

SB 494

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THE STATE SENATE
Wednesday, February 21, 2007

Senate Bill No. 494
As Amended

SENATE BILL NO. 494 - By: RICE of the Senate and WORTHEN of the House.

[mental health - Department of Mental Health and Substance Abuse Services - modifying list of certain places - effective date]

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

SECTION 1. AMENDATORY Section 14, Chapter 488, O.S.L. 2002, as amended by Section 3, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2006, Section 3-306.1), is amended to read as follows:

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

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

1 C. The Department of Mental Health and Substance Abuse Services
2 is authorized to establish and collect certification and renewal
3 fees for certification of community mental health centers as
4 provided in Section ~~9~~ 3-324 of this ~~act~~ title.

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

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

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

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

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

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

20 SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-315, as
21 last amended by Section 4, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
22 2006, Section 3-315), is amended to read as follows:

1 Section 3-315. A. The Board of Mental Health and Substance
2 Abuse Services shall adopt minimum standards for program
3 certification for residential care homes operating as community
4 residential mental health programs as provided in this section. The
5 standards shall be adopted as rules and promulgated by the Board of
6 Mental Health and Substance Abuse Services pursuant to the
7 provisions of the Administrative Procedures Act.

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

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

1 D. The Department of Mental Health and Substance Abuse Services
2 is authorized to establish and collect certification and renewal
3 fees for certification of community residential mental health
4 facilities and programs as provided in Section ~~9~~ 3-324 of this ~~act~~
5 title.

6 SECTION 3. AMENDATORY Section 19, Chapter 488, O.S.L.
7 2002, as amended by Section 6, Chapter 97, O.S.L. 2006 (43A O.S.
8 Supp. 2006, Section 3-319), is amended to read as follows:

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

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

1 assertive community treatment as provided in Section ~~9~~ 3-324 of this
2 ~~act~~ title.

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

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

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

13 SECTION 4. AMENDATORY Section 16, Chapter 195, O.S.L.
14 2005, as amended by Section 7, Chapter 97, O.S.L. 2006 (43A O.S.
15 Supp. 2006, Section 3-320), is amended to read as follows:

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

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

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

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

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

1 E. The Department of Mental Health and Substance Abuse Services
2 is authorized to establish and collect certification and renewal
3 fees for certification of eating disorder treatment programs as
4 provided in Section ~~9~~ 3-324 of this ~~act~~ title.

5 SECTION 5. AMENDATORY Section 18, Chapter 195, O.S.L.
6 2005, as amended by Section 8, Chapter 97, O.S.L. 2006 (43A O.S.
7 Supp. 2006, Section 3-322), is amended to read as follows:

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

15 B. Applications for certification as a certified gambling
16 addiction 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 of Mental Health and Substance Abuse Services upon
20 delegation by the Board, may certify the program for a period of
21 three (3) years, subject to renewal as provided in rules promulgated
22 by the Board. Nothing in this section shall preclude the Department

1 from making inspection visits to a program to determine program
2 compliance.

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

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

1 E. The Department of Mental Health and Substance Abuse Services
2 is authorized to establish and collect certification and renewal
3 fees for certification of gambling addiction treatment programs as
4 provided in Section ~~9~~ 3-324 of this ~~act~~ title.

5 SECTION 6. AMENDATORY Section 10, Chapter 97, O.S.L.
6 2006 (43A O.S. Supp. 2006, Section 3-325), is amended to read as
7 follows:

8 Section 3-325. A. The Department of Mental Health and
9 Substance Abuse Services is hereby authorized to contract with
10 public and private entities it certifies, as required by law, for
11 the purpose of providing treatment, evaluation, prevention and other
12 services related to the duties of the Department set forth in this
13 title.

14 B. The Department of Mental Health and Substance Abuse Services
15 shall not enter into a contract with any of the following programs
16 unless such program has been certified by the Department pursuant to
17 the provisions of this title:

- 18 1. Community mental health centers;
- 19 2. Community residential mental health programs;
- 20 3. Programs of assertive community treatment;
- 21 4. Eating disorder treatment programs;
- 22 5. Gambling addition treatment programs;

1 6. Programs providing alcohol or drug abuse treatment services
2 as set forth under the Oklahoma Alcohol and Drug Services Act;

3 7. Community-based structured crisis centers; and

4 8. Mental health facilities.

