

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 249**

**Representatives Galonski, Hillyer**

**Cosponsors: Representatives Carruthers, Humphrey, Miller, A., Seitz**

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**A BILL**

To amend sections 5122.01 and 5122.10 of the 1  
Revised Code to make changes to the law 2  
regarding involuntary treatment for persons with 3  
a mental illness subject to court order. 4

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

**Section 1.** That sections 5122.01 and 5122.10 of the 5  
Revised Code be amended to read as follows: 6

**Sec. 5122.01.** As used in this chapter and Chapter 5119. of 7  
the Revised Code: 8

(A) "Mental illness" means a substantial disorder of 9  
thought, mood, perception, orientation, or memory that grossly 10  
impairs judgment, behavior, capacity to recognize reality, or 11  
ability to meet the ordinary demands of life. 12

(B) "Person with a mental illness subject to court order" 13  
means a person with a mental illness who, because of the 14  
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)~~ (5) Represents a substantial risk of harm to self 34  
or others as manifested by evidence that indicates all of the 35  
following: 36

(a) The person's judgment is impaired by a lack of 37  
understanding of having an illness or a need for treatment, or 38  
both. 39

(b) The person refuses treatment or is not adhering to 40  
prescribed treatment. 41

(c) The person has been diagnosed with one or more of the 42  
following conditions as defined in the most recent edition of 43  
the diagnostic and statistical manual of mental disorders 44  
published by the American psychiatric association: 45

<u>(i) Schizophrenia;</u>	46
<u>(ii) Schizoaffective disorder;</u>	47
<u>(iii) Bipolar disorder;</u>	48
<u>(iv) Delusional disorder;</u>	49
<u>(v) Major depressive disorder.</u>	50
<u>(d) If not treated and based on the person's prior</u>	51
<u>history, the person is reasonably expected to suffer mental</u>	52
<u>deterioration and, as a result of that deterioration, meet one</u>	53
<u>of the standards specified in division (B)(1), (2), (3), or (4)</u>	54
<u>of this section.</u>	55
<u>(6)(a) Would benefit from treatment as manifested by</u>	56
evidence of behavior that indicates all of the following:	57
(i) The person is unlikely to survive safely in the	58
community without supervision, based on a clinical	59
determination.	60
(ii) The person has a history of lack of compliance with	61
treatment for mental illness and one of the following applies:	62
(I) At least twice within the thirty-six months prior to	63
the filing of an affidavit seeking court-ordered treatment of	64
the person under section 5122.111 of the Revised Code, the lack	65
of compliance has been a significant factor in necessitating	66
hospitalization in a hospital or receipt of services in a	67
forensic or other mental health unit of a correctional facility,	68
provided that the thirty-six-month period shall be extended by	69
the length of any hospitalization or incarceration of the person	70
that occurred within the thirty-six-month period.	71
(II) Within the forty-eight months prior to the filing of	72

an affidavit seeking court-ordered treatment of the person under 73  
section 5122.111 of the Revised Code, the lack of compliance 74  
resulted in one or more acts of serious violent behavior toward 75  
self or others or threats of, or attempts at, serious physical 76  
harm to self or others, provided that the forty-eight-month 77  
period shall be extended by the length of any hospitalization or 78  
incarceration of the person that occurred within the forty- 79  
eight-month period. 80

(iii) The person, as a result of the person's mental 81  
illness, is unlikely to voluntarily participate in necessary 82  
treatment. 83

(iv) In view of the person's treatment history and current 84  
behavior, the person is in need of treatment in order to prevent 85  
a relapse or deterioration that would be likely to result in 86  
substantial risk of serious harm to the person or others. 87

(b) An individual who meets only the criteria described in 88  
division ~~(B) (5) (a)~~ (B) (6) (a) of this section is not subject to 89  
hospitalization. 90

(C) (1) "Patient" means, subject to division (C) (2) of this 91  
section, a person who is admitted either voluntarily or 92  
involuntarily to a hospital or other place under section 93  
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code 94  
subsequent to a finding of not guilty by reason of insanity or 95  
incompetence to stand trial or under this chapter, who is under 96  
observation or receiving treatment in such place. 97

(2) "Patient" does not include a person admitted to a 98  
hospital or other place under section 2945.39, 2945.40, 99  
2945.401, or 2945.402 of the Revised Code to the extent that the 100  
reference in this chapter to patient, or the context in which 101

the reference occurs, is in conflict with any provision of 102  
sections 2945.37 to 2945.402 of the Revised Code. 103

