

**As Reported by the House Health and Aging Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 217**

**Representative Ruhl**

**Cosponsors: Representatives Becker, Blessing, Barnes, Schuring**

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**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; ~~or~~ 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 hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

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

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

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

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

(H) "Community mental health services provider" means an

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 mental retardation 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 by or designated 127  
by a city health district; a general health district; or a board 128  
of alcohol, drug addiction, and mental health services to 129  
perform the duties of a health officer under this chapter. 130

(K) "Chief clinical officer" means the medical director of 131  
a hospital, ~~or~~ a community mental health services provider, or a 132  
board of alcohol, drug addiction, and mental health services, 133  
or, if there is no medical director, the licensed physician 134

responsible for the treatment a hospital or community mental 135  
health services provider provides. The chief clinical officer 136  
may delegate to the attending physician responsible for a 137  
patient's care the duties imposed on the chief clinical officer 138  
by this 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 evaluation. 164  
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(Q) "Court" means the probate division of the court of common pleas. 166  
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(R) "Expunge" means: 168

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references; 169  
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(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court; 172  
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(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person; 175  
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(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged. 178  
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(S) "Residence" means a person's physical presence in a county with intent to remain there, except that: 181  
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(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility; 183  
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(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed. 188  
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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
<u>(Z) "Clinical nurse specialist" and "certified nurse</u>	245
<u>practitioner" have the same meanings as in section 4723.01 of</u>	246
<u>the Revised Code.</u>	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  
custody 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

(c) A licensed clinical psychologist; 276

(d) A clinical nurse specialist who is certified as a 277

psychiatric-mental health CNS by the American nurses 278  
credentialing center or other similar certification from a 279  
certification organization approved by the board of nursing; 280

(e) A certified nurse practitioner who is certified as a 281  
psychiatric-mental health NP by the American nurses 282  
credentialing center or other similar certification from a 283  
certification organization approved by the board of nursing; 284

(f) A health officer; 285

(g) A parole officer; 286

(h) A police officer; 287

(i) A sheriff. 288

(2) If the chief of the adult parole authority or a parole 289  
or probation officer with the approval of the chief of the 290  
authority has reason to believe that a parolee, an offender 291  
under a community control sanction or post-release control 292  
sanction, or an offender under transitional control is a 293  
mentally ill person subject to court order and represents a 294  
substantial risk of physical harm to self or others if allowed 295  
to remain at liberty pending examination, the chief or officer 296  
may take the parolee or offender into custody and may 297  
immediately transport the parolee or offender to a hospital or, 298  
notwithstanding section 5119.33 of the Revised Code, to a 299  
general hospital not licensed by the department of mental health 300  
and addiction services where the parolee or offender may be held 301  
for the period prescribed in this section. 302

(B) A written statement shall be given to ~~such the~~ 303  
hospital by the ~~transporting psychiatrist, licensed clinical-~~ 304  
~~psychologist, licensed physician, health officer, parole-~~ 305  
~~officer, police officer, chief of the adult parole authority,~~ 306

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

(C) Every reasonable and appropriate effort shall be made 320  
to take persons into custody in the least conspicuous manner 321  
possible. A person taking the respondent into custody pursuant 322  
to this section shall explain to the respondent: the name and 323  
professional designation and affiliation of the person taking 324  
the respondent into custody; that the custody-taking is not a 325  
criminal arrest; and that the person is being taken for 326  
examination by mental health professionals at a specified mental 327  
health facility identified by name. 328

(D) If a person taken into custody under this section is 329  
transported to a general hospital, the general hospital may 330  
admit the person, or provide care and treatment for the person, 331  
or both, notwithstanding section 5119.33 of the Revised Code, 332  
but by the end of twenty-four hours after arrival at the general 333  
hospital, the person shall be transferred to a hospital as 334  
defined in section 5122.01 of the Revised Code. 335

(E) A person transported or transferred to a hospital or 336

community mental health services provider under this section 337  
shall be examined by the staff of the hospital or services 338  
provider within twenty-four hours after arrival at the hospital 339  
or services provider. If to conduct the examination requires 340  
that the person remain overnight, the hospital or services 341  
provider shall admit the person in an unclassified status until 342  
making a disposition under this section. After the examination, 343  
if the chief clinical officer of the hospital or services 344  
provider believes that the person is not a mentally ill person 345  
subject to court order, the chief clinical officer shall release 346  
or discharge the person immediately unless a court has issued a 347  
temporary order of detention applicable to the person under 348  
section 5122.11 of the Revised Code. After the examination, if 349  
the chief clinical officer believes that the person is a 350  
mentally ill person subject to court order, the chief clinical 351  
officer may detain the person for not more than three court days 352  
following the day of the examination and during such period 353  
admit the person as a voluntary patient under section 5122.02 of 354  
the Revised Code or file an affidavit under section 5122.11 of 355  
the Revised Code. If neither action is taken and a court has not 356  
otherwise issued a temporary order of detention applicable to 357  
the person under section 5122.11 of the Revised Code, the chief 358  
clinical officer shall discharge the person at the end of the 359  
three-day period unless the person has been sentenced to the 360  
department of rehabilitation and correction and has not been 361  
released from the person's sentence, in which case the person 362  
shall be returned to that department. 363

**Section 2.** That existing sections 5122.01 and 5122.10 of 364  
the Revised Code are hereby repealed. 365