

EHB 2865

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THE STATE SENATE
Monday, April 10, 2006

ENGROSSED

House Bill No. 2865

ENGROSSED HOUSE BILL NO. 2865 - By: WORTHEN of the House and CAIN of the Senate.

An Act relating to mental health; amending 43A O.S. 2001, Sections 1-103, as last amended by Section 1, Chapter 195, O.S.L. 2005 and 1-109, as last amended by Section 3, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2005, Sections 1-103 and 1-109), which relate to the Mental Health Law; modifying certain definitions; placing limitation on disclosure requirement; amending Section 14, Chapter 488, O.S.L. 2002, 43A O.S. 2001, Sections 3-315, as amended by Section 16, Chapter 46, O.S.L. 2003, 3-317, as amended by Section 17, Chapter 488, O.S.L. 2002, Section 19, Chapter 488, O.S.L. 2002, Section 16, Chapter 195, O.S.L. 2005 and Section 18, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2005, Sections 3-306.1, 3-315, 3-317, 3-319, 3-320 and 3-322), which relate to Unified Community Mental Health Services Act; authorizing establishment and collection of certain fees for certain programs; restricting amount for application and renewal fees; authorizing contracts with public and private entities for certain services; amending 43A O.S. 2001, Sections 3-403, as last amended by Section 4, Chapter 196, O.S.L. 2003 and 3-415, as last amended by Section 20, Chapter 195, O.S.L. 2005 (43A O.S. Supp. 2005, Sections 3-403 and 3-415), which relate to the Oklahoma Alcohol and Drug Abuse Services Act; modifying scope of certain definition; authorizing postponement, denial, revocation or suspension of certificates under certain circumstances; authorizing establishment and collection of certain fees for certain programs; amending 43A O.S. 2001, Sections 3-601, as last amended by Section 22, Chapter 150, O.S.L. 2005 and 3-602, as last amended by Section 25, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2005, Sections 3-601 and 3-602), which relate to narcotic treatment programs; clarifying requirements for use of Class II controlled dangerous substances; providing for promulgation of rules and standards for certain programs; requiring entities be certified to provide certain treatment; providing certain penalties for noncompliance

1 with rules and standards; clarifying certain approval
2 requirement; amending 43A O.S. 2001, Sections 5-206, as last
3 amended by Section 16, Chapter 113, O.S.L. 2004, 5-207, as
4 last amended by Section 26, Chapter 195, O.S.L. 2005 and 5-
5 208, as last amended by Section 38, Chapter 150, O.S.L. 2005
6 (43A O.S. Supp. 2005, Sections 5-206, 5-207 and 5-208),
7 which relate to emergency detention and protective custody;
8 modifying scope of certain definitions; modifying emergency
9 detention procedures; requiring initial assessments under
10 certain circumstances; amending 43A O.S. 2001, Sections 5-
11 410, as last amended by Section 1, Chapter 191, O.S.L. 2004,
12 5-411, as amended by Section 38, Chapter 488, O.S.L. 2002,
13 5-412, as amended by Section 39, Chapter 488, O.S.L. 2002,
14 5-414, as amended by Section 41, Chapter 488, O.S.L. 2002,
15 5-415, as last amended by Section 48, Chapter 150, O.S.L.
16 2005 and 5-416, as last amended by Section 49, Chapter 150,
17 O.S.L. 2005 (43A O.S. Supp. 2005, Sections 5-410, 5-411, 5-
18 412, 5-414, 5-415 and 5-416), which relate to involuntary
19 commitment procedures; deleting certain references;
20 providing for mental health evaluations; providing for
21 substance abuse treatment; deleting certificate of
22 evaluation requirements; deleting certain form; providing
23 for initial assessments; amending 43A O.S. 2001, Sections 5-
24 501, as last amended by Section 50, Chapter 150, O.S.L.
25 2005, 5-502, as last amended by Section 2, Chapter 110,
26 O.S.L. 2005, 5-503, as last amended by Section 3, Chapter
27 110, O.S.L. 2005, Section 4, Chapter 110, O.S.L. 2005, 43A
28 O.S. 2001, Sections 5-506, as last amended by Section 5,
29 Chapter 110, O.S.L. 2005, 5-507, as last amended by Section
30 7, Chapter 130, O.S.L. 2003, 5-508, as last amended by
31 Section 6, Chapter 110, O.S.L. 2005, 5-509, as last amended
32 by Section 9, Chapter 130, O.S.L. 2003 and 5-512, as last
33 amended by Section 12, Chapter 130, O.S.L. 2003 (43A O.S.
34 Supp. 2005, Sections 5-501, 5-502, 5-503, 5-505.1, 5-506, 5-
35 507, 5-508, 5-509 and 5-512), which relate to Inpatient
36 Mental Health Substance Abuse Treatment of Minors Act;
37 allowing admittance of minors under certain circumstances;
38 modifying scope of certain definition; providing for initial
39 assessments; providing statutory references; requiring
40 certain notification by district attorney; providing for
41 mental health evaluations; clarifying mental health
42 evaluation requirements; providing limitation for commitment
43 of minors for treatment; repealing 43A O.S. 2001, Sections
44 3-312, as amended by Section 1, Chapter 28, O.S.L. 2003 and
45 3-314.1, as last amended by Section 14, Chapter 195, O.S.L.
46 2005 (43A O.S. Supp. 2005, Sections 3-312 and 3-314.1),

1 which relate to domestic violence and sexual assault;
2 repealing 43A O.S. 2001, Sections 3-501 and 3-502, which
3 relate to Oklahoma Comprehensive Mental Health Services for
4 the Deaf and Hard-of-Hearing Act; repealing 43A O.S. 2001,
5 Sections 9-102, as last amended by Section 70, Chapter 150,
6 O.S.L. 2005, 9-103, as last amended by Section 71, Chapter
7 150, O.S.L. 2005, and 9-104 (43A O.S. Supp. 2005, Sections
8 9-102 and 9-103), which relate to commitment of alcohol- or
9 drug-dependent persons; providing for codification;
10 providing effective dates; and declaring an emergency.

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

12 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as
13 last amended by Section 1, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
14 2005, Section 1-103), is amended to read as follows:

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

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

20 2. "Chair" means the chair of the Board of Mental Health and
21 Substance Abuse Services;

22 3. "Mental illness" means a substantial disorder of thought,
23 mood, perception, psychological orientation or memory that
24 significantly impairs judgment, behavior, capacity to recognize
25 reality or ability to meet the ordinary demands of life;

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

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

4 6. "Indigent person" means a person who has not sufficient
5 assets or resources to support the person and to support members of
6 the family of the person lawfully dependent on the person for
7 support;

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

15 8. "Patient" means a person under care or treatment in a
16 facility pursuant to the Mental Health Law, or in an outpatient
17 status;

18 9. "Care and treatment" means medical care and behavioral
19 health services, as well as food, clothing and maintenance,
20 furnished to a person;

21 10. Whenever in this law or in any other law, or in any rule or
22 order made or promulgated pursuant to this law or to any other law,
23 or in the printed forms prepared for the admission of patients or

1 for statistical reports, the words "insane", "insanity", "lunacy",
2 "mentally sick", "mental disease" or "mental disorder" are used,
3 such terms shall have equal significance to the words "mental
4 illness";

5 11. "Licensed mental health professional" means:

- 6 a. a psychiatrist who is a diplomate of the American
7 Board of Psychiatry and Neurology,
- 8 b. a physician licensed pursuant to Section 480 et seq.
9 or Section 620 et seq. of Title 59 of the Oklahoma
10 Statutes who has received specific training for and is
11 experienced in performing mental health therapeutic,
12 diagnostic, or counseling functions,
- 13 c. a clinical psychologist who is duly licensed to
14 practice by the State Board of Examiners of
15 Psychologists,
- 16 d. a professional counselor licensed pursuant to Section
17 1901 et seq. of Title 59 of the Oklahoma Statutes,
- 18 e. a person licensed as a clinical social worker pursuant
19 to the provisions of the Social Worker's Licensing
20 Act,
- 21 f. a licensed marital and family therapist as defined in
22 Section 1925.1 et seq. of Title 59 of the Oklahoma
23 Statutes,

1 g. a licensed behavioral practitioner as defined in
2 Section 1930 et seq. of Title 59 of the Oklahoma
3 Statutes, or

4 h. an advanced practice nurse as defined in Section 567.1
5 et seq. of Title 59 of the Oklahoma Statutes
6 specializing in mental health;

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

10 13. a. "Person requiring treatment" means:

11 (1) a person who because of a mental illness of the
12 person represents a risk of harm to self or
13 others, or

14 (2) a person who is a drug- or alcohol-dependent
15 person and who as a result of dependency
16 represents a risk of harm to self or others, ~~or~~

17 ~~(3) a person who appears to require inpatient~~
18 ~~treatment:~~

19 ~~(a) (i) for a previously diagnosed history of~~
20 ~~schizophrenia, bipolar disorder, or~~
21 ~~major depression with suicidal intent,~~
22 ~~or~~

1 ~~(ii) due to the appearance of symptoms of~~
2 ~~schizophrenia, bipolar disorder, or~~
3 ~~major depression with suicidal intent,~~
4 and

5 ~~(b) for whom such treatment is reasonably~~
6 ~~believed will prevent progressively more~~
7 ~~debilitating mental impairment.~~

8 ~~Nothing in divisions (1) and (2) of this subparagraph~~
9 ~~shall be limited by the provisions of division (3) of~~
10 ~~this subparagraph.~~

11 b. Unless a person also meets the criteria established in
12 subparagraph a of this paragraph, person requiring
13 treatment shall not mean:

14 (1) a person whose mental processes have been
15 weakened or impaired by reason of advanced years,

16 (2) a mentally retarded or developmentally disabled
17 person as defined in Title 10 of the Oklahoma
18 Statutes,

19 (3) a person with seizure disorder, or

20 (4) a person with a traumatic brain injury;

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

1 15. "Executive director" means the person in charge of a
2 facility as defined in this section;

3 16. "Private hospital or institution" means any general
4 hospital maintaining a neuro-psychiatric unit or ward, or any
5 private hospital or facility for care and treatment of a person
6 having a mental illness, which is not supported by state or federal
7 government, except that the term shall include the Oklahoma Memorial
8 Hospital Neuro-psychiatric Unit. The term "private hospital" or
9 "institution" shall not include nursing homes or other facilities
10 maintained primarily for the care of elderly and disabled persons;

11 17. "Individualized treatment plan" means a proposal developed
12 during the stay of an individual in a facility, under the provisions
13 of this title, which is specifically tailored to the treatment needs
14 of the individual. Each plan shall clearly include the following:

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

19 b. treatment methods and procedures to be used to obtain
20 these goals, which methods and procedures are related
21 to each of these goals and which include specific
22 prognosis for achieving each of these goals,

- 1 c. identification of the types of professional personnel
2 who will carry out the treatment procedures, including
3 appropriate medical or other professional involvement
4 by a physician or other health professional properly
5 qualified to fulfill legal requirements mandated under
6 state and federal law,
- 7 d. documentation of involvement by the individual
8 receiving treatment and, if applicable, the
9 accordance of the individual with the treatment plan,
10 and
- 11 e. a statement attesting that the executive director of
12 the facility or clinical director has made a
13 reasonable effort to meet the plan's individualized
14 treatment goals in the least restrictive environment
15 possible closest to the home community of the
16 individual; and

17 18. "Risk of harm to self or others" means:

- 18 a. a substantial risk of immediate physical harm to self
19 as manifested by evidence or serious threats of or
20 attempts at suicide or other significant self-
21 inflicted ~~or~~ bodily harm,
- 22 b. a substantial risk of immediate physical harm to
23 another person or persons as manifested by evidence of

- 1 violent behavior directed toward another person or
2 persons,
- 3 c. having placed another person or persons in a
4 reasonable fear of violent behavior directed towards
5 such person or persons or serious physical harm to
6 them as manifested by serious and immediate threats,
- 7 d. there exists a ~~reasonable certainty~~ substantial risk
8 that without immediate ~~treatment~~ intervention severe
9 impairment or injury will result to the person alleged
10 to be a person requiring treatment ~~as manifested by~~
11 ~~the inability of the person to avoid or protect self~~
12 ~~from such impairment or injury,~~ or
- 13 e. a substantial risk of immediate serious physical
14 ~~impairment or injury to self,~~ or immediate death, as
15 manifested by evidence that the person is unable to
16 provide for and is not providing for the basic
17 physical needs of the person and that appropriate
18 provision for those needs cannot be made immediately
19 available in the community.

20 Unless a person also meets the criteria established in subparagraphs
21 a, b, c, d, or e of this paragraph, "risk of harm to self or others"
22 does not mean a person who is homeless.

1 SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-109, as
2 last amended by Section 3, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
3 2005, Section 1-109), is amended to read as follows:

4 Section 1-109. A. 1. All mental health and drug or alcohol
5 abuse treatment information, whether or not recorded, and all
6 communications between a physician or psychotherapist and a patient
7 are both privileged and confidential. In addition, the identity of
8 all persons who have received or are receiving mental health or drug
9 or alcohol abuse treatment services shall be considered confidential
10 and privileged.

11 2. Such information shall only be available to persons actively
12 engaged in the treatment of the patient or in related administrative
13 work. The information available to persons actively engaged in the
14 treatment of the consumer or in related administrative work shall be
15 limited to the minimum amount of information necessary for the
16 person or agency to carry out its function.

17 3. Except as otherwise provided in this section, such
18 information shall not be disclosed to anyone not involved in the
19 treatment of the patient or related administrative work.

