

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

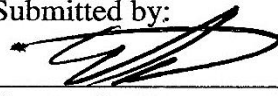
No. 1

☐ COMMITTEE AMENDMENT

(Date)

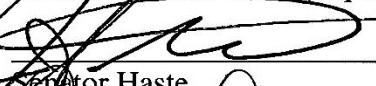
I move to amend House Bill No. 4227, by substituting the attached floor substitute (Request #3851) for the title, enacting clause and entire body of the measure.

Submitted by:


Senator Paxton

I hereby grant permission for the floor substitute to be adopted.



Senator Rosino, Chair (required)

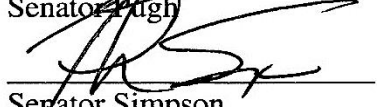

Senator Haste

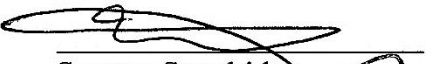

Senator Daniels

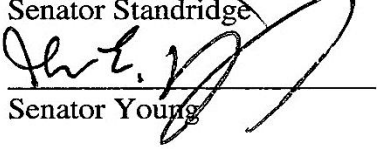

Senator Dossett (J.A.)


Senator Hicks


Senator Pugh


Senator Simpson


Senator Standridge


Senator Young

Senator Treat, President Pro Tempore


Senator McCortney, Majority Floor Leader

Note: Health and Human Services committee majority requires five (5) members' signatures.

Paxton-DC-FS-HB4227
4/26/2022 9:07 AM

(Floor Amendments Only)

Date and Time Filed: 4-26-22

10:20 am 

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL NO. 4227

By: Boatman of the House

5 and

6 Paxton of the Senate

7
8 FLOOR SUBSTITUTE

9 An Act relating to mental health; amending 43A O.S.
10 2021, Section 1-103, which relates to definitions;
adding and modifying definitions; updating statutory
11 language; amending 43A O.S. 2021, Section 5-206,
which relates to definitions; tolling emergency
12 detention time limit under specified condition;
amending 43A O.S. 2021, Section 5-207, which relates
to immediate emergency action; modifying definition;
13 tolling emergency detention time limit under
specified condition; amending 43A O.S. 2021, Section
14 5-208, which relates to emergency detention; tolling
emergency detention time limit under specified
15 condition; amending 43A O.S. 2021, Section 5-302,
which relates to the status of informal patient;
16 including private centers; amending 43A O.S. 2021,
Section 5-309, which relates to detention of persons;
17 including private centers; tolling emergency
detention time limit under specified condition;
18 amending 43A O.S. 2021, Section 5-415, which relates
to records; creating exemption; amending 43A O.S.
19 2021, Section 5-420, which relates to the review
status of persons involuntarily committed; modifying
20 requirement; repealing 43A O.S. 2021, Sections 8-101,
8-103, 8-104, 8-105, 8-106, 8-107, and 8-108, which
21 relate to mental health; and providing an effective
date.

22
23
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

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

19 6. "Indigent person" means a person who has not sufficient
20 assets or resources to support the person and to support members of
21 the family of the person lawfully dependent on the person for
22 support;

23 7. "Facility" means any hospital, school, building, house or
24 retreat, authorized by law to have the care, treatment or custody of

1 an individual with mental illness, or drug or alcohol dependency,
2 gambling addiction, eating disorders, an opioid substitution
3 treatment program including, but not limited to, public or private
4 hospitals, community mental health centers, clinics, satellites or
5 facilities; provided, that facility shall not mean a child guidance
6 center operated by the State Department of Health;

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

10 9. "Care and treatment" means medical care and behavioral
11 health services, as well as food, clothing and maintenance,
12 furnished to a person;

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

20 11. "Licensed mental health professional" means:

- 21 a. a psychiatrist who is a diplomate of the American
22 Board of Psychiatry and Neurology,
- 23 b. a psychiatrist who is a diplomate of the American
24 Osteopathic Board of Neurology and Psychiatry,

- c. a physician licensed pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act or the Oklahoma Osteopathic Medicine 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;

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

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

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

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

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

20 (4) is in a condition of severe deterioration such
21 that, without immediate intervention, there
22 exists a substantial risk that severe impairment
23 or injury will result to the person, or
24

1 (5) poses a substantial risk of immediate serious
2 physical injury to self or death as manifested by
3 evidence that the person is unable to provide for
4 and is not providing for his or her basic
5 physical needs.

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

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

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

19 (2) a person with intellectual or developmental
20 disability as defined in Title 10 of the Oklahoma
21 Statutes,

22 (3) a person with seizure disorder,

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

24 (5) a person who is homeless.

1 d. (1) A person who meets the criteria established in
2 this ~~section~~ paragraph but who is medically
3 unstable, ~~or the facility holding the person is~~
4 ~~unable to treat the additional medical conditions~~
5 ~~of that person, should~~ may be discharged and
6 transported in accordance with Section 1-110 of
7 this title. Alternatively, if the facility
8 holding the person is able to treat the
9 additional medical conditions of that person, the
10 facility may treat the additional medical
11 conditions in an effort to medically stabilize
12 the patient.

