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H. B. No. 217

Representative Ruhl

Cosponsors: Representatives Becker, Blessing, Barnes, Schuring, Anielski, Antonio, Ashford, Bishoff, Boyd, Brown, Burkley, Clyde, Craig, Fedor, Grossman, Hackett, Johnson, G., Kuhns, LaTourette, Lepore-Hagan, O'Brien, M., O'Brien, S., Patterson, Pelanda, Reece, Roegner, Rogers, Ryan, Sprague, Vitale, Young

A BILL

То	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.	-

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

	1.0
(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
	2.4
(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

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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

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	76

- (2) "Patient" does not include a person admitted to a 76 hospital or other place under section 2945.39, 2945.40, 77 2945.401, or 2945.402 of the Revised Code to the extent that the 78 reference in this chapter to patient, or the context in which 79 the reference occurs, is in conflict with any provision of 80 sections 2945.37 to 2945.402 of the Revised Code. 81
- (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 86 satisfactorily completed a residency training program in 87 psychiatry, as approved by the residency review committee of the 88 American medical association, the committee on post-graduate 89 education of the American osteopathic association, or the 90 American osteopathic board of neurology and psychiatry, or who 91 on July 1, 1989, has been recognized as a psychiatrist by the 92 Ohio state medical association or the Ohio osteopathic 93 association on the basis of formal training and five or more 94 95 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

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health and addiction services.

- (H) "Community mental health services provider" means an 104 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

- (L) "Working day" or "court day" means Monday, Tuesday,

 Wednesday, Thursday, and Friday, except when such day is a

 holiday.

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- (M) "Indigent" means unable without deprivation ofsatisfaction of basic needs to provide for the payment of anattorney and other necessary expenses of legal representation,including expert testimony.
- (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.
- (O) "Ohio protection and advocacy system" has the same
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 meaning as in section 5123.60 of the Revised Code.
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 - (P) "Independent expert evaluation" means an evaluation

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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	164
evaluation.	165
(Q) "Court" means the probate division of the court of	166
common pleas.	167
(R) "Expunge" means:	168
(1) The removal and destruction of court files and	169
records, originals and copies, and the deletion of all index	170
references;	171
(2) The reporting to the person of the nature and extent	172
of any information about the person transmitted to any other	173
person by the court;	174
(3) Otherwise insuring that any examination of court files	175
and records in question shall show no record whatever with	176
respect to the person;	177
(4) That all rights and privileges are restored, and that	178
the person, the court, and any other person may properly reply	179
that no such record exists, as to any matter expunged.	180
(S) "Residence" means a person's physical presence in a	181
county with intent to remain there, except that:	182
(1) If a person is receiving a mental health service at a	183
facility that includes nighttime sleeping accommodations,	184
residence means that county in which the person maintained the	185
person's primary place of residence at the time the person	186
entered the facility;	187
(2) If a person is committed pursuant to section 2945.38,	188
2945.39, 2945.401, or 2945.402 of the Revised Code,	189

residence means the county where the criminal charges were	190
filed.	191
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

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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

(a) A psychiatrist;

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(Z) "Clinical nurse specialist" and "certified nurse	245
practitioner" have the same meanings as in section 4723.01 of	246
the Revised Code.	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

(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 <u>such</u> 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

hospital, the person shall be transferred to a hospital as

defined in section 5122.01 of the Revised Code.

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(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, 343 344 if the chief clinical officer of the hospital or services 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

the Revised Code are hereby repealed.

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