

ENROLLED HOUSE
BILL NO. 2400

By: Collins of the House

and

Littlefield and Monson of
the Senate

An Act relating to mental health; amending 43A O.S. 1991, Section 5-208, as last amended by Section 1, Chapter 233, O.S.L. 1998 (43A O.S. Supp. 1999, Section 5-208), which relates to examination of persons in protective custody; authorizing person not being detained to be taken home or to an alternative facility; authorizing emergency service patrols to deal with mentally ill persons; providing for the adoption and approval of standards for emergency service patrols; requiring cooperation of agencies; requiring maintenance of reliable data and providing of certain information; amending 40 O.S. 1991, Section 4-508, as last amended by Section 15, Chapter 359, O.S.L. 1997 (40 O.S. Supp. 1999, Section 4-508), which relates to confidential information; modifying type of information that is released to the Department of Mental Health and Substance Abuse Services; stating legislative intent regarding certain training to be obtained by staff of Council on Law Enforcement Education and Training; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-208, as last amended by Section 1, Chapter 233, O.S.L. 1998 (43A O.S. Supp. 1999, Section 5-208), is amended to read as follows:

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

1. If, upon examination, the licensed mental health professional determines that the person is not a mentally ill person, an alcohol-dependent person, or a drug-dependent person requiring treatment 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 such person was taken into protective custody and released or the person may be taken to the home or residence of that person or to an alternative facility.

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

- a. prepare a statement describing the findings of the examination and stating the basis for the determination. The statement shall be substantially in a form prescribed by the Department of Mental Health and Substance Abuse Services,
- b. provide for a full examination and evaluation of the person by two licensed mental health professionals and, if the person appears to be a mentally ill person, the completion of a certificate of evaluation as provided by Section 5-414 of this title, and
- c. make reasonable efforts to determine whether the person has a current and unrevoked advance directive executed pursuant to the Advance Directives for Mental Health Treatment Act.

B. If a licensed mental health professional, designated to have such responsibility by the administrator of a hospital, or the administrator of a facility designated by the Commissioner of Mental Health and Substance Abuse Services as appropriate for emergency detention believes a voluntary patient to be a mentally ill person, an alcohol-dependent person, or a drug-dependent person requiring treatment to a degree that emergency action is necessary, the administrator may detain such patient in emergency detention for a period not to exceed seventy-two (72) hours only on the following conditions:

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

2. The patient has been examined by a licensed mental health professional who has determined that the person is a mentally ill person, an alcohol-dependent person, or a drug-dependent person requiring treatment, 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

3. The administrator or the designee of the administrator shall provide for a full examination and evaluation of the patient by two licensed mental health professionals and, if the person appears to be a mentally ill person, the completion of a certificate of evaluation.

C. Whenever it appears that a person detained as provided by this section will require treatment beyond the period of emergency detention and the person has refused to consent to voluntary treatment, a licensed mental health professional conducting an evaluation of the person or the administrator of the facility in which the person is being detained, or the designee of the administrator, shall immediately file a petition with the district court as provided by Section 5-410 of this title or Section 9-102 of this title, and may request a court order directing prehearing

detention when such detention is necessary for the protection of the person or others.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-421 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. Counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in public places to persons whom the patrol has reasonable grounds to believe are mentally ill. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport mentally ill persons to their homes and to and from approved treatment facilities and alternative facilities.

B. Standards for the establishment, training, and conduct of emergency service patrols shall be adopted by the county or municipality and approved by the Department of Mental Health and Substance Abuse Services. These standards shall comply with the standards of the regional emergency medical services plan.

C. All participating state and local agencies are directed to coordinate with each other and cooperate in assisting the Department of Mental Health and Substance Abuse Services as needed.

D. All emergency service patrols shall be required to keep reliable data on services made available and provided by the emergency service patrols.

E. Upon the request of the Department of Mental Health and Substance Abuse Services, every state agency, board or commission shall provide any information requested by the Department of Mental Health and Substance Abuse Services to assess the effectiveness of emergency service patrols.

SECTION 3. AMENDATORY 40 O.S. 1991, Section 4-508, as last amended by Section 15, Chapter 359, O.S.L. 1997 (40 O.S. Supp. 1999, Section 4-508), is amended to read as follows:

Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL - DISCLOSURE.

A. Except as otherwise provided by law, information obtained from any employing unit or individual pursuant to the administration of the Employment Security Act of 1980, and determinations as to the benefit rights of any individual shall be kept confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or employer or agent of such person as authorized in writing shall be supplied with information from the records of the Commission, to the extent necessary for the proper presentation of the claim or complaint in any proceeding under the Employment Security Act of 1980, Section 1-101 et seq. of this title, with respect thereto.

