control sanction" has the same meaning 241
as in section 2967.01 of the Revised Code. 242

(Y) "Local correctional facility" has the same meaning as 243
in section 2903.13 of the Revised Code. 244

(Z) "Clinical nurse specialist" and "certified nurse 245

practitioner" have the same meanings as in section 4723.01 of 246
the Revised Code. 247

Sec. 5122.10. (A) (1) Any psychiatrist, licensed clinical 248
psychologist, licensed physician, health officer, parole 249
officer, police officer, or sheriff of the following who has 250
reason to believe that a person is a mentally ill person subject 251
to court order and represents a substantial risk of physical 252
harm to self or others if allowed to remain at liberty pending 253
examination may take a the person into custody, or the chief of 254
the adult parole authority or a parole or probation officer with 255
the approval of the chief of the authority may take a parolee, 256
an offender under a community control sanction or a post-release 257
control sanction, or an offender under transitional control into 258
eustody and may immediately transport the parolee, offender on 259
community control or post-release control, or offender under 260
transitional control person to a hospital or, notwithstanding 261
section 5119.33 of the Revised Code, to a general hospital not 262
licensed by the department of mental health and addiction 263
services where the parolee, offender on community control or 264
post-release control, or offender under transitional control 265
person may be held for the period prescribed in this section, if 266
the psychiatrist, licensed clinical psychologist, licensed 267
physician, health officer, parole officer, police officer, or 268
sheriff has reason to believe that the person is a mentally ill 269
person subject to court order under division (B) of section 270
5122.01 of the Revised Code, and represents a substantial risk 271
of physical harm to self or others if allowed to remain at 272
liberty pending examination: 273

(a) A psychiatrist; 274

(b) A licensed physician; 275

<u>(c) A licensed clinical psychologist;</u>	276
<u>(d) A clinical nurse specialist who is certified as a</u>	277
<u>psychiatric-mental health CNS by the American nurses</u>	278
<u>credentialing center or holds a similar certification from a</u>	279
<u>national certifying organization approved by the board of</u>	280
<u>nursing under section 4723.46 of the Revised Code;</u>	281
<u>(e) A certified nurse practitioner who is certified as a</u>	282
<u>psychiatric-mental health NP by the American nurses</u>	283
<u>credentialing center or holds a similar certification from a</u>	284
<u>national certifying organization approved by the board of</u>	285
<u>nursing under section 4723.46 of the Revised Code;</u>	286
<u>(f) A health officer;</u>	287
<u>(g) A parole officer;</u>	288
<u>(h) A police officer;</u>	289
<u>(i) A sheriff.</u>	290
<u>(2) If the chief of the adult parole authority or a parole</u>	291
<u>or probation officer with the approval of the chief of the</u>	292
<u>authority has reason to believe that a parolee, an offender</u>	293
<u>under a community control sanction or post-release control</u>	294
<u>sanction, or an offender under transitional control is a</u>	295
<u>mentally ill person subject to court order and represents a</u>	296
<u>substantial risk of physical harm to self or others if allowed</u>	297
<u>to remain at liberty pending examination, the chief or officer</u>	298
<u>may take the parolee or offender into custody and may</u>	299
<u>immediately transport the parolee or offender to a hospital or,</u>	300
<u>notwithstanding section 5119.33 of the Revised Code, to a</u>	301
<u>general hospital not licensed by the department of mental health</u>	302
<u>and addiction services where the parolee or offender may be held</u>	303
<u>for the period prescribed in this section.</u>	304

(B) A written statement shall be given to ~~such the~~ 305
hospital by the ~~transporting psychiatrist, licensed clinical~~ 306
~~psychologist, licensed physician, health officer, parole~~ 307
~~officer, police officer, chief of the adult parole authority,~~ 308
~~parole or probation officer, or sheriff stating individual~~ 309
authorized under division (A) (1) or (2) of this section to 310
transport the person. The statement shall specify the 311
circumstances under which such person was taken into custody and 312
the reasons for the ~~psychiatrist's, licensed clinical~~ 313
~~psychologist's, licensed physician's, health officer's, parole~~ 314
~~officer's, police officer's, chief of the adult parole~~ 315
~~authority's, parole or probation officer's, or sheriff's belief~~ 316
that the person is a mentally ill person subject to court order 317
and represents a substantial risk of physical harm to self or 318
others if allowed to remain at liberty pending examination. This 319
statement shall be made available to the respondent or the 320
respondent's attorney upon request of either. 321

(C) Every reasonable and appropriate effort shall be made 322
to take persons into custody in the least conspicuous manner 323
possible. A person taking the respondent into custody pursuant 324
to this section shall explain to the respondent: the name and 325
professional designation and affiliation of the person taking 326
the respondent into custody; that the custody-taking is not a 327
criminal arrest; and that the person is being taken for 328
examination by mental health professionals at a specified mental 329
health facility identified by name. 330

(D) If a person taken into custody under this section is 331
transported to a general hospital, the general hospital may 332
admit the person, or provide care and treatment for the person, 333
or both, notwithstanding section 5119.33 of the Revised Code, 334
but by the end of twenty-four hours after arrival at the general 335

hospital, the person shall be transferred to a hospital as 336
defined in section 5122.01 of the Revised Code. 337

(E) A person transported or transferred to a hospital or 338
community mental health services provider under this section 339
shall be examined by the staff of the hospital or services 340
provider within twenty-four hours after arrival at the hospital 341
or services provider. If to conduct the examination requires 342
that the person remain overnight, the hospital or services 343
provider shall admit the person in an unclassified status until 344
making a disposition under this section. After the examination, 345
if the chief clinical officer of the hospital or services 346
provider believes that the person is not a mentally ill person 347
subject to court order, the chief clinical officer shall release 348
or discharge the person immediately unless a court has issued a 349
temporary order of detention applicable to the person under 350
section 5122.11 of the Revised Code. After the examination, if 351
the chief clinical officer believes that the person is a 352
mentally ill person subject to court order, the chief clinical 353
officer may detain the person for not more than three court days 354
following the day of the examination and during such period 355
admit the person as a voluntary patient under section 5122.02 of 356
the Revised Code or file an affidavit under section 5122.11 of 357
the Revised Code. If neither action is taken and a court has not 358
otherwise issued a temporary order of detention applicable to 359
the person under section 5122.11 of the Revised Code, the chief 360
clinical officer shall discharge the person at the end of the 361
three-day period unless the person has been sentenced to the 362
department of rehabilitation and correction and has not been 363
released from the person's sentence, in which case the person 364
shall be returned to that department. 365

Section 2. That existing sections 5122.01 and 5122.10 of 366

the Revised Code are hereby repealed.

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