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**THE STATE SENATE**  
**Tuesday, February 28, 2006**

**Committee Substitute for**  
**Senate Bill No. 1915**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1915 - By: CAIN of the Senate and WORTHEN of the House.

An Act relating to mental health and substance abuse services; amending 43A O.S. 2001, Sections 1-103, as last amended by Section 1, Chapter 195, O.S.L. 2005, 1-109, as last amended by Section 3, Chapter 195, O.S.L. 2005, Section 14, Chapter 488, O.S.L. 2002, 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, Section 18, Chapter 195, O.S.L. 2005, 3-403, as last amended by Section 4, Chapter 196, O.S.L. 2003, 3-415, as last amended by Section 17, Chapter 150, O.S.L. 2005, 3-601, as last amended by Section 22, Chapter 150, O.S.L. 2005, 3-602, as last amended by Section 25, Chapter 46, O.S.L. 2003, 5-206, as last amended by Section 16, Chapter 113, O.S.L. 2004, 5-207, as last amended by Section 26, Chapter 195, O.S.L. 2005, 5-208, as last amended by Section 38, Chapter 150, O.S.L. 2005, 5-410, as last amended by Section 1, Chapter 191, O.S.L. 2004, 5-411, as amended by Section 38, Chapter 488, O.S.L. 2002, 5-412, as amended by Section 39, Chapter 488, O.S.L. 2002, 5-414, as amended by Section 41, Chapter 488, O.S.L. 2002, 5-415, as last amended by Section 48, Chapter 150, O.S.L. 2005, 5-416, as last amended by Section 49, Chapter 150, O.S.L. 2005, 5-501, as last amended by Section 50, Chapter 150, O.S.L. 2005, 5-502, as last amended by Section 2, Chapter 110, O.S.L. 2005, 5-503, as last amended by Section 3, Chapter 110, O.S.L. 2005, Section 4, Chapter 110, O.S.L. 2005, 5-506, as last amended by Section 5, Chapter 110, O.S.L. 2005, 5-507, as last amended by Section 7, Chapter 130, O.S.L. 2003, 5-508, as last amended by Section 6, Chapter 110, O.S.L. 2005, 5-509, as last amended by Section 9, Chapter 130, O.S.L. 2003 and 5-512, as last amended by Section 12, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2005, Sections 1-103, 1-109, 3-306.1, 3-315, 3-317, 3-319, 3-320, 3-322, 3-403, 3-415, 3-601, 3-602, 5-206, 5-207, 5-208, 5-410, 5-411, 5-412, 5-414, 5-415, 5-416, 5-

1 501, 5-502, 5-503, 5-505.1, 5-506, 5-507, 5-508, 5-509 and  
2 5-512), which relate to the Department of Mental Health and  
3 Substance Abuse Services; clarifying language; authorizing  
4 the Department of Mental Health and Substance Abuse Services  
5 to establish and collect certain fees; setting limit on  
6 certain fees; authorizing the Department of Mental Health  
7 and Substance Abuse Services to enter into certain  
8 contracts; authorizing the Board of Mental Health to  
9 postpone, deny renewal of, revoke or suspend certain  
10 certification in specified circumstances; authorizing the  
11 Department of Mental Health and Substance Abuse Services to  
12 promulgate certain rules; expanding authorized treatment to  
13 certain persons for substance abuse; deleting requirements  
14 for certificate of evaluation; specifying certain admittance  
15 of minors; deleting certain time restrictions on inpatient  
16 treatment; requiring certain notification from district  
17 attorney; repealing 43A O.S. 2001, Section 3-312, as amended  
18 by Section 1, Chapter 28, O.S.L. 2003 (43A O.S. Supp. 2005,  
19 Section 3-312), which relates to advisory committee;  
20 providing for codification; providing an effective date; and  
21 declaring an emergency.

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

23 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as  
24 last amended by Section 1, Chapter 195, O.S.L. 2005 (43A O.S. Supp.  
25 2005, Section 1-103), is amended to read as follows:

26 Section 1-103. When used in this title, unless otherwise  
27 expressly stated, or unless the context or subject matter otherwise  
28 requires:

29 1. "Department" means the Department of Mental Health and  
30 Substance Abuse Services;

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

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

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

7           5. "Commissioner" means the individual selected and appointed  
8 by the Board to serve as Commissioner of Mental Health and Substance  
9 Abuse Services;

10          6. "Indigent person" means a person who has not sufficient  
11 assets or resources to support the person and to support members of  
12 the family of the person lawfully dependent on the person for  
13 support;

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

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

1           9. "Care and treatment" means medical care and behavioral  
2 health services, as well as food, clothing and maintenance,  
3 furnished to a person;

4           10. Whenever in this law or in any other law, or in any rule or  
5 order made or promulgated pursuant to this law or to any other law,  
6 or in the printed forms prepared for the admission of patients or  
7 for statistical reports, the words "insane", "insanity", "lunacy",  
8 "mentally sick", "mental disease" or "mental disorder" are used,  
9 such terms shall have equal significance to the words "mental  
10 illness";

11          11. "Licensed mental health professional" means:

- 12           a. a psychiatrist who is a diplomate of the American  
13            Board of Psychiatry and Neurology,  
14           b. a physician licensed pursuant to Section 480 et seq.  
15            or Section 620 et seq. of Title 59 of the Oklahoma  
16            Statutes who has received specific training for and is  
17            experienced in performing mental health therapeutic,  
18            diagnostic, or counseling functions,  
19           c. a clinical psychologist who is duly licensed to  
20            practice by the State Board of Examiners of  
21            Psychologists,  
22           d. a professional counselor licensed pursuant to Section  
23            1901 et seq. of Title 59 of the Oklahoma Statutes,

- 1 e. a person licensed as a clinical social worker pursuant  
2 to the provisions of the Social Worker's Licensing  
3 Act,  
4 f. a licensed marital and family therapist as defined in  
5 Section 1925.1 et seq. of Title 59 of the Oklahoma  
6 Statutes,  
7 g. a licensed behavioral practitioner as defined in  
8 Section 1930 et seq. of Title 59 of the Oklahoma  
9 Statutes, or  
10 h. an advanced practice nurse as defined in Section 567.1  
11 et seq. of Title 59 of the Oklahoma Statutes  
12 specializing in mental health;

13 12. "Mentally incompetent person" means any person who has been  
14 adjudicated mentally or legally incompetent by an appropriate  
15 district court;

