

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 2019

By: Hamilton (Jeff)

COMMITTEE SUBSTITUTE

An Act relating to mental health; amending 43A O.S. 1991, Section 5-101; providing for certain exception; setting state policy regarding mentally ill persons; prohibiting certain mentally ill persons from being detained or confined to a correctional facility; providing procedures; requiring certain outpatient treatment; requiring development of certain strategy; providing for contents; requiring documentation of certain cooperative plans and procedures; establishing certain committees for certain planning purposes; providing for membership; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-101, is amended to read as follows:

Section 5-101. ~~Any~~ A. Except as provided by Sections 2 through 6 of this act, any person alleged to be mentally ill or alcohol- or drug-dependent to a degree which warrants institutional treatment or care, and who is not in confinement in a jail or adult lock-up on a criminal charge, and who has no criminal charges pending against him, may be admitted to and confined in an institution within the Department of Mental Health and Substance Abuse Services, a state ~~psychopathic~~ psychiatric hospital, or a licensed private institution by compliance with any one of the following procedures:

- ~~(a)~~ 1. Emergency admission~~;~~;
- ~~(b)~~ 2. On voluntary application~~;~~ and
- ~~(c)~~ 3. On involuntary court certification.

~~Provided, however, any~~ B. Any person alleged to be mentally ill or alcohol- or drug-dependent to a degree which warrants institutional treatment or care who has criminal charges pending

against him but is not confined in a jail or adult lock-up facility may be admitted to an institution within the Department, a state psychiatric hospital or a licensed private institution pursuant to the provisions of subsection A of this section; provided, the institution or hospital is authorized to take such reasonable steps necessary to assure the protection of the public, residents of the institution or hospital and the person, including but not limited to segregation and private facilities. Provided, treatment received pursuant to this subsection shall not constitute a defense in any criminal proceeding except as otherwise provided by Title 22 of the Oklahoma Statutes.

C. Any person confined pursuant to a criminal charge ~~or who has a criminal charge pending against him~~ may be admitted to and confined pursuant to a court order issued in compliance with the provisions of Section 1175.6 of Title 22 of the Oklahoma Statutes.

No person shall be deprived of his liberty on the grounds that he is, or is supposed to be, mentally ill or in need of mental health treatment, except in accordance with the provisions of the Mental Health Law.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-101 of Title 43A, unless there is created a duplication in numbering, reads as follows:

It is the policy of the State of Oklahoma:

1. That persons with a mental illness who have not been charged with any crime shall not be detained in jails, prisons, or other criminal justice settings;

2. To develop a continuum of comprehensive community-based services and supports that will prevent mentally ill individuals from coming into contact with the criminal justice system; and

3. That individuals with mental illnesses who commit misdemeanors which are a manifestation of their illness may be ordered by the court to receive treatment for their disorders as an alternative to incarceration.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-102 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. No person shall be detained or confined as a result of a mental illness in any jail, prison, or any other detention or correctional facility, unless that person is under arrest for the commission of a crime.

B. Individuals with a mental illness who have not been formally charged by the criminal justice system but who are determined to require immediate emergency action shall be transported to appropriate inpatient or outpatient facilities for such treatment pursuant to Section 5-207 of Title 43A of the Oklahoma Statutes. Where appropriate, involuntary civil commitment procedures shall be initiated in accordance with Section 5-211 or Section 5-401 of Title 43A of the Oklahoma Statutes.

C. When appropriate, a person with a mental illness committed to a psychiatric treatment facility or program pursuant to subsection B of this section or who has been convicted of a misdemeanor or felony shall be required to participate in outpatient treatment as a condition for release from a jail or other correctional facility or psychiatric treatment facility or program. Procedures for outpatient commitment or outpatient treatment shall be as otherwise provided by this title and Title 22 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-103 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Mental Health and Substance Abuse Services shall develop a comprehensive strategy for preventing the incarceration of mentally ill individuals, for diverting such individuals away from criminal justice systems and for the adequate and appropriate treatment of such persons during detention in a jail or other local detention facility. The strategy shall be developed with the active participation of the Department of Corrections, the Department of Vocational Rehabilitation, the Department of Human Services and representatives of local law enforcement agencies, community mental health centers and other community providers.

B. The strategy shall include, but not be limited to:

1. Identification of existing programs of jail diversion programs to serve seriously mentally ill individuals who have been charged with misdemeanors which are a manifestation of their illness and the establishment of such programs where they do not exist;

2. Methods and procedures for evaluating individuals charged with misdemeanors for serious mental illness within twenty-four (24) hours of contact with the criminal justice system and placing those individuals identified as mentally ill in appropriate community-based jail diversion programs on a timely basis;

3. Specific mechanisms for enabling police and correctional officers to communicate and consult on a timely basis with appropriate mental health personnel about specific cases;

4. Training, in conjunction with the Department of Corrections and the Council on Law Enforcement Education and Training, of law enforcement and correctional personnel about mental illness and effective methods for evaluating, treating and managing individuals with these disorders;

5. Training mental health professionals who participate in state-funded educational training programs to work with mentally ill individuals in correctional facilities. A component of this training shall include, but not be limited to, on-site field experience in correctional facilities or jail diversion programs; and

6. Methods and procedures for providing comprehensive treatment, services and supports to all individuals with mental illnesses who have been incarcerated following their release from correctional facilities.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-104 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. As a condition for receipt of state mental health funding, community mental health centers and other public providers of comprehensive services to persons with mental illnesses shall document the existence of a cooperative plan with local jails,

police departments and correctional authorities. This plan shall include, but not be limited to:

1. Procedures for timely referrals of mentally ill individuals to community-based jail diversion programs;
2. Commitment of resources for the provision of treatment and supports to mentally ill individuals in jails;
3. Procedures for referrals of individuals with mental illnesses to local providers of comprehensive mental health services following release from jails. These procedures must include mechanisms for developing comprehensive treatment plans in a timely fashion prior to the release of individuals with mental illnesses from correctional facilities; and
4. Commitment of financial resources to provide for the comprehensive treatment and services needs of individuals with mental illnesses who come into contact with correctional systems.

B. Community mental health centers that fail to participate in the development of these plans or to commit resources to serving this population shall not be eligible for state funding through the Department of Mental Health and Substance Abuse Services.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-105 of Title 43A, unless there is created a duplication in numbering, reads as follows:

The governing body of each jail in this state shall establish a standing mental illness committee to regularly plan and communicate about the needs of persons with serious mental illness who come into contact with correctional systems. These committees shall be comprised of a representative of the local jail, a representative of the local community mental health centers or alternative service provider, a representative from a local public psychiatric inpatient unit or facility, a representative of a local chapter of a statewide advocacy organization for persons with mental illness, and other advocates and representatives of local mental health services as appropriate.

SECTION 7. This act shall become effective September 1, 1994.

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KSM