

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1155

By: Easley

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Section 5-405, as renumbered by Section 12, Chapter 387, O.S.L. 1997 (43A O.S. Supp. 1999, Section 5-416), which relates to alternatives to hospitalization; correcting statutory references; clarifying patients' rights; authorizing courts to set period for alternative treatment; clarifying continuing jurisdiction; requiring periodic review at least annually; conforming provisions for disobedience to and expiration of certain orders; providing alternative procedures for obtaining additional orders regarding treatment; requiring hearing within certain time and providing exception; requiring court to consider specified issue and make specified orders to protect patients; providing for hearing and notice of hearing in court's discretion prior to modification of certain orders; making this act apply to all orders and petitions for alternative treatment; and declaring an emergency.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 5-405, as renumbered by Section 12, Chapter 387, O.S.L. 1997 (43A O.S. Supp. 1999, Section 5-416), is amended to read as follows:

Section 5-416. A. The court, in considering a commitment petition filed under Section ~~5-211 of this title~~ 5-410 or Section ~~5-401~~ 9-102 of this title, shall not order hospitalization without a thorough consideration of available treatment alternatives to hospitalization, ~~and~~ nor without addressing, at the time of hospitalization, the patient's competency to consent to or refuse the treatment that is ordered, ~~including,~~ including, but not limited to, the patient's ~~right to~~ rights:

1. To be heard concerning the patient's treatment; and
2. To refuse psychotropic medications.

B. 1. If the court, in considering a commitment petition filed under Section ~~5-211 of this title~~ 5-410 or Section ~~5-401~~ 9-102 of this title, finds that a program other than hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent injury to the individual or to others, the court may order the individual to receive whatever treatment other than hospitalization is appropriate for a period ~~of ninety (90) days~~ set by the court, during which time the court ~~shall continue its:~~

- a. shall have continuing jurisdiction over the individual as a person requiring treatment, and
- b. shall periodically, no less often than annually, review the treatment needs of the individual and determine whether or not to continue, discontinue, or modify the treatment.

2. If at any time ~~during the ninety-day period~~ it comes to the attention of the court from a person competent to file a petition, ~~as set forth in~~ pursuant to subsection A of Section 5-410 of this title, that the individual ordered to undergo a program of alternative treatment to hospitalization is not complying with the order or that the alternative treatment program has not been sufficient to prevent harm or injury which the individual may be inflicting upon himself or others, the court may order the person to show cause why the court ~~shall~~ should not ~~do one or more of the following:~~

~~1. Consider~~

- a. implement other alternatives to hospitalization, modify or rescind the original order or direct the individual to undergo another program of alternative treatment ~~for the remainder of the ninety-day period, or for a period not to exceed twelve (12) months,~~ if necessary and appropriate, based on written findings of the court, or

~~2. Enter~~

b. enter an order of admission pursuant to the provisions of ~~the Mental Health Law~~ this title, directing that the person be hospitalized and, if the individual refuses to comply with this order of hospitalization, the court may direct a peace officer to take the individual into protective custody and transport ~~such~~ the person to a public or private facility designated by the court~~.~~

3. ~~If at the date of expiration of an order of alternative treatment~~ will expire without further review by the court and it is believed that the individual continues to require treatment, a person competent to file a petition, pursuant to subsection A of Section 5-410 of this title, may file either an application or an entirely new petition for a determination that the individual is a person requiring treatment ~~may be filed pursuant to this title; or.~~

4. A hearing on the application or petition filed pursuant to paragraph 3 of this subsection shall be held within thirty (30) days after the application or petition is filed, unless the court extends the time for good cause. In setting the matter for hearing, the court shall consider whether or not the prior orders of the court will expire during the pendency of the hearing and shall make appropriate orders to protect the interests of the individual who is the subject of the hearing.

~~4. C.~~ C. Prior to ordering the hospitalization of an individual, the court shall inquire into the adequacy of treatment to be provided to the individual by the facility, and hospitalization shall not be ordered unless the facility in which the individual is to be treated can provide such person with treatment which is adequate and appropriate to such person's condition.

~~C. D.~~ D. At the request of the administrator of a facility to which a person has been involuntarily committed for inpatient

treatment pursuant to the provisions of Section ~~5-212 of this title~~ 5-410 or Section ~~5-401~~ 9-102 of this title, or at the request of ~~such~~ the person, the court may modify an order for involuntary commitment and order alternative treatment pursuant to the provisions of this section. Prior to modifying an order pursuant to this subsection, the court shall determine whether or not a hearing should be held. If the court sets the matter for hearing, the court shall attempt to notify the appropriate parties, including the person who filed the commitment petition.

~~D.~~ E. Nothing in this section shall prohibit the Department of Mental Health and Substance Abuse Services, or the court, from discharging a person admitted pursuant to this section, at a time prior to the expiration of the ninety-day period of alternative treatment, or any extension thereof. The Department of Mental Health and Substance Abuse Services shall issue a report to the court, outlining the disposition of each person admitted pursuant to this section, subsequent to discharge.

F. The provisions of this section shall apply to all orders and petitions for alternative treatment in force or pending on and after the effective date of this act.

SECTION 2. 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.

47-2-1995

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