

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 1616

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1616 - By: SULLIVAN of the House and CRAIN of the Senate.

An Act relating to mental health; amending 43A O.S. 2001, Section 5-207, as last amended by Section 16, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-207), which relates to emergency detention of persons appearing to be mentally ill, alcohol dependent, or drug dependent; specifying procedures for an officer to take when a person is medically unstable; authorizing a physician to detain a person until medically stable; specifying procedures upon determination of emergency detention subsequent to an initial assessment; 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 5-207, as last amended by
2 Section 16, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-207), is amended to
3 read as follows:

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

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

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

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

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

4 E. 1. If the person is medically unstable, the officer shall immediately transport
5 the person to an appropriate medical facility for medical treatment. A treating physician
6 may order the person detained until the person becomes medically stable. When the
7 person becomes medically stable, and according to the discharging physician or law
8 enforcement officer is a person requiring treatment, the medical facility or a law
9 enforcement officer shall immediately transport the person to the nearest facility
10 designated by the Commissioner of Mental Health and Substance Abuse Services as an
11 appropriate facility for an initial assessment.

12 2. If, subsequent to an initial assessment, it is determined that emergency
13 detention is warranted, the officer shall transport the person to the nearest facility,
14 designated by the Commissioner as appropriate for such detention, that has bed space
15 available. If it is determined by the facility director or designee that the person is not
16 medically stable, the officer shall transport the person to the nearest hospital or other
17 appropriate treatment facility to be treated and held until such time as that person is
18 medically stable for the purpose of receiving a mental health evaluation or treatment.

19 F. The parent, brother or sister who is eighteen (18) years of age or older, child who
20 is eighteen (18) years of age or older, or guardian of the person, or a person who appears
21 to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a
22 degree that emergency action is necessary may request the administrator of a facility

1 designated by the Commissioner as an appropriate facility for an initial assessment to
2 conduct an initial assessment to determine whether the condition of the person is such
3 that emergency detention is warranted and, if emergency detention is warranted, to
4 detain the person as provided in Section 5-206 of this title.

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

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