Ohio Legislative Service Commission

Bill Analysis

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H.B. 281

128th General Assembly
(As Introduced)

Reps. Yuko, Foley, Ujvagi, Hagan, Fende, Chandler, Murray

BILL SUMMARY

- Authorizes a professional clinical counselor, independent social worker, independent marriage and family therapist, or certified nurse practitioner or clinical nurse specialist who specializes in mental health or psychiatric mental health to take into custody for transportation to a medical facility a person whom the health care professional believes is a mentally ill person subject to hospitalization by court order and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

CONTENT AND OPERATION

Authorization to take a mentally ill person into custody

Under current law, any psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff may take a person into custody if the psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff has reason to believe that the person is a mentally ill person subject to hospitalization by court order under R.C. 5122.01(B) and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination. In addition, the Chief of the Adult Parole Authority or a parole or probation officer with the approval of the Chief may take a parolee, an offender under a community control sanction or a post-release control sanction, or an offender under transitional control into custody and may immediately transport that person to a "hospital" (a medical facility licensed by the Department of Mental Health) or to a general hospital not licensed by the Department, to be held for a prescribed period (see **COMMENT**). The wording of the statute is ambiguous, but the intent appears to be that the language regarding transportation of a person taken into custody also applies to a psychiatrist, licensed clinical psychologist, licensed physician, health

officer, parole officer, police officer, or sheriff who takes the person into custody. (R.C. 5122.10.)

The bill clarifies the language of R.C. 5122.10 by separating the two categories of persons who may take someone into custody and by explicitly applying the transportation language to each category. One category, expanded by the bill (as indicated by the italics), consists of psychiatrists, licensed physicians, licensed clinical psychologists, *licensed professional clinical counselors, licensed independent social workers, licensed independent marriage and family therapists, registered nurses who hold a certificate of authority that authorizes the practice of nursing as a certified nurse practitioner or clinical nurse specialist and who practice the nursing specialty of mental health or psychiatric mental health,* health officers, parole officers, police officers, and sheriffs. Any of these individuals who has reason to believe that a person is a mentally ill person subject to hospitalization by court order and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination may take the person into custody and may immediately transport the person to a hospital or to a general hospital not licensed by the Department of Mental Health where the person may be held for the prescribed period. (R.C. 5122.10(A)(1).)

In a separate division, the bill restates existing law regarding the authority of individuals in the second category--the Chief of the Adult Parole Authority or a parole or probation officer with the approval of the Chief--to take into custody and transport a parolee, an offender under a community control sanction or post-release control sanction, or an offender under transitional control whom the Chief or the officer has reason to believe is a mentally ill person subject to hospitalization by court order under R.C. 5122.01 and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination (R.C. 5122.10(A)(2)).

COMMENT

Current law, unchanged by the bill except for the addition of division designations in the statute, provides that a person taken into custody under R.C. 5122.10 and transported to a general hospital may be admitted, given care and treatment, or both, but by the end of 24 hours after arrival the person must be transferred to a medical facility licensed by the Department of Mental Health. A person transported or transferred to a hospital or community mental health agency licensed by the Department must be examined within 24 hours after arrival. If the person remains overnight in order to be examined, the hospital or agency must admit the person in an unclassified status until making a disposition. After the examination, if the chief clinical officer of the hospital or agency believes that the person is not a mentally ill person subject to hospitalization by court order, the person must be released or discharged

immediately unless a court has issued a temporary order of detention. If the chief clinical officer believes that the person is a mentally ill person subject to hospitalization by court order, the person may be detained for not more than three court days following the examination. During that period, the chief clinical officer must admit the person as a voluntary patient or file an affidavit stating the chief clinical officer's grounds for believing that the person is a mentally ill person subject to hospitalization by court order. If neither action is taken and a court has not otherwise issued a temporary order of detention, the chief clinical officer must discharge the person at the end of the three-day period unless the person has been sentenced to the Department of Rehabilitation and Correction and has not been released from the person's sentence, in which case the person must be returned to that Department. (R.C. 5122.10(D) and (E).)

HISTORY

ACTION	DATE
Introduced	09-17-09

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