

As Re-reported by the Senate Civil Justice Committee

130th General Assembly

Regular Session

2013-2014

Sub. H. B. No. 247

Representative Stebelton

Cosponsors: Representatives Huffman, Butler, Sears, Becker, Lynch, Antonio, Barnes, Bishoff, Brown, Carney, Schuring, Adams, R., Amstutz, Anielski, Beck, Blair, Boose, Buchy, Burkley, Celebrezze, DeVitis, Dovilla, Duffey, Green, Grossman, Hackett, Hagan, C., Hall, Hayes, Heard, Hill, Hottinger, Johnson, Landis, Maag, Mallory, McClain, Milkovich, O'Brien, Roegner, Rogers, Ruhl, Slaby, Smith, Sprague, Stinziano, Winburn

Speaker Batchelder

Senators Brown, Tavares

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A B I L L

To amend sections 2305.235, 3701.85, 5122.11, and 1
5122.111 of the Revised Code to make clear that 2
any person may perform automated external 3
defibrillation, to extend qualified immunity from 4
civil liability to premises owners and other 5
persons involved with automated external 6
defibrillator placement and use, to allow 7
proceedings for a mentally ill person subject to 8
court order to be in a probate court in any 9
county, rather than in the county where the 10
mentally ill person subject to court order 11
resides, and to modify the form of the affidavit 12
used to initiate proceedings for court-ordered 13
treatment of a mentally ill person. 14

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

Section 1. That sections 2305.235, 3701.85, 5122.11, and 15
5122.111 of the Revised Code be amended to read as follows: 16

Sec. 2305.235. (A) As used in this section: 17

(1) "Automated external defibrillation" means the process of 18
applying a specialized defibrillator to a person in cardiac 19
arrest, allowing the defibrillator to interpret the cardiac 20
rhythm, and, if appropriate, delivering an electrical shock to the 21
heart to allow it to resume effective electrical activity. 22

(2) "Physician" has the same meaning as in section 4765.01 of 23
the Revised Code. 24

(B) Except in the case of willful or wanton misconduct, no 25
physician shall be held liable in civil damages for injury, death, 26
or loss to person or property for providing a prescription for an 27
automated external defibrillator approved for use as a medical 28
device by the United States food and drug administration or 29
consulting with a person regarding the use and maintenance of a 30
defibrillator. 31

(C) Except in the case of willful or wanton misconduct, no 32
person shall be held liable in civil damages for injury, death, or 33
loss to person or property for ~~providing~~ doing any of the 34
following: 35

(1) Providing training in automated external defibrillation 36
and cardiopulmonary resuscitation; 37

(2) Authorizing, directing, or supervising the installation 38
or placement of an automated external defibrillator; 39

(3) Designing, managing, or operating a cardiopulmonary 40
resuscitation or automated external defibrillation program; 41

(4) Acquiring an automated external defibrillator; 42

(5) Owning, managing, or having responsibility for a premises 43

or location where an automated external defibrillator has been 44
placed. 45

(D) Except in the case of willful or wanton misconduct or 46
when there is no good faith attempt to activate an emergency 47
medical services system in accordance with section 3701.85 of the 48
Revised Code, no person shall be held liable in civil damages for 49
injury, death, or loss to person or property, or held criminally 50
liable, for performing automated external defibrillation in good 51
faith, regardless of whether the person has obtained appropriate 52
training on how to perform automated external defibrillation or 53
successfully completed a course in cardiopulmonary resuscitation. 54

Sec. 3701.85. (A) As used in this section: 55

(1) "Automated external defibrillation" has the same meaning 56
as in section 2305.235 of the Revised Code. 57

(2) "Emergency medical services organization" has the same 58
meaning as in section 4765.01 of the Revised Code. 59

~~(3) "Emergency medical service provider" means a person who 60
is an "emergency medical technician basic," "emergency medical 61
technician intermediate," "emergency medical 62
technician paramedic," or "first responder" as defined in section 63
4765.01 of the Revised Code. 64~~

