

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 802

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 last amended by Section 1, Chapter 195, O.S.L. 1997, 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, as amended by Section 1, Chapter 36, O.S.L. 1997, 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, as last amended by Section 1, Chapter 233, O.S.L. 1998, Section 2, Chapter 298, O.S.L. 1992, as last amended by Section 3, Chapter 144, O.S.L. 1998 and 9-103 (43A O.S. Supp. 1998, Sections 1-103, 1-109, 3-107, 3-302, 3-404, 3-415, 3-417, 3-453, 3-602, 5-101, 5-207, 5-208 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, as last amended by Section 1, Chapter 89, O.S.L. 1998 (3 O.S. Supp. 1998, Section 301), which relates to operation of aircraft under influence of intoxicants; amending 10 O.S. 1991, Section 12, which relates to maintenance of poor persons by parents; 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

1 3, Chapter 89, O.S.L. 1998 (47 O.S. Supp. 1998,
2 Sections 6-212.2 and 11-902), which relate to
3 required completion of alcohol and substance abuse
4 course and persons under the influence of alcohol
5 or other intoxicating substances; amending 57 O.S.
6 1991, Section 530.1, as last amended by Section 2,
7 Chapter 238, O.S.L. 1998 and Section 14, Chapter
8 276, O.S.L. 1993, as amended by Section 8, Chapter
9 89, O.S.L. 1998 (57 O.S. Supp. 1998, Sections 530.1
10 and 612), which relate to assessment and reception
11 of inmates and convictions for driving under the
12 influence of alcohol or other intoxicant or
13 controlled dangerous substance; amending 63 O.S.
14 1991, Section 1-851.2, as amended by Section 2,
15 Chapter 336, O.S.L. 1996 (63 O.S. Supp. 1998,
16 Section 1-851.2), which relates to powers and
17 duties of the State Department of Health; amending
18 70 O.S. 1991, Sections 1210.229-3, as amended by
19 Section 56, Chapter 274, O.S.L. 1995 and 1210.229-5
20 (70 O.S. Supp. 1998, Section 1210.229-3), which
21 relate to definitions and coordination between
22 State Department of Education and Drug and Alcohol
23 Policy Board; amending 74 O.S. 1991, Section 30b,
24 as last amended by Section 2, Chapter 227, O.S.L.
25 1997 and Section 1, Chapter 171, O.S.L. 1992, as
26 amended by Section 50, Chapter 242, O.S.L. 1994,
27 and as renumbered by Section 54, Chapter 242,
28 O.S.L. 1994 (74 O.S. Supp. 1998, Sections 30b and
29 840-2.10), which relate to the Oklahoma Drug and
30 Alcohol Abuse Policy Board and the State Employee
31 Assistance Program; establishing Department of
32 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

1 standards; changing agency responsible for setting
2 certain fees, approving certain courses,
3 promulgating certain rules and offering and
4 operating certain programs; changing commissioner
5 responsible for appointing certain case review
6 teams; adding agency in whose institutions certain
7 persons can be transported to by an officer,
8 examined or confined; modifying duties of licensed
9 mental health professional under certain
10 circumstances; adding agency having ability to
11 designate certain facilities; adding agency to
12 which certain persons may be delivered into
13 custody; adding employees who have access to
14 records of certain proceedings; changing agency
15 which administers supervision of certain persons
16 and whose agents make certain reports; modifying
17 procedure for certain inmates; changing agency
18 which designates referral of certain persons;
19 adding agency to be exempt from certain provisions;
20 changing agency which may require certain
21 conditions as part of a placement plan; changing
22 agency responsible for certifying institutions or
23 organizations to offer certain courses; modifying
24 duties of Department of Corrections under certain
25 circumstances; modifying terms; changing agency
26 which has ability to certify successful completion
27 of treatment programs; changing agency with ability
28 to designate alcoholism evaluation facility;
29 changing agency which has responsibility for
30 providing certain services and standards of
31 treatment; adding agency which is exempt from
32 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, as amended by
Section 1, Chapter 25, O.S.L. 1997 (43A O.S. Supp.
1998, Section 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.

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

29 SECTION 1. NEW LAW A new section of law to be codified
30 in the Oklahoma Statutes as Section 12-101 of Title 43A, unless
31 there is created a duplication in numbering, reads as follows:
32

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

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

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

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

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

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

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

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

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

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

8 The chair may call meetings at any time. All regularly
9 scheduled meetings will be held at the Central Office of the
10 Department of Alcohol and Substance Abuse Services, Oklahoma City,
11 Oklahoma, unless otherwise scheduled. The Board, or a designee, not
12 in conjunction with a regularly scheduled meeting, shall visit each
13 facility at least once during each fiscal year with a report on the
14 status of each facility given to the full Board after such visit.
15 Four members shall constitute a quorum at any meeting, and all
16 action may be taken by an affirmative vote of the majority of the
17 members present at any such meeting.

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

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

23 Members of the Board of Alcohol and Substance Abuse Services
24 shall be allowed their necessary travel expenses pursuant to the
25 State Travel Reimbursement Act.

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

29 There is hereby created in the State Treasury a revolving fund
30 for the Department of Alcohol and Substance Abuse Services to be
31 designated the "Department of Alcohol and Substance Abuse Services
32 Revolving Fund". The fund shall be a continuing fund, not subject

1 to fiscal year limitations, and shall consist of monies received by
2 each facility and office of the Department as reimbursements from
3 persons and agencies for the care of patients; reimbursements from
4 other state agencies and entities of government; all reimbursements
5 received by the Department from the United States government or
6 pursuant to proceedings in district court to enforce claims for the
7 cost of care and treatment of patients; proceeds from enrollment
8 fees for alcohol and substance abuse courses; earnings and proceeds
9 in the conduct and management of the dairy, farm, truck, garden,
10 livestock and any industries of the facilities; receipts from sale
11 of excess by-products, excess property and salvage items;
12 certification fees; gifts, donations and bequests; and receipts from
13 other ancillary services, not otherwise provided by law.

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

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

27 A. The Therapeutic Advisory Council for Drug Abuse Prevention,
28 and the Alcoholism Advisory Council are hereby abolished. The
29 Advisory Council on Alcohol and Substance Abuse is hereby created,
30 to continue until July 1, 2003, in accordance with the provisions of
31 the Oklahoma Sunset Law.

32

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

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

11 3. After the initial appointment, members shall be selected by
12 the Board on a statewide basis to ensure geographical distribution
13 and shall be representative of both professional and lay citizens
14 interested in the problems of alcoholism, drug dependence and other
15 substance abuse;

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

19 5. Members shall be reimbursed for their travel expenses in
20 accordance with the provisions of the State Travel Reimbursement
21 Act.

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

24 C. The Council shall advise the Board relating to:

25 1. Facility certification policies and procedures;

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

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

1 4. The evaluation of existing or planned programs.

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

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

10 SECTION 7. AMENDATORY 43A O.S. 1991, Section 1-103, as
11 amended by Section 1, Chapter 389, O.S.L. 1992 (43A O.S. Supp. 1998,
12 Section 1-103), is amended to read as follows:

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

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

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

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

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

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

30 6. "Indigent person" means a person who has not sufficient
31 assets or resources to support himself or herself while mentally ill
32

1 and to support members of ~~his~~ the person's family lawfully dependent
2 on ~~him~~ the person for support;

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

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

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

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

23 11. Whenever in this law, or in any other law, or in any rule,
24 or order ~~or regulation~~, made or promulgated pursuant to this act, or
25 any other law, or in the printed forms prepared for the admission of
26 patients or for statistical reports, the ~~terms~~ phrases
27 "certification" of a person", "a person "certified" or "to "certify"
28 a person by a court of competent jurisdiction to a facility as
29 provided by this act" shall have equal significance to the ~~terms~~
30 phrases "commitment" of a person", "a person "committed" or "to
31 "commit" a person";
32

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

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

12 14. "Person requiring treatment" means either:

13 a. a person who has a demonstrable mental illness or is a
14 drug- or alcohol-dependent person and who as a result
15 of that mental illness or dependency can be expected
16 within the near future to intentionally or
17 unintentionally seriously and physically injure
18 himself or herself or another person and who has
19 engaged in one or more recent overt acts or made
20 significant recent threats that substantially support
21 that expectation, or

22 b. a person who has a demonstrable mental illness or is a
23 drug- or alcohol-dependent person and who as a result
24 of that mental illness or dependency is unable to
25 attend to ~~those of his~~ the basic physical needs, l such
26 as food, clothing or shelter, l that must be attended to
27 in order for ~~him~~ the person to avoid serious harm in
28 the near future and who has demonstrated such
29 inability by failing to attend to those basic physical
30 needs in the recent past, or

31 c. a person who appears to require inpatient treatment:
32

- 1 (1) (a) for a previously diagnosed history of
2 schizophrenia, bipolar disorder, or major
3 depression with suicidal intent, or
4 (b) due to the appearance of symptoms of
5 schizophrenia, bipolar disorder, or major
6 depression with suicidal intent, and
7 (2) for whom such treatment is reasonably believed to
8 prevent progressively more debilitating mental
9 impairment.

