

SHORT TITLE: Mental health; creating Department of Alcohol and Substance Abuse Services; transferring certain programs and services from the Department of Mental Health and Substance Abuse Services; codification; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 702

By: Brown

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Sections 1-103, as amended by Section 1, Chapter 389, O.S.L. 1992, 1-109, as amended by Section 41, Chapter 298, O.S.L. 1992, 2-101, 2-102, 2-103, 2-303, 2-400, 3-107, as amended by Section 3, Chapter 323, O.S.L. 1993, 3-302, as amended by Section 7, Chapter 231, O.S.L. 1995, 3-403, 3-404, 3-406, 3-408, 3-415, as amended by Section 1, Chapter 209, O.S.L. 1992, 3-417, as amended by Section 3, Chapter 327, O.S.L. 1994, 3-451, 3-453, as amended by Section 1, Chapter 162, O.S.L. 1996, 3-602, as amended by Section 53, Chapter 354, O.S.L. 1996, 5-101, as last amended by Section 14, Chapter 1, O.S.L. 1995, 5-207, as amended by Section 1, Chapter 90, O.S.L. 1995, 5-208, 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, Section 2, Chapter 298, O.S.L. 1992, as last amended by Section 3, Chapter 254, O.S.L. 1995 and 9-103 (43A O.S. Supp. 1996, Sections 1-103, 1-109, 3-107, 3-302, 3-415, 3-417, 3-453, 3-602, 5-101, 5-207, 5-212, 5-401 and 5-502), which relate to membership of Board of Mental Health and Substance Abuse Services, revolving fund, Advisory Council on Alcohol and Drug Abuse, expenditure of funds, definitions, medical records and communications,

Department of Mental Health and Substance Abuse Services and Board of Mental Health and Substance Abuse Services, charge and control of state institutions, members and terms of Board, revolving fund, list of guardians, alcohol and drug treatment centers, definitions, planning and coordination boards, responsibility and authority of certain board, Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority, duties and powers of Authority, uses of funds, certified facilities, application for license, institutions and organizations that may offer courses, case review teams, procedures for admission to certain hospitals or institutions, emergency detention of certain persons, examination of persons in protective custody, prehearing court orders, persons allegedly requiring treatment, definitions, and release to outpatient status; amending 3 O.S. 1991, Section 301, which relates to operation of aircraft under influence of intoxicants; amending 10 O.S. 1991, Sections 12 and 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995 and as last amended by Section 20, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.3), which relate to maintenance of poor persons by parents, and individual treatment and service plans; amending 47 O.S. 1991, Sections 6-212.2, as last amended by Section 2, Chapter 162, O.S.L. 1996 and 11-902, as last amended by Section 3, Chapter 313, O.S.L. 1995 (47 O.S. Supp. 1996, Sections 6-212.2 and 11-902), which relate to required completion of alcohol and substance abuse course and persons

under the influence of alcohol or other intoxicating substances; amending 57 O.S. 1991, Section 530.1, as last amended by Section 2, Chapter 168, O.S.L. 1996 and Section 14, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1996, Sections 530.1 and 612), which relate to assessment and reception of inmates and convictions for driving under the influence of alcohol or other intoxicant or controlled dangerous substance; amending 63 O.S. 1991, Section 1-851.2, as amended by Section 2, Chapter 336, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-851.2), which relates to powers and duties of the State Department of Health; amending 70 O.S. 1991, Sections 1210.229-3, as amended by Section 56, Chapter 274, O.S.L. 1995 and 1210.229-5 (70 O.S. Supp. 1996, Section 1210.229-3), which relate to definitions and coordination between State Department of Education and Drug and Alcohol Policy Board; amending 74 O.S. 1991, Section 30b, as amended by Section 45, Chapter 247, O.S.L. 1996 and Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1996, Sections 30b and 840-2.10), which relate to the Oklahoma Drug and Alcohol Abuse Policy Board and the State Employee Assistance Program; establishing Department of Alcohol and Substance Abuse Services; stating composition of governing board and designating chief executive officer; stating duties; construing references in act; defining terms; stating composition of board and providing for election of officers; providing

for calling of meeting and meeting place; requiring Board to visit facilities; providing for quorum and actions by affirmative vote of the majority; considering certain actions official; providing for duties of Board and allowing travel expense reimbursement; creating Department of Alcohol and Substance Abuse Services Revolving Fund; abolishing the Therapeutic Advisory Council for Drug Abuse Prevention; creating Advisory Council on Alcohol and Drug Abuse; designating members; providing for appointments, filling of vacancies, appointment of ex officio nonvoting members, travel expense reimbursement and monthly meetings; requiring Council advise Board on certain matters; allowing use of monies for certain purposes; separating Substance Abuse Services from Department of Mental Health and making necessary statutory changes resulting therefrom; modifying powers of certain department and board; clarifying language; deleting certain duties of certain Board and certain authority; modifying definitions; prohibiting use of certain funds by certain employees; deleting certain entity from list of entities exempt from provisions of certain act; changing agency subject to compliance with certain standards; changing agency responsible for establishment of certain health and safety standards; changing agency responsible for setting certain fees, approving certain courses, promulgating certain rules and offering and operating certain programs; changing commissioner responsible for appointing certain case review teams; adding agency in whose

institutions certain persons can be transported to by an officer, examined or confined; modifying duties of licensed mental health professional under certain circumstances; adding agency having ability to designate certain facilities; adding agency to which certain persons may be delivered into custody; adding employees who have access to records of certain proceedings; changing agency which administers supervision of certain persons and whose agents make certain reports; modifying procedure for certain inmates; changing agency which designates referral of certain persons; adding agency to be exempt from certain provisions; changing agency which may require certain conditions as part of a placement plan; changing agency responsible for certifying institutions or organizations to offer certain courses; modifying duties of Department of Corrections under certain circumstances; modifying terms; changing agency which has ability to certify successful completion of treatment programs; changing agency with ability to designate alcoholism evaluation facility; changing agency which has responsibility for providing certain services and standards of treatment; adding agency which is exempt from certain act; modifying definitions; adding agency to perform certain tasks in conjunction with other agencies; transferring certain programs and services to Department of Alcohol and Substance Abuse Services; modifying composition of Drug and Alcohol Abuse Policy Board; placing Employee Assistance Program within Department of Alcohol and

Substance Abuse Services; directing Commissioner of Department of Alcohol and Substance Abuse Services to perform certain tasks; requiring compliance with rules established by Commissioner of Department of Alcohol and Substance Abuse Services; repealing 43A O.S. 1991, Sections 3-405 and 3-407, which relate to expenditure of funds and Advisory Council on Alcohol and Drug Abuse; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-101 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established in this state the Department of Alcohol and Substance Abuse Services. The Department's governing board shall be the Board of Alcohol and Substance Abuse Services, and its chief executive officer shall be the Commissioner of Alcohol and Substance Abuse Services. The Department of Alcohol and Substance Abuse Services shall exercise all functions of the state in relation to the administration and operation of all facilities, programs or services for the care and treatment of drug- or alcohol-dependent persons.

B. All references in the Oklahoma Statutes to powers, duties, responsibilities, programs or services related to alcohol, drug or substance abuse shall be construed to refer to the powers, duties, responsibilities, programs or services of the Department of Alcohol and Substance Abuse Services.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-102 of Title 43A, unless there is created a duplication in numbering, reads as follows:

For purposes of this act, the following terms shall have the following meanings:

1. "Board" means the Board of Alcohol and Substance Abuse Services;

2. "Department" means the Department of Alcohol and Substance Abuse Services;

3. "Chair" means chair of the Board of Alcohol and Substance Abuse Services; and

4. "Commissioner" means the individual selected and appointed by the Board to serve as Commissioner of Alcohol and Substance Abuse Services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-103 of Title 43A, unless there is created a duplication in numbering, reads as follows:

The Board of Alcohol and Substance Abuse Services shall be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate. Members shall be appointed for terms of seven (7) years. Six members shall be appointed from each of the congressional districts of this state. The remaining member shall be appointed at large. The Board shall elect its own chair and vice chair.

The chair may call meetings at any time. All regularly scheduled meetings will be held at the Central Office of the Department of Alcohol and Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise scheduled. The Board, or a designee, not in conjunction with a regularly scheduled meeting, shall visit each facility at least once during each fiscal year with a report on the status of each facility given to the full Board after such visit. Four members shall constitute a quorum at any meeting, and all

action may be taken by an affirmative vote of the majority of the members present at any such meeting.

The action taken by the Board on any matter, or any document passed by the Board, shall be considered official when such action is placed in writing and signed by the chair or vice chair.

The duties of the Board shall pertain to the care, treatment and hospitalization of alcohol- or drug-dependent persons.

Members of the Board of Alcohol and Substance Abuse Services shall be allowed their necessary travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-104 of Title 43A, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Alcohol and Substance Abuse Services to be designated the "Department of Alcohol and Substance Abuse Services Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by each facility and office of the Department as reimbursements from persons and agencies for the care of patients; reimbursements from other state agencies and entities of government; all reimbursements received by the Department from the United States government or pursuant to proceedings in district court to enforce claims for the cost of care and treatment of patients; proceeds from enrollment fees for alcohol and substance abuse courses; earnings and proceeds in the conduct and management of the dairy, farm, truck, garden, livestock and any industries of the facilities; receipts from sale of excess by-products, excess property and salvage items; certification fees; gifts, donations and bequests; and receipts from other ancillary services, not otherwise provided by law.

All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Alcohol and Substance Abuse Services for the general operating expenses of facilities and offices of the Department of Alcohol and Substance Abuse Services. No additions to the existing buildings or construction of any new buildings shall be paid for from the fund, unless provided for by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-105 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. The Therapeutic Advisory Council for Drug Abuse Prevention, and the Alcoholism Advisory Council are hereby abolished. The Advisory Council on Alcohol and Drug Abuse is hereby created, to continue until July 1, 1999, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes.

1. The Advisory Council shall consist of fifteen (15) voting members, to be selected by the Board of Alcohol and Substance Abuse Services. Initial appointments shall be made from among the current appointive members of the two former councils;

2. For the initial appointment, the Board shall designate five members for a term of one (1) year, five members for a term of two (2) years, and five members for a term of three (3) years. Thereafter, all members shall be appointed for a term of three (3) years and vacancies shall be filled only to the expiration of the remaining term. Members shall be eligible for reappointment;

3. After the initial appointment, members shall be selected by the Board on a statewide basis to ensure geographical distribution and shall be representative of both professional and lay citizens

interested in the problems of alcoholism, drug dependence and other substance abuse;

4. The Board may from time to time appoint permanent ex officio nonvoting members consisting of directors of public agencies or their designees, who shall serve at the pleasure of the Board; and

5. Members shall be reimbursed for their travel expenses in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

B. The Council shall meet monthly at a location designated by the Board.

C. The Council shall advise the Board relating to:

1. Facility certification policies and procedures;

2. Formulation of long-range plans for development of adequate services and facilities for the prevention and treatment of alcoholism, drug dependence and other forms of substance abuse;

3. The promotion, development, establishment, coordination and conduct of unified programs for prevention, diagnosis, treatment and rehabilitation in the field of alcoholism, drug dependence and other forms of substance abuse; and

4. The evaluation of existing or planned programs.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-106 of Title 43A, unless there is created a duplication in numbering, reads as follows:

The Commissioner of the Department of Alcohol and Substance Abuse Services may use any monies appropriated to the agencies to fund or assist in funding expenditures of the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority which are necessary to perform the duties imposed upon the Authority by law.