20 B. A person who is or has been a patient of a physician,
21 psychotherapist, mental health facility, a drug or alcohol abuse
22 treatment facility or service, other agency for the purpose of
23 mental health or drug or alcohol abuse care and treatment shall be

1 entitled to personal access to his or her mental health or drug or
2 alcohol abuse treatment information, except the following:

3 1. Information contained in notes recorded in any medium by a
4 mental health professional documenting or analyzing the contents of
5 conversation during a private counseling session or a group, joint
6 or family counseling session, and that is separated from the rest of
7 the patient's medical record;

8 2. Information compiled in reasonable anticipation of or for
9 use in a civil, criminal or administrative action or proceeding;

10 3. Information that is otherwise privileged or prohibited from
11 disclosure by law;

12 4. Information the person in charge of the care and treatment
13 of the patient determines to be reasonably likely to endanger the
14 life or physical safety of the patient or another person;

15 5. Information created or obtained as part of research that
16 includes treatment; provided, the patient consented to the temporary
17 suspension of access while the research is ongoing. The patient's
18 right of access shall resume upon completion of the research;

19 6. Information requested by an inmate that a correctional
20 institution has determined may jeopardize the health, safety,
21 security, custody or rehabilitation of the inmate or other person;
22 and

1 7. Information obtained under a promise of confidentiality and
2 the access requested would be reasonably likely to reveal the source
3 of the information.

4 C. 1. A valid written release for disclosure of mental health
5 or drug or alcohol abuse treatment information shall have, at a
6 minimum, the following elements:

- 7 a. the specific name or general designation of the
- 8 program or person permitted to make the disclosure,
- 9 b. the name or title of the individual or the name of the
- 10 organization to which disclosure is to be made,
- 11 c. the name of the patient whose records are to be
- 12 released,
- 13 d. the purpose of the disclosure,
- 14 e. a description of the information to be disclosed,
- 15 f. the dated signature of the patient or authorized
- 16 representative or both when required,
- 17 g. a statement of the right of the patient to revoke the
- 18 release in writing and a description of how the
- 19 patient may do so,
- 20 h. an expiration date, event or condition which, if not
- 21 revoked before, shall ensure the release will last no
- 22 longer than reasonably necessary to serve the purpose
- 23 for which it is given, and

1 i. if the release is signed by a person authorized to act
2 for a patient, a description of the authority of such
3 person to act.

4 2. A release is not valid if the document submitted has any of
5 the following defects:

- 6 a. the expiration date has passed or the expiration event
7 or condition is known to have occurred or to exist,
8 b. the release has not been filled out completely with
9 respect to an element described in paragraph 1 of this
10 section,
11 c. the release is known to have been revoked, or
12 d. any material information in the release is known to be
13 false.

14 3. A revocation of a release as provided in this section shall
15 be in writing and may be made at any time, except when:

- 16 a. information has already been released in reliance
17 thereon,
18 b. the authorization was obtained as a condition of
19 obtaining insurance coverage and other law provides
20 the insurer with the right to contest a claim under
21 the policy or the policy itself, or
22 c. the release was executed as part of a criminal justice
23 referral.

1 4. Disclosure regarding a deceased patient shall require either
2 a court order or a written release of an executor, administrator or
3 personal representative appointed by the court, or if there is no
4 such appointment, by the spouse of the patient or, if none, by any
5 responsible member of the family of the patient. As used in this
6 paragraph, "responsible family member" means the parent, adult
7 child, adult sibling or other adult relative who was actively
8 involved in providing care to or monitoring the care of the patient
9 as verified by the physician, psychologist or other person
10 responsible for the care and treatment of such person.

11 D. Except as otherwise permitted, mental health and alcohol or
12 substance abuse treatment information may not be disclosed without
13 valid patient authorization or a valid court order issued by a court
14 of competent jurisdiction. For purposes of this section, a subpoena
15 by itself is not sufficient to authorize disclosure of mental health
16 and alcohol or substance abuse treatment information.

17 E. An authorization shall not be required for the following
18 uses and disclosures, but information disclosed pursuant to one of
19 these exceptions must be limited to the minimum amount of
20 information necessary:

21 1. Disclosure by a health care provider of mental health
22 information necessary to carry out such provider's own treatment,
23 payment, or health care operations;

1 2. Communications to law enforcement officers regarding
2 information directly related to the commission of a crime on the
3 premises of a facility or against facility personnel, or a threat to
4 commit such a crime. Such communications involving persons with
5 substance abuse disorders shall be limited to the circumstances
6 surrounding the incident, patient status, name and address of the
7 patient and patient's last-known whereabouts;

8 3. A review preparatory to research, research on decedents
9 information or research conducted when a waiver of authorization has
10 been approved by either an institutional review board or privacy
11 board;

12 4. Communications pursuant to a business associate agreement,
13 qualified service organization agreement or a qualified service
14 organization/business associate agreement. As used in this
15 paragraph:

- 16 a. "business associate agreement" means a written signed
17 agreement between a health care provider and an
18 outside entity which performs or assists in the
19 performance of a function or activity involving the
20 use or disclosure of individually identifiable health
21 information on behalf of the health care provider,
22 b. "qualified service organization agreement" means a
23 written, signed agreement between a health care

1 provider and an outside entity which provides services
2 to the health care provider's consumers that are
3 different from the services provided by the health
4 care provider, that allows the health care provider to
5 communicate consumer information necessary for the
6 outside entity to provide services to the health care
7 provider's consumers without the need for an
8 authorization signed by a consumer and in which the
9 outside entity acknowledges that in receiving,
10 storing, processing or otherwise dealing with any
11 consumer information from the health care provider it
12 is fully bound by the provisions of 42 C.F.R., Part 2
13 and, if necessary, will resist any efforts in judicial
14 proceedings to obtain access to consumer information,
15 except as permitted by 42 C.F.R., Part 2, and
16 c. "qualified service organization/business agreement"
17 means a written, signed agreement between a health
18 care provider and an outside entity which provides
19 services to the health care provider's consumers that
20 are different from the services provided by the health
21 care provider, that allows the health care provider to
22 communicate consumer information necessary for the
23 outside entity to provide services to the health care

1 provider's consumers without the need for an
2 authorization signed by a consumer, and in which the
3 outside entity acknowledges that in receiving,
4 storing, processing or otherwise dealing with any
5 consumer information from the health care provider it
6 is fully bound by the provisions 42 C.F.R., Part 2
7 and, if necessary, will resist any efforts in judicial
8 proceedings to obtain access to consumer information,
9 except as permitted by 42 C.F.R., Part 2. The
10 agreement must also contain elements required by
11 federal privacy regulations in 45 C.F.R., Parts 160 &
12 164;

13 5. Reporting under state law incidents of suspected child abuse
14 or neglect to the appropriate authorities; provided, however, for
15 disclosures involving an individual with a substance abuse disorder,
16 this exception does not allow for follow-up communications;

17 6. Disclosure of patient-identifying information to medical
18 personnel who have a need for information about a patient for the
19 purpose of treating a condition which poses an immediate threat to
20 the health of any individual and which requires immediate medical
21 intervention;

22 7. Communications necessary for audit and evaluation
23 activities;

1 8. When a program or facility director determines that an adult
2 person with a substance abuse disorder has a medical condition which
3 prevents the person from "knowing or effective action on his or her
4 own behalf", the program or facility director may authorize
5 disclosures for the sole purpose of obtaining payment for services.
6 If the person has been adjudicated incompetent, the facility must
7 seek permission to disclose information for payment from the legal
8 guardian;

9 9. Reporting of such information as otherwise required by law;
10 provided, however, such disclosure may not identify the person
11 directly or indirectly as a person with a substance abuse disorder;

12 10. Communications to coroners, medical examiners and funeral
13 directors for the purpose of identifying a deceased person,
14 determining a cause of death, or other duties as authorized by law
15 and as necessary to carry out their duties; provided, however, such
16 disclosure may not identify the person directly or indirectly as a
17 person with a substance abuse disorder;

18 11. Communications to organ procurement organizations or other
19 entities engaged in procurement, banking, or transplantation of
20 cadaveric organs, eyes or tissue for the purpose of facilitating
21 organ, eye or tissue donation and transplantation; provided,
22 however, such disclosure may not identify the person directly or
23 indirectly as a person with a substance abuse disorder;

1 12. Disclosure to professional licensure boards investigating
2 alleged unethical behavior towards a patient; provided, however,
3 such disclosure may not identify the person directly or indirectly
4 as a person with a substance abuse disorder;

5 13. Disclosure to the parent of a minor for the purpose of
6 notifying the parent of the location of his or her child; provided,
7 however, such disclosure may not identify the person directly or
8 indirectly as a person with a substance abuse disorder;

9 14. Mental health records may be disclosed to parties in a
10 judicial or administrative proceeding in cases involving a claim for
11 personal injury or death against any practitioner of the healing
12 arts, a licensed hospital, or a nursing facility or nursing home
13 licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma
14 Statutes arising out of patient care, where any person has placed
15 the physical or mental condition of that person in issue by the
16 commencement of any action, proceeding, or suit for damages, or
17 where any person has placed in issue the physical or mental
18 condition of any other person or deceased person by or through whom
19 the person rightfully claims;

20 15. Disclosure of patient-identifying information when it
21 appears from all the circumstances that the individual has escaped
22 from a correctional institution or from lawful custody and the

1 release is to a law enforcement authority for the purpose of
2 identification and apprehension; and

3 16. When failure to disclose the information presents a serious
4 threat to the health and safety of a person or the public; provided,
5 however, such disclosure may not identify the person directly or
6 indirectly as a person with a substance abuse disorder.

7 SECTION 3. AMENDATORY Section 14, Chapter 488, O.S.L.
8 2002 (43A O.S. Supp. 2005, Section 3-306.1), is amended to read as
9 follows:

10 Section 3-306.1 A. The Board of Mental Health and Substance
11 Abuse Services shall promulgate rules and standards for
12 certification of a facility or organization that desires to be
13 certified as a community mental health center.

14 B. Applications for certification as a community mental health
15 center shall be made to the Department of Mental Health and
16 Substance Abuse Services on prescribed forms. The Board, or the
17 Commissioner of Mental Health and Substance Abuse Services upon
18 delegation by the Board, may certify the community mental health
19 centers for a period of three (3) years subject to renewal as
20 provided in the rules promulgated by the Board.

21 C. The ~~Board~~ Department of Mental Health and Substance Abuse
22 Services is authorized to establish ~~an application and renewal fee~~
23 ~~of no more than One Hundred Fifty Dollars (\$150.00) to defray the~~

1 ~~costs incurred in the~~ and collect certification process and renewal
2 fees for certification of community mental health centers as
3 provided in Section 9 of this act.

4 D. The Department shall not enter into a contract with a
5 community mental health center unless it is certified pursuant to
6 this section.

7 E. Certified community mental health centers shall comply with
8 standards adopted by the Board. Such standards shall be in
9 compliance with:

10 1. The Joint Commission on Accreditation of Healthcare
11 Organizations;

12 2. The Commission on Accreditation of Rehabilitation
13 Facilities; or

14 3. Approved medical and professional standards as determined by
15 the Board.

16 F. Failure to comply with rules and standards promulgated by
17 the Board shall be grounds for revocation, suspension or nonrenewal
18 of certification.

19 SECTION 4. AMENDATORY 43A O.S. 2001, Section 3-315, as
20 amended by Section 16, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2005,
21 Section 3-315), is amended to read as follows:

22 Section 3-315. A. The Board of Mental Health and Substance
23 Abuse Services shall adopt minimum standards for program

1 certification for residential care homes operating as community
2 residential mental health programs as provided in this section. The
3 standards shall be adopted as rules and promulgated by the Board of
4 Mental Health and Substance Abuse Services pursuant to the
5 provisions of the Administrative Procedures Act.

6 B. The program certification standards adopted by the Board
7 shall provide for a system of classification of community
8 residential mental health programs based upon the level of care
9 required by residents of the facility and establish minimum program
10 certification standards for each classification. The program
11 certification standards adopted by the Board for each classification
12 shall be such that residential care facilities having a valid
13 contract with the Department and licensed by the State Department of
14 Health on July 1, 1988, shall be qualified and eligible for program
15 certification within an appropriate classification.

16 C. The Department shall not enter into a contract with a
17 residential care home unless such home is certified as a community
18 residential mental health program. The Department shall terminate
19 the contract of any home that fails to meet contract provisions
20 regarding financial statements.

21 D. The Department of Mental Health and Substance Abuse Services
22 is authorized to establish and collect certification and renewal

1 fees for certification of community residential mental health
2 facilities and programs as provided in Section 9 of this act.

3 SECTION 5. AMENDATORY 43A O.S. 2001, Section 3-317, as
4 amended by Section 17, Chapter 488, O.S.L. 2002 (43A O.S. Supp.
5 2005, Section 3-317), is amended to read as follows:

6 Section 3-317. A. The Board of Mental Health and Substance
7 Abuse Services, or the Commissioner of Mental Health and Substance
8 Abuse Services upon delegation by the Board, shall certify
9 community-based structured crisis centers for the provision of
10 nonhospital emergency services for mental health and substance abuse
11 crisis intervention. The Board shall promulgate rules for the
12 certification of community-based structured crisis centers.

13 B. No community-based structured crisis center shall operate or
14 continue to operate unless the facility complies with the rules
15 promulgated by the Board and is certified as required by this
16 section.