~~(4) "Physician" has the same meaning as in section 4765.01 of 65
the Revised Code. 66~~

~~(5) "Registered nurse" and "licensed practical nurse" have 67
the same meanings as in section 4723.01 of the Revised Code. 68~~

(B) A person who possesses an automated external 69
defibrillator shall do ~~all~~ both of the following: 70

(1) ~~Require~~ Encourage expected users to complete successfully 71
a course in automated external defibrillation and cardiopulmonary 72
resuscitation that is offered or approved by ~~the American heart~~ 73

~~association or another~~ a nationally recognized organization and 74
includes instruction on psychomotor skills and national 75
evidence-based emergency cardiovascular guidelines that are 76
current; 77

(2) Maintain and test the defibrillator according to the 78
manufacturer's guidelines; 79

~~(3) Consult with a physician regarding compliance with the~~ 80
~~requirements of divisions (B)(1) and (2) of this section.~~ 81

(C) ~~A~~ It is recommended, but not required, that a person who 82
possesses an automated external defibrillator ~~may~~ notify an 83
emergency medical services organization of the location of the 84
defibrillator. 85

(D) ~~A~~ Any person who has obtained appropriate training on how 86
to perform automated external defibrillation and has successfully 87
completed a course in cardiopulmonary resuscitation may perform 88
automated external defibrillation, ~~regardless of whether the~~ 89
~~person is a physician, registered nurse, licensed practical nurse,~~ 90
~~or emergency medical service provider. When~~ Training in automated 91
external defibrillation and cardiopulmonary resuscitation is 92
recommended but not required. 93

A person who performs automated external defibrillation ~~is~~ 94
~~not performed as part of an emergency medical services system or~~ 95
~~at a hospital as defined in section 3727.01 of the Revised Code,~~ 96
shall make a good faith effort to activate or have another person 97
activate an emergency medical services system ~~shall be activated~~ 98
as soon as possible unless the person is performing automated 99
external defibrillation as part of an emergency medical services 100
system or at a hospital as defined in section 3727.01 of the 101
Revised Code. 102

Sec. 5122.11. Proceedings for a mentally ill person subject 103

to court order pursuant to sections 5122.11 to 5122.15 of the Revised Code shall be commenced by the filing of an affidavit in the manner prescribed by the department of mental health and addiction services and in a form prescribed in section 5122.111 of the Revised Code, by any person or persons with the probate court ~~in the county where the mentally ill person subject to court order resides~~, either on reliable information or actual knowledge, whichever is determined to be proper by the court. This section does not apply to the hospitalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

The affidavit shall contain an allegation setting forth the specific category or categories under division (B) of section 5122.01 of the Revised Code upon which the jurisdiction of the court is based and a statement of alleged facts sufficient to indicate probable cause to believe that the person is a mentally ill person subject to court order. The affidavit may be accompanied, or the court may require that the affidavit be accompanied, by a certificate of a psychiatrist, or a certificate signed by a licensed clinical psychologist and a certificate signed by a licensed physician stating that the person who issued the certificate has examined the person and is of the opinion that the person is a mentally ill person subject to court order, or shall be accompanied by a written statement by the applicant, under oath, that the person has refused to submit to an examination by a psychiatrist, or by a licensed clinical psychologist and licensed physician.

Upon receipt of the affidavit, if a judge of the court or a referee who is an attorney at law appointed by the court has probable cause to believe that the person named in the affidavit is a mentally ill person subject to court order, the judge or referee may issue a temporary order of detention ordering any

health or police officer or sheriff to take into custody and 136
transport the person to a hospital or other place designated in 137
section 5122.17 of the Revised Code, or may set the matter for 138
further hearing. If a temporary order of detention is issued and 139
the person is transported to a hospital or other designated place, 140
the court that issued the order shall retain jurisdiction over the 141
case as it relates to the person's outpatient treatment, 142
notwithstanding that the hospital or other designated place to 143
which the person is transported is outside the territorial 144
jurisdiction of the court. 145

