

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

HOUSE BILL 1616

By: Sullivan

AS INTRODUCED

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 an officer to take when a person is medically unstable; authorizing a physician to detain a person until medically stable; specifying procedures upon determination of emergency detention subsequent to an initial assessment; 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 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

1 construed as being in lieu of prosecution under state or local
2 statutes or ordinances relating to public intoxication offenses.

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

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

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

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

21 2. If, subsequent to an initial assessment, it is determined
22 that emergency detention is warranted, the officer shall transport
23 the person to the nearest facility, designated by the Commissioner
24 as appropriate for such detention, that has bed space available. If

1 it is determined by the facility director or designee that the
2 person is not medically stable, the officer shall transport the
3 person to the nearest hospital or other appropriate treatment
4 facility to be treated and held until such time as that person is
5 medically stable for the purpose of receiving a mental health
6 evaluation or treatment.

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

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