

**SB240 ENROLLED**



1 SB240  
2 7LQ822E-3  
3 By Senator Barfoot  
4 RFD: Judiciary  
5 First Read: 21-Mar-24



## SB240 Enrolled

1 Enrolled, An Act,

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4 Relating to the Alabama Department of Mental Health; to  
5 amend Sections 22-52-1.1, 22-52-1.2, 22-52-3, 22-52-7,  
6 22-52-10.1, as last amended by Act 2023-472 of the 2023  
7 Regular Session, 22-52-10.2, 22-52-10.4, 22-52-10.11, and  
8 22-52-11 of the Code of Alabama 1975; to authorize a judge of  
9 probate to involuntarily commit an individual who suffers from  
10 a substance use disorder that occurs secondarily to a primary  
11 diagnosis of one or more mental illnesses; to provide for a  
12 change in jurisdiction of the sheriff who is required to serve  
13 the commitment petition on the respondent; to authorize the  
14 judge of probate to establish a procedure for placing  
15 limitations on the respondent's liberty, if any, pending a  
16 final hearing; to allow the judge of probate to determine the  
17 appropriate medical evaluation process, if any, for the  
18 respondent prior to final hearing; and to add Section 15-16-26  
19 to the Code of Alabama 1975, to provide a process for the  
20 committing judge of probate to seek relief for the respondent  
21 from temporary criminal confinement, under certain  
22 circumstances, to fulfill a pending commitment order; and to  
23 provide that mental health providers are not required to  
24 expand existing services unless its currently available funds  
25 support the expansion.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

27 Section 1. Sections 22-52-1.1, 22-52-1.2, 22-52-3,  
28 22-52-7, 22-52-10.1, as last amended by Act 2023-472, of the



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29 2023 Regular Session, 22-52-10.2, 22-52-10.4, 22-52-10.11 and  
30 22-52-11, Code of Alabama 1975, are amended to read as  
31 follows:

32 "§22-52-1.1

33 (a) When used in this article, the following terms  
34 ~~shall~~ have the following meanings, ~~respectively~~, unless the  
35 context clearly indicates otherwise:

36 (1) COMMISSIONER. The Commissioner of the Alabama State  
37 Department of Mental Health.

38 (2) CO-OCCURRING SUBSTANCE USE DISORDER. A substance  
39 use disorder that occurs secondarily to a primary diagnosis of  
40 one or more mental illnesses.

41 ~~(2)~~ (3) DEPARTMENT. The Alabama State Department of  
42 Mental Health.

43 ~~(3)~~ (4) DESIGNATED MENTAL HEALTH FACILITY. A mental  
44 health facility, other than a state mental health facility,  
45 which is designated by the State Department of Mental Health  
46 to receive individuals for evaluation, examination, admission,  
47 detention, or treatment pursuant to this article.

48 ~~(4)~~ (5) INPATIENT TREATMENT. Treatment being provided to  
49 an individual at a state mental health facility or a  
50 designated mental health facility which has been specifically  
51 designated by the department for inpatient treatment.

52 ~~(5)~~ (6) INVOLUNTARY COMMITMENT. Court-ordered mental  
53 health services in either an outpatient or inpatient setting.

54 ~~(6)~~ (7) MENTAL ILLNESS. A psychiatric disorder of  
55 thought or mood which significantly impairs judgment,  
56 behavior, capacity to recognize reality, or ability to cope



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57 with the ordinary demands of life~~, or a diagnosis designated~~  
58 as a Serious Mental Illness (SMI), as defined in the then  
59 current edition of the Diagnostic and Statistical Manual of  
60 Mental Disorders. The term specifically excludes the primary  
61 diagnosis of epilepsy, a substance use disorder, an  
62 intellectual disability, ~~substance abuse, including~~  
63 alcoholism, or a developmental disability.

64 ~~(7)~~ (8) OUTPATIENT TREATMENT. Treatment being provided  
65 to an individual in a nonresidential setting who is not  
66 admitted for 24-hour-a-day care.

67 ~~(8)~~ (9) REAL AND PRESENT THREAT OF SUBSTANTIAL HARM TO  
68 SELF OR OTHERS. A significant risk that an individual who is  
69 exhibiting behavior consistent with a mental illness, as a  
70 result of the mental illness, will do either of the following:

71 a. By action or inaction, cause, allow, or inflict  
72 serious bodily harm upon himself, herself, or another  
73 individual.

74 b. Be unable to satisfy his or her need for  
75 nourishment, medical care, shelter, or self-protection so that  
76 there is a substantial likelihood of death, serious bodily  
77 harm, serious physical debilitation, serious mental  
78 debilitation, or life-threatening disease.

79 ~~(9)~~ (10) RESPONDENT. An individual for whom a petition  
80 for commitment to mental health services has been filed.

