

1 ENGROSSED SENATE AMENDMENT  
TO  
2 ENGROSSED HOUSE  
BILL NO. 4227

By: Boatman of the House

and

Paxton of the Senate

7 An Act relating to mental health; amending 43A O.S.  
2021, Section 1-103, which relates to definitions;  
8 adding definition; amending 43A O.S. 2021, Section 5-  
207, which relates to immediate emergency action;  
9 modifying requirement; amending 43A O.S. 2021,  
Section 5-302, which relates to the status of  
10 informal patient; including private centers; amending  
43A O.S. 2021, Section 5-309, which relates to  
11 detention of persons; including private centers;  
amending 43A O.S. 2021, Section 5-415, which relates  
12 to records; creating exemption; amending 43A O.S.  
2021, Section 5-420, which relates to the review  
13 status of persons involuntarily committed; modifying  
requirement; repealing 43A O.S. 2021, Sections 8-101,  
14 8-103, 8-104, 8-105, 8-106, 8-107, and 8-108, which  
relate to mental health; and providing an effective  
15 date.

16  
17 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

18  
19 "An Act relating to mental health; amending 43A O.S.  
2021, Section 1-103, which relates to definitions;  
20 adding and modifying definitions; updating statutory  
language; amending 43A O.S. 2021, Section 5-206,  
21 which relates to definitions; tolling emergency  
detention time limit under specified condition;  
22 amending 43A O.S. 2021, Section 5-207, which relates  
to immediate emergency action; modifying definition;  
23 tolling emergency detention time limit under  
specified condition; amending 43A O.S. 2021, Section  
5-208, which relates to emergency detention; tolling  
24 emergency detention time limit under specified

1 condition; amending 43A O.S. 2021, Section 5-302,  
2 which relates to the status of informal patient;  
3 including private centers; amending 43A O.S. 2021,  
4 Section 5-309, which relates to detention of persons;  
5 including private centers; tolling emergency  
6 detention time limit under specified condition;  
7 amending 43A O.S. 2021, Section 5-415, which relates  
8 to records; creating exemption; amending 43A O.S.  
9 2021, Section 5-420, which relates to the review  
10 status of persons involuntarily committed; modifying  
11 requirement; repealing 43A O.S. 2021, Sections 8-101,  
12 8-103, 8-104, 8-105, 8-106, 8-107, and 8-108, which  
13 relate to mental health; and providing an effective  
14 date.

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

SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-103, is  
amended to read as follows:

Section 1-103. When used in this title, unless otherwise  
expressly stated, or unless the context or subject matter otherwise  
requires:

1. "Department" means the Department of Mental Health and  
Substance Abuse Services;

2. "Chair" means the chair of the Board of Mental Health and  
Substance Abuse Services;

3. "Mental illness" means a substantial disorder of thought,  
mood, perception, psychological orientation or memory that  
significantly impairs judgment, behavior, capacity to recognize  
reality or ability to meet the ordinary demands of life;

1        4. "Board" means the Board of Mental Health and Substance Abuse  
2 Services as established by the Mental Health Law;

3        5. "Commissioner" means the ~~individual selected and appointed~~  
4 ~~by the Board to serve as~~ Commissioner of Mental Health and Substance  
5 Abuse Services;

6        6. "Indigent person" means a person who has not sufficient  
7 assets or resources to support the person and to support members of  
8 the family of the person lawfully dependent on the person for  
9 support;

10       7. "Facility" means any hospital, school, building, house or  
11 retreat, authorized by law to have the care, treatment or custody of  
12 an individual with mental illness, or drug or alcohol dependency,  
13 gambling addiction, eating disorders, an opioid substitution  
14 treatment program including, but not limited to, public or private  
15 hospitals, community mental health centers, clinics, satellites or  
16 facilities; provided, that facility shall not mean a child guidance  
17 center operated by the State Department of Health;

18       8. "Consumer" means a person under care or treatment in a  
19 facility pursuant to the Mental Health Law, or in an outpatient  
20 status;

21       9. "Care and treatment" means medical care and behavioral  
22 health services, as well as food, clothing and maintenance,  
23 furnished to a person;

1        10. Whenever in this law or in any other law, or in any rule or  
2 order made or promulgated pursuant to this law or to any other law,  
3 or in the printed forms prepared for the admission of consumers or  
4 for statistical reports, the words "insane", "insanity", "lunacy",  
5 "mentally sick", "mental disease" or "mental disorder" are used,  
6 such terms shall have equal significance to the words "mental  
7 illness";

8        11. "Licensed mental health professional" means:

- 9            a. a psychiatrist who is a diplomate of the American  
10            Board of Psychiatry and Neurology,
- 11           b. a psychiatrist who is a diplomate of the American  
12           Osteopathic Board of Neurology and Psychiatry,
- 13           c. a physician licensed pursuant to the Oklahoma  
14           Allopathic Medical and Surgical Licensure and  
15           Supervision Act or the Oklahoma Osteopathic Medicine  
16           Act,
- 17           d. a clinical psychologist who is duly licensed to  
18           practice by the State Board of Examiners of  
19           Psychologists,
- 20           e. a professional counselor licensed pursuant to the  
21           Licensed Professional Counselors Act,
- 22           f. a person licensed as a clinical social worker pursuant  
23           to the provisions of the Social Worker's Licensing  
24           Act,

- g. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,
- h. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,
- i. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act,
- j. a physician's assistant who is licensed in good standing in this state, or
- k. a licensed drug and alcohol counselor/mental health (LADC/MH) as defined in the Licensed Alcohol and Drug Counselors Act;

12. "Mentally incompetent person" means any person who has been adjudicated mentally or legally incompetent by an appropriate district court;

13. a. "Person requiring treatment" means a person who because of his or her mental illness or drug or alcohol dependency:

- (1) poses a substantial risk of immediate physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,
- (2) poses a substantial risk of immediate physical harm to another person or persons as manifested

1 by evidence of violent behavior directed toward  
2 another person or persons,

3 (3) has placed another person or persons in a  
4 reasonable fear of violent behavior directed  
5 towards such person or persons or serious  
6 physical harm to them as manifested by serious  
7 and immediate threats,

8 (4) is in a condition of severe deterioration such  
9 that, without immediate intervention, there  
10 exists a substantial risk that severe impairment  
11 or injury will result to the person, or

12 (5) poses a substantial risk of immediate serious  
13 physical injury to self or death as manifested by  
14 evidence that the person is unable to provide for  
15 and is not providing for his or her basic  
16 physical needs.

17 b. The mental health or substance abuse history of the  
18 person may be used as part of the evidence to  
19 determine whether the person is a person requiring  
20 treatment or an assisted outpatient. The mental  
21 health or substance abuse history of the person shall  
22 not be the sole basis for this determination.

23 c. Unless a person also meets the criteria established in  
24 subparagraph a or b of this paragraph, "person

1 requiring treatment" or an "assisted outpatient" shall  
2 not mean:

- 3 (1) a person whose mental processes have been  
4 weakened or impaired by reason of advanced years,  
5 dementia, or Alzheimer's disease,  
6 (2) a person with intellectual or developmental  
7 disability as defined in Title 10 of the Oklahoma  
8 Statutes,  
9 (3) a person with seizure disorder,  
10 (4) a person with a traumatic brain injury, or  
11 (5) a person who is homeless.