10 ~~Person~~ The term "person requiring treatment" shall not mean a
11 person whose mental processes have simply been weakened or impaired
12 by reason of advanced years, a mentally deficient person as defined
13 in Title 10 of the Oklahoma Statutes, or a person with epilepsy,
14 unless the person also meets the criteria set forth in this
15 paragraph. However, the person may be hospitalized under the
16 voluntary admission provisions of this act if ~~he~~ the person is
17 deemed clinically suitable and a fit subject for care and treatment
18 by the person in charge of the facility;

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

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

29 17. "Private hospital or institution" means any general
30 hospital maintaining a neuro-psychiatric unit or ward, or any
31 private hospital or sanitarium for care and treatment of mentally
32 ill persons, which is not supported by state or federal government,

1 except that the term shall include the Oklahoma Memorial Hospital
2 Neuro-psychiatric Unit. The term shall not include nursing homes or
3 other facilities maintained primarily for the care of aged and
4 infirm persons; and

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

- 10 a. a statement of treatment goals or objectives, based
11 upon and related to a clinical evaluation, which can
12 be reasonably achieved within a designated time
13 interval,
- 14 b. treatment methods and procedures to be used to obtain
15 these goals, which methods and procedures are related
16 to each of these goals and which include specific
17 prognosis for achieving each of these goals,
- 18 c. identification of the types of professional personnel
19 who will carry out the treatment procedures, including
20 appropriate medical or other professional involvement
21 by a physician or other health professional properly
22 qualified to fulfill legal requirements mandated under
23 state and federal law,
- 24 d. documentation of patient involvement and, if
25 applicable, the patient's accordence with the
26 treatment plan, and
- 27 e. a statement attesting that the person in charge of the
28 facility or the clinical director has made a
29 reasonable effort to meet the plan's individualized
30 treatment goals in the least restrictive environment
31 possible closest to the patient's home community.

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1 SECTION 8. AMENDATORY 43A O.S. 1991, Section 1-109, as
2 last amended by Section 1, Chapter 195, O.S.L. 1997 (43A O.S. Supp.
3 1998, Section 1-109), is amended to read as follows:

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

10 1. Except as provided in this section and Section 19 of Title
11 76 of the Oklahoma Statutes, privileged or confidential information
12 shall not be released to anyone not involved in the treatment
13 programs without a written release by the patient or, if a guardian
14 has been appointed for the patient, the guardian of the patient, or
15 an order from a court of competent jurisdiction. If the patient is
16 a minor child, the written consent of the parent, as defined by the
17 Inpatient Mental Health Treatment of Children Act, or public or
18 private child care agency having legal custody of the child is
19 required. Provided, however, confidential information may be
20 released as provided by Sections 7005-1.1 through ~~7005-1.3~~ 7005-1.5
21 of Title 10 of the Oklahoma Statutes. Upon admission and after a
22 person has been an inpatient for seventy-two (72) hours, the
23 facility shall inquire, at least once, whether the person wishes to
24 authorize the release of information regarding the inpatient status
25 of the person.

26 2. Individuals and agencies holding a contract with the
27 Department of Mental Health or the Department of Alcohol and
28 Substance Abuse Services to provide mental health or drug or alcohol
29 treatment services, respectively, and who have signed a qualified
30 service agreement as provided by such contract may transmit records
31 and information as necessary and appropriate for the care and
32

1 treatment of patients pursuant to rules adopted by the Board of
2 Mental Health and the Board of Alcohol and Substance Abuse Services.

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

9 B. A person who is or has been a patient of a physician,
10 psychotherapist, mental health institution or facility, a drug or
11 alcohol abuse treatment facility or service, a community mental
12 health service or agency or a community social service agency for
13 the purpose of mental health or drug or alcohol abuse care and
14 treatment shall not be entitled to personal access to the
15 information contained in such person's psychiatric or psychological
16 records or to copies of such records unless access to such records
17 is consented to by the treating physician or practitioner or is
18 ordered by a court. Such person shall, upon request, be provided
19 with information contained in such records as appropriate as
20 determined by the person in charge of the care and treatment of the
21 patient. Such information shall be provided to the patient in a
22 manner consistent with the best interest of the patient as
23 determined by the person in charge of the care and treatment of the
24 patient.

25 C. Upon request, a responsible family member of a patient or
26 former patient, the attorney, guardian or conservator of a patient
27 or former patient, is entitled to the following information from the
28 Department of Mental Health or the Department of Alcohol and
29 Substance Abuse Services, individuals or agencies holding contracts
30 with ~~the Department~~ either department to provide mental health or
31 drug or alcohol treatment services, and facilities certified by the
32 Department as mental health or drug or alcohol treatment facilities,

1 respectively, regarding the person who is the subject of the
2 request:

3 1. Information as to whether the person is or was a patient;

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

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

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

14 5. As requested, such other information as may be necessary to
15 determine whether guardianship or conservatorship proceedings should
16 be initiated.

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

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

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

32

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

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

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

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

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

24 Section 2-103. The Board of Mental Health ~~and Substance Abuse~~
25 ~~Services~~ shall be composed of seven (7) members appointed by the
26 Governor with the consent of the Senate. Immediately after June 3,
27 1953, one member shall be appointed for a term expiring December 31,
28 1953, and one each for terms ending respectively one (1), two (2),
29 three (3), four (4), five (5) and six (6) years thereafter. Upon
30 the expiration of any of the terms a successor shall be appointed
31 for a full term of seven (7) years. One member, who shall be a
32 physician licensed to practice in this state, and one member, who

1 shall be a psychiatrist certified as a diplomate of the American
2 Board of Psychiatry and Neurology, shall both be appointed from a
3 list containing the names of not less than three physicians and not
4 less than three psychiatrists submitted to the Governor by the
5 Oklahoma State Medical Association; one member shall be an attorney
6 licensed to practice in this state and shall be appointed from a
7 list of not less than three names submitted to the Governor by the
8 Oklahoma Bar Association; and one member shall be a psychologist,
9 licensed to practice in this state, who shall be appointed from a
10 list of not less than three names submitted to the Governor by the
11 Oklahoma State Psychological Association. No person shall be
12 appointed a member of the Board who has been a member of the
13 Legislature of this state within the preceding five (5) years. The
14 Board shall elect its own ~~chairman~~ chair and ~~vice-chairman~~ vice-
15 chair.

16 The ~~chairman~~ chair may call meetings at any time. All regularly
17 scheduled meetings will be held at the Central Office of the
18 Department of Mental Health ~~and Substance Abuse Services, in~~
19 Oklahoma City, Oklahoma, unless otherwise scheduled. The Board, not
20 in conjunction with a regularly scheduled meeting, or ~~their~~ a
21 designee, shall visit each facility once during each fiscal year
22 with a report on the status of each facility given to the full Board
23 after such visit. Four members shall constitute a quorum at any
24 meeting, and all action may be taken by an affirmative vote of the
25 majority of the members present at any such meeting.

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

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

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

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

7 Section 2-303. There is hereby created in the State Treasury a
8 revolving fund for the Department of Mental Health ~~and Substance~~
9 ~~Abuse Services~~ to be designated the "Department of Mental Health ~~and~~
10 ~~Substance Abuse Services~~ Revolving Fund". The fund shall be a
11 continuing fund, not subject to fiscal year limitations, and shall
12 consist of monies received by each facility and office of the
13 Department as reimbursements from persons and agencies for the care
14 of patients; reimbursements from other state agencies and entities
15 of government; all reimbursements received by the Department from
16 the United States government or pursuant to proceedings in district
17 court to enforce claims for the cost of care and treatment of
18 patients; ~~proceeds from enrollment fees for alcohol and drug~~
19 ~~substance abuse courses;~~ earnings and proceeds in the conduct and
20 management of the dairy, farm, truck, garden, livestock and any
21 industries of ~~said~~ such facilities; receipts from sale of excess by-
22 products, excess property and salvage items; certification fees;
23 gifts, donations and bequests; and receipts from other ancillary
24 services, not otherwise provided by law.

25 All monies accruing to the credit of ~~said~~ the fund are hereby
26 appropriated and may be budgeted and expended by the Department of
27 Mental Health ~~and Substance Abuse Services~~ for the general operating
28 expenses of facilities and offices of the Department of Mental
29 Health ~~and Substance Abuse Services~~. No additions to the existing
30 buildings or construction of any new buildings shall be paid for
31 from the fund, unless provided for by law. Expenditures from said
32 fund shall be made upon warrants issued by the State Treasurer

1 against claims filed as prescribed by law with the Director of State
2 Finance for approval and payment.

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

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

15 SECTION 14. AMENDATORY 43A O.S. 1991, Section 3-107, as
16 amended by Section 3, Chapter 323, O.S.L. 1993 (43A O.S. Supp. 1998,
17 Section 3-107), is amended to read as follows:

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

28 B. There are hereby created separate petty cash funds for the
29 Alcohol and Drug Treatment Centers at Norman and Vinita. The
30 Director of State Finance and Commissioner of ~~Mental Health~~ Alcohol
31 and Substance Abuse Services are authorized to fix the maximum
32 amount of each petty cash fund and the Director of State Finance

1 shall prescribe the rules and procedures for the administration of
2 each petty cash fund.

