



# Ohio Legislative Service Commission

## Bill Analysis

David M. Gold

### Sub. S.B. 43

130th General Assembly  
(As Passed by the Senate)

**Sens.** Burke and Tavares, Balderson, Kearney, Seitz, Sawyer, Coley, Bacon, Beagle, Brown, Gardner, Hite, Jones, Lehner, Manning, Oelslager, Peterson, Schaffer, Smith

---

## BILL SUMMARY

- Changes the term "mentally ill person subject to hospitalization by court order" that is used in R.C. Chapter 5122. To "mentally ill person subject to court order," makes modifications to the definition of that term, and makes conforming changes in the term in various sections throughout the Revised Code that also use the term.
- Modifies the term "treatment plan" as used with respect to persons committed or hospitalized under R.C. Chapter 5122.
- In the provisions that pertain to proceedings for hospitalization of a mentally ill person pursuant to court order, specifies that the proceedings are for court-ordered treatment rather than hospitalization, clarifies that the affidavit filed for proceedings for court-ordered treatment of mentally ill persons subject to court order be filed with the probate court in the county where the mentally ill person subject to court order resides, and requires that the affidavit be in a form prescribed by the Revised Code instead of by the Department of Mental Health.
- Provides the language that must be in the affidavit that is filed for proceedings for court-ordered treatment of mentally ill persons subject to court order.
- In the provision requiring an investigation when an affidavit for court-ordered treatment is filed, clarifies that the probate court is the involved court, specifies that the probate court must refer the affidavit within two business days after receipt and specifies that the purpose of the investigation includes the determination of the availability of alternatives to hospitalization.
- Provides that the order issued by the court may include a requirement that a specified person or entity inform the board of alcohol, drug addiction, and mental

health services or community mental health services provider the board designates about the progress of the respondent with the treatment plan.

- Modifies the law regarding the court-ordered 90-day commitment of a mentally ill individual by: (1) providing that, if the individual is receiving treatment in an outpatient setting or receives treatment in an outpatient setting during a subsequent period of continued commitment, the entity or person to whom the individual is committed must determine the appropriate outpatient treatment for the individual, and (2) replacing the term "environment" with the term "setting" in a provision that specifies what is to be done if a specified person or entity determines during the 90-day period that the individual's treatment needs could be equally well met in a less restrictive setting.
- Adds the term "treatment" in several places in provisions that currently pertain to voluntary admission of an individual who has been committed or for whom commitment proceedings have been commenced, to the possible discharge of an individual at the end of a 90-day commitment period if the individual has not already been discharged or voluntarily admitted, and the term "commitment" in the provision regarding confidentiality of most documents that pertain to possible court-ordered hospitalization of an individual.
- Provides that if the entity or person to whom the respondent was ordered for treatment determines that the respondent has demonstrated voluntary consent for treatment, the entity or person must submit to the court a report of its findings and recommendations and on review of the facts the court may dismiss the case.
- Provides for a procedure if the respondent has either failed to comply with the treatment plan or begun to demonstrate signs of decompensation that may be grounds for hospitalization.
- Provides that certain specified persons who act in good faith and who procedurally or physically assist in the court-ordered treatment of a person do not come within any criminal provisions and are free from liability to the person receiving court-ordered treatment.
- Allows for the payment of attorney's fees for an attorney appointed by the probate division for an indigent who allegedly is a person suffering from alcohol and other drug abuse and who may be ordered to undergo treatment for alcohol and other drug abuse.
- Establishes a fee of \$25 for the filing of an affidavit and proceedings for a mentally ill person subject to court order.