12 d. (1) A person who meets the criteria established in  
13 this ~~section~~ paragraph but who is medically  
14 ~~unstable, or the facility holding the person is~~  
15 ~~unable to treat the additional medical conditions~~  
16 ~~of that person, should~~ may be discharged and  
17 transported in accordance with Section 1-110 of  
18 this title. Alternatively, if the facility  
19 holding the person is able to treat the  
20 additional medical conditions of that person, the  
21 facility may treat the additional medical  
22 conditions in an effort to medically stabilize  
23 the patient.  
24

1                   (2) If the facility holding the person is unable to  
2                   treat the additional medical conditions of a  
3                   person who meets the criteria established in this  
4                   paragraph, the patient shall be discharged and  
5                   transported in accordance with Section 1-110 of  
6                   this title;

7           14. "Petitioner" means a person who files a petition alleging  
8 that an individual is a person requiring treatment or an assisted  
9 outpatient;

10          15. "Executive director" means the person in charge of a  
11 facility as defined in this section;

12          16. "Private hospital or facility" means any general hospital  
13 maintaining a neuro-psychiatric unit or ward, or any private  
14 hospital or facility for care and treatment of a person having a  
15 mental illness, which is not supported by the state or federal  
16 government. The term "private hospital" or "facility" shall not  
17 include nursing homes or other facilities maintained primarily for  
18 the care of elderly and disabled persons;

19          17. "Individualized treatment plan" means a proposal developed  
20 during the stay of an individual in a facility, under the provisions  
21 of this title, which is specifically tailored to the treatment needs  
22 of the individual. Each plan shall clearly include the following:

- 23               a. a statement of treatment goals or objectives, based  
24               upon and related to a clinical evaluation, which can



1 be reasonably achieved within a designated time  
2 interval,

3 b. treatment methods and procedures to be used to obtain  
4 these goals, which methods and procedures are related  
5 to each of these goals and which include specific  
6 prognosis for achieving each of these goals,

7 c. identification of the types of professional personnel  
8 who will carry out the treatment procedures including  
9 appropriate medical or other professional involvement  
10 by a physician or other health professional properly  
11 qualified to fulfill legal requirements mandated under  
12 state and federal law,

13 d. documentation of involvement by the individual  
14 receiving treatment and, if applicable, the accordance  
15 of the individual with the treatment plan, and

16 e. a statement attesting that the executive director of  
17 the facility or clinical director has made a  
18 reasonable effort to meet the plan's individualized  
19 treatment goals in the least restrictive environment  
20 possible closest to the home community of the  
21 individual;

22 18. "Telemedicine" means technology-enabled health and care  
23 management and delivery systems that extend capacity and access,  
24 which includes:

- a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health care professional or real-time provider to provider consultation through live interactive audiovisual means,
- b. asynchronous mechanisms, which include store and forward transfers, online exchange of health information between a patient and a health care professional and online exchange of health information between health care professionals, but shall not include the use of automated text messages or automated mobile applications that serve as the sole interaction between a patient and a health care professional,
- c. remote patient monitoring, and
- d. other electronic means that support clinical health care, professional consultation, patient and professional health-related education, public health and health administration;

19. "Recovery and recovery support" means nonclinical services that assist individuals and families to recover from alcohol or drug problems. They include social support, linkage to and coordination among allied service providers including but not limited to transportation to and from treatment or employment, employment

1 services and job training, case management and individual services  
2 coordination, life skills education, relapse prevention, housing  
3 assistance, child care, and substance abuse education;

4 20. "Assisted outpatient" means a person who:

- 5 a. is either currently under the care of a facility  
6 certified by the Department of Mental Health and  
7 Substance Abuse Services as a Community Mental Health  
8 Center, or is being discharged from the custody of the  
9 Oklahoma Department of Corrections, or is being  
10 discharged from a residential placement by the Office  
11 of Juvenile Affairs,
- 12 b. is suffering from a mental illness,
- 13 c. is unlikely to survive safely in the community without  
14 supervision, based on a clinical determination,
- 15 d. has a history of lack of compliance with treatment for  
16 mental illness that has:
  - 17 (1) prior to the filing of a petition, at least twice  
18 within the last thirty-six (36) months been a  
19 significant factor in necessitating  
20 hospitalization or treatment in a hospital or  
21 residential facility including admission to a  
22 community-based structured crisis center as  
23 certified by the Oklahoma Department of Mental  
24 Health and Substance Abuse Services, or receipt

1 of services in a forensic or other mental health  
2 unit of a correctional facility, or a specialized  
3 treatment plan for treatment of mental illness in  
4 a secure juvenile facility or placement in a  
5 specialized residential program for juveniles, or  
6 (2) prior to the filing of the petition, resulted in  
7 one or more acts of serious violent behavior  
8 toward self or others or threats of, or attempts  
9 at, serious physical harm to self or others  
10 within the last twenty-four (24) months,

11 e. is, as a result of his or her mental illness, unlikely  
12 to voluntarily participate in outpatient treatment  
13 that would enable him or her to live safely in the  
14 community,

15 f. in view of his or her treatment history and current  
16 behavior, is in need of assisted outpatient treatment  
17 in order to prevent a relapse or deterioration which  
18 would be likely to result in serious harm to the  
19 person or persons as defined in this section, and

20 g. is likely to benefit from assisted outpatient  
21 treatment; ~~and~~

22 21. "Assisted outpatient treatment" means outpatient services  
23 which have been ordered by the court pursuant to a treatment plan  
24 approved by the court to treat an assisted outpatient's mental

1 illness and to assist the person in living and functioning in the  
2 community, or to attempt to prevent a relapse or deterioration that  
3 may reasonably be predicted to result in suicide or the need for  
4 hospitalization; and

5 22. "Urgent recovery clinic" means a clinic that offers  
6 voluntary services aimed at the assessment and immediate  
7 stabilization of acute symptoms of mental illness, alcohol and other  
8 drug abuse, and emotional distress. Unless the person receiving  
9 treatment consents to a longer duration or unless the person is  
10 placed into emergency detention under Sections 5-206 through 5-209  
11 of this title, no more than twenty-three (23) hours and fifty-nine  
12 (59) minutes of services may be provided to a consumer during one  
13 episode of care at an urgent recovery clinic.

