

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2620

By: Osborn

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 1161, which relates to criminal acts committed by insane persons; changing designation of insanity to severe mental illness or mental illness; providing requirements for the adjudication of certain persons; stating standard of proof; providing sentencing guidelines and procedures for persons found guilty but with severe mental illness; providing reporting requirements upon discharge of defendant; providing guidelines and procedures for persons placed on probation; prohibiting the use of certain verdict for sentence enhancement; updating statutory references; defining terms; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1161, is amended to read as follows:

Section 1161. A. 1. An act committed by a person in a state of insanity cannot be punished as a public offense, nor can the person be tried, sentenced to punishment, or punished for a public offense while such person is insane.

1        2. severe mental illness or mental illness shall be adjudicated  
2 in one of the following ways:

- 3            a. guilty but with severe mental illness,  
4            b. not guilty by reason of mental illness, or  
5            c. not guilty.

6        2. The defendant shall prove the severe mental illness or  
7 mental illness of the defendant by clear and convincing evidence.

8        3. If a defendant is found guilty but with severe mental  
9 illness, or enters a plea to that effect which is accepted by the  
10 court, the court shall impose any sentence that could be imposed by  
11 law upon a defendant who is convicted of the same offense. The  
12 court or jury shall consider the severe mental illness of the  
13 defendant when assessing punishment.

14        The defendant shall be committed to the custody of the  
15 Department of Mental Health and Substance Abuse Services and shall  
16 be confined in the Oklahoma Forensic Center. The defendant shall  
17 undergo such further evaluation and be given immediate and temporary  
18 treatment as is psychiatrically indicated. The Department of Mental  
19 Health and Substance Abuse Services shall have the authority to  
20 discharge the defendant from the Oklahoma Forensic Center and return  
21 the defendant to the physical custody of the Department of  
22 Corrections whenever the Department of Mental Health and Substance  
23 Abuse Services believes that such a discharge is in the best  
24 interests of the defendant. Upon discharge of the defendant from

1 the Oklahoma Forensic Center, the defendant shall be returned to the  
2 custody of the Department of Corrections to serve the remaining  
3 balance of the sentence of the defendant.

4 4. When the defendant is discharged from the Oklahoma Forensic  
5 Center prior to the expiration of the sentence, the Oklahoma  
6 Forensic Center shall transmit to the Director of the Department of  
7 Corrections, the Pardon and Parole Board and the original sentencing  
8 court a report on the condition of the defendant that contains the  
9 following:

- 10 a. clinical facts concerning the defendant,
- 11 b. diagnosis,
- 12 c. course of treatment,
- 13 d. prognosis for the remission of symptoms,
- 14 e. potential for recidivism and whether the defendant is  
15 a danger to himself or herself or the public, and
- 16 f. recommendations for future treatment of the defendant.

17 When a defendant is sentenced to the Oklahoma Forensic Center  
18 pursuant to the provisions of this section, the defendant shall not  
19 be eligible for any privileges that have not been permitted in  
20 writing by the Director of the Department of Corrections including,  
21 but not limited to, escorted or unescorted on-the-grounds or off-  
22 the-grounds privileges until the defendant has become eligible for  
23 parole. The defendant shall receive credits toward the sentence of  
24 all time served at the Oklahoma Forensic Center.

1        5. If a defendant who is found guilty but with severe mental  
2 illness is placed on probation under the jurisdiction of the  
3 sentencing court as provided by law, the court shall immediately  
4 issue an order for the defendant to be examined by the Department of  
5 Mental Health and Substance Abuse Services at a facility the  
6 Department has designed to examine and treat forensic individuals.  
7 Upon issuance of the order, the sheriff shall deliver the defendant  
8 to the designated facility. Within forty-five (45) days, the  
9 Department shall provide to the court a recommendation of treatment  
10 for the defendant, which shall be made a condition of probation.  
11 Reports, as specified by the sentencing court, shall be filed with  
12 the probation officer and the sentencing court. Failure to continue  
13 treatment, except by agreement with the treating agency and the  
14 sentencing court, shall be grounds for revoking the probation of the  
15 defendant. Treatment shall be provided by an agency of the  
16 Department of Mental Health and Substance Abuse Services or, with  
17 the approval of the sentencing court and at the expense of the  
18 defendant, by private agencies, private physicians or other mental  
19 health personnel. A psychiatric report shall be filed with the  
20 probation officer and the sentencing court every six (6) months  
21 during the period of probation.

22        6. A guilty but with severe mental illness verdict is not a  
23 criminal conviction for sentencing enhancement purposes under the  
24 provisions of Section 51.1 of Title 21 of the Oklahoma Statutes or

1 similar enhancements under the provisions contained within Title 47  
2 and Title 63 of the Oklahoma Statutes.

3 7. When in any criminal action by indictment or information,  
4 the defense of ~~insanity~~ severe mental illness or mental illness is  
5 raised, but the defendant is not acquitted on the ground that the  
6 defendant was ~~insane~~ severely mentally ill or mentally ill at the  
7 time of the commission of the crime charged, an issue concerning  
8 such defense may be raised on appeal. If the appellate court finds  
9 relief is required, the appellate court shall not have authority to  
10 modify the judgment or sentence, but will only have the authority to  
11 order a new trial or order resentencing without recommendations to  
12 sentencing.

13 ~~3.~~ 8. When in any criminal action by indictment or information  
14 the defense of ~~insanity~~ severe mental illness or mental illness is  
15 interposed either singly or in conjunction with some other defense,  
16 the jury shall state in the verdict, if it is one of acquittal,  
17 whether or not the defendant is acquitted on the ground of ~~insanity~~  
18 severe mental illness or mental illness. When the defendant is  
19 acquitted on the ground that the defendant was ~~insane~~ severely  
20 mentally ill or mentally ill at the time of the commission of the  
21 crime charged, the person shall not be discharged from custody until  
22 the court has made a determination that the person is not presently  
23 dangerous to the public peace and safety because the person is a  
24

1 person requiring treatment as defined in Section ~~1-103 of Title 43A~~  
2 ~~of the Oklahoma Statutes~~ 2 of this act.

3 B. 1. To assist the court in its determination, the court  
4 shall immediately issue an order for the person to be examined by  
5 the Department of Mental Health and Substance Abuse Services at a  
6 facility the Department has designated to examine and treat forensic  
7 individuals. Upon the issuance of the order, the sheriff shall  
8 deliver the person to the designated facility.

9 2. Within forty-five (45) days of the court entering such an  
10 order, a hearing shall be conducted by the court to ascertain  
11 whether the person is presently dangerous to the public peace or  
12 safety because the person is a person requiring treatment as defined  
13 in Section ~~1-103 of Title 43A of the Oklahoma Statutes~~ 2 of this act  
14 or, if not, is in need of continued supervision as a result of  
15 unresolved symptoms of mental illness or a history of treatment  
16 noncompliance. During the required period of hospitalization the  
17 Department of Mental Health and Substance Abuse Services shall have  
18 the person examined by two qualified psychiatrists or one such  
19 psychiatrist and one qualified clinical psychologist whose training  
20 and experience enable the professional to form expert opinions  
21 regarding mental illness, competency, dangerousness and criminal  
22 responsibility.

23 C. 1. Each examiner shall, within thirty-five (35) days of  
24 hospitalization, individually prepare and submit to the court, the

1 district attorney and the ~~person's~~ trial counsel of the person a  
2 report of the ~~person's~~ psychiatric examination findings of the  
3 person and an evaluation concerning whether the person is presently  
4 dangerous to the public peace or safety.

5 2. If the court is dissatisfied with the reports or if a  
6 disagreement on the issue of mental illness and dangerousness exists  
7 between the two examiners, the court may designate one or more  
8 additional examiners and have them submit their findings and  
9 evaluations as specified in paragraph 1 of this subsection.

10 3. a. Within ten (10) days after the reports are filed, the  
11 court must conduct a hearing to determine the ~~person's~~  
12 present condition of the person as to the issue of  
13 whether:

14 (1) the person is presently dangerous to the public  
15 peace or safety because the person is a person  
16 requiring treatment as defined in Section ~~1-103~~  
17 ~~of Title 43A of the Oklahoma Statutes~~ 2 of this  
18 act, or

19 (2) if not believed to be presently dangerous to the  
20 public peace or safety, the person is in need of  
21 continued supervision as a result of unresolved  
22 symptoms of mental illness or a history of  
23 treatment noncompliance.