17 C. For the purposes of this section, "community-based
18 structured crisis center" means any certified community mental
19 health center or facility operated by the Department which is
20 established and maintained for the purpose of providing community-
21 based mental health and substance abuse crisis stabilization
22 services including, but not limited to, observation, evaluation,

1 emergency treatment and referral, when necessary, for inpatient
2 psychiatric or substance abuse treatment services.

3 D. The Department of Mental Health and Substance Abuse Services
4 is authorized to establish and collect certification and renewal
5 fees for certification of community-based structured crisis centers
6 as provided in Section 9 of this act.

7 SECTION 6. AMENDATORY Section 19, Chapter 488, O.S.L.
8 2002 (43A O.S. Supp. 2005, Section 3-319), is amended to read as
9 follows:

10 Section 3-319. A. The Board of Mental Health and Substance
11 Abuse Services shall promulgate rules and standards for
12 certification of facilities or organizations that desire to be
13 certified as a program of assertive community treatment for the
14 provision of community-based comprehensive treatment for persons
15 with serious mental illness and related disorders.

16 B. Applications for certification as a program of assertive
17 community treatment shall be made to the Department on prescribed
18 forms. The Board, or the Commissioner upon delegation by the Board,
19 may certify the program of assertive community treatment for a
20 period of three (3) years subject to renewal as provided in the
21 rules promulgated by the Board. The Department of Mental Health and
22 Substance Abuse Services is authorized to establish and collect

1 certification and renewal fees for certification of programs for
2 assertive community treatment as provided in Section 9 of this act.

3 C. The Department shall not enter into a contract with a
4 program of assertive community treatment unless it is certified
5 pursuant to this section.

6 D. No program of assertive community treatment shall operate or
7 continue to operate unless the program complies with the rules
8 promulgated by the Board and is certified as required by this
9 section.

10 E. Failure to comply with regulations and standards promulgated
11 by the Board shall be grounds for revocation, suspension or
12 nonrenewal of certification.

13 SECTION 7. AMENDATORY Section 16, Chapter 195, O.S.L.
14 2005 (43A O.S. Supp. 2005, Section 3-320), is amended to read as
15 follows:

16 Section 3-320. A. The Board of Mental Health and Substance
17 Abuse Services shall promulgate rules and standards for
18 certification of eating disorder treatment programs and for private
19 facilities and organizations that offer eating disorder treatment
20 services in this state. Such facilities and organizations shall be
21 known as "Certified Eating Disorder Treatment Programs".

22 B. For purposes of this section, "eating disorder treatment"
23 means any treatment for anorexia nervosa, bulimia nervosa, or any

1 other severe disturbances in eating behavior specified in the most
2 current edition of the Diagnostic and Statistical Manual of Mental
3 Disorders.

4 C. Applications for certification as a certified eating
5 disorder treatment program, pursuant to the provisions of this
6 section, shall be made to the Department of Mental Health and
7 Substance Abuse Services on prescribed forms. The Board, or the
8 Commissioner upon delegation by the Board, may certify the program
9 for a period of three (3) years subject to renewal as provided in
10 the rules promulgated by the Board. Nothing in this section shall
11 preclude the Department from making inspection visits to a program
12 to determine program compliance.

13 D. Licensed physicians, licensed psychologists, licensed social
14 workers, individual members of the clergy, licensed marital and
15 family therapists, registered nurses, licensed behavioral
16 practitioners, and licensed professional counselors shall be exempt
17 from certification requirements; provided, however, these exemptions
18 shall only apply to individual professional persons in their private
19 practices and not to any eating disorder treatment program operated
20 by such person.

21 E. The Department of Mental Health and Substance Abuse Services
22 is hereby authorized to establish and collect ~~from each applicant~~
23 ~~the sum of Three Hundred Dollars (\$300.00) to defray the costs~~

1 ~~incurred in the~~ certification ~~procedure~~ and renewal fees for
2 certification of eating disorder treatment programs as provided in
3 Section 9 of this act.

4 SECTION 8. AMENDATORY Section 18, Chapter 195, O.S.L.
5 2005 (43A O.S. Supp. 2005, Section 3-322), is amended to read as
6 follows:

7 Section 3-322. A. The Board of Mental Health and Substance
8 Abuse Services shall promulgate rules and standards for
9 certification of gambling addiction treatment programs and for
10 private facilities and organizations which offer gambling addiction
11 treatment services in this state. These facilities and
12 organizations shall be known as "Certified Gambling Addiction
13 Treatment Programs".

14 B. Applications for certification as a certified gambling
15 addiction treatment program, pursuant to the provisions of this
16 section, shall be made to the Department of Mental Health and
17 Substance Abuse Services on prescribed forms. The Board, or the
18 Commissioner of Mental Health and Substance Abuse Services upon
19 delegation by the Board, may certify the program for a period of
20 three (3) years, subject to renewal as provided in rules promulgated
21 by the Board. Nothing in this section shall preclude the Department
22 from making inspection visits to a program to determine program
23 compliance.

1 C. Licensed physicians, licensed psychologists, licensed social
2 workers, individual members of the clergy, licensed marital and
3 family therapists, registered nurses, licensed behavioral
4 practitioners, and licensed professional counselors shall be exempt
5 from certification requirements; provided, however, these exemptions
6 shall only apply to individual professional persons in their private
7 practices and not to any gambling addiction treatment program
8 operated by the person.

9 D. Facilities providing services for gambling addiction shall
10 comply with standards promulgated by the Board; provided, that the
11 certification requirements and standards shall not apply to programs
12 and services offered by other state agencies. The gambling
13 addiction treatment programs certified pursuant to the provisions of
14 this section shall cooperate with inspection personnel of the state
15 and shall promptly file all reports required by the Department.
16 Failure to comply with rules and standards of the Board shall be
17 ground for revocation of certification, after proper notice and
18 hearing.

19 E. The Department of Mental Health and Substance Abuse Services
20 is hereby authorized to establish and collect ~~from each applicant~~
21 ~~the sum of Three Hundred Dollars (\$300.00) to defray the costs~~
22 ~~incurred in the~~ certification procedure and renewal fees for

1 certification of gambling addiction treatment programs as provided
2 in Section 9 of this act.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-324 of Title 43A, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Department of Mental Health and Substance Abuse Services
7 is hereby authorized to establish and collect certification and
8 renewal fees for certification of any program the Department is
9 authorized by law to certify, to defray the costs incurred in the
10 certification and renewal inspections and procedures.

11 B. The application and renewal fees for certification shall not
12 exceed Three Hundred Dollars (\$300.00) per certification.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 3-325 of Title 43A, unless there
15 is created a duplication in numbering, reads as follows:

16 The Department of Mental Health and Substance Abuse Services is
17 hereby authorized to contract with public and private entities for
18 the purpose of providing treatment, evaluation, prevention and other
19 services related to the duties of the Department set forth in this
20 title.

21 SECTION 11. AMENDATORY 43A O.S. 2001, Section 3-403, as
22 last amended by Section 4, Chapter 196, O.S.L. 2003 (43A O.S. Supp.
23 2005, Section 3-403), is amended to read as follows:

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

3 1. "Approved treatment facility" means any facility which:
4 a. offers either inpatient, intermediate or outpatient
5 treatment to any person suffering from alcohol or drug
6 abuse, or alcohol- or drug-related problems, and
7 b. is certified by the Board of Mental Health and
8 Substance Abuse Services;

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

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

1 4. "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 5. "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 6. "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;

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

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

11 9. "Transitional living facility" and "halfway house" means an
12 approved treatment facility which offers or provides temporary
13 residential accommodations, meals, supervision at all times
14 residents are in the facility or on facility premises, and services,
15 including counseling, short-term supportive care, case management,
16 mental health services or treatment services ~~to residents pursuant~~
17 ~~to a contract with the Department of Mental Health and Substance~~
18 ~~Abuse Services;~~

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

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

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

14 SECTION 12. AMENDATORY 43A O.S. 2001, Section 3-415, as
15 last amended by Section 20, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
16 2005, Section 3-415), is amended to read as follows:

17 Section 3-415. A. 1. The Board of Mental Health and Substance
18 Abuse Services shall promulgate rules and standards for
19 certification for private facilities and organizations which provide
20 treatment, counseling and rehabilitation services directed toward
21 alcohol- and drug-dependent persons. These facilities and
22 organizations shall be known as "Certified Services for the Alcohol
23 and Drug Dependent". Only certified facilities may receive and

1 assist alcohol- and drug-dependent persons by providing treatment
2 and rehabilitation.

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

7 B. Applications for certification as a certified service for
8 the alcohol- and drug-dependent person pursuant to the provisions of
9 this section shall be made to the Department of Mental Health and
10 Substance Abuse Services on prescribed forms.

11 C. The Board, or the Commissioner of Mental Health and
12 Substance Abuse Services upon delegation by the Board, may certify
13 the facility for a period of thirty-six (36) months subject to
14 renewal as provided.

15 D. ~~For good cause shown including, but not limited to, The~~
16 Board or the Commissioner of Mental Health and Substance Abuse
17 Services upon delegation by the Board, may postpone, deny renewal
18 of, revoke, or suspend the certification of the facility for failure
19 to comply with rules and standards promulgated by the Board, ~~pending~~
20 ~~state or federal investigations, or verified complaints concerning~~
21 ~~matters affecting the proper operation or ownership of the facility,~~
22 ~~the Board may postpone, deny renewal of, revoke, or suspend the~~
23 ~~certification of the facility.~~

1 E. Licensed physicians, licensed psychologists, licensed social
2 workers, registered nurses, licensed professional counselors,
3 licensed marriage and family therapists, licensed behavioral
4 practitioners, individual members of the clergy, and certified
5 alcohol or drug abuse counselors are exempt from the regulations and
6 standards for certification, provided that such exemptions shall
7 apply only to individual professional persons in their private
8 practice and not to any treatment facility operated by such person.
9 Properly licensed hospitals, psychiatric and medical surgical
10 facilities, programs or facilities operated by a state agency,
11 programs conducted and facilities operated by Alcoholics Anonymous,
12 or the Salvation Army are also exempt from the provisions of the
13 Oklahoma Alcohol and Drug Abuse Services Act.

14 F. Certified services for the alcohol- or drug-dependent person
15 shall comply with standards adopted by the Board. Such standards
16 shall require that treatment and therapeutic methods shall be in
17 compliance with:

18 1. The Joint Commission on Accreditation of Healthcare
19 Organizations;

20 2. The Commission on Accreditation of Rehabilitation
21 Facilities; or

22 3. Approved medical and professional standards as determined by
23 the Board.

1 G. Any facility or organization certified to provide certified
2 services shall cooperate with inspection personnel of the state and
3 shall promptly file all reports required by the Board.

4 H. All claims by and accomplishments publicized by any
5 applicant for certification or any certified alcohol- or drug-
6 dependent organization, including but not limited to patient count
7 and success rates, shall be documented and verifiable by the Board.

8 I. The ~~Board~~ Department of Mental Health and Substance Abuse
9 Services is hereby authorized to establish and collect from each
10 applicant the sum of One Hundred Dollars (\$100.00) annually to help
11 defray the costs incurred in the certification procedure and renewal
12 fees for certification of private facilities and organizations which
13 provide treatment, counseling and rehabilitation services directed
14 toward alcohol- and drug-dependent persons, as provided in Section 9
15 of this act.

16 J. Any materials or information received by the Department from
17 an applicant regarding the applicant's financial status shall not be
18 construed to be open records pursuant to the Oklahoma Open Records
19 Act.

20 SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-601, as
21 last amended by Section 22, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
22 2005, Section 3-601), is amended to read as follows:

1 Section 3-601. A. Any Class II controlled dangerous substance,
2 when used in this state by an opioid substitution treatment program
3 for persons with a history of opioid addiction to or physiologic
4 dependence on controlled dangerous substances, shall only be used:

5 1. In treating persons with a history of addiction for two (2)
6 years or more;

7 2. In treating persons with a one-year history of opioid
8 addiction to or physiologic dependence on controlled dangerous
9 substances, as defined by the Code of Federal Regulations, and
10 documentation of attempting another type of treatment; or

11 3. If clinically appropriate, the program physician may waive
12 the requirement of a one-year history of opioid addiction for
13 consumers within six (6) months of release from a penal institution,
14 for consumers with a pregnancy verified by the program physician, or
15 for consumers having previously received treatment for opioid
16 addiction and within two (2) years of discharge from that treatment
17 episode.

18 B. Any conviction for a violation of the provisions of this
19 section or any rules promulgated pursuant to the provisions of this
20 section shall be a felony.

21 C. For the purposes of this section, "opioid substitution
22 treatment program" means a person, private physician, or
23 organization that administers or dispenses an opioid drug to a

1 narcotic addict for the purposes of detoxification or maintenance
2 treatment or provides, when necessary and appropriate, comprehensive
3 medical and rehabilitation services. A private physician who
4 administers buprenorphine with a waiver from the Drug Enforcement
5 Administration shall not be considered an opioid substitution
6 treatment program. An opioid substitution treatment program shall
7 be ~~approved~~ certified by the Board of Mental Health and Substance
8 Abuse Services, or the Commissioner of Mental Health and Substance
9 Abuse Services upon delegation by the Board, and registered with the
10 federal Drug Enforcement Administration for the use of an opioid
11 drug to treat narcotic addiction.

12 D. The Department of Mental Health and Substance Abuse Services
13 shall promulgate rules and standards for the certification of all
14 programs, private facilities, and organizations which provide opioid
15 substitution treatment directed to those physiologically dependent
16 on or addicted to opioids. These facilities and organizations shall
17 be known as "Opioid Substitution Treatment Programs". Only
18 certified facilities may receive and assist opioid dependent and
19 addicted persons by providing Class II controlled substances in
20 opioid substitution treatment and rehabilitation.

