

ENGROSSED HOUSE
BILL NO. 2172

By: Vaughn of the House

and

Hendrick of the Senate

An Act relating to mental health; amending 43A O.S. 1991, Section 5-206, as amended by Section 1, Chapter 312, O.S.L. 1993, 5-208 and 5-209 (43A O.S. Supp. 1996, Section 5-206), which relate to emergency detention and protective custody; adding definitions, modifying provisions regarding examination of persons in protective custody and authority for detention; authorizing certain individuals to petition court regarding person requiring treatment, establishing certain rights for persons subject to certain proceedings; providing for appointment and payment of attorney; establishing procedure for certain notices providing procedures to be followed for prehearing detention of certain persons; providing for certain evaluations; establishing procedure to be followed by court upon filing of certain petitions; amending 43A O.S. 1991, Section 5-407, which relates to review of status of persons involuntarily detained; modifying certain time periods; repealing 43A O.S. 1991, Section 5-210, 5-211 and 5-212, as amended by Section 2, Chapter 207, O.S.L. 1994 (43A O.S. Supp. 1996, Section 5-212), which relate to emergency

detention; repealing 43A O.S. 1991, Sections 5-401, as amended by Section 3, Chapter 389, O.S.L. 1992, and 5-402 (43A O.S. Supp. 1996, Section 5-401), which relate to voluntary commitment procedures; providing for codification; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-206, as amended by Section 1, Chapter 312, O.S.L. 1993 (43A O.S. Supp. 1996, Section 5-206), is amended to read as follows:

Section 5-206. Definitions.

As used in Sections 5-206 through 5-212 of this title:

1. "Licensed mental health professional" means:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a licensed clinical psychologist,
- c. a licensed professional counselor as defined in Section 1902 of Title 59 of the Oklahoma Statutes,
- d. a person licensed as a licensed clinical social worker pursuant to Section 1250 et seq. of Title 59 of the Oklahoma Statutes, or
- e. a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions or a qualified examiner as defined in Section 1-103 of this title;

2. "Immediate likelihood of serious harm to self or others"

means:

- a. a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm, or
- b. a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior, or
- c. having placed others in a reasonable fear of violent behavior or serious physical harm, to them, or
- d. a reasonable certainty that without treatment severe impairment or injury will result to the person alleged to be mentally ill as manifested by his inability to avoid or protect himself from such impairment or injury;

3. "Evaluation" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person by two licensed mental health professionals, at least one of whom is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, for the purpose of:

- a.—determining if a petition requesting involuntary commitment is warranted, or
- b.—completing a certificate of evaluation pursuant to Section 7 of this act, or
- c.—both subparagraphs a and b of this paragraph;

4. "Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person, and whose condition is such that it appears that emergency detention may be warranted, by a licensed

mental health professional to determine if emergency detention is warranted;

~~4.~~ 5. "Emergency detention" means the detention of a person who appears to be mentally ill, alcohol-dependent, or drug-dependent in a facility approved by the Commission as appropriate for such detention after the completion of an emergency examination and a determination by a licensed mental health professional that emergency detention is warranted pending the issuance of a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by this act; ~~and~~

~~5.~~ 6. "Protective custody" means the taking into protective custody and detention of a person pursuant to the provisions of Section 5-208 of this title until such time as an emergency examination is completed and a determination is made as to whether or not emergency detention is warranted; and

7. "Prehearing detention" means the court-ordered detention of a person who appears to be mentally ill, alcohol-dependent, or drug-dependent, in a facility approved by the Commission as appropriate for such detention, pending a hearing on a petition requesting involuntary commitment or treatment as provided by Section 8 of this act or Section 9-102 of this title.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 5-208, is amended to read as follows:

Section 5-208. A. A person in protective custody as provided by Section 5-207 of this title shall be examined at the appropriate facility by a licensed mental health professional within twelve (12) hours of being placed in protective custody for the purpose of determining whether emergency detention is warranted.

1. If the licensed mental health professional determines that the person is not a person requiring treatment, an alcohol-dependent person, or a drug-dependent person or that the condition of the

person is such that emergency detention is not warranted, the person shall be returned immediately to the point where he was taken into protective custody and released.

