

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2149

By: Gilbert

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 2001, Sections 5-501, 5-502, 5-503, 5-505, 5-506, 5-509, 5-510, 5-511, 5-512 and 5-513, which relate to the Inpatient Mental Health Treatment of Children Act; renaming the act; expanding legislative intent to include inpatient substance abuse treatment; modifying definitions; modifying inpatient commitment procedures; requiring the provision of certain transportation services; deleting obsolete language; modifying terminology; modifying list of persons who may file a petition for involuntary commitment; requiring that a hearing be held within specified time; adding required component of discharge plan; repealing 43A O.S. 2001, Sections 5-504, 5-507 and 5-508, which relate to venue for certain legal proceedings, admission of certain children for inpatient treatment, and mental health evaluation reports; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 5-501, is amended to read as follows:

Section 5-501. A. Sections ~~2 through 13~~ 5-501 through 5-513 of this ~~act~~ title shall be known and may be cited as the "Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act".

B. The Oklahoma Legislature hereby declares that the public policy of this state is to assure adequate treatment of ~~children~~ minors needing mental health treatment or treatment for drug or alcohol abuse, to establish behavioral standards for determination of dangerousness of persons in need of such treatment, to require the use of the least restrictive alternative in the determination of the method of treatment, to provide orderly and reliable procedures for admission or commitment of ~~children~~ minors alleged to be in need

of inpatient mental health treatment or treatment for drug or alcohol abuse consistent with due process of law, and to protect the rights of patients hospitalized pursuant to law.

C. It is the intent of the Legislature that:

1. Mental health and substance abuse treatment services shall be provided in the manner most likely to preserve, support and strengthen the family of the ~~child~~ minor and to assist the ~~child~~ minor and ~~his~~ the family of the minor; and

2. ~~Children~~ Minors needing mental health services or substance abuse treatment shall, to the maximum extent possible, receive those services on an outpatient basis and that inpatient ~~mental health~~ evaluation and treatment services shall be utilized only as necessary to preserve the health or safety of the ~~child~~ minor or, in the case of a ~~child~~ minor who as a result of a demonstrable mental illness or drug or alcohol dependence can be expected to intentionally or unintentionally seriously and physically injure another person, for the protection of others.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 5-502, is amended to read as follows:

Section 5-502. As used in the Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act:

1. "~~Child~~ Minor" means any person under eighteen (18) years of age;

2. "~~Child~~ Minor in need of ~~mental health~~ treatment" means a ~~child~~ minor:

a. who has a demonstrable mental illness or who is drug or alcohol dependent and as a result of that mental illness or dependency can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person ~~if mental health services are not provided~~ and has engaged in one or more recent overt acts or made significant

recent threats which substantially support that expectation, or

- b. who has a demonstrable mental illness or is drug or alcohol dependent of sufficient severity to cause substantial impairment or disability in at least two of the following major areas of functioning in the ~~child's~~ minor's life: family relations, school performance, social interactions or ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or self-protection. A determination regarding the ability of the ~~child~~ minor to perform independently said basic tasks shall be based upon the age of the ~~child~~ minor and reasonable and appropriate expectation of the abilities of a ~~child~~ minor of such age to perform said tasks.

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

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

~~4. "Independent" means a licensed mental health professional conducting an outpatient or inpatient mental health evaluation and submitting a report to the district attorney or court pursuant to the provisions of the Inpatient Mental Health Treatment of Children Act who is not and will not be treating the child and has no financial interest in a facility in which the child will be placed~~

~~or any significant interest in the hospitalization of the child that would constitute a conflict of interest, and has signed an affidavit to that effect, provided, a licensed mental health professional employed by a community mental health center shall be exempt from the requirement that he or she is not and will not be treating the child;~~