5 SECTION 7. AMENDATORY 43A O.S. 2001, Section 3-453, as
6 last amended by Section 2, Chapter 120, O.S.L. 2006 (43A O.S. Supp.
7 2006, Section 3-453), is amended to read as follows:

8 Section 3-453. A. Alcohol and drug substance abuse courses
9 shall be offered only by nonprofit educational institutions of
10 higher learning, governmental or nonprofit organizations.

11 B. Enrollment fees for those attending the courses shall be set
12 by the Department of Mental Health and Substance Abuse Services and
13 shall be within a range of not less than Sixty-five Dollars (\$65.00)
14 and not more than:

15 1. One Hundred Fifty Dollars (\$150.00) for a ten-hour course;
16 and

17 2. Three Hundred Sixty Dollars (\$360.00) for a twenty-four-hour
18 course.

19 C. Ten percent (10%) of each fee collected shall be remitted by
20 the institution or organization offering alcohol and drug substance
21 abuse courses to the State Treasurer to be credited to the
22 Community-based Substance Abuse Revolving Fund in the State Treasury
23 and shall be used to provide substance abuse services to the

1 indigent. Five percent (5%) of each fee collected by the Department
2 shall be used for the administrative costs related to providing such
3 services.

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

6 E. All alcohol and drug substance abuse courses related to
7 driver license revocation and course facilitators shall be approved
8 and certified by the Department of Mental Health and Substance Abuse
9 Services.

10 F. The Department of Mental Health and Substance Abuse Services
11 is authorized to promulgate rules governing:

12 1. Minimum curriculum requirements for such courses;

13 2. Facilities, equipment and instructional materials for such
14 courses;

15 3. Minimum qualifications for course facilitators;

16 4. Grounds for reprimand and for revocation, suspension or
17 nonrenewal of the authority to conduct such courses and for
18 revocation of a facilitator's certification;

19 5. Attendance requirements; and

20 6. Guidelines for certifying to the Department of Mental Health
21 and Substance Abuse Services and the Department of Public Safety
22 successful completion of such course.

1 G. The Department shall require that each ten-hour course shall
2 be conducted in no less than three sessions of no more than three
3 and one-half (3 1/2) hours each on three (3) separate days. For a
4 twenty-four-hour course, the Department shall require that:

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

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

11 3. Each facilitator shall be certified and shall:

12 a. possess a bachelor's degree in behavioral or health
13 care sciences education, psychology, social work or
14 chemical dependency,

15 b. possess at least two (2) years of verifiable full-
16 time-equivalent experience in the addiction treatment
17 field,

18 c. provide documentation verifying observation of one
19 complete alcohol and drug substance abuse course
20 conducted by a certified facilitator. Such
21 observation must be completed and verified to the
22 Department prior to attending facilitator training,

- 1 d. provide proof of attendance at a facilitator training
2 session and pass the Department's certification
3 examination for the ten-hour alcohol and drug
4 substance abuse course facilitator, and
- 5 e. provide verification of having conducted a complete
6 alcohol and drug substance abuse course under the
7 supervision of a certified alcohol and drug substance
8 abuse course facilitator or a Department
9 representative;

10 4. The facilitator candidate shall be allowed one (1) year to
11 complete all training requirements. Failure to meet all
12 requirements within one (1) year shall result in denial of
13 certification. To be reconsidered, the candidate shall be required
14 to reapply to the Department;

15 5. A facilitator for a twenty-four-hour alcohol and drug
16 substance abuse course shall:

- 17 a. ~~be a ten-hour facilitator in good standing with a~~
18 ~~minimum of one (1) year of experience,~~
- 19 ~~b.~~ attend the twenty-four-hour alcohol and drug substance
20 abuse course facilitator training and pass the
21 Department certification examination for the twenty-
22 four-hour alcohol and drug substance abuse course
23 facilitator, and

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b. conduct a complete twenty-four-hour alcohol and drug substance abuse course under the supervision of a certified alcohol and drug substance abuse course facilitator or a Department representative; and

6. No more than twenty-four students shall be allowed in a given class.

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

I. Any person participating in a substance abuse treatment program recommended as a result of an assessment pursuant to Section 3-460 of this title shall be required to pay all or part of the actual cost incurred for treatment of the person, if the court determines the person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the person shall pay.