(D) "Licensed physician" means a person licensed under the 104  
laws of this state to practice medicine or a medical officer of 105  
the government of the United States while in this state in the 106  
performance of the person's official duties. 107

(E) "Psychiatrist" means a licensed physician who has 108  
satisfactorily completed a residency training program in 109  
psychiatry, as approved by the residency review committee of the 110  
American medical association, the committee on post-graduate 111  
education of the American osteopathic association, or the 112  
American osteopathic board of neurology and psychiatry, or who 113  
on July 1, 1989, has been recognized as a psychiatrist by the 114  
Ohio state medical association or the Ohio osteopathic 115  
association on the basis of formal training and five or more 116  
years of medical practice limited to psychiatry. 117

(F) "Hospital" means a hospital or inpatient unit licensed 118  
by the department of mental health and addiction services under 119  
section 5119.33 of the Revised Code, and any institution, 120  
hospital, or other place established, controlled, or supervised 121  
by the department under Chapter 5119. of the Revised Code. 122

(G) "Public hospital" means a facility that is tax- 123  
supported and under the jurisdiction of the department of mental 124  
health and addiction services. 125

(H) "Community mental health services provider" means an 126  
agency, association, corporation, individual, or program that 127  
provides community mental health services that are certified by 128  
the director of mental health and addiction services under 129  
section 5119.36 of the Revised Code. 130

(I) "Licensed clinical psychologist" means a person who 131  
holds a current, valid psychologist license issued under section 132  
4732.12 of the Revised Code, and in addition, meets the 133  
educational requirements set forth in division (B) of section 134  
4732.10 of the Revised Code and has a minimum of two years' 135  
full-time professional experience, or the equivalent as 136  
determined by rule of the state board of psychology, at least 137  
one year of which shall be a predoctoral internship, in clinical 138  
psychological work in a public or private hospital or clinic or 139  
in private practice, diagnosing and treating problems of mental 140  
illness or intellectual disability under the supervision of a 141  
psychologist who is licensed or who holds a diploma issued by 142  
the American board of professional psychology, or whose 143  
qualifications are substantially similar to those required for 144  
licensure by the state board of psychology when the supervision 145  
has occurred prior to enactment of laws governing the practice 146  
of psychology. 147

(J) "Health officer" means any public health physician; 148  
public health nurse; or other person authorized or designated by 149  
a city or general health district or a board of alcohol, drug 150  
addiction, and mental health services to perform the duties of a 151  
health officer under this chapter. 152

(K) "Chief clinical officer" means the medical director of 153  
a hospital, community mental health services provider, or board 154  
of alcohol, drug addiction, and mental health services, or, if 155  
there is no medical director, the licensed physician responsible 156  
for the treatment provided by a hospital or community mental 157  
health services provider. The chief clinical officer may 158  
delegate to the attending physician responsible for a patient's 159  
care the duties imposed on the chief clinical officer by this 160  
chapter. In the case of a community mental health services 161

provider, the chief clinical officer shall be designated by the 162  
governing body of the services provider and shall be a licensed 163  
physician or licensed clinical psychologist who supervises 164  
diagnostic and treatment services. A licensed physician or 165  
licensed clinical psychologist designated by the chief clinical 166  
officer may perform the duties and accept the responsibilities 167  
of the chief clinical officer in the chief clinical officer's 168  
absence. 169

(L) "Working day" or "court day" means Monday, Tuesday, 170  
Wednesday, Thursday, and Friday, except when such day is a 171  
holiday. 172

(M) "Indigent" means unable without deprivation of 173  
satisfaction of basic needs to provide for the payment of an 174  
attorney and other necessary expenses of legal representation, 175  
including expert testimony. 176

(N) "Respondent" means the person whose detention, 177  
commitment, hospitalization, continued hospitalization or 178  
commitment, or discharge is being sought in any proceeding under 179  
this chapter. 180

(O) "Ohio protection and advocacy system" has the same 181  
meaning as in section 5123.60 of the Revised Code. 182

(P) "Independent expert evaluation" means an evaluation 183  
conducted by a licensed clinical psychologist, psychiatrist, or 184  
licensed physician who has been selected by the respondent or 185  
the respondent's counsel and who consents to conducting the 186  
evaluation. 187