SECTION 7. AMENDATORY 43A O.S. 1991, Section 1-103, as amended by Section 1, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1996, Section 1-103), is amended to read as follows:

Section 1-103. When used in this title, unless otherwise expressly stated, or unless the context or subject matter otherwise requires:

1. "Department" means the Department of Mental Health ~~and Substance Abuse Services~~;

2. "~~Chairman~~ Chair" means ~~chairman~~ chair of the Board of Mental Health ~~and Substance Abuse Services~~;

3. "Mentally ill person" means any person afflicted with a substantial disorder of thought, mood, perception, psychological orientation or memory that significantly impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life;

4. "Board" means the "~~Board of Mental Health and Substance Abuse Services~~" as established by this law;

5. "Commissioner" means the individual selected and appointed by the Board to serve as Commissioner of Mental Health ~~and Substance Abuse Services~~;

6. "Indigent person" means a person who has not sufficient assets or resources to support himself or herself while mentally ill and to support members of ~~his~~ the person's family lawfully dependent on ~~him~~ the person for support;

7. "Facility" means any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of the mentally ill or drug-dependent or alcohol-dependent persons including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites or institutions; provided that facility shall not mean a child guidance center operated by the State Department of Health;

8. "Patient" means a person under care or treatment in a facility pursuant to ~~this act~~, Section 1-101 et seq. of this title, or in an outpatient status;

9. "Care and treatment" means medical care, surgical attendance, nursing and medications, as well as food, clothing and maintenance, furnished a patient;

10. Whenever in this law, or in any other law, or in any rule, ~~or order or regulation~~, made or promulgated pursuant to this law, or to any other law, or in the printed forms prepared for the admission of patients or for statistical reports, the words "insane", "insanity", "lunacy", "mentally sick", "mental disease" or "mental disorder", ~~or any of them~~, are used, they shall have equal significance to the words "mentally ill";

11. Whenever in this law, or in any other law, or in any rule, ~~or order or regulation~~, made or promulgated pursuant to this act, or any other law, or in the printed forms prepared for the admission of patients or for statistical reports, the ~~terms~~ phrases "certification" of a person", "a person "certified" or "to "certify" a person by a court of competent jurisdiction to a facility as provided by this act" shall have equal significance to the ~~terms~~ phrases "commitment" of a person", "a person "committed" or "to "commit" a person";

12. "Qualified examiner" means any doctor of medicine, clinical psychologist or osteopathic physician who is duly licensed to practice ~~his~~ the profession by the State Board of Medical Licensure and Supervision, the State Board of Examiners of Psychologists or the Oklahoma Board of Osteopathic Examiners, respectively, and who is not related by blood or marriage to the person being examined ~~or~~ nor has any interest in ~~his~~ the person's estate except as modified under the provisions of this title;

13. "Mentally incompetent person" means any person who has been adjudicated mentally or legally incompetent by an appropriate district court;

14. "Person requiring treatment" means either:

- a. a person who has a demonstrable mental illness or is a drug- or alcohol-dependent person and who as a result of that mental illness or dependency can be expected within the near future to intentionally or unintentionally seriously and physically injure himself or herself or another person and who has engaged in one or more recent overt acts or made significant recent threats that substantially support that expectation, or
- b. a person who has a demonstrable mental illness or is a drug- or alcohol-dependent person and who as a result of that mental illness or dependency is unable to attend to ~~those of his~~ the basic physical needs, such as food, clothing or shelter, that must be attended to in order for ~~him~~ the person to avoid serious harm in the near future and who has demonstrated such inability by failing to attend to those basic physical needs in the recent past, or
- c. a person who appears to require inpatient treatment:
 - (1) (a) for a previously diagnosed history of schizophrenia, bipolar disorder, or major depression with suicidal intent, or
 - (b) due to the appearance of symptoms of schizophrenia, bipolar disorder, or major depression with suicidal intent, and
 - (2) for whom such treatment is reasonably believed to prevent progressively more debilitating mental impairment.

~~Person~~ The term "person requiring treatment" shall not mean a person whose mental processes have simply been weakened or impaired by reason of advanced years, a mentally deficient person as defined in Title 10 of the Oklahoma Statutes, or a person with epilepsy,

unless the person also meets the criteria set forth in this paragraph. However, the person may be hospitalized under the voluntary admission provisions of this act if ~~he~~ the person is deemed clinically suitable and a fit subject for care and treatment by the person in charge of the facility;

15. "Petitioner" means a person who files a petition alleging that an individual is a person requiring treatment;

16. "Person in charge of the facility" means the person in charge of any hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of the mentally ill including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites or institutions; provided that ~~person in charge of the facility~~ this term shall not mean persons in charge of child guidance centers operated by the State Department of Health;

17. "Private hospital or institution" means any general hospital maintaining a neuro-psychiatric unit or ward, or any private hospital or sanitarium for care and treatment of mentally ill persons, which is not supported by state or federal government, except that the term shall include the Oklahoma Memorial Hospital Neuro-psychiatric Unit. The term shall not include nursing homes or other facilities maintained primarily for the care of aged and infirm persons; and

18. "Individualized treatment plan" means a proposal developed during a patient's stay in a facility, ~~under~~ pursuant to the provisions of this title, which is specifically tailored to the individual patient's treatment needs. Each plan shall clearly include the following:

- a. a statement of treatment goals or objectives, based upon and related to a clinical evaluation, which can be reasonably achieved within a designated time interval,

- b. treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to each of these goals and which include specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures, including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law,
- d. documentation of patient involvement and, if applicable, the patient's accordance with the treatment plan, and
- e. a statement attesting that the person in charge of the facility or the clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the patient's home community.

SECTION 8. AMENDATORY 43A O.S. 1991, Section 1-109, as amended by Section 41, Chapter 298, O.S.L. 1992 (43A O.S. Supp. 1996, Section 1-109), is amended to read as follows:

Section 1-109. A. All medical records and all communications between physician or psychotherapist and patient are both privileged and confidential. Such information is available only to persons or agencies actively engaged in treatment of the patient or in treatment of a minor child of the patient, or in related administrative work.

1. Except as provided in this section and Section 19 of Title 76 of the Oklahoma Statutes, privileged or confidential information shall not be released to anyone not involved in the treatment programs without a written release by the patient or, if a guardian has been appointed for the patient, the guardian of the patient, or

an order from a court of competent jurisdiction. If the patient is a minor child, the written consent of the parent, as defined by the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of this title, or public or private child care agency having legal custody of the child is required. Provided, however, confidential information may be released as provided by Sections ~~1125~~ 7005-1.1 through ~~1125.2~~ 7005-1.5 of Title 10 of the Oklahoma Statutes.

2. Individuals and agencies holding a contract with the Department of Mental Health or the Department of Alcohol and Substance Abuse Services to provide mental health or drug or alcohol treatment services respectively and who have signed a qualified service agreement as provided by said contract may transmit records and information as necessary and appropriate for the care and treatment of patients pursuant to rules ~~and regulations~~ adopted by the Board of Mental Health and the Board of Alcohol and Substance Abuse Services.

3. The Board of Mental Health and the Board of Alcohol and Substance Abuse Services shall adopt rules ~~and regulations~~ providing for the transmittal of records and information if necessary and appropriate to other public and private agencies which are actively providing services to minor patients, former patients who are minors, or the minor children of adult patients.

B. A person who is or has been a patient of a physician, psychotherapist, mental health institution or facility, a drug or alcohol abuse treatment facility or service, a community mental health service or agency or a community social service agency for the purpose of mental health or drug or alcohol abuse care and treatment shall not be entitled to personal access to the information contained in ~~his~~ the person's psychiatric or psychological records or to copies of ~~said~~ such records unless access to ~~said~~ such records is consented to by the treating

physician or practitioner or is ordered by a court. ~~Said~~ The person shall, upon request, be provided with information contained in ~~said~~ the records as appropriate as determined by the person in charge of the care and treatment of the patient. ~~Said~~ The information shall be provided to the patient in a manner consistent with the best interest of the patient as determined by the person in charge of the care and treatment of the patient.

C. Upon request, a responsible family member of a patient or former patient, the attorney, guardian or conservator of a patient or former patient, is entitled to the following information from the Department of Mental Health or the Department of Alcohol and Substance Abuse Services, individuals or agencies holding contracts with ~~the Department~~ either department to provide mental health or drug or alcohol treatment services, and facilities certified by the Department as mental health or drug or alcohol treatment facilities, respectively, regarding the person who is the subject of the request:

1. Information as to whether or not the person is or was a patient;

2. If the person is receiving inpatient care and treatment, a statement as to the probable duration of ~~said~~ such inpatient care;

3. A summary of the diagnosis and prognosis of the person;

4. A listing of the medications the person has received or is receiving, a copy of the treatment plan of the person, and, when the person making the request is a responsible family member, guardian or conservator, any other information necessary in order for the responsible family member to assist in the implementation of the discharge planning required pursuant to Section 7-102 of this title; and

5. As requested, such other information as may be necessary to determine whether ~~or not~~ guardianship or conservatorship proceedings should be initiated.

For the purposes of this subsection, "responsible family member" means the parent, spouse, adult child, adult sibling, or other adult relative who is actively involved in providing care to or monitoring the care of a person who is a current or former patient as verified by the physician, psychologist or other person responsible for the care and treatment of ~~said~~ the person. Except in an emergency, as determined by the person verifying the involvement of the responsible family member, the request shall be made in writing.

The person verifying the involvement of the responsible family member shall notify the patient or former patient of the request and, except with regard to a parent as to his or her minor child or in case of an emergency, obtain the consent of the patient prior to the release of the information.

SECTION 9. AMENDATORY 43A O.S. 1991, Section 2-101, is amended to read as follows:

Section 2-101. A. There is hereby established in this state a Department of Mental Health ~~and Substance Abuse Services~~. This Department's governing board shall be the Board of Mental Health ~~and Substance Abuse Services~~, and its chief executive officer shall be the Commissioner of Mental Health ~~and Substance Abuse Services~~. The Department of Mental Health ~~and Substance Abuse Services~~ shall exercise all functions of the state in relation to the administration and operation of all state institutions for the care and treatment of the mentally ill ~~and drug- or alcohol-dependent persons~~.

B. All references in the Oklahoma Statutes to the Department of Mental Health and Substance Abuse Services or the Board of Mental Health and Substance Abuse Services shall be construed to refer to the Department of Mental Health ~~and Substance Abuse Services~~ or the Board of Mental Health ~~and Substance Abuse Services~~, respectively.