J. Application fees for certification of course facilitators shall be set by the Board to defray the costs of administering the program and shall be:

1. Not less than One Hundred Dollars (\$100.00) and not more than Two Hundred Dollars (\$200.00) upon initial application; and

1 2. Not less than Twenty-five Dollars (\$25.00) and not more than
2 Fifty Dollars (\$50.00) upon annual renewal.

3 K. The Director of the Office of State Finance shall transfer
4 unobligated monies generated from the fees in subsection C of this
5 section, deposited before November 1, 2005, from the Department of
6 Mental Health and Substance Abuse Services Revolving Fund to the
7 Community-based Substance Abuse Revolving Fund, in amounts
8 calculated by the Department.

9 SECTION 8. AMENDATORY 43A O.S. 2001, Section 3-460, as
10 last amended by Section 23, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
11 2006, Section 3-460), is amended to read as follows:

12 Section 3-460. A. The Department of Mental Health and
13 Substance Abuse Services shall certify assessment personnel for the
14 purpose of conducting alcohol and drug assessment and evaluation
15 programs related to driver license revocation.

16 B. Application fees for certification of assessment personnel
17 shall be set by the Department to defray the costs of administering
18 the program and shall be:

19 1. Not less than One Hundred Dollars (\$100.00) and not more
20 than Two Hundred Dollars (\$200.00) upon initial application; and

21 2. Not less than Twenty-five Dollars (\$25.00) and not more than
22 ~~Fifty Dollars (\$50.00)~~ One Hundred Fifty Dollars (\$150.00) upon
23 ~~annual~~ triennial renewal.

1 C. The fee for those undergoing an assessment and evaluation
2 pursuant to this section shall be One Hundred Seventy-five Dollars
3 (\$175.00), and ten percent (10%) of each fee collected shall be
4 remitted by the assessment agency or personnel to the State
5 Treasurer to be credited to the Community-based Substance Abuse
6 Revolving Fund in the State Treasury and shall be used to provide
7 substance abuse services to the indigent. Five percent (5%) of each
8 fee collected by the Department shall be used for the administrative
9 costs related to providing such services. One Dollar (\$1.00) from
10 each assessment fee collected shall be designated for training
11 assessment personnel in the best practice, evaluation and assessment
12 procedures.

13 D. The Board of Mental Health and Substance Abuse Services is
14 authorized to promulgate such rules as are necessary to implement
15 the provisions of this act.

16 E. The Director of the Office of State Finance shall transfer
17 any unobligated monies generated by the fees in subsection C of this
18 section, deposited before the effective date of this act, from the
19 Department of Mental Health and Substance Abuse Services Revolving
20 Fund to the Community-based Substance Abuse Revolving Fund, in
21 amounts calculated by the Department.

1 SECTION 9. AMENDATORY 43A O.S. 2001, Section 4-106, as
2 last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
3 2006, Section 4-106), is amended to read as follows:

4 Section 4-106. A. Mechanical restraints shall not be applied
5 to a consumer unless ~~it~~:

6 1. It is determined by a physician to be required by the
7 medical needs of the consumer; or

8 2. An emergency situation arises and a mechanical restraint is
9 necessary for the safety of the individual or others. The
10 mechanical restraint may be applied after obtaining a verbal order
11 of a physician as long as the physician personally examines the
12 consumer within one (1) hour after the restraint is applied.

13 B. No mechanical restraint shall be continued for longer than
14 is absolutely necessary under the circumstances. Every use of a
15 mechanical restraint, the reasons and length of time, shall be made
16 a part of the clinical record of the consumer under the signature of
17 the physician.

