

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1052

By: Griffin

AS INTRODUCED

An Act relating to involuntary commitment; amending 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), which relates to notice of hearing; modifying a definition; and providing an 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 1. The definitions provided by Section 1-103 of this title of a
2 "mental illness" and a "person requiring treatment";

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

14 3. That, upon request, the hearing on the petition may be
15 conducted as a jury trial and the jury shall be composed of six
16 persons having the qualifications required of jurors in courts of
17 record;

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

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

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

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

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

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

17 a. the individual initiating the request for protective
18 custody, emergency detention, involuntary commitment
19 or prehearing detention,

20 b. the attorney or court-appointed counsel of the person,
21 to the district attorney, and to the public defender,
22 if any,

23 c. the facility, if any, in which the person is detained
24 in emergency detention,

- d. if any exist and if one is known, the treatment advocate as defined pursuant to Section 1-109.1 of this title, a person having a valid power of attorney with health care decision-making authority, a person having a valid guardianship with health care decision-making authority, a person having an advance health care directive, or a person having an attorney-in-fact as designated in a valid mental health advance directive, unless specifically indicated otherwise by the instrument or court order. The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder, and
- e. if the designations or orders listed in subparagraph d of this paragraph do not exist or are not known, then a parent, spouse, guardian, brother, sister or child who is at least eighteen (18) years of age of the person alleged to be a person requiring treatment and who is not the individual initiating the petition or a request for protective custody, emergency detention, involuntary commitment or prehearing detention. The documents shall not identify the alleged person requiring treatment directly or indirectly as a person with a substance abuse disorder. Notice shall also be

1 delivered to any other person as may be ordered by the
2 court.

3 2. The notice required by this subsection may be served
4 personally or by certified mail. When notice is served personally,
5 the person making such service shall make affidavit of the same and
6 file such notice, with proof of service, with the district court.
7 This notice may be served in any part of the state when so ordered
8 by the court.

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

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