---

## TABLE OF CONTENTS

Definition of "mentally ill person subject to hospitalization by court order" .....	3
Existing law .....	3
Operation of the bill .....	4
Cross-reference changes .....	5
Definition of "treatment plan" .....	5
Judicial hospitalization – filing of affidavit .....	7
Investigation .....	7
Full hearing for person involuntarily placed in a hospital or other designated place .....	8
Respondent demonstrates voluntary compliance with treatment .....	10
Respondent fails to comply with treatment or demonstrates signs of decompensation .....	11
Confidentiality .....	11
Notification to Bureau of Criminal Identification and Investigation of adjudication of mental illness .....	12
Immunity .....	12
Payment of costs, fees, and expenses for attorney for an indigent who is suffering from alcohol and other drug abuse and who may be ordered to undergo treatment .....	12
Affidavit of mental illness .....	13
Filing fee .....	16
Technical changes .....	16

---

## CONTENT AND OPERATION

The bill makes several changes to the laws governing court-ordered commitment of and treatment provided to mentally ill persons.

### Definition of "mentally ill person subject to hospitalization by court order"

#### Existing law

Revised Code Chapter 5122. provides for court-ordered care for a person determined to be a "mentally ill person subject to *hospitalization by court order*." Under existing law, a "mentally ill person subject to *hospitalization by court order*" means a mentally ill person who, because of the person's illness, meets any of the following criteria:<sup>1</sup>

(1) The person represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

---

<sup>1</sup> R.C. 5122.01(B).



(3) The person represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community;

(4) The person would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

### **Operation of the bill**

The bill modifies this definition by removing from the term the references to "hospitalization by" and "in a hospital" and adding as a fifth criterion that the person would benefit from treatment as manifested by evidence of behavior that indicates all of the following:

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

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

- At least twice within the 36 months prior to the filing of an affidavit seeking court-ordered treatment of the person, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the 36-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within the 36-month period.
- Within the 48 months prior to the filing of an affidavit seeking court-ordered treatment of the person, 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 48-month period must be extended by the length of any hospitalization or incarceration of the person that occurred within the 48-month period.

(c) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.

(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.



## Cross-reference changes

Thirty-two sections of the Revised Code use the term "mentally ill person subject to hospitalization by court order." With three exceptions, the definition of the term described above in "**Definition of "mentally ill person subject to hospitalization by court order"**" expressly applies to all of the sections. The three sections that are exceptions do not define, or incorporate a definition for, the term. The bill modifies 29 of the sections that use the term to reflect the change of the definition of the term to "mentally ill person subject to court order" that is described above.<sup>2</sup> The other three sections that use the term are not included in the bill and the term as used in those sections is not modified by the bill.<sup>3</sup>

## Definition of "treatment plan"

Under existing law, the chief clinical officer of the hospital in which one or more mentally ill persons are hospitalized or committed under R.C. Chapter 5122. Or the officer's designee must assure that all such patients:<sup>4</sup>

(1) Receive, within 20 days of their admission sufficient professional care to assure that an evaluation of current status, differential diagnosis, probable prognosis, and description of the current treatment plan is stated on the official chart;

(2) Have a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals which must be provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or counsel or to the legal rights service;

(3) Receive treatment consistent with the treatment plan, under standards set by the Department of Mental Health;

(4) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed 90 days;

(5) Be provided with adequate medical treatment for physical disease or injury;

(6) Receive humane care and treatment, including without limitation seven specified types of care or treatment.

---

<sup>2</sup> R.C. 2151.011, 2151.23, 2923.125, 2923.1213, 2923.13, 2945.37, 2945.38, 2945.39, 2945.40, 2945.401, 2967.22, 5119.23, 5120.17, 5122.03, 5122.05, 5122.10, 5122.11, 5122.13, 5122.141, 5122.15, 5122.19, 5122.21, 5122.27, 5122.30, 5122.311, 5139.54, 5305.22, 5907.06, and 5907.09.

<sup>3</sup> R.C. 5924.503, 5924.504, and 5924.506, not in the bill.

<sup>4</sup> R.C. 5122.27.



If the chief clinical officer of the hospital is unable to provide the treatment required by (3), (5), and (6) above for any patient, the officer must immediately notify the patient, the court, the Ohio Protection and Advocacy System, the Director of Mental Health, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification the Director is unable to effect a transfer of the patient to a hospital, community mental health agency, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to R.C. Chapter 5122. And defined as a mentally ill person subject to hospitalization by court order (modified to "mentally ill person subject to court order" under the bill) must be automatically terminated.