21 E. The Department of Mental Health and Substance Abuse Services
22 shall promulgate rules and standards regulating the treatment and
23 services provided by opioid substitution treatment programs.

1 F. Opioid substitution treatment programs shall notify the
2 Department of Mental Health and Substance Abuse Services of plans to
3 close or relocate within a minimum of thirty (30) days prior to
4 closure or relocation.

5 G. Failure to comply with rules and standards promulgated by
6 the Department of Mental Health and Substance Abuse Services
7 pursuant to this act shall be grounds for reprimand, suspension,
8 revocation or nonrenewal of certification.

9 SECTION 14. AMENDATORY 43A O.S. 2001, Section 3-602, as
10 last amended by Section 25, Chapter 46, O.S.L. 2003 (43A O.S. Supp.
11 2005, Section 3-602), is amended to read as follows:

12 Section 3-602. A. A course of treatment in an opioid
13 substitution treatment program may include, but shall not be limited
14 to, short-term detoxification, interim maintenance treatment or
15 comprehensive maintenance treatment depending on the availability of
16 such services and the needs of the individual.

17 B. The Department of Mental Health and Substance Abuse Services
18 shall approve any drug and the formulation or formulations to be
19 used in an opioid substitution treatment program and the Board shall
20 promulgate rules establishing guidelines for the maximum daily dose,
21 not to exceed limits set by the Code of Federal Regulations.
22 Pregnancy tests for women shall be conducted upon admission to an

1 opioid substitution treatment program and at least annually
2 thereafter, unless otherwise indicated.

3 SECTION 15. AMENDATORY 43A O.S. 2001, Section 5-206, as
4 last amended by Section 16, Chapter 113, O.S.L. 2004 (43A O.S. Supp.
5 2005, Section 5-206), is amended to read as follows:

6 Section 5-206. As used in Sections 5-206 through 5-209 of this
7 title:

8 1. "~~Evaluation~~ Mental health evaluation" means the examination
9 of a person who appears to have a mental illness or be alcohol- or
10 drug-dependent by two licensed mental health professionals, at least
11 one of whom is a psychiatrist who is a diplomat of the American
12 Board of Psychiatry and Neurology, a licensed clinical psychologist,
13 or a licensed Doctor of Medicine or Doctor of Osteopathy who has
14 received specific training for and is experienced in performing
15 mental health therapeutic, diagnostic, or counseling functions, for
16 the purpose of:

- 17 a. determining if a petition requesting involuntary
18 commitment or treatment is warranted, or
19 b. completing a certificate of evaluation pursuant to
20 Section 5-414 of this title, or
21 c. both subparagraphs a and b of this paragraph;

22 2. "~~Emergency examination~~ Initial assessment (medical necessity
23 review)" means the examination of a person who appears to be a

1 mentally ill person, an alcohol-dependent person, or a drug-
2 dependent person and a person requiring treatment, whose condition
3 is such that it appears that emergency detention may be warranted by
4 a licensed mental health professional at a facility approved by the
5 Commissioner of Mental Health and Substance Abuse Services, or a
6 designee, as appropriate for such examination to determine if
7 emergency detention of the person is warranted;

8 3. "Emergency detention" means the detention of a person who
9 appears to be a person requiring treatment in a facility approved by
10 the Commissioner of Mental Health and Substance Abuse Services as
11 appropriate for such detention after the completion of an emergency
12 examination and a determination that emergency detention is
13 warranted for a period not to exceed seventy-two (72) hours,
14 excluding weekends and holidays, except upon a court order
15 authorizing detention beyond a seventy-two-hour period or pending
16 the hearing on a petition requesting involuntary commitment or
17 treatment as provided by this act;

18 4. "Protective custody" means the taking into protective
19 custody and detention of a person pursuant to the provisions of
20 Section 5-208 of this title until such time as an emergency
21 examination is completed and a determination is made as to whether
22 or not emergency detention is warranted; and

1 5. "Prehearing detention" means the court-ordered detention of
2 a person who is alleged to be mentally ill, alcohol-dependent, or
3 drug-dependent in a facility approved by the Commissioner as
4 appropriate for such detention, pending a hearing on a petition
5 requesting involuntary commitment or treatment as provided by
6 Section 5-415 or 9-102 of this title.

7 SECTION 16. AMENDATORY 43A O.S. 2001, Section 5-207, as
8 last amended by Section 26, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
9 2005, Section 5-207), is amended to read as follows:

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

17 B. Any peace officer who reasonably believes that a person is a
18 person requiring treatment as defined in Section 1-103 of this title
19 shall take the person into protective custody. The officer shall
20 make every reasonable effort to take the person into custody in the
21 least conspicuous manner.

22 C. The officer shall prepare a written affidavit statement
23 indicating the basis for the officer's belief that the person is a

1 person requiring treatment and the circumstances under which the
2 officer took the person into protective custody. The officer shall
3 give a copy of the statement to the person or the person's attorney
4 upon the request of either. If the officer does not make the
5 determination to take an individual into protective custody on the
6 basis of the officer's personal observation, the officer shall not
7 be required to prepare a written affidavit statement. However, the
8 person stating to be mentally ill, alcohol-dependent, or drug-
9 dependent or the person upon whose statement the officer relies
10 shall sign a written statement indicating the basis for such
11 person's belief that the person is a person requiring treatment.
12 Any false statement given to the officer by the person upon whose
13 statement the officer relies shall be a misdemeanor and subject to
14 the sanctions of Title 21 of the Oklahoma Statutes.

15 D. If the person is medically stable, the officer shall
16 immediately transport the person to the nearest facility designated
17 by the Commissioner of Mental Health and Substance Abuse Services as
18 an appropriate facility for ~~emergency examinations~~ an initial
19 assessment. If, subsequent to an ~~emergency examination~~ initial
20 assessment, it is determined that emergency detention is warranted,
21 the officer shall transport the person to the nearest facility,
22 designated by the Commissioner as appropriate for such detention,
23 that has bed space available. If it is determined by the facility

1 director or designee that the person is not medically stable, the
2 officer shall transport the person to the nearest hospital or other
3 appropriate treatment facility.

4 E. The parent, brother or sister who is eighteen (18) years of
5 age or older, child who is eighteen (18) years of age or older, or
6 guardian of the person, or a person who appears to be or states that
7 such person is mentally ill, alcohol-dependent, or drug-dependent to
8 a degree that emergency action is necessary may request the
9 administrator of a facility designated by the Commissioner as an
10 appropriate facility for an ~~emergency examination~~ initial assessment
11 to conduct an ~~emergency examination~~ initial assessment to determine
12 whether the condition of the person is such that emergency detention
13 is warranted and, if emergency detention is warranted, to detain the
14 person as provided in Section 5-206 of this title.

15 SECTION 17. AMENDATORY 43A O.S. 2001, Section 5-208, as
16 last amended by Section 38, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
17 2005, Section 5-208), is amended to read as follows:

18 Section 5-208. A. 1. A consumer in protective custody as
19 provided by Section 5-207 of this title shall be subject to an
20 ~~emergency examination~~ initial assessment at the appropriate facility
21 by a licensed mental health professional within twelve (12) hours of
22 being placed in protective custody for the purpose of determining
23 whether emergency detention of the consumer is warranted.

1 2. If, upon examination, the licensed mental health
2 professional determines that the consumer is not a person requiring
3 treatment or that the condition of the consumer is such that
4 emergency detention is not warranted, the consumer shall either be
5 returned by an officer immediately to the point where the consumer
6 was taken into protective custody and released or taken to the home
7 or residence of such consumer or to an alternative facility. If the
8 home or residence of the consumer is a nursing home or group home,
9 such home shall not refuse the return of the consumer to his or her
10 residence.

11 3. If, upon examination, the licensed mental health
12 professional determines that the consumer is a person requiring
13 treatment to a degree that emergency detention is warranted, the
14 licensed mental health professional shall immediately prepare a
15 statement describing the findings of the examination and stating the
16 basis for the determination, and the consumer shall be detained in
17 emergency detention for a period not to exceed seventy-two (72)
18 hours, excluding weekends and holidays, except upon a court order
19 authorizing detention pending a hearing on a petition requesting
20 involuntary commitment or treatment.

21 4. During the emergency detention period:

22 a. a ~~full examination and~~ mental health evaluation of the
23 consumer shall be conducted by two licensed mental

1 health professionals and, if the consumer appears to
2 have a mental illness or be alcohol- or drug-dependent
3 and be a consumer requiring treatment, ~~the completion~~
4 ~~of a certificate of evaluation as provided by Section~~
5 ~~5-414 of this title,~~ and

6 b. reasonable efforts shall be made to determine whether
7 the consumer has a current and unrevoked advance
8 directive executed pursuant to the Advance Directives
9 for Mental Health Treatment Act.

10 B. If a licensed mental health professional, designated to have
11 the responsibility by the executive director or person in charge of
12 a hospital, or the executive director or person in charge of a
13 facility designated by the Commissioner of Mental Health and
14 Substance Abuse Services as appropriate for emergency detention
15 believes a voluntary consumer to be a person requiring treatment to
16 a degree that emergency action is necessary, the hospital or
17 facility may detain such consumer in emergency detention for a
18 period not to exceed seventy-two (72) hours, excluding weekends and
19 holidays, only on the following conditions:

20 1. The consumer has refused to consent or has withdrawn consent
21 to voluntary treatment;

22 2. The consumer has been examined by a licensed mental health
23 professional who has determined that the consumer is a person

1 requiring treatment, the condition of the consumer is such that
2 emergency detention is warranted, and a statement has been prepared
3 as provided in subsection A of this section; and

4 3. The executive director or person in charge or the designee
5 shall provide for a ~~full examination and~~ mental health evaluation of
6 the consumer by two licensed mental health professionals ~~and, if the~~
7 ~~person appears to be a person requiring treatment, the completion of~~
8 ~~a certificate of evaluation.~~

9 C. Whenever it appears that a consumer detained pursuant to the
10 provisions of this section is no longer a person requiring treatment
11 and will not require treatment beyond the period of detention, the
12 consumer shall be discharged and returned by an officer to the point
13 where he or she was taken into protective custody, or if the
14 consumer had not been in protective custody, the consumer shall be
15 taken to the home or residence of the consumer or to an alternative
16 facility. If the home or residence of the consumer is a nursing
17 home or group home, it shall not refuse the return of the consumer
18 to his or her residence.

19 D. Whenever it appears that a person detained as provided by
20 this section will require treatment beyond the period of emergency
21 detention and the person has refused to consent to voluntary
22 treatment, a licensed mental health professional conducting an
23 evaluation of the person or the executive director of the facility

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

8 SECTION 18. AMENDATORY 43A O.S. 2001, Section 5-410, as
9 last amended by Section 1, Chapter 191, O.S.L. 2004 (43A O.S. Supp.
10 2005, Section 5-410), is amended to read as follows:

11 Section 5-410. A. The following persons may file or request
12 the district attorney to file a petition with the district court,
13 upon which is hereby conferred jurisdiction, to determine whether an
14 individual ~~has a mental illness and~~ is a person requiring treatment,
15 and to order the least restrictive appropriate treatment for the
16 person:

17 1. The father, mother, husband, wife, brother, sister, guardian
18 or child, over the age of eighteen (18) years, of an individual
19 alleged to ~~have a mental illness and to~~ be a person requiring
20 treatment;

21 2. A licensed mental health professional;

1 3. The executive director of a facility designated by the
2 Commissioner of Mental Health and Substance Abuse Services as
3 appropriate for emergency detention;

4 4. An administrator of a hospital that is approved by the Joint
5 Commission on Accreditation of Healthcare Organizations; provided,
6 however, in any involuntary commitment procedure in which a hospital
7 is the petitioner pursuant to the provisions of this section, the
8 hospital may participate in such hearing without retaining their own
9 legal counsel if the hospital provides as a witness a mental health
10 therapist or a licensed mental health professional;

11 5. A person in charge of any correctional institution;

12 6. Any peace officer within the county in which the individual
13 alleged to ~~have a mental illness and to~~ be a person requiring
14 treatment resides or may be found; or

15 7. The district attorney in whose district the person resides
16 or may be found.

17 B. The petition shall contain a statement of the facts upon
18 which the allegation is based and, if known, the names and addresses
19 of any witnesses to the alleged facts.

20 1. The petition shall be verified and made under penalty of
21 perjury.

1 2. A request for the prehearing detention of the individual
2 alleged to ~~have a mental illness and to~~ be a person requiring
3 treatment may be attached to the petition.

4 3. If the individual alleged to ~~have a mental illness and to~~ be
5 a person requiring treatment is being held in emergency detention, a
6 copy of the ~~certificate of~~ mental health evaluation shall be
7 attached to the petition.

8 C. The inpatient mental health treatment of minors shall be
9 pursuant to the provisions of the Inpatient Mental Health Treatment
10 of Minors Act.