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

- ~~a. a statement of the presenting problems of the child, short- and long-term treatment goals and the estimated date of discharge. The short- and long-term goals shall be based upon a clinical evaluation and shall include specific behavioral and emotional goals against which the success of treatment can be measured,~~
- ~~b. treatment methods and procedures to be used to achieve these goals, which methods and procedures are related to each of these goals and which include, but are not limited to, specific prognosis for achieving each of these goals,~~
- ~~c. identification of the types of professional personnel who will carry out the treatment procedures including, but not limited to, appropriate licensed mental health professionals, education professionals, and other health or social service professionals,~~
- ~~d. documentation of the involvement of the child in the development of the treatment plan and:~~

- ~~(1) the involvement of a parent in the development of the treatment plan and the consent of the child to the plan, or~~
- ~~(2) when the child is in the legal custody of a public or private child care agency, the involvement of a designated representative of the agency in the development of the treatment plan and documentation of the consent of the agency to the treatment plan;~~

~~6.~~ 4. "Inpatient treatment" means ~~mental health~~ treatment services offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health or substance abuse treatment facility for the purpose of observation, evaluation or treatment;

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

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

~~9.~~ 6. "Licensed mental health professional" means a person who has received specific training for and is experienced in performing mental health therapeutic, diagnostic or counseling functions and is not related by blood or marriage to the person being examined or

does not have any interest in the estate of the person being examined, and who is:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- c. a licensed professional counselor as defined in Section 1902 of Title 59 of the Oklahoma Statutes,
- d. a person licensed as a licensed social worker pursuant to the provisions of the Licensed Social Workers Act, Section 1250 et seq. of Title 59 of the Oklahoma Statutes,
- e. a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes, or
- f. a Doctor of Medicine who is duly licensed to practice by the State Board of Medical Licensure and Supervision, or a Doctor of Osteopathy who is duly licensed to practice by the Oklahoma Board of Osteopathic Examiners, or a qualified examiner as defined in Section 1-103 of this title.

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

~~10.~~ 7. "Mental health evaluation" means an examination or evaluation of a ~~child~~ minor for the purpose of making a determination whether, in the opinion of the licensed mental health professional making the evaluation, the ~~child~~ minor is a ~~child~~ minor in need of ~~mental health~~ treatment and, if so, is in need of inpatient ~~mental health~~ treatment and for the purpose of preparing

reports or making recommendations for the most appropriate and least restrictive treatment for the ~~child~~ minor;

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

~~12. "Mental illness" means a substantial disorder of the child's cognitive, volitional, or emotional processes that demonstrably and significantly impairs judgment or capacity to recognize reality or to control behavior. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior;~~

~~13. 8. "Parent" means:~~

- ~~a. a biological or adoptive parent who has legal custody of the ~~child~~ minor, including either parent if custody is shared under a joint decree or agreement, or~~
- ~~b. a biological or adoptive parent with whom the minor regularly resides, or~~
- ~~c. a person judicially appointed as a legal guardian of the ~~child~~ minor, or~~
- ~~e. d. a relative within the third degree of consanguinity person who exercises the rights and responsibilities~~

of legal custody by delegation from a parent, as provided by law, or

- e. the Director of the Department of Human Services or the Director of the Office of Juvenile Affairs, or their designees, when the minor is in the custody of the Department of Human Services or the Office of Juvenile Affairs;

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

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

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

~~16. 9. "Ward of the court" means a child minor adjudicated to be a deprived child, a child in need of supervision, or a delinquent child; and~~

~~17. 10. "Treatment" means any planned intervention intended to improve a child's minor's functioning in those areas which show impairment as a result of mental illness or drug or alcohol dependence.~~

SECTION 3. AMENDATORY 43A O.S. 2001, Section 5-503, is amended to read as follows:

Section 5-503. A. A ~~child~~ minor may be admitted, detained, or involuntarily committed for inpatient mental health or substance abuse treatment only pursuant to the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Children Minors Act.

