

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1499

By: David

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 1-103, as last amended by Section 1,
Chapter 213, O.S.L. 2013 (43A O.S. Supp. 2013,
9 Section 1-103), which relates to definitions;
10 broadening certain definitions; adding definitions;
amending 43A O.S. 2011, Section 1-106, which relates
11 to court proceedings; directing district attorneys to
participate in certain court proceedings; 43A O.S.
12 2011, Section 1-107, which relates to venue of
actions; permitting civil actions related to assisted
13 outpatient treatment in certain venues; permitting
certain hearings in certain facilities; 43A O.S.
14 2011, Section 1-108, which relates to evidence;
permitting writs of habeas corpus to assisted
15 outpatients; amending 43A O.S. 2011, Section 3-325,
which relates to contracts for services; prohibiting
16 Department of Mental Health and Substance Abuse
Services from entering into certain contracts;
17 providing legal proceedings for assisted outpatients;
amending 43A O.S. 2011, Section 5-416, which relates
18 to hospitalization alternatives; clarifying statutory
reference; permitting district court to commit
19 certain persons to assisted outpatient treatment
programs; expanding certain jurisdiction of district
20 court; allowing extension of assisted outpatient
treatment programs under certain circumstances;
21 prohibiting district court from issuing certain order
without treatment plan; providing guidelines for
22 treatment plans; permitting certain persons to assist
in development of assisted outpatient treatment
23 plans; providing standards for development of
treatment plans; prohibiting district courts from
24 issuing certain orders without certain explanation;
providing requirements for submission of treatment
plans; permitting district court to order treatment

1 plans under certain circumstances; providing
2 standards for issuance of court orders; permitting
3 district court to extend treatment plans; permitting
4 mental health professionals to place assisted
5 outpatients into protective custody under certain
6 circumstances; directing Board of Mental Health and
7 Substance Abuse Services to promulgate rules;
8 providing standards for rules; amending 43A O.S.
9 2011, Section 5-417, as amended by Section 3, Chapter
10 3, O.S.L. 2013 (43A O.S. Supp. 2013, Section 5-417),
11 which relates to precommitment examinations;
12 permitting consideration of assisted outpatient
13 treatment for certain persons; providing for
14 codification; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as
last amended by Section 1, Chapter 213, O.S.L. 2013 (43A O.S. Supp.
2013, Section 1-103), is amended to read as follows:

Section 1-103. When used in this title, unless otherwise
expressly stated, or unless the context or subject matter otherwise
requires:

1. "Department" means the Department of Mental Health and
Substance Abuse Services;

2. "Chair" means the chair of the Board of Mental Health and
Substance Abuse Services;

3. "Mental illness" means a substantial disorder of thought,
mood, perception, psychological orientation or memory that
significantly impairs judgment, behavior, capacity to recognize
reality or ability to meet the ordinary demands of life;

1 4. "Board" means the "Board of Mental Health and Substance
2 Abuse Services" as established by the Mental Health Law;

3 5. "Commissioner" means the individual selected and appointed
4 by the Board to serve as Commissioner of Mental Health and Substance
5 Abuse Services;

6 6. "Indigent person" means a person who has not sufficient
7 assets or resources to support the person and to support members of
8 the family of the person lawfully dependent on the person for
9 support;

10 7. "Facility" means any hospital, school, building, house or
11 retreat, authorized by law to have the care, treatment or custody of
12 an individual with mental illness, or drug or alcohol dependency,
13 gambling addiction, eating disorders, an opioid substitution
14 treatment program, including, but not limited to, public or private
15 hospitals, community mental health centers, clinics, satellites or
16 facilities; provided that facility shall not mean a child guidance
17 center operated by the State Department of Health;

18 8. "Consumer" means a person under care or treatment in a
19 facility pursuant to the Mental Health Law, or in an outpatient
20 status;

21 9. "Care and treatment" means medical care and behavioral
22 health services, as well as food, clothing and maintenance,
23 furnished to a person;

