

EHB 1067

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 1067

As Amended

ENGROSSED HOUSE BILL NO. 1067 - By: Faught, Sullivan and Dank of the House and Crain of the Senate.

[mental health - initial assessments and emergency detention - 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.

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

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

21 4. During the emergency detention period:

22 a. a mental health evaluation of the consumer shall be
23 conducted by two licensed mental health professionals

1 and, if the consumer appears to have a mental illness
2 or be alcohol- or drug-dependent and be a consumer
3 requiring treatment, and

4 b. reasonable efforts shall be made to determine whether
5 the consumer has a current and unrevoked advance
6 directive executed pursuant to the Advance Directives
7 for Mental Health Treatment Act.

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

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

20 2. The consumer has been examined by a licensed mental health
21 professional who has determined that the consumer is a person
22 requiring treatment, the condition of the consumer is such that

1 emergency detention is warranted, and a statement has been prepared
2 as provided in subsection A of this section; and

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

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

16 D. Whenever it appears that a person detained as provided by
17 this section will require treatment beyond the period of emergency
18 detention and the person has refused to consent to voluntary
19 treatment, a licensed mental health professional conducting an
20 evaluation of the person or the executive director of the facility
21 in which the person is being detained, or the designee of the
22 executive director, shall immediately file a petition or request the
23 district attorney to file a petition with the district court as

1 provided by Section 5-410 of this title or Section 9-102 of this
2 title, and may request a court order directing prehearing detention
3 when such detention is necessary for the protection of the person or
4 others.

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

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-1-09 - DO
7 PASS, As Amended and Coauthored.