B. ~~A parent of a child may consent to the voluntary admission of the child for inpatient mental health treatment or, when the child is age sixteen (16) or older and refuses to consent or revokes his or her consent to inpatient mental health treatment, request the district attorney to file a petition alleging the child to be a child in need of mental health treatment and to require inpatient treatment.~~

C. ~~A mental health facility may make application to the district attorney for the filing of a petition alleging a child to be a child in need of mental health treatment and to require inpatient treatment when the parent consenting to a child's admission revokes such consent and the person in charge of the mental health facility, or other person authorized by the person in charge of the facility to make such determination, determines that the condition of the child is such that the child should remain in the mental health facility.~~

D. ~~A child who is a ward of a court may be admitted to a hospital or other mental health facility for inpatient mental health evaluation or treatment only pursuant to the provisions of Section 5-507 of this title.~~

1. a. ~~A parent having legal custody of a child who is a ward of the court, with the consent of the person responsible for the supervision of the case, may request the district attorney to file a petition alleging the child to be a child in need of mental health treatment and to require inpatient treatment, or~~

b. ~~The Department of Human Services, the Office of Juvenile Affairs or the juvenile bureau having supervision of the case may make such request.~~

2. ~~A public or private child care agency having legal custody of a child may request the district attorney to file a petition alleging the child to be a child in need of mental health treatment and to require inpatient treatment.~~

~~E.~~ Sheriffs and peace officers shall provide transportation services associated with minors requiring mental health treatment, examination, emergency detention, protective custody, and inpatient services, and shall be reimbursed pursuant to Section 1-110 of this title.

C. Nothing in the Inpatient Mental Health and Substance Abuse Treatment of Children Minors Act shall be interpreted to prohibit or preclude the provision of outpatient ~~mental health~~ treatment or services including, but not limited to, an outpatient ~~mental health~~ evaluation, counseling, educational, rehabilitative or other mental health and substance abuse services to the ~~child~~ minor, as necessary and appropriate, in the absence of a specific court order for such services.

~~F.~~ D. 1. An order of a court committing a ~~child~~ minor to a mental health or substance abuse treatment facility for inpatient evaluation or treatment shall not, by itself, relieve a parent of the obligation to provide for the support of the ~~child~~ minor or of liability for the cost of ~~mental health~~ treatment provided to the ~~child~~ minor.

2. Nothing in the Inpatient Mental Health and Substance Abuse Treatment of Children Minors Act shall be interpreted to:

a. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the

person, institution, agency or Department having custody of the ~~child~~ minor or providing the treatment, or

- b. abrogate the right of the ~~child~~ minor to any benefits provided through public funds for which the ~~child~~ minor is otherwise eligible.

3. An order committing a ~~child~~ minor to a ~~mental health~~ facility for inpatient mental health or substance abuse treatment shall not by itself serve to preclude a subsequent adjudication which finds the ~~child~~ minor to be delinquent, in need of supervision or deprived or shall not cause the vacation of any such order of adjudication previously entered.

SECTION 4. AMENDATORY 43A O.S. 2001, Section 5-505, is amended to read as follows:

Section 5-505. A. A ~~child~~ minor younger than sixteen (16) years of age may be admitted to a mental health or substance abuse treatment facility that is willing to admit the ~~child~~ minor for inpatient treatment upon application and with the consent of a parent having custody of the child as follows:

~~1. A child sixteen (16) years of age or older may be admitted to a willing mental health facility for inpatient treatment upon the joint application and consent of the child and the child's parent; and~~

~~2. The consent of a child under the age of sixteen (16) is not required for admission pursuant to the provisions of this section.~~

B. A minor sixteen (16) years of age or older may be admitted to a mental health or substance abuse treatment facility that is willing to admit the minor for inpatient treatment upon the joint application and consent of the minor and the parent of the minor.

~~C. Upon the application of a parent of the child, a mental health facility may admit the child for inpatient mental health evaluation or treatment if the person in charge of the mental health~~

~~facility or a designee and a licensed mental health professional determines the child to be clinically eligible for such admission, the mental health or substance abuse treatment facility shall accept the minor for a mental health evaluation. If practicable, the evaluation shall be conducted on an outpatient basis.~~

1. ~~A child may be eligible for admission for inpatient evaluation when, after a prescreening examination, a licensed mental health professional determines and states in writing that there is reasonable cause to believe that the child may be in need of mental health treatment and that such evaluation is necessary to properly determine the condition of the child and the mental health treatment needs of the child, if any.~~