14 SECTION 2. AMENDATORY 43A O.S. 2021, Section 5-206, is  
15 amended to read as follows:

16 Section 5-206. As used in Sections 5-206 through 5-209 of this  
17 title:

18 1. "Mental health evaluation" means the examination of a  
19 person, either in person or via telemedicine, who appears to have a  
20 mental illness or be alcohol- or drug-dependent by two licensed  
21 mental health professionals, at least one of whom is a psychiatrist  
22 who is a diplomat of the American Board of Psychiatry and Neurology,  
23 a licensed clinical psychologist, or a licensed Doctor of Medicine  
24 or Doctor of Osteopathy who has received specific training for and

1 is experienced in performing mental health therapeutic, diagnostic,  
2 or counseling functions, for the purpose of:

- 3 a. determining if a petition requesting involuntary  
4 commitment or treatment is warranted, ~~or~~
- 5 b. completing a mental health evaluation pursuant to  
6 Section 5-414 of this title, or
- 7 c. both subparagraphs a and b of this paragraph;

8 2. "Initial assessment (medical necessity review)" means the  
9 examination of a person, either in person or via telemedicine, who  
10 appears to be a mentally ill person, an alcohol-dependent person, or  
11 a drug-dependent person and a person requiring treatment, whose  
12 condition is such that it appears that emergency detention may be  
13 warranted by a licensed mental health professional at a facility  
14 approved by the Commissioner of Mental Health and Substance Abuse  
15 Services, or a designee, as appropriate for such examination to  
16 determine if emergency detention of the person is warranted;

17 3. "Emergency detention" means the detention of a person who  
18 appears to be a person requiring treatment in a facility approved by  
19 the Commissioner of Mental Health and Substance Abuse Services as  
20 appropriate for such detention after the completion of an emergency  
21 examination, either in person or via telemedicine, and a  
22 determination that emergency detention is warranted for a period not  
23 to exceed one hundred twenty (120) hours or five (5) days, excluding  
24 weekends and holidays, except upon a court order authorizing

1 detention beyond this period or pending the hearing on a petition  
2 requesting involuntary commitment or treatment as provided by ~~this~~  
3 ~~act~~ Section 5-206 et seq. of this title. If during the emergency  
4 detention a person who appears to be a person requiring treatment  
5 becomes medically unstable, the time limit on the emergency  
6 detention period stipulated in this paragraph shall be tolled until  
7 the person who appears to be a person requiring treatment is  
8 medically stabilized;

9 4. "Protective custody" means the taking into protective  
10 custody and detention of a person pursuant to the provisions of  
11 Section 5-208 of this title until such time as an emergency  
12 examination is completed and a determination is made as to whether  
13 or not emergency detention is warranted; and

14 5. "Prehearing detention" means the court-ordered detention of  
15 a person who is alleged to be mentally ill, alcohol-dependent, or  
16 drug-dependent in a facility approved by the Commissioner as  
17 appropriate for such detention, pending a hearing on a petition  
18 requesting involuntary commitment or treatment as provided by  
19 Section 5-415 of this title.

20 SECTION 3. AMENDATORY 43A O.S. 2021, Section 5-207, is  
21 amended to read as follows:

22 Section 5-207. A. Any person who appears to be or states that  
23 such person is mentally ill, alcohol-dependent, or drug-dependent to  
24 a degree that immediate emergency action is necessary may be taken

1 into protective custody and detained as provided pursuant to the  
2 provisions of this section. Nothing in this section shall be  
3 construed as being in lieu of prosecution under state or local  
4 statutes or ordinances relating to public intoxication offenses.

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

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

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



1 indicating the basis for such person's belief that the person is a  
2 person requiring treatment. Any false statement given to the  
3 officer by the person upon whose statement the officer relies shall  
4 be a misdemeanor and subject to the sanctions of Title 21 of the  
5 Oklahoma Statutes.

6 D. If the person is medically stable, the officer shall  
7 immediately transport the person to an urgent recovery clinic or to  
8 the nearest facility, as defined in Section 1-103 of this title, for  
9 an initial assessment within a thirty (30) mile radius of the peace  
10 officer's operational headquarters, or may use telemedicine with a  
11 licensed mental health professional employed or under contract with  
12 a facility operated by, certified by or contracted with the  
13 Department of Mental Health and Substance Abuse Services to perform  
14 an initial assessment. If, subsequent to an initial assessment, it  
15 is determined that emergency detention is warranted, the officer  
16 shall immediately transport the person to the nearest facility that  
17 has bed space available if the facility is within thirty (30) miles  
18 of the peace officer's operational headquarters and the individual  
19 was determined to be a person requiring treatment. The Department  
20 of Mental Health and Substance Abuse Services may contract for the  
21 use of alternative transportation providers to transport individuals  
22 to facilities designated for emergency detention when the nearest  
23 facility with available bed space is more than thirty (30) miles  
24 from the peace officer's operational headquarters and the individual

1 was determined to be a person requiring treatment. For the purposes  
2 of this section, "urgent recovery clinics" means clinics that offer  
3 voluntary services aimed at the assessment and immediate  
4 stabilization of acute symptoms of mental illness, alcohol and other  
5 drug abuse and emotional distress; provided that, unless the person  
6 consents to a longer duration, no more than twenty-three (23) hours  
7 and fifty-nine (59) minutes of services are provided to a consumer  
8 during one episode of care. If it is determined by the facility  
9 director or designee that the person is not medically stable, the  
10 officer shall immediately transport the person to the nearest  
11 hospital or other appropriate treatment facility.

12 E. If the person is medically unstable, the person may be  
13 transported to an appropriate medical facility for medical  
14 treatment. A treating physician may authorize that the person be  
15 detained until the person becomes medically stable. The time limit  
16 on the emergency detention period stipulated under Section 5-208 of  
17 this title shall be tolled until the person who appears to be a  
18 person requiring treatment is medically stabilized. When the person  
19 becomes medically stable, if in the opinion of the treating or  
20 discharging physician, the patient is still a person requiring  
21 treatment as defined in Section 1-103 of this title, the physician  
22 shall authorize detention of the patient for transportation as  
23 provided in subsection D of this section.

1 F. The parent, brother or sister who is eighteen (18) years of  
2 age or older, child who is eighteen (18) years of age or older, or  
3 guardian of the person, or a person who appears to be or states that  
4 such person is mentally ill, alcohol-dependent or drug-dependent to  
5 a degree that emergency action is necessary may request the  
6 administrator of a facility designated by the Commissioner as an  
7 appropriate facility for an initial assessment to conduct an initial  
8 assessment to determine whether the condition of the person is such  
9 that emergency detention is warranted and, if emergency detention is  
10 warranted, to detain the person as provided in ~~Section~~ Sections 5-  
11 206 through 5-209 of this title.

12 SECTION 4. AMENDATORY 43A O.S. 2021, Section 5-208, is  
13 amended to read as follows:

14 Section 5-208. A. 1. A consumer in protective custody as  
15 provided by Section 5-207 of this title shall be subject to an  
16 initial assessment at the appropriate facility by a licensed mental  
17 health professional within twelve (12) hours of being placed in  
18 protective custody for the purpose of determining whether emergency  
19 detention of the consumer is warranted. The initial assessment of  
20 the consumer shall include an appropriate screening and assessment  
21 process, as determined by the Department of Mental Health and  
22 Substance Abuse Services, designed to identify possible alcohol or  
23 drug abuse or dependency.

24

1        2. If, upon examination, the licensed mental health  
2 professional determines that the consumer is not a person requiring  
3 treatment or that the condition of the consumer is such that  
4 emergency detention is not warranted, the consumer shall either be  
5 returned by an officer immediately to the point where the consumer  
6 was taken into protective custody and released or taken to the home  
7 or residence of such consumer or to an alternative facility. If the  
8 home or residence of the consumer is a nursing home or group home,  
9 such home shall not refuse the return of the consumer to his or her  
10 residence.