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

10 SECTION 15. AMENDATORY 43A O.S. 1991, Section 3-302, as
11 amended by Section 7, Chapter 231, O.S.L. 1995 (43A O.S. Supp. 1998,
12 Section 3-302), is amended to read as follows:

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

15 1. "Catchment area or service area" means a geographic area
16 established by the Department of Mental Health and the Department of
17 Alcohol and Substance Abuse Services for support of mental health
18 and substance abuse services, respectively;

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

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

26 4. "Mental health facility" means:

27 a. a comprehensive community mental health center
28 offering services including, but not limited to, the
29 following basic services: inpatient, outpatient,
30 partial hospitalization, emergency care, and
31 consultation and education; and offering the following
32 services at the option of the center: prescreening

1 services, rehabilitation services, precare and
2 aftercare services, training programs, and research
3 and evaluation programs,

4 b. an outpatient facility offering diagnostic and
5 treatment services,

6 c. a day care facility offering a treatment program for
7 children or adults suffering from mental or emotional
8 problems, or

9 d. community residential mental health programs and
10 facilities which provide supervised residential care,
11 counseling, case management or other similar services
12 to children or adults suffering from mental or
13 emotional problems;

14 5. "Domestic violence program" or "sexual assault program"

15 means a facility, agency or organization which offers or provides or
16 a person who engages in the offering of shelter, residential
17 services or support services to:

18 a. victims or survivors of domestic abuse as defined in
19 Section 60.1 of Title 22 of the Oklahoma Statutes, any
20 dependent children of said victims or survivors and
21 any other member of the family or household of such
22 victim or survivor,

23 b. victims or survivors of sexual assault, and

24 c. persons who are homeless as a result of domestic or
25 sexual violence or both domestic and sexual violence,
26 and which may provide other services, including, but not limited to,
27 counseling, case management, referrals or other similar services to
28 victims or survivors of domestic abuse or sexual assault;

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

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

3 Section 3-403. As used in the Oklahoma Alcohol and Drug Abuse
4 Services Act:

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

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

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

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

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

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

32

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

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

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

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

26 11. "Intermediate care" means an organized therapeutic
27 environment in which a client may receive diagnostic services,
28 counseling, vocational rehabilitation and/or work therapy while
29 benefiting from the support which a full or partial residential
30 setting can provide. Intermediate care should provide a transition
31 between the inpatient detoxification facility and reintegration into
32

1 community life. Intermediate care must include provision for a bed,
2 three meals a day and medical support if needed;

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

12 13. "Short-term supportive care" means a service rendered to
13 any person residing in a halfway house or transitional living
14 facility which is sufficient to assist the person to meet or achieve
15 an adequate level of daily living and to learn or develop adequate
16 daily living skills. Daily living skills shall include, but not be
17 limited to, resident participation in meal preparation and routine
18 housekeeping and laundry tasks. Short-term supportive assistance
19 includes, but is not limited to, assistance in the preparation of
20 meals, housekeeping, laundry tasks and personal hygiene. Short-term
21 supportive assistance shall not include medical services or personal
22 care as defined in Section 1-820 of Title 63 of the Oklahoma
23 Statutes; and

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

30 SECTION 17. AMENDATORY 43A O.S. 1991, Section 3-404, as
31 amended by Section 1, Chapter 36, O.S.L. 1997 (43A O.S. Supp. 1998,
32 Section 3-404), is amended to read as follows:

1 Section 3-404. There is hereby re-created, to continue until
2 July 1, 2003, in accordance with the provisions of the Oklahoma
3 Sunset Law, Sections 3901 et seq. of Title 74 of the Oklahoma
4 Statutes, the Alcohol and Drug Abuse Prevention, Training, Treatment
5 and Rehabilitation Authority for the State of Oklahoma. The
6 Authority shall be the Board of ~~Mental Health~~ Alcohol and Substance
7 Abuse Services. As such Authority, the Board ~~will~~ of Alcohol and
8 Substance Abuse Services shall be responsible for verifying the need
9 for, and certifying, the treatment program for any alcoholism or
10 drug abuse treatment facility established or to be established in
11 Oklahoma.

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

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

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

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

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

31 4. Provide consultation, education and training in the
32 prevention of alcohol and drug dependence and in the diagnosis,

1 treatment and rehabilitation of alcohol- and drug-dependent persons,
2 for those persons with program responsibility, either separately or
3 in conjunction with other agencies, public or private;

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

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

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

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

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

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

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

32

1 ~~12.~~ 11. Promote the inclusion of alcoholism and drug abuse as a
2 covered illness in all health and disability insurance programs;

3 ~~13.~~ 12. Cooperate with the Department of Corrections in
4 establishing and conducting programs to provide treatment for
5 alcohol- and drug-dependent persons incarcerated in or on parole
6 from penal institutions; and

7 ~~14.~~ 13. Assist in the development of, and cooperate with,
8 alcohol and drug abuse education and treatment programs for the
9 people of Oklahoma.

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

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

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

26 2. No more than five percent (5%) of funds appropriated for
27 alcohol and drug abuse services may be used by the Authority for
28 administration of the provisions of the Oklahoma Alcohol and Drug
29 Abuse Services Act; in no instance shall any of these funds be used
30 for research purposes by any employee of the Department of ~~Mental~~
31 ~~Health~~ Alcohol and Substance Abuse Services;

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

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

10 SECTION 20. AMENDATORY 43A O.S. 1991, Section 3-415, as
11 amended by Section 1, Chapter 209, O.S.L. 1992 (43A O.S. Supp. 1998,
12 Section 3-415), is amended to read as follows:

13 Section 3-415. A. 1. The Alcohol and Drug Abuse Prevention,
14 Training, Treatment and Rehabilitation Authority shall promulgate
15 ~~regulations~~ rules and standards for certification for private
16 facilities and organizations which provide treatment, counseling,
17 rehabilitation, and other related services directed toward alcohol-
18 and drug-dependent persons. These facilities and organizations
19 shall be known as "Certified Services for the Alcohol and Drug
20 Dependent". Only certified facilities may receive and assist
21 alcohol- and drug-dependent persons by providing treatment,
22 rehabilitation, and other related services to alcohol- and drug-
23 dependent persons.

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

29 B. 1. Applications for certification as a certified service
30 for the alcohol- and drug-dependent person pursuant to the
31 provisions of this section shall be made to the Alcohol and Drug
32

1 Abuse Prevention, Training, Treatment and Rehabilitation Authority
2 on prescribed forms.

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

5 a. utilize and consider all available materials and
6 information discovered or submitted to the Authority;
7 provided, the Authority shall notify the applicant of
8 the existence of such materials and information at
9 least seventy-two (72) hours in advance of the
10 hearing, and

11 b. review, hear and consider all available evidence
12 regarding issues of safety and effectiveness of the
13 treatment modality utilized by the applicant.

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

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

22 E. Licensed physicians, licensed psychologists, licensed social
23 workers, individual members of the clergy, and certified alcohol or
24 drug abuse counselors are exempt from the ~~regulations~~ rules and
25 standards for certification, provided that such exemptions shall
26 apply only to individual professional persons in their private
27 practice and not to any treatment facility operated by such person.
28 Properly licensed hospitals, programs operated by the State
29 Department of Health or Department of Human Services, programs
30 conducted and facilities operated by Alcoholics Anonymous, the
31 Department of Corrections, the Department of Mental Health ~~and~~
32 ~~Substance Abuse Services~~, or the Salvation Army are also exempt from

1 the provisions of the Oklahoma Alcohol and Drug Abuse Services Act,
2 Section 3-401 et seq. of this title.

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

8 1. The Joint Commission on Accreditation of Healthcare
9 Organizations;

10 2. The Commission on Accreditation of Rehabilitation
11 Facilities; or

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

14 G. The Board of Alcohol and Substance Abuse Services may
15 require a precertification review of any new applications that
16 appear to use nontraditional methods of treatment. The Board of
17 Alcohol and Substance Abuse Services may select an independent,
18 recognized authority in Oklahoma to review such programs to make
19 recommendations to the Board of Alcohol and Substance Abuse Services
20 as to the validity of the proposed program.

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

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

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

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

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

10 SECTION 21. AMENDATORY 43A O.S. 1991, Section 3-417, as
11 amended by Section 3, Chapter 327, O.S.L. 1994 (43A O.S. Supp. 1998,
12 Section 3-417), is amended to read as follows:

13 Section 3-417. A. After being certified by the Alcohol and
14 Drug Abuse Prevention, Training, Treatment and Rehabilitation
15 Authority, any person or private agency, other than a transitional
16 living facility or halfway house as defined by Section 3-403 of this
17 title and persons or private agencies providing only outpatient
18 services, shall apply to the State Commissioner of Health for a
19 license to operate the treatment facility. Applications for such
20 licenses shall be made in accordance with provisions for licensing
21 hospitals and related institutions contained in Sections 1-703 and
22 1-704 of Title 63 of the Oklahoma Statutes.

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

29 C. The Department of ~~Mental Health~~ Alcohol and Substance Abuse
30 Services and the State Department of Health shall ensure that the
31 standards required by Section 3-415 of ~~Title 43A~~ this title and
32 Section 1-705 of Title 63 of the Oklahoma Statutes include specific

1 physical facility standards providing for facilities that provide
2 substance abuse treatment services to pregnant women and women with
3 children when the children also reside at the facility.