2. ~~A child minor may be eligible for inpatient mental health or substance abuse treatment when, after an outpatient or inpatient mental health evaluation, a licensed mental health professional determines and states in writing that in ~~his or her professional~~ the opinion of the professional the child minor is a child minor in need of ~~mental health~~ treatment and:~~

- a. ~~the child appears to have a mental illness serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment, and~~
- b. ~~based upon the following, inpatient treatment is determined to be the least restrictive alternative that meets the needs of the child minor:~~
 - (1) ~~reasonable efforts have been made to provide for the mental health treatment needs of the child through the provision of less restrictive alternatives and such alternatives have failed to meet the treatment needs of the child, or~~
 - (2) ~~after a thorough consideration of less restrictive alternatives to inpatient treatment, the condition of the child is such that less~~

~~restrictive alternatives are unlikely to meet the mental health treatment needs of the child, and~~

~~e. b.~~ the ~~child~~ minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment, and

~~d. c.~~ if the ~~child~~ minor is sixteen (16) years of age or older, the ~~child~~ minor has been provided with an explanation of the ~~child's~~ rights of the minor under this act as they would apply if the ~~child~~ minor were to object to admission, and the ~~child~~ minor has consented to admission.

~~3. If admission or transfer from a private mental health facility to a state-operated mental health facility is sought, the community mental health center serving the area in which the child resides shall provide the mental health evaluation required by this section and shall ensure that the necessary written findings have been made before approving the admission.~~

~~4. 2.~~ A copy of the written findings of the evaluation required by this section shall be provided to the consenting parent and the parent shall have the opportunity to discuss the findings with the person conducting the evaluation.

~~3. The parent or legal custodian may request a peace officer to take a minor into custody and transport the minor to the mental health or substance abuse treatment facility for evaluation if the parent or legal custodian applies for evaluation or treatment as provided for in this section.~~

~~e. D.~~ The determinations and written statements of a licensed mental health professional made pursuant to this section shall, upon the admission of the ~~child~~ minor for inpatient evaluation or treatment, be made a part of the medical record of the ~~child~~ minor.

~~D. Inpatient treatment of a child admitted under this section may not exceed ninety (90) consecutive days unless continued~~

~~inpatient treatment has been authorized by appropriate hospital medical personnel, based upon their written findings that the criteria set forth in subsection B of this section continue to be met, after such persons have examined the child and interviewed the consenting parent and reviewed reports submitted by members of the facility staff familiar with the child's condition.~~

E. Any ~~child~~ minor younger than sixteen (16) years of age admitted under this section ~~while younger than sixteen (16) years of age~~ and the ~~child's~~ consenting parent of the minor shall be informed orally and in writing by the director of the facility for inpatient treatment within five (5) days prior to the ~~child's~~ sixteenth birthday of the minor that continued voluntary treatment under the authority of this section requires the ~~child's~~ consent of the minor.

F. ~~1.~~ If the parent who consented to a ~~child's~~ the admission of a minor under this section revokes such consent at any time, or if a ~~child~~ minor sixteen (16) or older objects at any time to further treatment, the ~~child~~ minor shall be discharged within forty-eight (48) hours to the custody of such consenting parent, unless ~~the parent of the child refusing or revoking such consent or, when the parent revokes such consent, the facility, requests the district attorney to file a petition alleging the child to be a child in need of mental health treatment and to require inpatient treatment~~ minor is detained in accordance with the provisions of subsection B of Section ~~5-506~~ 5-208 of this title.

~~2.~~ ~~In such cases, the child may be detained up to three (3) days, excluding weekends and legal holidays, pending the filing of the petition and if a petition is filed, the child may be detained in the mental health facility only upon an order of the court pending hearing on the petition and further order of the court.~~

G. ~~Nothing in this section shall be interpreted to prohibit or preclude an emergency admission of a child to a mental health facility when the condition of the child warrants such admission.~~

~~Whenever the admission of a child who has been admitted to a mental health facility as an emergency patient continues for longer than seventy-two (72) hours for the purpose of continued inpatient evaluation or treatment the provisions of subsection B of this section shall apply~~ The parent or legal custodian who applied for the admission of the minor shall have the right to authorize the evaluation, care, and treatment of the minor and the right to refuse permission to medicate the minor except that medication may be given in emergency situations.

