

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)  
COMMITTEE SUBSTITUTE  
FOR HOUSE BILL NO. 2643 By: Rhodes (Dusty)

COMMITTEE SUBSTITUTE

An Act relating to mental health; amending 20 O.S. 1991, Section 1304, as last amended by Section 3, Chapter 227, O.S.L. 1993 (20 O.S. Supp. 1993, Section 1304), which relates to the court fund; providing for certain transportation costs; amending 43A O.S. 1991, Section 5-212, which relates to certification for involuntary treatment; clarifying statutory references; allowing the use of closed-circuit television in involuntary treatment hearings; requiring two-way communication; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 1304, as last amended by Section 3, Chapter 227, O.S.L. 1993 (20 O.S. Supp. 1993, Section 1304), is amended to read as follows:

Section 1304. A. Claims against the court fund shall include only such expenses as may be lawfully incurred for the operation of the court in the county. Payment of the expenses may be made after the claim therefor is approved by the district judge who is a member of the governing board of the court fund and either the local court clerk or the local associate district judge who is a member of said governing board. No expenditures falling into any category listed in paragraphs 2, 5 and 6 of subsection B of this section, may be made without prior written approval of the Chief Justice of the Supreme Court. The Supreme Court may provide by rule the manner in which expenditures in the restricted categories shall be submitted for approval. When allowing the expenditures in paragraphs 5 and 6 of subsection B of this section, the Chief Justice shall direct that resort first be had to the surplus funds in the court fund in the county involved.

B. The term "expenses" shall include the following items and none others:

1. Principal and interest on bonds issued prior to January 1, 1968, Title 19 of the Oklahoma Statutes, Sections 771 through 778;

2. Compensation of bailiffs and part-time help;

3. Juror fees and mileage, as well as overnight accommodation and food expense for jurors kept together as set out in Title 28 of the Oklahoma Statutes, Section 81 et seq.;

4. Witness fees and mileage for witnesses subpoenaed by the defense as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes, except expert witnesses for county indigent defenders shall be paid a reasonable fee for their services;

5. Office supplies, books for records, postage and printing;

6. Furniture, fixtures and equipment;

7. Renovating, remodeling and maintenance of courtrooms, judge's chambers, clerk's offices and other areas primarily used for judicial functions;

8. Judicial robes;

9. Attorney's fees for indigents in the trial court and on appeal;

10. Compensation or reimbursement for services provided in connection with an adult guardianship proceeding as provided by Section 4-403 of Title 30 of the Oklahoma Statutes. Compensation from the court fund for attorneys appointed pursuant to the Oklahoma Guardianship Act, Section 1-102 et seq. of Title 30 of the Oklahoma Statutes, shall be substantially the same as for attorneys appointed in juvenile proceedings pursuant to Title 10 of the Oklahoma Statutes. The compensation, if any, for guardians ad litem appointed pursuant to the Oklahoma Guardianship Act shall not exceed One Hundred Dollars (\$100.00);

11. Transcripts ordered by the court;

12. Necessary telephone expenses, gas, water and electrical utilities for the part of the county courthouse occupied by the court;

13. The cost of publication notice in juvenile proceedings as provided in Section 1105 of Title 10 of the Oklahoma Statutes and

in termination of parental rights proceedings brought by the state as provided in Section 1131 of Title 10 of the Oklahoma Statutes;

14. Interpreter fees; ~~and~~

15. Fees incurred by county or municipal law enforcement agencies for transporting a mentally ill, alcohol-dependent, or drug-dependent person to or from an institution upon order of the court; and

16. Any other expenses now or hereafter expressly authorized by statute.

C. No county courthouse building commission shall be created after March 1, 1968, and no disbursements shall be permitted from any court fund under the provisions of Title 19 of the Oklahoma Statutes, Sections 771 through 778, except by county courthouse commissions created prior to March 1, 1968, provided, nothing in Section 1301 et seq. of this title shall prevent the construction of additional courtrooms within existing courthouse facilities, from funds other than the court fund.