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

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

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

13 ~~B.~~ 2. "Satisfactory completion of a course" means that the
14 institution or agency conducting the course certifies to the
15 Department of Public Safety that the participant has successfully
16 completed the requirements of the course-i and

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

21 SECTION 23. AMENDATORY 43A O.S. 1991, Section 3-453, as
22 amended by Section 1, Chapter 162, O.S.L. 1996 (43A O.S. Supp. 1998,
23 Section 3-453), is amended to read as follows:

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

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

31 1. Eighty-five Dollars (\$85.00) for a first offense; and
32

1 2. Two Hundred Fifty Dollars (\$250.00) for a second or
2 subsequent offense.

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

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

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

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

18 1. Minimum curriculum requirements for such courses;

19 2. Facilities, equipment and instructional materials for such
20 courses;

21 3. Minimum qualifications for certification of course
22 instructors;

23 4. Grounds for revocation of the authority to conduct such
24 courses and for revocation of an instructor's certification;

25 5. Attendance requirements; and

26 6. Guidelines for certifying to the Department of ~~Mental-Health~~
27 Alcohol and Substance Abuse Services successful completion of such
28 course.

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

1 1. Each such course shall consist of at least twenty-four (24)
2 hours;

3 2. Each such course shall consist of no more than two (2) hours
4 of education on any given day, nor more than four (4) hours in a
5 given week, and shall not contain more than ten percent (10%) films
6 or education on any one specialized area;

7 3. Each instructor shall be a qualified practitioner with one
8 (1) year teaching experience, or a certified D.U.I. Instructor with
9 five (5) years' teaching experience; and

10 4. No more than twelve students shall be allowed in a given
11 class.

12 H. Any institution or organization authorized under this act to
13 conduct an alcohol and ~~drug~~ substance abuse course shall certify to
14 the Department of Public Safety all persons who successfully
15 complete such course.

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

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

29 SECTION 24. AMENDATORY 43A O.S. 1991, Section 3-602, as
30 amended by Section 53, Chapter 354, O.S.L. 1996 (43A O.S. Supp.
31 1998, Section 3-602), is amended to read as follows:
32

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

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

13 1. Upon certification of a person to the program, the case
14 review team shall approve a medical treatment plan for the person.
15 The medical treatment plan shall not be altered without the approval
16 of the case review team.

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

26 3. The case review team shall review the progress of each
27 client of the facility with the medical, nursing and counseling
28 personnel familiar with the client not less than every thirty (30)
29 days the client is in interim maintenance treatment, every ninety
30 (90) days the client is in long-term detoxification treatment, and
31 not less than one hundred eighty (180) days the client is in
32 comprehensive maintenance treatment. Additional requirements and

1 exceptions for each type of narcotic treatment services shall apply,
2 as required by Title 21 of the Code of Federal Regulations.

3 SECTION 25. AMENDATORY 43A O.S. 1991, Section 5-101, as
4 last amended by Section 14, Chapter 1, O.S.L. 1995 (43A O.S. Supp.
5 1998, Section 5-101), is amended to read as follows:

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

- 15 1. Emergency admission;
- 16 2. On voluntary application; and
- 17 3. On involuntary court certification.

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

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

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

9 SECTION 26. AMENDATORY 43A O.S. 1991, Section 5-207, as
10 amended by Section 1, Chapter 90, O.S.L. 1995 (43A O.S. Supp. 1998,
11 Section 5-207), is amended to read as follows:

12 Section 5-207. A. Any person who appears to be or states that
13 ~~such person~~ he or she is mentally ill, alcohol dependent, or drug
14 dependent to a degree that immediate emergency action is necessary
15 may be taken into protective custody and detained as provided
16 pursuant to the provisions of this section. Nothing in this section
17 shall be construed as being in lieu of prosecution under state or
18 local statutes or ordinances relating to public intoxication
19 offenses.

20 B. Any peace officer who reasonably believes that a person is a
21 "person requiring treatment", an alcohol-dependent person, or a
22 drug-dependent person to a degree that immediate emergency action is
23 necessary shall take said person into protective custody. The
24 officer shall make every reasonable effort to take the person into
25 custody in the least conspicuous manner.

26 C. The officer shall prepare a written affidavit indicating the
27 basis for the officer's belief that the person is a person requiring
28 treatment and the circumstances under which the officer took the
29 person into protective custody. The officer shall give a copy of
30 the statement to the person or the person's attorney upon the
31 request of either. If the officer does not make the determination
32 to take an individual into protective custody on the basis of the

1 officer's personal observation, the officer shall not be required to
2 prepare a written affidavit. However, the person stating to be
3 mentally ill, alcohol dependent, or drug dependent or the person
4 upon whose statement the officer relies shall sign a written
5 affidavit indicating the basis for ~~such person's~~ the belief that the
6 person is a person requiring treatment. Any false statement given
7 to the officer by the person upon whose statement the officer relies
8 shall be a misdemeanor and subject to the sanctions of Title 21 of
9 the Oklahoma Statutes.

10 D. The officer shall immediately transport the person to the
11 nearest facility designated by the Commissioner of Mental Health or
12 the Commissioner of Alcohol and Substance Abuse Services as an
13 appropriate facility for emergency examinations. If, subsequent to
14 an emergency examination, it is determined that emergency detention
15 is warranted, the officer shall transport the person to the nearest
16 facility designated by the Commissioner of Mental Health or the
17 Commissioner of Alcohol and Substance Abuse Services as appropriate
18 for such detention.

19 E. The parent, brother or sister who is eighteen (18) years of
20 age or older, child who is eighteen (18) years of age or older, or
21 guardian of the person, or a person who appears to be or states that
22 ~~such person~~ he or she is mentally ill, alcohol dependent, or drug
23 dependent to a degree that emergency action is necessary may request
24 the administrator of a facility designated by the Commissioner of
25 Mental Health or the Commissioner of Alcohol and Substance Abuse
26 Services as an appropriate facility for an emergency examination to
27 conduct an emergency examination to determine whether the condition
28 of the person is such that emergency detention is warranted and, if
29 emergency detention is warranted, to detain ~~said~~ the person as
30 provided by ~~this act~~ Section 5-206 et seq. of this title.

31
32

1 SECTION 27. AMENDATORY 43A O.S. 1991, Section 5-208, as
2 last amended by Section 1, Chapter 233, O.S.L. 1998 (43A O.S. Supp.
3 1998, Section 5-208), is amended to read as follows:

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

9 1. If, upon examination, the licensed mental health
10 professional determines that the person is not a mentally ill
11 person, an alcohol-dependent person, or a drug-dependent person
12 requiring treatment or that the condition of the person is such that
13 emergency detention is not warranted, the person shall be returned
14 immediately to the point where such person was taken into protective
15 custody and released.

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

21 a. prepare a statement describing the findings of the
22 examination and stating the basis for the
23 determination. The statement shall be substantially
24 in a form prescribed by the Department of Mental
25 Health or the Department of Alcohol and Substance
26 Abuse Services,

27 b. provide for a full examination and evaluation of the
28 person by two licensed mental health professionals
29 and, if the person appears to be a mentally ill
30 person, the completion of a certificate of evaluation
31 as provided by Section 5-414 of this title, and
32

1 c. make reasonable efforts to determine whether the
2 person has a current and unrevoked advance directive
3 executed pursuant to the Advance Directives for Mental
4 Health Treatment Act.

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

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

17 2. The patient has been examined by a licensed mental health
18 professional who has determined that the person is a mentally ill
19 person, an alcohol-dependent person, or a drug-dependent person
20 requiring treatment, the condition of the person is such that
21 emergency detention is warranted, and a statement has been prepared
22 as provided in subsection A of this section; and

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

28 C. Whenever it appears that a person detained as provided by
29 this section will require treatment beyond the period of emergency
30 detention and the person has refused to consent to voluntary
31 treatment, a licensed mental health professional conducting an
32 evaluation of the person or the administrator of the facility in

1 which the person is being detained, or the designee of the
2 administrator, shall immediately file a petition with the district
3 court as provided by Section 5-410 of this title or Section 9-102 of
4 this title, and may request a court order directing prehearing
5 detention when such detention is necessary for the protection of the
6 person or others.

7 SECTION 28. AMENDATORY Section 2, Chapter 298, O.S.L.
8 1992, as last amended by Section 3, Chapter 144, O.S.L. 1998 (43A
9 O.S. Supp. 1998, Section 5-502), is amended to read as follows:

10 Section 5-502. As used in the Inpatient Mental Health Treatment
11 of Children Act:

- 12 1. "Child" means any person under eighteen (18) years of age;
- 13 2. "Child in need of mental health treatment" means a child:
 - 14 a. who has a demonstrable mental illness and as a result
15 of that mental illness can be expected within the near
16 future to inflict or attempt to inflict serious bodily
17 harm to himself or herself or another person if mental
18 health services are not provided and has engaged in
19 one or more recent overt acts or made significant
20 recent threats which substantially support that
21 expectation, or
 - 22 b. who has a demonstrable mental illness of sufficient
23 severity to cause substantial impairment or disability
24 in at least two of the following major areas of
25 functioning in the child's life: family relations,
26 school performance, social interactions or ability to
27 perform independently the basic tasks of personal
28 hygiene, hydration and nutrition, or self-protection.
29 A determination regarding the ability of the child to
30 perform independently said basic tasks shall be based
31 upon the age of the child and reasonable and
32

1 appropriate expectation of the abilities of a child of
2 such age to perform said tasks.