- 16 13. a. "Person requiring treatment" means:  
17 (1) a person who because of a mental illness of the  
18 person represents a risk of harm to self or  
19 others, or  
20 (2) a person who is a drug- or alcohol-dependent  
21 person and who as a result of dependency  
22 represents a risk of harm to self or others, ~~or~~

1                   ~~(3) a person who appears to require inpatient~~  
2                   ~~treatment:~~

3                   ~~(a) (i) for a previously diagnosed history of~~  
4                   ~~schizophrenia, bipolar disorder, or~~  
5                   ~~major depression with suicidal intent,~~  
6                   ~~or~~

7                   ~~(ii) due to the appearance of symptoms of~~  
8                   ~~schizophrenia, bipolar disorder, or~~  
9                   ~~major depression with suicidal intent,~~  
10                  ~~and~~

11                  ~~(b) for whom such treatment is reasonably~~  
12                  ~~believed will prevent progressively more~~  
13                  ~~debilitating mental impairment.~~

14                  ~~Nothing in divisions (1) and (2) of this subparagraph~~  
15                  ~~shall be limited by the provisions of division (3) of~~  
16                  ~~this subparagraph.~~

17                  b. Unless a person also meets the criteria established in  
18                  subparagraph a of this paragraph, person requiring  
19                  treatment shall not mean:

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

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

4                   (3) a person with seizure disorder, or

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

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

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

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

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

22               a. a statement of treatment goals or objectives, based  
23               upon and related to a clinical evaluation, which can

- 1                   be reasonably achieved within a designated time  
2                   interval,
- 3           b.    treatment methods and procedures to be used to obtain  
4                   these goals, which methods and procedures are related  
5                   to each of these goals and which include specific  
6                   prognosis for achieving each of these goals,
- 7           c.    identification of the types of professional personnel  
8                   who will carry out the treatment procedures, including  
9                   appropriate medical or other professional involvement  
10                  by a physician or other health professional properly  
11                  qualified to fulfill legal requirements mandated under  
12                  state and federal law,
- 13          d.    documentation of involvement by the individual  
14                  receiving treatment and, if applicable, the  
15                  accordance of the individual with the treatment plan,  
16                  and
- 17          e.    a statement attesting that the executive director of  
18                  the facility or clinical director has made a  
19                  reasonable effort to meet the plan's individualized  
20                  treatment goals in the least restrictive environment  
21                  possible closest to the home community of the  
22                  individual; and

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

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

1 provision for those needs cannot be made immediately  
2 available in the community.

3 Unless a person also meets the criteria established in  
4 subparagraphs a through e of this paragraph, risk or harm to self or  
5 others does not mean a person who is homeless.

6 SECTION 2. AMENDATORY 43A O.S. 2001, Section 1-109, as  
7 last amended by Section 3, Chapter 195, O.S.L. 2005 (43A O.S. Supp.  
8 2005, Section 1-109), is amended to read as follows:

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

16 2. Such information shall only be available to persons actively  
17 engaged in the treatment of the patient or in related administrative  
18 work. The information available to persons actively engaged in the  
19 treatment of the consumer or in related administrative work shall be  
20 limited to the minimum amount of information necessary for the  
21 person or agency to carry out its function.

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

4           B. A person who is or has been a patient of a physician,  
5 psychotherapist, mental health facility, a drug or alcohol abuse  
6 treatment facility or service, other agency for the purpose of  
7 mental health or drug or alcohol abuse care and treatment shall be  
8 entitled to personal access to his or her mental health or drug or  
9 alcohol abuse treatment information, except the following:

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

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

17          3. Information that is otherwise privileged or prohibited from  
18 disclosure by law;

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

22          5. Information created or obtained as part of research that  
23 includes treatment; provided, the patient consented to the temporary

1 suspension of access while the research is ongoing. The patient's  
2 right of access shall resume upon completion of the research;

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

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

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

- 13 a. the specific name or general designation of the  
14 program or person permitted to make the disclosure,
- 15 b. the name or title of the individual or the name of the  
16 organization to which disclosure is to be made,
- 17 c. the name of the patient whose records are to be  
18 released,
- 19 d. the purpose of the disclosure,
- 20 e. a description of the information to be disclosed,
- 21 f. the dated signature of the patient or authorized  
22 representative or both when required,

- 1           g.    a statement of the right of the patient to revoke the  
2                    release in writing and a description of how the  
3                    patient may do so,  
4            h.    an expiration date, event or condition which, if not  
5                    revoked before, shall ensure the release will last no  
6                    longer than reasonably necessary to serve the purpose  
7                    for which it is given, and  
8            i.    if the release is signed by a person authorized to act  
9                    for a patient, a description of the authority of such  
10                   person to act.

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

- 13           a.    the expiration date has passed or the expiration event  
14                   or condition is known to have occurred or to exist,  
15           b.    the release has not been filled out completely with  
16                   respect to an element described in paragraph 1 of this  
17                   section,  
18           c.    the release is known to have been revoked, or  
19           d.    any material information in the release is known to be  
20                   false.

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

- 1           a.    information has already been released in reliance  
2                    thereon,  
3           b.    the authorization was obtained as a condition of  
4                    obtaining insurance coverage and other law provides  
5                    the insurer with the right to contest a claim under  
6                    the policy or the policy itself, or  
7           c.    the release was executed as part of a criminal justice  
8                    referral.

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

19           D.    Except as otherwise permitted, mental health and alcohol or  
20           substance abuse treatment information may not be disclosed without  
21           valid patient authorization or a valid court order issued by a court  
22           of competent jurisdiction. For purposes of this section, a subpoena

1 by itself is not sufficient to authorize disclosure of mental health  
2 and alcohol or substance abuse treatment information.