(Q) "Court" means the probate division of the court of 188  
common pleas. 189

(R) "Expunge" means: 190

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;	191 192 193
(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;	194 195 196
(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;	197 198 199
(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.	200 201 202
(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:	203 204
(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;	205 206 207 208 209
(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.	210 211 212 213
When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health and addiction services for investigation and determination. Residence shall not be a basis for a board of alcohol, drug addiction, and mental health services to deny services to any person present in the board's service district, and the board	214 215 216 217 218 219



shall provide services for a person whose residence is in 220  
dispute while residence is being determined and for a person in 221  
an emergency situation. 222

(T) "Admission" to a hospital or other place means that a 223  
patient is accepted for and stays at least one night at the 224  
hospital or other place. 225

(U) "Prosecutor" means the prosecuting attorney, village 226  
solicitor, city director of law, or similar chief legal officer 227  
who prosecuted a criminal case in which a person was found not 228  
guilty by reason of insanity, who would have had the authority 229  
to prosecute a criminal case against a person if the person had 230  
not been found incompetent to stand trial, or who prosecuted a 231  
case in which a person was found guilty. 232

(V) (1) "Treatment plan" means a written statement of 233  
reasonable objectives and goals for an individual established by 234  
the treatment team, with specific criteria to evaluate progress 235  
towards achieving those objectives. 236

(2) The active participation of the patient in 237  
establishing the objectives and goals shall be documented. The 238  
treatment plan shall be based on patient needs and include 239  
services to be provided to the patient while the patient is 240  
hospitalized, after the patient is discharged, or in an 241  
outpatient setting. The treatment plan shall address services to 242  
be provided. In the establishment of the treatment plan, 243  
consideration should be given to the availability of services, 244  
which may include but are not limited to all of the following: 245

(a) Community psychiatric supportive treatment; 246

(b) Assertive community treatment; 247

(c) Medications; 248

(d) Individual or group therapy;	249
(e) Peer support services;	250
(f) Financial services;	251
(g) Housing or supervised living services;	252
(h) Alcohol or substance abuse treatment;	253
(i) Any other services prescribed to treat the patient's mental illness and to either assist the patient in living and functioning in the community or to help prevent a relapse or a deterioration of the patient's current condition.	254 255 256 257
(3) If the person subject to the treatment plan has executed an advance directive for mental health treatment, the treatment team shall consider any directions included in such advance directive in developing the treatment plan.	258 259 260 261
(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	262 263
(X) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.	264 265
(Y) "Local correctional facility" has the same meaning as in section 2903.13 of the Revised Code.	266 267
(Z) "Clinical nurse specialist" and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code.	268 269 270
<b>Sec. 5122.10.</b> (A) (1) Any of the following who has reason to believe that a person is a person with a mental illness subject to court order and represents a substantial risk of <del>physical</del> harm to self or others if allowed to remain at liberty pending examination may take the person into custody and may	271 272 273 274 275

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

may take the parolee or offender into custody and may 303  
immediately transport the parolee or offender to a hospital or, 304  
notwithstanding section 5119.33 of the Revised Code, to a 305  
general hospital not licensed by the department of mental health 306  
and addiction services where the parolee or offender may be held 307  
for the period prescribed in this section. 308

~~(B)~~ (B) (1) A written statement shall be given to the 309  
hospital by the individual authorized under division (A) (1) or 310  
(2) of this section to transport the person. The statement shall 311  
specify the circumstances under which such person was taken into 312  
custody and the reasons for the belief that the person is a 313  
person with a mental illness subject to court order and 314  
represents a substantial risk of ~~physical~~ harm to self or others 315  
if allowed to remain at liberty pending examination. This 316  
statement shall be made available to the respondent or the 317  
respondent's attorney upon request of either. 318

A statement is not invalid if given to a general hospital 319  
when a person is transported to the general hospital under 320  
division (D) of this section or if the statement identifies a 321  
general hospital as the receiving hospital. A general hospital 322  
that receives a statement shall transmit the statement to a 323  
hospital as defined in section 5122.01 of the Revised Code when 324  
transferring a person to the hospital in accordance with this 325  
section. 326

