ENGROSSED HOUSE
BILL NO. 2702

By: Vaughn of the House

and

Cain of the Senate

An Act relating to mental health and emergency detention; amending 43A O.S. 1991, Sections 5-206, as last amended by Section 1, Chapter 387, O.S.L. 1997 and 5-209, as amended by Section 3, Chapter 387, O.S.L. 1997 (43A O.S. Supp. 1997, Sections 5-206 and 5-209), which relate to definitions and emergency detention; clarifying time for emergency detention; and declaring an emergency.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-206, as last amended by Section 1, Chapter 387, O.S.L. 1997 (43A O.S. Supp. 1997, Section 5-206), is amended to read as follows:

Section 5-206. 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,

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

f. 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 oneself as manifested by evidence of serious threats of or attempts at suicide or other self-infliction of bodily harm, or

b. a substantial risk of physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons, or

c. having placed another person or persons in a reasonable fear of violent behavior directed towards them or serious physical harm to them as manifested by serious threats, or

d. a reasonable certainty that without immediate treatment severe impairment or injury will result to the person alleged to be a person requiring treatment as manifested by the inability of the person to avoid or protect self 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 a 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 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 or treatment is warranted, or

b. completing a certificate of evaluation pursuant to Section ~~8~~ 5-414 of this ~~act~~ title, 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 a person requiring treatment, 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 of the person is warranted;

5. "Emergency detention" means the detention of a person who appears to be mentally ill, alcohol-dependent, or drug-dependent and a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services 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. No person shall be detained in emergency detention more than seventy-two (72) hours, excluding weekends and holidays, except upon 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;

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 is alleged to be mentally ill, alcohol-dependent, or drug-dependent in a facility approved by the Commissioner as appropriate for such detention, pending a hearing on a petition requesting involuntary commitment or treatment as provided by Section ~~9 of this act~~ 5-415 or ~~Section~~ 9-102 of this title.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 5-209, as amended by Section 3, Chapter 387, O.S.L. 1997 (43A O.S. Supp. 1997, Section 5-209), is amended to read as follows:

Section 5-209. A. A person may be detained in emergency detention more than seventy-two (72) hours, excluding weekends and holidays, only if the facility in which the person being detained is presented with a copy of an order of the district court authorizing further 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 ~~4 of this act~~ 5-410 or ~~Section~~ 9-102 of this title.

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

C. The person being held in protective custody or emergency detention shall be asked to designate any person whom such person wishes informed regarding the detention. If the person being detained is incapable of making such designation, the administrator of the hospital or facility where the person is being held in protective custody or emergency detention 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~~ subsection 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 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 24th day of February, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate