

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1217

By: Sharp of the Senate

and

6 Grau of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to mental health; amending 43A O.S.
12 2011, Section 5-502, which relates to definitions;
13 modifying certain definitions; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-502, is
17 amended to read as follows:

18 Section 5-502. As used in the Inpatient Mental Health and
19 Substance Abuse Treatment of Minors Act:

- 20 1. "Minor" means any person under eighteen (18) years of age;
- 21 2. a. "Minor in need of treatment" means a minor who because
22 of his or her mental illness or drug or alcohol
23 dependency:

1 a. ~~who has a demonstrable mental illness or who is drug~~
2 ~~or alcohol dependent and as a result of that mental~~
3 ~~illness or dependency can be expected within the near~~
4 ~~future to inflict or attempt to inflict serious bodily~~
5 ~~harm to himself or herself or another person, and who~~
6 ~~has engaged in one or more recent overt acts or made~~
7 ~~significant recent threats which substantially support~~
8 ~~that expectation, or~~

9 b. ~~who has a demonstrable mental illness or is drug or~~
10 ~~alcohol dependent of sufficient severity to cause~~
11 ~~substantial impairment or disability in at least two~~
12 ~~of the following major areas of functioning in the~~
13 ~~life of the minor:~~

14 ~~(1) family relations,~~

15 ~~(2) school performance,~~

16 ~~(3) social interactions,~~

17 ~~(4) ability to perform independently the basic tasks~~
18 ~~of personal hygiene, hydration and nutrition, or~~

19 ~~(5) self-protection.~~

20 ~~A determination regarding the ability of the minor to perform~~
21 ~~independently such basic tasks shall be based upon the age of the~~
22 ~~minor and the reasonable and appropriate expectation of the~~
23 ~~abilities of a minor of such age to perform such tasks.~~

- 1 (1) poses a substantial risk of physical harm to self
2 in the near future as manifested by evidence of
3 serious threats of or attempts at suicide or
4 other significant self-inflicted bodily harm,
5 (2) poses a substantial risk of physical harm to
6 another person or persons in the near future as
7 manifested by evidence of violent behavior
8 directed toward another person or persons,
9 (3) has placed another person or persons in a
10 reasonable fear of violent behavior or serious
11 physical harm directed toward such person or
12 persons as manifested by serious and immediate
13 threats,
14 (4) is in a condition of severe deterioration such
15 that, without intervention, there exists a
16 substantial risk that severe impairment or injury
17 to the minor will result in the near future, or
18 (5) poses a substantial risk of serious physical
19 injury to self or death in the near future as
20 manifested by evidence that the minor is unable
21 to provide for and is not providing for his or
22 her basic physical needs.

23 b. The mental health or substance abuse history of the
24 minor may be used as part of the evidence to determine

1 whether the minor is a minor in need of treatment as
2 defined in this section. The mental health or
3 substance abuse history of the minor shall not be the
4 sole basis for this determination.

5 c. The term "minor in need of treatment" shall not mean a
6 minor afflicted with epilepsy, a developmental
7 disability, organic brain syndrome, physical
8 handicaps, brief periods of intoxication caused by
9 such substances as alcohol or drugs or who is truant
10 or sexually active unless the minor also meets the
11 criteria for a minor in need of treatment pursuant to
12 subparagraph a or b of this paragraph;

13 3. "Consent" means the voluntary, express, and informed
14 agreement to treatment in a mental health facility by a minor
15 sixteen (16) years of age or older or by a parent of the minor;

16 4. "Individualized treatment plan" means a specific plan for
17 the care and treatment of an individual minor who requires inpatient
18 mental health treatment. The plan shall be developed with maximum
19 involvement of the family of the minor, consistent with the desire
20 of the minor for confidentiality and with the treatment needs of the
21 minor, and shall clearly include the following:

22 a. a statement of the presenting problems of the minor,
23 short- and long-term treatment goals and the estimated
24 date of discharge. The short- and long-term goals

1 shall be based upon a clinical evaluation and shall
2 include specific behavioral and emotional goals
3 against which the success of treatment can be
4 measured,

5 b. treatment methods and procedures to be used to achieve
6 these goals, which methods and procedures are related
7 to each of these goals and which include, but are not
8 limited to, specific prognosis for achieving each of
9 these goals,

10 c. identification of the types of professional personnel
11 who will carry out the treatment procedures including,
12 but not limited to, appropriate licensed mental health
13 professionals, education professionals, and other
14 health or social service professionals, and

15 d. documentation of the involvement of the minor or the
16 parent of the minor or legal custodian in the
17 development of the treatment plan and whether all
18 persons have consented to such plan;

19 5. "Inpatient treatment" means treatment services offered or
20 provided for a continuous period of more than twenty-four (24) hours
21 in residence after admission to a mental health or substance abuse
22 treatment facility for the purpose of observation, evaluation or
23 treatment;

1 6. "Least restrictive alternative" means the treatment and
2 conditions of treatment which, separately and in combination, are no
3 more intrusive or restrictive of freedom than reasonably necessary
4 to achieve a substantial therapeutic benefit to the minor, or to
5 protect the minor or others from physical injury;

6 7. "Less restrictive alternative to inpatient treatment" means
7 and includes, but is not limited to, outpatient counseling services,
8 including services provided in the home of the minor and which may
9 be referred to as "home-based services", day treatment or day
10 hospitalization services, respite care, or foster care or group home
11 care, as defined by Section 1-1-105 of Title 10A of the Oklahoma
12 Statutes, through a program established and specifically designed to
13 meet the needs of minors in need of mental health treatment, or a
14 combination thereof;

15 8. "Licensed mental health professional" means a person who is
16 not related by blood or marriage to the person being examined or
17 does not have any interest in the estate of the person being
18 examined, and who is:

- 19 a. a psychiatrist who is a diplomate of the American
20 Board of Psychiatry and Neurology or American
21 Osteopathic Board of Neurology and Psychiatry,
22 b. a physician licensed pursuant to ~~Chapter 11 or Chapter~~
23 ~~14 of Title 59 of the Oklahoma Statutes who has~~
24 ~~received specific training for and is experienced in,~~

1 ~~performing mental health therapeutic, diagnostic, or~~
2 ~~counseling functions~~ the Oklahoma Allopathic Medical
3 and Surgical Licensure and Supervision Act or the
4 Oklahoma Osteopathic Medicine Act,

5 c. a clinical psychologist who is duly licensed to
6 practice by the State Board of Examiners of
7 Psychologists,

8 d. a professional counselor licensed pursuant to ~~Chapter~~
9 ~~44 of Title 59 of the Oklahoma Statutes~~ the Licensed
10 Professional Counselors Act,

11 e. a person licensed as a clinical social worker pursuant
12 to the provisions of the Licensed Social Workers Act,

13 f. a licensed marital and family therapist as defined in
14 ~~Chapter 44A of Title 59 of the Oklahoma Statutes~~ the
15 Marital and Family Therapist Licensure Act,

16 g. a licensed behavioral practitioner as defined in
17 ~~Chapter 44B of Title 59 of the Oklahoma Statutes~~ the
18 Licensed Behavioral Practitioner Act, ~~or~~

19 h. an advanced practice nurse, as defined in ~~Chapter 12~~
20 ~~of Title 59 of the Oklahoma Statutes~~ the Oklahoma
21 Nursing Practice Act, specializing in mental health,

22 i. a physician assistant, who is licensed in good
23 standing in this state, or

1 j. a licensed drug and alcohol counselor/mental health
2 (LADC/MH) as defined in the Licensed Alcohol and Drug
3 Counselors Act.

4 For the purposes of this paragraph, "licensed" means that the person
5 holds a current, valid license issued in accordance with the laws of
6 this state;

7 9. "Mental health evaluation" means an examination or
8 evaluation of a minor for the purpose of making a determination
9 whether, in the opinion of the licensed mental health professional
10 making the evaluation, the minor is a minor in need of treatment
11 and, if so, is in need of inpatient treatment and for the purpose of
12 preparing reports or making recommendations for the most appropriate
13 and least restrictive treatment for the minor;

14 10. "Mental health facility" means a public or private hospital
15 or related institution as defined by Section 1-701 of Title 63 of
16 the Oklahoma Statutes offering or providing inpatient mental health
17 services, a public or private facility accredited as an inpatient or
18 residential psychiatric facility by the Joint Commission on
19 Accreditation of Healthcare Organizations, or a facility operated by
20 the Department of Mental Health and Substance Abuse Services and
21 designated by the Commissioner of the Department of Mental Health
22 and Substance Abuse Services as appropriate for the inpatient
23 evaluation or treatment of minors;

1 11. "Mental illness" means a substantial disorder of the
2 child's thought, mood, perception, psychological orientation or
3 memory that demonstrably and significantly impairs judgment,
4 behavior or capacity to recognize reality or to meet the ordinary
5 demands of life. "Mental illness" may include substance abuse,
6 which is the use, without compelling medical reason, of any
7 substance which results in psychological or physiological dependency
8 as a function of continued use in such a manner as to induce mental,
9 emotional, or physical impairment and cause socially dysfunctional
10 or socially disordering behavior;

11 12. "Parent" means:

- 12 a. a biological or adoptive parent who has legal custody
- 13 of the minor or has visitation rights, or
- 14 b. a person judicially appointed as a legal guardian of
- 15 the minor, or
- 16 c. a relative within the third degree of consanguinity
- 17 who exercises the rights and responsibilities of legal
- 18 custody by delegation from a parent, as provided by
- 19 law;

20 13. "Person responsible for the supervision of the case" means:

- 21 a. when the minor is in the legal custody of a private
- 22 child care agency, the Department of Human Services or
- 23 the Office of Juvenile Affairs, the caseworker or

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1 other person designated by the agency to supervise the
2 case, or

3 b. when the minor is a ward of the court and under the
4 court-ordered supervision of the Department of Human
5 Services, the Office of Juvenile Affairs or a
6 statutorily constituted juvenile bureau, the person
7 designated by the Department of Human Services, the
8 Office of Juvenile Affairs or juvenile bureau to
9 supervise the case;

10 14. "Initial assessment (medical necessity review)" means the
11 examination of current and recent behaviors and symptoms of a minor
12 who appears to be mentally ill, alcohol-dependent, or drug-dependent
13 and a minor requiring treatment, whose condition is such that it
14 appears that emergency detention may be warranted by a licensed
15 mental health professional at a facility approved by the
16 Commissioner of Mental Health and Substance Abuse Services, or a
17 designee, as appropriate for such examination to determine if
18 emergency detention of the minor is warranted, and whether admission
19 for inpatient mental illness or drug- or alcohol-dependence
20 treatment or evaluation constitutes the least restrictive level of
21 care necessary;

22 15. "Ward of the court" means a minor adjudicated to be a
23 deprived child, a child in need of supervision, or a delinquent
24 child;

1 16. "Treatment" means any planned intervention intended to
2 improve the functioning of a minor in those areas which show
3 impairment as a result of mental illness or drug or alcohol
4 dependence; and

5 17. "Prehearing detention order" means a court order that
6 authorizes a facility to detain a minor pending a hearing on a
7 petition to determine whether the minor is a minor in need of
8 treatment.

9 SECTION 2. This act shall become effective November 1, 2016.

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