2. If the licensed mental health professional determines that the person is a person requiring treatment, an alcohol-dependent person, or a drug-dependent person to a degree that emergency detention is warranted, he shall immediately:

- a. prepare a statement describing the results of his examination stating the basis for his determination. The statement shall be substantially in a form prescribed by the Department of Mental Health and Substance Abuse Services~~;~~;
- ~~b. request the district court of the county in which the person is being held in emergency detention to issue an order authorizing the detention of the person beyond seventy-two (72) hours, if necessary; and~~
- ~~e. b. provide for a full examination and evaluation of the person by two licensed mental health professionals and the preparation of a petition for involuntary treatment or commitment pursuant to the provisions of Section 5-211 of this title, Section 5-401 of this title or Section 9-102 of this title. The petition shall be substantially in the form prescribed by the Department of Mental Health and Substance Abuse Services.~~

B. If a licensed mental health professional, designated to have such responsibility by the administrator of a hospital, or the administrator of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention believes a voluntary patient to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person to a degree that emergency action is necessary, the administrator

may detain such patient in emergency detention for a period not to exceed seventy-two (72) hours only on the following conditions:

1. The patient has refused to consent or withdrawn consent to voluntary treatment;

2. The patient has been examined by a licensed mental health professional who has determined that the person is a person requiring treatment, an alcohol-dependent person, or a drug-dependent person, the condition of the person is such that emergency detention is warranted, and a statement has been prepared as provided in subsection A of this section; and

~~2.~~ 3. The administrator or his designee shall provide for a full examination and ~~petition required by subsection A of this section~~ evaluation of the patient.

C. Whenever it appears that a person detained as provided by this section will require treatment beyond the period of emergency detention and the person has refused to consent to voluntary treatment, a licensed mental health professional conducting an evaluation of the person or the administrator of the facility in which the person is being detained, or the designee of the administrator, shall immediately file a petition with the district court as provided by Section 8 of this act or Section 9-102 of this title, and may request an order directing prehearing detention when such detention is necessary for the protection of the person or others.

SECTION 3. AMENDATORY 43A O.S. 1991, Section 5-209 is amended to read as follows:

Section 5-209. A. ~~A copy of the statement of the licensed mental health professional and the petition with attached exhibits shall constitute authority for a facility to admit and detain the person in protective custody for a period not to exceed seventy-two (72) hours, excluding days when the district court is not officially in session.~~

~~B.~~ A person may be detained more than seventy-two (72) hours only if the facility is presented with a copy of an order of the district court authorizing additional detention. Such order may be entered by the court only after a petition has been filed seeking involuntary commitment or treatment pursuant to the provisions of Section 6 of this act.

~~C.~~ ~~A petition filed pursuant to this act shall be verified and shall contain a statement that there is probable cause to detain the person alleged to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person for his safety or the safety of others in an appropriate facility for detention, prior to a hearing on the petition. The petition shall be filed on the same day as the date of emergency detention and examination or, if the office of the court clerk is not open for business that day, as soon thereafter as the office of the court clerk is open for business.~~

~~D.~~ B. If a copy of an order for additional detention is not delivered to the facility by the end of the period of emergency detention, the person alleged to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person shall be discharged from the facility in which detained unless said person has applied for voluntary treatment.

~~E.~~ C. The patient being held in protective custody shall be asked to designate any person whom he wishes informed regarding his detention. If he is incapable of making such designation, the administrator of the hospital or facility where the person is being held in protective custody shall notify within twenty-four (24) hours of taking the person into protective custody, other than the person initiating the request for protective custody, the attorney, parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age of the person. If none of the persons designated for notification in this paragraph can be located, the

administrator of the facility shall notify the sheriff of the county where the person was taken into protective custody. The sheriff shall notify one of the persons required to be notified as provided in this subsection. Failure of the sheriff to find such person shall within a reasonable time be reported to the administrator of the facility. Such fact shall be made a part of the records of the facility for the person being detained.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-410 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The father, mother, husband, wife, brother, sister, guardian or child, over the age of eighteen (18) years, of a person alleged to be a person requiring treatment, or the parent, father, mother, guardian or person having custody of a minor child, a physician or person in charge of any facility or correctional institution, or any peace office within the county in which the person alleged to be a person requiring treatment resides or may be found or the district attorney in whose district the person requiring treatment resides or may be found, may petition the district court, upon which is hereby conferred jurisdiction, to determine whether the person is a person requiring treatment and to order the least restrictive appropriate treatment for such person.