11       3. If, upon examination, the licensed mental health  
12 professional determines that the consumer is a person requiring  
13 treatment to a degree that emergency detention is warranted, the  
14 licensed mental health professional shall immediately prepare a  
15 statement describing the findings of the examination and stating the  
16 basis for the determination, and the consumer shall be detained in  
17 emergency detention for a period not to exceed one hundred twenty  
18 (120) hours or five (5) days, excluding weekends and holidays,  
19 except upon a court order authorizing detention pending a hearing on  
20 a petition requesting involuntary commitment or treatment.

21       4. During the emergency detention period:

- 22           a. a mental health evaluation of the consumer shall be  
23                conducted by two licensed mental health professionals  
24                and, if the consumer appears to have a mental illness

1 or be alcohol- or drug-dependent and be a consumer  
2 requiring treatment, and

3 b. reasonable efforts shall be made to determine whether  
4 the consumer has a current and unrevoked advance  
5 directive executed pursuant to the Advance Directives  
6 for Mental Health Treatment Act.

7 5. If during the emergency detention the consumer becomes  
8 medically unstable, the time limit on the emergency detention period  
9 stipulated in paragraph 3 of this subsection shall be tolled until  
10 the consumer is treated at a medical facility and is medically  
11 stabilized.

12 B. 1. If a licensed mental health professional, designated to  
13 have the responsibility by the executive director or person in  
14 charge of a hospital, or the executive director or person in charge  
15 of a facility designated by the Commissioner of Mental Health and  
16 Substance Abuse Services as appropriate for emergency detention  
17 believes a voluntary consumer to be a person requiring treatment to  
18 a degree that emergency action is necessary, the hospital or  
19 facility may detain such consumer in emergency detention for a  
20 period not to exceed one hundred twenty (120) hours or five (5)  
21 days, excluding weekends and holidays, only on the following  
22 conditions:

23 ~~1. The~~

1           a.   the consumer has refused to consent or has withdrawn  
2           consent to voluntary treatment~~7~~1

3       ~~2. The~~

4           b.   the consumer has been examined by a licensed mental  
5           health professional who has determined that the  
6           consumer is a person requiring treatment, the  
7           condition of the consumer is such that emergency  
8           detention is warranted, and a statement has been  
9           prepared as provided in subsection A of this section~~7~~1  
10          and

11       ~~3. The~~

12          c.   the executive director or person in charge or the  
13          designee shall provide for a mental health evaluation  
14          of the consumer by two licensed mental health  
15          professionals.

16        2. If during the emergency detention the consumer becomes  
17 medically unstable, the time limit on the emergency detention period  
18 stipulated in paragraph 1 of this subsection shall be tolled until  
19 the consumer is treated at a medical facility and is medically  
20 stabilized.

21        C. Whenever it appears that a consumer detained pursuant to the  
22 provisions of this section is no longer a person requiring treatment  
23 and will not require treatment beyond the period of detention, the  
24 consumer shall be discharged and returned by an officer to the point

1 where he or she was taken into protective custody, or if the  
2 consumer had not been in protective custody, the consumer shall be  
3 taken to the home or residence of the consumer or to an alternative  
4 facility. If the home or residence of the consumer is a nursing  
5 home or group home, it shall not refuse the return of the consumer  
6 to his or her residence.

7 D. Whenever it appears that a person detained as provided by  
8 this section will require treatment beyond the period of emergency  
9 detention and the person has refused to consent to voluntary  
10 treatment, a licensed mental health professional conducting an  
11 evaluation of the person or the executive director of the facility  
12 in which the person is being detained, or the designee of the  
13 executive director, shall immediately file a petition or request the  
14 district attorney to file a petition with the district court as  
15 provided by Section 5-410 of this title, and may request a court  
16 order directing prehearing detention when such detention is  
17 necessary for the protection of the person or others.

18 SECTION 5. AMENDATORY 43A O.S. 2021, Section 5-302, is  
19 amended to read as follows:

20 Section 5-302. A. Any person may be admitted to a state mental  
21 hospital or state-operated community mental health center or a  
22 private mental health hospital or private community mental health  
23 center on a voluntary basis as an informal consumer when there are  
24 available accommodations and in the judgment of the person in charge

1 of the facility or a designee such person may require treatment  
2 therein. Such person may be admitted as an informal consumer  
3 without making formal or written application therefor and any such  
4 informal consumer shall be free to leave such facility on any day  
5 between the hours of 9:00 a.m. and 5:00 p.m. and at such other times  
6 as the person in charge of the facility may determine.

7 B. No person shall be admitted as an informal consumer pursuant  
8 to the provisions of this section to any state mental hospital or  
9 state-operated community mental health center unless the person in  
10 charge of the facility or a designee has informed such consumer in  
11 writing of the following:

12 1. The rules and procedures of the facility relating to the  
13 discharge of informal consumers;

14 2. The legal rights of an informal consumer receiving treatment  
15 from the facility; and

16 3. The types of treatment which are available to the informal  
17 consumer at the facility.

18 SECTION 6. AMENDATORY 43A O.S. 2021, Section 5-309, is  
19 amended to read as follows:

20 Section 5-309. No consumer admitted to a state or private  
21 mental hospital under the provisions of the Mental Hospital  
22 Voluntary Admission Procedures Act shall be detained in a mental  
23 hospital against the will of the person more than one hundred twenty  
24 (120) hours or five (5) days, excluding weekends and holidays, after



1 the consumer gives notice in writing to the executive director of  
2 the facility of the desire of the consumer to be discharged from the  
3 facility. If during the emergency detention the consumer becomes  
4 medically unstable, the time limit on the emergency detention period  
5 stipulated in this section shall be tolled until the consumer is  
6 treated at a medical facility and is medically stabilized. The  
7 executive director of the facility may designate one or more  
8 employees of the facility to receive a notification provided by this  
9 section with the same effect as if delivered to the executive  
10 director personally.

11 SECTION 7. AMENDATORY 43A O.S. 2021, Section 5-415, is  
12 amended to read as follows:

13 Section 5-415. A. Upon receiving a petition alleging a person  
14 to be a person requiring treatment, the court shall set a day and  
15 time for the hearing.

16 1. If the person alleged to be a person requiring treatment  
17 does not have an attorney, the court shall immediately appoint an  
18 attorney for the person.

19 2. If a copy of a mental health evaluation is not attached to  
20 the petition at the time it is filed, the court shall immediately  
21 order a mental health evaluation of the person as provided by  
22 Section 5-414 of this title.

23 B. If the court deems it necessary, or if the person alleged to  
24 be a person requiring treatment demands, the court shall schedule

1 the hearing on the petition as a jury trial to be held within one  
2 hundred twenty (120) hours or five (5) days of the demand, excluding  
3 weekends and holidays, or within as much additional time as is  
4 requested by the attorney of such person upon good cause shown.

5 C. The court, at the hearing on the petition, shall determine  
6 by clear and convincing evidence whether the person is a person  
7 requiring treatment.