D. Items of equipment, furniture, fixtures, printing or supplies that are available in the quantities desired from a contract vendor's list for order or purchase by the court fund through the facilities of the Central Purchasing Office of the State of Oklahoma may not be purchased by any court fund at prices higher than those approved by the Central Purchasing Office.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 5-212, is amended to read as follows:

Section 5-212. A. Upon the filing of a request for an order authorizing detention and petition pursuant to Section ~~9~~ 5-211 of this ~~act~~ title alleging a person to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person and stating that there is probable cause to detain the person in emergency detention prior to a hearing, the court shall:

1. Dismiss the petition and order the person released from protective custody or emergency detention; or

2. Issue an order authorizing the facility to detain the person prior to a hearing on the petition. If the court issues an

order for detention, it shall immediately set a date, time, and place for a hearing on the petition.

B. The district court may certify the person after consideration of the petition and sworn statement provided for in Section 9 5-211 of this ~~act~~ title for not more than twenty-eight (28) days of involuntary treatment under the following conditions:

1. The district court shall provide for an immediate hearing on the petition and shall appoint an attorney for the person being detained. The person allegedly requiring involuntary treatment shall have the right to a closed hearing unless such person requests otherwise. The court, at the hearing on the petition, shall determine by clear and convincing evidence if the person is a person requiring treatment, an alcohol-dependent person, or a drug-dependent person as otherwise defined by law and if such person poses an immediate likelihood of becoming a serious harm to himself or others. The court shall take evidence and make findings of fact concerning the competency of the person to consent to or refuse the treatment that may be ordered, including but not limited to the right of the patient to refuse medication. The court shall advise the respondent of his constitutional rights. If a jury trial is not demanded, the court may:

- a. receive as evidence and may act upon the affidavits and reports of the persons performing the examination and evaluation, without further evidence being presented. ~~The court shall advise the respondent of his constitutional rights.,~~ and
- b. conduct the hearing by closed-circuit television which broadcasts the image of the person being detained to the court. A closed-circuit television system shall not be used pursuant to this section unless the system provides for a two-way communication of image and sound between the detained person and the court.

If the court deems it necessary, or if the person alleged to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person or a person acting on their behalf shall so

demand, the court shall schedule the hearing on the petition as a jury trial to be held within seventy-two (72) hours of the demand, excluding days when the court is not officially in session, or within as much additional time as is requested by the attorney of the person requiring treatment, upon good cause shown;

2. Two (2) licensed mental health professionals of the agency or facility providing evaluation services have examined and evaluated the condition of the person and have found that the person, as a result of mental disorder or impairment by chronic alcoholism or drug abuse, poses an immediate likelihood of serious harm to himself or others; and

3. The person has been advised of, but has not accepted, voluntary treatment or has been found by the district court to be incompetent to consent to voluntary treatment as provided by paragraph 1 of this subsection.

C. 1. Certification shall be for no more than twenty-eight (28) days, and shall terminate as soon as, in the opinion of the licensed mental health professional in charge of the treatment of the person certified, the person has improved sufficiently for him to leave, or the person is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

2. If, prior to the expiration of the twenty-eight-day period of certification, it appears to the administrator of the facility that the condition of the person is such that continued inpatient treatment is necessary for the protection of the person or others, the administrator shall file pursuant to Section 5-401 of this title a petition with the district court of the county in which the patient was certified.

3. Persons who have been certified for twenty-eight (28) days of treatment shall be released at the end of twenty-eight (28) days unless:

- a. the person agrees to receive further treatment on a voluntary basis, or
- b. the person is, during the twenty-eight (28) days of temporary treatment, certified for further treatment

pursuant to the provisions of Section 5-401 or 9-102 of this title.

When a person is discharged from a facility pursuant to the provisions of this subsection, the person in charge of the facility shall notify the committing or certifying court of such discharge within forty-eight (48) hours prior to the actual discharge.

D. Any individual who knowingly and willfully detains a person for more than twenty-eight (28) days in violation of the provisions of subsection C of this section may be liable to that person in civil damages.

E. When the Department of Mental Health and Substance Abuse Services can designate two or more facilities to provide treatment and the person to be treated, his parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age expresses a preference for one such facility, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

F. Nothing in this section shall prohibit the professional person in charge of a treatment facility, or his designee, from permitting a person certified for treatment to leave the facility for short periods during the involuntary treatment of the person.

SECTION 3. This act shall become effective July 1, 1994.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-9143

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