

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1214

By: Sharp

4  
5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; defining  
8 terms; providing for codification; and providing an  
9 effective date.

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

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

15 When used in this title, unless otherwise expressly stated, or  
16 unless the context or subject matter otherwise requires:

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

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

21 3. "Mental illness" means a substantial disorder of thought,  
22 mood, perception, psychological orientation or memory that  
23 significantly impairs judgment, behavior, capacity to recognize  
24 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;

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,
- 5 i. a physician's assistant who is licensed in good
- 6 standing in this state, or
- 7 j. a licensed drug and alcohol counselor/mental health
- 8 ("LADC/MH") as defined in the Licensed Alcohol and
- 9 Drug Counselors Act;

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

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

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

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

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

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

15 b. the mental health or substance abuse history of the  
16 person may be used as part of the evidence to  
17 determine whether the person is a person requiring  
18 treatment. The mental health or substance abuse  
19 history of the person shall not be the sole basis for  
20 this determination,

21 c. unless a person also meets the criteria established in  
22 subparagraph a of this paragraph, person requiring  
23 treatment shall not mean:  
24

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

10 d. a person who meets the criteria established in this  
11 section, but who is medically unstable, or the  
12 facility holding the person is unable to treat the  
13 additional medical conditions of that person should be  
14 discharged and transported in accordance with Section  
15 1-110 of Title 43A of the Oklahoma Statutes;

16 14. "Petitioner" means a person who files a petition alleging  
17 that an individual is a person requiring treatment;

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

20 16. "Private hospital or facility" means any general hospital  
21 maintaining a neuro-psychiatric unit or ward, or any private  
22 hospital or facility for care and treatment of a person having a  
23 mental illness, which is not supported by the state or federal  
24 government. The term "private hospital" or "facility" shall not

1 include nursing homes or other facilities maintained primarily for  
2 the care of elderly and disabled persons;

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

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

1 e. a statement attesting that the executive director of  
2 the facility or clinical director has made a  
3 reasonable effort to meet the plan's individualized  
4 treatment goals in the least restrictive environment  
5 possible closest to the home community of the  
6 individual;

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

16 19. "Recovery and recovery support" means nonclinical services  
17 that assist individuals and families to recover from alcohol or drug  
18 problems. They include social support, linkage to and coordination  
19 among allied service providers, including but not limited to  
20 transportation to and from treatment or employment, employment  
21 services and job training, case management and individual services  
22 coordination, life skills education, relapse prevention, housing  
23 assistance, child care, and substance abuse education;

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

4           21. "Dangerous" means a person who because of his or her mental  
5 illness poses a substantial risk of physical harm in the near future  
6 to another person or persons. Dangerousness shall be determined by  
7 such factors as whether the person has placed another person or  
8 persons in a reasonable fear of violent behavior, and medication and  
9 treatment compliance;

10           22. "Guilty but with severe mental illness" means the  
11 individual committed the act while mentally ill, and was either  
12 unable to understand the nature and consequences of his or her  
13 actions or was unable to differentiate right from wrong, and has  
14 been diagnosed with antisocial disorder;

15           23. "Not guilty by reason of mental illness" means the  
16 individual committed the act while mentally ill, and was either  
17 unable to understand the nature and consequences of his or her  
18 actions or was unable to differentiate right from wrong, and has not  
19 been diagnosed with antisocial disorder; and

20           24. "Severe mental illness" means a substantial disorder of  
21 thought, mood, perception, psychological orientation or memory that  
22 significantly impairs judgment, behavior, capacity to recognize  
23 reality or ability to meet the ordinary demands of life and the  
24 person is diagnosed with antisocial disorder.

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

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