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February 10, 2020

By: Bergstrom

An Act relating to mental health; amending 43A O.S. 2011, Section 5-207, as amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2019, Section 5-207), which relates to emergency detention; providing for assessment via telemedicine; requiring peace officer to provide certain transport pursuant to certain determination by licensed mental health professional; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-207, as amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2019, 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. 1. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this

1 title shall take the person into protective custody. The officer
2 shall make every reasonable effort to take the person into custody
3 in the least conspicuous manner.

4 2. Upon taking the person into protective custody, the officer
5 may relinquish custody of the person believed to require treatment
6 to a duly qualified reserve officer or deputy employed by the same
7 agency to fulfill the officer's duties as required by this title.

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 or have the
5 individual assessed by a licensed mental health professional
6 employed by or under contract with a community mental health center
7 via telemedicine if such capability is available. If, subsequent to
8 an initial assessment, it is determined that emergency detention is
9 warranted, the officer shall transport the person to the nearest
10 facility, designated by the Commissioner as appropriate for such
11 detention, that has bed space available. If, subsequent to the
12 initial assessment, it is determined that emergency detention can be
13 avoided by the person agreeing to treatment in a less restrictive
14 level of care, the officer shall transport the person to the nearest
15 facility determined by the licensed mental health professional to
16 best meet the person's treatment needs, or the person's residence if
17 appropriate. If it is determined by the facility director or
18 designee that the person is not medically stable, the officer shall
19 transport the person to the nearest hospital or other appropriate
20 treatment facility.

21 E. If the person is medically unstable, the person may be
22 transported to an appropriate medical facility for medical
23 treatment. A treating physician may authorize that the person be
24 detained until the person becomes medically stable. When the person

1 becomes medically stable, if in the opinion of the treating or
2 discharging physician, the patient is still a person requiring
3 treatment as defined in Section 1-103 of this title, the physician
4 shall authorize detention of the patient for transportation as
5 provided in subsection D of this section by an appropriate law
6 enforcement agency.

7 F. If the nearest facility designated by the Commissioner as an
8 appropriate facility for an initial assessment or detention is in
9 excess of fifty (50) miles from the county seat of the county in
10 which the person is located, and whenever, as provided in paragraph
11 (b) of Article III of Section 6-201 of this title, there are factors
12 based upon clinical determinations made within the state indicating
13 that the care and treatment of the person would be facilitated or
14 improved thereby, the person may be transported by the officer to a
15 facility in another state if the facility:

16 1. Is located in a state that has enacted into law and entered
17 into the Interstate Compact on Mental Health;

18 2. Is designated or accredited by the mental health authorities
19 of that state as an appropriate facility for an initial assessment
20 or detention of such person;

21 3. Is accredited by the Joint Commission;

22 4. Is the nearest available facility to the county seat of the
23 county in which the person is located; and
24

1 5. Has agreed prior to the person leaving the state to receive
2 the person for initial assessment or detention.

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

14 SECTION 2. This act shall become effective November 1, 2020.

15 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
16 February 10, 2020 - DO PASS
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