

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1381

By: Hamilton (Jeff)

AS INTRODUCED

An Act relating to mental health; amending 43A O.S.

1991, Section 5-207, which relates to emergency detention; prohibiting placement of certain persons in jails in certain instances; providing for certain contracts; providing certain restriction; authorizing certain holdings; requiring certain contact and reports; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-207, is amended to read as follows:

Section 5-207. A. Any person who appears to be or states that he is mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the provisions of this section. Nothing in this section shall be construed as being in lieu of prosecution under state or local statutes or ordinances relating to public intoxication offenses.

B. Any peace officer who reasonably believes that a person is a person requiring treatment, an alcohol-dependent person, or a drug-dependent person to a degree that immediate emergency action is

necessary shall take said person into protective custody. The officer shall make every reasonable effort to take the person into custody in the least conspicuous manner.

C. The officer shall prepare a written affidavit indicating the basis for his belief that the person is a person requiring treatment and the circumstances under which he took the person into protective custody. The officer shall give a copy of the statement to the person or his attorney upon the request of either. If the officer does not make the determination to take an individual into protective custody on the basis of his personal observation, the person stating to be mentally ill, alcohol-dependent, or drug-dependent or the person upon whose statement the officer relies shall also sign a written affidavit indicating the basis for his belief that the person is a person requiring treatment. Any false statement given to the officer by the person upon whose statement the officer relies shall be a misdemeanor and subject to the sanctions of Title 21 of the Oklahoma Statutes.

D. The officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for emergency examinations. If, subsequent to an emergency examination, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention.

E. The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that he is mentally ill, alcohol-dependent, or drug-dependent to a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an emergency

examination to conduct an emergency examination to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain said person as provided by this act.

F. Effective January 1, 1994:

1. Counties with a city of ten thousand (10,000) people or more shall not place a person in jail due to mental illness. Such counties shall contract with facilities inside or outside the county to provide care for the mentally ill who would otherwise be jailed; and

2. Counties without a city of ten thousand (10,000) people or more may place a person who appears to need immediate emergency action in a jail only if such person cannot be adequately protected in other facilities. When such person is placed in a jail, the person in charge of the jail shall immediately notify the community mental health center for the area that the person is being held and is in need of placement in an appropriate facility. The community mental health center shall identify an appropriate placement such as a mental health center, a state hospital, or other government or private hospital. Until a placement is identified, the community mental health center shall report to the jail every twenty-four (24) hours on the status of the placement. Once an appropriate placement is identified, it shall be implemented within twenty-four (24) hours.

Such county may contract with medical facilities to provide care for the mentally ill.

SECTION 2. This act shall become effective January 1, 1994.

44-1-5183

KSM