STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1066 By: Sadler

AS INTRODUCED

An Act relating to mental health; amending Section 2, Chapter 298, O.S.L. 1992, as amended by Section 1, Chapter 156, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-502), which relates to inpatient mental health treatment of children; modifying definition; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 298, O.S.L. 1992, as amended by Section 1, Chapter 156, O.S.L. 1994 (43A O.S. Supp. 1994, Section 5-502), is amended to read as follows:

Section 5-502. As used in the Inpatient Mental Health Treatment of Children Act:

1. "Child" means any person under eighteen (18) years of age;

2. "Child in need of mental health treatment" means a child:

a. who has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person if mental health services are not provided and has engaged in one or more recent overt acts or made significant

recent threats which substantially support that expectation, or

b. who has a demonstrable mental illness of sufficient severity to cause substantial impairment or disability in at least two of the following major areas of functioning in the child's life: family relations, school performance, social interactions or ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or self-protection. A determination regarding the ability of the child to perform independently said basic tasks shall be based upon the age of the child and reasonable and appropriate expectation of the abilities of a child of such age to perform said tasks.

The term "child in need of mental health treatment" shall not mean a child afflicted with epilepsy, developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by such substances as alcohol or drugs or who is truant or sexually active unless the child also meets the criteria for a child in need of treatment pursuant to subparagraphs a and b of this paragraph.

Only the condition provided by subparagraph a of this paragraph shall be used as the basis for an order of a court committing a child for inpatient mental health treatment;

3. "Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a child fourteen (14) years of age or older and by a parent having custody of the child or a legally authorized custodian;

4. "Independent" means a licensed mental health professional conducting an outpatient or inpatient mental health evaluation and submitting a report to the district attorney or court pursuant to the provisions of the Inpatient Mental Health Treatment of Children

Act who is not and will not be treating the child and has no financial interest in a facility in which the child will be placed or any significant interest in the hospitalization of the child that would constitute a conflict of interest, and has signed an affidavit to that effect, provided, a licensed mental health professional employed by a community mental health center shall be exempt from the requirement that he or she is not and will not be treating the child;

5. "Individualized treatment plan" means a specific plan for the care and treatment of an individual child who requires inpatient mental health treatment. The plan shall be developed with maximum involvement of the child's family, consistent with the child's desire for confidentiality and with the treatment needs of the child, and shall clearly include the following:

a. a statement of the presenting problems of the child, short- and long-term treatment goals and the estimated date of discharge. The short- and long-term goals shall be based upon a clinical evaluation and shall include specific behavioral and emotional goals against which the success of treatment can be measured,

b. treatment methods and procedures to be used to achieve these goals, which methods and procedures are related to each of these goals and which include, but are not limited to, specific prognosis for achieving each of these goals,

c. identification of the types of professional personnel who will carry out the treatment procedures including, but not limited to, appropriate licensed mental health professionals, education professionals, and other health or social service professionals,

d. documentation of the involvement of the child in the development of the treatment plan and:

(1) the involvement of a parent in the development of the treatment plan and the consent of the child to the plan, or

(2) when the child is in the legal custody of a public or private child care agency, the involvement of a designated representative of the agency in the development of the treatment plan and documentation of the consent of the agency to the treatment plan;

6. "Inpatient treatment" means mental health treatment services offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health facility for the purpose of observation, evaluation or treatment;

7. "Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit to the child or to protect the child or others from physical injury;

8. "Less restrictive alternative to inpatient treatment" means and includes but is not limited to outpatient counseling services, including services provided in the home of the child and which may be referred to as "home-based services", day treatment or day hospitalization services, respite care, or foster care or group home care, as defined by Title 10 of the Oklahoma Statutes, through a program established and specifically designed to meet the needs of children in need of mental health treatment, or a combination thereof;

9. "Licensed mental health professional" means a person who has received specific training for and is experienced in performing mental health therapeutic, diagnostic or counseling functions and is

not related by blood or marriage to the person being examined or does not have any interest in the estate of the person being examined, and who is:

a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,

b. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,

c. a licensed professional counselor as defined in Section 1902 of Title 59 of the Oklahoma Statutes,

d. a person licensed as a licensed social worker pursuant to the provisions of the Licensed Social Workers Act, Section 1250 et seq. of Title 59 of the Oklahoma Statutes, ~~or~~

e. a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes, or

f. a Doctor of Medicine who is duly licensed to practice by the State Board of Medical Licensure and Supervision, or a Doctor of Osteopathy who is duly licensed to practice by the Oklahoma Board of Osteopathic Examiners, or a qualified examiner as defined in Section 1-103 of this title.

For the purposes of this paragraph, "licensed" means that the person holds a current, valid license issued in accordance with the laws of this state;

10. "Mental health evaluation" means an examination or evaluation of a child for the purpose of making a determination whether, in the opinion of the licensed mental health professional making the evaluation, the child is a child in need of mental health treatment and, if so, is in need of inpatient mental health treatment and for the purpose of preparing reports or making

recommendations for the most appropriate and least restrictive treatment for the child;

11. "Mental health facility" means a public or private hospital or related institution as defined by Section 1-701 of Title 63 of the Oklahoma Statutes offering or providing inpatient mental health services, a public or private facility accredited as an inpatient or residential psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, or a facility operated by the Department of Mental Health and Substance Abuse Services and designated by the Commissioner of the Department of Mental Health and Substance Abuse Services as appropriate for the inpatient evaluation or treatment of children;

12. "Mental illness" means a substantial disorder of the child's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior;

13. "Parent" means:

a. a biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint decree or agreement, or

b. a person judicially appointed as a legal guardian of the child, or

c. a relative within the third degree of consanguinity who exercises the rights and responsibilities of legal custody by delegation from a parent, as provided by law;

14. "Person responsible for the supervision of the case" means:

a. when the child is a ward of the court and in the legal custody of a public or private child care agency, the caseworker or other person designated by the agency to supervise the case, or

b. when the child is a ward of the court and under the court-ordered supervision of the Department of Human Services or a statutorily constituted juvenile bureau, the person designated by the Department of Human Services or juvenile bureau to supervise the case;

15. "Prescreening" means a face-to-face mental health evaluation conducted by a licensed mental health professional to determine whether a child requires an inpatient evaluation or an emergency mental health admission and may include consultation with other mental health professionals and a review of all available records on the child;

16. "Ward of the court" means a child adjudicated to be a deprived child, a child in need of supervision, or a delinquent child; and

17. "Treatment" means any planned intervention intended to improve a child's functioning in those areas which show impairment as a result of mental illness.

SECTION 2. This act shall become effective November 1, 1995.

45-1-5421 LAC