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1 10. Whenever in this law or in any other law, or in any rule or
2 order made or promulgated pursuant to this law or to any other law,
3 or in the printed forms prepared for the admission of consumers or
4 for statistical reports, the words "insane", "insanity", "lunacy",
5 "mentally sick", "mental disease" or "mental disorder" are used,
6 such terms shall have equal significance to the words "mental
7 illness";

8 11. "Licensed mental health professional" means:

- 9 a. a psychiatrist who is a diplomate of the American
10 Board of Psychiatry and Neurology,
- 11 b. a physician licensed pursuant to the Oklahoma
12 Allopathic Medical and Surgical Licensure and
13 Supervision Act or the Oklahoma Osteopathic Medicine
14 Act,
- 15 c. a clinical psychologist who is duly licensed to
16 practice by the State Board of Examiners of
17 Psychologists,
- 18 d. a professional counselor licensed pursuant to the
19 Licensed Professional Counselors Act,
- 20 e. a person licensed as a clinical social worker pursuant
21 to the provisions of the Social Worker's Licensing
22 Act,
- 23 f. a licensed marital and family therapist as defined in
24 the Marital and Family Therapist Licensure Act,

- 1 g. a licensed behavioral practitioner as defined in the
2 Licensed Behavioral Practitioner Act,
3 h. an advanced practice nurse as defined in the Oklahoma
4 Nursing Practice Act specializing in mental health,
5 i. a physician's assistant who is licensed in good
6 standing in this state and has received specific
7 training for and is experienced in performing mental
8 health therapeutic, diagnostic, or counseling
9 functions, or
10 j. a licensed drug and alcohol counselor/mental health
11 ("LADC/MH") as defined in the Licensed Alcohol and
12 Drug Counselors Act;

13 12. "Mentally incompetent person" means any person who has been
14 adjudicated mentally or legally incompetent by an appropriate
15 district court;

16 13. a. "Person requiring treatment" means a person who
17 because of his or her mental illness or drug or
18 alcohol dependency:

- 19 (1) poses a substantial risk of immediate physical
20 harm to self as manifested by evidence or serious
21 threats of or attempts at suicide or other
22 significant self-inflicted bodily harm,
23 (2) poses a substantial risk of immediate physical
24 harm to another person or persons as manifested

1 by evidence of violent behavior directed toward
2 another person or persons,

3 (3) has placed another person or persons in a
4 reasonable fear of violent behavior directed
5 towards such person or persons or serious
6 physical harm to them as manifested by serious
7 and immediate threats,

8 (4) is in a condition of severe deterioration such
9 that, without immediate intervention, there
10 exists a substantial risk that severe impairment
11 or injury will result to the person, or

12 (5) poses a substantial risk of immediate serious
13 physical injury to self or death as manifested by
14 evidence that the person is unable to provide for
15 and is not providing for his or her basic
16 physical needs.

17 b. "Assisted outpatient" means a person who:

18 (1) is eighteen (18) years of age or older, and

19 (2) is suffering from a mental illness, and

20 (3) is unlikely to survive safely in the community
21 without supervision, based on a clinical
22 determination, and

23 (4) has a history of lack of compliance with
24 treatment for mental illness that has:

1 (a) prior to the filing of a petition, at least
2 twice within the last thirty-six (36) months
3 been a significant factor in necessitating
4 hospitalization or treatment in a hospital
5 or residential facility, or receipt of
6 services in a forensic or other mental
7 health unit of a correctional facility or
8 local correctional facility, not including
9 any current period, or period ending within
10 the last six (6) months, during which the
11 person was or is hospitalized or
12 incarcerated, or

13 (b) prior to the filing of the petition,
14 resulted in one or more acts of serious
15 violent behavior toward self or others or
16 threats of, or attempts at, serious physical
17 harm to self or others within the last
18 forty-eight (48) months, not including any
19 current period, or period ending within the
20 last six (6) months, in which the person was
21 or is hospitalized or incarcerated, and

22 (5) is, as a result of his or her mental illness,
23 unlikely to voluntarily participate in outpatient
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1 treatment that would enable him or her to live
2 safely in the community, and

