

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 1616

As Amended

ENGROSSED HOUSE BILL NO. 1616 - By: Sullivan of the House and Crain of the Senate.

[mental health - emergency detention of persons appearing to be mentally ill - 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 a degree that immediate emergency action is necessary may be taken into protective custody and detained as provided pursuant to the provisions of this section. Nothing in this section shall be construed as being in lieu of prosecution under state or local statutes or ordinances relating to public intoxication offenses.

B. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody. The officer shall

1 make every reasonable effort to take the person into custody in the
2 least conspicuous manner.

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

19 D. If the person is medically stable, the officer shall
20 immediately transport the person to the nearest facility designated
21 by the Commissioner of Mental Health and Substance Abuse Services as
22 an appropriate facility for an initial assessment. If, subsequent
23 to an initial assessment, it is determined that emergency detention

1 is warranted, the officer shall transport the person to the nearest
2 facility, designated by the Commissioner as appropriate for such
3 detention, that has bed space available. If it is determined by the
4 facility director or designee that the person is not medically
5 stable, the officer shall transport the person to the nearest
6 hospital or other appropriate treatment facility.

7 E. 1. If the person is medically unstable, the officer shall
8 immediately transport the person to an appropriate medical facility
9 for medical treatment. A treating physician may order the person
10 detained until the person becomes medically stable. When the person
11 becomes medically stable, and according to the discharging physician
12 or law enforcement officer is a person requiring treatment, the
13 medical facility or a law enforcement officer shall immediately
14 transport the person to the nearest facility designated by the
15 Commissioner of Mental Health and Substance Abuse Services as an
16 appropriate facility for an initial assessment.

17 2. If, subsequent to an initial assessment, it is determined
18 that emergency detention is warranted, the officer shall transport
19 the person to the nearest facility, designated by the Commissioner
20 as appropriate for such detention, that has bed space available. If
21 it is determined by the facility director or designee that the
22 person is not medically stable, the officer shall transport the
23 person to the nearest hospital or other appropriate treatment

1 facility to be treated and held until such time as that person is
2 medically stable for the purpose of receiving a mental health
3 evaluation or treatment.

4 F. The parent, brother or sister who is eighteen (18) years of
5 age or older, child who is eighteen (18) years of age or older, or
6 guardian of the person, or a person who appears to be or states that
7 such person is mentally ill, alcohol-dependent, or drug-dependent to
8 a degree that emergency action is necessary may request the
9 administrator of a facility designated by the Commissioner as an
10 appropriate facility for an initial assessment to conduct an initial
11 assessment to determine whether the condition of the person is such
12 that emergency detention is warranted and, if emergency detention is
13 warranted, to detain the person as provided in Section 5-206 of this
14 title.

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

16 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated
17 3-26-09 - DO PASS, As Amended.