3 The term "child in need of mental health treatment" shall not mean a
4 child afflicted with epilepsy, developmental disability, organic
5 brain syndrome, physical handicaps, brief periods of intoxication
6 caused by such substances as alcohol or drugs or who is truant or
7 sexually active unless the child also meets the criteria for a child
8 in need of treatment pursuant to subparagraphs a and b of this
9 paragraph;

10 3. "Consent" means the voluntary, express, and informed
11 agreement to treatment in a mental health facility by a child
12 sixteen (16) years of age or older and by a parent having custody of
13 the child or a legally authorized custodian;

14 4. "Independent" means a licensed mental health professional
15 conducting an outpatient or inpatient mental health evaluation and
16 submitting a report to the district attorney or court pursuant to
17 the provisions of the Inpatient Mental Health Treatment of Children
18 Act who is not and will not be treating the child and has no
19 financial interest in a facility in which the child will be placed
20 or any significant interest in the hospitalization of the child that
21 would constitute a conflict of interest, and has signed an affidavit
22 to that effect, provided, a licensed mental health professional
23 employed by a community mental health center shall be exempt from
24 the requirement that he or she is not and will not be treating the
25 child;

26 5. "Individualized treatment plan" means a specific plan for
27 the care and treatment of ~~an individual~~ a child who requires
28 inpatient mental health treatment. The plan shall be developed with
29 maximum involvement of the child's family, consistent with the
30 child's desire for confidentiality and with the treatment needs of
31 the child, and shall clearly include the following:
32

- 1 a. a statement of the presenting problems of the child,
2 short- and long-term treatment goals and the estimated
3 date of discharge. The short- and long-term goals
4 shall be based upon a clinical evaluation and shall
5 include specific behavioral and emotional goals
6 against which the success of treatment can be
7 measured,
- 8 b. treatment methods and procedures to be used to achieve
9 these goals, which methods and procedures are related
10 to each of these goals and which include, but are not
11 limited to, specific prognosis for achieving each of
12 these goals,
- 13 c. identification of the types of professional personnel
14 who will carry out the treatment procedures including,
15 but not limited to, appropriate licensed mental health
16 professionals, education professionals, and other
17 health or social service professionals,
- 18 d. documentation of the involvement of the child in the
19 development of the treatment plan and:
- 20 (1) the involvement of a parent in the development of
21 the treatment plan and the consent of the child
22 to the plan, or
- 23 (2) when the child is in the legal custody of a
24 public or private child care agency, the
25 involvement of a designated representative of the
26 agency in the development of the treatment plan
27 and documentation of the consent of the agency to
28 the treatment plan;

29 6. "Inpatient treatment" means mental health treatment services
30 offered or provided for a continuous period of more than twenty-four
31 (24) hours in residence after admission to a mental health facility
32 for the purpose of observation, evaluation or treatment;

1 7. "Least restrictive alternative" means the treatment and
2 conditions of treatment which, separately and in combination, are no
3 more intrusive or restrictive of freedom than reasonably necessary
4 to achieve a substantial therapeutic benefit to the child or to
5 protect the child or others from physical injury;

6 8. "Less restrictive alternative to inpatient treatment" means
7 and includes, but is not limited to, outpatient counseling services,
8 including services provided in the home of the child and which may
9 be referred to as "home-based services", day treatment or day
10 hospitalization services, respite care, or foster care or group home
11 care, as defined by Title 10 of the Oklahoma Statutes, through a
12 program established and specifically designed to meet the needs of
13 children in need of mental health treatment, or a combination
14 thereof;

15 9. "Licensed mental health professional" means a person who has
16 received specific training for and is experienced in performing
17 mental health therapeutic, diagnostic or counseling functions and is
18 not related by blood or marriage to the person being examined or
19 does not have any interest in the estate of the person being
20 examined, and who is:

- 21 a. a psychiatrist who is a diplomate of the American
22 Board of Psychiatry and Neurology,
- 23 b. a clinical psychologist who is duly licensed to
24 practice by the State Board of Examiners of
25 Psychologists,
- 26 c. a licensed professional counselor as defined in
27 Section 1902 of Title 59 of the Oklahoma Statutes,
- 28 d. a person licensed as a licensed social worker pursuant
29 to the provisions of the Licensed Social Workers Act,
30 Section 1250 et seq. of Title 59 of the Oklahoma
31 Statutes, or

1 e. a Doctor of Medicine who is duly licensed to practice
2 by the State Board of Medical Licensure and
3 Supervision, or a Doctor of Osteopathy who is duly
4 licensed to practice by the Oklahoma Board of
5 Osteopathic Examiners, or a qualified examiner as
6 defined in Section 1-103 of this title.

7 For the purposes of this paragraph, "licensed" means that the person
8 holds a current, valid license issued in accordance with the laws of
9 this state;

10 10. "Mental health evaluation" means an examination or
11 evaluation of a child for the purpose of making a determination
12 whether, in the opinion of the licensed mental health professional
13 making the evaluation, the child is a child in need of mental health
14 treatment and, if so, is in need of inpatient mental health
15 treatment and for the purpose of preparing reports or making
16 recommendations for the most appropriate and least restrictive
17 treatment for the child;

18 11. "Mental health facility" means a public or private hospital
19 or related institution as defined by Section 1-701 of Title 63 of
20 the Oklahoma Statutes offering or providing inpatient mental health
21 services, a public or private facility accredited as an inpatient or
22 residential psychiatric facility by the Joint Commission on
23 Accreditation of Healthcare Organizations, or a facility operated by
24 the Department of Mental Health or the Department of Alcohol and
25 Substance Abuse Services and designated by the Commissioner ~~of the~~
26 ~~Department~~ of Mental Health or the Commissioner of Alcohol and
27 Substance Abuse Services as appropriate for the inpatient evaluation
28 or treatment of children;

29 12. "Mental illness" means a substantial disorder of the
30 child's cognitive, volitional, or emotional processes that
31 demonstrably and significantly impairs judgment or capacity to
32 recognize reality or to control behavior. "Mental illness" may

1 include substance abuse, which is the use, without compelling
2 medical reason, of any substance which results in psychological or
3 physiological dependency as a function of continued use in such a
4 manner as to induce mental, emotional, or physical impairment and
5 cause socially dysfunctional or socially disordering behavior;

6 13. "Parent" means:

- 7 a. a biological or adoptive parent who has legal custody
8 of the child, including either parent if custody is
9 shared under a joint decree or agreement, or
- 10 b. a person judicially appointed as a legal guardian of
11 the child, or
- 12 c. a relative within the third degree of consanguinity
13 who exercises the rights and responsibilities of legal
14 custody by delegation from a parent, as provided by
15 law;

16 14. "Person responsible for the supervision of the case" means:

- 17 a. when the child is a ward of the court and in the legal
18 custody of a public or private child care agency, the
19 caseworker or other person designated by the agency to
20 supervise the case, or
- 21 b. when the child is a ward of the court and under the
22 court-ordered supervision of the Department of Human
23 Services or a statutorily constituted juvenile bureau,
24 the person designated by the Department of Human
25 Services or juvenile bureau to supervise the case;

26 15. "Prescreening" means a face-to-face mental health
27 evaluation conducted by a licensed mental health professional to
28 determine whether a child requires an inpatient evaluation or an
29 emergency mental health admission and may include consultation with
30 other mental health professionals and a review of all available
31 records on the child;

1 16. "Ward of the court" means a child adjudicated to be a
2 deprived child, a child in need of supervision, or a delinquent
3 child; and

4 17. "Treatment" means any planned intervention intended to
5 improve a child's functioning in those areas which show impairment
6 as a result of mental illness.

7 SECTION 29. AMENDATORY 43A O.S. 1991, Section 9-103, is
8 amended to read as follows:

9 Section 9-103. A. After an initial period of observation and
10 treatment, and subject to the rules and policies established by the
11 Alcohol and Drug Abuse Prevention, Training, Treatment and
12 Rehabilitation Authority, whenever a person committed pursuant to
13 court order has recovered from his or her addiction or imminent
14 danger of addiction, to such an extent that in the opinion of the
15 physician or superintendent in charge of the facility, release in
16 outpatient status is warranted, ~~the~~ the physician or superintendent
17 shall certify such fact to the Authority. If the physician or
18 superintendent has not so certified within the preceding twelve (12)
19 months, in the anniversary month of the commitment of any such
20 person, ~~his~~ the case shall automatically be referred to the
21 Authority for consideration of the advisability of release in
22 outpatient status. Upon any such certification by the physician or
23 superintendent or such automatic certification, the Authority may
24 release ~~such~~ the person in outpatient status subject to all rules
25 ~~and regulations~~ adopted by the Authority, and subject to all
26 conditions imposed by the Authority, whether of general
27 applicability or restricted to the particular person released in
28 outpatient status, and subject to being retaken and returned to
29 inpatient status as prescribed in such rules, ~~regulations~~ or
30 conditions. The supervision of such persons while in outpatient
31 status shall be administered by the Department of ~~Mental Health~~
32 Alcohol and Substance Abuse Services.