3 (6) in view of his or her treatment history and
4 current behavior, is in need of assisted
5 outpatient treatment in order to prevent a
6 relapse or deterioration which would be likely to
7 result in serious harm to the person or persons
8 as defined by this section, and

9 (7) is likely to benefit from assisted outpatient
10 treatment,

11 ~~b.~~

12 c. The mental health or substance abuse history of the
13 person may be used as part of the evidence to
14 determine whether the person is a person requiring
15 treatment or an assisted outpatient. The mental
16 health or substance abuse history of the person shall
17 not be the sole basis for this determination.

18 ~~e.~~

19 d. Unless a person also meets the criteria established in
20 subparagraph a or b of this paragraph, person
21 requiring treatment or an assisted outpatient shall
22 not mean:

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- (1) a person whose mental processes have been weakened or impaired by reason of advanced years, dementia, or Alzheimer's disease,
- (2) a mentally retarded or developmentally disabled person as defined in Title 10 of the Oklahoma Statutes,
- (3) a person with seizure disorder,
- (4) a person with a traumatic brain injury, or
- (5) a person who is homeless.

~~d.~~

e. A person who meets the criteria established in this section, but who is medically unstable, or the facility holding the person is unable to treat the additional medical conditions of that person should be discharged and transported in accordance with Section 1-110 of this title;

14. "Petitioner" means a person who files a petition alleging that an individual is a person requiring treatment or an assisted outpatient;

15. "Executive director" means the person in charge of a facility as defined in this section;

16. "Private hospital or facility" means any general hospital maintaining a neuro-psychiatric unit or ward, or any private hospital or facility for care and treatment of a person having a

1 mental illness, which is not supported by the state or federal
2 government. The term "private hospital" or "facility" shall not
3 include nursing homes or other facilities maintained primarily for
4 the care of elderly and disabled persons;

5 17. "Individualized treatment plan" means a proposal developed
6 during the stay of an individual in a facility, under the provisions
7 of this title, which is specifically tailored to the treatment needs
8 of the individual. Each plan shall clearly include the following:

- 9 a. a statement of treatment goals or objectives, based
10 upon and related to a clinical evaluation, which can
11 be reasonably achieved within a designated time
12 interval,
- 13 b. treatment methods and procedures to be used to obtain
14 these goals, which methods and procedures are related
15 to each of these goals and which include specific
16 prognosis for achieving each of these goals,
- 17 c. identification of the types of professional personnel
18 who will carry out the treatment procedures, including
19 appropriate medical or other professional involvement
20 by a physician or other health professional properly
21 qualified to fulfill legal requirements mandated under
22 state and federal law,

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- 1 d. documentation of involvement by the individual
2 receiving treatment and, if applicable, the accordance
3 of the individual with the treatment plan, and
4 e. a statement attesting that the executive director of
5 the facility or clinical director has made a
6 reasonable effort to meet the plan's individualized
7 treatment goals in the least restrictive environment
8 possible closest to the home community of the
9 individual;

10 18. "Telemedicine" means the practice of health care delivery,
11 diagnosis, consultation, evaluation, treatment, transfer of medical
12 data, or exchange of medical education information by means of
13 audio, video, or data communications. Telemedicine uses audio and
14 video multimedia telecommunication equipment which permits two-way
15 real-time communication between a health care practitioner and a
16 patient who are not in the same physical location. Telemedicine
17 shall not include consultation provided by telephone or facsimile
18 machine; ~~and~~

19 19. "Recovery and recovery support" means nonclinical services
20 that assist individuals and families to recover from alcohol or drug
21 problems. They include social support, linkage to and coordination
22 among allied service providers, including but not limited to
23 transportation to and from treatment or employment, employment
24 services and job training, case management and individual services

1 coordination, life skills education, relapse prevention, housing
2 assistance, child care, and substance abuse education;

3 20. "Assisted outpatient program" means a system to arrange for
4 and coordinate the provision of assisted outpatient treatment, to
5 monitor treatment compliance by assisted outpatients, to evaluate
6 the condition or needs of assisted outpatients, to take appropriate
7 steps to address the needs of such individuals and to ensure
8 compliance with court orders; and

9 21. "Assisted outpatient treatment" means outpatient services
10 which have been ordered by the court pursuant to a treatment plan
11 approved by the court to treat an assisted outpatient's mental
12 illness and to assist the person in living and functioning in the
13 community, or to attempt to prevent a relapse or deterioration that
14 may reasonably be predicted to result in suicide or the need for
15 hospitalization.

