

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1109

By: Coody

4
5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 5-415, which relates to a court hearing
9 for a person alleged to be a person requiring
10 treatment; permitting court to designate certain
11 panel to evaluate and make certain determination and
12 recommendation; and providing an effective date.

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

14 SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-415, is
15 amended to read as follows:

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

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

22 2. If a copy of a mental health evaluation is not attached to
23 the petition at the time it is filed, the court shall immediately
24 order a mental health evaluation of the person as provided by

1 Section 5-414 of this title. The court, at its discretion, may
2 designate a panel of three licensed mental health professionals to
3 evaluate the person and make a recommendation to the court. Members
4 of the panel shall determine if the person meets the definition of a
5 person requiring treatment and make a specific recommendation to the
6 court for the most appropriate treatment.

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

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

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

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

24

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, or persons having a
7 legitimate treatment interest.

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

12 SECTION 2. This act shall become effective November 1, 2013.

13

14 54-1-5427 AM 01/06/13

15

16

17

18

19

20

21

22

23

24