(2) If an individual authorized under division (A) (1) or 327  
(2) of this section to transport a person is transporting a 328  
person the individual believes to be a person with a mental 329  
illness subject to court order under division (B) (5) of section 330  
5122.01 of the Revised Code, the individual shall specify, in 331  
addition to the written statement required under division (B) (1) 332

of this section, any available relevant information about the 333  
history of the person's mental illness, if the individual 334  
determines that the additional information has a reasonable 335  
bearing on the decision to transport the person. The additional 336  
information shall include information from anyone who has 337  
provided mental health or related support services to the person 338  
being transported, information from one or more family members 339  
of the person being transported, or information from the person 340  
being transported or anyone designated to speak on the person's 341  
behalf. 342

(C) Every reasonable and appropriate effort shall be made 343  
to take persons into custody in the least conspicuous manner 344  
possible. A person taking the respondent into custody pursuant 345  
to this section shall explain to the respondent: the name and 346  
professional designation and affiliation of the person taking 347  
the respondent into custody; that the custody-taking is not a 348  
criminal arrest; and that the person is being taken for 349  
examination by mental health professionals at a specified mental 350  
health facility identified by name. 351

(D) ~~If~~ Except as otherwise provided in this section, if a 352  
person taken into custody under this section is transported to a 353  
general hospital, the general hospital may admit the person, or 354  
provide care and treatment for the person, or both, 355  
notwithstanding section 5119.33 of the Revised Code, but by the 356  
end of twenty-four hours after arrival at the general hospital, 357  
the person shall be transferred to a hospital as defined in 358  
section 5122.01 of the Revised Code. 359

(E) If a person taken into custody and transported to a 360  
general hospital as described in division (D) of this section is 361  
not medically stable at the end of the twenty-four-hour period 362

described in that division, the general hospital may continue to 363  
provide care and treatment for the person until a treating 364  
physician deems the person to be medically stable to be 365  
transferred to a hospital as defined in section 5122.01 of the 366  
Revised Code. 367

(F) If a person taken into custody and transported to a 368  
general hospital as described in division (D) of this section is 369  
unable to be transferred to a hospital as defined in section 370  
5122.01 of the Revised Code within twenty-four hours because of 371  
an inability to identify a hospital willing to accept the 372  
person, the general hospital may continue to provide care and 373  
treatment to the person until the person can be transferred to a 374  
hospital willing to accept the person. 375

(G) If a licensed physician responsible for diagnosing or 376  
treating mental illness, a licensed clinical psychologist, a 377  
psychiatrist, or a health officer examines an individual 378  
described in division (D), (E), or (F) of this section at a 379  
general hospital and determines that the person is not a person 380  
with mental illness subject to court order, the general hospital 381  
may release or discharge the person if the person is medically 382  
stable, unless a court has issued a temporary order of detention 383  
applicable to the person under section 5122.11 of the Revised 384  
Code. Nothing in this section shall be construed as requiring a 385  
general hospital to have the resources for or to provide a 386  
licensed physician responsible for diagnosing or treating mental 387  
illness, a licensed clinical psychologist, a psychiatrist, or a 388  
health officer to make a determination whether a person is a 389  
person with a mental illness subject to court order. 390

(H) A person transported or transferred to a hospital or 391  
community mental health services provider under this section 392

shall be examined by the staff of the hospital or services 393  
provider within twenty-four hours after arrival at the hospital 394  
or services provider. If to conduct the examination requires 395  
that the person remain overnight, the hospital or services 396  
provider shall admit the person in an unclassified status until 397  
making a disposition under this section. After the examination, 398  
if the chief clinical officer of the hospital or services 399  
provider believes that the person is not a person with a mental 400  
illness subject to court order, the chief clinical officer shall 401  
release or discharge the person immediately unless a court has 402  
issued a temporary order of detention applicable to the person 403  
under section 5122.11 of the Revised Code. After the 404  
examination, if the chief clinical officer believes that the 405  
person is a person with a mental illness subject to court order, 406  
the chief clinical officer may detain the person for not more 407  
than three court days following the day of the examination and 408  
during such period admit the person as a voluntary patient under 409  
section 5122.02 of the Revised Code or file an affidavit under 410  
section 5122.11 of the Revised Code. If neither action is taken 411  
and a court has not otherwise issued a temporary order of 412  
detention applicable to the person under section 5122.11 of the 413  
Revised Code, the chief clinical officer shall discharge the 414  
person at the end of the three-day period unless the person has 415  
been sentenced to the department of rehabilitation and 416  
correction and has not been released from the person's sentence, 417  
in which case the person shall be returned to that department. 418

**Section 2.** That existing sections 5122.01 and 5122.10 of 419  
the Revised Code are hereby repealed. 420