16 SECTION 2. AMENDATORY 43A O.S. 2011, Section 1-106, is
17 amended to read as follows:

18 Section 1-106. The district attorneys of this state shall
19 represent the people of Oklahoma in all court proceedings provided
20 for in the Mental Health Law in which the State of Oklahoma
21 including any facility operated by the Department of Mental Health
22 and Substance Abuse Services is the petitioner for involuntary
23 commitment or assisted outpatient treatment.

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1 SECTION 3. AMENDATORY 43A O.S. 2011, Section 1-107, is
2 amended to read as follows:

3 Section 1-107. A. Civil actions for involuntary commitment or
4 assisted outpatient treatment of a person may be brought in any of
5 the following counties:

- 6 1. The person's county of residence;
- 7 2. The county where the person was first taken into protective
8 custody; or
- 9 3. The county in which the person is being held on emergency
10 detention.

11 B. If a civil action for involuntary commitment or assisted
12 outpatient treatment can be brought in more than one county pursuant
13 to the provisions of subsection A of this section, the action may be
14 filed in any of such counties. No court shall refuse any case
15 solely because the action may have been brought in another county.

16 C. 1. Hearings in actions for involuntary commitment or
17 assisted outpatient treatment may be held within the mental health
18 facility in which the person is being detained or is to be committed
19 whenever the judge deems it to be in the best interests of the
20 consumer.

21 2. Such hearings shall be conducted by any judge designated by
22 the presiding judge of the judicial district. Hearings may be held
23 in an area of the facility designated by the executive director and
24 agreed upon by the presiding judge of that judicial district.

1 D. The court may conduct any nonjury hearing required or
2 authorized pursuant to the provisions of this title for detained or
3 confined persons, at the discretion of the judge, by video
4 teleconferencing after advising the person subject to possible
5 detention or commitment of his or her constitutional rights. If the
6 video teleconferencing hearing is conducted, the image of the
7 detainee or person subject to commitment may be broadcast by secure
8 video to the judge. A secure video system shall provide for two-way
9 communications including image and sound between the detainee and the
10 judge.

11 E. The provisions for criminal venue as provided otherwise by
12 law shall not be applicable to proceedings encompassed by commitment
13 statutes referred to in this title which are deemed civil in nature.

14 F. Unless otherwise provided by law, the rules of civil
15 procedure shall apply to all judicial proceedings provided for in
16 this title, including, but not limited to, the rules concerning
17 vacation of orders and appellate review.

18 SECTION 4. AMENDATORY 43A O.S. 2011, Section 1-108, is
19 amended to read as follows:

20 Section 1-108. A. Anyone in custody as a person in need of
21 treatment, assisted outpatient or a minor in need of mental health
22 treatment, pursuant to the provisions of this title, is entitled to
23 a writ of habeas corpus, upon a proper application made by such
24 person or some relative or friend in the person's behalf pursuant to

1 the provisions of Sections 1331 through 1355 of Title 12 of the
2 Oklahoma Statutes.

3 B. Upon the return of a writ of habeas corpus, whether the
4 person is a person requiring treatment or an assisted outpatient as
5 defined by Section 1-103 of this title or whether the minor is a
6 minor requiring treatment as defined by Section 5-502 of this title
7 shall be inquired into and determined.

8 C. Notice of hearing on the writ must be given to the guardian
9 of the consumer, if one has been appointed, to the person who
10 applied for the original commitment and to such other persons as the
11 court may direct.