B. A licensed mental health professional, the administrator of a facility designated by the Commissioner as appropriate for emergency detention or an administrator of a hospital that is approved by the Joint Commission on Accreditation of Hospitals may file a petition in a district court requesting the court to commit a person detained in emergency detention pursuant to this act.

C. The petition shall contain a statement of the facts upon which the allegation is based and, if known, the names and addresses of any witnesses to the alleged facts. The petition shall be verified and made under penalty of perjury.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-411 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. A person alleged to be a person requiring treatment shall have the following rights:

1. The right to notice, as provided by Section 6 of this act;

2. The right to counsel, including court-appointed counsel, and if he has no counsel, that the court shall appoint an attorney to represent the person at no cost if the person is an indigent person and cannot afford an attorney;

3. The right to a hearing, and the right to a closed hearing, unless the person requests otherwise. The person shall have the right to be present at the hearing on the petition or jury trial unless it is made to appear to the court that the presence of the person alleged to be a person requiring treatment makes it impossible to conduct the hearing or trial in a reasonable manner or that his presence would be injurious to his health or well-being. The court may not decide in advance of the hearing, solely on the basis of the certificate of the examining commission, that the person alleged to be a person requiring treatment should not be allowed nor required to appear. It shall be made to appear to the court based upon clear and convincing evidence that alternatives to exclusion were attempted before the court renders his removal for that purpose or determines that his appearance at such hearing would be improper and unsafe;

4. Upon request, right to a jury trial. The jury shall be composed of six persons having the qualifications required of jurors in courts of record; and

5. The right to present and to cross-examine witnesses. The petitioner and witnesses identified in the petition shall offer testimony under oath at the hearing on the petition. When the hearing is conducted as a jury trial, the petitioner and any witness

in behalf of the petitioner shall be subject to cross-examination by the attorney for the person alleged to be a person requiring treatment. The person alleged to be a person requiring treatment may also be called as a witness and cross-examined.

B. A person alleged to be or found by a court to be a person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law.

C. No statement, admission or confession made by the person alleged to be a person requiring treatment may be used for any purpose except for proceedings under this section. No such statement, admission or confession may be used against such person in any criminal action whether pending at the time the hearing is held or filed against such person at any later time directly or in any manner or form.

D. An attorney appointed by the court shall be a licensed and actively practicing attorney who shall represent the person alleged to be a person requiring treatment until final disposition of the case. The court may appoint a public defender where available. The attorney shall meet and consult with the person within one (1) day of notification of his appointment. The attorney shall immediately, upon meeting with the person alleged to be a person requiring treatment, present to such person a statement of his rights, including all rights afforded to him by the Oklahoma and the United States Constitutions. The court-appointed attorney shall be replaced by another attorney if:

1. The person alleged to be a person requiring treatment prefers the services of an attorney other than the one initially appointed for him;

2. The preferred attorney agrees to accept the responsibility;

and

3. The person alleged to be a person requiring treatment or the attorney whom he prefers notifies the court of the preference and the attorney's acceptance of employment.

The preferred attorney shall meet and consult with the person alleged to be a person requiring treatment within one (1) day of his employment. Any request for additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case, including cost.

E. The attorney's fees for all services shall be paid by the person alleged to be a person requiring treatment. However, if the person alleged to be a person requiring treatment, or a person empowered pursuant to law to act on behalf of such person, submits an affidavit that such person is indigent and unable to pay attorney's fees, the attorney's fees shall be paid from the court fund, after a determination by the court that such person is indigent. The amount of such fee shall be set by the court.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-412 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. Notice of the date, time and place of the hearing on a petition alleging a person to be a person requiring treatment shall be delivered to the person alleged to be a person requiring treatment at least one (1) day prior to the hearing. Notice shall be personally delivered to said person together with a copy of the petition and, if applicable, copies of the certificate of evaluation, the affidavit of the peace officer, and any order of the court directing prehearing detention or an evaluation of the person.

