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February 12, 2018

AS AMENDED

SENATE BILL NO. 1052

By: Griffin

[involuntary commitment - notice of hearing -
definition - effective date]

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-412, as amended by Section 2, Chapter 217, O.S.L. 2013 (43A O.S. Supp. 2017, Section 5-412), is amended to read as follows:

Section 5-412. A. Notice of the date, time and place of the hearing on a petition alleging a person to be a person requiring treatment shall be delivered to such person at least one (1) day prior to the hearing. Notice shall be personally delivered to the person together with a copy of the petition and copies of the mental health evaluation and any order of the court directing prehearing detention.

B. The notice shall contain the following information:

1. The definitions provided by Section 1-103 of this title of a "mental illness" and a "person requiring treatment";

2. If applicable, that the court has ordered the mental health evaluation of the person by two licensed mental health

1 professionals, ~~at least one of whom is a psychiatrist who is a~~
2 ~~diplomate of the American Board of Psychiatry and Neurology, a~~
3 ~~licensed clinical psychologist, or a licensed Doctor of Medicine or~~
4 ~~Doctor of Osteopathy who has received specific training for and is~~
5 ~~experienced in performing mental health therapeutic, diagnostic, or~~
6 ~~counseling functions~~ as defined in Section 1-103 of this title, for
7 the purpose of conducting an evaluation of the person alleged to be
8 a person requiring treatment stating their findings, and the time
9 and place of the evaluation;

10 3. That, upon request, the hearing on the petition may be
11 conducted as a jury trial and the jury shall be composed of six
12 persons having the qualifications required of jurors in courts of
13 record;

14 4. That the petitioner and witnesses identified in the petition
15 may offer testimony under oath at the hearing on the petition;

16 5. If applicable, that the court has appointed an attorney for
17 the person alleged to be a person requiring treatment who shall
18 represent the person until final disposition of the case and that if
19 the person is indigent, the court shall pay the attorney fees;

20 6. That, if the person is found at the hearing or at a jury
21 trial to be a person requiring treatment under Section 5-410 et seq.
22 of this title, the court will take evidence and make findings of
23 fact concerning the person's competency to consent or to refuse the
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1 treatment that is ordered, including, but not limited to, the right
2 of the person to refuse psychotropic medications; and

3 7. That the person alleged to be a person requiring treatment
4 shall be afforded such other rights as are guaranteed by state and
5 federal law.

6 C. The person delivering the copy of the notice and petition to
7 the person alleged to be a person requiring treatment shall, at the
8 time of delivery, explain the content, purpose and effect of the
9 notice and the legal right to judicial review by habeas corpus.

10 D. 1. A copy of the notice, the petition, and the attachments
11 to the petition shall also be delivered at least one (1) day prior
12 to the hearing to:

13 a. the individual initiating the request for protective
14 custody, emergency detention, involuntary commitment
15 or prehearing detention,

16 b. the attorney or court-appointed counsel of the person,
17 to the district attorney, and to the public defender,
18 if any,

19 c. the facility, if any, in which the person is detained
20 in emergency detention,

21 d. if any exist and if one is known, the treatment
22 advocate as defined pursuant to Section 1-109.1 of
23 this title, a person having a valid power of attorney
24 with health care decision-making authority, a person

1 having a valid guardianship with health care decision-
2 making authority, a person having an advance health
3 care directive, or a person having an attorney-in-fact
4 as designated in a valid mental health advance
5 directive, unless specifically indicated otherwise by
6 the instrument or court order. The documents shall
7 not identify the alleged person requiring treatment
8 directly or indirectly as a person with a substance
9 abuse disorder, and

10 e. if the designations or orders listed in subparagraph d
11 of this paragraph do not exist or are not known, then
12 a parent, spouse, guardian, brother, sister or child
13 who is at least eighteen (18) years of age of the
14 person alleged to be a person requiring treatment and
15 who is not the individual initiating the petition or a
16 request for protective custody, emergency detention,
17 involuntary commitment or prehearing detention. The
18 documents shall not identify the alleged person
19 requiring treatment directly or indirectly as a person
20 with a substance abuse disorder. Notice shall also be
21 delivered to any other person as may be ordered by the
22 court.

23 2. The notice required by this subsection may be served
24 personally or by certified mail. When notice is served personally,

1 the person making such service shall make affidavit of the same and
2 file such notice, with proof of service, with the district court.
3 This notice may be served in any part of the state when so ordered
4 by the court.

5 E. Notice of orders of a court directing a mental health
6 evaluation or prehearing detention of a person alleged to be a
7 person requiring treatment shall be delivered in substantially the
8 same manner as provided by subsection A of this section. Notice of
9 a court order directing a mental health evaluation of the person
10 shall be delivered at least one (1) day before the evaluation, and
11 as many additional days as are requested by the person alleged to be
12 a person requiring treatment or the attorney of such person as are
13 reasonable without prejudice to the person. Any request for
14 additional days shall be subject to the discretion of the court,
15 considering the facts and circumstances of each particular case.

16 SECTION 2. This act shall become effective November 1, 2018.

17 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
18 February 12, 2018 - DO PASS AS AMENDED
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