

05/21/2012 04:53:22 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2254

By: Sherrer of the House and Burrage of the Senate

Title: Mental health; creating the Local Law Enforcement Mental Health Manpower Act;
authorizing officer to relinquish certain person to designated individuals; noncodification;
effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recedes from its amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Jordan Fred Jordan

Martin (Steve) Steve Martin

McCullough McCullough

Moore _____

Morrisette _____

Roan Paul D. Roan

Roberts (Dustin) _____

Schwartz Colby Schwartz

Sherrer Ben Sherrer

Wesselhoft Paul Wesselhoft

Williams _____

HB2254 CCR A

SENATE CONFEREES

Ballenger *Ken Bieg*

Branan _____

Brinkley *[Signature]*

Burrage *Mike Sen Bay*

Crain *[Signature]*

David *[Signature]*

Ford *[Signature]*

Griffin *[Signature]*

Halligan *[Signature]*

Ivester *[Signature]*

Jolley _____

Justice *[Signature]*

Marlatt _____

Mazzei _____

McAffrey *[Signature]*

Newberry *[Signature]*

Nichols *[Signature]*

Paddack *Paddack*

Stanislowski *[Signature]*

Sykes *[Signature]*

Wilson _____

Wyrick *[Signature]*

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2254

By: Sherrer, Hoskin and Roan of
the House

and

Burrage and Ivester of the
Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to mental health; creating the Local
12 Law Enforcement Mental Health Manpower Act; amending
13 43A O.S. 2011, Section 5-207, which relates to
14 protective custody of certain individuals;
15 authorizing officer to relinquish certain person to
16 designated individuals; amending 43A O.S. 2011,
17 Section 5-421, which relates to emergency service
18 patrols; permitting Department of Mental Health and
19 Substance Abuse Services to establish certain
20 emergency dispatch system if requested; requiring
21 certain persons to submit to certain assessment and
22 evaluation; requiring appropriate assistance to
23 certain persons; providing access of certain results
24 to certain persons; requiring that certain results
not be admissible in criminal case; providing for
exceptions; requiring certain results to be
considered to determine sentencing options; repealing
Section 1 of Enrolled House Bill No. 3052 of the 2nd
Session of the 53rd Legislature, which relates to
mental health and substance abuse assessment and
evaluation requirements; providing for codification;
providing for noncodification; and providing an
effective date.

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

2 SECTION 1. NEW LAW A new section of law not to be
3 codified in the Oklahoma Statutes reads as follows:

4 Section 2 of this act shall be known and may be cited as the
5 "Local Law Enforcement Mental Health Manpower Act".

6 SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-207, is
7 amended to read as follows:

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

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

20 2. Upon taking the person into protective custody, the officer
21 may relinquish custody of the person believed to require treatment
22 to a duly qualified reserve officer or deputy employed by the same
23 agency to fulfill the officer's duties as required by this title.
24

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

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

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

4 E. If the person is medically unstable, the person may be
5 transported to an appropriate medical facility for medical
6 treatment. A treating physician may authorize that the person be
7 detained until the person becomes medically stable. When the person
8 becomes medically stable, if in the opinion of the treating or
9 discharging physician, the patient is still a person requiring
10 treatment as defined in Section 1-103 of this title, the physician
11 shall authorize detention of the patient for transportation as
12 provided in subsection D of this section by an appropriate law
13 enforcement agency.

14 F. If the nearest facility designated by the Commissioner as an
15 appropriate facility for an initial assessment or detention is in
16 excess of fifty (50) miles from the county seat of the county in
17 which the person is located, and whenever, as provided in paragraph
18 (b) of Article III of Section 6-201 of this title, there are factors
19 based upon clinical determinations made within the state indicating
20 that the care and treatment of the person would be facilitated or
21 improved thereby, the person may be transported by the officer to a
22 facility in another state if the facility:

23 1. Is located in a state that has enacted into law and entered
24 into the Interstate Compact on Mental Health;

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

4 3. Is accredited by the Joint Commission;

5 4. Is the nearest available facility to the county seat of the
6 county in which the person is located; and

7 5. Has agreed prior to the person leaving the state to receive
8 the person for initial assessment or detention.

9 G. The parent, brother or sister who is eighteen (18) years of
10 age or older, child who is eighteen (18) years of age or older, or
11 guardian of the person, or a person who appears to be or states that
12 such person is mentally ill, alcohol-dependent, or drug-dependent to
13 a degree that emergency action is necessary may request the
14 administrator of a facility designated by the Commissioner as an
15 appropriate facility for an initial assessment to conduct an initial
16 assessment to determine whether the condition of the person is such
17 that emergency detention is warranted and, if emergency detention is
18 warranted, to detain the person as provided in Section 5-206 of this
19 title.

20 SECTION 3. AMENDATORY 43A O.S. 2011, Section 5-421, is
21 amended to read as follows:

22 Section 5-421. A. Counties and municipalities may establish
23 emergency service patrols. A patrol consists of persons trained to
24 give assistance in public places to persons whom the patrol has

1 reasonable grounds to believe are mentally ill. Members of an
2 emergency service patrol shall be capable of providing first aid in
3 emergency situations and may transport mentally ill persons to their
4 homes and to and from approved treatment facilities and alternative
5 facilities.

6 B. Standards for the establishment, training, and conduct of
7 emergency service patrols shall be adopted by the county or
8 municipality and approved by the Department of Mental Health and
9 Substance Abuse Services. These standards shall comply with the
10 standards of the regional emergency medical services plan.

11 C. All participating state and local agencies are directed to
12 coordinate with each other and cooperate in assisting the Department
13 of Mental Health and Substance Abuse Services as needed. If
14 specifically requested in two or more regional emergency medical
15 service plans, the Department may establish a law enforcement
16 behavioral health emergency dispatch system.

17 D. All emergency service patrols shall be required to keep
18 reliable data on services made available and provided by the
19 emergency service patrols.

20 E. Upon the request of the Department of Mental Health and
21 Substance Abuse Services, every state agency, board or commission
22 shall provide any information requested by the Department of Mental
23 Health and Substance Abuse Services to assess the effectiveness of
24 emergency service patrols.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-704 of Title 43A, unless there
3 is created a duplication in numbering, reads as follows:

4 Any person found guilty of a felony offense may, prior to
5 sentencing, be required to submit to an approved risk, mental health
6 and substance abuse assessment and evaluation which shall be
7 administered and scored by assessment personnel certified by the
8 Department of Mental Health and Substance Abuse Services. Any
9 person lacking sufficient skills to comprehend or otherwise
10 participate in the risk, mental health and substance abuse
11 assessment and evaluation shall have appropriate assistance. The
12 court, district attorney, arrested person and counsel for the
13 arrested person shall have access to the results of the risk, mental
14 health and substance abuse assessment and evaluation. The results
15 of the risk, mental health and substance abuse assessment and
16 evaluation shall not be admissible as evidence in the criminal case
17 unless specifically waived by the defendant or for purposes of
18 determining sentencing options for a defendant who has pled guilty
19 and punishment is to be determined at the discretion of the court.
20 The court and the district attorney shall consider the results of
21 the risk, mental health and substance abuse assessment and
22 evaluation to determine sentencing options for the person.

23 SECTION 5. REPEALER Section 1 of Enrolled House Bill No.
24 3052 of the 2nd Session of the 53rd Legislature, is hereby repealed.

1 SECTION 6. This act shall become effective November 1, 2012.

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