8 1. The court shall take evidence and make findings of fact  
9 concerning the person's competency to consent to or refuse the  
10 treatment that may be ordered, including, but not limited to, the  
11 consumer's right to refuse medication.

12 2. If a jury trial is not demanded, the court may receive as  
13 evidence and act upon the affidavits of the licensed mental health  
14 professionals who evaluated the person and the mental health  
15 evaluation.

16 3. When the hearing is conducted as a jury trial, the  
17 petitioner and any witness in behalf of the petitioner shall be  
18 subject to cross-examination by the attorney for the person alleged  
19 to be a person requiring treatment. The person alleged to be a  
20 person requiring treatment may also be called as a witness and  
21 cross-examined.

22 D. After the hearing, when the court determines that the person  
23 is not a person requiring treatment, the court shall dismiss the  
24

1 petition and, if the person is being detained, order the person to  
2 be discharged from detention.

3 E. After the hearing, when the court determines the person to  
4 be a person requiring treatment, the court shall order the person to  
5 receive the least restrictive treatment consistent with the  
6 treatment needs of the person and the safety of the person and  
7 others.

8 1. The court shall not order hospitalization without a thorough  
9 consideration of available treatment alternatives to hospitalization  
10 and may direct the submission of evidence as to the least  
11 restrictive treatment alternative or may order a mental health  
12 examination.

13 2. If the court finds that a program other than hospitalization  
14 is appropriate to meet the treatment needs of the individual and is  
15 sufficient to prevent injury to the individual or to others, the  
16 court may order the individual to receive whatever treatment other  
17 than hospitalization that is appropriate for a period set by the  
18 court, during which time the court shall continue its jurisdiction  
19 over the individual as a person requiring treatment.

20 3. If the court orders the person to be committed for  
21 involuntary inpatient treatment, the court shall commit the person  
22 to the custody of the Department of Mental Health and Substance  
23 Abuse Services for a placement that is suitable to the person's  
24

1 needs or to a private facility willing to accept the person for  
2 treatment.

3 4. The person shall be delivered to the custody of the  
4 Department of Mental Health and Substance Abuse Services for a  
5 placement that is suitable to the person's needs or to a private  
6 facility willing to accept the person for treatment.

7 5. If the person is placed in the custody of the Department,  
8 the Department may designate two or more facilities to provide  
9 treatment and if the person to be treated or a parent, spouse,  
10 guardian, brother, sister or child, who is at least eighteen (18)  
11 years of age, of the person, expresses a preference for one such  
12 facility, the Department shall attempt, if administratively  
13 possible, to comply with the preference.

14 6. The person shall be discharged from inpatient treatment at  
15 such time as the person no longer requires treatment as determined  
16 by the executive director of the facility or the designee of the  
17 executive director, or as otherwise required by law.

18 F. The court shall make and keep records of all cases brought  
19 before it.

20 1. Except as provided in Section ~~3~~ 1290.27 of ~~this act~~ Title 21  
21 of the Oklahoma Statutes, no records of proceedings pursuant to this  
22 section shall be open to public inspection except by order of the  
23 court or to employees of the Department of Mental Health and  
24 Substance Abuse Services if the person is placed at a state facility

1 or the employees of the private facility where admitted if accepted  
2 into a private facility, the person's attorney of record, the  
3 person's treatment advocate as defined pursuant to Section 1-109.1  
4 of this title, if any, a person having a valid power of attorney  
5 with health care decision-making authority, a person having valid  
6 guardianship with health care decision-making authority, a person  
7 having an advance health care directive, a person having an  
8 attorney-in-fact as designated in a valid mental health advance  
9 directive or persons having a legitimate treatment interest, unless  
10 specifically indicated otherwise by the instrument or court order.  
11 The documents shall not identify the alleged person requiring  
12 treatment directly or indirectly as a person with a substance abuse  
13 disorder.

14 2. Bonded abstractors may be deemed to be persons having a  
15 legitimate interest for the purpose of having access to records  
16 regarding determinations of persons requiring treatment under this  
17 section.

18 SECTION 8. AMENDATORY 43A O.S. 2021, Section 5-420, is  
19 amended to read as follows:

20 Section 5-420. A. The Board of Mental Health and Substance  
21 Abuse Services shall adopt rules and procedures to ensure that  
22 persons involuntarily committed to the facilities of the Department  
23 of Mental Health and Substance Abuse Services for treatment by a  
24 court receive review of their involuntary status at least once every

1 three (3) months, and the Department of Mental Health and Substance  
2 Abuse Services shall take appropriate action based upon this review.

3 B. Any person receiving involuntary inpatient treatment, or  
4 such person's attorney, may at any time file a written request that  
5 the treatment order be reviewed by the committing court, or a court  
6 in the county where the person is located. If a review is  
7 requested, the court shall hear the matter within thirty (30) days  
8 after the request, and the court shall give notice to the person and  
9 such person's attorney and the person in charge of the facility of  
10 the time and place of the hearing. The hearing shall be to  
11 determine if the person can be treated on a less restrictive basis.  
12 At the conclusion of the hearing, the court may confirm the order of  
13 treatment, modify the order of treatment, discharge the respondent,  
14 or enter any appropriate order.

15 SECTION 9. REPEALER 43A O.S. 2021, Sections 8-101, 8-  
16 103, 8-104, 8-105, 8-106, 8-107, and 8-108, are hereby repealed.

17 SECTION 10. This act shall become effective November 1, 2022."  
18  
19  
20  
21  
22  
23  
24

1 Passed the Senate the 27th day of April, 2022.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2022.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 4227

By: Boatman of the House

3 and

4 Paxton of the Senate  
5

6 An Act relating to mental health; amending 43A O.S.  
7 2021, Section 1-103, which relates to definitions;  
8 adding definition; amending 43A O.S. 2021, Section 5-  
9 207, which relates to immediate emergency action;  
10 modifying requirement; amending 43A O.S. 2021,  
11 Section 5-302, which relates to the status of  
12 informal patient; including private centers; amending  
13 43A O.S. 2021, Section 5-309, which relates to  
14 detention of persons; including private centers;  
15 amending 43A O.S. 2021, Section 5-415, which relates  
16 to records; creating exemption; amending 43A O.S.  
17 2021, Section 5-420, which relates to the review  
18 status of persons involuntarily committed; modifying  
19 requirement; repealing 43A O.S. 2021, Sections 8-101,  
20 8-103, 8-104, 8-105, 8-106, 8-107, and 8-108, which  
21 relate to mental health; and providing an effective  
22 date.

