

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1616

By: Sullivan of the House

and

Crain of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to mental health; amending 43A O.S. 2001, Section 5-207, as last amended by Section 16, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-207), which relates to emergency detention of persons appearing to be mentally ill, alcohol dependent, or drug dependent; specifying procedures for transporting and care of a person who is medically unstable; authorizing a physician to detain a person until medically stable; providing for transportation for persons requiring treatment; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 5-207, as last amended by Section 16, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-207), is amended to read as follows:

Section 5-207. A. Any person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to

1 a degree that immediate emergency action is necessary may be taken
2 into protective custody and detained as provided pursuant to the
3 provisions of this section. Nothing in this section shall be
4 construed as being in lieu of prosecution under state or local
5 statutes or ordinances relating to public intoxication offenses.

6 B. Any peace officer who reasonably believes that a person is a
7 person requiring treatment as defined in Section 1-103 of this title
8 shall take the person into protective custody. The officer shall
9 make every reasonable effort to take the person into custody in the
10 least conspicuous manner.

11 C. The officer shall prepare a written statement indicating the
12 basis for the officer's belief that the person is a person requiring
13 treatment and the circumstances under which the officer took the
14 person into protective custody. The officer shall give a copy of
15 the statement to the person or the person's attorney upon the
16 request of either. If the officer does not make the determination
17 to take an individual into protective custody on the basis of the
18 officer's personal observation, the officer shall not be required to
19 prepare a written statement. However, the person stating to be
20 mentally ill, alcohol-dependent, or drug-dependent or the person
21 upon whose statement the officer relies shall sign a written
22 statement indicating the basis for such person's belief that the
23 person is a person requiring treatment. Any false statement given
24 to the officer by the person upon whose statement the officer relies

1 shall be a misdemeanor and subject to the sanctions of Title 21 of
2 the Oklahoma Statutes.

3 D. If the person is medically stable, the officer shall
4 immediately transport the person to the nearest facility designated
5 by the Commissioner of Mental Health and Substance Abuse Services as
6 an appropriate facility for an initial assessment. If, subsequent
7 to an initial assessment, it is determined that emergency detention
8 is warranted, the officer shall transport the person to the nearest
9 facility, designated by the Commissioner as appropriate for such
10 detention, that has bed space available. If it is determined by the
11 facility director or designee that the person is not medically
12 stable, the officer shall transport the person to the nearest
13 hospital or other appropriate treatment facility.

14 E. If the person is medically unstable, the person may be
15 transported to an appropriate medical facility for medical
16 treatment. A treating physician may authorize that the person be
17 detained until the person becomes medically stable. When the person
18 becomes medically stable, if in the opinion of the treating or
19 discharging physician, the patient is still a person requiring
20 treatment as defined in Section 1-103 of this title, the physician
21 shall authorize detention of the patient for transportation as
22 provided in subsection D of this section by an appropriate law
23 enforcement agency.
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1 F. The parent, brother or sister who is eighteen (18) years of
2 age or older, child who is eighteen (18) years of age or older, or
3 guardian of the person, or a person who appears to be or states that
4 such person is mentally ill, alcohol-dependent, or drug-dependent to
5 a degree that emergency action is necessary may request the
6 administrator of a facility designated by the Commissioner as an
7 appropriate facility for an initial assessment to conduct an initial
8 assessment to determine whether the condition of the person is such
9 that emergency detention is warranted and, if emergency detention is
10 warranted, to detain the person as provided in Section 5-206 of this
11 title.

12 SECTION 2. This act shall become effective November 1, 2009.

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