11 SECTION 19. AMENDATORY 43A O.S. 2001, Section 5-411, as
12 amended by Section 38, Chapter 488, O.S.L. 2002 (43A O.S. Supp.
13 2005, Section 5-411), is amended to read as follows:

14 Section 5-411. A. An individual alleged to ~~have a mental~~
15 ~~illness and to~~ be a person requiring treatment shall have the
16 following rights:

17 1. The right to notice, as provided by Section 5-412 of this
18 title;

19 2. The right to counsel, including court-appointed counsel, and
20 if the person has no counsel, that the court shall appoint an
21 attorney to represent the person at no cost if the person is an
22 indigent person and cannot afford an attorney;

1 3. The right to a hearing and the right to a closed hearing,
2 unless the person requests otherwise;

3 4. Upon request, right to a jury trial. The jury shall be
4 composed of six persons having the qualifications required of jurors
5 in courts of record;

6 5. The right to be present at the hearing on the petition or
7 jury trial. The person shall be present at the hearing or jury
8 trial unless the court finds that the presence of the person alleged
9 to be a ~~mentally ill~~ person requiring treatment makes it impossible
10 to conduct the hearing or trial in a reasonable manner or that the
11 presence of the person would be injurious to the health or well-
12 being of such person.

13 a. The court shall not decide in advance of the hearing,
14 solely on the basis of the ~~certificate of~~ mental
15 health evaluation, that the person alleged to be a
16 ~~mentally ill~~ person requiring treatment should not be
17 allowed nor required to appear.

18 b. Prior to issuing an order excluding the person from
19 the hearing or jury trial, the court shall find, based
20 upon clear and convincing evidence, that alternatives
21 to exclusion of the person were attempted;

22 6. The right to present and to cross-examine witnesses. The
23 petitioner and witnesses identified in the petition shall offer

1 testimony under oath at the hearing on the petition. When the
2 hearing is conducted as a jury trial, the petitioner and any witness
3 in behalf of the petitioner shall be subject to cross-examination by
4 the attorney for the person alleged to be a person requiring
5 treatment. The person alleged to be a person requiring treatment
6 may also be called as a witness and cross-examined.

7 B. An individual alleged to be or found by a court to ~~have a~~
8 ~~mental illness and~~ be a person requiring treatment shall be afforded
9 such other rights as are guaranteed by state and federal law.

10 C. No statement, admission or confession made by the person
11 alleged to ~~have a mental illness and to~~ be a ~~mentally ill~~ person
12 requiring treatment shall be used for any purpose except for
13 proceedings under this act. No such statement, admission or
14 confession may be used against such person in any criminal action
15 whether pending at the time the hearing is held or filed against
16 such person at any later time directly or in any manner or form.

17 D. An attorney appointed by the court to represent a person
18 alleged to ~~have a mental illness and~~ to be a person requiring
19 treatment shall be a licensed and actively practicing attorney who
20 shall represent the person until final disposition of the case. The
21 court may appoint a public defender where available.

22 1. The attorney appointed by the court shall meet and consult
23 with the person within one (1) day of notification of the

1 appointment. The attorney shall immediately, upon meeting with the
2 person alleged to be a person requiring treatment, present to such
3 person a statement of the rights, including all rights afforded to
4 persons alleged to ~~have a mental illness and to be persons~~ a person
5 requiring treatment by the Oklahoma and the United States
6 Constitutions.

7 2. The court-appointed attorney shall be replaced by another
8 attorney if:

- 9 a. the person alleged to ~~have a mental illness and to be~~
10 a person requiring treatment prefers the services of
11 an attorney other than the one initially appointed for
12 the person,
- 13 b. the preferred attorney agrees to accept the
14 responsibility, and
- 15 c. the person alleged to ~~have a mental illness and to be~~
16 a person requiring treatment or the preferred attorney
17 notifies the court of the preference and the
18 attorney's acceptance of employment.

19 The preferred attorney shall meet and consult with the person within
20 one (1) day of employment or appointment. Any request for
21 additional days shall be subject to the discretion of the court,
22 considering the facts and circumstances of each particular case,
23 including cost.

1 3. The attorney fees for all services shall be paid by the
2 person alleged to be a person requiring treatment. However, if the
3 person alleged to be a person requiring treatment, or a person
4 empowered pursuant to law to act on behalf of such person, submits
5 an affidavit that such person is indigent and unable to pay attorney
6 fees, the attorney fees shall be paid from the court fund, after a
7 determination by the court that such person is indigent. The amount
8 of such fee shall be set by the court.

9 4. The attorney representing the person alleged to ~~have a~~
10 ~~mental illness and to~~ be a person requiring treatment shall notify
11 the court of any current and unrevoked advance directive that has
12 been executed by such person pursuant to the Advance Directives for
13 Mental Health Treatment Act and provide a written copy of the
14 advance directive, if available, to the court and a representative
15 of the district attorney's office.

16 SECTION 20. AMENDATORY 43A O.S. 2001, Section 5-412, as
17 amended by Section 39, Chapter 488, O.S.L. 2002 (43A O.S. Supp.
18 2005, Section 5-412), is amended to read as follows:

19 Section 5-412. A. Notice of the date, time and place of the
20 hearing on a petition alleging a person to ~~have a mental illness and~~
21 ~~to~~ be a person requiring treatment shall be delivered to such person
22 at least one (1) day prior to the hearing. Notice shall be
23 personally delivered to the person together with a copy of the

1 petition and, ~~if applicable,~~ copies of the ~~certificate of~~ mental
2 health evaluation, ~~the affidavit of the peace officer,~~ and any order
3 of the court directing prehearing detention ~~or an evaluation of the~~
4 ~~person.~~

5 B. The notice shall contain the following information:

6 1. The definitions provided by Section 1-103 of this title of a
7 "mental illness" and a "person requiring treatment";

8 2. If applicable, that the court has ordered the mental health
9 evaluation of the person by two licensed mental health
10 professionals, at least one of whom is a psychiatrist who is a
11 diplomate of the American Board of Psychiatry and Neurology, a
12 licensed clinical psychologist, or a licensed Doctor of Medicine or
13 Doctor of Osteopathy who has received specific training for and is
14 experienced in performing mental health therapeutic, diagnostic, or
15 counseling functions, for the purpose of conducting an evaluation of
16 the person alleged to ~~have a mental illness and to~~ be a person
17 requiring treatment ~~and executing a certificate of evaluation~~
18 stating their findings, and the time and place of the evaluation;

19 3. That, upon request, the hearing on the petition may be
20 conducted as a jury trial and the jury shall be composed of six
21 persons having the qualifications required of jurors in courts of
22 record;

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

3 5. If applicable, that the court has appointed an attorney for
4 the person alleged to ~~have a mental illness and to~~ be a person
5 requiring treatment who shall represent the person until final
6 disposition of the case and that if the person is indigent, the
7 court shall pay the attorney fees;

8 6. That, if the person is found at the hearing or at a jury
9 trial to ~~have a mental illness and to~~ be a person requiring
10 treatment under this act, the court will take evidence and make
11 findings of fact concerning the person's competency to consent or to
12 refuse the treatment that is ordered, including, but not limited to,
13 the right of the person to refuse psychotropic medications; and

14 7. That the person alleged to ~~have a mental illness and to~~ be a
15 person requiring treatment shall be afforded such other rights as
16 are guaranteed by state and federal law.

17 C. The person delivering the copy of the notice and petition to
18 the person alleged to ~~have a mental illness and to~~ be a person
19 requiring treatment shall, at the time of delivery, explain the
20 content, purpose and effect of the notice and the legal right to
21 judicial review by habeas corpus.

1 D. 1. A copy of the notice, the petition, and the attachments
2 to the petition, ~~if any,~~ shall also be delivered at least one (1)
3 day prior to the hearing to:

- 4 a. the individual initiating the request for protective
5 custody, emergency detention, involuntary commitment
6 or prehearing detention,
- 7 b. the attorney or court-appointed counsel of the person,
8 to the district attorney, and to the public defender,
9 if any,
- 10 c. the facility, if any, in which the person is detained
11 in emergency detention,
- 12 d. the Department of Mental Health and Substance Abuse
13 Services, and
- 14 e. a parent, spouse, guardian, brother, sister or child
15 who is at least eighteen (18) years of age of the
16 person alleged to ~~have a mental illness and to~~ be a
17 person requiring treatment and who is not the
18 individual initiating the petition or a request for
19 protective custody, emergency detention, involuntary
20 commitment or prehearing detention. Notice shall also
21 be delivered to any other person as may be ordered by
22 the court.

1 2. The notice required by this subsection may be served
2 personally or by certified mail. When notice is served personally,
3 the person making such service shall make affidavit of the same and
4 file such notice, with proof of service, with the district court.
5 This notice may be served in any part of the state when so ordered
6 by the court.

7 E. Notice of orders of a court directing ~~an~~ a mental health
8 evaluation or prehearing detention of a person alleged to ~~have a~~
9 ~~mental illness and to~~ be a person requiring treatment shall be
10 delivered in substantially the same manner as provided by subsection
11 A of this section. Notice of a court order directing ~~an~~ a mental
12 health evaluation of the person shall be delivered at least one (1)
13 day before the evaluation, and as many additional days as are
14 requested by the person alleged to ~~have a mental illness and to~~ be a
15 person requiring treatment or the attorney of such person as are
16 reasonable without prejudice to the person. Any request for
17 additional days shall be subject to the discretion of the court,
18 considering the facts and circumstances of each particular case.

19 SECTION 21. AMENDATORY 43A O.S. 2001, Section 5-414, as
20 amended by Section 41, Chapter 488, O.S.L. 2002 (43A O.S. Supp.
21 2005, Section 5-414), is amended to read as follows:

22 Section 5-414. A. If a ~~certificate of~~ mental health evaluation
23 is not attached to a petition alleging a person to ~~have a mental~~

1 ~~illness and to~~ be a person requiring treatment at the time the
2 petition is filed, the court shall order the person who is the
3 subject of the petition to undergo ~~an~~ a mental health evaluation by
4 two licensed mental health professionals, and a ~~certificate of~~
5 mental health evaluation to be completed and filed with the court
6 prior to the hearing.

7 1. The mental health evaluation shall be conducted on an
8 outpatient basis unless the court has issued an order for prehearing
9 detention.

10 2. A copy of all petitions, orders, affidavits, police reports
11 and other relevant documents shall accompany the person to the place
12 where the mental health evaluation is to be conducted.

13 3. Upon completion of the mental health evaluation, the
14 facility shall transmit a copy of the ~~report of~~ evaluation prepared
15 by the licensed mental health professionals ~~conducting the~~
16 ~~evaluation and the certificate of evaluation~~ to the court and to the
17 attorney of record for the person evaluated.

18 B. The report of the licensed mental health professionals
19 conducting ~~an~~ the mental health evaluation pursuant to this section
20 shall include written findings as to whether:

21 1. The person being evaluated appears to ~~have a demonstrable~~
22 ~~mental illness and is~~ be a person requiring treatment as defined in

1 this title, and is reasonably likely to benefit from mental health
2 or substance abuse treatment; and

3 2. Based on the following, inpatient treatment is the least
4 restrictive alternative that meets the needs of the person:

- 5 a. reasonable efforts have been made to provide for the
6 mental health or substance abuse treatment needs of
7 the person through the provision of less restrictive
8 alternatives and the alternatives have failed to meet
9 the treatment needs of the person, or
10 b. after a thorough consideration of less restrictive
11 alternatives to inpatient treatment, the condition of
12 the person is such that less restrictive alternatives
13 are unlikely to meet the treatment needs of the
14 person.

15 ~~C. The certificate of evaluation shall be substantially in the~~
16 ~~following form and signed by two licensed mental health~~
17 ~~professionals who have participated in the evaluation of the person.~~
18 ~~At least one of the licensed mental health professionals shall be a~~
19 ~~psychiatrist who is a diplomate of the American Board of Psychiatry~~
20 ~~and Neurology, a licensed clinical psychologist, or a licensed~~
21 ~~Doctor of Medicine or Doctor of Osteopathy who has received specific~~
22 ~~training for and is experienced in performing mental health~~
23 ~~therapeutic, diagnostic, or counseling functions:~~

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~~NOTICE OF CERTIFICATION~~

~~To the District Court of _____ County,~~

~~State of Oklahoma~~

~~The authorized agency providing evaluation services in the
County~~

~~of _____ has evaluated the condition of:~~

~~Name _____~~

~~Address _____~~

~~Age _____~~

~~Sex _____~~

~~Marital status _____~~

~~We have evaluated the person and make the following findings:~~

~~The findings are based on the following:~~

1 ~~The above named person has been informed of this evaluation, and~~
2 ~~has been advised of, but has not been able or willing to accept~~
3 ~~referral to, the following services:~~

4 _____
5 _____
6 _____
7 _____
8 _____

9 ~~We hereby state that a copy of this certificate of evaluation~~
10 ~~has been delivered to the attorney of the above-named person.~~

11 SECTION 22. AMENDATORY 43A O.S. 2001, Section 5-415, as
12 last amended by Section 48, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
13 2005, Section 5-415), is amended to read as follows:

14 Section 5-415. A. Upon receiving a petition alleging a person
15 to ~~have a mental illness and to~~ be a person requiring treatment, the
16 court shall set a day and time for the hearing.

17 1. If the person alleged to ~~have a mental illness and to~~ be a
18 person requiring treatment does not have an attorney, the court
19 shall immediately appoint an attorney for the person.

20 2. If a copy of a ~~certificate of~~ mental health evaluation is
21 not attached to the petition at the time it is filed, the court
22 shall immediately order ~~an~~ a mental health evaluation of the person
23 as provided by Section 5-414 of this title.

1 B. If the court deems it necessary, or if the person alleged to
2 ~~have a mental illness and to~~ be a person requiring treatment
3 demands, the court shall schedule the hearing on the petition as a
4 jury trial to be held within seventy-two (72) hours of the demand,
5 excluding weekends and holidays, or within as much additional time
6 as is requested by the attorney of such person upon good cause
7 shown.

