SENATE FLOOR VERSION
April 9, 2012
As Amended

ENGROSSED HOUSE
BILL NO. 2254 By: Sherrer, Hoskin and Roan of the House

and

Burrage of the Senate

[mental health - creating Local Law Enforcement Mental Health Manpower Act - protective custody of individuals - noncodification - effective date]

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

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

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

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

Section 5-207. A. Any person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the 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.

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

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

C. The officer shall prepare a written statement indicating the basis for the officer's belief that the person is a person requiring treatment and the circumstances under which the officer took the person into protective custody. The officer shall give a copy of the statement to the person or the person's attorney upon the request of either. If the officer does not make the determination to take an individual into protective custody on the basis of the officer's personal observation, the officer shall not be required to prepare a written statement. However, the person stating to be mentally ill, alcohol-dependent, or drug-dependent or the person upon whose statement the officer relies shall sign a written statement indicating the basis for such person's belief that the person is a person requiring treatment. Any false statement given

to the officer by the person upon whose statement the officer relies shall be a misdemeanor and subject to the sanctions of Title 21 of the Oklahoma Statutes.

D. If the person is medically stable, the officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available. If it is determined by the facility director or designee that the person is not medically stable, the officer shall transport the person to the nearest hospital or other appropriate treatment facility.

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

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

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

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

3. Is accredited by the Joint Commission;

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

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

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

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

SECTION 3. This act shall become effective November 1, 2012.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO PASS, As Amended.