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

24 SECTION 11. AMENDATORY 43A O.S. 2021, Section 1-103, is  
amended to read as follows:

Section 1-103. When used in this title, unless otherwise  
expressly stated, or unless the context or subject matter otherwise  
requires:

1. "Department" means the Department of Mental Health and  
Substance Abuse Services;



1        2. "Chair" means the chair of the Board of Mental Health and  
2 Substance Abuse Services;

3        3. "Mental illness" means a substantial disorder of thought,  
4 mood, perception, psychological orientation or memory that  
5 significantly impairs judgment, behavior, capacity to recognize  
6 reality or ability to meet the ordinary demands of life;

7        4. "Board" means the Board of Mental Health and Substance Abuse  
8 Services as established by the Mental Health Law;

9        5. "Commissioner" means the individual selected and appointed  
10 by the Board to serve as Commissioner of Mental Health and Substance  
11 Abuse Services;

12       6. "Indigent person" means a person who has not sufficient  
13 assets or resources to support the person and to support members of  
14 the family of the person lawfully dependent on the person for  
15 support;

16       7. "Facility" means any hospital, school, building, house or  
17 retreat, authorized by law to have the care, treatment or custody of  
18 an individual with mental illness, or drug or alcohol dependency,  
19 gambling addiction, eating disorders, an opioid substitution  
20 treatment program including, but not limited to, public or private  
21 hospitals, community mental health centers, clinics, satellites or  
22 facilities; provided, that facility shall not mean a child guidance  
23 center operated by the State Department of Health;

1        8. "Consumer" means a person under care or treatment in a  
2 facility pursuant to the Mental Health Law, or in an outpatient  
3 status;

4        9. "Care and treatment" means medical care and behavioral  
5 health services, as well as food, clothing and maintenance,  
6 furnished to a person;

7        10. Whenever in this law or in any other law, or in any rule or  
8 order made or promulgated pursuant to this law or to any other law,  
9 or in the printed forms prepared for the admission of consumers or  
10 for statistical reports, the words "insane", "insanity", "lunacy",  
11 "mentally sick", "mental disease" or "mental disorder" are used,  
12 such terms shall have equal significance to the words "mental  
13 illness";

14        11. "Licensed mental health professional" means:

- 15            a. a psychiatrist who is a diplomate of the American  
16                Board of Psychiatry and Neurology,
- 17            b. a psychiatrist who is a diplomate of the American  
18                Osteopathic Board of Neurology and Psychiatry,
- 19            c. a physician licensed pursuant to the Oklahoma  
20                Allopathic Medical and Surgical Licensure and  
21                Supervision Act or the Oklahoma Osteopathic Medicine  
22                Act,

- d. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- e. a professional counselor licensed pursuant to the Licensed Professional Counselors Act,
- f. a person licensed as a clinical social worker pursuant to the provisions of the Social Worker's Licensing Act,
- g. a licensed marital and family therapist as defined in the Marital and Family Therapist Licensure Act,
- h. a licensed behavioral practitioner as defined in the Licensed Behavioral Practitioner Act,
- i. an advanced practice nurse as defined in the Oklahoma Nursing Practice Act,
- j. a physician's assistant who is licensed in good standing in this state, or
- k. a licensed drug and alcohol counselor/mental health (LADC/MH) as defined in the Licensed Alcohol and Drug Counselors Act;

12. "Mentally incompetent person" means any person who has been adjudicated mentally or legally incompetent by an appropriate district court;

1       13.   a.    "Person requiring treatment" means a person who  
2               because of his or her mental illness or drug or  
3               alcohol dependency:

4               (1)   poses a substantial risk of immediate physical  
5               harm to self as manifested by evidence or serious  
6               threats of or attempts at suicide or other  
7               significant self-inflicted bodily harm,

8               (2)   poses a substantial risk of immediate physical  
9               harm to another person or persons as manifested  
10              by evidence of violent behavior directed toward  
11              another person or persons,

12              (3)   has placed another person or persons in a  
13              reasonable fear of violent behavior directed  
14              towards such person or persons or serious  
15              physical harm to them as manifested by serious  
16              and immediate threats,

17              (4)   is in a condition of severe deterioration such  
18              that, without immediate intervention, there  
19              exists a substantial risk that severe impairment  
20              or injury will result to the person, or

21              (5)   poses a substantial risk of immediate serious  
22              physical injury to self or death as manifested by  
23              evidence that the person is unable to provide for  
24

1                   and is not providing for his or her basic  
2                   physical needs.

3       b.   The mental health or substance abuse history of the  
4           person may be used as part of the evidence to  
5           determine whether the person is a person requiring  
6           treatment or an assisted outpatient. The mental  
7           health or substance abuse history of the person shall  
8           not be the sole basis for this determination.

9       c.   Unless a person also meets the criteria established in  
10           subparagraph a or b of this paragraph, "person  
11           requiring treatment" or an "assisted outpatient" shall  
12           not mean:

13           (1)   a person whose mental processes have been  
14                   weakened or impaired by reason of advanced years,  
15                   dementia, or Alzheimer's disease,

16           (2)   a person with intellectual or developmental  
17                   disability as defined in Title 10 of the Oklahoma  
18                   Statutes,

19           (3)   a person with seizure disorder,

20           (4)   a person with a traumatic brain injury, or

21           (5)   a person who is homeless.

22       d.   A person who meets the criteria established in this  
23           section but who is medically unstable, or the facility  
24           holding the person is unable to treat the additional

1                   medical conditions of that person, should be  
2                   discharged and transported in accordance with Section  
3                   1-110 of this title;

4           14. "Petitioner" means a person who files a petition alleging  
5 that an individual is a person requiring treatment or an assisted  
6 outpatient;

7           15. "Executive director" means the person in charge of a  
8 facility as defined in this section;

9           16. "Private hospital or facility" means any general hospital  
10 maintaining a neuro-psychiatric unit or ward, or any private  
11 hospital or facility for care and treatment of a person having a  
12 mental illness, which is not supported by the state or federal  
13 government. The term "private hospital" or "facility" shall not  
14 include nursing homes or other facilities maintained primarily for  
15 the care of elderly and disabled persons;

16           17. "Individualized treatment plan" means a proposal developed  
17 during the stay of an individual in a facility, under the provisions  
18 of this title, which is specifically tailored to the treatment needs  
19 of the individual. Each plan shall clearly include the following:

- 20           a. a statement of treatment goals or objectives, based  
21               upon and related to a clinical evaluation, which can  
22               be reasonably achieved within a designated time  
23               interval,

- b. treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to each of these goals and which include specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law,
- d. documentation of involvement by the individual receiving treatment and, if applicable, the accordance of the individual with the treatment plan, and
- e. a statement attesting that the executive director of the facility or clinical director has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the home community of the individual;

18. "Telemedicine" means technology-enabled health and care management and delivery systems that extend capacity and access, which includes:

- a. synchronous mechanisms, which may include live audiovisual interaction between a patient and a health

1 care professional or real-time provider to provider  
2 consultation through live interactive audiovisual  
3 means,

4 b. asynchronous mechanisms, which include store and  
5 forward transfers, online exchange of health  
6 information between a patient and a health care  
7 professional and online exchange of health information  
8 between health care professionals, but shall not  
9 include the use of automated text messages or  
10 automated mobile applications that serve as the sole  
11 interaction between a patient and a health care  
12 professional,

13 c. remote patient monitoring, and

14 d. other electronic means that support clinical health  
15 care, professional consultation, patient and  
16 professional health-related education, public health  
17 and health administration;

18 19. "Recovery and recovery support" means nonclinical services  
19 that assist individuals and families to recover from alcohol or drug  
20 problems. They include social support, linkage to and coordination  
21 among allied service providers including but not limited to  
22 transportation to and from treatment or employment, employment  
23 services and job training, case management and individual services  
24



