

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

1 SB246

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4 ENROLLED, An Act,

5 To amend Sections 22-52-10.2 and 22-52-10.3, Code of
6 Alabama 1975, to provide that a probate court may issue a
7 renewal of an involuntary commitment order for treatment for a
8 mentally ill person if it finds, after a hearing, that the
9 person is in need of further care; to add a new Section
10 22-52-10.10, Code of Alabama 1975, to provide procedural
11 requirements for such a renewal.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 "§22-52-10.2.

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

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

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

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

4 "(b) Upon a recommendation, made by the designated
5 mental health facility currently providing outpatient
6 treatment, that the respondent's outpatient commitment order
7 should be renewed, a probate court may enter an order to renew
8 the commitment order upon the expiration of time allotted for
9 treatment by the original outpatient treatment order if the
10 probate court finds, based upon clear and convincing evidence,
11 all of the following:

12 "(1) The respondent is mentally ill.

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

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

20 "§22-52-10.3.

21 "(a) At the final hearing on a petition for
22 commitment seeking the involuntary commitment of a respondent,
23 the probate court may order that the respondent participate in
24 outpatient treatment provided by a designated mental health
25 facility.

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

5 "(c) If outpatient treatment is ordered, the order
6 of the probate court may state the specific conditions to be
7 followed and shall include the general condition that the
8 respondent follow the directives and treatment plan
9 established by the designated mental health facility.

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

14 "(e) The designated mental health facility shall
15 immediately report to the probate court any material
16 noncompliance with the outpatient treatment order. The report
17 shall set forth the need for revocation of the outpatient
18 treatment order and shall be verified and filed with the
19 probate court.

20 "(f) The probate court shall set a hearing to
21 consider the motion for revocation of the outpatient treatment
22 order. The hearing procedures and safeguards set forth in this
23 article, applicable to a petition for involuntary commitment,
24 shall be followed. If at the hearing, the probate court finds,
25 based upon clear and convincing evidence, that the conditions

1 of outpatient treatment have not been met, and that the
2 respondent meets inpatient criteria, the probate court may
3 enter an order for commitment to inpatient treatment.

4 "(g) No county shall be financially responsible for
5 the cost of provision of outpatient mental health services
6 ordered pursuant to this article. The cost for the provision
7 of outpatient services are not allowable costs under Section
8 22-52-14.

9 Section 22-52-10.10, is added to the Code of Alabama
10 1975, to read as follows:

11 §22-52-10.10

12 (a) A petition for renewal of an outpatient
13 commitment order may be filed by the director of a designated
14 mental health facility or his or her designee at least 30 days
15 prior to the expiration of the current commitment order. The
16 petition, together with a copy of the original commitment
17 order and copies of any subsequent renewal commitment orders,
18 shall be filed with the probate court of the county where the
19 ~~facility is located~~ commitment was originally ordered. The
20 petition shall explain in detail why renewal of the order is
21 being requested and shall include testimony affirming the
22 facility's belief that the respondent meets the requirements
23 for renewal pursuant to Section 22-52-10.2.

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

4 (c) Adequate written notice shall be provided to the
5 respondent prior to the hearing.

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

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

13 (f) In cases where outpatient treatment has been
14 renewed, a revocation petition seeking inpatient treatment may
15 not be filed and a new petition seeking inpatient treatment
16 shall be required.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB246

Senate 18-APR-19

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 23-MAY-19

By: Senator Gudger