12 D. The medical or other history of the consumer, as it appears
13 in the facility record, shall be given in evidence, and the
14 executive director of the facility wherein the consumer is held in
15 custody shall testify as to the condition of the consumer.

16 E. The executive director shall make available for examination
17 by physicians selected by the person seeking the writ, the consumer
18 whose freedom is sought by writ of habeas corpus.

19 F. Any evidence, including evidence adduced in any previous
20 habeas corpus proceedings, touching upon the mental condition of the
21 consumer shall be admitted in evidence.

22 SECTION 5. AMENDATORY 43A O.S. 2011, Section 3-325, is
23 amended to read as follows:

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1 Section 3-325. A. The Department of Mental Health and
2 Substance Abuse Services is hereby authorized to contract with
3 public and private entities it certifies, as required by law, for
4 the purpose of providing treatment, evaluation, prevention and other
5 services related to the duties of the Department set forth in this
6 title.

7 B. The Department of Mental Health and Substance Abuse Services
8 shall not enter into a contract with any of the following programs
9 unless such program has been certified by the Department pursuant to
10 the provisions of this title:

- 11 1. Community mental health centers;
- 12 2. Community residential mental health programs;
- 13 3. Programs of assertive community treatment;
- 14 4. Eating disorder treatment programs;
- 15 5. Gambling addiction treatment programs;
- 16 6. Programs providing alcohol or drug abuse treatment services
17 as set forth under the Oklahoma Alcohol and Drug Services Act;
- 18 7. Community-based structured crisis centers; ~~and~~
- 19 8. Mental health facilities; and
- 20 9. Assisted outpatient treatment programs.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5-410.1 of Title 43A, unless
23 there is created a duplication in numbering, reads as follows:

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1 The procedures, protections, and orders for alleging and
2 determining whether a person is an assisted outpatient, including
3 petition, rights, notice, prehearing detention, mental health
4 evaluation and hearings shall be the same as those for a person
5 requiring treatment provided in Sections 5-410 et seq. of Title 43A
6 of the Oklahoma Statutes. Assisted outpatient programs shall be
7 ordered as provided in Section 5-416 of Title 43A of the Oklahoma
8 Statutes.

9 SECTION 7. AMENDATORY 43A O.S. 2011, Section 5-416, is
10 amended to read as follows:

11 Section 5-416. A. The court, in considering a commitment
12 petition filed under Section 5-410 ~~or Section 9-102~~ of this title,
13 shall not order hospitalization without a thorough consideration of
14 available treatment alternatives to hospitalization, or without
15 addressing the competency of the consumer to consent to or refuse
16 the treatment that is ordered including, but not limited to, the
17 rights of the consumer:

- 18 1. To be heard concerning the treatment of the consumer; and
- 19 2. To refuse medications.

20 B. 1. If the court, in considering a commitment petition filed
21 under Section 5-410 ~~or Section 9-102~~ of this title, finds that a
22 program other than hospitalization, including an assisted outpatient
23 treatment program, is adequate to meet the treatment needs of the
24 individual and is sufficient to prevent injury to the individual or

1 to others, the court may order the individual to receive whatever
2 treatment other than hospitalization is appropriate for a period set
3 by the court. During this time the court:

4 a. shall have continuing jurisdiction over the individual
5 as a person requiring treatment or an assisted
6 outpatient, and

7 b. shall periodically, no less often than annually,
8 review the treatment needs of the individual and
9 determine whether or not to continue, discontinue, or
10 modify the treatment.

11 2. If at any time it comes to the attention of the court from a
12 person competent to file or request the filing of a petition,
13 pursuant to subsection A of Section 5-410 of this title, that the
14 individual ordered to undergo a program of alternative treatment to
15 hospitalization is not complying with the order or that the
16 alternative treatment program has not been sufficient to prevent
17 harm or injury which the individual may be inflicting upon himself
18 or others, the court may order the person to show cause why the
19 court should not:

20 a. implement other alternatives to hospitalization,
21 modify or rescind the original order or direct the
22 individual to undergo another program of alternative
23 treatment, if necessary and appropriate, based on
24 written findings of the court, or

1 b. enter an order of admission pursuant to the provisions
2 of this title, directing that the person be committed
3 to inpatient treatment and, if the individual refuses
4 to comply with this order of inpatient treatment, the
5 court may direct a peace officer to take the
6 individual into protective custody and transport the
7 person to a public or private facility designated by
8 the court.