1 coordination, life skills education, relapse prevention, housing  
2 assistance, child care, and substance abuse education;

3 20. "Assisted outpatient" means a person who:

- 4 a. is either currently under the care of a facility  
5 certified by the Department of Mental Health and  
6 Substance Abuse Services as a Community Mental Health  
7 Center, or is being discharged from the custody of the  
8 Oklahoma Department of Corrections, or is being  
9 discharged from a residential placement by the Office  
10 of Juvenile Affairs,
- 11 b. is suffering from a mental illness,
- 12 c. is unlikely to survive safely in the community without  
13 supervision, based on a clinical determination,
- 14 d. has a history of lack of compliance with treatment for  
15 mental illness that has:
  - 16 (1) prior to the filing of a petition, at least twice  
17 within the last thirty-six (36) months been a  
18 significant factor in necessitating  
19 hospitalization or treatment in a hospital or  
20 residential facility including admission to a  
21 community-based structured crisis center as  
22 certified by the Oklahoma Department of Mental  
23 Health and Substance Abuse Services, or receipt  
24 of services in a forensic or other mental health

1 unit of a correctional facility, or a specialized  
2 treatment plan for treatment of mental illness in  
3 a secure juvenile facility or placement in a  
4 specialized residential program for juveniles, or  
5 (2) prior to the filing of the petition, resulted in  
6 one or more acts of serious violent behavior  
7 toward self or others or threats of, or attempts  
8 at, serious physical harm to self or others  
9 within the last twenty-four (24) months,

10 e. is, as a result of his or her mental illness, unlikely  
11 to voluntarily participate in outpatient treatment  
12 that would enable him or her to live safely in the  
13 community,

14 f. in view of his or her treatment history and current  
15 behavior, is in need of assisted outpatient treatment  
16 in order to prevent a relapse or deterioration which  
17 would be likely to result in serious harm to the  
18 person or persons as defined in this section, and

19 g. is likely to benefit from assisted outpatient  
20 treatment; ~~and~~

21 21. "Assisted outpatient treatment" means outpatient services  
22 which have been ordered by the court pursuant to a treatment plan  
23 approved by the court to treat an assisted outpatient's mental  
24 illness and to assist the person in living and functioning in the

1 community, or to attempt to prevent a relapse or deterioration that  
2 may reasonably be predicted to result in suicide or the need for  
3 hospitalization; and

4 22. "Urgent recovery clinics" means clinics that offer  
5 voluntary services aimed at the assessment and immediate  
6 stabilization of acute symptoms of mental illness, alcohol and other  
7 drug abuse, and emotional distress. Unless the person receiving  
8 treatment consents to a longer duration, or if the person is placed  
9 into emergency detention status, no more than twenty-three (23)  
10 hours and fifty-nine (59) minutes of services may be provided to a  
11 consumer during one episode of care at an urgent recovery clinic.

12 SECTION 12. AMENDATORY 43A O.S. 2021, Section 5-207, is  
13 amended to read as follows:

14 Section 5-207. A. Any person who appears to be or states that  
15 such person is mentally ill, alcohol-dependent, or drug-dependent to  
16 a degree that immediate emergency action is necessary may be taken  
17 into protective custody and detained as provided pursuant to the  
18 provisions of this section. Nothing in this section shall be  
19 construed as being in lieu of prosecution under state or local  
20 statutes or ordinances relating to public intoxication offenses.

21 B. 1. Any peace officer who reasonably believes that a person  
22 is a person requiring treatment as defined in Section 1-103 of this  
23 title shall take the person into protective custody. The officer  
24

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

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

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

23 D. If the person is medically stable, the officer shall  
24 immediately transport the person to an urgent recovery clinic or to

1 the nearest facility, as defined in Section 1-103 of this title, for  
2 an initial assessment within a thirty (30) mile radius of the peace  
3 officer's operational headquarters, or may use telemedicine with a  
4 licensed mental health professional employed or under contract with  
5 a facility operated by, certified by or contracted with the  
6 Department of Mental Health and Substance Abuse Services to perform  
7 an initial assessment. If, subsequent to an initial assessment, it  
8 is determined that emergency detention is warranted, the officer  
9 shall immediately transport the person to the nearest facility that  
10 has bed space available if the facility is within thirty (30) miles  
11 of the peace officer's operational headquarters and the individual  
12 was determined to be a person requiring treatment. The Department  
13 of Mental Health and Substance Abuse Services may contract for the  
14 use of alternative transportation providers to transport individuals  
15 to facilities designated for emergency detention when the nearest  
16 facility with available bed space is more than thirty (30) miles  
17 from the peace officer's operational headquarters and the individual  
18 was determined to be a person requiring treatment. For the purposes  
19 of this section, "urgent recovery clinics" means clinics that offer  
20 services aimed at the assessment and immediate stabilization of  
21 acute symptoms of mental illness, alcohol and other drug abuse and  
22 emotional distress; provided that, unless the person consents to a  
23 longer duration, no more than twenty-three (23) hours and fifty-nine  
24 (59) minutes of services are provided to a consumer during one

1 episode of care. If it is determined by the facility director or  
2 designee that the person is not medically stable, the officer shall  
3 immediately transport the person to the nearest hospital or other  
4 appropriate treatment facility.

5 E. If the person is medically unstable, the person may be  
6 transported to an appropriate medical facility for medical  
7 treatment. A treating physician may authorize that the person be  
8 detained until the person becomes medically stable. When the person  
9 becomes medically stable, if in the opinion of the treating or  
10 discharging physician, the patient is still a person requiring  
11 treatment as defined in Section 1-103 of this title, the physician  
12 shall authorize detention of the patient for transportation as  
13 provided in subsection D of this section.

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

1       SECTION 13.       AMENDATORY       43A O.S. 2021, Section 5-302, is  
2 amended to read as follows:

3       Section 5-302. A. Any person may be admitted to a state mental  
4 hospital or state-operated community mental health center or a  
5 private mental health hospital or private community mental health  
6 center on a voluntary basis as an informal consumer when there are  
7 available accommodations and in the judgment of the person in charge  
8 of the facility or a designee such person may require treatment  
9 therein. Such person may be admitted as an informal consumer  
10 without making formal or written application therefor and any such  
11 informal consumer shall be free to leave such facility on any day  
12 between the hours of 9:00 a.m. and 5:00 p.m. and at such other times  
13 as the person in charge of the facility may determine.

14       B. No person shall be admitted as an informal consumer pursuant  
15 to the provisions of this section to any state mental hospital or  
16 state-operated community mental health center unless the person in  
17 charge of the facility or a designee has informed such consumer in  
18 writing of the following:

19       1. The rules and procedures of the facility relating to the  
20 discharge of informal consumers;

21       2. The legal rights of an informal consumer receiving treatment  
22 from the facility; and

23       3. The types of treatment which are available to the informal  
24 consumer at the facility.