1           b. The district attorney must establish the foregoing by  
2           a preponderance of the evidence. At this hearing the  
3           person shall have the assistance of counsel and may  
4           present independent evidence.

5           D. 1. If the court finds that the person is not presently  
6           dangerous to the public peace or safety because the person is a  
7           person requiring treatment as defined in Section ~~1-103 of Title 43A~~  
8           ~~of the Oklahoma Statutes~~ 2 of this act and is not in need of  
9           continued supervision as a result of unresolved symptoms of mental  
10          illness or a history of treatment noncompliance, it shall  
11          immediately discharge the person from hospitalization.

12          2. If the court finds that the person is presently dangerous to  
13          the public peace and safety, it shall commit the person to the  
14          custody of the Department of Mental Health and Substance Abuse  
15          Services. The person shall then be subject to discharge pursuant to  
16          the procedure set forth in Title 43A of the Oklahoma Statutes.

17          a. During the period of hospitalization, the Department  
18          of Mental Health and Substance Abuse Services may  
19          administer or cause to be administered to the person  
20          such psychiatric, medical or other therapeutic  
21          treatment as in its judgment should be administered.

22          b. The person shall be subject to discharge or  
23          conditional release pursuant to the procedures set  
24          forth in this section.

1 E. If at any time the court finds the person is not presently  
2 dangerous to the public peace or safety because the person is a  
3 person requiring treatment pursuant to the provisions of Section ~~4-~~  
4 ~~103 of Title 43A of the Oklahoma Statutes~~ 2 of this act, but is in  
5 need of continued supervision as a result of unresolved symptoms of  
6 mental illness or a history of treatment noncompliance, the court  
7 may:

8 1. Discharge the person pursuant to the procedure set forth in  
9 Title 43A of the Oklahoma Statutes;

10 2. Discharge the person, and upon the ~~court's or the district~~  
11 ~~attorney's~~ motion of the court or the district attorney commence  
12 civil involuntary commitment proceedings against the person pursuant  
13 to the provisions of Title 43A of the Oklahoma Statutes; or

14 3. Order conditional release, as set forth in subsection F of  
15 this section.

16 F. There is hereby created a Forensic Review Board to be  
17 composed of seven (7) members appointed by the Governor with the  
18 advice and consent of the Senate. The Board members shall serve for  
19 a term of five (5) years except that for members first appointed to  
20 the Board: one shall serve for a term ending December 31, 2008, two  
21 shall serve for a term ending December 31, 2009, two shall serve a  
22 term ending December 31, 2010, and two shall serve for a term ending  
23 December 31, 2011.

24 1. The Board shall be composed of:

- 1 a. four licensed mental health professionals with  
2 experience in treating mental illness, at least one of  
3 whom is licensed as a Doctor of Medicine, a Doctor of  
4 Osteopathy, or a licensed clinical psychologist and  
5 shall be appointed from a list of seven names  
6 submitted to the Governor by the Department of Mental  
7 Health and Substance Abuse Services,
- 8 b. one member who shall be an attorney licensed to  
9 practice in this state and shall be appointed from a  
10 list of not less than three names submitted to the  
11 Governor by the Board of Governors of the Oklahoma Bar  
12 Association,
- 13 c. one member who shall be a retired judge licensed to  
14 practice in this state and shall be appointed from a  
15 list of not less than three names submitted to the  
16 Governor by the Judicial Nominating Committee, and  
17 d. one at-large member.

18 The attorney and retired judge members of the Board shall be  
19 prohibited from representing in the courts of this state persons  
20 charged with felony offenses while serving on the Board.

21 2. The Board shall meet as necessary to determine which  
22 individuals confined with the Department of Mental Health and  
23 Substance Abuse Services are eligible for therapeutic visits,  
24 conditional release or discharge and whether the Board wishes to

1 make such a recommendation to the court of the county where the  
2 individual was found not guilty by reason of ~~insanity~~ mental  
3 illness.

4 a. Forensic Review Board meetings shall not be considered  
5 subject to the Oklahoma Open Meeting Act and are not  
6 open to the public. Other than the Forensic Review  
7 Board members, only the following individuals shall be  
8 permitted to attend Board meetings:

9 (1) the individual the Board is considering for  
10 therapeutic visits, conditional release or  
11 discharge, his or her treatment advocate, and  
12 members of his or her treatment team,

13 (2) the Commissioner of Mental Health and Substance  
14 Abuse Services or designee,

15 (3) the Advocate General for the Department of Mental  
16 Health and Substance Abuse Services or designee,

17 (4) the General Counsel for the Department of Mental  
18 Health and Substance Abuse Services or designee,  
19 and

20 (5) any other persons the Board and Commissioner of  
21 Mental Health and Substance Abuse Services wish  
22 to be present.