B. The notice shall contain the following information:

1. The definitions provided by Section 1-103 of this title of a "mentally ill person" and a "person requiring treatment";

2. If applicable, that the court has ordered the evaluation of the person by two licensed mental health professionals, at least one

of whom is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions, for the purpose of conducting an evaluation of the person allegedly requiring treatment and executing a certificate evaluation stating their findings, and the time and place of the evaluation;

3. That, upon request, the hearing on the petition may be conducted as a jury trial and the jury shall be composed of six (6) persons having the qualifications required of jurors in courts of record;

4. That the petitioner and witnesses identified in the petition may offer testimony under oath at the hearing on the petition;

5. If applicable, that the court has appointed an attorney for the person alleged to be a person requiring treatment who shall represent him until final disposition of the case and that if the person alleged to be a person requiring treatment is indigent, the court shall pay the attorney's fees;

6. That if the person is found at the hearing or at a jury trial to be mentally ill and a person requiring treatment under this act, that the court will take evidence and make findings of fact concerning the person's competency to consent or to refuse the treatment that is ordered, including, but not limited to, the patient's right to refuse psychotropic medications; and

7. That the person alleged to be a person requiring treatment shall be afforded such other rights as are guaranteed by state and federal law and that such rights include a trial by jury, if demanded.

C. The person delivering the copy of the notice and petition to the person alleged to be a person requiring treatment shall, at the

time of delivery, explain the content, purpose and effect of the notice and the legal right to judicial review by habeas corpus.

D. A copy of the notice, the petition, and the attachments to the petition, if any, shall also be delivered at least one (1) day prior to the hearing, personally or by certified mail, to the individual initiating the request for protective custody or emergency detention, to the attorney or court-appointed counsel of said person, to the district attorney, to the public defender, if any, to the facility in which the person is detained in emergency detention, to the Department of Mental Health and Substance Abuse Services and to a parent, spouse, guardian, brother, sister or child who is at least eighteen (18) years of age of the person in emergency detention and who is not the individual initiating the petition or a request for protective custody or emergency detention. Notice shall also be delivered to any other person as may be ordered by the court, and upon the person with whom the person alleged to be a person requiring treatment may reside, or at whose house he may be. The person making such service shall make affidavit of the same and file such notice, with proof of service, with the district court. This notice may be served in any part of the state when so ordered by the court.

E. Notice of orders of a court directing an evaluation or prehearing detention of a person alleged to be a person requiring treatment shall be delivered in substantially the same manner as provided by subsection A of this section. Notice of a court order directing an evaluation of the person shall be delivered at least one (1) day before the evaluation, and as many additional days as are requested by the person alleged to be a person requiring treatment or his attorney as are reasonable without prejudice to the person. Any request for additional days shall be subject to the discretion of the court, considering the facts and circumstances of each particular case.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-413 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of a petition and a request for an order of prehearing detention, the district court shall determine whether there is probable cause to detain the person requiring treatment prior to a hearing on the petition.

1. a. If the court finds that probable cause does not exist, the court shall dismiss the request and, if the person is being held in protective custody or emergency detention, order the person released.

b. If the court finds that probable cause does exist, an order may be entered authorizing any peace officer to take that person into custody and to detain such person in a suitable facility prior to the hearing on the petition. The period of prehearing detention shall not exceed seventy-two (72) hours, excluding weekdays and holidays. Prehearing detention may be extended to coincide with any order of continuance entered by the court at the first hearing.

2. Upon the filing of a request for an order authorizing the prehearing detention of a person who is being held in protective custody or emergency detention and the court finds that there is probable cause to detain the person prior to a hearing, the court shall 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.

3. A certified copy of an order of prehearing detention shall constitute authority for the facility to detain or to continue to detain the person who is the subject of the order.