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

11 SECTION 30. AMENDATORY 3 O.S. 1991, Section 301, is
12 amended to read as follows:

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

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

19 2. Is under the influence of any intoxicant.

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

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

25 1. "Intoxicant" means:

26 a. any beverage containing alcohol,

27 b. any controlled dangerous substance as defined in the
28 Uniform Controlled Dangerous Substances Act, Section
29 2-101 et seq. of Title 63 of the Oklahoma Statutes,

30 c. any substance which is capable of being ingested,
31 inhaled, injected or absorbed into the human body and
32 is capable of adversely affecting the central nervous

1 system, vision, hearing or other sensory or motor
2 functions of the human body, and

3 d. any combination of alcohol, controlled dangerous
4 substances, and substances capable of being ingested,
5 inhaled, injected or absorbed into the human body and
6 capable of adversely affecting the central nervous
7 system, vision, hearing or other sensory or motor
8 functions of the human body; and

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

12 D. Every person who is convicted of a violation of the
13 provisions of this section shall be deemed guilty of a misdemeanor
14 for the first offense and shall be punished by imprisonment in jail
15 for not less than ten (10) days nor more than one (1) year, and a
16 fine of not more than One Thousand Dollars (\$1,000.00). Any person
17 who within ten (10) years after a previous conviction of a violation
18 of this section is convicted of a second or subsequent offense
19 pursuant to the provisions of this section or has a prior conviction
20 within ten (10) years prior to the conviction pursuant to the
21 provisions of this section, in a municipal criminal court of record
22 for the violation of a municipal ordinance prohibiting the offense
23 provided for in subsection A of this section shall be deemed guilty
24 of a felony and shall be sentenced to the custody of the Department
25 of Corrections for not less than one (1) year and not to exceed five
26 (5) years, and a fine of not more than Two Thousand Five Hundred
27 Dollars (\$2,500.00). When a sentence of incarceration is imposed,
28 the person shall be processed through the Lexington Assessment and
29 Reception Center. If the person is evaluated to be receptive to
30 treatment and not deemed by the Department of Corrections to be a
31 security risk, the person shall be assigned to the Department of
32 ~~Mental Health~~ Alcohol and Substance Abuse Services for substance

1 abuse treatment. The inmate shall be required to reimburse the
2 Department of ~~Mental Health~~ Alcohol and Substance Abuse Services for
3 all or part of the actual cost incurred for treatment of the inmate
4 while the inmate was assigned to the Department of ~~Mental Health~~
5 Alcohol and Substance Abuse Services, if at the time the sentence of
6 incarceration was imposed, the court determined that the convicted
7 person has the ability to pay for all or part of the cost of
8 treatment. The court shall determine the amount of reimbursement
9 the convicted person shall pay. While assigned to such a Department
10 of ~~Mental Health~~ Alcohol and Substance Abuse Services treatment
11 program the inmate shall comply with the rules ~~and regulations~~ as
12 agreed upon by the Department of ~~Mental Health~~ Alcohol and Substance
13 Abuse Services and the Department of Corrections. Any infraction of
14 said rules may result in the inmate's reassignment to a correctional
15 facility of the Department of Corrections. Upon successful
16 completion of the treatment program the person shall be properly
17 reassigned by the Department of Corrections for the completion of
18 the sentence imposed by the court. Prior to discharge from the
19 treatment facility, the treatment facility shall forward to the
20 Department of Corrections a report and discharge summary including
21 arrangements and recommendations for further disposition and
22 follow-up treatment. If the person is evaluated not to be receptive
23 to treatment or is evaluated to be a security risk, the inmate shall
24 be assigned to a state correctional facility according to normal
25 Department of Corrections classification procedures. In the event a
26 felony conviction does not result in a sentence of incarceration as
27 provided for in this subsection, the person shall be required to
28 serve not less than ten (10) days of community service, or to
29 undergo in-patient rehabilitation or treatment in a public or
30 private facility with at least minimum security for a period of not
31 less than forty-eight (48) consecutive hours, notwithstanding the
32

1 provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the
2 Oklahoma Statutes.

3 E. Any person who is found guilty of a violation of the
4 provisions of this section may be referred, prior to sentencing, to
5 an alcoholism evaluation facility designated by the Department of
6 ~~Mental Health~~ Alcohol and Substance Abuse Services for the purpose
7 of evaluating the receptivity to treatment and prognosis of the
8 person. The court shall order the person to reimburse the facility
9 for the evaluation in an amount not to exceed Seventy-five Dollars
10 (\$75.00). The facility shall, within seventy-two (72) hours, submit
11 a written report to the court for the purpose of assisting the court
12 in its final sentencing determination.

13 SECTION 31. AMENDATORY 10 O.S. 1991, Section 12, is
14 amended to read as follows:

15 Section 12. It is the duty of the father and the mother of any
16 poor person who is unable to maintain himself or herself by work, to
17 maintain such person to the extent of their ability. Provided, that
18 the liability of a parent to an institution, nursing home,
19 intermediate care facility, or other resident facility for the care
20 or maintenance of any such poor person shall not be excessive and
21 shall not cause undue financial hardship upon said parent. Provided
22 further, that the provisions of this section shall not apply to
23 charges for care provided by institutions of the Department of
24 Mental Health or the Department of Alcohol and Substance Abuse
25 Services or to charges for care provided by Department of Mental
26 Health or the Department of Alcohol and Substance Abuse Services
27 outpatient facilities, including the alcohol and drug programs. The
28 promise of an adult child to pay for necessaries previously
29 furnished to a parent is binding.

30 SECTION 32. AMENDATORY 47 O.S. 1991, Section 6-212.2, as
31 last amended by Section 2, Chapter 162, O.S.L. 1996 (47 O.S. Supp.
32 1998, Section 6-212.2), is amended to read as follows:

1 Section 6-212.2 A. Whenever the records of the Department of
2 Public Safety reflect a conviction of a person pursuant to Section
3 11-902 of this title or an alcohol- or drug-related revocation or
4 suspension of the driver license of that person pursuant to the
5 provisions of paragraph 2 of subsection A of Section 6-205 or
6 Sections 6-205.1, 6-206, 753, 754 or 761 of this title, the person
7 shall participate in an alcohol and ~~drug~~ substance abuse evaluation
8 program offered by a facility or qualified practitioner certified by
9 the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services
10 for the purpose of evaluating the person's receptivity to treatment
11 and prognosis. The person shall enroll, attend and successfully
12 complete an alcohol and ~~drug~~ substance abuse course offered by an
13 institution or organization certified by the Department of ~~Mental~~
14 ~~Health~~ Alcohol and Substance Abuse Services to conduct such courses.
15 For a second or subsequent offense, the alcohol and ~~drug~~ substance
16 abuse course shall consist of at least twenty-four (24) hours of
17 instruction and shall conform with the provisions of subsection G of
18 Section 3-453 of Title 43A of the Oklahoma Statutes. Persons under
19 twenty-one (21) years of age shall be required to attend and
20 successfully complete an alcohol and ~~drug~~ substance abuse course
21 developed specifically to address the needs of young persons and
22 offered by an institution or organization certified by the
23 Department of ~~Mental Health~~ Alcohol and Substance Abuse Services to
24 conduct such courses. No citizen shall be compelled to travel more
25 than fifty (50) miles from the citizen's place of residence to
26 attend a course or evaluation program required herein. As used in
27 this subsection, "qualified practitioner" means a person with at
28 least a bachelor's degree in substance abuse treatment, mental
29 health or a related health care field and at least two (2) years'
30 experience in providing alcohol abuse treatment, other ~~drug~~
31 substance abuse treatment, or both alcohol and other ~~drug~~ substance
32 abuse treatment, who is certified each year by the Department of

1 ~~Mental Health~~ Alcohol and Substance Abuse Services to provide such
2 assessments. For purposes of this subsection, the requirement for
3 alcohol and ~~drug~~ substance abuse evaluation shall be considered
4 satisfied if the person is evaluated by a qualified practitioner or
5 facility certified for that purpose and a report of such evaluation
6 is presented to the court prior to sentencing.