9 3. The court shall give notice to the person ordered to show
10 cause and hold the hearing within seventy-two (72) hours of the
11 notice. The person ordered to undergo a program of alternative
12 treatment shall not be detained in emergency detention pending the
13 show cause hearing unless, prior to the emergency detention, the
14 person has undergone an initial examination and a determination is
15 made that emergency detention is warranted.

16 4. If an order of alternative treatment will expire without
17 further review by the court and it is believed that the individual
18 continues to require treatment, a person competent to file or
19 request the filing of a petition, pursuant to subsection A of
20 Section 5-410 of this title, may file or request the district
21 attorney file either an application for an extension of the court's
22 previous order or an entirely new petition for a determination that
23 the individual is a person requiring treatment or an assisted
24 outpatient.

1 5. A hearing on the application or petition filed pursuant to
2 paragraph 4 of this subsection shall be held within ten (10) days
3 after the application or petition is filed, unless the court extends
4 the time for good cause. In setting the matter for hearing, the
5 court shall consider whether or not the prior orders of the court
6 will expire during the pendency of the hearing and shall make
7 appropriate orders to protect the interests of the individual who is
8 the subject of the hearing.

9 C. Prior to ordering the inpatient treatment of an individual,
10 the court shall inquire into the adequacy of treatment to be
11 provided to the individual by the facility, and inpatient treatment
12 shall not be ordered unless the facility in which the individual is
13 to be treated can provide such person with treatment which is
14 adequate and appropriate to such person's condition.

15 D. Nothing in this section shall prohibit the Department of
16 Mental Health and Substance Abuse Services or the facility or
17 program providing the alternative treatment from discharging a
18 person admitted pursuant to this section, at a time prior to the
19 expiration of the period of alternative treatment, or any extension
20 thereof. The facility or program providing the alternative
21 treatment shall file a report with the court outlining the
22 disposition of each person admitted pursuant to this section within
23 forty-eight (48) hours after discharge.

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1 E. Notice of any proceedings pursuant to this section shall be
2 given to the person, the person's guardian, the person's attorney,
3 and the person filing the petition or application.

4 F. If the petition alleges the person to be an assisted
5 outpatient as provided in Section 5-410.1 of this title, the court
6 shall not order assisted outpatient treatment unless a licensed
7 mental health professional, in consultation with an assisted
8 outpatient treatment program, develops and provides to the court a
9 proposed written treatment plan. All service providers included in
10 the treatment plan shall be notified regarding their inclusion in
11 the written treatment plan. If the written treatment plan includes
12 medication, it shall state whether such medication should be self-
13 administered or administered by authorized personnel, and shall
14 specify type and dosage range of medication most likely to provide
15 maximum benefit for the assisted outpatient. If the written
16 treatment plan includes alcohol or substance abuse counseling and
17 treatment, such plan may include a provision requiring relevant
18 testing for either alcohol or illegal substances, provided the
19 licensed mental health professional's clinical basis for
20 recommending such plan provides sufficient facts for the court to
21 find:

22 1. That such person has a history of alcohol or substance abuse
23 that is clinically related to the mental illness; and
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1 2. That such testing is necessary to prevent a relapse or
2 deterioration which would be likely to result in serious harm to the
3 assisted outpatient or others. Such plan shall be provided to the
4 court no later than the date set by the court pursuant to subsection
5 J of this section.

6 G. The licensed mental health professional who develops the
7 written treatment plan shall provide the following persons with an
8 opportunity to actively participate in the development of such plan:

9 1. The assisted outpatient;

10 2. The treating physician, if any;

11 3. The treatment advocate as defined in Section 1-109.1 of this
12 title, if any; and

13 4. An individual significant to the assisted outpatient,
14 including any relative, close friend or individual otherwise
15 concerned with the welfare of the assisted outpatient, upon the
16 request of the assisted outpatient.