SECTION 10. AMENDATORY 43A O.S. 1991, Section 2-102, is amended to read as follows:

Section 2-102. Unless otherwise specified by law, the Department of Mental Health ~~and Substance Abuse Services~~ shall have charge and control of any and all state institutions established for the care of the mentally ill ~~and drug or alcohol-dependent person.~~

SECTION 11. AMENDATORY 43A O.S. 1991, Section 2-103, is amended to read as follows:

Section 2-103. The Board of Mental Health ~~and Substance Abuse Services~~ shall be composed of seven (7) members appointed by the Governor with the consent of the Senate. Immediately after June 3, 1953, one member shall be appointed for a term expiring December 31, 1953, and one each for terms ending respectively one (1), two (2), three (3), four (4), five (5) and six (6) years thereafter. Upon the expiration of any of the terms a successor shall be appointed for a full term of seven (7) years. One member, who shall be a physician licensed to practice in this state, and one member, who shall be a psychiatrist certified as a diplomate of the American Board of Psychiatry and Neurology, shall both be appointed from a list containing the names of not less than three physicians and not less than three psychiatrists submitted to the Governor by the Oklahoma State Medical Association; one member shall be an attorney licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma Bar Association; and one member shall be a psychologist, licensed to practice in this state, who shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma State Psychological Association. No person shall be appointed a member of the Board who has been a member of the Legislature of this state within the preceding five (5) years. The Board shall elect its own ~~chairman~~ chair and ~~vice-chairman~~ vice chair.

The ~~chairman~~ chair may call meetings at any time. All regularly scheduled meetings will be held at the Central Office of the

Department of Mental Health ~~and Substance Abuse Services~~, in Oklahoma City, Oklahoma, unless otherwise scheduled. The Board, not in conjunction with a regularly scheduled meeting, or ~~their~~ a designee, shall visit each facility once during each fiscal year with a report on the status of each facility given to the full Board after such visit. Four members shall constitute a quorum at any meeting, and all action may be taken by an affirmative vote of the majority of the members present at any such meeting.

The action taken by the Board on any matter, or any document passed by the Board, shall be considered official when such action is placed in writing and signed by the ~~chairman~~ chair, or ~~vice-chairman~~ vice chair.

The duties of the Board shall pertain to the care, treatment, and hospitalization of the mentally ill, ~~and alcohol or drug-dependent persons~~.

Members of the Board of Mental Health ~~and Substance Abuse Services~~ shall be allowed their necessary travel expenses pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 12. AMENDATORY 43A O.S. 1991, Section 2-303, is amended to read as follows:

Section 2-303. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health ~~and Substance Abuse Services~~ to be designated the "Department of Mental Health ~~and Substance Abuse Services~~ Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by each facility and office of the Department as reimbursements from persons and agencies for the care of patients; reimbursements from other state agencies and entities of government; all reimbursements received by the Department from the United States government or pursuant to proceedings in district court to enforce claims for the cost of care and treatment of

patients; ~~proceeds from enrollment fees for alcohol and drug substance abuse courses;~~ earnings and proceeds in the conduct and management of the dairy, farm, truck, garden, livestock and any industries of ~~said~~ such facilities; receipts from sale of excess by-products, excess property and salvage items; certification fees; gifts, donations and bequests; and receipts from other ancillary services, not otherwise provided by law.

All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health ~~and Substance Abuse Services~~ for the general operating expenses of facilities and offices of the Department of Mental Health ~~and Substance Abuse Services~~. No additions to the existing buildings or construction of any new buildings shall be paid for from the fund, unless provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. AMENDATORY 43A O.S. 1991, Section 2-400, is amended to read as follows:

Section 2-400. The Department of Mental Health ~~and Substance Abuse Services~~, with the cooperation of the Department of Human Services, shall develop and maintain a list of persons qualified to serve as guardians, special or limited guardians or temporary guardians for mentally ill persons, and mentally retarded persons ~~and for drug or alcohol dependent persons~~. The Department of Human Services or the Department of Mental Health ~~and Substance Abuse Services~~ shall, upon the request of any judicial district of this state, provide the names, addresses and qualifications of such persons designated on the list.

SECTION 14. AMENDATORY 43A O.S. 1991, Section 3-107, as amended by Section 3, Chapter 323, O.S.L. 1993 (43A O.S. Supp. 1996, Section 3-107), is amended to read as follows:

Section 3-107. A. There are hereby created and designated as facilities within the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services, the Norman Alcohol and Drug Treatment Center at Norman and the Vinita Alcohol and Drug Treatment Center at Vinita. ~~Said~~ The facilities shall be operated under the supervision and administration of the Commissioner of ~~Mental Health~~ Alcohol and Substance Abuse Services. ~~It is the intent of the Legislature that~~ the The centers in Norman and Vinita shall utilize and receive the business management, support services and medical ancillary services of the respective state hospital where the center is located.

B. There are hereby created separate petty cash funds for the Alcohol and Drug Treatment Centers at Norman and Vinita. The Director of State Finance and Commissioner of ~~Mental Health~~ Alcohol and Substance Abuse Services are authorized to fix the maximum amount of each petty cash fund and the Director of State Finance shall prescribe the rules and procedures for the administration of each petty cash fund.

C. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services is authorized to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from Griffin Memorial Hospital to or from the Norman Alcohol and Drug Treatment Center; and to effect the transfer of property, records, equipment, supplies, funds, and encumbrances from Eastern State Hospital to or from the Vinita Alcohol and Drug Treatment Center.

SECTION 15. AMENDATORY 43A O.S. 1991, Section 3-302, as amended by Section 7, Chapter 231, O.S.L. 1995 (43A O.S. Supp. 1996, Section 3-302), is amended to read as follows:

Section 3-302. As used in the Unified Community Mental Health Services Act, Section 3-301 et seq. of this title:

1. "Catchment area or service area" means a geographic area established by the Department of Mental Health and the Department of

Alcohol and Substance Abuse Services for support of mental health and substance abuse services, respectively;

2. "Community mental health services", in conformance with federal requirements, means services for the treatment of alcoholism, drug addiction or abuse, and mental illness, and the prevention, diagnosis, or rehabilitation of ~~such~~ persons suffering from such conditions;

3. "Board" means the Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Board;

4. "Mental health facility" means:

- a. a comprehensive community mental health center offering services including, but not limited to, the following basic services: inpatient, outpatient, partial hospitalization, emergency care, and consultation and education; and offering the following services at the option of the center: prescreening services, rehabilitation services, precare and aftercare services, training programs, and research and evaluation programs,
- b. an outpatient facility offering diagnostic and treatment services,
- c. a day care facility offering a treatment program for children or adults suffering from mental or emotional problems, or
- d. community residential mental health programs and facilities which provide supervised residential care, counseling, case management or other similar services to children or adults suffering from mental or emotional problems;

5. "Domestic violence program" or "sexual assault program" means a facility, agency or organization which offers or provides or

a person who engages in the offering of shelter, residential services or support services to:

- a. victims or survivors of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, any dependent children of said victims or survivors and any other member of the family or household of such victim or survivor,
- b. victims or survivors of sexual assault, and
- c. persons who are homeless as a result of domestic or sexual violence or both domestic and sexual violence,

and which may provide other services, including, but not limited to, counseling, case management, referrals or other similar services to victims or survivors of domestic abuse or sexual assault;

6. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section ~~±~~ 175.20 of ~~this act~~ Title 10 of the Oklahoma Statutes.

SECTION 16. AMENDATORY 43A O.S. 1991, Section 3-403, is amended to read as follows:

Section 3-403. As used in the Oklahoma Alcohol and Drug Abuse Services Act, Section 3-401 et seq. of this title:

1. "Approved treatment facility" means any facility which offers either inpatient, intermediate or outpatient treatment to any person suffering from alcohol or drug abuse, or alcohol or drug related problems and which is certified by the Alcohol Prevention, Training, Treatment and Rehabilitation Authority and which has been licensed by the State Department of Health pursuant to the provisions of the Oklahoma Alcohol and Drug Abuse Services Act;

2. An "alcohol-dependent person" is one who uses alcoholic beverages to such an extent that it impairs ~~his~~ the person's health, ~~his~~ family life, ~~his~~ or occupation, and compromises the health and safety of the community;

3. A "drug-dependent person" means a person who is using a controlled substance as presently defined in Section 102 of the Federal Controlled Substances Act and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on an intermittent or continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

4. "Authority" means the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority;

5. "Council" means the Alcoholism and Drug Abuse Advisory Council;

6. "Incompetent person" means a person who has been adjudged legally mentally incompetent by a district court and who has not been judicially restored to competency;

7. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as the direct result of the consumption of alcohol or drugs;

8. "Medical detoxification" means diagnostic and treatment services performed by licensed facilities for acute alcohol intoxication, delirium tremens and physical and neurological complications resulting from acute intoxication. Medical detoxification includes the services of a physician and attendant medical personnel including nurses, interns and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol;

9. "Nonmedical detoxification" means detoxification services for intoxicated clients with no apparent physical or neurological symptoms requiring medical treatment as a result of their intoxication. Nonmedical detoxification includes providing a bed, oral administration of fluids, three meals a day and the taking of the client's temperature, blood pressure and pulse at least once every six (6) hours for the duration of the client's stay in the nonmedical detoxification service;

10. "Inpatient treatment" means the process of providing residential diagnostic and treatment services on a scheduled basis;

11. "Intermediate care" means an organized therapeutic environment in which a client may receive diagnostic services, counseling, vocational rehabilitation and/or work therapy while benefiting from the support which a full or partial residential setting can provide. Intermediate care should provide a transition between the inpatient detoxification facility and reintegration into community life. Intermediate care must include provision for a bed, three meals a day and medical support if needed;

12. "Transitional living facility" and "halfway house" ~~means~~ mean an approved treatment facility which offers or provides temporary residential accommodations, meals, supervision at all times residents are in the facility or on facility premises, and services, including counseling, short-term supportive care, case management, mental health services or treatment services to residents pursuant to a contract with the Department of Mental Health ~~and Substance Abuse Services~~. A transitional living facility shall provide services to not more than twelve (12) residents;

13. "Short-term supportive care" means a service rendered to any person residing in a halfway house or transitional living facility which is sufficient to assist the person to meet or achieve an adequate level of daily living and to learn or develop adequate daily living skills. Daily living skills shall include, l but not be

limited to, resident participation in meal preparation and routine housekeeping and laundry tasks. Short-term supportive assistance includes, but is not limited to, assistance in the preparation of meals, housekeeping, laundry tasks and personal hygiene. Short-term supportive assistance shall not include medical services or personal care as defined in Section 1-820 of Title 63 of the Oklahoma Statutes; and

14. "Treatment" means the broad range of emergency, inpatient, intermediate and outpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcohol-dependent, intoxicated and drug-dependent persons.

SECTION 17. AMENDATORY 43A O.S. 1991, Section 3-404, is amended to read as follows:

Section 3-404. There is hereby re-created, to continue until July 1, 1997, in accordance with the provisions of the Oklahoma Sunset Law, Sections 3901 et seq. of Title 74 of the Oklahoma Statutes, the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority for the State of Oklahoma. The Authority shall be the Board of ~~Mental Health~~ Alcohol and Substance Abuse Services. As such Authority, the Board ~~will~~ of Alcohol and Substance Abuse Services shall be responsible for verifying the need for, and certifying, the treatment program for any alcoholism or drug abuse treatment facility established or to be established in Oklahoma.