81 ~~(10)~~ (11) STATE MENTAL HEALTH FACILITY. A mental health  
82 facility operated by the Alabama State Department of Mental  
83 Health.

84 (12) SUBSTANCE USE DISORDER. A cluster of cognitive,



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85 behavioral, and physiological symptoms indicating that the  
86 individual continues using a substance despite significant  
87 substance-related problems, such as impaired control, social  
88 impairment, risky behaviors, and pharmacological tolerance and  
89 withdrawal.

90 (b) The Legislature finds for purposes of this article  
91 substance use disorder is commonly associated with mental  
92 illness and providers who provide these services serve a  
93 public purpose."

94 "§22-52-1.2

95 (a) Any ~~person~~ individual may file a petition seeking  
96 the involuntary commitment of another ~~person~~ individual. The  
97 petition shall be filed in the probate court of the county in  
98 which the respondent is located. The petition shall be in  
99 writing, executed under oath, and shall include the following  
100 information:

101 (1) The name and address, if known, of the respondent.

102 (2) The name and address, if known, of the respondent's  
103 spouse, legal counsel, or next-of-kin.

104 (3) That the petitioner has reason to believe the  
105 respondent is mentally ill or is mentally ill with a secondary  
106 diagnosis of co-occurring substance use disorder.

107 (4) That the beliefs of the petitioner are based on  
108 specific behavior, acts, attempts, or threats, which shall be  
109 specified and described in detail.

110 (5) The names and addresses of other ~~persons~~  
111 individuals with knowledge of the respondent's mental illness  
112 or mental illness with a secondary diagnosis of co-occurring



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113 substance use disorder who may be called as witnesses.

114           The petition may be accompanied by any other relevant  
115 information.

116           (b) The home address and the telephone number of the  
117 petitioner shall be excluded from the copy of the petition  
118 seeking the involuntary commitment provided to the respondent,  
119 however, if there is no other available address to contact the  
120 petitioner, then the home address of the petitioner shall be  
121 provided."

122           "§22-52-3

123           When any petition has been filed seeking the  
124 involuntary commitment of a respondent and ~~such~~ the petition  
125 has been reviewed by the ~~probate judge~~ judge of probate, the  
126 ~~probate judge~~ judge of probate shall order the sheriff of the  
127 county in which the respondent ~~is~~ was located at the time of  
128 the filing to serve a copy of the petition, together with a  
129 copy of the order setting the petition for a hearing, upon the  
130 respondent. ~~Said~~ The notice shall include the date, time and  
131 place of the hearing; a clear statement of the purpose of the  
132 proceeding and the possible consequences to the subject  
133 thereof; the alleged factual basis for the proposed  
134 commitment; a statement of the legal standards upon which  
135 commitment is authorized; and a list of the names and  
136 addresses of the witnesses who may be called to testify in  
137 support of the petition. The hearing shall be preceded by  
138 adequate notice to the respondent."

139           "§22-52-7

140           (a) (1) When a petition has been filed seeking to have



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141 limitations placed upon the liberty of a respondent pending  
142 the outcome of a final hearing on the merits, the ~~probate~~  
143 ~~judge~~ judge of probate shall order the sheriff of the county  
144 in which the respondent ~~is~~ was located at the time of the  
145 filing to serve a copy of the petition upon the respondent and  
146 to either bring the respondent before the judge of probate  
147 ~~probate judge~~ instante ~~or~~ be evaluated as provided in  
148 subsection (2).

149         (2) When any respondent against whom a petition has  
150 been filed seeking to have limitations placed upon the  
151 respondent's liberty pending the outcome of a full and final  
152 hearing on the merits is initially brought before the ~~probate~~  
153 ~~judge~~ judge of probate, the ~~probate judge~~ judge of probate shall  
154 determine from an interview with the respondent ~~and with other~~  
155 ~~available persons~~ what limitations, if any, shall be imposed  
156 upon the respondent's liberty and what temporary treatment, if  
157 any, shall be imposed upon the respondent pending further  
158 hearings. In making these determinations, the judge of probate  
159 may also interview any other available individuals or officers  
160 and may consult with or seek an evaluation by a licensed  
161 medical physician or qualified mental health professional. If  
162 limitations on the respondent's liberty are ordered, the  
163 ~~probate judge~~ judge of probate may order the respondent  
164 detained under the provisions of this section at a designated  
165 mental health facility or a hospital.

166         (b) No limitations shall be placed upon the  
167 respondent's liberty nor treatment imposed upon the respondent  
168 unless such limitations are determined necessary by the judge



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169 of probate to prevent the respondent from ~~doing substantial~~  
170 ~~and immediate harm to himself or to others~~ posing a real and  
171 present threat of substantial harm to self or others or to  
172 prevent the respondent from leaving the jurisdiction of the  
173 court. No respondent shall be placed in a jail or other  
174 facility for ~~persons~~ individuals accused of or convicted of  
175 committing crimes.