3 E. An authorization shall not be required for the following  
4 uses and disclosures, but information disclosed pursuant to one of  
5 these exceptions must be limited to the minimum amount of  
6 information necessary:

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

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

17 3. A review preparatory to research, research on decedents  
18 information or research conducted when a waiver of authorization has  
19 been approved by either an institutional review board or privacy  
20 board;

21 4. Communications pursuant to a business associate agreement,  
22 qualified service organization agreement or a qualified service

1 organization/business associate agreement. As used in this  
2 paragraph:

- 3 a. "business associate agreement" means a written signed  
4 agreement between a health care provider and an  
5 outside entity which performs or assists in the  
6 performance of a function or activity involving the  
7 use or disclosure of individually identifiable health  
8 information on behalf of the health care provider,
- 9 b. "qualified service organization agreement" means a  
10 written, signed agreement between a health care  
11 provider and an outside entity which provides services  
12 to the health care provider's consumers that are  
13 different from the services provided by the health  
14 care provider, that allows the health care provider to  
15 communicate consumer information necessary for the  
16 outside entity to provide services to the health care  
17 provider's consumers without the need for an  
18 authorization signed by a consumer and in which the  
19 outside entity acknowledges that in receiving,  
20 storing, processing or otherwise dealing with any  
21 consumer information from the health care provider it  
22 is fully bound by the provisions of 42 C.F.R., Part 2  
23 and, if necessary, will resist any efforts in judicial

1 proceedings to obtain access to consumer information,  
2 except as permitted by 42 C.F.R., Part 2, and  
3 c. "qualified service organization/business agreement"  
4 means a written, signed agreement between a health  
5 care provider and an outside entity which provides  
6 services to the health care provider's consumers that  
7 are different from the services provided by the health  
8 care provider, that allows the health care provider to  
9 communicate consumer information necessary for the  
10 outside entity to provide services to the health care  
11 provider's consumers without the need for an  
12 authorization signed by a consumer, and in which the  
13 outside entity acknowledges that in receiving,  
14 storing, processing or otherwise dealing with any  
15 consumer information from the health care provider it  
16 is fully bound by the provisions 42 C.F.R., Part 2  
17 and, if necessary, will resist any efforts in judicial  
18 proceedings to obtain access to consumer information,  
19 except as permitted by 42 C.F.R., Part 2. The  
20 agreement must also contain elements required by  
21 federal privacy regulations in 45 C.F.R., Parts 160 &  
22 164;

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

5           6. Disclosure of patient-identifying information to medical  
6 personnel who have a need for information about a patient for the  
7 purpose of treating a condition which poses an immediate threat to  
8 the health of any individual and which requires immediate medical  
9 intervention;

10          7. Communications necessary for audit and evaluation  
11 activities;

12          8. When a program or facility director determines that an adult  
13 person with a substance abuse disorder has a medical condition which  
14 prevents the person from "knowing or effective action on his or her  
15 own behalf", the program or facility director may authorize  
16 disclosures for the sole purpose of obtaining payment for services.  
17 If the person has been adjudicated incompetent, the facility must  
18 seek permission to disclose information for payment from the legal  
19 guardian;

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

1           10. Communications to coroners, medical examiners and funeral  
2 directors for the purpose of identifying a deceased person,  
3 determining a cause of death, or other duties as authorized by law  
4 and as necessary to carry out their duties; provided, however, such  
5 disclosure may not identify the person directly or indirectly as a  
6 person with a substance abuse disorder;

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

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

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

21           14. Mental health records may be disclosed to parties in a  
22 judicial or administrative proceeding in cases involving a claim for  
23 personal injury or death against any practitioner of the healing

1 arts, a licensed hospital, or a nursing facility or nursing home  
2 licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma  
3 Statutes arising out of patient care, where any person has placed  
4 the physical or mental condition of that person in issue by the  
5 commencement of any action, proceeding, or suit for damages, or  
6 where any person has placed in issue the physical or mental  
7 condition of any other person or deceased person by or through whom  
8 the person rightfully claims;

9 15. Disclosure of patient-identifying information when it  
10 appears from all the circumstances that the individual has escaped  
11 from a correctional institution or from lawful custody and the  
12 release is to a law enforcement authority for the purpose of  
13 identification and apprehension; and

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

18 SECTION 3. AMENDATORY Section 14, Chapter 488, O.S.L.  
19 2002 (43A O.S. Supp. 2005, Section 3-306.1), is amended to read as  
20 follows:

21 Section 3-306.1 A. The Board of Mental Health and Substance  
22 Abuse Services shall promulgate rules and standards for

1 certification of a facility or organization that desires to be  
2 certified as a community mental health center.

3 B. Applications for certification as a community mental health  
4 center shall be made to the Department of Mental Health and  
5 Substance Abuse Services on prescribed forms. The Board, or the  
6 Commissioner of Mental Health and Substance Abuse Services upon  
7 delegation by the Board, may certify the community mental health  
8 centers for a period of three (3) years subject to renewal as  
9 provided in the rules promulgated by the Board.

10 C. The ~~Board~~ Department of Mental Health and Substance Abuse  
11 Services is authorized to establish ~~an application and collect~~  
12 certification and renewal fee of no more than One Hundred Fifty  
13 Dollars (\$150.00) to defray the costs incurred in the certification  
14 process fees for certification of community mental health centers as  
15 provided in Section 9 of this act.

16 D. The Department shall not enter into a contract with a  
17 community mental health center unless it is certified pursuant to  
18 this section.

19 E. Certified community mental health centers shall comply with  
20 standards adopted by the Board. Such standards shall be in  
21 compliance with:

22 1. The Joint Commission on Accreditation of Healthcare  
23 Organizations;

1           2. The Commission on Accreditation of Rehabilitation  
2 Facilities; or

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

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

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

11           Section 3-315. A. The Board of Mental Health and Substance  
12 Abuse Services shall adopt minimum standards for program  
13 certification for residential care homes operating as community  
14 residential mental health programs as provided in this section. The  
15 standards shall be adopted as rules and promulgated by the Board of  
16 Mental Health and Substance Abuse Services pursuant to the  
17 provisions of the Administrative Procedures Act.

18           B. The program certification standards adopted by the Board  
19 shall provide for a system of classification of community  
20 residential mental health programs based upon the level of care  
21 required by residents of the facility and establish minimum program  
22 certification standards for each classification. The program  
23 certification standards adopted by the Board for each classification

1 shall be such that residential care facilities having a valid  
2 contract with the Department and licensed by the State Department of  
3 Health on July 1, 1988, shall be qualified and eligible for program  
4 certification within an appropriate classification.

5 C. The Department of Mental Health and Substance Abuse Services  
6 shall not enter into a contract with a residential care home unless  
7 such home is certified as a community residential mental health  
8 program. The Department shall terminate the contract of any home  
9 that fails to meet contract provisions regarding financial  
10 statements.

11 D. The Department is authorized to establish and collect  
12 certification and renewal fees for certification of community  
13 residential mental health facilities and programs as provided in  
14 Section 9 of this act.

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

18 Section 3-317. A. The Board of Mental Health and Substance  
19 Abuse Services, or the Commissioner of Mental Health and Substance  
20 Abuse Services upon delegation by the Board, shall certify  
21 community-based structured crisis centers for the provision of  
22 nonhospital emergency services for mental health and substance abuse

1 crisis intervention. The Board shall promulgate rules for the  
2 certification of community-based structured crisis centers.