B. If a certificate of evaluation is not attached to a petition alleging a person to be a person requiring treatment at the time the petition is filed, the court shall order the person who is the subject of the petition to undergo an evaluation by two licensed mental health professionals, and a certificate of evaluation to be completed and filed with the court prior to the hearing.

1. The evaluation shall be conducted on an outpatient basis unless the court has issued an order for prehearing detention. When the person is being held in prehearing detention the evaluation shall be conducted in the facility in which the person is being detained.

2. A copy of all petitions, orders, affidavits, police reports and other relevant documents shall accompany the person to the place where the evaluation is to be conducted.

3. Upon completion of the evaluation, the facility shall transmit a copy of the written findings of the licensed mental health professionals conducting the evaluation and the certificate of evaluation to the court and to the attorney of record for the person evaluated.

C. The report of the licensed mental health professionals conducting an evaluation pursuant to this section shall include written findings as to whether:

1. The person being evaluated appears to have 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 another person if mental health treatment services are not provided, and has engaged in one or more recent overt acts or has made significant recent threats which reasonably support that expectation, and is reasonably likely to benefit from mental health treatment; and

2. Based on the following, inpatient treatment is the least restrictive alternative that meets the needs of the person:

- a. reasonable efforts have been made to provide for the mental health treatment needs of the person through the provision of less restrictive alternatives and the alternatives have failed to meet the treatment needs of the person, or
- b. after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the person is such that less restrictive alternatives are unlikely to meet the treatment needs of the person.

D. The certificate of evaluation shall be substantially in the following form and signed by two licensed mental health professionals who have participated in the evaluation of the person. At least one of the licensed mental health professionals shall be a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology, a licensed clinical psychologist, or a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions:

NOTICE OF CERTIFICATION

To the District Court of _____ County,

State of Oklahoma

The authorized agency providing evaluation services in the
County

of _____ has evaluated the condition of:

Name _____

Address _____

Age _____

Sex _____

Marital status _____

Religious affiliation _____

We have evaluated the person and make the following findings:

The above-named person has been informed of this evaluation, and has been advised of, but has not been able or willing to accept referral to, the following services:

We hereby state that a copy of this notice has been delivered to the above-named person and person other than the person initiating the request for protective custody, the attorney, parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age of the person in protective custody, that he has been informed of his legal right to a judicial review by habeas corpus, that this term has been explained to him, that he has been informed of his right to counsel, including court-appointed counsel and that if he has no counsel, the court shall appoint an attorney to represent him at no cost to him if he cannot afford one.

We hereby state that a copy of this notice has been delivered by _____ to the patient, and _____ on _____, or the sheriff was unable to locate such persons.

Date _____
Signed _____
Signed _____
Countersigned _____
Representing the treatment facility

NOTICE: THE HEARING ON THIS REQUEST AND PETITION HAS BEEN SET

FOR _____ O'CLOCK _____.M. ON _____, THE
_____ DAY OF _____, 19_____, IN DISTRICT
COURT.

SECTION 8. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5-414 of Title 43A, unless there
is created a duplication in numbering, reads as follows:

A. Upon receiving a petition alleging a person to be a person
requiring treatment, the court shall set a day and time for the
hearing.

1. If the person alleged to be a person requiring treatment
does not have an attorney, the court shall immediately appoint an
attorney for the person.

2. If a copy of a certificate of evaluation is not attached to
the petition at the time it is filed, the court shall immediately
order an evaluation of the person as provided by Section 7 of this
act.

B. If the court deems it necessary, or if the person alleged to
be a person requiring treatment 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 weekends and
holidays, or within as much additional time as is requested by the
attorney of the person requiring treatment, upon good cause shown.

C. The court, at the hearing on the petition, shall determine
by clear and convincing evidence whether the person is a person
requiring treatment.

1. The court shall take evidence and make findings of fact
concerning the person's competency to consent to or refuse the
treatment that may be ordered, including, but not limited to, the
patient's right to refuse medication.

2. If a jury trial is not demanded, the court may receive as
evidence and act upon the affidavits of the licensed mental health

professionals who evaluated the person and the certificate of evaluation.