18 SECTION 10. AMENDATORY 43A O.S. 2001, Section 5-101, as
19 last amended by Section 24, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
20 2006, Section 5-101), is amended to read as follows:

21 Section 5-101. A. Any person who has a mental illness or is
22 alcohol- or drug-dependent to a degree which warrants inpatient
23 treatment or care, and who is not in confinement in any jail,

1 detention, lock up, or correctional facility on a criminal charge or
2 conviction and who has no criminal charges pending against him or
3 her, may be admitted to and confined in a facility within the
4 Department of Mental Health and Substance Abuse Services, a state
5 psychiatric hospital, or a licensed private institution by
6 compliance with any one of the following procedures:

- 7 1. Emergency admission;
- 8 2. On voluntary application; or
- 9 3. On involuntary court commitment.

10 B. Any person who has a mental illness or is alcohol- or drug-
11 dependent to a degree which warrants inpatient treatment or care and
12 who has criminal charges pending against him or her but is not
13 confined in any jail, detention, lock up, or correctional facility
14 may be admitted to a facility within the Department or a licensed
15 private institution pursuant to the provisions of subsection A of
16 this section; provided, the facility or hospital shall be authorized
17 to take such reasonable steps as necessary to assure the protection
18 of the public, the residents of the facility or hospital and the
19 person including, but not limited to, segregation and private
20 facilities. Provided further, treatment received pursuant to this
21 subsection shall not constitute a defense in any criminal proceeding
22 except as otherwise provided by Title 22 of the Oklahoma Statutes.

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

5 2. No person shall be deprived of his or her liberty on the
6 grounds that such person is, or is supposed to have, a mental
7 illness or is in need of mental health treatment, except in
8 accordance with the provisions of the Mental Health Law.

9 SECTION 11. AMENDATORY 43A O.S. 2001, Section 5-104, as
10 amended by Section 25, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
11 2006, Section 5-104), is amended to read as follows:

12 Section 5-104. Any person who intentionally falsely ~~certifies~~
13 attests to the mental illness, alcohol dependency, or drug
14 dependency of any person, or whose false ~~certificates~~ attestations
15 as to mental illness, alcohol dependency, or drug dependency of any
16 person is proved to be the result of negligence or deficient
17 professional skill, or who signs such a ~~certificate~~ an evaluation or
18 petition for pecuniary reward, or promise thereof, or other
19 consideration of value or operating to his or her advantage, other
20 than the professional fee usually paid for such service, shall be
21 guilty of a misdemeanor, and, upon conviction thereof, shall be
22 punished by payment of a fine not to exceed One Thousand Dollars

1 (\$1,000.00), or imprisonment in the county jail not to exceed one
2 (1) year, or both such fine and imprisonment.

3 SECTION 12. AMENDATORY 43A O.S. 2001, Section 5-204, as
4 amended by Section 37, Chapter 150, O.S.L. 2005 (43A O.S. Supp.
5 2006, Section 5-204), is amended to read as follows:

6 Section 5-204. A. ~~1.~~ Appropriate treatment and medication,
7 including psychotropic medication, may be administered to a
8 consenting individual:

9 1. During the detention periods authorized by the Mental Health
10 Law;

11 2. During the time set forth in the Mental Health Law for the
12 precommitment screening examination; or

13 3. While in the custody of the Department of Corrections.

14 B. Treatment and medication may be administered to a
15 nonconsenting individual upon the written order of the physician
16 who:

17 1. Has personally examined the consumer;

18 2. Finds the medication or treatment is necessary to protect
19 the consumer, the facility or others from serious bodily harm; and

20 3. Notes in the medication record of the consumer, with an
21 explanation of the facts leading up to the decision to administer
22 treatment and medication including psychotropic medication.

1 C. Any physician who orders medication in good faith and any
2 employee of the facility who administers medication in good faith
3 pursuant to the written order of a physician, under the provision of
4 this section, shall be immune from civil suits for damages that
5 occur from the administration of medication.

6 D. Seclusion or restraint may be administered to a
7 nonconsenting individual upon the written order of a physician who:

8 1. Personally examined the consumer; and

9 2. Finds that seclusion or restraint is necessary to protect
10 the consumer, the facility, or other persons. The physician shall
11 note in the chart of the consumer an explanation of the decision to
12 administer seclusion or restraint, including administration of
13 psychotropic medication. This shall not prohibit emergency
14 seclusion or restraint, including mechanical restraint, pending
15 notification of a physician.