176 (c) The ~~probate judge~~ judge of probate shall order the  
177 respondent to appear at the times and places set for hearing  
178 the petition and may order the respondent to appear at  
179 designated times and places to be examined by licensed medical  
180 doctors or qualified mental health professionals. If the  
181 respondent does not appear as ordered by the ~~probate judge~~  
182 judge of probate, or if the judge of probate determines it is  
183 likely the respondent will not appear, the ~~probate judge~~ judge  
184 of probate may order the sheriff of the county in which the  
185 respondent ~~is~~ was located at the time of the filing to take the  
186 respondent into custody and compel the respondent's attendance  
187 as ordered by the ~~probate judge~~ judge of probate. If temporary  
188 treatment or admittance to a hospital is ordered for the  
189 respondent, ~~such~~ the treatment shall be supervised by a  
190 licensed medical ~~doctor~~ physician or qualified mental health  
191 professional who has willingly consented to treat the  
192 respondent, and admission to a hospital shall be ordered by a  
193 licensed medical doctor who has willingly consented to admit  
194 and treat the respondent."

195 "§22-52-10.1

196 (a) If at the final hearing on a petition seeking to





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197 involuntarily commit a respondent, the judge of probate finds,  
198 based on clear and convincing evidence, that the respondent  
199 meets the criteria for involuntary commitment, an order shall  
200 be entered for either of the following:

201 (1) Outpatient treatment.

202 (2) Inpatient treatment.

203 (b) The least restrictive alternative necessary and  
204 available for the treatment of the respondent's mental illness  
205 or mental illness with a secondary diagnosis of co-occurring  
206 substance use disorder shall be ordered.

207 (c) The petition for involuntary commitment shall be  
208 dismissed if the criteria for commitment is not proved.

209 (d) (1) The judge of probate shall immediately report an  
210 order for involuntary commitment to the Alabama State Law  
211 Enforcement Agency, in a manner prescribed by the Alabama  
212 Justice Information Commission, for entry into the state  
213 firearms prohibited person database and the National Instant  
214 Criminal Background Check (NICS) system.

215 (2) The judge of probate shall report to the Alabama  
216 State Law Enforcement Agency, in a method determined by the  
217 commission, updates to any order for involuntary commitment  
218 that was previously forwarded to the Alabama State Law  
219 Enforcement Agency under this section, including notice of any  
220 reversal of petition or appeal."

221 "§22-52-10.2

222 (a) A respondent may be committed to outpatient  
223 treatment if the probate court, based upon clear and  
224 convincing evidence, finds all of the following:



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225 (1) The respondent has a mental illness or a mental  
226 illness with a secondary diagnosis of co-occurring substance  
227 use disorder.

228 (2) As a result of the mental illness, or mental  
229 illness with secondary diagnosis of co-occurring substance use  
230 disorder, the respondent, if not treated, will suffer mental  
231 distress and experience deterioration of the ability to  
232 function independently.

233 (3) The respondent is unable to maintain consistent  
234 engagement with outpatient treatment on a voluntary basis, as  
235 demonstrated by either of the following:

236 a. The respondent's actions occurring within the  
237 two-year period immediately preceding the hearing.

238 b. Specific aspects of the respondent's clinical  
239 condition that significantly impair the respondent's ability  
240 to consistently make rational and informed decisions as to  
241 whether to participate in treatment for mental illness.

242 (b) Upon a recommendation made by the designated mental  
243 health facility currently providing outpatient treatment that  
244 the respondent's outpatient commitment order should be  
245 renewed, a probate court may enter an order to renew the  
246 commitment order upon the expiration of time allotted for  
247 treatment by the original outpatient treatment order if the  
248 judge of probate~~court~~ finds, based upon clear and convincing  
249 evidence, all of the following:

250 (1) The respondent has a mental illness or a mental  
251 illness with a secondary diagnosis of co-occurring substance  
252 use disorder.



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253 (2) As a result of the mental illness or mental illness  
254 with a secondary diagnosis of co-occurring substance use  
255 disorder, the respondent, if treatment is not continued, will  
256 suffer mental distress and experience deterioration of the  
257 ability to function independently.

258 (3) The respondent remains unable to maintain  
259 consistent engagement with outpatient treatment on a voluntary  
260 basis."

261 "§22-52-10.4

262 (a) A respondent may be committed to inpatient  
263 treatment if the judge of probate~~court~~, based upon clear and  
264 convincing evidence, finds that all of the following are true:

265 (1) The respondent has a mental illness or a mental  
266 illness with a secondary diagnosis of co-occurring substance  
267 use disorder.

