

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB581 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

by deleting on page 5, Section 2, lines 23 and 24, the words "the treatment advocate as defined pursuant to Section 1-109.1 of this title, if any, and" and by replacing in lieu thereof the words "if any exist and if one is known, the treatment advocate as defined pursuant to Section 1-109.1 of this title; a person having a valid power of attorney with health care decision making authority, a person having a valid guardianship with health care decision making authority, a person having an advanced health care directive, or a person having an attorney in fact as designated in a valid mental health advanced directive, unless specifically indicated otherwise by the instrument or court order. The documents shall not identify the alleged person requirement treatment directly or indirectly as a person with a substance abuse disorder, and"

by adding before the word "a" on page 6, Section 2, line 1, the following words "if the designations or orders listed in subparagraph d of this paragraph do not exist or are not known, then"

by adding after the period on page 6, Section 2, line 6, the following sentence "The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder."

by deleting on page 7, Section 3, lines 13 and 14, the words "the person's treatment advocate as defined pursuant to Section 1-109.1 of this title, if any" and by replacing in lieu thereof the following words "each individual required to receive notice pursuant to Section 5-412 of this title"

by adding a new Section 4 to read as follows:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Ben Sherrer

Adopted: _____

Reading Clerk

SEE INSERT

ay adding a new Section 5 to read as follows:

SEE INSERT

and by renumbering the subsequent sections and by deleting on page 8, renumbered Section 6, lines 22-24 the words "the person's treatment advocate as defined pursuant to Section 1-109.1 of this title, if any" and by replacing in lieu thereof the following words "each individual required to receive notice pursuant to Section 5-412 of this title".

1 "SECTION 4. AMENDATORY 43A O.S. 2011, Section 5-414, is
2 amended to read as follows:

3 Section 5-414. A. If a mental health evaluation is not
4 attached to a petition alleging a person to be a person requiring
5 treatment at the time the petition is filed, the court shall order
6 the person who is the subject of the petition to undergo a mental
7 health evaluation by two licensed mental health professionals, and a
8 mental health evaluation to be completed and filed with the court
9 prior to the hearing.

10 1. The mental health evaluation shall be conducted on an
11 outpatient basis unless the court has issued an order for prehearing
12 detention.

13 2. A copy of all petitions, orders, affidavits, powers of
14 attorney, advance health care directives, treatment advocate
15 designations, mental health advance directives, guardianships,
16 police reports and other relevant documents shall accompany the
17 person to the place where the mental health evaluation is to be
18 conducted.

19 3. Upon completion of the mental health evaluation, the
20 facility shall transmit a copy of the evaluation prepared by the
21 licensed mental health professionals to the court and to the
22 attorney of record for the person evaluated.

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1 B. The report of the licensed mental health professionals
2 conducting the mental health evaluation pursuant to this section
3 shall include written findings as to whether:

4 1. The person being evaluated appears to be a person requiring
5 treatment as defined in this title, and is reasonably likely to
6 benefit from mental health or substance abuse treatment; and

7 2. Based on the following, inpatient treatment is the least
8 restrictive alternative that meets the needs of the person:

9 a. reasonable efforts have been made to provide for the
10 mental health or substance abuse treatment needs of
11 the person through the provision of less restrictive
12 alternatives and the alternatives have failed to meet
13 the treatment needs of the person, or

14 b. after a thorough consideration of less restrictive
15 alternatives to inpatient treatment, the condition of
16 the person is such that less restrictive alternatives
17 are unlikely to meet the treatment needs of the
18 person.

19 SECTION 5. AMENDATORY 43A O.S. 2011, Section 5-415, is
20 amended to read as follows:

21 Section 5-415. A. Upon receiving a petition alleging a person
22 to be a person requiring treatment, the court shall set a day and
23 time for the hearing.

1 1. If the person alleged to be a person requiring treatment
2 does not have an attorney, the court shall immediately appoint an
3 attorney for the person.

4 2. If a copy of a mental health evaluation is not attached to
5 the petition at the time it is filed, the court shall immediately
6 order a mental health evaluation of the person as provided by
7 Section 5-414 of this title.