17 H. The licensed mental health professional shall make a
18 reasonable effort to gather relevant information for the development
19 of the treatment plan from a member of the assisted outpatient's
20 family or significant other. If the assisted outpatient has
21 executed an advance directive for mental health treatment, the
22 physician shall consider any directions included in such advance
23 directive for mental health treatment in developing the written
24 treatment plan.

1 I. The court shall not order assisted outpatient treatment
2 unless a licensed mental health professional testifies to explain
3 the proposed written treatment plan; provided the parties may
4 stipulate upon mutual consent that such licensed mental health
5 professional need not testify. Such licensed mental health
6 professional shall state the assisted outpatient treatment
7 recommended, the rationale for each such treatment and facts which
8 establish that such treatment is the least restrictive alternative.
9 If the recommended assisted outpatient treatment plan includes
10 medication, the court may require the approving physician to state
11 the types or classes of medication recommended, the beneficial and
12 detrimental physical and mental effects of such medication and
13 whether such medication should be self-administered or administered
14 by an authorized professional. If the assisted outpatient has
15 executed an advance directive for mental health treatment, the
16 licensed mental health professional shall state the consideration
17 given to any directions included in such advance directive for
18 mental health treatment in developing the written treatment plan.
19 Such testimony shall be given on the date set by the court pursuant
20 to subsection J of this section.

21 J. If the court has yet to be provided with a written treatment
22 plan at the time of the hearing in which the court finds a person to
23 be an assisted outpatient, the court shall order such treatment plan
24 and testimony no later than the third day, excluding Saturdays,

1 Sundays and holidays, immediately following the date of such hearing
2 and order; provided the parties may stipulate upon mutual consent
3 that such testimony need not be provided. Upon receiving such plan
4 and any required testimony, the court may order assisted outpatient
5 treatment as provided in this section.

6 K. A court may order the patient to self-administer
7 psychotropic drugs or accept the administration of such drugs by
8 authorized personnel as part of an assisted outpatient treatment
9 program. Such order may specify the type and dosage range of such
10 psychotropic drugs and such order shall be effective for the
11 duration of such assisted outpatient treatment.

12 L. A copy of any court order for assisted outpatient treatment
13 shall be served personally, or by mail, facsimile or electronic
14 means, upon the assisted outpatient, the assisted outpatient
15 treatment program and all others entitled to notice under the
16 provisions of subsection D of Section 5-412 of this title.

17 M. The initial order for assisted outpatient treatment shall be
18 for a period of one (1) year. Within thirty (30) days prior to the
19 expiration of the order, any person listed in Section 5-410 of this
20 title as a person who may file a petition, may petition to extend
21 the order of outpatient treatment. Notice shall be given in
22 accordance with Section 5-412 of this title. The court shall hear
23 the petition, review the treatment plan and determine if the
24 assisted outpatient continues to meet the criteria for assisted

1 outpatient treatment and such treatment is the least restrictive
2 alternative. If the court finds the assisted outpatient treatment
3 should continue it will make such an order extending the assisted
4 treatment an additional year and order the treatment plan updated as
5 necessary. If the court's disposition of the motion does not occur
6 prior to the expiration date of the current order, the current order
7 shall remain in effect for up to thirty (30) additional days until
8 such disposition. Subsequent extensions of the order may be
9 obtained in the same manner.