8 C. The court, at the hearing on the petition, shall determine
9 by clear and convincing evidence whether the person ~~has a mental~~
10 ~~illness and~~ is a person requiring treatment.

11 1. The court shall take evidence and make findings of fact
12 concerning the person's competency to consent to or refuse the
13 treatment that may be ordered, including, but not limited to, the
14 consumer's right to refuse medication.

15 2. If a jury trial is not demanded, the court may receive as
16 evidence and act upon the affidavits of the licensed mental health
17 professionals who evaluated the person and the ~~certificate of~~
18 mental health evaluation.

19 3. When the hearing is conducted as a jury trial, the
20 petitioner and any witness in behalf of the petitioner shall be
21 subject to cross-examination by the attorney for the person alleged
22 to be a person requiring treatment. The person alleged to ~~have a~~

1 ~~mental illness and to~~ be a person requiring treatment may also be
2 called as a witness and cross-examined.

3 D. After the hearing, when the court determines that the person
4 ~~does not have a mental illness and~~ is not a person requiring
5 treatment, the court shall dismiss the petition and, if the person
6 is being detained, order the person to be discharged from detention.

7 E. After the hearing, when the court determines the person to
8 ~~have a mental illness and to~~ be a person requiring treatment, the
9 court shall order the person to receive the least restrictive
10 treatment consistent with the treatment needs of the person and the
11 safety of the person and others.

12 1. The court shall not order hospitalization without a thorough
13 consideration of available treatment alternatives to hospitalization
14 and may direct the submission of evidence as to the least
15 restrictive treatment alternative or may order a ~~precommitment~~
16 ~~screening~~ mental health examination.

17 2. If the court finds that a program other than hospitalization
18 is appropriate to meet the treatment needs of the individual and is
19 sufficient to prevent injury to the individual or to others, the
20 court may order the individual to receive whatever treatment other
21 than hospitalization that is appropriate for a period set by the
22 court, during which time the court shall continue its jurisdiction
23 over the individual as a person requiring treatment.

1 3. If the court orders the person to be committed for
2 involuntary inpatient treatment, the court shall commit the person
3 to the custody of the Department of Mental Health and Substance
4 Abuse Services for a placement that is suitable to the person's
5 needs or to a private facility willing to accept the person for
6 treatment.

7 4. The person shall be delivered to the custody of the
8 Department of Mental Health and Substance Abuse Services for a
9 placement that is suitable to the person's needs or to a private
10 facility willing to accept the person for treatment.

11 5. If the person is placed in the custody of the Department,
12 the Department may designate two or more facilities to provide
13 treatment and if the person to be treated or a parent, spouse,
14 guardian, brother, sister or child, who is at least eighteen (18)
15 years of age, of the person, expresses a preference for one such
16 facility, the Department shall attempt, if administratively
17 possible, to comply with the preference.

18 6. The person shall be discharged from inpatient treatment at
19 such time as the person no longer requires treatment as determined
20 by the executive director of the facility or the designee of the
21 executive director, or as otherwise required by law.

22 F. The court shall make and keep records of all cases brought
23 before it.

1 1. No records of proceedings pursuant to this section shall be
2 open to public inspection except by order of the court or to
3 employees of the Department of Mental Health and Substance Abuse
4 Services, the person's attorney of record, or persons having a
5 legitimate treatment interest.

6 2. Bonded abstractors may be deemed to be persons having a
7 legitimate interest for the purpose of having access to records
8 regarding determinations of persons requiring treatment under this
9 section.

10 SECTION 23. AMENDATORY 43A O.S. 2001, Section 5-416, as
11 last amended by Section 49, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
12 2005, Section 5-416), is amended to read as follows:

13 Section 5-416. A. The court, in considering a commitment
14 petition filed under Section 5-410 or Section 9-102 of this title,
15 shall not order hospitalization without a thorough consideration of
16 available treatment alternatives to hospitalization, or without
17 addressing the competency of the consumer to consent to or refuse
18 the treatment that is ordered including, but not limited to, the
19 rights of the consumer:

- 20 1. To be heard concerning the treatment of the consumer; and
21 2. To refuse medications.

22 B. 1. If the court, in considering a commitment petition filed
23 under Section 5-410 or Section 9-102 of this title, finds that a

1 program other than hospitalization is adequate to meet the treatment
2 needs of the individual and is sufficient to prevent injury to the
3 individual or to others, the court may order the individual to
4 receive whatever treatment other than hospitalization is appropriate
5 for a period set by the court. During this time the court:

6 a. shall have continuing jurisdiction over the individual
7 as a person requiring treatment, and

8 b. shall periodically, no less often than annually,
9 review the treatment needs of the individual and
10 determine whether or not to continue, discontinue, or
11 modify the treatment.

12 2. If at any time it comes to the attention of the court from a
13 person competent to file or request the filing of a petition,
14 pursuant to subsection A of Section 5-410 of this title, that the
15 individual ordered to undergo a program of alternative treatment to
16 hospitalization is not complying with the order or that the
17 alternative treatment program has not been sufficient to prevent
18 harm or injury which the individual may be inflicting upon himself
19 or others, the court may order the person to show cause why the
20 court should not:

21 a. implement other alternatives to hospitalization,
22 modify or rescind the original order or direct the
23 individual to undergo another program of alternative

1 treatment, if necessary and appropriate, based on
2 written findings of the court, or
3 b. enter an order of admission pursuant to the provisions
4 of this title, directing that the person be committed
5 to inpatient treatment and, if the individual refuses
6 to comply with this order of inpatient treatment, the
7 court may direct a peace officer to take the
8 individual into protective custody and transport the
9 person to a public or private facility designated by
10 the court.

11 3. The court shall give notice to the person ordered to show
12 cause and hold the hearing within seventy-two (72) hours of the
13 notice. The person ordered to undergo a program of alternative
14 treatment shall not be detained in emergency detention pending the
15 show cause hearing unless, prior to the emergency detention, the
16 person has undergone an ~~emergency examination~~ initial examination
17 and a determination is made that emergency detention is warranted.

18 4. If an order of alternative treatment will expire without
19 further review by the court and it is believed that the individual
20 continues to require treatment, a person competent to file or
21 request the filing of a petition, pursuant to subsection A of
22 Section 5-410 of this title, may file or request the district
23 attorney file either an application for an extension of the court's

1 previous order or an entirely new petition for a determination that
2 the individual is a person requiring treatment.

3 5. A hearing on the application or petition filed pursuant to
4 paragraph 4 of this subsection shall be held within ten (10) days
5 after the application or petition is filed, unless the court extends
6 the time for good cause. In setting the matter for hearing, the
7 court shall consider whether or not the prior orders of the court
8 will expire during the pendency of the hearing and shall make
9 appropriate orders to protect the interests of the individual who is
10 the subject of the hearing.

11 C. Prior to ordering the inpatient treatment of an individual,
12 the court shall inquire into the adequacy of treatment to be
13 provided to the individual by the facility, and inpatient treatment
14 shall not be ordered unless the facility in which the individual is
15 to be treated can provide such person with treatment which is
16 adequate and appropriate to such person's condition.

17 D. Nothing in this section shall prohibit the Department of
18 Mental Health and Substance Abuse Services or the facility or
19 program providing the alternative treatment from discharging a
20 person admitted pursuant to this section, at a time prior to the
21 expiration of the period of alternative treatment, or any extension
22 thereof. The facility or program providing the alternative
23 treatment shall file a report with the court outlining the

1 disposition of each person admitted pursuant to this section within
2 forty-eight (48) hours after discharge.

3 E. Notice of any proceedings pursuant to this section shall be
4 given to the person, the person's guardian, the person's attorney,
5 and the person filing the petition or application.

6 SECTION 24. AMENDATORY 43A O.S. 2001, Section 5-501, as
7 last amended by Section 50, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
8 2005, Section 5-501), is amended to read as follows:

9 Section 5-501. A. Sections 5-501 through 5-513 of this title
10 shall be known and may be cited as the "Inpatient Mental Health and
11 Substance Abuse Treatment of Minors Act".

12 B. The Oklahoma Legislature hereby declares that the public
13 policy of this state is to:

14 1. Assure adequate treatment of minors needing mental health
15 treatment or treatment for drug or alcohol abuse;

16 2. Establish behavioral standards for determination of
17 dangerousness of persons in need of such treatment;

18 3. Require the use of the least restrictive alternative in the
19 determination of the method of treatment;

20 4. Provide orderly and reliable procedures for admission or
21 commitment of minors alleged to be in need of inpatient mental
22 health treatment or treatment for drug or alcohol abuse consistent
23 with due process of law; and

1 5. Protect the rights of consumers hospitalized pursuant to
2 law.

3 C. It is the intent of the Legislature that:

4 1. Mental health and substance abuse treatment services shall
5 be provided in the manner most likely to preserve, support and
6 strengthen the family of the minor and to assist the minor and the
7 family of the minor;

8 2. Minors needing mental health services or substance abuse
9 treatment shall, to the maximum extent possible, receive those
10 services on an outpatient basis; and

11 3. Inpatient evaluation and treatment services shall be
12 utilized only as necessary to preserve the health or safety of the
13 minor or for the protection of others in the case of a minor who, as
14 a result of a demonstrable mental illness or drug or alcohol
15 dependence, can be expected to intentionally or unintentionally
16 seriously and physically injure another person.

17 D. A minor may be admitted for inpatient mental health or
18 substance abuse treatment only pursuant to the provisions of the
19 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

20 SECTION 25. AMENDATORY 43A O.S. 2001, Section 5-502, as
21 last amended by Section 2, Chapter 110, O.S.L. 2005 (43A O.S. Supp.
22 2005, Section 5-502), is amended to read as follows:

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

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

4 2. "Minor in need of treatment" means a minor:

5 a. who has a demonstrable mental illness or who is drug
6 or alcohol dependent and as a result of that mental
7 illness or dependency can be expected within the near
8 future to inflict or attempt to inflict serious bodily
9 harm to himself or herself or another person, and who
10 has engaged in one or more recent overt acts or made
11 significant recent threats which substantially support
12 that expectation, or

13 b. who has a demonstrable mental illness or is drug or
14 alcohol dependent of sufficient severity to cause
15 substantial impairment or disability in at least two
16 of the following major areas of functioning in the
17 life of the minor:

18 (1) family relations,

19 (2) school performance,

20 (3) social interactions,

21 (4) ability to perform independently the basic tasks
22 of personal hygiene, hydration and nutrition, or

23 (5) self-protection.

1 A determination regarding the ability of the minor to perform
2 independently such basic tasks shall be based upon the age of the
3 minor and the reasonable and appropriate expectation of the
4 abilities of a minor of such age to perform such tasks.

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

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

14 4. "Individualized treatment plan" means a specific plan for
15 the care and treatment of an individual minor who requires inpatient
16 mental health treatment. The plan shall be developed with maximum
17 involvement of the family of the minor, consistent with the desire
18 of the minor for confidentiality and with the treatment needs of the
19 minor, and shall clearly include the following:

20 a. a statement of the presenting problems of the minor,
21 short- and long-term treatment goals and the estimated
22 date of discharge. The short- and long-term goals
23 shall be based upon a clinical evaluation and shall

- 1 include specific behavioral and emotional goals
2 against which the success of treatment can be
3 measured,
- 4 b. treatment methods and procedures to be used to achieve
5 these goals, which methods and procedures are related
6 to each of these goals and which include, but are not
7 limited to, specific prognosis for achieving each of
8 these goals,
- 9 c. identification of the types of professional personnel
10 who will carry out the treatment procedures including,
11 but not limited to, appropriate licensed mental health
12 professionals, education professionals, and other
13 health or social service professionals, and
- 14 d. documentation of the involvement of the minor or the
15 parent of the minor or legal custodian in the
16 development of the treatment plan and whether all
17 persons have consented to such plan;

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

1 6. "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 minor, or to
5 protect the minor or others from physical injury;

6 7. "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 minor 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 minors in need of mental health treatment, or a combination thereof;

14 8. "Licensed mental health professional" means a person who is
15 not related by blood or marriage to the person being examined or
16 does not have any interest in the estate of the person being
17 examined, and who is:

- 18 a. a psychiatrist who is a diplomate of the American
19 Board of Psychiatry and Neurology,
- 20 b. a physician licensed pursuant to Chapter 11 or Chapter
21 14 of Title 59 of the Oklahoma Statutes who has
22 received specific training for and is experienced in,

- 1 performing mental health therapeutic, diagnostic, or
2 counseling functions,
- 3 c. a clinical psychologist who is duly licensed to
4 practice by the State Board of Examiners of
5 Psychologists,
- 6 d. a professional counselor licensed pursuant to Chapter
7 44 of Title 59 of the Oklahoma Statutes,
- 8 e. a person licensed as a clinical social worker pursuant
9 to the provisions of the Licensed Social Workers Act,
- 10 f. a licensed marital and family therapist as defined in
11 Chapter 44A of Title 59 of the Oklahoma Statutes,
- 12 g. a licensed behavioral practitioner as defined in
13 Chapter 44B of Title 59 of the Oklahoma Statutes, or
- 14 h. an advanced practice nurse, as defined in Chapter 12
15 of Title 59 of the Oklahoma Statutes, specializing in
16 mental health.