SECTION 18. AMENDATORY 43A O.S. 1991, Section 3-406, is amended to read as follows:

Section 3-406. The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority shall have the following duties and powers:

1. Survey and analyze the state's needs and formulate a comprehensive plan for the long-range development, through the utilization of federal, state, local and private resources, of adequate services and facilities for the prevention of alcohol and drug dependence and the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons;

2. Promote, develop, establish, coordinate and conduct unified programs for the prevention of alcohol and drug dependence and the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons and, within funds available, implement and administer such programs;

3. Direct and carry on basic clinical, epidemiological, social, psychological and statistical research in alcohol and drug dependence within the funds available therefor;

4. Provide consultation, education and training in the prevention of alcohol and drug dependence and in the diagnosis, treatment and rehabilitation of alcohol- and drug-dependent persons, for those persons with program responsibility, either separately or in conjunction with other agencies, public or private;

5. In cooperation with other public or private agencies, provide public education on the nature and results of alcohol and drug abuse and on the potentials of prevention and rehabilitation in order to promote public understanding, interest and support;

6. Disseminate information relating to public and private services and facilities in the state available for the assistance of alcohol- and drug-dependent persons;

7. Gather information and maintain statistical and other records relating to alcohol- and drug-dependent persons in the state. The Authority may require specified reports from those organizations and agencies engaged in the treatment and rehabilitation of alcohol- and drug-dependent persons;

8. Have the power to enter into agreements and joint financial arrangements, including agreements and arrangements with public and private agencies, to do or cause to be done that which may be necessary or desirable to carry out the purposes of the Oklahoma Alcohol and Drug Abuse Services Act;

9. Accept on behalf of the state any gift, grant, devise or bequest. All monies so received shall be deposited in a special depository account with the State Treasurer and may be expended for all or any purpose set forth in this act upon a voucher signed by the Commissioner of ~~the Department of Mental Health~~ Alcohol and Substance Abuse Services;

~~10. Assign funds under the Oklahoma Community Mental Health Services Act to support programs of treatment and rehabilitation of alcohol- and drug-dependent persons;~~

~~11.~~ Prepare and present a budget to carry out the programs provided for in the Oklahoma Alcohol and Drug Abuse Services Act;

~~12.~~ 11. Promote the inclusion of alcoholism and drug abuse as a covered illness in all health and disability insurance programs;

~~13.~~ 12. Cooperate with the Department of Corrections in establishing and conducting programs to provide treatment for alcohol- and drug-dependent persons incarcerated in or on parole from penal institutions; and

~~14.~~ 13. Assist in the development of, and cooperate with, alcohol and drug abuse education and treatment programs for the people of Oklahoma.

SECTION 19. AMENDATORY 43A O.S. 1991, Section 3-408, is amended to read as follows:

Section 3-408. Alcohol and drug abuse services shall be administered by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority in conformity with the following guidelines:

1. The Authority shall purchase alcohol and drug abuse services which shall be specified in a contract entered into by the Authority and the service provider or other contractor. Payments to contractors shall be made for services which have been rendered and shall be based on actual costs incurred for providing such services, which shall not exceed predetermined costs for such services. Such costs shall be determined and published according to the provisions of Section 3-426 of ~~the Mental Health Law~~ this title. The Authority may by rule impose a ceiling on the amount any such contractor may collect during the fiscal year;

2. No more than five percent (5%) of funds appropriated for alcohol and drug abuse services may be used by the Authority for administration of the provisions of the Oklahoma Alcohol and Drug Abuse Services Act, Section 3-401 et seq. of this title; in no instance shall any of these funds be used for research purposes by any employee of the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services;

3. None of the funds shall be paid to a contractor unless a plan for alcohol or drug abuse services in the region in which the contractor is located has been submitted to and approved by the Authority; and

4. Contractors and subcontractors ~~who~~ that are service providers shall be approved treatment facilities. The management systems of contractors and subcontractors ~~who~~ that are not service providers shall conform to management criteria prescribed by the Authority.

SECTION 20. AMENDATORY 43A O.S. 1991, Section 3-415, as amended by Section 1, Chapter 209, O.S.L. 1992 (43A O.S. Supp. 1996, Section 3-415), is amended to read as follows:

Section 3-415. A. 1. The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority shall promulgate ~~regulations~~ rules and standards for certification for private

facilities and organizations which provide treatment, counseling, rehabilitation, and other related services directed toward alcohol- and drug-dependent persons. These facilities and organizations shall be known as "Certified Services for the Alcohol and Drug Dependent". Only certified facilities may receive and assist alcohol- and drug-dependent persons by providing treatment, rehabilitation, and other related services to alcohol- and drug-dependent persons.

2. Any person violating the requirement that only certified facilities may receive and assist alcohol- and drug-dependent persons by providing treatment, rehabilitation, and other related services to alcohol- and drug-dependent persons, upon conviction, shall be guilty of a misdemeanor.

B. 1. Applications for certification as a certified service for the alcohol- and drug-dependent person pursuant to the provisions of this section shall be made to the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority on prescribed forms.

2. In reviewing and determining the merits of an application for certification, the Authority may:

- a. utilize and consider all available materials and information discovered or submitted to the Authority; provided, the Authority shall notify the applicant of the existence of such materials and information at least seventy-two (72) hours in advance of the hearing, and
- b. review, hear and consider all available evidence regarding issues of safety and effectiveness of the treatment modality utilized by the applicant.

C. The Authority may certify the facility for a period of thirty-six (36) months subject to renewal as provided.

D. For good cause shown, including but not limited to failure to comply with ~~regulations~~ rules and standards promulgated by the Authority, pending state or federal investigations, or verified complaints concerning matters affecting the proper operation or ownership of the facility, the Authority may postpone, deny or withdraw the certification of the facility.

E. Licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, and certified alcohol or drug abuse counselors are exempt from the ~~regulations~~ rules and standards for certification, provided that such exemptions shall apply only to individual professional persons in their private practice and not to any treatment facility operated by such person. Properly licensed hospitals, programs operated by the State Department of Health or Department of Human Services, programs conducted and facilities operated by Alcoholics Anonymous, the Department of Corrections, the Department of Mental Health ~~and Substance Abuse Services~~, or the Salvation Army are also exempt from the provisions of the Oklahoma Alcohol and Drug Abuse Services Act, Section 3-401 et seq. of this title.

F. Certified services for the alcohol- or drug-dependent person shall comply with standards adopted by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority. Such standards shall require that treatment and therapeutic methods shall be in compliance with:

1. The Joint Commission on Accreditation of Healthcare Organizations;

2. The Commission on Accreditation of Rehabilitation Facilities; or

3. Approved medical and professional standards as determined by the Board of ~~Mental Health~~ Alcohol and Substance Abuse Services.

G. The Board of Alcohol and Substance Abuse Services may require a precertification review of any new applications that

appear to use nontraditional methods of treatment. The Board of Alcohol and Substance Abuse Services may select an independent, recognized authority in Oklahoma to review such programs to make recommendations to the Board of Alcohol and Substance Abuse Services as to the validity of the proposed program.

H. Any facility or organization certified to provide certified services shall cooperate with inspection personnel of the state and shall promptly file all reports required by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority.

I. Failure to comply with ~~regulations~~ rules and standards promulgated by the Authority shall be grounds for revocation of certification and licensing, after proper notice and hearing.

J. All claims by and accomplishments publicized by any applicant for certification or any certified alcohol- or drug-dependent organization, including but not limited to patient count and success rates, shall be documented and verifiable by the Board of Alcohol and Substance Abuse Services.

K. The Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority is hereby authorized to collect from each applicant the sum of One Hundred Dollars (\$100.00) annually to help defray the costs incurred in the certification procedure.

L. Any materials or information received by the Authority from an applicant regarding the applicant's financial status or including a client's identity shall not be construed to be open records pursuant to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.

SECTION 21. AMENDATORY 43A O.S. 1991, Section 3-417, as amended by Section 3, Chapter 327, O.S.L. 1994 (43A O.S. Supp. 1996, Section 3-417), is amended to read as follows:

Section 3-417. A. After being certified by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority, any person or private agency, other than a transitional

living facility or halfway house as defined by Section 3-403 of this title and persons or private agencies providing only outpatient services, shall apply to the State Commissioner of Health for a license to operate the treatment facility. Applications for such licenses shall be made in accordance with provisions for licensing hospitals and related institutions contained in Sections 1-703 and 1-704 of Title 63 of the Oklahoma Statutes.

B. In addition to the standards for treatment services and rules of operation required by Section 3-416 of this title, the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services shall establish physical facility standards, fire safety standards and such other health and safety standards for halfway houses and transitional living facilities as necessary.

C. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and the State Department of Health shall ensure that the standards required by Section 3-415 of Title 43A and Section 1-705 of Title 63 of the Oklahoma Statutes include specific physical facility standards providing for facilities that provide substance abuse treatment services to pregnant women and women with children when the children also reside at the facility.

SECTION 22. AMENDATORY 43A O.S. 1991, Section 3-451, is amended to read as follows:

Section 3-451. As used in Sections ~~66~~ 3-452 and ~~67~~ 3-453 of this ~~act~~ title:

~~A.~~ 1. "Alcohol and ~~drug~~ substance abuse course" means a course designed to inform the offender about alcohol or drugs and driving, and encourages the participants to reassess their use of alcohol or other drugs, and driving behavior, in order to select practical alternatives-;

~~B.~~ 2. "Satisfactory completion of a course" means that the institution or agency conducting the course certifies to the

Department of Public Safety that the participant has successfully completed the requirements of the course-; and

~~C.~~ 3. "Alcohol and ~~drug~~ substance abuse treatment program" means a program designated by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for the treatment of alcoholism and drug abuse.

SECTION 23. AMENDATORY 43A O.S. 1991, Section 3-453, as amended by Section 1, Chapter 162, O.S.L. 1996 (43A O.S. Supp. 1996, Section 3-453), is amended to read as follows:

Section 3-453. A. Alcohol and ~~drug~~ substance abuse courses shall be offered only by nonprofit educational institutions of higher learning, governmental or nonprofit organizations.

B. Enrollment fees for those attending the courses shall be set by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and shall be within a range of not less than Sixty-five Dollars (\$65.00) and not more than:

1. Eighty-five Dollars (\$85.00) for a first offense; and
2. Two Hundred Fifty Dollars (\$250.00) for a second or subsequent offense.

C. Ten percent (10%) of each fee collected shall be remitted to the State Treasurer to be credited to the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services Revolving Fund in the State Treasury and shall be used to provide substance abuse services to the indigent. Five percent (5%) of each fee collected by the Department shall be used for the administrative costs related to providing such services.

D. Enrollment in the course shall not be limited to persons ordered to enroll, attend and successfully complete the course.

E. All alcohol and ~~drug~~ substance abuse courses for drinking drivers shall be approved and certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services.

F. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services, in consultation with D.U.I. School Administrators of Oklahoma, is authorized to promulgate rules governing:

1. Minimum curriculum requirements for such courses;
2. Facilities, equipment and instructional materials for such courses;
3. Minimum qualifications for certification of course instructors;
4. Grounds for revocation of the authority to conduct such courses and for revocation of an instructor's certification;
5. Attendance requirements; and
6. Guidelines for certifying to the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services successful completion of such course.

