STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1042 By: Boyd (Laura)

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Section 5-207, which relates to emergency detentions; eliminating the requirement of more than one person signing an affidavit for certain detention; 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~~ such person 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~~ the officer's belief that the person is a person requiring treatment and the circumstances under which ~~he~~ the officer took the person into protective custody. The officer shall give a copy of the statement to the person or ~~his~~ the person's 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~~ the officer's personal observation, the officer shall not be required to prepare a written affidavit. However, 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~~ such person's 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~~ such person 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 2. This act shall become effective November 1, 1995.

45-1-6053 MCD