

ENROLLED HOUSE  
BILL NO. 1067

By: Faught, Sullivan, Dank and  
Tibbs of the House

and

Crain of the Senate

An Act relating to mental health; amending 43A O.S. 2001, Section 5-208, as last amended by Section 17, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-208), which relates to initial assessments and emergency detention; requiring drug and alcohol screening and assessment process at time of initial assessment; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 5-208, as last amended by Section 17, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-208), is amended to read as follows:

Section 5-208. A. 1. A consumer in protective custody as provided by Section 5-207 of this title shall be subject to an initial assessment at the appropriate facility by a licensed mental health professional within twelve (12) hours of being placed in protective custody for the purpose of determining whether emergency detention of the consumer is warranted. The initial assessment of the consumer shall include an appropriate screening and assessment process, as determined by the Department of Mental Health and Substance Abuse Services, designed to identify possible alcohol or drug abuse or dependency.

2. If, upon examination, the licensed mental health professional determines that the consumer is not a person requiring treatment or that the condition of the consumer is such that emergency detention is not warranted, the consumer shall either be

returned by an officer immediately to the point where the consumer was taken into protective custody and released or taken to the home or residence of such consumer or to an alternative facility. If the home or residence of the consumer is a nursing home or group home, such home shall not refuse the return of the consumer to his or her residence.

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

4. During the emergency detention period:

- a. a mental health evaluation of the consumer shall be conducted by two licensed mental health professionals and, if the consumer appears to have a mental illness or be alcohol- or drug-dependent and be a consumer requiring treatment, and
- b. reasonable efforts shall be made to determine whether the consumer has a current and unrevoked advance directive executed pursuant to the Advance Directives for Mental Health Treatment Act.

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

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

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

3. The executive director or person in charge or the designee shall provide for a mental health evaluation of the consumer by two licensed mental health professionals.

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

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

SECTION 2. This act shall become effective November 1, 2009.

Passed the House of Representatives the 21st day of May, 2009.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 21st day of May, 2009.

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Presiding Officer of the Senate