

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 597

By: Crain

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2001, Section 5-207, as last amended by Section 16,
9 Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section
10 5-207), which relates to emergency detention of
11 persons appearing to be mentally ill; permitting
12 certain persons to be transported to certain out-of-
13 state facilities for initial assessment or detention
14 in specified circumstances; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 43A O.S. 2001, Section 5-207, as
18 last amended by Section 16, Chapter 97, O.S.L. 2006 (43A O.S. Supp.
19 2008, Section 5-207), is amended to read as follows:

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

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

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

22 D. If the person is medically stable, the officer shall
23 immediately transport the person to the nearest facility designated
24 by the Commissioner of Mental Health and Substance Abuse Services as

1 an appropriate facility for an initial assessment. If, subsequent
2 to an initial assessment, it is determined that emergency detention
3 is warranted, the officer shall transport the person to the nearest
4 facility, designated by the Commissioner as appropriate for such
5 detention, that has bed space available. If it is determined by the
6 facility director or designee that the person is not medically
7 stable, the officer shall transport the person to the nearest
8 hospital or other appropriate treatment facility.

9 E. If the nearest facility designated by the Commissioner as an
10 appropriate facility for an initial assessment or detention is in
11 excess of fifty (50) miles from the county seat of the county in
12 which the person is located, and whenever there are factors based
13 upon clinical determinations made within the state indicating that
14 the care and treatment of the person would be facilitated or
15 improved thereby, the person may be transported by the officer to a
16 facility in another state if the facility:

17 1. Is designated or accredited by the mental health authorities
18 of that state as an appropriate facility for an initial assessment
19 or detention of such person;

20 2. Is accredited by the Joint Commission;

21 3. Is the nearest available facility to the county seat of the
22 county in which the person is located; and

23 4. Has agreed prior to the person leaving the state to receive
24 the person for initial assessment or detention.

1 ~~E-~~ F. The parent, brother or sister who is eighteen (18) years
2 of age or older, child who is eighteen (18) years of age or older,
3 or guardian of the person, or a person who appears to be or states
4 that such person is mentally ill, alcohol-dependent, or drug-
5 dependent to a degree that emergency action is necessary may request
6 the administrator of a facility designated by the Commissioner as an
7 appropriate facility for an initial assessment to conduct an initial
8 assessment to determine whether the condition of the person is such
9 that emergency detention is warranted and, if emergency detention is
10 warranted, to detain the person as provided in Section 5-206 of this
11 title.

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

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