SECTION 5. AMENDATORY 43A O.S. 2001, Section 5-506, is amended to read as follows:

Section 5-506. A. Upon the application of a parent ~~with whom the child resides,~~ a child minor sixteen (16) years of age or older who objects to admission may be admitted to a mental health or substance abuse treatment facility that is willing to admit the child minor for up to ~~three (3) days~~ seventy-two (72) hours, excluding weekends and legal holidays. ~~If admission or transfer from a private mental health facility to a state-operated facility is sought, the community mental health center serving the area in which the child resides shall provide the required mental health evaluations and reports and shall ensure that the necessary written findings have been made.~~

B. 1. ~~A child admitted pursuant to this section or detained as provided by Section 5-505 of this title shall be evaluated within forty-eight (48) hours of admission or detention by an independent licensed mental health professional and a report of the evaluation shall be submitted to the district attorney.~~

2. ~~Upon admission of a child pursuant to this section or detention pursuant to Section 5-505 of this title, the person requesting the petition shall immediately notify the district attorney. The child may be held by the mental health facility longer than three (3) days, excluding weekends and legal holidays,~~

~~only after a petition is filed and upon an order of the court pending a hearing on a petition alleging the child to be a child in need of mental health treatment and to require inpatient treatment and further order of the court~~ A licensed mental health professional who is not, and will not, be treating the minor, and who has no financial interest in the hospitalization of the minor shall conduct a mental health evaluation of a minor admitted under this section within twenty-four (24) hours of the admission of the minor.

C. ~~A child admitted under this section who rescinds an objection may be retained in the hospital pursuant to Section 5-505 of this title~~ 1. If, upon examination, the licensed mental health professional determines the minor is not a minor in need of treatment, the minor shall be released to the custody of the parent or legal custodian who consented to the admission of the minor. Nothing in this section shall be deemed to affect the terms and provisions of any valid court order of custody affecting the minor.

2. If, upon examination, the licensed mental health professional determines that the minor is a minor in need of treatment, the facility shall immediately file a petition in accordance with the involuntary commitment procedures provided for in Sections 5-410 through 5-421 of this title.

D. If the parent who consented to a ~~child's~~ minor's admission under this section revokes such consent at any time, the ~~child~~ minor shall be released within forty-eight (48) hours to the ~~parent's~~ custody of the parent or legal custodian unless the person in charge of the facility, or a designee, ~~requests the filing of~~ files a petition ~~as provided by subsection C of Section 5-503~~ in accordance with the involuntary commitment procedures in Sections 5-410 through 5-421 of this title.

E. A parent may request a peace officer take a minor into custody and transport the minor to the mental health or substance

abuse treatment facility for evaluation if the parent applies for evaluation or treatment under this section.

SECTION 6. AMENDATORY 43A O.S. 2001, Section 5-509, is amended to read as follows:

Section 5-509. A. ~~A petition alleging a child to be a child in need of inpatient mental health treatment shall be filed by a district attorney and may be filed by a district attorney only after receipt and review of the report of an independent licensed mental health professional stating that in the opinion of said professional the child has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to the child or another person if mental health services are not provided, and upon the request of:~~

~~1. A parent, a public or private child care agency having legal custody of the child, or a mental health facility; or~~

~~2. When the child is a ward of the court, the Department of Human Services, the Office of Juvenile Affairs or juvenile bureau having supervision of the case or by the parent of the child with the consent of the Department or Office, as applicable, or juvenile bureau having supervision of the case.~~

B. ~~If after receipt and review of the report of a licensed mental health professional:~~

~~1. The district attorney declines to file a petition, the child shall be discharged to the custody of the consenting parent or public or private agency having custody of the child; or~~