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

10 SECTION 33. AMENDATORY 47 O.S. 1991, Section 11-902, as
11 last amended by Section 3, Chapter 89, O.S.L. 1998 (47 O.S. Supp.
12 1998, Section 11-902), is amended to read as follows:

13 Section 11-902. A. It is unlawful for any person to drive,
14 operate, or be in actual physical control of a motor vehicle within
15 this state who:

16 1. Has a blood or breath alcohol concentration, as defined in
17 Section 756 of this title, of ten-hundredths (0.10) or more at the
18 time of a test of such person's blood or breath administered within
19 two (2) hours after the arrest of such person;

20 2. Is under the influence of alcohol;

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

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

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

32

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

9 C. Every person who is convicted of a violation of the
10 provisions of this section shall be deemed guilty of a misdemeanor
11 for the first offense and shall be punished by imprisonment in jail
12 for not less than ten (10) days nor more than one (1) year, and a
13 fine of not more than One Thousand Dollars (\$1,000.00). Any person
14 who, within ten (10) years after a previous conviction of a
15 violation of this section or a violation pursuant to the provisions
16 of any law of another state prohibiting the offense provided in
17 subsection A of this section, is convicted of a second offense
18 pursuant to the provisions of this section or has a prior conviction
19 in a municipal criminal court of record for the violation of a
20 municipal ordinance prohibiting the offense provided for in
21 subsection A of this section and within ten (10) years of such
22 municipal conviction is convicted pursuant to the provision of this
23 section shall be deemed guilty of a felony. The fine shall be not
24 more than Two Thousand Five Hundred Dollars (\$2,500.00). Such fine
25 shall be in addition to other punishment provided for by law and
26 shall not be imposed in lieu of such other punishment. Any person
27 who is convicted of a second felony offense pursuant to the
28 provisions of this section shall be subject to a fine of not more
29 than Five Thousand Dollars (\$5,000.00). Such fine shall be in
30 addition to other punishment provided for by law and shall not be
31 imposed in lieu of such other punishment. Any person who is
32 convicted of a third or subsequent felony offense pursuant to the

1 provisions of this section shall be subject to a fine of not more
2 than Five Thousand Dollars (\$5,000.00). Such fine shall be in
3 addition to other punishment provided for by law and shall not be
4 imposed in lieu of such other punishment.

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

9 D. When a person is sentenced to the custody of the Department
10 of Corrections, the person shall be processed through the Lexington
11 Assessment and Reception Center or at a place determined by the
12 Director of the Department of Corrections. The Department of
13 Corrections shall classify and assign the person to one or more of
14 the following:

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

18 2. A correctional facility operated by the Department of
19 Corrections.

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

30 F. The Department of Public Safety is hereby authorized to
31 reinstate any suspended or revoked license when the applicant meets
32

1 the statutory requirements which affect the existing driving
2 privilege.

3 G. Any person who is found guilty of a violation of the
4 provisions of this section shall be ordered to participate in, prior
5 to sentencing, an alcohol and drug substance abuse evaluation
6 program offered by a facility or qualified practitioner certified by
7 the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services
8 for the purpose of evaluating the receptivity to treatment and
9 prognosis of the person. The court shall order the person to
10 reimburse the facility or qualified practitioner for the evaluation.
11 The Department of ~~Mental Health~~ Alcohol and Substance Abuse Services
12 shall establish a fee schedule, based upon a person's ability to
13 pay, provided the fee for an evaluation shall not exceed Seventy-
14 five Dollars (\$75.00). The evaluation shall be conducted at a
15 certified facility, the office of a qualified practitioner or at
16 another location as ordered by the court. The facility or qualified
17 practitioner shall, within seventy-two (72) hours from the time the
18 person is assessed, submit a written report to the court for the
19 purpose of assisting the court in its final sentencing
20 determination. No person, agency or facility operating an alcohol
21 and drug substance abuse evaluation program certified by the
22 Department of ~~Mental Health~~ Alcohol and Substance Abuse Services
23 shall solicit or refer any person evaluated pursuant to this section
24 for any treatment program or alcohol and drug substance abuse
25 service in which such person, agency or facility has a vested
26 interest; however, this provision shall not be construed to prohibit
27 the court from ordering participation in or any person from
28 voluntarily utilizing a treatment program or alcohol and drug
29 substance abuse service offered by such person, agency or facility.
30 If a person is sentenced to the custody of the Department of
31 Corrections and the court has received a written evaluation report
32 pursuant to the provisions of this subsection, the report shall be

1 furnished to the Department of Corrections with the judgment and
2 sentence. Any evaluation report submitted to the court pursuant to
3 the provisions of this subsection shall be handled in a manner which
4 will keep such report confidential from the general public's review.
5 Nothing contained in this subsection shall be construed to prohibit
6 the court from ordering judgment and sentence in the event the
7 defendant fails or refuses to comply with an order of the court to
8 obtain the evaluation required by this subsection. As used in this
9 subsection, "qualified practitioner" means a person with at least a
10 bachelor's degree in substance abuse treatment, mental health or a
11 related health care field and at least two (2) years' experience in
12 providing alcohol treatment, other drug abuse treatment, or both
13 alcohol and other drug abuse treatment who is certified each year by
14 the Department of ~~Mental Health~~ Alcohol and Substance Abuse Services
15 to provide these assessments. However, any person who does not meet
16 the requirements for a qualified practitioner as defined herein, but
17 who has been previously certified by the Department of ~~Mental Health~~
18 Alcohol and Substance Abuse Services to provide alcohol or drug
19 treatment or assessments, shall be considered a qualified
20 practitioner provided all education, experience and certification
21 requirements stated herein are met within two (2) years from June 7,
22 1994. Nothing contained in this subsection shall be construed to
23 prohibit the court from ordering judgment and sentence and any other
24 sanction authorized by law for failure or refusal to comply with an
25 order of the court.

26 H. Any person who is found guilty of a violation of the
27 provisions of this section may be required by the court to attend a
28 victims impact panel program, if such a program is offered in the
29 county where the judgment is rendered, and to pay a fee, not less
30 than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars
31 (\$25.00) as set by the governing authority of the program and
32 approved by the court, to the program to offset the cost of

1 participation by the defendant, if in the opinion of the court the
2 defendant has the ability to pay such fee.

3 SECTION 34. AMENDATORY 57 O.S. 1991, Section 530.1, as
4 last amended by Section 2, Chapter 238, O.S.L. 1998 (57 O.S. Supp.
5 1998, Section 530.1), is amended to read as follows:

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

10 1. To administer, or cause to be administered, physical and
11 psychological examination of all inmates;

12 2. To identify the vocational-technical skills of all inmates.
13 The information shall be noted on and made a part of the record for
14 each inmate;

15 3. To assess the educational and training needs of all inmates;

16 4. To determine from available records and interviews, the
17 place of birth of new inmates. The Department of Corrections shall
18 furnish a list of foreign-born nationals and suspected foreign-born
19 nationals to the Immigration and Naturalization Service on a weekly
20 basis;

21 5. To determine initial security and custody classifications;

22 6. To determine and recommend for placement in an alcohol or
23 substance abuse treatment facility or program, as provided for in
24 this section, any inmate convicted of alcohol related offenses or
25 otherwise in need of alcohol or substance abuse treatment;

26 7. To determine and recommend for placement in the Department
27 of Corrections Special Care Unit at the State Penitentiary at
28 McAlester any inmate who is in need of acute psychiatric care;

29 8. To plan for immediate assignments to institutions, community
30 treatment centers, alcohol or substance abuse treatment centers or
31 programs, alternatives to incarceration authorized by law, or other
32 facilities, public or private, designated by the Department;

1 9. To recommend possible future assignments to institutions,
2 community treatment centers, alcohol or substance abuse treatment
3 centers or programs, alternatives to incarceration authorized by
4 law, or other facilities designated by the Department;

5 10. To provide orientation and instruction with respect to
6 rules and procedures for prisoners; and

7 11. To obtain all relevant juvenile court records and relevant
8 Department of Juvenile Justice agency records, if any, pertaining to
9 inmates and make said records a part of the permanent record
10 maintained by the Department of Corrections regarding the inmate.
11 The information contained in those records shall be used to
12 determine security level and placement of inmates.

13 B. An alcohol or substance abuse treatment center in which an
14 inmate is placed shall provide services and standards of treatment
15 as provided by the Department of ~~Mental Health~~ Alcohol and Substance
16 Abuse Services under its rules for alcoholism or substance abuse
17 treatment. Upon placement of a prisoner in a center for alcoholism
18 or substance abuse treatment, the Department of Corrections shall
19 enter into a third party contract with such center for the custodial
20 and professional services rendered to any prisoner. Such contract
21 may include requirements imposed by law on the Department of
22 Corrections or reimbursement for such services, if necessary. The
23 Department of Corrections is further authorized to enter into third
24 party contracts for substance abuse treatment programs which are
25 certified by the Department of ~~Mental Health~~ Alcohol and Substance
26 Abuse Services to provide professional services on an outpatient
27 basis to prisoners in need of substance abuse treatment and follow-
28 up treatment while assigned to alternatives to incarceration.