3 B. No community-based structured crisis center shall operate or  
4 continue to operate unless the facility complies with the rules  
5 promulgated by the Board and is certified as required by this  
6 section.

7 C. For the purposes of this section, "community-based  
8 structured crisis center" means any certified community mental  
9 health center or facility operated by the Department which is  
10 established and maintained for the purpose of providing community-  
11 based mental health and substance abuse crisis stabilization  
12 services including, but not limited to, observation, evaluation,  
13 emergency treatment and referral, when necessary, for inpatient  
14 psychiatric or substance abuse treatment services.

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

19 SECTION 6. AMENDATORY Section 19, Chapter 488, O.S.L.  
20 2002 (43A O.S. Supp. 2005, Section 3-319), is amended to read as  
21 follows:

22 Section 3-319. A. The Board of Mental Health and Substance  
23 Abuse Services shall promulgate rules and standards for

1 certification of facilities or organizations that desire to be  
2 certified as a program of assertive community treatment for the  
3 provision of community-based comprehensive treatment for persons  
4 with serious mental illness and related disorders.

5 B. Applications for certification as a program of assertive  
6 community treatment shall be made to the Department of Mental Health  
7 and Substance Abuse Services on prescribed forms. The Board, or the  
8 Commissioner upon delegation by the Board, may certify the program  
9 of assertive community treatment for a period of three (3) years  
10 subject to renewal as provided in the rules promulgated by the  
11 Board. The Department is authorized to establish and collect  
12 certification and renewal fees for certification as programs of  
13 assertive community treatment as provided in Section 9 of this act.

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

17 D. No program of assertive community treatment shall operate or  
18 continue to operate unless the program complies with the rules  
19 promulgated by the Board and is certified as required by this  
20 section.

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

1 SECTION 7. AMENDATORY Section 16, Chapter 195, O.S.L.  
2 2005 (43A O.S. Supp. 2005, Section 3-320), is amended to read as  
3 follows:

4 Section 3-320. A. The Board of Mental Health and Substance  
5 Abuse Services shall promulgate rules and standards for  
6 certification of eating disorder treatment programs and for private  
7 facilities and organizations that offer eating disorder treatment  
8 services in this state. Such facilities and organizations shall be  
9 known as "Certified Eating Disorder Treatment Programs".

10 B. For purposes of this section, "eating disorder treatment"  
11 means any treatment for anorexia nervosa, bulimia nervosa, or any  
12 other severe disturbances in eating behavior specified in the most  
13 current edition of the Diagnostic and Statistical Manual of Mental  
14 Disorders.

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

1 D. 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 eating disorder treatment program operated  
8 by such person.

9 E. The Department is ~~hereby~~ authorized to establish and collect  
10 ~~from each applicant the sum of Three Hundred Dollars (\$300.00) to~~  
11 ~~defray the costs incurred in the certification procedure and renewal~~  
12 fees for certification of eating disorder treatment programs as  
13 provided in Section 9 of this act.

14 SECTION 8. AMENDATORY Section 18, Chapter 195, O.S.L.  
15 2005 (43A O.S. Supp. 2005, Section 3-322), is amended to read as  
16 follows:

17 Section 3-322. A. The Board of Mental Health and Substance  
18 Abuse Services shall promulgate rules and standards for  
19 certification of gambling addiction treatment programs and for  
20 private facilities and organizations which offer gambling addiction  
21 treatment services in this state. These facilities and  
22 organizations shall be known as "Certified Gambling Addiction  
23 Treatment Programs".

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

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

19           D. Facilities providing services for gambling addiction shall  
20 comply with standards promulgated by the Board; provided, that the  
21 certification requirements and standards shall not apply to programs  
22 and services offered by other state agencies. The gambling  
23 addiction treatment programs certified pursuant to the provisions of

1 this section shall cooperate with inspection personnel of the state  
2 and shall promptly file all reports required by the Department.  
3 Failure to comply with rules and standards of the Board shall be  
4 ground for revocation of certification, after proper notice and  
5 hearing.

6 E. The Department is hereby authorized to establish and collect  
7 ~~from each applicant the sum of Three Hundred Dollars (\$300.00) to~~  
8 ~~defray the costs incurred in the certification procedure and renewal~~  
9 fees for certification of gambling addiction treatment programs as  
10 provided in Section 9 of this act.

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

14 A. The Department of Mental Health and Substance Abuse Services  
15 is hereby authorized to establish and collect certification and  
16 renewal fees for certification of any program the Department is  
17 authorized by law to certify, to defray the costs incurred in the  
18 certification and renewal inspections and procedures.

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

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

1           The Department of Mental Health and Substance Abuse Services is  
2 authorized to contract with public and private entities for the  
3 purpose of providing treatment, evaluation, prevention and other  
4 services related to the Department's duties set forth in this Title.

5           SECTION 11.           AMENDATORY           43A O.S. 2001, Section 3-403, as  
6 last amended by Section 4, Chapter 196, O.S.L. 2003 (43A O.S. Supp.  
7 2005, Section 3-403), is amended to read as follows:

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

- 10          1. "Approved treatment facility" means any facility which:
- 11           a. offers either inpatient, intermediate or outpatient  
12 treatment to any person suffering from alcohol or drug  
13 abuse, or alcohol- or drug-related problems, and
- 14           b. is certified by the Board of Mental Health and  
15 Substance Abuse Services;
- 16          2. An "alcohol-dependent person" is one who uses alcoholic  
17 beverages to such an extent that it impairs the health, family life,  
18 or occupation of the person and compromises the health and safety of  
19 the community;
- 20          3. A "drug-dependent person" means a person who is using a  
21 controlled substance as presently defined in Section 102 of the  
22 Federal Controlled Substances Act and who is in a state of psychic  
23 or physical dependence, or both, arising from administration of that

1 controlled substance on an intermittent or continuous basis. Drug  
2 dependence is characterized by behavioral and other responses which  
3 include a strong compulsion to take the substance on a continuous  
4 basis in order to experience its psychic effects, or to avoid the  
5 discomfort of its absence;

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

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

21 6. "Nonmedical detoxification" means detoxification services  
22 for intoxicated clients with no apparent physical or neurological  
23 symptoms requiring medical treatment as a result of their

1 intoxication. Nonmedical detoxification includes providing a bed,  
2 oral administration of fluids, three meals a day and the taking of  
3 the client's temperature, blood pressure and pulse at least once  
4 every six (6) hours for the duration of the client's stay in the  
5 nonmedical detoxification service;

