



1 health evaluation by two licensed mental health professionals, and a  
2 mental health evaluation to be completed and filed with the court  
3 prior to the hearing.

4 1. The mental health evaluation shall be conducted on an  
5 outpatient basis unless the court has issued an order for prehearing  
6 detention.

7 2. A copy of all petitions, orders, affidavits, powers of  
8 attorney, advance health care directives, police reports and other  
9 relevant documents shall accompany the person to the place where the  
10 mental health evaluation is to be conducted.

11 3. Upon completion of the mental health evaluation, the  
12 facility shall transmit a copy of the evaluation prepared by the  
13 licensed mental health professionals to the court and to the  
14 attorney of record for the person evaluated.

15 B. The report of the licensed mental health professionals  
16 conducting the mental health evaluation pursuant to this section  
17 shall include written findings as to whether:

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

21 2. Based on the following, inpatient treatment is the least  
22 restrictive alternative that meets the needs of the person:  
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- 1 a. reasonable efforts have been made to provide for the  
2 mental health or substance abuse treatment needs of  
3 the person through the provision of less restrictive  
4 alternatives and the alternatives have failed to meet  
5 the treatment needs of the person, or  
6 b. after a thorough consideration of less restrictive  
7 alternatives to inpatient treatment, the condition of  
8 the person is such that less restrictive alternatives  
9 are unlikely to meet the treatment needs of the  
10 person.

11 SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-415, is  
12 amended to read as follows:

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

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

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

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

7 C. The court, at the hearing on the petition, shall determine  
8 by clear and convincing evidence whether the person is a person  
9 requiring treatment.

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

14 2. If a jury trial is not demanded, the court may receive as  
15 evidence and act upon the affidavits of the licensed mental health  
16 professionals who evaluated the person and the mental health  
17 evaluation.

18 3. When the hearing is conducted as a jury trial, the  
19 petitioner and any witness in behalf of the petitioner shall be  
20 subject to cross-examination by the attorney for the person alleged  
21 to be a person requiring treatment. The person alleged to be a  
22 person requiring treatment may also be called as a witness and  
23 cross-examined.

1 D. After the hearing, when the court determines that the person  
2 is not a person requiring treatment, the court shall dismiss the  
3 petition and, if the person is being detained, order the person to  
4 be discharged from detention.

5 E. After the hearing, when the court determines the person to  
6 be a person requiring treatment, the court shall order the person to  
7 receive the least restrictive treatment consistent with the  
8 treatment needs of the person and the safety of the person and  
9 others.

10 1. The court shall not order hospitalization without a thorough  
11 consideration of available treatment alternatives to hospitalization  
12 and may direct the submission of evidence as to the least  
13 restrictive treatment alternative or may order a mental health  
14 examination.

15 2. If the court finds that a program other than hospitalization  
16 is appropriate to meet the treatment needs of the individual and is  
17 sufficient to prevent injury to the individual or to others, the  
18 court may order the individual to receive whatever treatment other  
19 than hospitalization that is appropriate for a period set by the  
20 court, during which time the court shall continue its jurisdiction  
21 over the individual as a person requiring treatment.

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

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

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

16 6. The person shall be discharged from inpatient treatment at  
17 such time as the person no longer requires treatment as determined  
18 by the executive director of the facility or the designee of the  
19 executive director, or as otherwise required by law.

20 F. The court shall make and keep records of all cases brought  
21 before it.

22 1. No records of proceedings pursuant to this section shall be  
23 open to public inspection except by order of the court or to  
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1 employees of the Department of Mental Health and Substance Abuse  
2 Services, the person's attorney of record, the person's treatment  
3 advocate as defined pursuant to Section 1-109.1 of this title, if  
4 any, or persons having a legitimate treatment interest.

5 2. Bonded abstractors may be deemed to be persons having a  
6 legitimate interest for the purpose of having access to records  
7 regarding determinations of persons requiring treatment under this  
8 section.

9 SECTION 3. AMENDATORY 43A O.S. 2011, Section 5-417, is  
10 amended to read as follows:

11 Section 5-417. A precommitment examination ordered by the court  
12 shall include, but is not limited to:

- 13 1. A physical evaluation;
- 14 2. A mental evaluation;
- 15 3. A social history;
- 16 4. A study of the individual's family and community situation;
- 17 5. A list of available forms of care and treatment which may  
18 serve as an alternative to admission to a hospital; ~~and~~

19 6. Powers of attorney or advance health care directives, if  
20 any; and

21 7. A recommendation as to the least restrictive placement  
22 suitable to the person's needs, as identified by this section,  
23 should the individual be ordered to undergo treatment by the court.

1 Programs other than hospitalization to be considered shall include,  
2 but not be limited to, outpatient clinics, extended care facilities,  
3 nursing homes, sheltered care arrangements, home care and homemaker  
4 services, and other treatment programs or suitable arrangements.

5 SECTION 4. AMENDATORY 43A O.S. 2011, Section 5-418, is  
6 amended to read as follows:

7 Section 5-418. In addition to the notice requirements contained  
8 in the Mental Health Law, each person ordered to undergo a  
9 precommitment screening examination shall receive:

10 1. A copy of the order requiring the person to undergo the  
11 examination; and

12 2. A written statement explaining what the examination will  
13 cover.

14 If the individual is unable to read or understand the written  
15 materials, every effort will be made to explain them in a language  
16 such person understands, and a copy of the examination findings  
17 shall be provided to the court, ~~and~~ to the person's attorney of  
18 record, if known, and the person's treatment advocate as defined  
19 pursuant to Section 1-109.1 of this title, if any, upon completion.

20 SECTION 5. This act shall become effective November 1, 2013.

21  
22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/19/2013 - DO  
23 PASS.