23 b. The Department of Mental Health and Substance Abuse  
24 Services shall provide administrative staff to the

1 Board to take minutes of meetings and prepare  
2 necessary documents and correspondence for the Board  
3 to comply with its duties as set forth in this  
4 section. The Department of Mental Health and  
5 Substance Abuse Services shall also transport the  
6 individuals being reviewed to and from the Board  
7 meeting site.

8 c. The Board shall promulgate rules concerning the  
9 granting and structure of therapeutic visits,  
10 conditional releases and discharge.

11 d. For purposes of this subsection, "therapeutic visit"  
12 means a scheduled time period off campus which  
13 provides for progressive tests of the consumer's  
14 ability to maintain and demonstrate coping skills.

15 3. The Forensic Review Board shall submit any recommendation  
16 for therapeutic visit, conditional release or discharge to the court  
17 and district attorney of the county where the person was found not  
18 guilty by reason of ~~insanity~~ mental illness, the ~~person's~~ trial  
19 counsel of the person, the Department of Mental Health and Substance  
20 Abuse Services and the person at least fourteen (14) days prior to  
21 the scheduled visit.

22 a. The district attorney may file an objection to a  
23 recommendation for a therapeutic visit within ten (10)  
24 days of receipt of the notice.

1           b. If an objection is filed, the therapeutic visit is  
2 stayed until a hearing is held. The court shall hold  
3 a hearing not less than ten (10) days following an  
4 objection to determine whether the therapeutic visit  
5 is necessary for treatment, and if necessary, the  
6 nature and extent of the visit.

7           4. During the period of hospitalization the Department of  
8 Mental Health and Substance Abuse Services shall submit an annual  
9 report on the status of the person to the court, the district  
10 attorney and the patient advocate general of the Department of  
11 Mental Health and Substance Abuse Services.

12           G. Upon motion by the district attorney or upon a  
13 recommendation for conditional release or discharge by the Forensic  
14 Review Board, the court shall conduct a hearing to ascertain if the  
15 person is presently dangerous and a person requiring treatment as  
16 defined in Section ~~1-103 of Title 43A of the Oklahoma Statutes~~ 2 of  
17 this act. This hearing shall be conducted under the same procedure  
18 as the first hearing and must occur not less than ten (10) days  
19 following the motion or request by the Forensic Review Board.

20           1. If the court determines that the person continues to be  
21 presently dangerous to the public peace and safety because the  
22 person is a person requiring treatment as defined in Section ~~1-103~~  
23 ~~of Title 43A of the Oklahoma Statutes~~ 2 of this act, it shall order  
24 the return of the person to the hospital for additional treatment.

1           2. If the court determines that the person is not dangerous  
2 subject to certain conditions, the court may conditionally release  
3 the person subject to the following:

- 4           a. the Forensic Review Board has made a recommendation  
5 for conditional release, including a written plan for  
6 outpatient treatment and a list of recommendations for  
7 the court to place as conditions on the release,
- 8           b. in its order of conditional release, the court shall  
9 specify conditions of release and shall direct the  
10 appropriate agencies or persons to submit annual  
11 reports regarding the ~~person's~~ compliance of the  
12 person with the conditions of release and progress in  
13 treatment,
- 14           c. the person must agree, in writing, that during the  
15 period the person is granted conditional release and  
16 is subject to the provisions thereof, there shall be  
17 free transmission of all pertinent information,  
18 including clinical information regarding the person,  
19 among the Department of Mental Health and Substance  
20 Abuse Services, the appropriate community mental  
21 health centers and the appropriate district attorneys,  
22 law enforcement and court personnel,
- 23           d. the ~~court's~~ order of the court placing the person on  
24 conditional release shall include notice that the

1 ~~person's~~ conditional release of the person may be  
2 revoked upon good cause. The person placed on  
3 conditional release shall remain under the supervision  
4 of the Department of Mental Health and Substance Abuse  
5 Services until the committing court enters a final  
6 discharge order. The Department of Mental Health and  
7 Substance Abuse Services shall assess the person  
8 placed on conditional release annually and shall have  
9 the authority to recommend discharge of the person to  
10 the Board,

11 e. any agency or individual involved in providing  
12 treatment with regard to the ~~person's~~ conditional  
13 release plan of the person may prepare and file an  
14 affidavit under oath if the agency or individual  
15 believes that the person has failed to comply with the  
16 conditions of release or that such person has  
17 progressed to the point that inpatient care is  
18 appropriate.