Under existing law, "treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals must be documented. The treatment plan must be based on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan must address services to be provided upon discharge, including, but not limited to housing, financial, and vocational services. The bill modifies this term by providing that the treatment plan must be based on patient needs and include services while the patient is hospitalized, after the patient is discharged, *or in an outpatient setting*. The treatment plan still must address services to be provided. The bill provides *in the establishment of the treatment plan, consideration should be given to the availability of services, which may include, but are not limited to, all of the following: (1) community psychiatric supportive treatment, (2) assertive community treatment, (3) medications, (4) individual or group therapy, (5) peer support services, (6) financial services, (7) housing or supervised living services, (8) alcohol or substance abuse treatment, and (9) 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*. The bill also specifies that, if the person subject to the treatment plan has executed an advanced directive for mental health treatment, the treatment team must consider any directions included in the advanced directive in developing the treatment plan.<sup>5</sup>

In addition to the provisions described above, six other Revised Code sections use the term "treatment plan" as it is defined in the preceding paragraph. They include sections that provide for admission of voluntary patients who are mentally ill, probate court hearings for a person whose hospitalization or commitment, etc., is sought, trial visits for patients, tasks and labor by patients, rights of patients, and disclosure of

---

<sup>5</sup> R.C. 5122.01(V).



information regarding patients.<sup>6</sup> The change in the definition of the term that is described in the preceding paragraph applies to all six of those other sections.

### **Judicial hospitalization – filing of affidavit**

Under existing law, proceedings for the hospitalization of a mentally ill person subject to hospitalization by court order must be commenced by the filing of an affidavit in the manner and form prescribed by the Department of Mental Health, by any person or persons with the court, either on reliable information or actual knowledge, whichever is determined to be proper by the court. The affidavit must contain an allegation setting forth the specific categories under the definition of a "mentally ill person subject to hospitalization by court order" 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 within the specified category or categories. The bill specifies that the proceedings are for *a mentally ill person subject to court order*, rather than for hospitalization of a person. The affidavit is to be in a form prescribed by R.C. 5122.111 as enacted by the bill (see "**Affidavit of mental illness**" at the end of this analysis), and the affidavit must be filed with the *probate* court in the county where the mentally ill person subject to court order resides. The bill also provides that the required allegation in the affidavit be based on categories in the bill's definition of "mentally ill person subject to court order" as described above.<sup>7</sup>

### **Investigation**

Under existing law, upon receipt of the above-described affidavit initiating hospitalization proceedings, the court must refer the affidavit to the board of alcohol, drug addiction, and mental health services or an agency the board designates to assist the court in determining whether the respondent is subject to hospitalization and whether alternative services are available, unless the agency or board has already performed such screening. The board or agency must review the allegations of the affidavit and other information relating to whether or not the person named in the affidavit or statement is a mentally ill person subject to hospitalization by court order (modified to "mentally ill person subject to court order" in this, and several other places in the provision, under the bill) and the availability of appropriate treatment alternatives.

The bill modifies existing law regarding the investigation by the board of alcohol, drug addiction, and mental health services or the agency the board designates by specifying that, within two business days after receipt of the affidavit described above,

---

<sup>6</sup> R.C. 5122.15 and 5122.31; R.C. 5122.02, 5122.22, 5122.28, and 5122.29, not in the bill.