~~2. The petition is filed, a copy of the report of the licensed mental health professional shall be attached to the petition and notice shall be given as provided by Section 5-510 of this title minor may be taken into protective custody and held in emergency detention pursuant to the procedures provided for in Sections 5-206 through 5-209 of this title.~~

B. A petition for the involuntary commitment of a minor may be filed and heard pursuant to the procedures provided for in Sections 5-410 through 5-421 of this title. In addition to the individuals identified in subsection A of Section 5-410 of this title, the following persons may petition the court for the involuntary commitment of a minor:

1. A public or private child care agency having legal custody of the minor, or a mental health or substance abuse treatment facility; or

2. When the minor is a ward of the court, the Department of Human Services, the Office of Juvenile Affairs, or the parent of the minor with the consent of the Department of Human Services or the Office of Juvenile Affairs.

C. 1. The proceeding shall be entitled "In the matter of _____, a ~~child~~ minor alleged to be in need of inpatient mental health or substance abuse treatment".

2. The petition shall ~~allege that the child has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or another person if mental health services are not provided and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation~~ minor is a minor in need of treatment and shall be verified and may be based upon information and belief. It shall set forth:

- a. with particularity the facts which bring the ~~child~~ minor within the purview of the Inpatient Mental Health and Substance Abuse Treatment of Children Minors Act,
- b. the name, age and residence of the ~~child~~ minor,
- c. the names and residences of ~~his~~ the parents of the minor,

- d. the name and residence of ~~his~~ the legal guardian of
the minor, if there be one,
- e. the name and residence of the person or persons having
custody or control of the ~~child~~ minor, and
- f. the name and residence of the nearest known relative,
if no parent or guardian can be found,
- ~~g. the relief requested, and~~
- ~~h. an endorsement of witnesses intended to be called by
the petitioner.~~

3. The report of a mental health evaluation of the minor by a
licensed mental health professional shall be attached to a petition
for an order committing a minor to a facility for inpatient mental
health or substance abuse treatment. If the court finds the report
submitted with the petition to be inadequate to aid the court in the
disposition of the case, the court shall order an independent mental
health evaluation of the minor and the preparation of a proposed
individualized treatment plan for the minor.

D. Upon the filing of a petition pursuant to this section, the
person requesting the petition shall ensure that a proposed
individual treatment plan for the ~~child~~ minor is prepared and
submitted to the court at least twenty-four (24) hours prior to the
time set for the hearing. Whenever possible, the proposed
individual treatment plan shall be attached to the petition.

SECTION 7. AMENDATORY 43A O.S. 2001, Section 5-510, is
amended to read as follows:

Section 5-510. A. Upon the filing of a petition alleging a
~~child~~ minor to be a ~~child~~ minor in need of ~~mental health~~ treatment,
the court shall:

1. ~~If the child is not represented by counsel, appoint~~ Appoint
an attorney to represent the ~~child~~ minor if the minor is not
represented by counsel. An attorney so appointed shall consult with
the ~~child~~ minor at least twenty-four (24) hours prior to the date

set for hearing the petition. In addition, the court may appoint a guardian ad litem as provided by Section ~~1109~~ 7003-3.7 of Title 10 of the Oklahoma Statutes; and

2. Set a date for a hearing on the petition. Said date shall not be less than one (1) day, or more than three (3) days, excluding weekends and legal holidays, from the date of the filing of the petition. Upon the request of the attorney for the ~~child~~ minor, the date of the hearing may be extended once for up to an additional three (3) days, excluding weekends and holidays; ~~and.~~

~~3. Cause notice of the date, time, place and purpose of the hearing~~

B. In addition to the notice required by Section 5-412 of this title, the court shall cause a copy of the petition and any attachments to the petition to be given to the petitioner, the child, and, if not the petitioner, the parents of the child and, if applicable, the person in charge of the mental health facility minor if they are not the petitioners. If the ~~child~~ minor is a ward of the court, and if not the petitioner, notice shall also be given to a the public or private child care agency having legal custody of the ~~child~~ minor, if any, or to the person at the Department of Human Services, or the Office of Juvenile Affairs ~~or the applicable juvenile bureau~~ responsible for the supervision of the case. Said notice shall be given at least twenty-four (24) hours prior to the date set for the hearing and shall be given in such manner as directed by the court.