B. Upon receipt of written request by any employer who maintains a Supplemental Unemployment Benefit (SUB) Plan, the Commission or its designated representative may release to such employer information regarding weekly benefit amounts paid its workers during a specified temporary layoff period, provided such

Supplemental Unemployment Benefit (SUB) Plan requires benefit payment information before Supplemental Unemployment Benefits can be paid to such workers. Any information disclosed under this provision shall be utilized solely for the purpose outlined herein and shall be held strictly confidential by the employer.

C. The provisions of this section shall not prevent the Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to taxpayer or claimant a copy of any report or other paper filed by the taxpayer or claimant pursuant to the Employment Security Act of 1980;

2. The disclosure of information to any person for a purpose as authorized by the taxpayer or claimant pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be notarized;

3. The Oklahoma Department of Commerce may have access to data obtained pursuant to the Oklahoma Employment Security Act of 1980 pursuant to rules promulgated by the Oklahoma Employment Security Commission. The information obtained shall be held confidential by the Department and any of its agents and shall not be disclosed or be open to public inspection. The Oklahoma Department of Commerce, however, may release aggregated data, either by industry or county, provided that such aggregation meets disclosure requirements of the Oklahoma Employment Security Commission;

4. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

5. The disclosing of information or evidence to the Attorney General or any district attorney when the information or evidence is to be used by the officials or other parties to the proceedings to prosecute or defend allegations of violations of the Employment Security Act of 1980. The information disclosed to the Attorney General or any district attorney shall be kept confidential by them and not be disclosed except when presented to a court in a prosecution of a violation of Section 1-101 et seq. of this title, and a violation by the Attorney General or district attorney by otherwise releasing the information shall be a felony;

6. The furnishing, at the discretion of the Commission, of any information disclosed by the records or files to any official person or body of this state, any other state or of the United States who is concerned with the administration of assessment of any similar tax in this state, any other state or the United States;

7. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to the requesting agencies;

8. The release to officials, employees, and agents of the Oklahoma Department of Transportation of information required for use in federally mandated regional transportation planning, which is performed as a part of their official duties;

9. The release to officials, employees and agents of the State Treasurer's office of information required to verify or evaluate the effectiveness of the Oklahoma Small Business Linked Deposit Program on job creation;

10. The release to officials, employees, and agents of the Attorney General, the State Insurance Fund, the Department of Labor, and the Workers' Compensation Court for use in investigation of workers' compensation fraud;

11. The release to employees of the Oklahoma State Bureau of Investigation or release to employees of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for use in criminal investigations and the location of missing persons or fugitives from justice;

12. The release to officials, employees, and agents of the Center of International Trade, Oklahoma State University, of information required for the development of International Trade for employers doing business in the State of Oklahoma;

13. The release to officials, employees, and agents of the Oklahoma State Regents for Higher Education of information required for use in the default prevention efforts and/or collection of defaulted student loans guaranteed by the Oklahoma Guaranteed Student Loan Program. Any information disclosed under this provision shall be utilized solely for the purpose outlined herein and shall be held strictly confidential by the Oklahoma State Regents for Higher Education;

14. The release to officials, employees, and agents of the Center for Economic and Management Research of the University of Oklahoma, of information required to identify economic trends. The information obtained shall be kept confidential by the University and any of its agents and shall not be disclosed or be open to public inspection. The University of Oklahoma may release aggregated data, provided that such aggregation meets disclosure requirements of the Commission;

15. The release to officials, employees, and agents of the Office of State Finance of information required to identify economic trends. The information obtained shall be kept confidential by the Office of State Finance and any of its agents and shall not be disclosed or be open to public inspection. The Office of State Finance may release aggregate data, provided that such aggregation meets disclosure requirements of the Commission; or

16. The release to officials, employees, and agents of the Department of Mental Health and Substance Abuse Services of information required to evaluate the effectiveness of mental health and substance abuse treatment and state or local programs utilized to divert persons from inpatient treatment. The information obtained shall be kept confidential by the Department, its employees and any of its agents and shall not be disclosed or be open to public inspection. The Department of Mental Health and Substance Abuse Services, however, may release aggregated data, either by treatment facility, program or larger aggregate units, provided that such aggregation meets disclosure requirements of the Oklahoma Employment Security Commission.

D. All subpoenas or court orders for production of documents must provide a minimum of twenty (20) days from the date it is served for the Commission to produce the documents. If the date on which production of the documents is required is less than twenty (20) days from the date of service, the subpoena or order shall be considered void on its face as an undue burden or hardship on the Commission.

E. Should any of the disclosures provided for in this section require more than casual or incidental staff time, the Commission may charge the cost of such staff time to the party requesting the information.

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Commission.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The staff of the Council on Law Enforcement Education and Training shall obtain training in the "Memphis Model" on how to recognize and deal with mentally ill persons, if funds are available, but at a cost not to exceed Thirty Thousand Dollars (\$30,000.00).

SECTION 5. This act shall become effective November 1, 2000.

Passed the House of Representatives the 23rd day of May, 2000.

Speaker of the House of
Representatives

Passed the Senate the 24th day of May, 2000.

President of the Senate