268 (2) As a result of the mental illness~~,~~ or mental  
269 illness with a secondary diagnosis of co-occurring substance  
270 use disorder, the respondent poses a real and present threat  
271 of substantial harm to self or others.

272 (3) The respondent, if not treated, will continue to  
273 suffer mental distress and continue to experience  
274 deterioration of the ability to function independently.

275 (4) The respondent is unable to make a rational and  
276 informed decision as to whether or not treatment for mental  
277 illness or mental illness with a secondary diagnosis of  
278 co-occurring substance use disorder would be desirable.

279 (b) If the ~~probate judge~~ judge of probate finds that no  
280 treatment is presently available for the respondent's mental



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281 illness or mental illness with a secondary diagnosis of  
282 co-occurring substance use disorder, but that confinement is  
283 necessary to prevent the respondent from causing substantial  
284 harm to himself or herself or to others, the order committing  
285 the respondent shall provide that, should treatment for the  
286 respondent's mental illness or mental illness with a secondary  
287 diagnosis of co-occurring substance use disorder become  
288 available at any time during the period of the respondent's  
289 confinement, the treatment shall be made available to him or  
290 her immediately.

291 (c) In determining whether an individual poses a real  
292 and present threat of substantial harm to self or others, all  
293 available relevant information shall be considered, including  
294 any known relevant aspects of the individual's psychosocial,  
295 medical, and psychiatric history, in addition to the  
296 individual's current behavior.

297 (d) Nothing in this section shall be construed as  
298 requiring a mental health provider to expand their current  
299 services if necessary funding is not provided."

300 "§22-52-10.11

301 (a) The director of a state mental health facility or  
302 designated mental health facility to which a respondent is  
303 currently committed for inpatient treatment, not later than 30  
304 days prior to the expiration of the current commitment order,  
305 shall assess the appropriateness of transferring the  
306 respondent to outpatient treatment as the least restrictive  
307 alternative necessary and available for the treatment of the  
308 respondent's mental illness or mental illness with a secondary



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309 diagnosis of co-occurring substance use disorder. The director  
310 may recommend to the probate court in writing that the order  
311 be modified to commit the respondent to outpatient treatment.

312 (b) A recommendation under subsection (a) shall do both  
313 of the following:

314 (1) State the grounds for the director's determination  
315 that outpatient treatment is the least restrictive alternative  
316 necessary and available for the treatment of the respondent's  
317 mental illness or mental illness with a secondary diagnosis of  
318 co-occurring substance use disorder.

319 (2) Identify the designated mental health facility to  
320 which the director recommends that the respondent be committed  
321 for outpatient treatment.

322 (c) Notice of the recommendation under subsection (a)  
323 shall be provided to both of the following:

324 (1) The respondent.

325 (2) The director of the designated mental health  
326 facility identified under subsection (b), unless the director  
327 is the individual making the recommendation.

328 (d) Upon request of the respondent or any other  
329 interested party, the probate court shall hold a hearing on  
330 the recommendation. The ~~probate court~~ judge of probate shall  
331 appoint an attorney to represent the respondent at the  
332 hearing. The hearing shall be conducted in accordance with  
333 Section 22-52-9.

334 (e) If a hearing is not requested, the judge of probate  
335 ~~court~~ may make a decision regarding the facility director's  
336 recommendation based upon both of the following:



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337 (1) The grounds stated in the recommendation.

338 (2) Consultation with the director of the designated  
339 mental health facility, or his or her designee, concerning the  
340 availability of resources to treat the respondent as an  
341 outpatient.

342 (f) If the probate court modifies the order, the  
343 modified order shall conform to all requirements of an  
344 original commitment to outpatient treatment under Section  
345 22-52-10.3, except that the modified order may not extend  
346 beyond the term of the original order by more than 60 days."

347 Section 2. Section 15-16-26 is added to the Code of  
348 Alabama 1975, to read as follows:

349 §15-16-26

350 Notwithstanding Section 15-16-20, Code of Alabama 1975,  
351 if a commitment order has been issued pursuant to Title 22,  
352 Chapter 52, Code of Alabama 1975, but cannot be fulfilled  
353 because the respondent is subsequently confined solely for  
354 misdemeanor charges or municipal ordinance violations, the  
355 judge of probate who issued the commitment order may  
356 communicate with the judge of the district, municipal or  
357 circuit court who ordered the respondent to be confined to  
358 discuss whether he or she will issue an order to discharge the  
359 respondent from confinement and suspend the criminal  
360 proceedings temporarily so that the commitment order may be  
361 fulfilled. The court shall give the prosecuting attorney an  
362 opportunity to object to the discharge order.

363 Section 3. This act shall become effective on January  
364 1, 2025.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB240

Senate 09-Apr-24

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: 25-Apr-24

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By: Senator Barfoot