16 E. If the consumer is under the influence of psychotropic
17 medication during any court hearing held pursuant to Section 5-401
18 of this title, the court, and the jury, if any, shall be advised by
19 the district attorney at the beginning of the hearing that:

20 1. The consumer is under the influence of psychotropic
21 medication;

22 2. The purpose of the medication; and

1 3. The effect which such medication may have on the actions,
2 demeanor and participation of the consumer at the hearing.

3 F. If an inmate in the custody of the Department of Corrections
4 has been properly assigned and committed to the Special Care Unit at
5 the State Penitentiary the provisions of this section shall apply.

6 SECTION 13. AMENDATORY 43A O.S. 2001, Section 5-301.1,
7 is amended to read as follows:

8 Section 5-301.1 As used in the Mental Hospital Voluntary
9 Admission Procedures Act, "person" shall include ~~a person found by~~
10 ~~the court to be a partially incapacitated person, over whom a~~
11 ~~limited guardian has been appointed, where the court has~~
12 ~~specifically found in its dispositional order, that the person~~
13 ~~possesses the capacity to voluntarily admit himself to a state~~
14 ~~hospital:~~

15 1. An individual eighteen (18) years of age or older; or

16 2. A court-appointed Guardian Ad Litem or an individual given
17 to power of attorney to make medical decisions for the individual.

18 SECTION 14. AMENDATORY 43A O.S. 2001, Section 5-412, as
19 last amended by Section 12, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
20 2006, Section 5-412), is amended to read as follows:

21 Section 5-412. A. Notice of the date, time and place of the
22 hearing on a petition alleging a person to be a person requiring
23 treatment shall be delivered to such person at least one (1) day

1 prior to the hearing. Notice shall be personally delivered to the
2 person together with a copy of the petition and copies of the mental
3 health evaluation and any order of the court directing prehearing
4 detention.

5 B. The notice shall contain the following information:

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

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

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

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

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

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

11 7. That the person alleged to be a person requiring treatment
12 shall be afforded such other rights as are guaranteed by state and
13 federal law.

14 C. The person delivering the copy of the notice and petition to
15 the person alleged to be a person requiring treatment shall, at the
16 time of delivery, explain the content, purpose and effect of the
17 notice and the legal right to judicial review by habeas corpus.

18 D. 1. A copy of the notice, the petition, and the attachments
19 to the petition shall also be delivered at least one (1) day prior
20 to the hearing to:

21 a. the individual initiating the request for protective
22 custody, emergency detention, involuntary commitment
23 or prehearing detention,

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

16 2. The notice required by this subsection may be served
17 personally or by certified mail. When notice is served personally,
18 the person making such service shall make affidavit of the same and
19 file such notice, with proof of service, with the district court.
20 This notice may be served in any part of the state when so ordered
21 by the court.

22 E. Notice of orders of a court directing a mental health
23 evaluation or prehearing detention of a person alleged to be a

1 person requiring treatment shall be delivered in substantially the
2 same manner as provided by subsection A of this section. Notice of
3 a court order directing a mental health evaluation of the person
4 shall be delivered at least one (1) day before the evaluation, and
5 as many additional days as are requested by the person alleged to be
6 a person requiring treatment or the attorney of such person as are
7 reasonable without prejudice to the person. Any request for
8 additional days shall be subject to the discretion of the court,
9 considering the facts and circumstances of each particular case.

10 SECTION 15. AMENDATORY 43A O.S. 2001, Section 5-503, as
11 last amended by Section 26, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
12 2006, Section 5-503), is amended to read as follows:

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

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

21 1. After an initial assessment, a licensed mental health
22 professional determines and states in writing that there is
23 reasonable cause to believe that the minor may be a minor in need of

1 treatment and that an evaluation is necessary to properly determine
2 the condition and treatment needs of the minor, if any; and

3 2. After an outpatient or inpatient mental health evaluation, a
4 licensed mental health professional determines and states in writing
5 that in the opinion of the professional, the minor is a minor in
6 need of treatment and:

7 a. the minor appears to have a mental illness or drug or
8 alcohol dependence serious enough to warrant inpatient
9 treatment and is reasonably likely to benefit from the
10 treatment, and

11 b. based upon the following, inpatient treatment is
12 determined to be the least restrictive alternative
13 that meets the needs of the minor:

14 (1) reasonable efforts have been made to provide for
15 the treatment needs of the minor through the
16 provision of less restrictive alternatives and
17 such alternatives have failed to meet the
18 treatment needs of the minor, or

19 (2) after a thorough consideration of less
20 restrictive alternatives to inpatient treatment,
21 the condition of the minor is such that less
22 restrictive alternatives are unlikely to meet the
23 treatment needs of the minor, and

1 c. the minor has been provided with a clinically
2 appropriate explanation of the nature and purpose of
3 the treatment.