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

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

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

1           10. "Short-term supportive care" means a service rendered to  
2 any person residing in a halfway house or transitional living  
3 facility which is sufficient to assist the person to meet or achieve  
4 an adequate level of daily living and to learn or develop adequate  
5 daily living skills. Daily living skills shall include, but not be  
6 limited to, resident participation in meal preparation and routine  
7 housekeeping and laundry tasks. Short-term supportive assistance  
8 includes, but is not limited to, assistance in the preparation of  
9 meals, housekeeping, laundry tasks and personal hygiene. Short-term  
10 supportive assistance shall not include medical services or personal  
11 care as defined in Section 1-820 of Title 63 of the Oklahoma  
12 Statutes; and

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

19           SECTION 12.           AMENDATORY           43A O.S. 2001, Section 3-415, as  
20 last amended by Section 17, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
21 2005, Section 3-415), is amended to read as follows:

22           Section 3-415. A. 1. The Board of Mental Health and Substance  
23 Abuse Services shall promulgate rules and standards for

1 certification for private facilities and organizations which provide  
2 treatment, counseling and rehabilitation services directed toward  
3 alcohol- and drug-dependent persons. These facilities and  
4 organizations shall be known as "Certified Services for the Alcohol  
5 and Drug Dependent". Only certified facilities may receive and  
6 assist alcohol- and drug-dependent persons by providing treatment  
7 and rehabilitation.

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

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

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

20 D. ~~For good cause shown including, but not limited to, The~~  
21 Board, or the Commissioner of Mental Health and Substance Abuse  
22 Services upon delegation by the Board, may postpone, deny renewal  
23 of, revoke, or suspend the certification of the facility for failure

1 to comply with rules and standards promulgated by the Board, ~~pending~~  
2 ~~state or federal investigations, or verified complaints concerning~~  
3 ~~matters affecting the proper operation or ownership of the facility,~~  
4 ~~the Board may postpone, deny renewal of, revoke, or suspend the~~  
5 ~~certification of the facility.~~

6 E. The following are exempt from the provisions of the Oklahoma  
7 Alcohol and Drug Abuse Services Act:

8 1. Individual persons in private practice as licensed  
9 physicians, licensed psychologists, licensed social workers,  
10 individual members of the clergy, and certified alcohol or drug  
11 abuse counselors. The exemption shall apply only to individual  
12 professional persons in their private practice and not to any  
13 treatment facility operated by the person;

14 2. Properly licensed hospitals;

15 3. Programs or facilities operated by a state agency;

16 4. Programs conducted and facilities operated by Alcoholics  
17 Anonymous; or

18 5. Programs conducted and facilities operated by the Salvation  
19 Army.

20 F. Certified services for the alcohol- or drug-dependent person  
21 shall comply with standards adopted by the Board. Such standards  
22 shall require that treatment and therapeutic methods shall be in  
23 compliance with:

1           1. The Joint Commission on Accreditation of Healthcare  
2 Organizations;

3           2. The Commission on Accreditation of Rehabilitation  
4 Facilities;

5           3. The Council on Accreditation (COA); or

6           4. Approved medical and professional standards as determined by  
7 the Board.

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

11          H. All claims by and accomplishments publicized by any  
12 applicant for certification or any certified alcohol- or drug-  
13 dependent organization, including but not limited to consumer count  
14 and success rates, shall be documented and verifiable by the Board.

15          I. The ~~Board~~ Department is ~~hereby~~ authorized to establish and  
16 collect from each applicant the sum of One Hundred Dollars (\$100.00)  
17 annually to help defray the costs incurred in the certification  
18 procedure and renewal fees for certification of private facilities  
19 and organizations which provide treatment, counseling and  
20 rehabilitation services directed toward alcohol and drug dependent  
21 persons, as provided in Section 9 of this act.

22          J. Any materials or information received by the Department from  
23 an applicant regarding the applicant's financial status shall not be

1 construed to be open records pursuant to the Oklahoma Open Records  
2 Act.

3 SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-601, as  
4 last amended by Section 22, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
5 2005, Section 3-601), is amended to read as follows:

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

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

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

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

1           B. Any conviction for a violation of the provisions of this  
2 section or any rules promulgated pursuant to the provisions of this  
3 section shall be a felony.

4           C. For the purposes of this section, "opioid substitution  
5 treatment program" means a person, private physician, or  
6 organization that administers or dispenses an opioid drug to a  
7 narcotic addict for the purposes of detoxification or maintenance  
8 treatment or provides, when necessary and appropriate, comprehensive  
9 medical and rehabilitation services. A private physician who  
10 administers buprenorphine with a waiver from the Drug Enforcement  
11 Administration shall not be considered an opioid substitution  
12 treatment program. An opioid substitution treatment program shall  
13 be approved by the Board of Mental Health and Substance Abuse  
14 Services, or the Commissioner of Mental Health and Substance Abuse  
15 Services upon delegation by the Board, and registered with the  
16 federal Drug Enforcement Administration for the use of an opioid  
17 drug to treat narcotic addiction.

18           D. The Department shall promulgate rules and standards for the  
19 certification of all programs, private facilities and organizations  
20 which provide opioid substitution treatment directed to those  
21 physiologically dependent on or addicted to opioids. These  
22 facilities and organizations shall be known as "opioid substitution  
23 treatment programs". Only certified facilities may receive and

1 assist opioid dependent and addicted persons by providing Class II  
2 controlled substances, in opioid substitution treatment and  
3 rehabilitation.

4 E. The Department shall promulgate rules and standards  
5 regulating the treatment and services provided by opioid  
6 substitution treatment programs.

7 ~~D. F.~~ Opioid substitution treatment programs shall notify the  
8 Department of Mental Health and Substance Abuse Services of plans to  
9 close or relocate within a minimum of thirty (30) days prior to  
10 closure or relocation.

11 G. Failure to comply with rules and standards promulgated by  
12 the Department pursuant to this act shall be grounds for reprimand,  
13 suspension, revocation or nonrenewal of certification.

14 SECTION 14. AMENDATORY 43A O.S. 2001, Section 3-602, as  
15 last amended by Section 25, Chapter 46, O.S.L. 2003 (43A O.S. Supp.  
16 2005, Section 3-602), is amended to read as follows:

17 Section 3-602. A. A course of treatment in an opioid  
18 substitution treatment program may include, but shall not be limited  
19 to, short-term detoxification, interim maintenance treatment or  
20 comprehensive maintenance treatment depending on the availability of  
21 such services and the needs of the individual.