10 In addition to any other right or remedy available by law with
11 respect to the order for assisted outpatient treatment, the assisted
12 outpatient or anyone acting on the assisted outpatient's behalf may
13 petition the court on notice to the assisted outpatient treatment
14 program, the original petitioner and all others entitled to notice
15 under section 5-412 of this title to stay, vacate or modify the
16 order. The assisted outpatient treatment program shall petition the
17 court for approval before instituting a proposed material change in
18 the assisted outpatient treatment plan, unless such change is
19 authorized by the order of the court. Such petition shall be filed
20 on notice to all parties entitled to notice under Section 5-412 of
21 this title. Not later than(5) five days after receiving such
22 petition, excluding Saturdays, Sundays and holidays, the court shall
23 hold a hearing on the petition; provided that if the assisted
24 outpatient informs the court that he or she agrees to the proposed

1 material change, the court may approve such change without a
2 hearing. Non-material changes may be instituted by the assisted
3 outpatient program without court approval. For the purposes of this
4 subsection, a material change is an addition or deletion of a
5 category of services to or from a current assisted outpatient
6 treatment plan, or any deviation without the assisted outpatient's
7 consent from the terms of a current order relating to the
8 administration of psychotropic drugs.

9 N. Where, in the clinical judgment of a licensed mental health
10 professional:

11 1. The assisted outpatient has failed or refused to comply with
12 the assisted outpatient treatment;

13 2. Efforts were made to solicit compliance; and

14 3. Such assisted outpatient appears to be a person requiring
15 treatment,

16 the licensed mental health professional may cause the assisted
17 outpatient to be taken into protective custody pursuant to the
18 provisions of Sections 5-206 through 5-209 of this title or may
19 refer or initiate proceedings pursuant to Sections 5-410 through 5-
20 415 of this title for involuntary commitment to a hospital.

21 Failure or refusal to comply with assisted outpatient treatment
22 shall include, but not be limited to, a substantial failure to take
23 medication, to submit to blood testing or urinalysis, failure of
24 such tests or to receive treatment for alcohol or substance abuse.

1 Failure to comply with an order of assisted outpatient treatment
2 shall not be grounds for involuntary civil commitment or a finding
3 of contempt of court.

4 O. The Board of Mental Health and Substance Abuse Services
5 shall promulgate rules and standards for certification of facilities
6 or organizations that desire to be certified as an assisted
7 outpatient treatment program to provide categories of outpatient
8 services which have been ordered by the court for assisted
9 outpatients. Such treatment may include case management services or
10 assertive community treatment team services to provide care
11 coordination and may also include, but not be limited to, any of the
12 following categories of services:

13 1. Medication;

14 2. Medication or symptom management training or education;

15 3. Periodic blood tests or urinalysis to determine compliance
16 with prescribed medications;

17 4. Individual or group therapy;

18 5. Day or partial day programming activities;

19 6. Educational and vocational training or activities;

20 7. Appointment of a representative payee or other financial
21 management services;

22 8. Alcohol or substance abuse treatment and counseling and
23 periodic or random tests for the presence of alcohol or illegal
24 drugs for persons with a history of alcohol or substance abuse;

1 9. Supervision of living arrangements; and

2 10. Any other services, clinical or non-clinical, prescribed to
3 treat the person's mental illness and to assist the person in living
4 and functioning in the community, or to attempt to prevent a relapse
5 or deterioration that may reasonably be predicted to result in
6 suicide or the need for hospitalization.

7 SECTION 8. AMENDATORY 43A O.S. 2011, Section 5-417, as
8 amended by Section 3, Chapter 3, O.S.L. 2013 (43A O.S. Supp. 2013,
9 Section 5-417), is amended to read as follows:

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

- 12 1. A physical evaluation;
- 13 2. A mental evaluation;
- 14 3. A social history;
- 15 4. A study of the individual's family and community situation;
- 16 5. A list of available forms of care and treatment which may
17 serve as an alternative to admission to a hospital;
- 18 6. Powers of attorney or advance health care directives, if
19 any; and
- 20 7. A recommendation as to the least restrictive placement
21 suitable to the person's needs, as identified by this section,
22 should the individual be ordered to undergo treatment by the court.

23 Programs other than hospitalization to be considered shall
24 include, but not be limited to, outpatient clinics, assisted

1 outpatient treatment where available, extended care facilities,
2 nursing homes, sheltered care arrangements, home care and homemaker
3 services, and other treatment programs or suitable arrangements.

4 SECTION 9. This act shall become effective November 1, 2014.

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