1       SECTION 14.       AMENDATORY       43A O.S. 2021, Section 5-309, is  
2 amended to read as follows:

3       Section 5-309. No consumer admitted to a state or private  
4 mental hospital under the provisions of the Mental Hospital  
5 Voluntary Admission Procedures Act shall be detained in a mental  
6 hospital against the will of the person more than one hundred twenty  
7 (120) hours or five (5) days, excluding weekends and holidays, after  
8 the consumer gives notice in writing to the executive director of  
9 the facility of the desire of the consumer to be discharged from the  
10 facility. The executive director of the facility may designate one  
11 or more employees of the facility to receive a notification provided  
12 by this section with the same effect as if delivered to the  
13 executive director personally.

14       SECTION 15.       AMENDATORY       43A O.S. 2021, Section 5-415, is  
15 amended to read as follows:

16       Section 5-415. A. Upon receiving a petition alleging a person  
17 to be a person requiring treatment, the court shall set a day and  
18 time for the hearing.

19       1. If the person alleged to be a person requiring treatment  
20 does not have an attorney, the court shall immediately appoint an  
21 attorney for the person.

22       2. If a copy of a mental health evaluation is not attached to  
23 the petition at the time it is filed, the court shall immediately  
24



1 order a mental health evaluation of the person as provided by  
2 Section 5-414 of this title.

3 B. If the court deems it necessary, or if the person alleged to  
4 be a person requiring treatment demands, the court shall schedule  
5 the hearing on the petition as a jury trial to be held within one  
6 hundred twenty (120) hours or five (5) days of the demand, excluding  
7 weekends and holidays, or within as much additional time as is  
8 requested by the attorney of such person upon good cause shown.

9 C. The court, at the hearing on the petition, shall determine  
10 by clear and convincing evidence whether the person is a person  
11 requiring treatment.

12 1. The court shall take evidence and make findings of fact  
13 concerning the person's competency to consent to or refuse the  
14 treatment that may be ordered, including, but not limited to, the  
15 consumer's right to refuse medication.

16 2. If a jury trial is not demanded, the court may receive as  
17 evidence and act upon the affidavits of the licensed mental health  
18 professionals who evaluated the person and the mental health  
19 evaluation.

20 3. When the hearing is conducted as a jury trial, the  
21 petitioner and any witness in behalf of the petitioner shall be  
22 subject to cross-examination by the attorney for the person alleged  
23 to be a person requiring treatment. The person alleged to be a  
24

1 person requiring treatment may also be called as a witness and  
2 cross-examined.

3 D. After the hearing, when the court determines that the person  
4 is not a person requiring treatment, the court shall dismiss the  
5 petition and, if the person is being detained, order the person to  
6 be discharged from detention.

7 E. After the hearing, when the court determines the person to  
8 be a person requiring treatment, the court shall order the person to  
9 receive the least restrictive treatment consistent with the  
10 treatment needs of the person and the safety of the person and  
11 others.

12 1. The court shall not order hospitalization without a thorough  
13 consideration of available treatment alternatives to hospitalization  
14 and may direct the submission of evidence as to the least  
15 restrictive treatment alternative or may order a mental health  
16 examination.

17 2. If the court finds that a program other than hospitalization  
18 is appropriate to meet the treatment needs of the individual and is  
19 sufficient to prevent injury to the individual or to others, the  
20 court may order the individual to receive whatever treatment other  
21 than hospitalization that is appropriate for a period set by the  
22 court, during which time the court shall continue its jurisdiction  
23 over the individual as a person requiring treatment.

1        3. If the court orders the person to be committed for  
2 involuntary inpatient treatment, the court shall commit the person  
3 to the custody of the Department of Mental Health and Substance  
4 Abuse Services for a placement that is suitable to the person's  
5 needs or to a private facility willing to accept the person for  
6 treatment.

7        4. The person shall be delivered to the custody of the  
8 Department of Mental Health and Substance Abuse Services for a  
9 placement that is suitable to the person's needs or to a private  
10 facility willing to accept the person for treatment.

11       5. If the person is placed in the custody of the Department,  
12 the Department may designate two or more facilities to provide  
13 treatment and if the person to be treated or a parent, spouse,  
14 guardian, brother, sister or child, who is at least eighteen (18)  
15 years of age, of the person, expresses a preference for one such  
16 facility, the Department shall attempt, if administratively  
17 possible, to comply with the preference.

18       6. The person shall be discharged from inpatient treatment at  
19 such time as the person no longer requires treatment as determined  
20 by the executive director of the facility or the designee of the  
21 executive director, or as otherwise required by law.

22       F. The court shall make and keep records of all cases brought  
23 before it.

1        1. Except as provided in Section ~~3~~ 1290.27 of ~~this act~~ Title 21  
2 of the Oklahoma Statutes, no records of proceedings pursuant to this  
3 section shall be open to public inspection except by order of the  
4 court or to employees of the Department of Mental Health and  
5 Substance Abuse Services if the person is placed at a state facility  
6 or the employees of the private facility where admitted if accepted  
7 into a private facility, the person's attorney of record, the  
8 person's treatment advocate as defined pursuant to Section 1-109.1  
9 of this title, if any, a person having a valid power of attorney  
10 with health care decision-making authority, a person having valid  
11 guardianship with health care decision-making authority, a person  
12 having an advance health care directive, a person having an  
13 attorney-in-fact as designated in a valid mental health advance  
14 directive or persons having a legitimate treatment interest, unless  
15 specifically indicated otherwise by the instrument or court order.  
16 The documents shall not identify the alleged person requiring  
17 treatment directly or indirectly as a person with a substance abuse  
18 disorder.

19        2. Bonded abstractors may be deemed to be persons having a  
20 legitimate interest for the purpose of having access to records  
21 regarding determinations of persons requiring treatment under this  
22 section.

23        SECTION 16.        AMENDATORY        43A O.S. 2021, Section 5-420, is  
24 amended to read as follows:

1       Section 5-420. A. The Board of Mental Health and Substance  
2 Abuse Services shall adopt rules and procedures to ensure that  
3 persons involuntarily committed to the facilities of the Department  
4 of Mental Health and Substance Abuse Services for treatment by a  
5 court receive review of their involuntary status at least once every  
6 three (3) months, and the Department of Mental Health and Substance  
7 Abuse Services shall take appropriate action based upon this review.

8       B. Any person receiving involuntary inpatient treatment, or  
9 such person's attorney, may at any time file a written request that  
10 the treatment order be reviewed by the committing court, or a court  
11 in the county where the person is located. If a review is  
12 requested, the court shall hear the matter within thirty (30) days  
13 after the request, and the court shall give notice to the person and  
14 such person's attorney and the person in charge of the facility of  
15 the time and place of the hearing. The hearing shall be to  
16 determine if the person can be treated on a less restrictive basis.  
17 At the conclusion of the hearing, the court may confirm the order of  
18 treatment, modify the order of treatment, discharge the respondent,  
19 or enter any appropriate order.

20       SECTION 17.       REPEALER       43A O.S. 2021, Sections 8-101, 8-  
21 103, 8-104, 8-105, 8-106, 8-107 and 8-108, are hereby repealed.

22       SECTION 18. This act shall become effective November 1, 2022.  
23  
24

1 Passed the House of Representatives the 15th day of March, 2022.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2022.  
6

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Presiding Officer of the Senate  
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