29 C. The Department of Juvenile Justice shall allow reasonable
30 access to its database for the purpose of obtaining the juvenile
31 records required by subsection A of this section.
32

1 ~~D. The Department of Corrections shall adopt rules governing~~
2 ~~the implementation of this section within sixty (60) days from the~~
3 ~~effective date of this act.~~

4 SECTION 35. AMENDATORY Section 14, Chapter 276, O.S.L.
5 1993, as amended by Section 8, Chapter 89, O.S.L. 1998 (57 O.S.
6 Supp. 1998, Section 612), is amended to read as follows:

7 Section 612. A. Any person convicted of violating the
8 provisions of Section 11-902 of Title 47 of the Oklahoma Statutes
9 and sentenced to the custody of the Department of Corrections shall
10 be processed through the Lexington Assessment and Reception Center
11 or other location determined by the Director of the Department of
12 Corrections, classified and assigned as follows:

13 1. To the Department of ~~Mental Health~~ Alcohol and Substance
14 Abuse Services for substance abuse treatment, if the person is
15 evaluated to be receptive to treatment and not deemed by the
16 Department of Corrections to be a security risk. The inmate may be
17 required to reimburse the Department of ~~Mental Health~~ Alcohol and
18 Substance Abuse Services for all or part of the actual cost incurred
19 for treatment of the inmate while the inmate is assigned to the
20 Department of ~~Mental Health~~ Alcohol and Substance Abuse Services.
21 The Department of Corrections shall determine whether the inmate has
22 the ability to pay for all or part of the cost of treatment. While
23 assigned to a Department of ~~Mental Health~~ Alcohol and Substance
24 Abuse Services treatment program the inmate shall comply with the
25 rules ~~and regulations~~ as agreed upon by the Department of ~~Mental~~
26 ~~Health~~ Alcohol and Substance Abuse Services and the Department of
27 Corrections. Any infraction of said rules may result in the
28 inmate's reassignment to a correctional facility of the Department
29 of Corrections. Upon successful completion of the treatment program
30 the inmate shall be properly reassigned by the Department of
31 Corrections for the completion of the sentence imposed by the court.
32 Prior to discharge from the treatment facility, the treatment

1 facility shall forward to the Department of Corrections a report and
2 discharge summary including arrangements and recommendations for
3 further disposition and follow-up treatment; or

4 2. To a correctional facility when:

- 5 a. the person is evaluated not to be receptive to
6 treatment,
- 7 b. the person is evaluated to be a security risk, or
- 8 c. the person requires educational, medical or other
9 services or programs not available in the community
10 setting as determined by the Department.

11 B. As used in this section:

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

17 2. "Electronic monitoring" means monitoring of the inmate
18 within a specified location or locations in a community setting by
19 means of an electronic bracelet or other device.

20 SECTION 36. AMENDATORY 63 O.S. 1991, Section 1-851.2, as
21 amended by Section 2, Chapter 336, O.S.L. 1996 (63 O.S. Supp. 1998,
22 Section 1-851.2), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 B. The State Department of Health shall be the single state
10 agency to participate in federal programs for health planning and to
11 apply for and administer federal funds for health planning,
12 provided, that the Long-term Care Certificate of Need Act, and any
13 other law vesting planning functions in any other state agency,
14 shall not apply to health planning functions vested by law in the
15 Department of Mental Health, the Department of Alcohol and Substance
16 Abuse Services, the Oklahoma Health Care Authority and the
17 Department of Human Services.

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

25 SECTION 37. AMENDATORY 70 O.S. 1991, Section 1210.229-3,
26 as amended by Section 56, Chapter 274, O.S.L. 1995 (70 O.S. Supp.
27 1998, Section 1210.229-3), is amended to read as follows:

28 Section 1210.229-3 For purposes of the Oklahoma Alcohol and
29 Drug Abuse Prevention and Life Skills Education Act, ~~Section~~
30 ~~1210.229-1 et seq. of this title:~~

31
32

1 1. "Alcohol" means any low-point beer as defined in Section
2 163.2 of Title 37 of the Oklahoma Statutes or alcoholic beverage as
3 defined in Section 506 of Title 37 of the Oklahoma Statutes;

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

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

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

11 5. "Life skills" includes, but is not limited to, fostering
12 skills in responsibility, decision making, communication, self-
13 confidence and goal setting. ~~Life~~ The term "life skills" shall not
14 include values clarification or sex education.

15 SECTION 38. AMENDATORY 70 O.S. 1991, Section 1210.229-5,
16 is amended to read as follows:

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

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

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

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

31 4. Develop guidelines and criteria to encourage teachers and
32 administrators to receive in-service training on alcohol and drug

1 abuse. The training or workshops should be included in the staff
2 development point system.

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

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

25 SECTION 39. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 1210.229-6 of Title 70, unless
27 there is created a duplication in numbering, reads as follows:

28 The programs and services associated with the provisions of the
29 Oklahoma Alcohol and Drug Abuse Prevention and Life Skills Education
30 Act are hereby transferred to and shall be the responsibility of the
31 Department of Alcohol and Substance Abuse Services.
32

1 SECTION 40. AMENDATORY 74 O.S. 1991, Section 30b, as
2 last amended by Section 2, Chapter 227, O.S.L. 1997 (74 O.S. Supp.
3 1998, Section 30b), is amended to read as follows:

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

6 B. A ~~chairperson~~ chair shall be chosen annually by the members
7 of the Oklahoma Drug and Alcohol Abuse Policy Board to serve a term
8 beginning July 1. The ~~chairperson~~ chair may establish committees,
9 subcommittees, or other working groups in order to accomplish the
10 goals of the Board.

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

12 1. The Governor or designee;

13 2. The Attorney General or designee;

14 3. The Director of the Oklahoma State Bureau of Narcotics and
15 Dangerous Drugs Control or designee;

16 4. The Director of the Oklahoma State Bureau of Investigation
17 or designee;

18 5. The Commissioner of Public Safety or designee;

19 6. The Commissioner of the Department of ~~Mental Health~~ Alcohol
20 and Substance Abuse Services or designee;

21 7. The State Commissioner of Health or designee;

22 8. The Adjutant General of the Military Department or designee;

23 9. The Superintendent of Public Instruction or designee;

24 10. The Director of the Department of Corrections or designee;

25 11. The Director of the Department of Human Services or
26 designee;

27 12. The Director of the Alcoholic Beverage Laws Enforcement
28 Commission or designee;

29 13. The Executive Director of the District Attorneys' Council
30 or designee;

31 14. The Executive Director of the Oklahoma Commission on
32 Children and Youth or designee;

1 15. The Executive Director of the Office of Juvenile Affairs or
2 designee; and

3 16. Two appointees of the Governor, who shall be private
4 citizens appointed to serve for one-year terms.

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

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

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

13 SECTION 41. AMENDATORY Section 1, Chapter 171, O.S.L.
14 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as
15 renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp.
16 1998, Section 840-2.10), is amended to read as follows:

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

28 B. The ~~Administrator~~ Commissioner of the ~~Office of Personnel~~
29 ~~Management~~ Alcohol and Substance Abuse Services is hereby directed
30 to:
31
32

1 1. Promulgate rules necessary for the administration of the
2 State Employee Assistance Program and the maintenance and release of
3 participant records;

4 2. Conduct training specific to the State Employee Assistance
5 Program; and

6 3. Establish evaluation methods to assess the effectiveness of
7 the State Employee Assistance Program.

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

15 D. Records that relate to participation by an individual in the
16 State Employee Assistance Program or an employee assistance program
17 established by a state agency shall be maintained separate and apart
18 from regular personnel records and shall not become part of an
19 employee's personnel file. Such records relating to an individual's
20 participation in an employee assistance program shall be
21 confidential and not subject to subpoena unless a participant poses
22 a threat to deliberately harm himself or herself or others. Such
23 determination shall be made by an Employee Assistance Program
24 Professional. A participant in an employee assistance program shall
25 have a right of access to his or her own employee assistance program
26 records.

27 E. No provision of this act or the rules promulgated pursuant
28 to this act shall be construed to conflict with an appointing
29 authority's responsibility and authority to maintain discipline or
30 to take disciplinary measures against employees for misconduct or
31 unacceptable performance. Further, participation or
32 nonparticipation in any state employee assistance program shall not

1 excuse an employee from discipline or otherwise affect the terms and
2 conditions of such employee's employment status or opportunities for
3 advancement with the state.

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

10 2. The Employee Assistance Program Advisory Council shall
11 consist of the current nine (9) members who shall continue to hold
12 their current positions through June 30, 1995. Effective July 1,
13 1995, three members shall be appointed by the Governor, three
14 members shall be appointed by the Speaker of the House of
15 Representatives, and three members shall be appointed by the
16 President Pro Tempore of the Senate. All members shall serve two-
17 year terms, unless removed prior to the expiration of a term by the
18 respective ~~individual~~ entity making the appointment. Any vacancy in
19 office shall be filled by the ~~individual~~ entity who made the initial
20 appointment. The Council shall select a chair and ~~vice-chair~~ vice-
21 chair from among its membership. A majority of the members of the
22 Council shall constitute a quorum to transact business, but no
23 vacancy shall impair the right of the remaining members to exercise
24 all of the powers of the Council and every act of a majority of the
25 members present shall be deemed the act of the Council.

26 3. Members of the Council shall receive no compensation for
27 serving on the Council, but shall receive necessary travel
28 reimbursement by the employing agency for members who are state
29 employees or appointing authorities of agencies pursuant to the
30 State Travel Reimbursement Act. Any member employed in state
31 government shall receive the reimbursement from their employing
32 entity. Members who are not employed in state government shall

1 receive travel reimbursement from the ~~Office of Personnel Management~~
2 Department of Alcohol and Substance Abuse Services.

3 4. The Council shall not have authority to adopt rules pursuant
4 to the Administrative Procedures Act.

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

8 SECTION 42. REPEALER 43A O.S. 1991, Sections 3-405 and
9 3-407, as amended by Section 1, Chapter 25, O.S.L. 1997 (43A O.S.
10 Supp. 1998, Section 3-407), are hereby repealed.

11 SECTION 43. This act shall become effective July 1, 1999.

12 SECTION 44. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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