

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1303

By: Eddins

AS INTRODUCED

An Act relating to mental health; amending 43A O.S.

1991, Section 5-204, which relates to treatment and medication of person during detention period by Department of Mental Health and Substance Abuse Services; modifying provisions regarding use of seclusion and restraint, and psychotropic medication; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-204, is amended to read as follows:

Section 5-204. A. During the detention periods authorized by the Mental Health and Substance Abuse Services Law, Section 1-101 et seq. of this title, or during the time set forth in the Mental Health and Substance Abuse Services Law for the precommitment screening examination, or while in the custody of the Department of Corrections appropriate treatment and medication, including psychotropic medication, may be administered to a consenting individual.

B. Treatment and medication may be administered to a nonconsenting individual upon the written order of a physician who

has personally examined the patient and who finds such medication or treatment is necessary to protect the patient, the facility or others from serious bodily harm, and who so notes in the individual's medication record, with an explanation of the facts leading up to the decision to administer treatment and medication including psychotropic medication.

C. Any physician who administers medication in good faith, under the provision of this section, shall be immune from civil suits for damages that occur from said administration of medication.

~~D. If seclusion or restraint is feasible and would also be effective to avoid such an injury, and the individual expresses a preference for seclusion or restraint instead of medication, it shall be honored if practical.~~ Seclusion and restraint may be administered to a nonconsenting individual upon the written order of a physician who has personally examined the patient and who finds that seclusion and restraint is necessary to protect the patient, the facility, or others from bodily harm. The physician shall note in the medication record of the patient an explanation of the decision to administer seclusion and restraint, including administration of psychotropic medication.

~~E. It shall be the responsibility of the facility providing psychotropic medication to an individual pursuant to this section to assure that such person is not, without such person's consent, on the day preceding or on the day of any court hearing, given any psychotropic medication.~~

~~F.~~ If the individual is under the influence of psychotropic medication during any court hearing held pursuant to Section 5-401 of this title, the court, and the jury, if any, shall be advised by the district attorney at the beginning of such hearing that said individual is under the influence of psychotropic medication, the purpose of the medication, and the effect which said medication may

have on the individual's actions, demeanor and participation at the hearing.

~~G.~~ F. Subsection D of this section shall have no application to trials or hearings of patients charged with crimes and found incompetent to stand trial, and who are receiving psychotropic drugs or other medication which enable the individual to be able to stand trial.

~~H.~~ G. If an inmate in the custody of the Department of Corrections has been properly assigned and committed to the Special Care Unit at the State Penitentiary the provisions of this section shall apply.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5556

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