<sup>7</sup> R.C. 5122.11.



the *probate* court must refer the affidavit to the board or agency and that the board or agency is to assist the probate court in determining whether the respondent is subject to *court-ordered treatment* and whether alternatives to *hospitalization* are available, unless the board or agency has already performed that screening.<sup>8</sup>

### **Full hearing for person involuntarily placed in a hospital or other designated place**

Under existing law, a respondent who is involuntarily placed in a hospital or other place as designated by law or with respect to whom proceedings for a mentally ill person subject to hospitalization have been instituted must be afforded a hearing to determine whether or not the respondent is a mentally ill person subject to hospitalization by court order. The bill provides that the respondent has the right to counsel as provided under the law regarding the hearing for a respondent who is a mentally ill person subject to court order.<sup>9</sup>

Existing law provides that a full hearing for a person involuntarily placed in a hospital or other designated place pursuant to the filing of the above-described affidavit must be conducted by a judge of the probate court or a referee designated by a judge of the probate court.<sup>10</sup> If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order (modified in this, and several other places in the provision, to "mentally ill person subject to court order" under the bill), the court must order the respondent for a period of not to exceed 90 days to any of the following:<sup>11</sup>

(1) A hospital operated by the Department of Mental Health if the respondent is committed pursuant to R.C. 5139.08;

(2) A nonpublic hospital;

(3) The Veterans' Administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

---

<sup>8</sup> R.C. 5122.13.

<sup>9</sup> R.C. 5122.141(A).

<sup>10</sup> R.C. 5122.15(A).

<sup>11</sup> R.C. 5122.15(C).



(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

Existing law provides that any order made pursuant to (2), (3), (5), or (6) above must be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent. The bill provides that the order also may include a requirement that a person or entity described in (2), (3), (5), or (6) above inform the board of alcohol, drug addiction, and mental health services or community mental health services provider the board designates about the progress of the respondent with the treatment plan.<sup>12</sup>

In determining the place to which, or the person to whom, the respondent is to be committed, the court must consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and must order the implementation of the least restrictive alternative available and consistent with treatment goals. The bill clarifies that commitment of a respondent is to *an entity* or person and that the respondent is to be committed under the provisions described above.<sup>13</sup> It also specifies that a jail or other "local correctional facility" is not a suitable facility for purposes of a commitment under the provision described in (6), above. As used in this provision, a "local correctional facility" is a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.<sup>14</sup>

Under existing law, during the 90-day commitment period described above, the hospital; facility; board of alcohol, drug addiction, and mental health services; agency the board designates; or person must examine and treat the respondent. The bill refers to commitment to an *entity* or person and it additionally provides that *if the respondent is receiving treatment in an outpatient setting, or receives treatment in an outpatient setting during a subsequent period of continued commitment, the entity or person to whom the respondent is committed must determine the appropriate outpatient treatment for the respondent.* The bill modifies existing law to provide that if, at any time prior to the expiration of the 90-day period, it is determined by the *entity* or person that the

---

<sup>12</sup> R.C. 5122.15(D).

<sup>13</sup> R.C. 5122.15(E).

<sup>14</sup> R.C. 5122.15(D)(6); also R.C. 5122.01(Y) (incorporating R.C. 2903.13(D)(4) by reference).



respondent's treatment needs could be equally well met in an available less restrictive *setting* (instead of "environment"), both of the following apply:<sup>15</sup>

(1) The respondent must be released from the care of the *entity* or person immediately and must be referred to the court together with a report of the findings and recommendations of the *entity* or person;

(2) The *entity* or person must notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or an agency designated by the board, it must place the respondent in the least restrictive *setting* (instead of "environment") available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court must dismiss the case or order placement in the least restrictive *setting* (instead of "environment").<sup>16</sup>

Under the bill, generally any person who has been committed or for whom proceedings for *treatment* (instead of "hospitalization") have been commenced, may apply at any time for voluntary admission *or treatment* (added by the bill) to the *entity* or person to which the person was committed.<sup>17</sup> If, at the end of the first 90-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission *or treatment* (added by the bill), the hospital, facility, board, agency, or person must discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment.<sup>18</sup> If the court, after a hearing for continued commitment finds by clear and convincing evidence that the respondent is a mentally ill person subject to court order, the court may order continued commitment at places *or to persons* (added by the bill) specified above in (1) through (6) following the first paragraph of this section.<sup>19</sup>

## **Respondent demonstrates voluntary compliance with treatment**

The bill provides that for a respondent who is ordered to receive treatment in an outpatient setting, if at any time after the first 90-day period the entity or person to

---

<sup>15</sup> R.C. 5122.15(F).

