1	ENGROSSED HOUSE BILL NO. 4227 By: Boatman of the House
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3	and
4	Paxton of the Senate
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6	An Act relating to mental health; amending 43A O.S.
7	2021, Section 1-103, which relates to definitions; adding definition; amending 43A O.S. 2021, Section 5-
8	207, which relates to immediate emergency action; modifying requirement; amending 43A O.S. 2021,
9	Section 5-302, which relates to the status of informal patient; including private centers; amending 43A O.S. 2021, Section 5-309, which relates to
10	detention of persons; including private centers; amending 43A O.S. 2021, Section 5-415, which relates
11	to records; creating exemption; amending 43A O.S. 2021, Section 5-420, which relates to the review
12	status of persons involuntarily committed; modifying requirement; repealing 43A O.S. 2021, Sections 8-101,
13	8-103, 8-104, 8-105, 8-106, 8-107, and 8-108, which relate to mental health; and providing an effective
14	date.
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17	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
18	SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-103, is
19	amended to read as follows:
20	Section 1-103. When used in this title, unless otherwise
21	expressly stated, or unless the context or subject matter otherwise
22	requires:
23	1. "Department" means the Department of Mental Health and
24	Substance Abuse Services;

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;

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

9. "Care and treatment" means medical care and behavioral
health services, as well as food, clothing and maintenance,
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 "Licensed mental health professional" means: 11. 15 a psychiatrist who is a diplomate of the American a. 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 a physician licensed pursuant to the Oklahoma с. 20 Allopathic Medical and Surgical Licensure and 21 Supervision Act or the Oklahoma Osteopathic Medicine 22 Act, 23

1		d.	a clinical psychologist who is duly licensed to
2			practice by the State Board of Examiners of
3			Psychologists,
4		e.	a professional counselor licensed pursuant to the
5			Licensed Professional Counselors Act,
6		f.	a person licensed as a clinical social worker pursuant
7			to the provisions of the Social Worker's Licensing
8			Act,
9		g.	a licensed marital and family therapist as defined in
10			the Marital and Family Therapist Licensure Act,
11		h.	a licensed behavioral practitioner as defined in the
12			Licensed Behavioral Practitioner Act,
13		i.	an advanced practice nurse as defined in the Oklahoma
14			Nursing Practice Act,
15		j.	a physician's assistant who is licensed in good
16			standing in this state, or
17		k.	a licensed drug and alcohol counselor/mental health
18			(LADC/MH) as defined in the Licensed Alcohol and Drug
19			Counselors Act;
20	12.	"Men	tally incompetent person" means any person who has been
21	adjudicat	ted m	entally or legally incompetent by an appropriate
22	district	cour	t;
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- 13. a. "Person requiring treatment" means a person who
 because of his or her mental illness or drug or
 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
- (5) poses a substantial risk of immediate serious
 physical injury to self or death as manifested by
 evidence that the person is unable to provide for
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1and is not providing for his or her basic2physical needs.

- b. The mental health or substance abuse history of the person may be used as part of the evidence to determine whether the person is a person requiring treatment or an assisted outpatient. The mental health or substance abuse history of the person shall 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,
 - (2) a person with intellectual or developmental disability as defined in Title 10 of the Oklahoma Statutes,
- 19 (3) a person with seizure disorder,
- 20 (4) a person with a traumatic brain injury, or
 - (5) a person who is homeless.
- d. A person who meets the criteria established in this
 section but who is medically unstable, or the facility
 holding the person is unable to treat the additional

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

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

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

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

1 b. treatment methods and procedures to be used to obtain 2 these goals, which methods and procedures are related to each of these goals and which include specific 3 4 prognosis for achieving each of these goals, 5 с. identification of the types of professional personnel who will carry out the treatment procedures including 6 7 appropriate medical or other professional involvement by a physician or other health professional properly 8 9 qualified to fulfill legal requirements mandated under state and federal law, 10

11 documentation of involvement by the individual d. 12 receiving treatment and, if applicable, the accordance 13 of the individual with the treatment plan, and 14 a statement attesting that the executive director of e. 15 the facility or clinical director has made a 16 reasonable effort to meet the plan's individualized 17 treatment goals in the least restrictive environment 18 possible closest to the home community of the 19 individual;

20 18. "Telemedicine" means technology-enabled health and care 21 management and delivery systems that extend capacity and access, 22 which includes:

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

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

asynchronous mechanisms, which include store and 4 b. 5 forward transfers, online exchange of health information between a patient and a health care 6 7 professional and online exchange of health information between health care professionals, but shall not 8 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

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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 a secure juvenile facility or placement in a 3 specialized residential program for juveniles, or 4 5 (2) prior to the filing of the petition, resulted in one or more acts of serious violent behavior 6 7 toward self or others or threats of, or attempts at, serious physical harm to self or others 8 9 within the last twenty-four (24) months, is, as a result of his or her mental illness, unlikely 10 e. 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 is likely to benefit from assisted outpatient q. 20 treatment; and 21 "Assisted outpatient treatment" means outpatient services 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

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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

22. "Urgent recovery clinics" means clinics that offer 4 5 voluntary services aimed at the assessment and immediate stabilization of acute symptoms of mental illness, alcohol and other 6 7 drug abuse, and emotional distress. Unless the person receiving treatment consents to a longer duration, or if the person is placed 8 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. 43A O.S. 2021, Section 5-207, is 12 SECTION 2. AMENDATORY 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 Β. 1. Any peace officer who reasonably believes that a person

is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody. The officer

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

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

7 The officer shall prepare a written statement indicating the С. basis for the officer's belief that the person is a person requiring 8 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 request of either. If the officer does not make the determination 12 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.

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

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1 the nearest facility, as defined in Section 1-103 of this title, for an initial assessment within a thirty (30) mile radius of the peace 2 officer's operational headquarters, or may use telemedicine with a 3 4 licensed mental health professional employed or under contract with 5 a facility operated by, certified by or contracted with the Department of Mental Health and Substance Abuse Services to perform 6 an initial assessment. If, subsequent to an initial assessment, it 7 is determined that emergency detention is warranted, the officer 8 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_{τ}; 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

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

5 Ε. If the person is medically unstable, the person may be transported to an appropriate medical facility for medical 6 7 treatment. A treating physician may authorize that the person be detained until the person becomes medically stable. When the person 8 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 shall authorize detention of the patient for transportation as 12 13 provided in subsection D of this section.

14 The parent, brother or sister who is eighteen (18) years of F. 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.

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1SECTION 3.AMENDATORY43A O.S. 2021, Section 5-302, is2amended to read as follows:

Section 5-302. A. Any person may be admitted to a state mental 3 4 hospital or state-operated community mental health center or a 5 private mental health hospital or private community mental health center on a voluntary basis as an informal consumer when there are 6 7 available accommodations and in the judgment of the person in charge of the facility or a designee such person may require treatment 8 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.

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

The rules and procedures of the facility relating to the
 discharge of informal consumers;

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

3. The types of treatment which are available to the informalconsumer at the facility.

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1SECTION 4.AMENDATORY43A O.S. 2021, Section 5-309, is2amended to read as follows:

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

14SECTION 5.AMENDATORY43A O.S. 2021, Section 5-415, is15amended to read as follows:

Section 5-415. A. Upon receiving a petition alleging a person to be a person requiring treatment, the court shall set a day and 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

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

B. If the court deems it necessary, or if the person alleged to be a person requiring treatment demands, the court shall schedule the hearing on the petition as a jury trial to be held within one hundred twenty (120) hours or five (5) days of the demand, excluding weekends and holidays, or within as much additional time as is 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.

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

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

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

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

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

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

F. The court shall make and keep records of all cases broughtbefore it.

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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 section shall be open to public inspection except by order of the 3 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 or the employees of the private facility where admitted if accepted 6 7 into a private facility, the person's attorney of record, the person's treatment advocate as defined pursuant to Section 1-109.1 8 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.

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

23 SECTION 6. AMENDATORY 43A O.S. 2021, Section 5-420, is 24 amended to read as follows:

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1 Section 5-420. A. The Board of Mental Health and Substance 2 Abuse Services shall adopt rules and procedures to ensure that persons involuntarily committed to the facilities of the Department 3 4 of Mental Health and Substance Abuse Services for treatment by a 5 court receive review of their involuntary status at least once every three (3) months, and the Department of Mental Health and Substance 6 7 Abuse Services shall take appropriate action based upon this review. B. Any person receiving involuntary inpatient treatment, or 8 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 7. 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 8. This act shall become effective November 1, 2022.
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1	Passed the House of Representatives the 15th day of March, 2022.
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4	Presiding Officer of the House of Representatives
5	Decod the Constants day of 2022
6	Passed the Senate the day of, 2022.
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8	Presiding Officer of the Senate
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