19 (1) Any peace officer who receives such an affidavit  
20 shall take the person into protective custody and  
21 return the person to the forensic unit of the  
22 state hospital.

23 (2) A hearing shall be conducted within three (3)  
24 days, excluding holidays and weekends, after the

1 person is returned to the forensic unit of the  
2 state hospital to determine if the person has  
3 violated the conditions of release, or if full-  
4 time hospitalization is the least restrictive  
5 alternative consistent with the ~~person's~~ needs of  
6 the person and the need for public safety.

7 Notice of the hearing shall be issued, at least  
8 twenty-four (24) hours before the hearing, to the  
9 hospital superintendent, the person, trial  
10 counsel for the person, and the patient advocate  
11 general of the Department of Mental Health and  
12 Substance Abuse Services. If the person requires  
13 hospitalization because of a violation of the  
14 conditions of release or because of progression  
15 to the point that inpatient care is appropriate,  
16 the court may then modify the conditions of  
17 release.

18 3. If the court determines that the person is not presently  
19 dangerous to the public peace or safety because the person is not a  
20 person requiring treatment, it shall order that the person be  
21 discharged from the custody of the Department of Mental Health and  
22 Substance Abuse Services.  
23  
24

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1161.1 of Title 22, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in Sections 1161 through 1170 of Title 22 of the  
5 Oklahoma Statutes:

6           1. "Antisocial disorder" means antisocial personality disorder  
7 as defined by the Diagnostic and Statistical Manual of Mental  
8 Disorders, 5th Edition (DSM-5), or subsequent editions;

9           2. "Care and treatment" means medical care and behavioral  
10 health services, as well as food, clothing and maintenance furnished  
11 to a person;

12           3. "Dangerous" means a person who, because of his or her mental  
13 illness, poses a substantial risk of physical harm in the near  
14 future to another person or persons. Dangerousness shall be  
15 determined by such factors as:

- 16           a. whether the person has placed another person or
- 17           persons in a reasonable fear of violent behavior,
- 18           b. medication compliance, and
- 19           c. treatment compliance;

20           4. "Department" means the Department of Mental Health and  
21 Substance Abuse Services;

22           5. "Guilty but with severe mental illness" means the individual  
23 committed the act while mentally ill, and was either unable to  
24 understand the nature and consequences of his or her actions, or was

1 unable to differentiate right from wrong, and has been diagnosed  
2 with antisocial disorder;

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

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

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

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

8. "Licensed mental health professional" means:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a physician licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine Act,
- c. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- d. a professional counselor licensed pursuant to the Licensed Professional Counselors Act,
- e. a person licensed as a clinical social worker pursuant to the provisions of the Social Worker's Licensing Act,

- 1 f. a licensed marital and family therapist as defined in  
2 the Marital and Family Therapist Licensure Act,  
3 g. a licensed behavioral practitioner as defined in the  
4 Licensed Behavioral Practitioner Act,  
5 h. an advanced practice nurse as defined in the Oklahoma  
6 Nursing Practice Act,  
7 i. a physician's assistant who is licensed in good  
8 standing in this state, or  
9 j. a licensed drug and alcohol counselor/mental health  
10 ("LADC/MH") as defined in the Licensed Alcohol and  
11 Drug Counselors Act;

12 9. "Mental illness" means a substantial disorder of thought,  
13 mood, perception, psychological orientation or memory that  
14 significantly impairs judgment, behavior, capacity to recognize  
15 reality or ability to meet the ordinary demands of life. When used  
16 in Sections 1161 through 1170 of Title 22 of the Oklahoma Statutes,  
17 or in any rule or order made or promulgated pursuant to Sections  
18 1161 through 1170 of Title 22 of the Oklahoma Statutes, or in the  
19 printed forms prepared for the admission of consumers or for  
20 statistical reports, the words "insane", "insanity", "lunacy",  
21 "mentally sick", "mental disease" or "mental disorder" shall have  
22 equal significance to the words "mental illness";  
23  
24