3. When the hearing is conducted as a jury trial, the petitioner and any witness in behalf of the petitioner shall be subject to cross-examination by the attorney for the person alleged to be a person requiring treatment. The person alleged to be a person requiring treatment may also be called as a witness and cross-examined.

D. When, after the hearing, the court determines that the person is not a person requiring treatment, the court shall dismiss the petition and, if the person is being detained, order the person to be discharged from detention.

E. When, after the hearing, the court determines the person to be a person requiring treatment, the court shall order the person to receive the least restrictive treatment consistent with the treatment needs of the person and the safety of the person and others.

1. The court shall not order hospitalization without a thorough consideration of available treatment alternatives to hospitalization and may direct the submission of evidence as to the least restrictive treatment alternative or may order a precommitment screening examination as provided by Section 5-403 of this title.

2. If the court finds that a program other than hospitalization is appropriate to meet the individual's treatment needs and is sufficient to prevent injury to the individual or to others, the court may order the individual to receive whatever treatment other than hospitalization that is appropriate for a period of ninety (90) days, during which time the court shall continue its jurisdiction over the individual as a person requiring treatment.

3. If the court orders the person to be committed for involuntary inpatient treatment, the court shall specify whether the commitment period shall be for not more than twenty-eight (28) days

or shall be until such time as the person no longer requires inpatient treatment. The person shall be delivered to the custody of the Department of Mental Health and Substance Abuse Services for a placement that is suitable to the person's needs or to a private facility willing to accept the person for treatment. If the person is placed in the custody of the Department, the Department may 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 Department shall attempt, if administratively possible, to comply with the preference.

F. The court shall make and keep records of all cases brought before it.

1. No records of proceedings pursuant to this section shall be open to public inspection except by order of the court or to employees of the Department of Mental Health and Substance Abuse Services, the person's attorney of record, or persons having a legitimate treatment interest.

2. Bonded abstractors may be deemed to be persons having a legitimate interest for the purpose of having access to records regarding determinations of persons requiring treatment under this section.

SECTION 9. AMENDATORY 43A O.S. 1991, Section 5-407, is amended to read as follows:

Section 5-407. A. The Department of Mental Health and Substance Abuse Services shall adopt rules, regulations and procedures to ensure that persons involuntarily ~~detained~~ committed for treatment by a court receive review of their involuntary status at least once every ~~twelve (12)~~ three (3) months, and the Department of Mental Health and Substance Abuse Services shall take appropriate action based upon this review.

B. Any person receiving involuntary inpatient treatment, or such person's attorney, may at any time file a written request that the treatment order be reviewed by the committing court, or a court in the county where the person is located. If a review is requested, the court shall hear the matter within thirty (30) days after the request, and the court shall give notice to the person and such person's attorney and the person in charge of the facility of the time and place of the hearing. The hearing shall be to determine if the person can be treated on a less restrictive basis. At the conclusion of the hearing, the court may confirm the order of treatment, modify the order of treatment, discharge the respondent, or enter any appropriate order.

SECTION 10. REPEALER 43A O.S. 1991, Sections 5-210, 5-211, 5-212, as amended by Section 2, Chapter 207, O.S.L. 1994, 5-401, as amended by Section 3, Chapter 389, O.S.L. 1992, and 5-402 (43A O.S. Supp. 1996, Sections 5-212 and 5-401), are hereby repealed.

SECTION 11. RECODIFICATION 43A O.S. 1991, Section 5-403, shall be recodified as Section 5-416 of Title 43A of the Oklahoma Statutes; 43A O.S. 1991, Section 5-404, shall be recodified as Section 5-417 of Title 43A of the Oklahoma Statutes; Section 5-405, shall be recodified as Section 5-415 of Title 43A of the Oklahoma Statutes; Section 5-406, shall be recodified as Section 5-418 of Title 43A of the Oklahoma Statutes; Section 5-407, shall be recodified as Section 5-419 of Title 43A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 12. This act shall become effective November 1, 1997.

Passed the House of Representatives the 26th day of February, 1997.

Speaker

of the House of
Representatives

Passed the Senate the ____ day of _____, 1997.

President

of the Senate