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

20 9. "Mental health evaluation" means an examination or
21 evaluation of a minor for the purpose of making a determination
22 whether, in the opinion of the licensed mental health professional
23 making the evaluation, the minor is a minor in need of treatment

1 and, if so, is in need of inpatient treatment and for the purpose of
2 preparing reports or making recommendations for the most appropriate
3 and least restrictive treatment for the minor;

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

14 11. "Mental illness" means a substantial disorder of the
15 child's thought, mood, perception, psychological orientation or
16 memory that demonstrably and significantly impairs judgment,
17 behavior or capacity to recognize reality or to meet the ordinary
18 demands of life. "Mental illness" may include substance abuse,
19 which is the use, without compelling medical reason, of any
20 substance which results in psychological or physiological dependency
21 as a function of continued use in such a manner as to induce mental,
22 emotional, or physical impairment and cause socially dysfunctional
23 or socially disordering behavior;

- 1 12. "Parent" means:
- 2 a. a biological or adoptive parent who has legal custody
- 3 of the minor or has visitation rights, or
- 4 b. a person judicially appointed as a legal guardian of
- 5 the minor, or
- 6 c. a relative within the third degree of consanguinity
- 7 who exercises the rights and responsibilities of legal
- 8 custody by delegation from a parent, as provided by
- 9 law;
- 10 13. "Person responsible for the supervision of the case" means:
- 11 a. when the minor is in the legal custody of a private
- 12 child care agency, the Department of Human Services or
- 13 the Office of Juvenile Affairs, the caseworker or
- 14 other person designated by the agency to supervise the
- 15 case, or
- 16 b. when the minor is a ward of the court and under the
- 17 court-ordered supervision of the Department of Human
- 18 Services, the Office of Juvenile Affairs or a
- 19 statutorily constituted juvenile bureau, the person
- 20 designated by the Department of Human Services, the
- 21 Office of Juvenile Affairs or juvenile bureau to
- 22 supervise the case;

1 14. ~~Medical~~ Initial assessment (medical necessity review)"
2 means ~~an assessment of current and recent behaviors and symptoms to~~
3 ~~determine whether an admission for inpatient mental illness or drug~~
4 ~~or alcohol dependence treatment or evaluation constitutes the least~~
5 ~~restrictive level of care necessary. The review shall be performed~~
6 ~~by a licensed mental health professional~~ the examination of current
7 and recent behaviors and symptoms of a minor who appears to be
8 mentally ill, alcohol-dependent, or drug-dependent and a minor
9 requiring treatment, whose condition is such that it appears that
10 emergency detention may be warranted by a licensed mental health
11 professional at a facility approved by the Commissioner of Mental
12 Health and Substance Abuse Services, or a designee, as appropriate
13 for such examination to determine if emergency detention of the
14 minor is warranted, and whether admission for inpatient mental
15 illness or drug- or alcohol-dependence treatment or evaluation
16 constitutes the least restrictive level of care necessary;

17 15. "Ward of the court" means a minor adjudicated to be a
18 deprived child, a child in need of supervision, or a delinquent
19 child;

20 16. "Treatment" means any planned intervention intended to
21 improve the functioning of a minor in those areas which show
22 impairment as a result of mental illness or drug or alcohol
23 dependence; and

1 17. "Prehearing detention order" means a court order that
2 authorizes a facility to detain a minor pending a hearing on a
3 petition to determine whether the minor is a minor in need of
4 treatment.

5 SECTION 26. AMENDATORY 43A O.S. 2001, Section 5-503, as
6 last amended by Section 3, Chapter 110, O.S.L. 2005 (43A O.S. Supp.
7 2005, Section 5-503), is amended to read as follows:

8 Section 5-503. A. A parent of a minor or a minor sixteen (16)
9 years of age or older may consent to the voluntary admission of the
10 minor for inpatient mental health or substance abuse treatment.

11 B. Upon the application of a minor sixteen (16) years of age or
12 older or a parent of a minor, a mental health or substance abuse
13 facility may admit the minor for inpatient evaluation or treatment
14 if the person in charge of the facility, or a designee, determines
15 the minor to be clinically eligible for such admission, and:

16 1. After ~~a medical necessity review~~ an initial assessment, a
17 licensed mental health professional determines and states in writing
18 that there is reasonable cause to believe that the minor may be a
19 minor in need of treatment and that an evaluation is necessary to
20 properly determine the condition and treatment needs of the minor,
21 if any; and

22 2. After an outpatient or inpatient mental health evaluation, a
23 licensed mental health professional determines and states in writing

1 that in the opinion of the professional, the minor is a minor in
2 need of treatment and:

3 a. the minor appears to have a mental illness or drug or
4 alcohol dependence serious enough to warrant inpatient
5 treatment and is reasonably likely to benefit from the
6 treatment, and

7 b. based upon the following, inpatient treatment is
8 determined to be the least restrictive alternative
9 that meets the needs of the minor:

10 (1) reasonable efforts have been made to provide for
11 the treatment needs of the minor through the
12 provision of less restrictive alternatives and
13 such alternatives have failed to meet the
14 treatment needs of the minor, or

15 (2) after a thorough consideration of less
16 restrictive alternatives to inpatient treatment,
17 the condition of the minor is such that less
18 restrictive alternatives are unlikely to meet the
19 treatment needs of the minor, and

20 c. the minor has been provided with a clinically
21 appropriate explanation of the nature and purpose of
22 the treatment.

1 The consenting parent shall have the opportunity to discuss the
2 findings with a person involved in the treatment of the minor.

3 C. The determinations and written statements of a licensed
4 mental health professional made pursuant to this section shall, upon
5 the admission of the minor for inpatient evaluation or treatment, be
6 made a part of the medical record of the minor.

7 D. Inpatient treatment of a minor admitted under this section
8 may not ~~exceed thirty (30) consecutive days~~ continue unless
9 continued inpatient treatment has been authorized by appropriate
10 hospital medical personnel, based upon their written findings that
11 the criteria set forth in subsection B of this section continue to
12 be met, after such persons have examined the minor and interviewed
13 the consenting parent and reviewed reports submitted by members of
14 the facility staff familiar with the condition of the minor. This
15 finding is subject to the review provisions contained in Section 5-
16 512 of this title.

17 E. A mental health or substance abuse treatment facility may
18 request that the district attorney file a petition alleging a minor
19 to be a minor in need of treatment and require inpatient treatment
20 when the parent consenting to the admission of a minor or when the
21 minor age sixteen (16) years or older who had previously consented
22 to admission revokes such consent and the person in charge of the
23 facility, or a designee, determines that the condition of the minor

1 is such that the minor should remain in the facility. If the
2 district attorney refuses to file a petition, the district attorney
3 must immediately notify the requesting facility, in writing, of the
4 refusal to file.

5 F. A minor who is in the legal custody of the Department of
6 Human Services or the Office of Juvenile Affairs, or who is a ward
7 of a court may be admitted to a hospital or other facility for
8 inpatient mental health or substance abuse treatment only pursuant
9 to the provisions of Section 5-507 of this title.

10 1. A public or private child care agency having legal custody
11 of a minor may request the district attorney to file a petition
12 alleging the minor to be a minor in need of treatment and to require
13 inpatient treatment.

14 2. Nothing in the Inpatient Mental Health and Substance Abuse
15 Treatment of Minors Act shall be interpreted to prohibit or preclude
16 the provision of outpatient treatment or services including, but not
17 limited to, outpatient evaluation, counseling, educational,
18 rehabilitative or other mental health and substance abuse services
19 to the minor, as necessary and appropriate, in the absence of a
20 specific court order for such services.

21 G. 1. An order of a court committing a minor to a facility for
22 inpatient mental health or substance abuse evaluation or treatment
23 shall not, by itself, relieve a parent of the obligation to provide

1 for the support of the minor nor of liability for the cost of
2 treatment provided to the minor.

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

5 a. limit the authority of the court to order a parent to
6 make support payments or to make payments or
7 reimbursements for medical care or treatment,
8 including mental health care or treatment, to the
9 person, institution, or agency having custody of the
10 minor or providing the treatment, or

11 b. abrogate the right of the minor to any benefits
12 provided through public funds for which the minor is
13 otherwise eligible.

14 3. An order committing a minor to a facility for inpatient
15 mental health or substance abuse treatment shall not by itself serve
16 to preclude a subsequent adjudication which finds the minor to be
17 delinquent, in need of supervision or deprived nor shall it cause
18 the vacation of any such order of adjudication previously entered.

19 H. If the parent who consented to the admission of a minor
20 under this section revokes such consent at any time, the minor shall
21 be discharged within forty-eight (48) hours unless the district
22 attorney is requested to file a petition alleging the minor to be a
23 minor in need of treatment and to require inpatient treatment in

1 accordance with the provisions of this title. If the district
2 attorney refuses to file a petition, the district attorney must
3 immediately notify the requesting facility, in writing, of the
4 refusal to file.

5 I. If a minor sixteen (16) years of age or older who consented
6 to treatment subsequently revokes their consent at any time, the
7 minor shall be discharged within forty-eight (48) hours unless the
8 district attorney is requested to file a petition alleging the minor
9 to be a minor in need of treatment and to require inpatient
10 treatment in accordance with the provisions of this title or the
11 parent of the minor subsequently consents to the treatment of the
12 minor. If the district attorney refuses to file a petition, the
13 district attorney must immediately notify the requesting facility,
14 in writing, of the refusal to file.

15 SECTION 27. AMENDATORY Section 4, Chapter 110, O.S.L.
16 2005 (43A O.S. Supp. 2005, Section 5-505.1), is amended to read as
17 follows:

18 Section 5-505.1 A. Any minor who appears to be mentally ill,
19 alcohol-dependent, or drug-dependent to a degree that immediate
20 emergency action is necessary may be taken into protective custody
21 and detained pursuant to the provisions of this section.

22 B. Any peace officer who reasonably believes that a minor is a
23 minor in need of treatment as defined in Section 5-502 of ~~Title 43A~~

1 ~~of the Oklahoma Statutes~~ this title shall take the minor into
2 protective custody and shall transport the minor to a mental health
3 or substance abuse treatment facility for evaluation. Peace
4 officers providing such transportation services shall be entitled to
5 reimbursement pursuant to Section 1-110 of ~~Title 43A of the Oklahoma~~
6 ~~Statutes~~ this title.

7 C. The officer shall prepare a written ~~affidavit~~ statement
8 indicating the basis for the belief of the officer that the minor is
9 a minor in need of treatment and the circumstances under which the
10 officer took the person into protective custody. The officer shall
11 give a copy of the statement to the parent of the minor or the
12 attorney of the minor upon the request of either. If the officer
13 does not make the determination to take an individual into
14 protective custody on the basis of the personal observation of the
15 officer, the officer shall not be required to prepare a written
16 ~~affidavit~~ statement. However, the person upon whose statement the
17 officer relies shall sign a third-party statement indicating the
18 basis for such belief of the person that the minor is a minor in
19 need of treatment. Any false statement given to the officer by the
20 person upon whose statement the officer relies shall be a
21 misdemeanor and subject to the sanctions of Title 21 of the Oklahoma
22 Statutes.

1 D. A minor in protective custody shall be subject to a ~~medical~~
2 ~~necessity review~~ an initial assessment at the appropriate facility
3 by a licensed mental health professional for the purpose of
4 determining whether emergency detention is warranted.

5 1. If the licensed mental health professional determines that
6 the minor is not a minor in need of treatment or that the condition
7 of the minor is such that emergency detention is not warranted, the
8 minor shall be returned immediately to the point where the minor was
9 taken into protective custody and released or the minor may be taken
10 to the home or residence of the minor or to an alternative facility.

11 2. If the licensed mental health professional determines that
12 the minor is a minor in need of treatment to a degree that emergency
13 detention is warranted, the minor shall be detained in emergency
14 detention for a period not to exceed five (5) days, excluding
15 weekends and holidays. The detention may exceed five (5) days,
16 excluding weekends and holidays, upon a court order authorizing
17 detention pending a hearing on a petition requesting involuntary
18 commitment or treatment.

19 E. If a licensed mental health professional designated to have
20 such responsibility by the executive director of a hospital, or the
21 administrator of a facility designated by the Commissioner of Mental
22 Health and Substance Abuse Services as appropriate for emergency
23 detention believes a minor to be a minor requiring treatment to a

1 degree that emergency action is necessary, the administrator may
2 detain such minor in emergency detention for a period not to exceed
3 five (5) days, excluding weekends and holidays, only on the
4 following conditions:

5 1. The minor sixteen (16) years of age or older or parent of
6 the minor has refused to consent or has withdrawn consent to
7 voluntary treatment;

8 2. The minor has been examined by a licensed mental health
9 professional who has determined that the minor is a minor in need of
10 treatment, the condition of the minor is such that emergency
11 detention is warranted, and ~~an~~ a mental health evaluation report has
12 been prepared as provided in Section 5-508 of ~~Title 43A of the~~
13 ~~Oklahoma Statutes~~ this title; and

14 3. The administrator or the designee of the administrator shall
15 provide for ~~a medical necessity review~~ an initial assessment of the
16 minor by a licensed mental health professional.

17 F. Whenever it appears that a person detained as provided by
18 this section will require treatment beyond the period of emergency
19 detention and the minor sixteen (16) years of age or older or parent
20 of the minor has refused to consent to voluntary treatment, a
21 licensed mental health professional conducting ~~a medical necessity~~
22 ~~review~~ an initial assessment of the minor or the administrator of
23 the facility in which the minor is being detained, or the designee

1 of the administrator, shall immediately file a petition or request
2 the district attorney to file a petition with the district court as
3 provided by Section 5-509 of ~~Title 43A of the Oklahoma Statutes~~ this
4 title, and may request a court order directing prehearing detention
5 when detention is necessary for the protection of the person or
6 others. If the district attorney refuses to file a petition, the
7 district attorney must immediately notify the requesting facility,
8 in writing, of the refusal to file.