The person may be observed and treated until the hearing 146
provided for in section 5122.141 of the Revised Code. If no such 147
hearing is held, the person may be observed and treated until the 148
hearing provided for in section 5122.15 of the Revised Code. 149

Sec. 5122.111. To initiate proceedings for court-ordered 150
treatment of a person under section 5122.11 of the Revised Code, a 151
person or persons shall file an affidavit with the probate court 152
that is identical in form and content to the following: 153

AFFIDAVIT OF MENTAL ILLNESS 154

The State of Ohio 155
156

..... County, ss. 157

..... Court 158

..... 159

the undersigned, residing at 160

..... 161

says, that he/she has information to believe or has actual 162

knowledge that 163

..... 163

(Please specify specific category(ies) below with an X.) 164

[] Represents a substantial risk of physical harm to self as 165

manifested by evidence of threats of, or attempts at, suicide or 166
serious self-inflicted bodily harm; 167

[] Represents a substantial risk of physical harm to others as 168
manifested by evidence of recent homicidal or other violent 169
behavior or evidence of recent threats that place another in 170
reasonable fear of violent behavior and serious physical harm or 171
other evidence of present dangerousness; 172

[] Represents a substantial and immediate risk of serious 173
physical impairment or injury to self as manifested by evidence of 174
being unable to provide for and of not providing for basic 175
physical needs because of mental illness and that appropriate 176
provision for such needs cannot be made immediately available in 177
the community; 178

[] Would benefit from treatment for mental illness and is in need 179
of such treatment as manifested by evidence of behavior that 180
creates a grave and imminent risk to substantial rights of others 181
or the person; or 182

[] Would benefit from treatment as manifested by evidence of 183
behavior that indicates all of the following: 184

(a) The person is unlikely to survive safely in the community 185
without supervision, based on a clinical determination. 186

(b) The person has a history of lack of compliance with treatment 187
for mental illness and one of the following applies: 188

(i) At least twice within the thirty-six months prior to the 189
filing of an affidavit seeking court-ordered treatment of the 190
person under section 5122.111 of the Revised Code, the lack of 191
compliance has been a significant factor in necessitating 192
hospitalization in a hospital or receipt of services in a forensic 193
or other mental health unit of a correctional facility, provided 194
that the thirty-six-month period shall be extended by the length 195
of any hospitalization or incarceration of the person that 196

occurred within the thirty-six-month period.	197
(ii) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period.	198 199 200 201 202 203 204 205 206
(c) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.	207 208
(d) In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.	209 210 211 212
.....	213
(Name of the party filing the affidavit) further says that the facts supporting this belief are as follows:	214
.....	215
.....	216
.....	217
.....	218
.....	219
.....	220
These facts being sufficient to indicate probable cause that the above said person is a mentally ill person subject to court order.	221 222 223
Name of Patient's Last Physician or Licensed Clinical Psychologist	224
.....	225

Address of Patient's Last Physician or Licensed Clinical Psychologist 226

..... 227

..... 228

The name and address of respondent's legal guardian, spouse, and 229

adult next of kin are: 230

Name	Kinship	Address	231
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..... 232

.....	Legal Guardian	233
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..... 235

.....	Spouse	236
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.....	Adult Next of Kin	239
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.....	Adult Next of Kin	242
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..... 243

The following constitutes additional information that may be 244

necessary for the purpose of determining residence: 245

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..... 249

..... 250

Dated this day of, 20... 251

.....	252
Signature of the party filing the affidavit	253
Sworn to before me and signed in my presence on the day and year above dated.	254 255
.....	256
Signature of Probate Judge	257
.....	258
Signature of, Deputy Clerk, or <u>Notary Public</u>	259
WAIVER	260
I, the undersigned party filing the affidavit hereby waive the issuing and service of notice of the hearing on said affidavit, and voluntarily enter my appearance herein.	261 262 263
Dated this day of, 20...	264
.....	265
Signature of the party filing the affidavit	266
Section 2. That existing sections 2305.235, 3701.85, 5122.11, and 5122.111 of the Revised Code are hereby repealed.	267 268