



1 1. A treatment advocate as defined in Section 1-109.1 of this  
2 title;

3 2. The father, mother, husband, wife, grandparent, brother,  
4 sister, guardian or child, over the age of eighteen (18) years, of  
5 an individual alleged to be a person requiring treatment;

6 3. A licensed mental health professional;

7 ~~4. The executive director of a facility designated by the~~  
8 ~~Commissioner of Mental Health and Substance Abuse Services as~~  
9 ~~appropriate for emergency detention;~~

10 ~~5. An administrator of a hospital that is approved by the Joint~~  
11 ~~Commission on Accreditation of Healthcare Organizations; provided,~~  
12 ~~however, in any involuntary commitment procedure in which a hospital~~  
13 ~~is the petitioner pursuant to the provisions of this section, the~~  
14 ~~hospital may participate in such hearing without retaining their own~~  
15 ~~legal counsel if the hospital provides as a witness a mental health~~  
16 ~~therapist or a licensed mental health professional;~~

17 ~~6. A person in charge of any correctional institution;~~

18 ~~7.~~ 5. Any peace officer within the county in which the  
19 individual alleged to be a person requiring treatment resides or may  
20 be found; or

21 ~~8.~~ 6. The district attorney in whose district the person  
22 resides or may be found.

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1 B. The petition shall contain a statement of the facts upon  
2 which the allegation is based and, if known, the names and addresses  
3 of any witnesses to the alleged facts.

4 1. The petition shall be verified and made under penalty of  
5 perjury.

6 2. A request for the prehearing detention of the individual  
7 alleged to be a person requiring treatment may be attached to the  
8 petition.

9 3. If the individual alleged to be a person requiring treatment  
10 is being held in emergency detention, a copy of the mental health  
11 evaluation shall be attached to the petition.

12 C. The inpatient mental health treatment of minors shall be  
13 pursuant to the provisions of the Inpatient Mental Health and  
14 Substance Abuse Treatment of Minors Act.

15 SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-412, is  
16 amended to read as follows:

17 Section 5-412. A. Notice of the date, time and place of the  
18 hearing on a petition alleging a person to be a person requiring  
19 treatment shall be delivered to such person at least one (1) day  
20 prior to the hearing. Notice shall be personally delivered to the  
21 person together with a copy of the petition and copies of the mental  
22 health evaluation and any order of the court directing prehearing  
23 detention.

24 B. The notice shall contain the following information:

1 1. The definitions provided by Section 1-103 of this title of a  
2 "mental illness" and a "person requiring treatment";

3 2. If applicable, that the court has ordered the mental health  
4 evaluation of the person by two licensed mental health  
5 professionals, at least one of whom is a psychiatrist who is a  
6 diplomate of the American Board of Psychiatry and Neurology, a  
7 licensed clinical psychologist, or a licensed Doctor of Medicine or  
8 Doctor of Osteopathy who has received specific training for and is  
9 experienced in performing mental health therapeutic, diagnostic, or  
10 counseling functions, for the purpose of conducting an evaluation of  
11 the person alleged to be a person requiring treatment stating their  
12 findings, and the time and place of the evaluation;

13 3. That, upon request, the hearing on the petition may be  
14 conducted as a jury trial and the jury shall be composed of six  
15 persons having the qualifications required of jurors in courts of  
16 record;

17 4. That the petitioner and witnesses identified in the petition  
18 may offer testimony under oath at the hearing on the petition;

19 5. If applicable, that the court has appointed an attorney for  
20 the person alleged to be a person requiring treatment who shall  
21 represent the person until final disposition of the case and that if  
22 the person is indigent, the court shall pay the attorney fees;

23 6. That, if the person is found at the hearing or at a jury  
24 trial to be a person requiring treatment under ~~this act~~ Section 5-

1 410 et seq. of this title, the court will take evidence and make  
2 findings of fact concerning the person's competency to consent or to  
3 refuse the treatment that is ordered, including, but not limited to,  
4 the right of the person to refuse psychotropic medications; and

5 7. That the person alleged to be a person requiring treatment  
6 shall be afforded such other rights as are guaranteed by state and  
7 federal law.

8 C. The person delivering the copy of the notice and petition to  
9 the person alleged to be a person requiring treatment shall, at the  
10 time of delivery, explain the content, purpose and effect of the  
11 notice and the legal right to judicial review by habeas corpus.

12 D. 1. A copy of the notice, the petition, and the attachments  
13 to the petition shall also be delivered at least one (1) day prior  
14 to the hearing to:

15 a. the individual initiating the request for protective  
16 custody, emergency detention, involuntary commitment  
17 or prehearing detention,

18 b. the attorney or court-appointed counsel of the person,  
19 to the district attorney, and to the public defender,  
20 if any,

21 c. the facility, if any, in which the person is detained  
22 in emergency detention, ~~and~~

23 d. the treatment advocate as defined pursuant to Section  
24 1-109.1 of this title, if any, and

1           e. a parent, spouse, guardian, brother, sister or child  
2           who is at least eighteen (18) years of age of the  
3           person alleged to be a person requiring treatment and  
4           who is not the individual initiating the petition or a  
5           request for protective custody, emergency detention,  
6           involuntary commitment or prehearing detention.