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

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

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

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

1 to admission revokes such consent and the person in charge of the
2 facility, or a designee, determines that the condition of the minor
3 is such that the minor should remain in the facility. If the
4 district attorney refuses to file a petition, the district attorney
5 must immediately notify the requesting facility, in writing, of the
6 refusal to file.

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

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

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

1 G. 1. An order of a court committing a minor to a facility for
2 inpatient mental health or substance abuse evaluation or treatment
3 shall not, by itself, relieve a parent of the obligation to provide
4 for the support of the minor nor of liability for the cost of
5 treatment provided to the minor.

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

- 8 a. limit the authority of the court to order a parent to
9 make support payments or to make payments or
10 reimbursements for medical care or treatment,
11 including mental health care or treatment, to the
12 person, institution, or agency having custody of the
13 minor or providing the treatment, or
14 b. abrogate the right of the minor to any benefits
15 provided through public funds for which the minor is
16 otherwise eligible.

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

22 H. If the parent who consented to the admission of a minor
23 under this section revokes such consent at any time, the minor shall

1 be discharged within forty-eight (48) hours, excluding weekends and
2 holidays, unless the district attorney is requested to file a
3 petition alleging the minor to be a minor in need of treatment and
4 to require inpatient treatment in accordance with the provisions of
5 this title. If the district attorney refuses to file a petition,
6 the district attorney must immediately notify the requesting
7 facility, in writing, of the refusal to file.

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

18 SECTION 16. AMENDATORY 43A O.S. 2001, Section 9-101, as
19 last amended by Section 28, Chapter 195, O.S.L. 2005 (43A O.S. Supp.
20 2006, Section 9-101), is amended to read as follows:

21 Section 9-101. A. 1. An alcohol- or drug-dependent person or
22 his or her court-appointed guardian may apply for voluntary
23 treatment directly to an approved treatment facility.

1 2. A minor may apply for voluntary treatment pursuant to the
2 provisions of Section 2602 of Title 63 of the Oklahoma Statutes.

3 3. ~~A minor not empowered by Section 2602 of Title 63 of the~~
4 ~~Oklahoma Statutes to consent to voluntary treatment or an incompetent~~
5 ~~person may apply for voluntary treatment with the approval of the~~
6 ~~parent, spouse or legal guardian of the minor.~~

7 4. A parent of a minor may consent to the voluntary admission
8 and treatment of the minor directly to an approved treatment facility
9 for substance abuse treatment.

10 B. 1. Subject to rules adopted by the Board of Mental Health
11 and Substance Abuse Services, the administrator in charge of an
12 approved treatment facility may determine who shall be admitted for
13 treatment.

14 2. When a person is refused admission to an approved treatment
15 facility, the administrator, subject to rules adopted by the Board,
16 shall refer the person to another approved treatment facility for
17 treatment if possible and appropriate.

18 C. 1. When a consumer receiving inpatient care leaves an
19 approved treatment facility, the consumer shall be encouraged to
20 consent to appropriate outpatient or intermediate treatment.

21 2. If it appears to the administrator in charge of the approved
22 treatment facility that the consumer is an alcohol- or drug-dependent
23 person who requires help, the facility shall arrange for assistance

1 in obtaining supportive services and residential facilities if
2 possible and appropriate.

3 D. If the consumer is a minor or an incompetent person, the
4 request for discharge from an inpatient or residential facility shall
5 be made by a parent, spouse, or legal guardian, or by the minor if
6 the minor was voluntarily admitted.

7 SECTION 17. This act shall become effective November 1, 2007.

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
9 2-15-07 - DO PASS, As Amended and Coauthored.