22 B. The Department of Mental Health and Substance Abuse Services  
23 shall approve any drug and the formulations to be used in an opioid

1 substitution treatment program and the Board of Mental Health and  
2 Substance Abuse Services shall promulgate rules establishing  
3 guidelines for the maximum daily dose, not to exceed limits set by  
4 the Code of Federal Regulations. Pregnancy tests for women shall be  
5 conducted upon admission to an opioid substitution treatment program  
6 and at least annually thereafter, unless otherwise indicated.

7 SECTION 15. AMENDATORY 43A O.S. 2001, Section 5-206, as  
8 last amended by Section 16, Chapter 113, O.S.L. 2004 (43A O.S. Supp.  
9 2005, Section 5-206), is amended to read as follows:

10 Section 5-206. As used in Sections 5-206 through 5-209 of this  
11 title:

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

21 a. determining if a petition requesting involuntary  
22 commitment or treatment is warranted, or

1           b.    completing a certificate of evaluation pursuant to  
2                    Section 5-414 of this title, or

3           c.    both subparagraphs a and b of this paragraph;

4           2.    "~~Emergency examination~~ Initial assessment" or "medical  
5 necessity review" means the examination of a person who appears to  
6 be a mentally ill person, an alcohol-dependent person, or a drug-  
7 dependent person and a person requiring treatment, whose condition  
8 is such that it appears that emergency detention may be warranted by  
9 a licensed mental health professional at a facility approved by the  
10 Commissioner of Mental Health and Substance Abuse Services, or a  
11 designee, as appropriate for such examination to determine if  
12 emergency detention of the person is warranted;

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

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

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

12           SECTION 16.           AMENDATORY           43A O.S. 2001, Section 5-207, as  
13 last amended by Section 26, Chapter 195, O.S.L. 2005 (43A O.S. Supp.  
14 2005, Section 5-207), is amended to read as follows:

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

22           B. Any peace officer who reasonably believes that a person is a  
23 person requiring treatment as defined in Section 1-103 of this title

1 shall take the person into protective custody. The officer shall  
2 make every reasonable effort to take the person into custody in the  
3 least conspicuous manner.

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

20 D. If the person is medically stable, the officer shall  
21 immediately transport the person to the nearest facility designated  
22 by the Commissioner of Mental Health and Substance Abuse Services as  
23 an appropriate facility for ~~emergency examinations~~ an initial

1 assessment. If, subsequent to an ~~emergency examination~~ initial  
2 assessment, it is determined that emergency detention is warranted,  
3 the officer shall transport the person to the nearest facility,  
4 designated by the Commissioner as appropriate for such detention,  
5 that has bed space available. If it is determined by the facility  
6 director or designee that the person is not medically stable, the  
7 officer shall transport the person to the nearest hospital or other  
8 appropriate treatment facility.

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

20 SECTION 17. AMENDATORY 43A O.S. 2001, Section 5-208, as  
21 last amended by Section 38, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
22 2005, Section 5-208), is amended to read as follows:

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

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

17 3. If, upon examination, the licensed mental health  
18 professional determines that the consumer is a person requiring  
19 treatment to a degree that emergency detention is warranted, the  
20 licensed mental health professional shall immediately prepare a  
21 statement describing the findings of the examination and stating the  
22 basis for the determination, and the consumer shall be detained in  
23 emergency detention for a period not to exceed seventy-two (72)

1 hours, excluding weekends and holidays, except upon a court order  
2 authorizing detention pending a hearing on a petition requesting  
3 involuntary commitment or treatment.

4 4. During the emergency detention period:

5 a. a ~~full examination and~~ mental health evaluation of the  
6 consumer shall be conducted by two licensed mental  
7 health professionals and, if the consumer appears to  
8 have a mental illness or be alcohol- or drug-dependent  
9 and be a consumer requiring treatment, ~~the completion~~  
10 ~~of a certificate of evaluation as provided by Section~~  
11 ~~5-414 of this title, and~~

12 b. reasonable efforts shall be made to determine whether  
13 the consumer has a current and unrevoked advance  
14 directive executed pursuant to the Advance Directives  
15 for Mental Health Treatment Act.

16 B. If a licensed mental health professional, designated to have  
17 the responsibility by the executive director or person in charge of  
18 a hospital, or the executive director or person in charge of a  
19 facility designated by the Commissioner of Mental Health and  
20 Substance Abuse Services as appropriate for emergency detention  
21 believes a voluntary consumer to be a person requiring treatment to  
22 a degree that emergency action is necessary, the hospital or  
23 facility may detain such consumer in emergency detention for a

1 period not to exceed seventy-two (72) hours, excluding weekends and  
2 holidays, only on the following conditions:

3 1. The consumer has refused to consent or has withdrawn consent  
4 to voluntary treatment;

5 2. The consumer has been examined by a licensed mental health  
6 professional who has determined that the consumer is a person  
7 requiring treatment, the condition of the consumer is such that  
8 emergency detention is warranted, and a statement has been prepared  
9 as provided in subsection A of this section; and

10 3. The executive director or person in charge or the designee  
11 shall provide for a ~~full examination and~~ mental health evaluation of  
12 the consumer by two licensed mental health professionals ~~and, if the~~  
13 ~~person appears to be a person requiring treatment, the completion of~~  
14 ~~a certificate of evaluation.~~

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

1 home or group home, it shall not refuse the return of the consumer  
2 to his or her residence.

3 D. Whenever it appears that a person detained as provided by  
4 this section will require treatment beyond the period of emergency  
5 detention and the person has refused to consent to voluntary  
6 treatment, a licensed mental health professional conducting ~~an~~ a  
7 mental health evaluation of the person or the executive director of  
8 the facility in which the person is being detained, or the designee  
9 of the executive director, shall immediately file a petition or  
10 request the district attorney to file a petition with the district  
11 court as provided by Section 5-410 of this title or Section 9-102 of  
12 this title, and may request a court order directing prehearing  
13 detention when such detention is necessary for the protection of the  
14 person or others.