~~B. The report of a mental health evaluation of the child by an independent licensed mental health professional shall be attached to a petition for an order committing a child to a facility for inpatient mental health treatment.~~

~~1. If the court finds the report submitted with the petition to be inadequate to aid the court in the disposition of the case, the court shall order an independent mental health evaluation of the~~

~~child and the preparation of a proposed individualized treatment plan for the child.~~

~~2. The court may order such other reports as it deems necessary in order to aid the court in the disposition of the case.~~

SECTION 8. AMENDATORY 43A O.S. 2001, Section 5-511, is amended to read as follows:

Section 5-511. A. Hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. The provisions of subsection F of Section 5-415 of this title regarding the confidentiality of records of court proceedings shall apply to proceedings under the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by Title 10 of the Oklahoma Statutes for court records relating to ~~children~~ minors.

B. The ~~child~~ minor may remain silent as a matter of right in hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act and shall be so advised.

C. A decision determining a ~~child~~ minor to be a ~~child~~ minor in need of ~~mental health~~ treatment must be based on sworn testimony and the ~~child~~ minor must have the opportunity for cross-examination unless the facts are stipulated. Where the facts are stipulated, the judge must ascertain from the ~~child~~ minor if ~~he~~ the minor agrees with the stipulation and ~~if he~~ understands the consequences of stipulating the facts.

D. In hearings to determine whether a ~~child~~ minor is a minor in need of ~~mental health~~ treatment, the ~~child~~ minor shall have the right to demand a trial by jury, which shall be granted as in other

cases, unless waived, or the judge on his own motion may call a jury to try any such case. Such jury shall consist of six (6) persons.

SECTION 9. AMENDATORY 43A O.S. 2001, Section 5-512, is amended to read as follows:

Section 5-512. A. At the hearing the court shall determine whether by clear and convincing evidence:

~~1. The child has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or another person if mental health services are not provided and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; and~~

2. ~~The child~~ the minor is a minor in need of the inpatient ~~mental health~~ treatment proposed in the individualized treatment plan and is likely to benefit from such treatment.

B. After a hearing, the court shall order the ~~child~~ minor to receive the least restrictive ~~mental health~~ care and treatment appropriate for the treatment needs of the ~~child~~ minor until such time as the care and treatment are no longer necessary.

~~C. The court shall not commit a child to a mental health facility for inpatient treatment unless the court determines:~~

~~1. The child has a demonstrable mental illness and as a result of that mental illness can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or another person if mental health services are not provided and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; or~~

~~2. That all reasonable efforts have been made to provide for the mental health treatment needs of the child through the provision of less restrictive alternatives to inpatient treatment and that such alternatives have failed to meet the treatment needs of the child; or~~

~~3. After a thorough consideration of less restrictive alternatives to inpatient treatment, that the condition of the child is such that less restrictive alternatives are unlikely to meet the mental health treatment needs of the child; and~~

~~4. There are no comparably effective mental health services available to the child that are less physically intrusive or restrictive.~~

~~D. Whenever, after a hearing, the court finds that the child:~~

~~1. Is not a child in need of mental health treatment the court shall dismiss the case; or~~

~~2. Is a child in need of mental health treatment but does not require inpatient treatment, the court may order mental health treatment or services through a less restrictive alternative to inpatient mental health treatment, which may include ordering the child to take medication as prescribed by a physician and, upon a finding that it is in the best interests of the child, the court may order the parents or other adult persons living in the home of the child to comply with reasonable conditions relating to the treatment of the child.~~

~~E. Whenever, after a hearing, the court finds that the child minor is a child minor in need of mental health treatment and requires inpatient treatment in a mental health or substance abuse treatment facility, the court shall order the commitment of the child minor to a mental health or substance abuse treatment facility for not more than thirty (30) days, and:~~

~~1. When the child minor is in the custody of a parent or legal guardian, order the parent or legal guardian to make arrangements for the admission of the child minor to a public or private mental health or substance abuse treatment facility appropriate for the inpatient care and treatment of children minors which is willing to admit the child minor for treatment; and~~

2. When the ~~child~~ minor is in the custody of the Department of Human Services or the Office of Juvenile Affairs, order the Department or Office, as applicable, to make arrangements for the placement of the ~~child~~ minor in a public or private mental health or substance abuse treatment facility appropriate for the inpatient treatment needs of the ~~child~~ minor.

