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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 439  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Galonski and Hillyer

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### SUMMARY

- Establishes a new category under which an individual may be considered a “mentally ill person subject to a court order” and subject to emergency hospitalization: psychiatric deterioration.
- Eliminates a requirement for emergency hospitalization (“pink slipping”) that an individual must represent a substantial risk of physical harm to self or others if allowed to remain at liberty pending an examination.

### DETAILED ANALYSIS

Existing Ohio law establishes a process under which certain health professionals or law enforcement officers may initiate an individual’s involuntary treatment for mental illness when an emergency exists. This process is referred to as emergency hospitalization or “pink slipping.” Currently, before the emergency hospitalization process may be initiated, an individual must (1) meet one or more statutory categories to be considered a “mentally ill person subject to a court order” and (2) represent a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination. The bill creates an additional statutory category under which an individual may be considered a “mentally ill person subject to a court order” and repeals the additional requirement that an individual also represent a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.

## **Mentally ill person subject to a court order**

Under Ohio law, an individual is a “mentally ill person subject to a court order” if, because of the individual’s mental illness, the individual falls into one of five specified categories. Those categories are:<sup>1</sup>

- The individual 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;
- The individual 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;
- The individual represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the individual is unable to provide for and is not providing for the individual’s basic physical needs because of the individual’s mental illness and that appropriate provision for those needs cannot be made immediately available in the community;
- The individual would benefit from treatment for the individual’s mental illness and is in need of treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the individual;
- The individual would benefit from treatment as manifested by evidence of behavior that indicates all of the following:
  - The individual is unlikely to survive safely in the community without supervision, based on a clinical determination;
  - The individual has a history of lack of compliance with treatment for mental illness and either (1) at least twice within the preceding 36 months, the lack of compliance has been a factor in necessitating hospitalization or receipt of services in a forensic or other mental health unit of a correctional facility or (2) within the preceding 48 months, 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;
  - The individual, as a result of the individual’s mental illness, is unlikely to voluntarily participate in necessary treatment;
  - In view of the individual’s treatment history and current behavior, the individual is in need of treatment to prevent a relapse or deterioration that would likely result in substantial risk of serious harm to the individual or others.

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

An individual who only meets this final category without also meeting at least one other category is not subject to emergency hospitalization.<sup>2</sup>

The bill establishes a new category under which an individual may be considered a “mentally ill person subject to a court order.” Under this category, an individual is considered a “mentally ill person subject to a court order” if the individual represents a substantial risk of harm to self or others as manifested by evidence of behavior that indicates (1) the person’s judgment is impaired by a lack of understanding of having an illness or a need for treatment, or both, (2) the person refuses treatment or is not adhering to prescribed treatment, and (3) if not treated and based on the individual’s prior history, the individual is reasonably expected to suffer mental deterioration and, as a result of that deterioration, will meet one of the first four categories described above.<sup>3</sup>

### **Substantial risk of physical harm to self or others**

In addition to being considered a “mentally ill person subject to a court order,” to be eligible for emergency involuntary hospitalization, an individual also must represent a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination. The bill eliminates this additional requirement, thereby only requiring that an individual be considered a “mentally ill person subject to a court order” for the emergency hospitalization process to be initiated. As described above, several of the categories under which an individual may be classified as a “mentally ill person subject to a court order” require a substantial risk of physical harm to self or others to meet the classification.

### **Background**

For a more detailed explanation of current Ohio law regarding the emergency hospitalization process, please see LSC’s Members Brief, [Involuntary Treatment for Mental Illness](#).

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## **HISTORY**

Action	Date
Introduced	09-29-21

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H0439-I-134/ts

<sup>2</sup> R.C. 5122.01(B)(6)(b).

<sup>3</sup> R.C. 5122.01(B)(5).