G. The Department shall require that each course for a first offense shall be conducted in no less than two sessions on two (2) separate days. For a second or subsequent offense, the Department shall require that:

1. Each such course shall consist of at least twenty-four (24) hours;
2. Each such course shall consist of no more than two (2) hours of education on any given day, nor more than four (4) hours in a given week, and shall not contain more than ten percent (10%) films or education on any one specialized area;
3. Each instructor shall be a qualified practitioner with one (1) year teaching experience, or a certified D.U.I. Instructor with five (5) years' teaching experience; and
4. No more than twelve students shall be allowed in a given class.

H. Any institution or organization authorized under this act to conduct an alcohol and ~~drug~~ substance abuse course shall certify to

the Department of Public Safety all persons who successfully complete such course.

I. Alcohol and ~~drug~~ substance abuse treatment programs shall be offered by facilities designated for that purpose by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services. The facilities shall either be operated by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services or shall be certified approved treatment facilities as provided for in the Oklahoma Alcohol and Drug Abuse Services Act.

J. Any person participating in a substance abuse treatment program shall be required to pay all or part of the actual cost incurred for treatment of the person, if the court determines that the person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the person shall pay.

SECTION 24. AMENDATORY 43A O.S. 1991, Section 3-602, as amended by Section 53, Chapter 354, O.S.L. 1996 (43A O.S. Supp. 1996, Section 3-602), is amended to read as follows:

Section 3-602. A. Each narcotic treatment program shall have a case review team consisting of persons independent of the program to be appointed by the Commissioner of ~~Mental Health~~ Alcohol and Substance Abuse Services.

B. The team shall certify persons to a narcotic treatment after a full review of the person's record and recommendations as to a course of treatment, as defined by Chapter 1 of Title 21 of the Code of Federal Regulations, for each individual certified. A course of treatment may include, but shall not be limited to, short-term detoxification, interim maintenance treatment or comprehensive maintenance treatment depending on the availability of such services and the needs of the individual.

1. Upon certification of a person to the program, the case review team shall approve a medical treatment plan for the person.

The medical treatment plan shall not be altered without the approval of the case review team.

2. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services shall approve any drug to be used in a narcotic treatment program and set guidelines for the maximum daily dose, not to exceed limits set by Title 21 of the Code of Federal Regulations. The attending physician shall make specific recommendations for all persons receiving a dosage above the maximum approved daily dose and receive approval of the case review team. Pregnancy tests for women shall be conducted upon admission and at least annually thereafter, unless otherwise indicated.

3. The case review team shall review the progress of each client of the facility with the medical, nursing and counseling personnel familiar with the client not less than every thirty (30) days the client is in interim maintenance treatment, every ninety (90) days the client is in long-term detoxification treatment, and not less than one hundred eighty (180) days the client is in comprehensive maintenance treatment. Additional requirements and exceptions for each type of narcotic treatment services shall apply, as required by Title 21 of the Code of Federal Regulations.

SECTION 25. AMENDATORY 43A O.S. 1991, Section 5-101, as last amended by Section 14, Chapter 1, O.S.L. 1995 (43A O.S. Supp. 1996, Section 5-101), is amended to read as follows:

Section 5-101. A. Any person alleged to be mentally ill or alcohol- or drug-dependent to a degree which warrants institutional treatment or care, and who is not in confinement in a jail or adult lock-up facility on a criminal charge and who has no criminal charges pending against him or her, may be admitted to and confined in an institution within the Department of Mental Health, the Department of Alcohol and Substance Abuse Services, a state psychiatric hospital, or a licensed private institution by compliance with any one of the following procedures:

1. Emergency admission;
2. On voluntary application; and
3. On involuntary court certification.

B. Any person alleged to be mentally ill or alcohol or drug dependent to a degree which warrants institutional treatment or care and who has criminal charges pending against him or her but is not confined in a jail or adult lock-up facility may be admitted to an institution within the Department of Mental Health, the Department of Alcohol and Substance Abuse Services, a state psychiatric hospital or a licensed private institution pursuant to the provisions of subsection A of this section; provided, the institution or hospital shall be authorized to take such reasonable steps as necessary to assure the protection of the public, the residents of the institution or hospital and the person, including, but not limited to, segregation and private facilities. Provided further, treatment received pursuant to this subsection shall not constitute a defense in any criminal proceeding except as otherwise provided by Title 22 of the Oklahoma Statutes.

C. Any person confined pursuant to a criminal charge may be admitted to and confined pursuant to a court order issued in compliance with the provisions of Section 1175.6 of Title 22 of the Oklahoma Statutes.

No person shall be deprived of his or her liberty on the grounds that such person is, or is supposed to be, mentally ill or in need of mental health treatment, except in accordance with the provisions of the Mental Health Law, Section 1-101 et seq. of this title.

SECTION 26. AMENDATORY 43A O.S. 1991, Section 5-207, as amended by Section 1, Chapter 90, O.S.L. 1995 (43A O.S. Supp. 1996, Section 5-207), is amended to read as follows:

Section 5-207. A. Any person who appears to be or states that ~~such person~~ he or she 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 the officer's belief that the person is a person requiring treatment and the circumstances under which the officer took the person into protective custody. The officer shall give a copy of the statement to the person or 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 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 sign a written affidavit indicating the basis for ~~such person's~~ the 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 or the Commissioner of Alcohol 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 or the Commissioner of Alcohol 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 ~~such person~~ he or she 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 or the Commissioner of Alcohol 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~~ the person as provided by ~~this act~~ Section 5-206 et seq. of this title.

SECTION 27. 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.

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 or she 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~~ the licensed mental health professional shall immediately:

- a. prepare a statement describing the results of ~~his~~ the examination stating the basis for ~~his~~ the determination. The statement shall be substantially in a form prescribed by the Department of Mental Health or the Department of Alcohol 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
- c. provide for a full examination and evaluation of the person 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 or the Department of Alcohol 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 or the Commissioner of Alcohol 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 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. The administrator or ~~his~~ a designee shall provide for the full examination and petition required by subsection A of this section.

SECTION 28. AMENDATORY 43A O.S. 1991, Section 5-212, as amended by Section 2, Chapter 207, O.S.L. 1994 (43A O.S. Supp. 1996, Section 5-212), is amended to read as follows:

Section 5-212. A. Upon the filing of a request for an order authorizing detention and petition pursuant to Section 5-211 of this title alleging a person to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person and stating that there is probable cause to detain the person in emergency detention prior to a hearing, the court shall:

1. Dismiss the petition and order the person released from protective custody or emergency detention; or

2. 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.

B. The district court may certify the person after consideration of the petition and sworn statement provided for in Section 5-211 of this title for not more than twenty-eight (28) days of involuntary treatment under the following conditions:

1. The district court shall provide for an immediate hearing on the petition and shall appoint an attorney for the person being detained. The person allegedly requiring involuntary treatment shall have the right to a closed hearing unless such person requests otherwise. The court, at the hearing on the petition, shall determine by clear and convincing evidence if the person is a person

requiring treatment, an alcohol-dependent person, or a drug-dependent person as otherwise defined by law and if such person poses an immediate likelihood of becoming a serious harm to himself or herself or others. The court shall take evidence and make findings of fact concerning the competency of the person to consent to or refuse the treatment that may be ordered, including, but not limited to, the right of the patient to refuse medication. The court shall advise the respondent of his or her constitutional rights. If a jury trial is not demanded, the court may receive as evidence and may act upon the affidavits and reports of the persons performing the examination and evaluation, without further evidence being presented. If a jury trial is not demanded, the court may conduct the hearing by closed-circuit television as provided for in Section 1-107 of this title. If the court deems it necessary, or if the person alleged to be a person requiring treatment, an alcohol-dependent person, or a drug-dependent person or a person acting on ~~their~~ behalf of such person 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 days when the court is not officially in session, or within as much additional time as is requested by the attorney of the person requiring treatment, upon good cause shown;

2. Two (2) licensed mental health professionals of the agency or facility providing evaluation services have examined and evaluated the condition of the person and have found that the person, as a result of mental disorder or impairment by chronic alcoholism or drug abuse, poses an immediate likelihood of serious harm to himself or herself or others; and

3. The person has been advised of, but has not accepted, voluntary treatment or has been found by the district court to be incompetent to consent to voluntary treatment as provided by paragraph 1 of this subsection.

C. 1. Certification shall be for no more than twenty-eight (28) days, and shall terminate as soon as, in the opinion of the licensed mental health professional in charge of the treatment of the person certified, the person has improved sufficiently for ~~him~~ the person to leave, or the person is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

2. If, prior to the expiration of the twenty-eight-day period of certification, it appears to the administrator of the facility that the condition of the person is such that continued inpatient treatment is necessary for the protection of the person or others, the administrator shall file pursuant to Section 5-401 of this title a petition with the district court of the county in which the patient was certified.

3. Persons who have been certified for twenty-eight (28) days of treatment shall be released at the end of twenty-eight (28) days unless:

- a. the person agrees to receive further treatment on a voluntary basis, or
- b. the person is, during the twenty-eight (28) days of temporary treatment, certified for further treatment pursuant to the provisions of Section 5-401 or 9-102 of this title.

When a person is discharged from a facility pursuant to the provisions of this subsection, the person in charge of the facility shall notify the committing or certifying court of such discharge within forty-eight (48) hours prior to the actual discharge.

D. Any individual who knowingly and willfully detains a person for more than twenty-eight (28) days in violation of the provisions of subsection C of this section may be liable to that person in civil damages.

E. When the Department of Mental Health and the Department of Alcohol and Substance Abuse Services can designate two or more facilities to provide treatment and the person to be treated, ~~his~~ the person's parent, spouse, guardian, brother, sister, or child who is at least eighteen (18) years of age expresses a preference for one such facility, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

F. Nothing in this section shall prohibit the professional person in charge of a treatment facility, or ~~his~~ a designee, from permitting a person certified for treatment to leave the facility for short periods during the involuntary treatment of the person.

SECTION 29. AMENDATORY 43A O.S. 1991, Section 5-401, as amended by Section 3, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1996, Section 5-401), is amended to read as follows:

Section 5-401. 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 officer 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 ~~him~~ the person. 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.

B. Upon the filing of a petition, the district court shall determine, based upon clear and convincing evidence, whether there is probable cause to detain the person requiring treatment prior to a hearing on the petition. 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; provided that ~~said~~ the period of temporary detention shall not exceed seventy-two (72) hours, excluding days when the district court is not in session. Such detention shall be extended to coincide with any order of continuance entered by the court at the first hearing. A certified copy of the order of continuance shall constitute authority for the facility to continue to detain the subject individual during the period of continuance.