15 SECTION 18. AMENDATORY 43A O.S. 2001, Section 5-410, as  
16 last amended by Section 1, Chapter 191, O.S.L. 2004 (43A O.S. Supp.  
17 2005, Section 5-410), is amended to read as follows:

18 Section 5-410. A. The following persons may file or request  
19 the district attorney to file a petition with the district court,  
20 upon which is hereby conferred jurisdiction, to determine whether an  
21 individual ~~has a mental illness and~~ is a person requiring treatment,  
22 and to order the least restrictive appropriate treatment for the  
23 person:

- 1           1. The father, mother, husband, wife, brother, sister, guardian  
2 or child, over the age of eighteen (18) years, of an individual  
3 alleged to ~~have a mental illness and to~~ be a person requiring  
4 treatment;
- 5           2. A licensed mental health professional;
- 6           3. The executive director of a facility designated by the  
7 Commissioner of Mental Health and Substance Abuse Services as  
8 appropriate for emergency detention;
- 9           4. An administrator of a hospital that is approved by the Joint  
10 Commission on Accreditation of Healthcare Organizations; provided,  
11 however, in any involuntary commitment procedure in which a hospital  
12 is the petitioner pursuant to the provisions of this section, the  
13 hospital may participate in such hearing without retaining their own  
14 legal counsel if the hospital provides as a witness a mental health  
15 therapist or a licensed mental health professional;
- 16           5. A person in charge of any correctional institution;
- 17           6. Any peace officer within the county in which the individual  
18 alleged to ~~have a mental illness and to~~ be a person requiring  
19 treatment resides or may be found; or
- 20           7. The district attorney in whose district the person resides  
21 or may be found.

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

4 1. The petition shall be verified and made under penalty of  
5 perjury.

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

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

13 C. The inpatient mental health treatment of minors shall be  
14 pursuant to the provisions of the Inpatient Mental Health Treatment  
15 of Minors Act.

16 SECTION 19. AMENDATORY 43A O.S. 2001, Section 5-411, as  
17 amended by Section 38, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
18 2005, Section 5-411), is amended to read as follows:

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

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

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

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

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

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

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

22           b. Prior to issuing an order excluding the person from  
23 the hearing or jury trial, the court shall find, based

1                   upon clear and convincing evidence, that alternatives  
2                   to exclusion of the person were attempted;

3           6. The right to present and to cross-examine witnesses. The  
4 petitioner and witnesses identified in the petition shall offer  
5 testimony under oath at the hearing on the petition. When the  
6 hearing is conducted as a jury trial, the petitioner and any witness  
7 in behalf of the petitioner shall be subject to cross-examination by  
8 the attorney for the person alleged to be a person requiring  
9 treatment. The person alleged to be a person requiring treatment  
10 may also be called as a witness and cross-examined.

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

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

21           D. An attorney appointed by the court to represent a person  
22 alleged to have a mental illness or substance dependency and to be a  
23 person requiring treatment shall be a licensed and actively

1 practicing attorney who shall represent the person until final  
2 disposition of the case. The court may appoint a public defender  
3 where available.

4 1. The attorney appointed by the court shall meet and consult  
5 with the person within one (1) day of notification of the  
6 appointment. The attorney shall immediately, upon meeting with the  
7 person alleged to be a person requiring treatment, present to such  
8 person a statement of the rights, including all rights afforded to  
9 persons alleged to ~~have a mental illness and to~~ be persons requiring  
10 treatment by the Oklahoma and the United States Constitutions.

11 2. The court-appointed attorney shall be replaced by another  
12 attorney if:

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

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

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

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

21 SECTION 20. AMENDATORY 43A O.S. 2001, Section 5-412, as  
22 amended by Section 39, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
23 2005, Section 5-412), is amended to read as follows:

1 Section 5-412. A. Notice of the date, time and place of the  
2 hearing on a petition alleging a person to ~~have a mental illness and~~  
3 ~~to~~ be a person requiring treatment shall be delivered to such person  
4 at least one (1) day prior to the hearing. Notice shall be  
5 personally delivered to the person together with a copy of the  
6 petition and, ~~if applicable,~~ copies of the certificate of mental  
7 health evaluation, ~~the affidavit of the peace officer,~~ and any order  
8 of the court directing prehearing detention ~~or an evaluation of the~~  
9 ~~person.~~

10 B. The notice shall contain the following information:

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

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

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

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

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

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

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

21           C. The person delivering the copy of the notice and petition to  
22 the person alleged to ~~have a mental illness and to~~ be a person  
23 requiring treatment shall, at the time of delivery, explain the

1 content, purpose and effect of the notice and the legal right to  
2 judicial review by habeas corpus.

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

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

1                   be delivered to any other person as may be ordered by  
2                   the court.

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

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

21           SECTION 21.           AMENDATORY           43A O.S. 2001, Section 5-414, as  
22 amended by Section 41, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
23 2005, Section 5-414), is amended to read as follows:

1 Section 5-414. A. If a ~~certificate of~~ mental health evaluation  
2 is not attached to a petition alleging a person to ~~have a mental~~  
3 ~~illness and to~~ be a person requiring treatment at the time the  
4 petition is filed, the court shall order the person who is the  
5 subject of the petition to undergo ~~an~~ a mental health evaluation by  
6 two licensed mental health professionals, and a ~~certificate of~~  
7 mental health evaluation to be completed and filed with the court  
8 prior to the hearing.

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

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

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

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

1           1. The person being evaluated appears to ~~have a demonstrable~~  
2 ~~mental illness and is~~ be a person requiring treatment as defined in  
3 this title, and is reasonably likely to benefit from mental health  
4 or substance abuse treatment; and

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

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

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

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

1 ~~training for and is experienced in performing mental health~~  
2 ~~therapeutic, diagnostic, or counseling functions:~~

3 NOTICE OF CERTIFICATION

4 To the District Court of \_\_\_\_\_ County,  
5 State of Oklahoma

6 The authorized agency providing evaluation services in the  
7 County

8 of \_\_\_\_\_ has evaluated the condition of:

9 Name \_\_\_\_\_

10 Address \_\_\_\_\_

11 Age \_\_\_\_\_

12 Sex \_\_\_\_\_

13 Marital status \_\_\_\_\_

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

15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 The findings are based on the following:

21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

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

5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_

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

12 SECTION 22. AMENDATORY 43A O.S. 2001, Section 5-415, as  
13 last amended by Section 48, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
14 2005, Section 5-415), is amended to read as follows:

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

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

21 2. If a copy of a ~~certificate of~~ mental health evaluation is  
22 not attached to the petition at the time it is filed, the court

1 shall immediately order ~~an~~ a mental health evaluation of the person  
2 as provided by Section 5-414 of this title.

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

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

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

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

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

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

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

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

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

18 2. If the court finds that a program other than hospitalization  
19 is appropriate to meet the treatment needs of the individual and is  
20 sufficient to prevent injury to the individual or to others, the  
21 court may order the individual to receive whatever treatment other  
22 than hospitalization that is appropriate for a period set by the

1 court, during which time the court shall continue its jurisdiction  
2 over the individual as a person requiring treatment.