F. D. Whenever the court commits a ~~child~~ minor to a mental health or substance abuse treatment facility for inpatient treatment pursuant to this section, the court shall set the matter for review and shall review the matter not more than thirty (30) days from the date of commitment and shall continue to review the matter at intervals of not more than thirty (30) days until the ~~child~~ minor is discharged from inpatient ~~mental health~~ treatment. After the review and a determination by the court that the ~~child~~ minor continues to meet the criteria for inpatient treatment, the court may extend the commitment order for up to thirty (30) days and set the matter for review as required by this subsection.

SECTION 10. AMENDATORY 43A O.S. 2001, Section 5-513, is amended to read as follows:

Section 5-513. A. Within ten (10) days after the admission of a ~~child~~ minor for inpatient ~~mental health~~ treatment, whether through a voluntary admission or an order of commitment ~~pursuant to Section 5-512 of this title~~, the person in charge of the facility in which the ~~child~~ minor is being treated shall ensure that an individualized treatment plan has been prepared by the person responsible for the ~~child's~~ treatment of the minor. The ~~child~~ minor shall be involved in the preparation of the treatment plan to the maximum extent consistent with ~~his~~ the ability of the minor to understand and participate. The parent of the ~~child or, if the child is in the custody of the Department of Human Services or the Office of Juvenile Affairs, the designated representative of the Department or~~

~~Office, as applicable,~~ minor shall be involved to the maximum extent consistent with the treatment needs of the ~~child~~ minor.

B. The ~~child~~ minor shall be discharged from the facility when ~~he~~ the minor no longer meets the admission or commitment criteria, as determined by appropriate ~~hospital~~ medical staff review after such persons have examined the ~~child~~ minor and reviewed reports submitted by ~~members of the~~ facility staff familiar with the ~~child's~~ condition of the minor. If not previously discharged, a ~~child~~ minor committed by a court to inpatient ~~mental health~~ treatment shall be discharged upon the expiration of a court order committing the ~~child~~ minor for inpatient treatment or an order of the court directing the discharge of the ~~child~~ minor.

C. Prior to the discharge of the ~~child~~ minor from inpatient treatment, a discharge plan for the ~~child~~ minor shall be prepared and explained to the ~~child~~ minor and the parent of the ~~child~~ minor, or, if the ~~child~~ minor is in the custody of the Department of Human Services or the Office of Juvenile Affairs, a designated representative of the ~~Department or Office, as applicable~~ agency. The plan shall include but not be limited to:

1. The services required by the ~~child~~ minor in the community to meet ~~his~~ the minor's needs for treatment, education, housing and physical care and safety;

2. Identification of the public or private agencies that will be involved in providing treatment and support to the ~~child~~ minor; and

3. Information regarding medication which should be prescribed to the ~~child~~ minor; and

4. An appointment for follow-up outpatient treatment and medication management.

D. If the ~~child~~ minor is a ward of the court and is in the legal custody of the Department of Human Services, the Office of Juvenile Affairs or a private child care agency, or under the

supervision of ~~the Department, a statutorily constituted juvenile bureau or Office, as applicable~~ such state or private agency, copies of the treatment and discharge plans shall be sent to the person ~~at the Department of Human Services or other applicable person~~ responsible for the supervision of the case.

SECTION 11. REPEALER 43A O.S. 2001, Sections 5-504, 5-507 and 5-508, are hereby repealed.

SECTION 12. This act shall become effective November 1, 2002.

48-2-8395 MG 6/12/15