

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 1574

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1574 - By: COODY of the House.

An Act relating to mental health; amending 43A O.S. 2001, Section 1-103, as last amended by Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp. 2008, Section 1-103), which relates to definitions; modifying definitions; amending 43A O.S. 2001, Section 5-410, as last amended by Section 18, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-410), which relates to a petition regarding a person requiring treatment; expanding list of those persons authorized to file a petition; and providing an effective date.

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

1 SECTION 1. AMENDATORY 43A O.S. 2001, Section 1-103, as last amended by
2 Section 1, Chapter 401, O.S.L. 2008 (43A O.S. Supp. 2008, Section 1-103), is amended to
3 read as follows:

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

6 1. "Department" means the Department of Mental Health and Substance Abuse
7 Services;

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

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

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

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

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

11 7. "Facility" means any hospital, school, building, house or retreat, authorized by
12 law to have the care, treatment or custody of an individual with mental illness, or drug
13 or alcohol dependency, gambling addiction, eating disorders, or an individual receiving
14 methadone treatment for dependency purposes only, including, but not limited to, public
15 or private hospitals, community mental health centers, clinics, satellites or facilities;
16 provided that facility shall not mean a child guidance center operated by the State
17 Department of Health;

18 8. "Consumer" means a person under care or treatment in a facility pursuant to the
19 Mental Health Law, or in an outpatient status;

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

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

6 11. "Licensed mental health professional" means:

- 7 a. a psychiatrist who is a diplomate of the American Board of Psychiatry
8 and Neurology,
- 9 b. a physician licensed pursuant to Section 480 et seq. or Section 620 et
10 seq. of Title 59 of the Oklahoma Statutes who has received specific
11 training for and is experienced in performing mental health
12 therapeutic, diagnostic, or counseling functions,
- 13 c. a clinical psychologist who is duly licensed to practice by the State
14 Board of Examiners of Psychologists,
- 15 d. a professional counselor licensed pursuant to Section 1901 et seq. of
16 Title 59 of the Oklahoma Statutes,
- 17 e. a person licensed as a clinical social worker pursuant to the provisions
18 of the Social Worker's Licensing Act,
- 19 f. a licensed marital and family therapist as defined in Section 1925.1 et
20 seq. of Title 59 of the Oklahoma Statutes,
- 21 g. a licensed behavioral practitioner as defined in Section 1930 et seq. of
22 Title 59 of the Oklahoma Statutes,

- 1 h. an advanced practice nurse as defined in Section 567.1 et seq. of Title
2 59 of the Oklahoma Statutes specializing in mental health, or
3 i. a physician's assistant who is licensed in good standing in this state
4 and has received specific training for and is experienced in performing
5 mental health therapeutic, diagnostic, or counseling functions;

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

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

- 9 (1) a person who because of a the mental illness ~~of the person~~
10 ~~represents~~ or because of the drug or alcohol dependence of the
11 person:
12 (1) poses a risk of serious physical harm to self or others as
13 manifested by serious threats of or attempts at suicide or other
14 significant self-inflicted bodily harm, or
15 (2) poses a risk of serious physical harm to another person who is a
16 ~~drug- or alcohol-dependent person and who as a result of~~
17 ~~dependency represents a risk of harm to self~~ as manifested by
18 violent behavior to another, or by serious threats or others
19 actions that have placed another person in reasonable fear of
20 violent behavior, or by actions or inactions that present a serious
21 danger to a person in his or her care,

1 (3) is, because of the nature of the illness, unable to understand the
2 need for treatment and who, if not treated, is reasonably
3 expected to suffer or continue to suffer mental or emotional
4 deterioration to the point that the person is reasonably expected
5 to become harmful in a serious manner to self or others, or

6 (4) poses a risk of serious physical harm to self as manifested by
7 evidence that the person is unable to provide for and is not
8 providing for his or her basic needs for food, clothing, shelter,
9 health, or safety.

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

12 (1) a person whose mental processes have been weakened or
13 impaired by reason of advanced years, dementia, or Alzheimer’s
14 disease,

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

17 (3) a person with seizure disorder,

18 (4) a person with a traumatic brain injury, or

19 (5) a person who is homeless.

20 For purposes of this paragraph, the past behavior or history of the person may be
21 considered;

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

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

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

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

- 13 a. a statement of treatment goals or objectives, based upon and related to
14 a clinical evaluation, which can be reasonably achieved within a
15 designated time interval,
- 16 b. treatment methods and procedures to be used to obtain these goals,
17 which methods and procedures are related to each of these goals and
18 which include specific prognosis for achieving each of these goals,
- 19 c. identification of the types of professional personnel who will carry out
20 the treatment procedures, including appropriate medical or other
21 professional involvement by a physician or other health professional

- 1 properly qualified to fulfill legal requirements mandated under state
2 and federal law,
- 3 d. documentation of involvement by the individual receiving treatment
4 and, if applicable, the accordance of the individual with the treatment
5 plan, and
- 6 e. a statement attesting that the executive director of the facility or
7 clinical director has made a reasonable effort to meet the plan's
8 individualized treatment goals in the least restrictive environment
9 possible closest to the home community of the individual; and

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

- 11 a. ~~a substantial risk of immediate physical harm to self as manifested by~~
12 ~~evidence or serious threats of or attempts at suicide or other significant~~
13 ~~self-inflicted bodily harm,~~
- 14 b. ~~a substantial risk of immediate physical harm to another person or~~
15 ~~persons as manifested by evidence of violent behavior directed toward~~
16 ~~another person or persons,~~
- 17 c. ~~having placed another person or persons in a reasonable fear of violent~~
18 ~~behavior directed towards such person or persons or serious physical~~
19 ~~harm to them as manifested by serious and immediate threats,~~
- 20 d. ~~there exists a substantial risk that without immediate intervention~~
21 ~~severe impairment or injury will result to the person alleged to be a~~
22 ~~person requiring treatment, or~~

1 e. ~~a substantial risk of immediate serious physical injury to self, or~~
2 ~~immediate death, as manifested by evidence that the person is unable~~
3 ~~to provide for and is not providing for the basic physical needs of the~~
4 ~~person and that appropriate provision for those needs cannot be made~~
5 ~~immediately available in the community.~~

6 Unless a person also meets the criteria established in subparagraphs a, b, c, d, or e
7 of this paragraph, “risk of harm to self or others” does not mean a person who is
8 homeless; and

9 19. “Telemedicine” means the practice of health care delivery, diagnosis,
10 consultation, evaluation, treatment, transfer of medical data, or exchange of medical
11 education information by means of audio, video, or data communications. Telemedicine
12 uses audio and video multimedia telecommunication equipment which permits two-way
13 real-time communication between a health care practitioner and a patient who are not in
14 the same physical location. Telemedicine shall not include consultation provided by
15 telephone or facsimile machine.

16 SECTION 2. AMENDATORY 43A O.S. 2001, Section 5-410, as last amended by
17 Section 18, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-410), is amended to
18 read as follows:

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

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

1 3. If the individual alleged to be a person requiring treatment is being held in
2 emergency detention, a copy of the mental health evaluation shall be attached to the
3 petition.

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

6 SECTION 3. This act shall become effective November 1, 2009.

7 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-26-09 - DO
8 PASS, As Amended.