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

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

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

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

1 F. The court shall make and keep records of all cases brought  
2 before it.

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

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

12 SECTION 23. AMENDATORY 43A O.S. 2001, Section 5-416, as  
13 last amended by Section 49, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
14 2005, Section 5-416), is amended to read as follows:

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

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

1           B. 1. If the court, in considering a commitment petition filed  
2 under Section 5-410 or Section 9-102 of this title, finds that a  
3 program other than hospitalization is adequate to meet the treatment  
4 needs of the individual and is sufficient to prevent injury to the  
5 individual or to others, the court may order the individual to  
6 receive whatever treatment other than hospitalization is appropriate  
7 for a period set by the court. During this time the court:

8           a. shall have continuing jurisdiction over the individual  
9 as a person requiring treatment, and

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

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

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

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

21           4.    If an order of alternative treatment will expire without  
22                   further review by the court and it is believed that the individual  
23                   continues to require treatment, a person competent to file or

1 request the filing of a petition, pursuant to subsection A of  
2 Section 5-410 of this title, may file or request the district  
3 attorney file either an application for an extension of the court's  
4 previous order or an entirely new petition for a determination that  
5 the individual is a person requiring treatment.

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

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

20 D. Nothing in this section shall prohibit the Department of  
21 Mental Health and Substance Abuse Services or the facility or  
22 program providing the alternative treatment from discharging a  
23 person admitted pursuant to this section, at a time prior to the

1 expiration of the period of alternative treatment, or any extension  
2 thereof. The facility or program providing the alternative  
3 treatment shall file a report with the court outlining the  
4 disposition of each person admitted pursuant to this section within  
5 forty-eight (48) hours after discharge.

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

9 SECTION 24. AMENDATORY 43A O.S. 2001, Section 5-501, as  
10 last amended by Section 50, Chapter 150, O.S.L. 2005 (43A O.S. Supp.  
11 2005, Section 5-501), is amended to read as follows:

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

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

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

19 2. Establish behavioral standards for determination of  
20 dangerousness of persons in need of such treatment;

21 3. Require the use of the least restrictive alternative in the  
22 determination of the method of treatment;

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

5           5. Protect the rights of consumers hospitalized pursuant to  
6 law.

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

8           1. Mental health and substance abuse treatment services shall  
9 be provided in the manner most likely to preserve, support and  
10 strengthen the family of the minor and to assist the minor and the  
11 family of the minor;

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

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

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

1 SECTION 25. AMENDATORY 43A O.S. 2001, Section 5-502, as  
2 last amended by Section 2, Chapter 110, O.S.L. 2005 (43A O.S. Supp.  
3 2005, Section 5-502), is amended to read as follows:

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

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

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

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

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

21 (1) family relations,

22 (2) school performance,

23 (3) social interactions,

1                   (4) ability to perform independently the basic tasks  
2                               of personal hygiene, hydration and nutrition, or  
3                   (5) self-protection.

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

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

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

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

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

22          5.    "Inpatient treatment" means treatment services offered or  
23    provided for a continuous period of more than twenty-four (24) hours

1 in residence after admission to a mental health or substance abuse  
2 treatment facility for the purpose of observation, evaluation or  
3 treatment;

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

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

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

21 a. a psychiatrist who is a diplomate of the American  
22 Board of Psychiatry and Neurology,

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

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

1           9. "Mental health evaluation" means an examination or  
2 evaluation of a minor for the purpose of making a determination  
3 whether, in the opinion of the licensed mental health professional  
4 making the evaluation, the minor is a minor in need of treatment  
5 and, if so, is in need of inpatient treatment and for the purpose of  
6 preparing reports or making recommendations for the most appropriate  
7 and least restrictive treatment for the minor;

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

18           11. "Mental illness" means a substantial disorder of the  
19 child's thought, mood, perception, psychological orientation or  
20 memory that demonstrably and significantly impairs judgment,  
21 behavior or capacity to recognize reality or to meet the ordinary  
22 demands of life. "Mental illness" may include substance abuse,  
23 which is the use, without compelling medical reason, of any

1 substance which results in psychological or physiological dependency  
2 as a function of continued use in such a manner as to induce mental,  
3 emotional, or physical impairment and cause socially dysfunctional  
4 or socially disordering behavior;

5 12. "Parent" means:

- 6 a. a biological or adoptive parent who has legal custody  
7 of the minor or has visitation rights, or
- 8 b. a person judicially appointed as a legal guardian of  
9 the minor, or
- 10 c. a relative within the third degree of consanguinity  
11 who exercises the rights and responsibilities of legal  
12 custody by delegation from a parent, as provided by  
13 law;

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

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

1 designated by the Department of Human Services, the  
2 Office of Juvenile Affairs or juvenile bureau to  
3 supervise the case;

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

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

22 D. A minor in protective custody shall be subject to ~~a medical~~  
23 ~~necessity review~~ an initial assessment at the appropriate facility

1 by a licensed mental health professional for the purpose of  
2 determining whether emergency detention is warranted.

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

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

17 E. If a licensed mental health professional designated to have  
18 such responsibility by the executive director of a hospital, or the  
19 administrator of a facility designated by the Commissioner of Mental  
20 Health and Substance Abuse Services as appropriate for emergency  
21 detention believes a minor to be a minor requiring treatment to a  
22 degree that emergency action is necessary, the administrator may  
23 detain such minor in emergency detention for a period not to exceed

1 five (5) days, excluding weekends and holidays, only on the  
2 following conditions:

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

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

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

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

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

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

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

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

1 minor is a minor in need of treatment and to require inpatient  
2 treatment.

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

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

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

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

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

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

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

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

22 Section 5-507. A. No minor who is taken into custody pursuant  
23 to Section 7003-2.1 of Title 10 of the Oklahoma Statutes as an

1 alleged deprived child, or who has been adjudicated a ward of the  
2 court shall be admitted to a hospital or mental health or substance  
3 abuse treatment facility:

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

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

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

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

1 evaluation shall be performed by a licensed mental health  
2 professional at the facility.

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

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

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

21 Section 5-508. A. The ~~report~~ mental health evaluation of a  
22 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 by a licensed mental health  
15 professional stating that in the opinion of the professional the  
16 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 in  
13 writing of the refusal to file, and the minor shall be discharged to  
14 the custody of the consenting parent or public or private agency  
15 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, Section 3-312, as  
21 amended by Section 1, Chapter 28, O.S.L. 2003 (43A O.S. Supp. 2005,  
22 Section 3-312), is hereby repealed.

1 SECTION 34. Section 10 of this act shall become effective July  
2 1, 2006.

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
10 2-23-06 - DO PASS, As Amended and Coauthored.