7           Notice shall also be delivered to any other person as  
8           may be ordered by the court.

9           2. The notice required by this subsection may be served  
10          personally or by certified mail. When notice is served personally,  
11          the person making such service shall make affidavit of the same and  
12          file such notice, with proof of service, with the district court.  
13          This notice may be served in any part of the state when so ordered  
14          by the court.

15          E. Notice of orders of a court directing a mental health  
16          evaluation or prehearing detention of a person alleged to be a  
17          person requiring treatment shall be delivered in substantially the  
18          same manner as provided by subsection A of this section. Notice of  
19          a court order directing a mental health evaluation of the person  
20          shall be delivered at least one (1) day before the evaluation, and  
21          as many additional days as are requested by the person alleged to be  
22          a person requiring treatment or the attorney of such person as are  
23          reasonable without prejudice to the person. Any request for  
24

1 additional days shall be subject to the discretion of the court,  
2 considering the facts and circumstances of each particular case.

3 SECTION 3. AMENDATORY 43A O.S. 2011, Section 5-413, is  
4 amended to read as follows:

5 Section 5-413. A. When a request for an order of prehearing  
6 detention is attached to a petition alleging a person to have a  
7 mental illness and to be a person requiring treatment, the district  
8 court shall determine whether there is probable cause to detain the  
9 person who is the subject of the petition prior to a hearing on the  
10 petition.

11 1. If the court issues an order for detention, it shall  
12 immediately set a date, time, and place for a hearing on the  
13 petition, and shall issue notice to the person's treatment advocate  
14 as defined pursuant to Section 1-109.1 of this title, if any.

15 2. The period of prehearing detention shall not exceed seventy-  
16 two (72) hours, excluding the weekends and holidays, except upon a  
17 court order authorizing detention beyond a seventy-two-hour period  
18 or pending the hearing on a petition requesting involuntary  
19 commitment or treatment. Prehearing detention may be extended to  
20 coincide with any order of continuance entered by the court.

21 B. If the court finds that probable cause to detain the person  
22 alleged to have a mental illness and to be a person requiring  
23 treatment does not exist, the court shall dismiss the request and,  
24 if the person is being held in protective custody or emergency

1 detention, order the person released and returned to the point where  
2 such person was taken into protective custody.

3 C. If the court finds that probable cause to detain the person  
4 alleged to have a mental illness and to be a person requiring  
5 treatment does exist:

6 1. An order may be entered authorizing any peace officer to  
7 take that person into custody and to detain such person in a  
8 suitable facility prior to the hearing on the petition; or

9 2. If the person is being held in emergency detention, the  
10 court may issue an order authorizing the facility to detain the  
11 person prior to a hearing on the petition.

12 A certified copy of an order of prehearing detention shall  
13 constitute authority for a facility to detain or to continue to  
14 detain the person who is the subject of the order.

15 SECTION 4. AMENDATORY 43A O.S. 2011, Section 5-419, is  
16 amended to read as follows:

17 Section 5-419. The court may modify an order for involuntary  
18 inpatient commitment and order alternative treatment pursuant to the  
19 provisions of this section upon request of the person committed or  
20 the administrator of a facility to which a person has been  
21 involuntarily committed for inpatient treatment. The court shall  
22 give notice to the person affected thereby and to the person's  
23 treatment advocate as defined pursuant to Section 1-109.1 of this  
24 title, if any, to appear within five (5) regular court days, or as

1 many other days as the court may grant, and show cause why the  
2 modification shall not be made. The notice shall contain the  
3 following information:

4 1. The individual ordered to undergo a program of alternative  
5 treatment to hospitalization is not complying with the previous  
6 order, or that the alternative treatment program has not been  
7 sufficient to prevent harm or injury to the person or others, or the  
8 person committed for inpatient care and treatment is eligible for  
9 discharge and that an evaluation conducted prior to discharge  
10 determined that an order for alternative treatment is necessary in  
11 order to prevent impairment or injury to the person;

12 2. A statement of the facts upon which the alleged change of  
13 condition is based and a copy of any written findings entered by the  
14 court;

15 3. Notice of the time and place of the show cause hearing;

16 4. Notice of the types of modifications that the court can make  
17 pursuant to this hearing;

18 5. The witnesses who shall testify or offer evidence for the  
19 modification which are known to the court;

20 6. That the individual has the right to an attorney, and that  
21 if the individual cannot afford an attorney, one will be provided;  
22 and

23 7. That the individual has the right to cross-examine  
24 witnesses, and to call witnesses in such person's own defense.

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/09/2013 -  
DO PASS, As Amended.

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