<sup>16</sup> *Id.*

<sup>17</sup> R.C. 5122.15(G)(1).

<sup>18</sup> R.C. 5122.15(H).

<sup>19</sup> *Id.*



whom the respondent was ordered determines that the respondent has demonstrated voluntary consent for treatment, that entity or person must immediately notify the respondent, the respondent's counsel, the attorney designated by the board of alcohol, drug addiction, and mental health services, and the court. The entity or person must submit to the court a report of the findings and recommendations. The court may dismiss the case upon review of the facts.<sup>20</sup>

### **Respondent fails to comply with treatment or demonstrates signs of decompensation**

The bill also allows the entity or person to submit a report to the court indicating that the respondent has either failed to comply with the treatment plan or begun to demonstrate signs of decompensation that may be grounds for hospitalization. On receipt of the report, the court must promptly schedule a hearing to review the case. The court must conduct the hearing in a manner consistent with Ohio law regarding court-ordered care for a person determined to be mentally ill subject to court order and due process of law. The board must receive notice of the hearing and the board and entity or person treating the respondent must submit a report to the court with a plan for appropriate alternative treatment, if any, or recommend that the court discontinue the court-ordered treatment. The court must consider available and appropriate alternative placements but cannot impose criminal sanctions that result in confinement in a jail or other local correctional facility based solely on the respondent's failure to comply with the treatment plan. The court may not order the respondent to a more restrictive placement unless certain specified criteria are met and may not order the respondent to an inpatient setting unless the court determines by clear and convincing evidence presented by the board that the respondent meets the criteria specified in (1) through (4) under "**Definition of "mentally ill person subject to hospitalization by court order"**"; "**Existing law,**" above.<sup>21</sup>

### **Confidentiality**

The bill modifies existing law by providing that all certificates, applications, records, and reports made for the purpose of R.C. Ch. 5122. And R.C. 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization *or commitment* (added by the bill) has been sought under R.C. Ch. 5122.

---

<sup>20</sup> R.C. 5122.15(H).

<sup>21</sup> R.C. 5122.15(N).



Must be kept confidential and can only be disclosed to certain persons under certain circumstances.<sup>22</sup>

### **Notification to Bureau of Criminal Identification and Investigation of adjudication of mental illness**

The bill modifies existing law by providing that if, on or after April 8, 2004, an individual is found by a court to be a mentally ill person subject to court order or becomes an involuntary patient other than one who is a patient only for purposes of observation, the probate judge who made the adjudication or the chief clinical officer of the hospital, community mental health services provider, or facility in which the person is an involuntary patient must notify the *Office of the Attorney General* (instead of the Bureau of Criminal Identification and Investigation), of the identity of the individual. The *Office of the Attorney General* must compile and maintain the notices it receives and the *notices* must be used for the purpose of conducting incompetency records checks regarding a concealed handgun license.<sup>23</sup>

### **Immunity**

The bill modifies existing law by providing that persons, including but not limited to, boards of alcohol, drug addiction, and mental health services and community mental health services providers, acting in good faith, either upon actual knowledge or information thought by them to be reliable, who procedurally or physically assist in the hospitalization or discharge, determination of appropriate placement, *court-ordered treatment*, or in judicial proceedings of a person under the law regarding court-ordered care for a person determined to be mentally ill subject to court order, do not come within any criminal provisions and are free from liability to the person hospitalized or receiving *court-ordered treatment* or to any other person.<sup>24</sup>

### **Payment of costs, fees, and expenses for attorney for an indigent who is suffering from alcohol and other drug abuse and who may be ordered to undergo treatment**

Under existing law, certain costs, fees, and expenses of all proceedings held under the law regarding court-ordered care for a person determined to be mentally ill subject to court order are paid by the county. A county pays for the costs, fees, and expenses with money appropriated to the probate court. A county may seek reimbursement from the Department of Mental Health and Addiction Services by

---

<sup>22</sup> R.C. 5122.31(A).