C. Upon receiving the petition, the court shall fix a day for the hearing thereof and shall forthwith appoint an attorney and an examining commission. A copy of the petition and notice as hereinafter described shall be served personally at least one (1) day before the examining commission is scheduled to hold its proceedings, and as many additional days as are requested by the person alleged to be a person requiring treatment or ~~his~~ the person's 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, including cost. The notice shall contain the following information:

1. The definition provided by the Mental Health Law, Section 1-101 et seq. of this title, of a mentally ill person and a person requiring treatment;
2. That the court has appointed an examining commission composed of two (2) qualified examiners to examine the mental

condition of the person allegedly requiring treatment and execute a certificate of their findings;

3. The time and place of any examination to be conducted by the examining commission, and the hearing on the petition;

4. 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;

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

6. That the court has appointed an attorney for the person alleged to be a person requiring treatment who shall represent ~~him~~ the person until final disposition of the case;

7. That if the person alleged to be a person requiring treatment is indigent, the court shall pay the attorney's fees;

8. 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

9. 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. The notice shall be served upon the person alleged to be a person requiring treatment, ~~his~~ the person's father, mother, husband, wife, guardian or in their absence someone of the next of kin, of legal age, if any such persons are known to be residing within the county, and upon such of said relatives residing outside of the county, as may be ordered by the court, and also upon the person with whom the person alleged to be a person requiring treatment may reside, or at whose house ~~he~~ the person 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.

D. The 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~~ the appointment. The attorney shall immediately, upon meeting with the person alleged to be a person requiring treatment, present to ~~such~~ the person a statement of his or her rights, including all rights afforded ~~to him~~ by the Oklahoma and 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~~ the person 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~~ the person is indigent. The amount of ~~such~~ the fee shall be set by the court.

F. The district court shall in each case appoint an examining commission composed of two (2) qualified examiners, one of whom may be a licensed clinical psychologist. The qualified examiners shall make a careful personal examination and inquiry into the mental condition of the person alleged to be a person requiring treatment and execute a certificate of their findings. The examining commission appointed by the court shall have the right to conduct an examination of the mental condition of the person alleged to be a person requiring treatment, either prior to or at the time of the hearing on the petition. Any examination that is conducted prior to the hearing shall be on proper notice to the person and his appointed or selected attorney.

G. The examining commission forms shall be printed or written on eight and one-half inch by eleven inch (8 1/2" x 11") sheets of paper and shall be substantially as follows:

EXAMINER'S CERTIFICATE

We, the undersigned, together and in the presence of each other, have made a personal examination of, a person alleged to be a person requiring treatment, and do hereby certify that we did on the day of, 19.., make a careful personal examination of the actual condition of the said person and have interrogated, the person seeking the commitment of, and, the witness(es) identified in the petition, and on such examination we find that she/he is/not a person requiring treatment. The facts and circumstances on which we base

our opinions are stated in the following report of symptoms and history of case, which is hereby made a part hereof.

We are duly licensed to practice in the State of Oklahoma, are not related to by blood or marriage, and have no interest in her/his estate.

Witness our hands this day of, 19..

....., M.D., D.O., Ph.D., Other

....., M.D., D.O., Ph.D., Other

Subscribed and sworn to before me this day of, 19..

.....

Notary Public

REPORT OF SYMPTOMS AND HISTORY OF

CASE BY EXAMINERS

1. GENERAL

Complete name

Place of residence

Sex Color

Age

Date of Birth

Place of Birth

Length of residency in Oklahoma

Single, married, widowed, separated, divorced

Number of children living

Number dead

Occupation

Date of last employment

Education

Religion

Name, relationship, address, and telephone number of correspondents:

.....
.....

2. HISTORY OF FAMILY

Name of father

 Birthplace

Maiden name of mother

 Birthplace

Name of husband (or maiden name of wife)

 Birthplace

General characteristics of family

What relatives have had mental or nervous trouble?

.....

3. HISTORY OF PATIENT PREVIOUS TO PRESENT ILLNESS

Describe the general health, development, sickness and accidents
prior to the present disorder

Personality, school record, and social habits

Previous attacks and hospitalization for mental
health:

Place and date

.....

4. HISTORY OF PRESENT ILLNESS

Supposed cause

Date of onset and course

Abnormal talk

Suicidal tendencies

Abnormal conduct

History of violence

Special and unusual symptoms

Use of alcohol

Use of narcotics

Diagnosis, if determined

Dangerous? Yes No If Yes,

explain basis for opinion
State the least restrictive treatment which is appropriate to
condition
State the least restrictive treatment which is available
within the catchment area
Is the patient competent to refuse treatment that is
ordered?

5. NAME AND RELATIONSHIPS OF INFORMANTS

Other data

Dated at, Oklahoma, thisday of
....., 19..

....., M.D., D.O., Ph.D., Other

.....

Address

....., M.D., D.O., Ph.D., Other

.....

Address

H. The members of the examining commission making an examination and certifying the condition of the person alleged to be a person requiring treatment shall, regardless of whether or not they find such person mentally ill, be entitled to receive for such services a reasonable sum set by the court, and twenty cents (\$0.20) per mile for travel necessarily performed in going to the place of ~~such~~ the examination and such further sum for expenses as the judge of the district court shall allow, said sums to be paid from the local court fund. Any private fees or funds received or recovered in connection with ~~said~~ the hearing shall be deposited to the credit of the local court fund.

I. The person alleged to be a person requiring treatment 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~~ the person's presence would be injurious to ~~his~~ the person's 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~~ the person's removal for that purpose or determines that ~~his~~ the person's appearance at such hearing would be improper and unsafe.

J. The court, at the hearing on the petition, shall determine, by clear and convincing evidence, if the person is a person requiring treatment, and the court will 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. If a jury trial is not demanded, the court may receive as evidence and act upon the affidavits and reports of the examining commission, without further evidence being presented. 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 days when the court is not officially in session, or within as much additional time as is requested by the attorney of the person requiring treatment, upon good cause shown.

K. At the hearing on the petition, when it 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. 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~~ the person at any later time directly or in any manner or form.

L. If any person admitted under this section or any other provision of law is not found at the hearing on the petition to be a person requiring treatment after ~~he~~ the person is admitted to a facility, ~~he~~ the person shall be discharged immediately.

M. If any person admitted under this section or any other provision of law is found at the hearing on the petition to be a person requiring treatment, ~~such~~ the person shall be delivered to the custody of the Department of Mental Health or the Department of Alcohol and Substance Abuse Services for a placement that is suitable to the person's needs.

N. The court shall make and keep records of all cases brought before it. No records of proceedings under the Mental Health Law shall be open to public inspection except by order of the court or to employees of the Department of Mental Health or the Department of Alcohol and Substance Abuse Services, the person's attorney of record, or persons having a legitimate treatment interest.

O. 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 30. AMENDATORY Section 2, Chapter 298, O.S.L. 1992, as last amended by Section 3, Chapter 254, O.S.L. 1995 (43A O.S. Supp. 1996, Section 5-502), is amended to read as follows:

Section 5-502. As used in the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of this title:

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;

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~~ a 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 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 or the Department of Alcohol and Substance Abuse Services and designated by the Commissioner of ~~the Department of Mental Health~~ or the Commissioner of Alcohol 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 31. AMENDATORY 43A O.S. 1991, Section 9-103, is amended to read as follows:

Section 9-103. A. After an initial period of observation and treatment, and subject to the rules and policies established by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority, whenever a person committed pursuant to court order has recovered from his or her addiction or imminent danger of addiction, to such an extent that in the opinion of the physician or superintendent in charge of the facility, release in outpatient status is warranted, ~~the~~ the physician or superintendent

shall certify such fact to the Authority. If the physician or superintendent has not so certified within the preceding twelve (12) months, in the anniversary month of the commitment of any such person, ~~his~~ the case shall automatically be referred to the Authority for consideration of the advisability of release in outpatient status. Upon any such certification by the physician or superintendent or such automatic certification, the Authority may release ~~such~~ the person in outpatient status subject to all rules ~~and regulations~~ adopted by the Authority, and subject to all conditions imposed by the Authority, whether of general applicability or restricted to the particular person released in outpatient status, and subject to being retaken and returned to inpatient status as prescribed in such rules, ~~regulations~~ or conditions. The supervision of such persons while in outpatient status shall be administered by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services.

B. The rules for persons in outpatient status shall include, but not be limited to, close supervision of the person after release from the facility, periodic and unannounced testing for controlled dangerous substance use, counseling and return to inpatient status at a suitable facility at the discretion of the Authority, if from the reports of agents of the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services or other information including reports of law enforcement officers as to the conduct of the person, the Authority concludes that it is in the best interests of the person and society that this be done.

SECTION 32. AMENDATORY 3 O.S. 1991, Section 301, is amended to read as follows:

Section 301. A. It is unlawful and punishable as provided in subsection D of this section for any person to operate an aircraft within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section ~~5~~ 305 of this ~~act~~ title, of four-hundredths (0.04) or more within two (2) hours after the arrest of such person; or

2. Is under the influence of any intoxicant.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use an intoxicant shall not constitute a defense against any charge of violating this section.

C. As used in Sections ~~1~~ 301 through ~~8~~ 308 of this ~~act~~ title:

1. "Intoxicant" means:

- a. any beverage containing alcohol,
- b. any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,
- c. any substance which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions of the human body, and
- d. any combination of alcohol, controlled dangerous substances, and substances capable of being ingested, inhaled, injected or absorbed into the human body and capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions of the human body; and

2. "Operate" means manipulating any of the levers, the starting mechanism, the brakes or other mechanism or device of an aircraft, setting in motion any aircraft, or piloting any aircraft.

D. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a

fine of not more than One Thousand Dollars (\$1,000.00). Any person who within ten (10) years after a previous conviction of a violation of this section is convicted of a second or subsequent offense pursuant to the provisions of this section or has a prior conviction within ten (10) years prior to the conviction pursuant to the provisions of this section, in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00). When a sentence of incarceration is imposed, the person shall be processed through the Lexington Assessment and Reception Center. If the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk, the person shall be assigned to the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for substance abuse treatment. The inmate shall be required to reimburse the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate was assigned to the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services, if at the time the sentence of incarceration was imposed, the court determined that the convicted person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the convicted person shall pay. While assigned to such a Department of ~~Mental Health~~ Alcohol and Substance Abuse Services treatment program the inmate shall comply with the rules ~~and regulations~~ as agreed upon by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and the Department of Corrections. Any infraction of said rules may result in the inmate's reassignment to a correctional facility of the Department of Corrections. Upon successful

completion of the treatment program the person shall be properly reassigned by the Department of Corrections for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the treatment facility shall forward to the Department of Corrections a report and discharge summary including arrangements and recommendations for further disposition and follow-up treatment. If the person is evaluated not to be receptive to treatment or is evaluated to be a security risk, the inmate shall be assigned to a state correctional facility according to normal Department of Corrections classification procedures. In the event a felony conviction does not result in a sentence of incarceration as provided for in this subsection, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

E. Any person who is found guilty of a violation of the provisions of this section may be referred, prior to sentencing, to an alcoholism evaluation facility designated by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility for the evaluation in an amount not to exceed Seventy-five Dollars (\$75.00). The facility shall, within seventy-two (72) hours, submit a written report to the court for the purpose of assisting the court in its final sentencing determination.