9 SECTION 28. AMENDATORY 43A O.S. 2001, Section 5-506, as
10 last amended by Section 5, Chapter 110, O.S.L. 2005 (43A O.S. Supp.
11 2005, Section 5-506), is amended to read as follows:

12 Section 5-506. A. Any parent, guardian, or law enforcement
13 officer may request the administrator of a facility or designee to
14 conduct ~~a medical necessity review~~ an initial assessment of a minor
15 to determine whether the minor is a minor requiring treatment.

16 B. Following ~~a medical necessity review~~ an initial assessment,
17 a minor may be admitted or detained on an emergency basis in a
18 mental health or substance abuse treatment facility that is willing
19 to admit or detain the minor for a period not to exceed five (5)
20 days from the time of admission or detention, excluding weekends and
21 legal holidays. The admission or detention for an emergency basis
22 may only exceed five (5) days, excluding weekends or holidays, if
23 the facility receives a prehearing detention order authorizing

1 detention pending a hearing on a petition to determine whether the
2 minor is a minor in need of treatment and to require inpatient
3 treatment.

4 C. 1. A minor admitted or detained pursuant to this section
5 shall be evaluated by a licensed mental health professional to
6 determine whether the minor is a minor in need of treatment.

7 a. If the licensed mental health professional determines
8 that the minor is a minor in need of treatment, the
9 licensed mental health professional shall submit a
10 ~~report of~~ the mental health evaluation to the district
11 attorney within forty-eight (48) hours, excluding
12 weekends or holidays, of admission, detention, or
13 revocation of the consent of the minor sixteen (16)
14 years of age or older or to the parent.

15 b. If the licensed mental health professional determines
16 that the minor is not a minor in need of treatment,
17 the minor shall immediately be discharged.

18 2. Upon admission or detention of a minor pursuant to this
19 section, the person requesting the petition shall immediately notify
20 the district attorney. The district attorney shall file a petition
21 as provided in Section 5-509 of this title within three (3) days of
22 receipt of the report and shall request a prehearing detention order
23 from the court authorizing further detention of the child in the

1 facility pending a hearing on a petition alleging the minor to be a
2 minor in need of treatment and to require inpatient treatment and
3 further order of the court. If the district attorney refuses to
4 file a petition, the district attorney must immediately notify the
5 requesting facility, in writing, of the refusal to file.

6 a. If the court finds probable cause exists that the
7 minor is a minor in need of treatment, the court shall
8 issue a prehearing detention order authorizing the
9 facility to detain the minor until the hearing on the
10 petition and to immediately set a date and time for a
11 hearing on the petition. A certified copy of the
12 prehearing detention order shall constitute authority
13 for a facility to detain or continue to detain the
14 minor who is the subject of the order.

15 b. If the court does not find probable cause exists that
16 the minor is a minor in need of treatment, the court
17 shall dismiss the petition and request for a
18 prehearing detention order and order the release of
19 the minor to the minor's parent.

20 SECTION 29. AMENDATORY 43A O.S. 2001, Section 5-507, as
21 last amended by Section 7, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
22 2005, Section 5-507), is amended to read as follows:

1 Section 5-507. A. No minor who is taken into custody pursuant
2 to Section 7003-2.1 of Title 10 of the Oklahoma Statutes as an
3 alleged deprived child, or who has been adjudicated a ward of the
4 court shall be admitted to a hospital or mental health or substance
5 abuse treatment facility:

6 1. On an emergency basis except as provided by this section;

7 2. For inpatient treatment except upon a commitment order of
8 the court pursuant to the provisions of subsection D of this section
9 and after a finding that the minor requires such services as
10 provided by Section 5-512 of this title.

11 B. After ~~a medical necessity review~~ an initial assessment and a
12 determination that a minor is a minor in need of treatment, the
13 minor may be admitted to a hospital or mental health or substance
14 abuse treatment facility on an emergency basis for a period not to
15 exceed five (5) days from the time of admission, excluding weekends
16 and holidays. On the next business day following admission, notice
17 of such admission shall be given by the person responsible for the
18 supervision of the case, as applicable, to the minor's attorney,
19 Court Appointed Special Advocate (CASA) or guardian ad litem, the
20 court and district attorney.

21 C. A minor admitted on an emergency basis pursuant to this
22 section shall be evaluated and ~~a report~~ the mental health evaluation
23 submitted to the district attorney within forty-eight (48) hours of

1 admission, excluding weekends and holidays. The mental health
2 evaluation shall be performed by a licensed mental health
3 professional at the facility.

4 D. If after an inpatient or outpatient mental health evaluation
5 it appears that the minor may require inpatient treatment, the
6 district attorney shall file a petition as provided by Section 5-509
7 of this title within three (3) days after receiving the mental
8 health evaluation ~~report~~ requesting an order committing the minor to
9 a facility for inpatient treatment. After the filing of a petition
10 and upon issuance of a prehearing detention order, the minor may be
11 detained in the facility for no longer than necessary for a hearing
12 on the petition as provided by Section 5-510 of this title or
13 further order of the court.

14 E. Nothing in this section shall be interpreted to preclude or
15 prohibit a parent having physical custody of a minor who is a ward
16 of the court from arranging for an emergency admission of the minor.
17 In such cases, the parent shall immediately notify the person
18 responsible for the supervision of the case of the admission.

19 SECTION 30. AMENDATORY 43A O.S. 2001, Section 5-508, as
20 last amended by Section 6, Chapter 110, O.S.L. 2005 (43A O.S. Supp.
21 2005, Section 5-508), is amended to read as follows:

22 Section 5-508. A. The ~~report~~ mental health evaluation of a
23 licensed mental health professional prepared pursuant to Section 5-

1 506 or 5-507 of this title shall include written findings as to
2 whether:

3 1. The minor appears to be a minor in need of treatment and is
4 reasonably likely to benefit from treatment;

5 2. Based upon the following, inpatient treatment is the least
6 restrictive alternative that meets the needs of the minor:

7 a. reasonable efforts have been made to provide for the
8 treatment needs of the minor through the provision of
9 less restrictive alternatives and such alternatives
10 have failed to meet the treatment needs of the minor,
11 or

12 b. after a thorough consideration of less restrictive
13 alternatives to inpatient treatment, the condition of
14 the minor is such that less restrictive alternatives
15 are unlikely to meet the treatment needs of the minor;
16 and

17 3. The minor has been provided with a clinically appropriate
18 explanation of the nature and purpose of the treatment.

19 B. Any ~~report of a~~ mental health evaluation of a minor alleged
20 to be a minor in need of treatment that recommends that the minor be
21 found to be eligible for inpatient mental health or substance abuse
22 treatment shall be signed by the licensed mental health professional
23 examining the minor.

1 C. The parents, all public agencies, and all providers or
2 programs which have treated or are treating the minor shall
3 cooperate with the person conducting a mental health evaluation for
4 the purpose of providing ~~a report~~ the mental health evaluation to a
5 district attorney or to a district court and shall promptly deliver,
6 as otherwise provided by law, all records related to the treatment
7 or education of the minor.

8 SECTION 31. AMENDATORY 43A O.S. 2001, Section 5-509, as
9 last amended by Section 9, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
10 2005, Section 5-509), is amended to read as follows:

11 Section 5-509. A. A petition alleging a minor to be a minor in
12 need of treatment shall be filed by a district attorney and may be
13 filed by a district attorney only after receipt and review of the
14 ~~report of~~ mental health evaluation conducted by a licensed mental
15 health professional stating that in the opinion of the professional
16 the minor has a demonstrable mental illness or is drug or alcohol
17 dependent and as a result of that mental illness or drug or alcohol
18 dependence can be expected within the near future to inflict or
19 attempt to inflict serious bodily harm to himself or herself or
20 another person if services are not provided, and upon the request
21 of:

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

4 2. When the minor is a ward of the court, the Department of
5 Human Services, the Office of Juvenile Affairs or juvenile bureau
6 having supervision of the case or by the parent of the minor with
7 the consent of the applicable agency, or juvenile bureau having
8 supervision of the case.

9 B. If after receipt and review of the ~~report of~~ mental health
10 evaluation conducted by a licensed mental health professional:

11 1. The district attorney declines to file a petition, the
12 district attorney must immediately notify the requesting facility,
13 in writing, of the refusal to file. Then the minor shall be
14 discharged to the custody of the consenting parent or public or
15 private agency having custody of the minor; or

16 2. The petition is filed, a copy of the ~~report of~~ mental health
17 evaluation conducted by the licensed mental health professional
18 shall be attached to the petition and notice shall be given as
19 provided by Section 5-510 of this title.

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

1 D. Upon the filing of a petition pursuant to this section, if
2 the minor has been admitted to a facility, the facility shall ensure
3 that a proposed individual treatment plan for the minor is prepared
4 and submitted to the court at least twenty-four (24) hours prior to
5 the time set for the hearing.

6 SECTION 32. AMENDATORY 43A O.S. 2001, Section 5-512, as
7 last amended by Section 12, Chapter 130, O.S.L. 2003 (43A O.S. Supp.
8 2005, Section 5-512), is amended to read as follows:

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

11 1. The minor has a demonstrable mental illness or is drug or
12 alcohol dependent and as a result of that mental illness or drug or
13 alcohol dependence can be expected within the near future to inflict
14 or attempt to inflict serious bodily harm to himself or herself, or
15 another person if services are not provided, and has engaged in one
16 or more recent overt acts or made significant recent threats which
17 substantially support that expectation; and

18 2. The minor is a minor in need of treatment proposed in the
19 individualized treatment plan and is likely to benefit from such
20 treatment.

21 B. After a hearing, the court shall order the minor to receive
22 the least restrictive care and treatment appropriate for the

1 treatment needs of the minor until such time as the care and
2 treatment are no longer necessary.

3 C. The court shall not commit a minor to a facility for
4 inpatient treatment unless the court determines:

5 1. The minor has a demonstrable mental illness or is drug or
6 alcohol dependent and as a result of that mental illness or drug or
7 alcohol dependence can be expected within the near future to inflict
8 or attempt to inflict serious bodily harm to himself or herself, or
9 another person if services are not provided, and has engaged in one
10 or more recent overt acts or made significant recent threats which
11 substantially support that expectation; or

12 2. That all reasonable efforts have been made to provide for
13 the treatment needs of the minor through the provision of less
14 restrictive alternatives to inpatient treatment and that such
15 alternatives have failed to meet the treatment needs of the minor;
16 or

17 3. After a thorough consideration of less restrictive
18 alternatives to inpatient treatment, that the condition of the minor
19 is such that less restrictive alternatives are unlikely to meet the
20 treatment needs of the minor; and

21 4. There are no comparably effective services available to the
22 minor that are less physically intrusive or restrictive.

23 D. Whenever, after a hearing, the court finds that the minor:

1 1. Is not a minor in need of treatment the court shall dismiss
2 the case; or

3 2. Is a minor in need of treatment but does not require
4 inpatient treatment, the court may order treatment or services
5 through a less restrictive alternative to inpatient mental health or
6 substance abuse treatment, which may include ordering the minor to
7 take medication as prescribed by a physician and, upon a finding
8 that it is in the best interests of the minor, the court may order
9 the parents or other adult persons living in the home of the minor
10 to comply with reasonable conditions relating to the treatment of
11 the minor.

12 E. Whenever, after a hearing, the court finds that the minor is
13 a minor in need of treatment and requires inpatient treatment in a
14 mental health or substance abuse treatment facility, the court shall
15 order the commitment of the minor to a mental health or substance
16 abuse treatment facility ~~for not more than thirty (30) days~~ until
17 the minor is no longer a "minor in need of treatment" as determined
18 by medical staff, subject to the review provisions contained in this
19 section, and:

20 1. When the minor is in the custody of a parent or legal
21 guardian, order the parent or legal guardian to make arrangements
22 for the admission of the minor to a public or private mental health
23 or substance abuse treatment facility appropriate for the inpatient

1 care and treatment of minors which is willing to admit the minor for
2 treatment; and

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

9 F. Whenever the court commits a minor to a mental health or
10 substance abuse treatment facility for inpatient treatment pursuant
11 to this section, the court shall set the matter for review and shall
12 review the matter not more than thirty (30) days from the date of
13 commitment and shall continue to review the matter at intervals of
14 not more than thirty (30) days until the minor is discharged from
15 inpatient treatment. Not less than three (3) days prior to the
16 review hearing, the mental health or substance abuse treatment
17 facility shall submit a report regarding the minor's progress and
18 treatment and make a recommendation as to whether the minor needs
19 inpatient care and the reasons therefor.

20 SECTION 33. REPEALER 43A O.S. 2001, Sections 3-312, as
21 amended by Section 1, Chapter 28, O.S.L. 2003, 3-314.1, as last
22 amended by Section 14, Chapter 195, O.S.L. 2005, 3-501, 3-502, 9-
23 102, as last amended by Section 70, Chapter 150, O.S.L. 2005, 9-103,

1 as last amended by Section 71, Chapter 150, O.S.L. 2005 and 9-104
2 (43A O.S. Supp. 2005, Sections 3-312, 3-314.1, 9-102 and 9-103), are
3 hereby repealed.

4 SECTION 34. Section 10 of this act shall become effective July
5 1, 2006.

6 SECTION 35. Sections 1 through 9 and Sections 11 through 33 of
7 this act shall become effective November 1, 2006.

8 SECTION 36. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
13 4-6-06 - DO PASS.