<sup>23</sup> R.C. 5122.311(A) and (B).

<sup>24</sup> R.C. 5122.34(A).



submitting a request and certification by the county auditor of the costs, fees, and expenses to the Department within two months of the date the costs, fees, and expenses are incurred by the county.<sup>25</sup> These fees include those to an attorney appointed by the probate division for an indigent who is allegedly a mentally ill person pursuant to the law regarding court-ordered care for a person determined to be mentally ill subject to court order that are determined by the probate division. The bill includes within this provision fees to an attorney appointed by the probate division for an indigent who allegedly is a person suffering from alcohol and other drug abuse and who may be ordered under the law regarding involuntary treatment for alcohol and other drug abuse to undergo treatment.<sup>26</sup>

### Affidavit of mental illness

The bill provides that, to initiate proceedings for court-ordered treatment of a person under the provisions described above in "**Judicial hospitalization – filing of affidavit**," a person or persons must file an affidavit with the probate court that is identical in form and content to the following:<sup>27</sup>

#### AFFIDAVIT OF MENTAL ILLNESS

The State of Ohio

..... County, ss.

..... Court

.....  
the undersigned, residing at

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

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

- Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;
- Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm or other evidence of present dangerousness;
- Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence of being unable to provide for and of not providing for basic physical needs

<sup>25</sup> R.C. 5122.43(A) and (B).

<sup>26</sup> R.C. 5122.43(A)(7).

<sup>27</sup> R.C. 5122.111.



because of mental illness and that appropriate provision for such needs cannot be made immediately available in the community;

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

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

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

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

(i) At least twice within the 36-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 has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the 36-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the 36-month period.

(ii) Within the 48-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 48-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the 48-month period.

(c) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.

(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.

.....

(Name of the party filing the affidavit) further says that the facts supporting this belief are as follows:

.....  
.....  
.....  
.....  
.....  
.....

These facts being sufficient to indicate probable cause that the above said person is a mentally ill person subject to court order.



Name of Patient's Last Physician or Licensed Clinical Psychologist

.....

Address of Patient's Last Physician or Licensed Clinical Psychologist

.....

.....

The name and address of respondent's legal guardian, spouse, and adult next of kin are:

Name	Kinship	Address
.....	Legal Guardian	.....
.....		.....
.....	Spouse	.....
.....		.....
.....	Adult Next of Kin	.....
.....		.....
.....	Adult Next of Kin	.....
.....		.....

The following constitutes additional information that may be necessary for the purpose of determining residence:

.....  
.....  
.....  
.....  
.....



Dated this ..... day of ....., 20...

.....  
Signature of the party filing the affidavit

Sworn to before me and signed in my presence on the day and year above dated.

.....  
Signature of Probate Judge

.....  
Signature of Deputy Clerk

**WAIVER**

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.

Dated this ..... day of ....., 20...

.....  
Signature of the party filing the affidavit

**Filing fee**

The bill establishes a fee of \$25 for the filing of an affidavit and proceedings for a mentally ill person subject to court order. It allows the court to waive the fee if it finds that the affiant is indigent or for good cause shown.<sup>28</sup>

**Technical changes**

The bill makes various technical and conforming changes, including gender neutralization.

---

<sup>28</sup> R.C. 2101.16(A)(75) and (B)(3).



---

## COMMENT

R.C. 5122.01(B)(4) refers to "treatment in a hospital." The words "in a hospital" probably should be stricken.

---

## HISTORY

ACTION	DATE
Introduced	03-19-13
Reported, H. Judiciary	11-21-13
Passed House (87-6)	12-11-13
Reported, S. Civil Justice	02-19-14
Passed Senate (32-0)	02-19-14

S0043-PS-130.docx/emr