SECTION 33. AMENDATORY 10 O.S. 1991, Section 12, is amended to read as follows:

Section 12. It is the duty of the father and the mother of any poor person who is unable to maintain himself or herself by work, to

maintain such person to the extent of their ability. Provided, that the liability of a parent to an institution, nursing home, intermediate care facility, or other resident facility for the care or maintenance of any such poor person shall not be excessive and shall not cause undue financial hardship upon said parent. Provided further, that the provisions of this section shall not apply to charges for care provided by institutions of the Department of Mental Health or the Department of Alcohol and Substance Abuse Services or to charges for care provided by Department of Mental Health or the Department of Alcohol and Substance Abuse Services outpatient facilities, including the alcohol and drug programs. The promise of an adult child to pay for necessaries previously furnished to a parent is binding.

SECTION 34. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.3), is amended to read as follows:

Section 7003-5.3 A. An individual treatment and service plan shall be filed with the court within thirty (30) days after ~~the~~ a child has been adjudicated to be deprived.

B. The plan shall be filed by the Department of Human Services or the agency responsible for the supervision of the case, or by the Department or the agency or licensed child care facility having custody of the child if the child has been removed from the custody of its lawful parent or parents.

C. The treatment and service plan shall be based upon a comprehensive assessment and evaluation of the child and family. The plan shall be:

1. Developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child;

2. Written simply and clearly in English. If English is not the principal language of the child's parent, guardian, or custodian

and such person is unable to read or comprehend the English language, to the extent possible the plan shall be written in such person's principal language;

3. Subject to modification based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child; and

4. Reasonable, accurate, and in compliance with the requirements of other court orders.

D. The individual treatment and service plan shall include, but not be limited to:

1. A history of the child and family, including identification of the problems leading to the deprived child adjudication. The statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. Identification of the specific services to be provided to the child, including, but not limited to, educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care of the child or to prevent further harm to the child;

3. A schedule of the frequency of services or treatment and the means by which delivery of the services or treatment will be assured or, as necessary, the means by which support services or other assistance will be provided to enable the parent or the child to obtain the services or treatment;

4. The name and location of the service provider;

5. The name of the social worker assigned to the case;

6. If the child is placed outside the home:
 - a. the services to be provided during and after any such placement,
 - b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
 - c. the services to be provided to the child while in such placement and the projected date of discharge,
 - d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal of the child before the child can be returned home,
 - e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,
 - f. a description of the permanency goal for the child, including the type of placement,
 - g. a description of the type of placement in which the child is to be placed,
 - h. a description of the initial support obligation to the child, as determined by the court,
 - i. a description of the visitation rights and obligations of the parent or parents during the period the child is in care, and
 - j. a discussion of the appropriateness of the child's placement, which placement is intended to be in the

least restrictive and most family-like setting available, consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home;

7. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;

8. A projected date for the completion of the treatment and service plan; and

9. The name and business address of the attorney representing the child, if any.

E. The individual treatment and service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

F. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes, the individual treatment and service plan shall be amended as necessary and appropriate, including, but not limited to, identification of the treatment and services to be provided to the child and ~~his~~ the child's family upon discharge of the child from inpatient mental health treatment.

G. In addition to the information required pursuant to subsection A of this section, when a child born in a condition of dependence on a controlled dangerous substance has been removed from

the home, the Department of Human Services, subject to court approval:

1. May require, as part of the treatment and service plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home;

2. May require, as part of the treatment and service plan, that the father of the child, legal guardian, legal custodian, stepparent or other adult person living in the home who is a drug-dependent person, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on the controlled dangerous substance, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home; and

3. May require testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent or other adult person living in the home, on a monthly basis for a twelve-month period following completion of the substance abuse program and after return of the child to the home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

H. Testing ordered by the court pursuant to subsection F of this section shall be admissible only for the purposes of deprived child and custody proceedings.

I. The services delineated in the individual treatment and service plan shall be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the return of the child to the family home, or to

facilitate the permanent placement of the child. The plan shall focus on clearly defined objectives and shall provide the most efficient path to quick reunification or permanent placement. To the extent possible, the plan shall contain outcome based evaluation criteria that measure success in the reunification or permanent placement process.

J. In the event that the parents are unwilling to participate in the development or implementation of the individual treatment and service plan, the Department shall document such unwillingness in writing to the parent and shall file the document with the court.

K. The parents shall be provided a copy of the treatment and service plan approved by the court.

SECTION 35. AMENDATORY 47 O.S. 1991, Section 6-212.2, as last amended by Section 2, Chapter 162, O.S.L. 1996 (47 O.S. Supp. 1996, Section 6-212.2), is amended to read as follows:

Section 6-212.2 A. Whenever the records of the Department of Public Safety reflect a conviction of a person pursuant to Section 11-902 of this title or an alcohol- or drug-related revocation or suspension of the driver license of that person pursuant to the provisions of paragraph 2 of subsection A of Section 6-205 or Sections 6-205.1, 6-206, 753, 754 or 761 of this title, the person shall participate in an alcohol and ~~drug~~ substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the person's receptivity to treatment and prognosis. The person shall enroll, attend and successfully complete an alcohol and ~~drug~~ substance abuse course offered by an institution or organization certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to conduct such courses. For a second or subsequent offense, the alcohol and ~~drug~~ substance abuse course shall consist of at least twenty-four (24) hours of instruction and shall conform with the provisions of subsection G of

Section 3-453 of Title 43A of the Oklahoma Statutes. Persons under twenty-one (21) years of age shall be required to attend and successfully complete an alcohol and ~~drug~~ substance abuse course developed specifically to address the needs of young persons and offered by an institution or organization certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to conduct such courses. No citizen shall be compelled to travel more than fifty (50) miles from the citizen's place of residence to attend a course or evaluation program required herein. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol abuse treatment, other ~~drug~~ substance abuse treatment, or both alcohol and other ~~drug~~ substance abuse treatment, who is certified each year by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to provide such assessments. For purposes of this subsection, the requirement for alcohol and ~~drug~~ substance abuse evaluation shall be considered satisfied if the person is evaluated by a qualified practitioner or facility certified for that purpose and a report of such evaluation is presented to the court prior to sentencing.

B. The requirements of subsection A of this section shall be a condition for reinstatement of a driver license, in addition to other conditions for driver license reinstatement provided by law.

SECTION 36. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 3, Chapter 313, O.S.L. 1995 (47 O.S. Supp. 1996, Section 11-902), is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the

time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

As used in this title, the term "other intoxicating substance" shall mean any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.

C. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not more than One Thousand Dollars (\$1,000.00). Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another state prohibiting the offense provided in subsection A of this section, is convicted of a second offense pursuant to the provisions of this section or has a prior conviction

in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00). Any person who is convicted of a second felony offense pursuant to the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not more than Five Thousand Dollars (\$5,000.00). Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not more than Five Thousand Dollars (\$5,000.00).

Provided, however, a conviction from another state shall not be used to enhance punishment pursuant to the provisions of this subsection if that conviction is based on a blood or breath alcohol concentration of less than ten-hundredths (0.10).

D. When a person is sentenced to the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section 612 of Title 57 of the Oklahoma Statutes;

2. The Electronic Monitoring Program pursuant to Section 510.9 of Title 57 of the Oklahoma Statutes with participation in a substance abuse treatment program and follow-up treatment;

3. A correctional facility operated by the Department of Corrections; or

4. Other alternative to incarceration authorized by law.

E. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.

F. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and the Department of Corrections may certify to the Department of Public Safety that a person has successfully completed a treatment program and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing a privilege to drive.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked license when the applicant meets the statutory requirements which affect the applicant's existing driving privilege.

H. Any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in, prior to sentencing, an alcohol and ~~drug~~ substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to

reimburse the facility or qualified practitioner for the evaluation. The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and ~~drug~~ substance abuse evaluation program certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this section for any treatment program or alcohol and ~~drug~~ substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and ~~drug~~ substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to the provisions of this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a

bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from June 7, 1994. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee ~~of~~ of not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

SECTION 37. AMENDATORY 57 O.S. 1991, Section 530.1, as last amended by Section 2, Chapter 168, O.S.L. 1996 (57 O.S. Supp. 1996, Section 530.1), is amended to read as follows:

Section 530.1. A. The Department of Corrections, by the rules of that Department, shall have the following duties which shall be performed as part of the assessment and reception process of the Department of Corrections, upon reception of each inmate:

1. To administer, or cause to be administered, physical and psychological examination of all inmates;
2. To inventory the vocational skills of all inmates;
3. To assess the educational and training needs of all inmates;
4. To determine from available records and interviews, the place of birth of new inmates. The Department of Corrections shall furnish a list of foreign-born nationals and suspected foreign-born nationals to the Immigration and Naturalization Service on a weekly basis;
5. To determine initial security and custody classifications;
6. To determine and recommend for placement in an alcohol or substance abuse treatment facility or program, as provided for in this section, any inmate convicted of alcohol related offenses or otherwise in need of alcohol or substance abuse treatment;
7. To determine and recommend for placement in the Department of Corrections Special Care Unit at the State Penitentiary at McAlester any inmate who is in need of acute psychiatric care;
8. To plan for immediate assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities, public or private, designated by the Department;
9. To recommend possible future assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities designated by the Department; and
10. To provide orientation and instruction with respect to rules and procedures for prisoners.

B. An alcohol or substance abuse treatment center in which an inmate is placed shall provide services and standards of treatment as provided by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services under its rules for alcoholism or substance abuse treatment. Upon placement of a prisoner in a center for alcoholism

or substance abuse treatment, the Department of Corrections shall enter into a third party contract with such center for the custodial and professional services rendered to any prisoner. Such contract may include requirements imposed by law on the Department of Corrections or reimbursement for such services, if necessary. The Department of Corrections is further authorized to enter into third party contracts for substance abuse treatment programs which are certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to provide professional services on an outpatient basis to prisoners in need of substance abuse treatment and follow-up treatment while assigned to alternatives to incarceration.

C. The Department of Corrections shall adopt rules governing the implementation of this section within sixty (60) days from the effective date of this act.

SECTION 38. AMENDATORY Section 14, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1996, Section 612), is amended to read as follows:

Section 612. A. Any person convicted of violating the provisions of Section 11-902 of Title 47 of the Oklahoma Statutes and sentenced to the custody of the Department of Corrections shall be processed through the Lexington Assessment and Reception Center, classified and assigned as follows:

1. To the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for substance abuse treatment, if the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk. The inmate may be required to reimburse the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate is assigned to the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services. The Department of Corrections shall determine whether the inmate has the ability to pay for all or part of the cost of treatment. While

assigned to a Department of ~~Mental Health~~ Alcohol and Substance Abuse Services treatment program the inmate shall comply with the rules ~~and regulations~~ as agreed upon by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and the Department of Corrections. Any infraction of said rules may result in the inmate's reassignment to a correctional facility of the Department of Corrections. Upon successful completion of the treatment program the inmate shall be properly reassigned by the Department of Corrections for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the treatment facility shall forward to the Department of Corrections a report and discharge summary including arrangements and recommendations for further disposition and follow-up treatment;

2. To the Electronic Monitoring Program pursuant to Section ~~5~~ 510.9 of this ~~act~~ title, with participation in a substance abuse treatment program and follow-up treatment, when the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk;

3. To another alternative to incarceration authorized by law;
or

4. To a correctional facility when:

- a. the person is evaluated not to be receptive to treatment,
- b. the person is evaluated to be a security risk,
- c. the person requires educational, medical or other services or programs not available in the community setting as determined by the Department, or
- d. alternatives to incarceration are not available or are otherwise inappropriate as determined by the Department.