1           10. "Mentally incompetent person" means any person who has been  
2 adjudicated mentally or legally incompetent by an appropriate  
3 district court;

4           11. "Not guilty by reason of mental illness" means the  
5 individual committed the act while mentally ill, and was either  
6 unable to understand the nature and consequences of his or her  
7 actions, or was unable to differentiate right from wrong, and has  
8 not been diagnosed with antisocial disorder;

9           12. a. "Person requiring treatment" means a person who  
10 because of his or her mental illness or drug- or  
11 alcohol-dependency:

12           (1) poses a substantial risk of immediate physical  
13 harm to self as manifested by evidence or serious  
14 threats of or attempts at suicide or other  
15 significant self-inflicted bodily harm,

16           (2) poses a substantial risk of immediate physical  
17 harm to another person or persons as manifested  
18 by evidence of violent behavior directed toward  
19 another person or persons,

20           (3) has placed another person or persons in a  
21 reasonable fear of violent behavior directed  
22 towards such person or persons or serious  
23 physical harm to them as manifested by serious  
24 and immediate threats,

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

5 (5) poses a substantial risk of immediate serious  
6 physical injury to self or death as manifested by  
7 evidence that the person is unable to provide for  
8 and is not providing for his or her basic  
9 physical needs.

10 b. The mental health or substance abuse history of the  
11 person may be used as part of the evidence to  
12 determine whether the person is a person requiring  
13 treatment. The mental health or substance abuse  
14 history of the person shall not be the sole basis for  
15 this determination.

16 c. Unless a person also meets the criteria established in  
17 subparagraphs a and b of this paragraph, a person  
18 requiring treatment shall not mean:

19 (1) a person whose mental processes have been  
20 weakened or impaired by reason of advanced years,  
21 dementia or Alzheimer's disease,

22 (2) a mentally retarded person as defined in Section  
23 701.10b of Title 21 of the Oklahoma Statutes or  
24 developmentally disabled person as defined in

1                   Section 1430.2 of Title 10 of the Oklahoma  
2                   Statutes,

3                   (3) a person with a seizure disorder,

4                   (4) a person with a traumatic brain injury, or

5                   (5) a person who is homeless.

6                   d. A person who meets the criteria established in this  
7                   paragraph, but who is medically unstable, or the  
8                   facility holding the person is unable to treat the  
9                   additional medical conditions of that person should be  
10                  discharged and transported in accordance with Section  
11                  1-110 of Title 22 of the Oklahoma Statutes;

12                  13. "Petitioner" means a person who files a petition alleging  
13                  that an individual is a person requiring treatment;

14                  14. "Private hospital" or "facility" means any general hospital  
15                  maintaining a neuro-psychiatric unit or ward, or any private  
16                  hospital or facility for care and treatment of a person having a  
17                  mental illness, which is not supported by the state or federal  
18                  government. The term "private hospital" or "facility" shall not  
19                  include nursing homes or other facilities maintained primarily for  
20                  the care of elderly and disabled persons;

21                  15. "Recovery and recovery support" means nonclinical services  
22                  that assist individuals and families to recover from alcohol or drug  
23                  problems. They include social support, linkage to and coordination  
24                  among allied service providers, including but not limited to

1 transportation to and from treatment or employment, employment  
2 services and job training, case management and individual services  
3 coordination, life skills education, relapse prevention, housing  
4 assistance, child care and substance abuse education;

5 16. "Severe mental illness" means a substantial disorder of  
6 thought, mood, perception, psychological orientation or memory that  
7 significantly impairs judgment, behavior, capacity to recognize  
8 reality or ability to meet the ordinary demands of life and the  
9 person is diagnosed with antisocial disorder; and

10 17. "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 audio,  
13 video or data communications. Telemedicine uses audio and video  
14 multimedia telecommunication equipment which permits two-way real-  
15 time communication between a health care practitioner and a patient  
16 who are not in the same physical location. Telemedicine shall not  
17 include consultation provided by telephone or facsimile machine.

18 SECTION 3. This act shall become effective November 1, 2016.  
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20 55-2-8494 GRS 01/14/16  
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