8 B. If the court deems it necessary, or if the person alleged to
9 be a person requiring treatment demands, the court shall schedule
10 the hearing on the petition as a jury trial to be held within one
11 hundred twenty (120) hours or five (5) days of the demand, excluding
12 weekends and holidays, or within as much additional time as is
13 requested by the attorney of such person upon good cause shown.

14 C. The court, at the hearing on the petition, shall determine
15 by clear and convincing evidence whether the person is a person
16 requiring treatment.

17 1. The court shall take evidence and make findings of fact
18 concerning the person's competency to consent to or refuse the
19 treatment that may be ordered, including, but not limited to, the
20 consumer's right to refuse medication.

21 2. If a jury trial is not demanded, the court may receive as
22 evidence and act upon the affidavits of the licensed mental health
23 professionals who evaluated the person and the mental health
24 evaluation.

1 3. When the hearing is conducted as a jury trial, the
2 petitioner and any witness in behalf of the petitioner shall be
3 subject to cross-examination by the attorney for the person alleged
4 to be a person requiring treatment. The person alleged to be a
5 person requiring treatment may also be called as a witness and
6 cross-examined.

7 D. After the hearing, when the court determines that the person
8 is not a person requiring treatment, the court shall dismiss the
9 petition and, if the person is being detained, order the person to
10 be discharged from detention.

11 E. After the hearing, when the court determines the person to
12 be a person requiring treatment, the court shall order the person to
13 receive the least restrictive treatment consistent with the
14 treatment needs of the person and the safety of the person and
15 others.

16 1. The court shall not order hospitalization without a thorough
17 consideration of available treatment alternatives to hospitalization
18 and may direct the submission of evidence as to the least
19 restrictive treatment alternative or may order a mental health
20 examination.

21 2. If the court finds that a program other than hospitalization
22 is appropriate to meet the treatment needs of the individual and is
23 sufficient to prevent injury to the individual or to others, the
24 court may order the individual to receive whatever treatment other

1 than hospitalization that is appropriate for a period set by the
2 court, during which time the court shall continue its jurisdiction
3 over the individual as a person requiring treatment.

4 3. If the court orders the person to be committed for
5 involuntary inpatient treatment, the court shall commit the person
6 to the custody of the Department of Mental Health and Substance
7 Abuse Services for a placement that is suitable to the person's
8 needs or to a private facility willing to accept the person for
9 treatment.

10 4. The person shall be delivered to the custody of the
11 Department of Mental Health and Substance Abuse Services for a
12 placement that is suitable to the person's needs or to a private
13 facility willing to accept the person for treatment.

14 5. If the person is placed in the custody of the Department,
15 the Department may designate two or more facilities to provide
16 treatment and if the person to be treated or a parent, spouse,
17 guardian, brother, sister or child, who is at least eighteen (18)
18 years of age, of the person, expresses a preference for one such
19 facility, the Department shall attempt, if administratively
20 possible, to comply with the preference.

21 6. The person shall be discharged from inpatient treatment at
22 such time as the person no longer requires treatment as determined
23 by the executive director of the facility or the designee of the
24 executive director, or as otherwise required by law.

1 F. The court shall make and keep records of all cases brought
2 before it.

3 1. No records of proceedings pursuant to this section shall be
4 open to public inspection except by order of the court or to
5 employees of the Department of Mental Health and Substance Abuse
6 Services, the person's attorney of record, the person's treatment
7 advocate as defined in Section 1-109.1 of this title, if any, a
8 person having a valid power of attorney with health care decision-
9 making authority, a person having valid guardianship with health
10 care decision-making authority, a person having an advance health
11 care directive, a person having an attorney-in-fact as designated in
12 a valid mental health advance directive, or persons ~~have~~ having a
13 legitimate treatment interest, unless specifically indicated
14 otherwise by the instrument or court order. The documents shall not
15 identify the alleged person requiring treatment directly or
16 indirectly as a person with a substance abuse disorder.

17 2. Bonded abstractors may be deemed to be persons having a
18 legitimate interest for the purpose of having access to records
19 regarding determinations of persons requiring treatment under this
20 section."

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22 54-1-7937 AM 04/16/13

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