B. As used in this section:

1. "Substance abuse treatment program" means a residential or outpatient program certified by the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services and selected by the Department of Corrections to provide substance abuse treatment for the inmate; and

2. "Electronic monitoring" means monitoring of the inmate within a specified location or locations in a community setting by means of an electronic bracelet or other device approved by the Department of Corrections with active supervision by correctional officers or other employees of the Department of Corrections.

SECTION 39. AMENDATORY 63 O.S. 1991, Section 1-851.2, as amended by Section 2, Chapter 336, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-851.2), is amended to read as follows:

Section 1-851.2 A. The State Commissioner of Health shall have the power and duty to:

1. Issue, renew, deny, modify, suspend and revoke certificates of need;

2. Establish and enforce standards and requirements for certificates of need;

3. Require the submission of and to review reports from any person requesting or obtaining a certificate of need;

4. Employ or designate personnel necessary to implement the provisions of the Long-term Care Certificate of Need Act;

5. Report to the district attorney having jurisdiction or the Attorney General, any act committed by any person which may constitute a violation pursuant to the provisions of the Long-term Care Certificate of Need Act;

6. Advise, consult and cooperate with other agencies of this state, the federal government, other states and interstate agencies, and with affected groups and political subdivisions to further the purposes of the provisions of the Long-term Care Certificate of Need Act;

7. Promulgate and enforce rules subject to the approval of the State Board of Health to implement the provisions of the Long-term Care Certificate of Need Act;

8. Investigate, request or otherwise obtain the information necessary to determine the qualifications and background of an applicant for a certificate of need;

9. Establish administrative penalties for violations of the provisions of the Long-term Care Certificate of Need Act as authorized by the Board;

10. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Department pursuant to the Long-term Care Certificate of Need Act;

11. Develop and administer plans for health services including, but not limited to, staffing, facilities and other resources;

12. Develop and publish, once every four (4) years, a Quadrennial State Health Plan, following guidelines and procedures adopted by the Board which specify the method of adoption of the plan document, its format, provisions for developing and publishing plan amendments and the role of the State Department of Health, local health planning advisory councils and ~~the Alcohol, Drug Abuse~~ ~~and~~ Community Mental Health Planning and Coordination Boards of each mental health catchment area in its development;

13. Establish and administer criteria and standards for the delineation and approval of areas and regions for health planning purposes;

14. Promote and maintain plans for providing health services including, but not limited to, health, staffing and health facilities, in this state; and

15. Exercise all incidental powers as necessary and proper for the administration of the Long-term Care Certificate of Need Act.

B. The State Department of Health shall be the single state agency to participate in federal programs for health planning and to

apply for and administer federal funds for health planning, provided, that the Long-term Care Certificate of Need Act, and any other law vesting planning functions in any other state agency, shall not apply to health planning functions vested by law in the Department of Mental Health, the Department of Alcohol and Substance Abuse Services, the Oklahoma Health Care Authority and the Department of Human Services.

C. The Department shall establish forms and provide for the collection of monthly data necessary for the computation of occupancy rates from licensed long-term care facilities which do not provide services to Medicaid recipients. Data shall include, but not be limited to, licensed bed capacity, average daily census, days on which beds were reserved for residents temporarily absent, and the number, if any, of semi-private units rented as private rooms.

SECTION 40. AMENDATORY 70 O.S. 1991, Section 1210.229-3, as amended by Section 56, Chapter 274, O.S.L. 1995 (70 O.S. Supp. 1996, Section 1210.229-3), is amended to read as follows:

Section 1210.229-3 For purposes of the Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act, Section 1210.229-1 et seq. of this title:

1. "Alcohol" means any low-point beer as defined in Section 163.2 of Title 37 of the Oklahoma Statutes or alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes;

2. "Board" means the ~~State~~ Board of ~~Education~~ Alcohol and Substance Abuse Services;

3. "Department" means the ~~State~~ Department of ~~Education~~ Alcohol and Substance Abuse Services;

4. "Drug" means a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes; and

5. "Life skills" includes, but is not limited to, fostering skills in responsibility, decision making, communication, self-

confidence and goal setting. ~~Life~~ The term "life skills" shall not include values clarification or sex education.

SECTION 41. AMENDATORY 70 O.S. 1991, Section 1210.229-5, is amended to read as follows:

Section 1210.229-5 A. The State Superintendent of Public Instruction and State Department of Education in conjunction with the Oklahoma Drug and Alcohol Abuse Policy Board and the Department of Alcohol and Substance Abuse Services shall:

1. Establish objective criteria, guidelines and a comprehensive integrated curriculum for substance abuse programs and the teaching of life skills in local schools and school districts;

2. Establish and review annually model policies for alcohol and drug abuse issues, including but not limited to policies regarding disciplinary actions and referral for services;

3. Develop and implement strategies which encourage all schools to employ guidance counselors trained in substance abuse prevention and life skills and to develop and begin implementing quality substance abuse and life skills education programs; and

4. Develop guidelines and criteria to encourage teachers and administrators to receive in-service training on alcohol and drug abuse. The training or workshops should be included in the staff development point system.

B. The State Department of Education shall distribute information or reports provided by the Oklahoma Drug and Alcohol Abuse Policy Board, to each school district and, upon request, to members of the public. Upon request of the chief administrator of a school or school district, the Department shall provide technical assistance to schools and school districts to implement policies and programs pursuant to guidelines provided by the Oklahoma Drug and Alcohol Abuse Policy Board and shall provide a clearinghouse program accessible by school districts to provide information about life skills and drug and alcohol abuse prevention curricula and programs.

C. Final determination of materials to be used, means of implementation of the curriculum, and ages and times at which students receive instruction about said life skills and drug and alcohol abuse prevention shall be made by the local school board. The local school district, at least one (1) month prior to giving such instruction to students, shall conduct for parents and guardians of students involved, during weekend or evening hours, at least one presentation concerning the plans for instruction and the materials to be used. No student shall be required to receive instruction about said life skills and drug and alcohol abuse prevention if a parent or guardian of the student objects in writing.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.229-6 of Title 70, unless there is created a duplication in numbering, reads as follows:

The programs and services associated with the provisions of the Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education Act, Section 1210.229-1 et seq. of Title 70 of the Oklahoma Statutes, are hereby transferred to and shall be the responsibility of the Department of Alcohol and Substance Abuse Services.

SECTION 43. AMENDATORY 74 O.S. 1991, Section 30b, as amended by Section 45, Chapter 247, O.S.L. 1996 (74 O.S. Supp. 1996, Section 30b), is amended to read as follows:

Section 30b. A. There is hereby created the Oklahoma Drug and Alcohol Abuse Policy Board.

B. A ~~chairperson~~ chair shall be appointed by the members of the Oklahoma Drug and Alcohol Abuse Policy Board at the first meeting. The ~~chairperson~~ chair may establish such committees, subcommittees, or other working groups in order to accomplish the goals of the Board.

C. The Board shall be composed of the following members:

1. The Governor or ~~his~~ a designee;

2. The Attorney General;
 3. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
 4. The Director of the Oklahoma State Bureau of Investigation;
 5. The Commissioner of Public Safety;
 6. The Commissioner of the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services;
 7. The State Commissioner of Health;
 8. The Adjutant General of the Military Department;
 9. The Superintendent of Public Instruction;
 10. The Director of Corrections;
 11. The Director of the Department of Human Services;
 12. The Director of the Alcoholic Beverage Laws Enforcement Commission;
 13. The Executive Director of the District Attorneys' Council;
 14. The Executive Director of the Oklahoma Commission on Children and Youth;
 15. The Executive Director of the Office of Juvenile Affairs;
- and
16. Two appointees of the Governor, who shall be private citizens appointed to serve for one-year terms.

D. Any other state or local agency or individual may become a nonvoting member of the Board upon approval of a two-thirds (2/3) majority of the voting members ~~set forth~~ as specified in subsection C of this section.

E. Other officers, excluding the ~~chairperson~~ chair, may be elected at the discretion of the voting Board members.

F. The Board shall hold meetings at least quarterly and at such other times as the ~~chairperson~~ chair deems necessary.

SECTION 44. AMENDATORY Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as

renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1996, Section 840-2.10), is amended to read as follows:

Section 840-2.10 A. There is hereby created a State Employee Assistance Program within the ~~Office of Personnel Management~~ Department of Alcohol and Substance Abuse Services. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment and referral assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis.

B. The ~~Administrator~~ Commissioner of the ~~Office of Personnel Management~~ Alcohol and Substance Abuse Services is hereby directed to:

1. Promulgate rules necessary for the administration of the State Employee Assistance Program and the maintenance and release of participant records;
2. Conduct training specific to the State Employee Assistance Program; and
3. Establish evaluation methods to assess the effectiveness of the State Employee Assistance Program.

C. Nothing in this act is intended to nullify any agency's existing employee assistance program or to prohibit any state agency from establishing its own employee assistance program; provided, however, such programs established by state agencies shall be subject to compliance with rules promulgated by the ~~Administrator~~ Commissioner of the ~~Office of Personnel Management~~ Alcohol and Substance Abuse Services to ensure equitable treatment of employees.

D. Records that relate to participation by an individual in the State Employee Assistance Program or an employee assistance program

established by a state agency shall be maintained separate and apart from regular personnel records and shall not become part of an employee's personnel file. Such records relating to an individual's participation in an employee assistance program shall be confidential and not subject to subpoena unless a participant poses a threat to deliberately harm himself or herself or others. Such determination shall be made by an Employee Assistance Program Professional. A participant in an employee assistance program shall have a right of access to his or her own employee assistance program records.

E. No provision of this act or the rules promulgated pursuant to this act shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or nonparticipation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state.

F. 1. There is hereby created the Employee Assistance Program Advisory Council to assist in the implementation of the state's employee assistance program. The Council shall advise the ~~Administrator~~ Commissioner of Alcohol and Substance Abuse Services on policy issues and provide support to expand and improve program services that are available to state employees and their families.

2. The Employee Assistance Program Advisory Council shall consist of the current nine (9) members who shall continue to hold their current positions through June 30, 1995. Effective July 1, 1995, three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate. All members shall serve two-

year terms, unless removed prior to the expiration of a term by the respective ~~individual~~ entity making the appointment. Any vacancy in office shall be filled by the ~~individual~~ entity who made the initial appointment. The Council shall select a chair and ~~vice-chair~~ vice chair from among its membership. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall receive necessary travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of this title. Any member employed in state government shall receive the reimbursement from their employing entity. Members who are not employed in state government shall receive travel reimbursement from the ~~Office of Personnel Management~~ Department of Alcohol and Substance Abuse Services.

4. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

G. The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion.

SECTION 45. REPEALER 43A O.S. 1991, Sections 3-405 and 3-407, are hereby repealed.

SECTION 46. This act shall become effective July 1, 1997.

SECTION 47. 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.

46-1-0386—CJ