

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1513

By: Hefner

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Sections 5-202 and 5-203, which relate to rights of detained or confined persons; requiring Department of Mental Health officials to transport certain patients; amending 43A O.S. 1991, Section 5-207, which relates to emergency detention and protective custody; exempting county sheriffs from transporting certain patients; amending 43A O.S. 1991, Section 5-308, which relates to order authorizing admission under the Mental Hospital Voluntary Admission Procedures Act; requiring Department of Mental Health officials to transport certain patients; amending 43A O.S. 1991, Section 7-101, which relates to discharge and release of patients; exempting county sheriffs from transporting certain patients; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-202, is amended to read as follows:

Section 5-202. When any person alleged in any court to be mentally ill, alcohol-dependent, or drug-dependent, or shall have been adjudged to be mentally ill, alcohol-dependent, or drug-dependent and shall be in the legal custody of the county sheriff as prescribed by law, if such person has not been charged with commission of a crime, the said county sheriff is hereby authorized to confine such person in a place other than the county jail to be selected by said county sheriff ~~and to transport such person to the place selected; provided that such.~~ The confinement shall be in a place and manner so as to prevent such confined person from in any way endangering himself or any other person. Such person shall only be transported by the appropriate Department of Mental Health officials. The county is hereby directed to expend such funds as may be necessary to provide for such confinement outside the county jail. Specific authority is hereby granted the county sheriff and the county commissioners to enter into a contract with a nursing home or facility as a place of detention. Other departments and agencies of the state may not interfere with nor deter, in any manner, this right to contract.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 5-203, is amended to read as follows:

Section 5-203. Upon receiving an order to convey a mentally ill, alcohol-dependent, or drug-dependent woman to an institution, the ~~sheriff of said county~~ appropriate Department of Mental Health officials shall procure some suitable woman to assist in conveying said woman to said institution. ~~The sheriff may procure such assistance, and certify the same to the county clerk as a part of the expense of so doing, and no bill for the expense of such conveyance shall be allowed by the commissioners of any county unless it is accompanied by a certificate of the superintendent of~~

~~said institution, showing that such person has been duly conveyed to the institution by, or accompanied by a woman attendant.~~ Whenever a female patient is transferred from one institution to another within the Department or from an institution within the Department to another institution of like nature elsewhere, she must be accompanied by a female employee of the Department or a suitable relative of said female patient.

SECTION 3. AMENDATORY 43A O.S. 1991, Section 5-207, is amended to read as follows:

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. County sheriffs shall not be required to transport such person under this section or any other section in this title.

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.

SECTION 4. AMENDATORY 43A O.S. 1991, Section 5-308, is amended to read as follows:

Section 5-308. The order of the judge of the district court authorizing the admission of an applicant as a voluntary patient pursuant to the provisions of the Mental Hospital Voluntary Admission Procedures Act may be in substantially the following form:

IN THE COUNTY COURT OF \_\_\_\_\_

COUNTY, OKLAHOMA

In the Matter of the

Mental Health of No. \_\_\_\_\_

on the Mental Health

\_\_\_\_\_ Docket

Patient

ORDER AUTHORIZING ADMISSION TO MENTAL HOSPITAL

OF VOLUNTARY PATIENT

Now on this \_\_\_\_ day of \_\_\_\_, 19\_\_, the above named \_\_\_\_\_ having appeared before me as county judge of said county and state, with his/her application to be admitted as a voluntary patient to the \_\_\_\_ Hospital, a state hospital for the mentally ill located at \_\_\_\_, together with a certificate signed by \_\_\_\_, a doctor of medicine or osteopathic physician, with offices at \_\_\_\_, Oklahoma, such certificate being in the form provided by the Mental Hospital Voluntary Admission Procedures Act.

And it appearing to me that said individual fully understands the nature of the application and the consequences which the law will impose in the event the applicant is admitted to a mental hospital as a patient therein, and that the application is voluntarily made.

It is therefore ORDERED that said \_\_\_\_ should be and he/she is hereby ORDERED to be admitted to the \_\_\_\_ State Hospital at \_\_\_\_, Oklahoma, and a certified copy of this order shall be sufficient authority for the superintendent of said institution to detain said patient in accordance with the Mental Hospital Voluntary Admission Procedures Act.

The Sheriff of \_\_\_\_ County, Oklahoma, is authorized and directed, on the request of the patient herein named, to cause said patient to be transmitted by the Department of Mental Health to \_\_\_\_ State Hospital at \_\_\_\_, Oklahoma, and to deliver to the

superintendent of said hospital one certified copy of this order and to make return as provided by law.

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Judge of the District Court

SECTION 5. AMENDATORY 43A O.S. 1991, Section 7-101, is amended to read as follows:

Section 7-101. A. The person in charge of a facility within the Department shall discharge a patient or permit him to leave the facility as provided herein.

B. The person in charge shall discharge a patient:

1. Who is not dangerous to himself or others; and

2. Who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends; and

3. For whom a discharge plan has been developed pursuant to the provisions of Section 7-102 of this title.

B. The person in charge may grant a convalescent leave status to a patient in accordance with rules prescribed by the Commissioner. The facility granting a convalescent leave status to a patient has no responsibility in returning the patient to the facility should such become necessary. A convalescent leave may be granted rather than a discharge when the patient's complete recovery can be determined only by permitting him to leave the facility. The person in charge shall discharge a patient who has not returned to the facility within twelve (12) months from the time a convalescent leave was granted.

C. In accordance with rules prescribed by the Commissioner, a person in charge may transfer a patient to an outpatient or other nonhospital status when, in the opinion of the person in charge, such transfer will not be detrimental to the public welfare or injurious to the patient and the necessary treatment may be continued on that basis; provided however, that before transferring

the patient, the person in charge shall satisfy himself that appropriate financial resources and appropriate services are available to receive and care for such patient after his transfer.

D. A visiting status may be granted for a matter of a few hours or days to any patient considered by the person in charge suitable for such privileges.

E. The person in charge of the facility shall notify the court that committed the patient that the patient has been discharged. Such notification shall be within forty-eight (48) hours prior to the actual discharge.

F. The expense of returning a patient from convalescent leave, outpatient status or visiting status shall be that of:

1. The party removing the patient from the facility; or
2. The Department. When it becomes necessary for the patient to be returned from the county where he happens to be, the Department shall reimburse the county pursuant to the State Travel Reimbursement Act.

G. In the event authorization is necessary to accomplish the return of the patient to the facility, such authority is hereby vested in the judge of the district court in the county where the patient is located. Upon receipt of notice that the patient needs to be returned to the facility, the judge shall cause the patient to be brought before him by issuance of a citation directed to the patient to appear and show cause why he should not be returned to the facility. The judge shall, if clear and convincing evidence is presented by testimony under oath that the patient should be returned to the facility, enter an order returning him. If there is a lack of clear and convincing evidence showing the necessity of such return, the patient shall immediately be released. Law enforcement officers are authorized to take into custody, detain and transport a patient pursuant to a citation or an order of the judge of the district court. However, county sheriffs shall not be

required to transport said patients pursuant to this section or any other section in this title.

H. An attending physician of any patient admitted to a private facility may discharge a patient or permit him to leave the facility subject to the same provisions applicable to the discharge or release of a patient by the person in charge of a state facility.

SECTION 6. This act shall become effective September 1, 1993.

44-1-5673

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