13 (2) If the facility holding the person is unable to
14 treat the additional medical conditions of a
15 person who meets the criteria established in this
16 paragraph, the patient shall be discharged and
17 transported in accordance with Section 1-110 of
18 this title;

19 14. "Petitioner" means a person who files a petition alleging
20 that an individual is a person requiring treatment or an assisted
21 outpatient;

22 15. "Executive director" means the person in charge of a
23 facility as defined in this section;
24

1 16. "Private hospital or facility" means any general hospital
2 maintaining a neuro-psychiatric unit or ward, or any private
3 hospital or facility for care and treatment of a person having a
4 mental illness, which is not supported by the state or federal
5 government. The term "private hospital" or "facility" shall not
6 include nursing homes or other facilities maintained primarily for
7 the care of elderly and disabled persons;

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

12 a. a statement of treatment goals or objectives, based
13 upon and related to a clinical evaluation, which can
14 be reasonably achieved within a designated time
15 interval,

16 b. treatment methods and procedures to be used to obtain
17 these goals, which methods and procedures are related
18 to each of these goals and which include specific
19 prognosis for achieving each of these goals,

20 c. identification of the types of professional personnel
21 who will carry out the treatment procedures including
22 appropriate medical or other professional involvement
23 by a physician or other health professional properly
24

1 qualified to fulfill legal requirements mandated under
2 state and federal law,

- 3 d. documentation of involvement by the individual
4 receiving treatment and, if applicable, the accordance
5 of the individual with the treatment plan, and
- 6 e. a statement attesting that the executive director of
7 the facility or clinical director has made a
8 reasonable effort to meet the plan's individualized
9 treatment goals in the least restrictive environment
10 possible closest to the home community of the
11 individual;

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

- 15 a. synchronous mechanisms, which may include live
16 audiovisual interaction between a patient and a health
17 care professional or real-time provider to provider
18 consultation through live interactive audiovisual
19 means,
- 20 b. asynchronous mechanisms, which include store and
21 forward transfers, online exchange of health
22 information between a patient and a health care
23 professional and online exchange of health information
24 between health care professionals, but shall not

1 include the use of automated text messages or
2 automated mobile applications that serve as the sole
3 interaction between a patient and a health care
4 professional,

5 c. remote patient monitoring, and

6 d. other electronic means that support clinical health
7 care, professional consultation, patient and
8 professional health-related education, public health
9 and health administration;

10 19. "Recovery and recovery support" means nonclinical services
11 that assist individuals and families to recover from alcohol or drug
12 problems. They include social support, linkage to and coordination
13 among allied service providers including but not limited to
14 transportation to and from treatment or employment, employment
15 services and job training, case management and individual services
16 coordination, life skills education, relapse prevention, housing
17 assistance, child care, and substance abuse education;

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

19 a. is either currently under the care of a facility
20 certified by the Department of Mental Health and
21 Substance Abuse Services as a Community Mental Health
22 Center, or is being discharged from the custody of the
23 Oklahoma Department of Corrections, or is being
24

1 discharged from a residential placement by the Office
2 of Juvenile Affairs,

3 b. is suffering from a mental illness,

4 c. is unlikely to survive safely in the community without
5 supervision, based on a clinical determination,

6 d. has a history of lack of compliance with treatment for
7 mental illness that has:

8 (1) prior to the filing of a petition, at least twice
9 within the last thirty-six (36) months been a
10 significant factor in necessitating
11 hospitalization or treatment in a hospital or
12 residential facility including admission to a
13 community-based structured crisis center as
14 certified by the Oklahoma Department of Mental
15 Health and Substance Abuse Services, or receipt
16 of services in a forensic or other mental health
17 unit of a correctional facility, or a specialized
18 treatment plan for treatment of mental illness in
19 a secure juvenile facility or placement in a
20 specialized residential program for juveniles, or

21 (2) prior to the filing of the petition, resulted in
22 one or more acts of serious violent behavior
23 toward self or others or threats of, or attempts
24

1 at, serious physical harm to self or others
2 within the last twenty-four (24) months,
3 e. is, as a result of his or her mental illness, unlikely
4 to voluntarily participate in outpatient treatment
5 that would enable him or her to live safely in the
6 community,
7 f. in view of his or her treatment history and current
8 behavior, is in need of assisted outpatient treatment
9 in order to prevent a relapse or deterioration which
10 would be likely to result in serious harm to the
11 person or persons as defined in this section, and
12 g. is likely to benefit from assisted outpatient
13 treatment; ~~and~~

14 21. "Assisted outpatient treatment" means outpatient services
15 which have been ordered by the court pursuant to a treatment plan
16 approved by the court to treat an assisted outpatient's mental
17 illness and to assist the person in living and functioning in the
18 community, or to attempt to prevent a relapse or deterioration that
19 may reasonably be predicted to result in suicide or the need for
20 hospitalization; and

21 22. "Urgent recovery clinic" means a clinic that offers
22 voluntary services aimed at the assessment and immediate
23 stabilization of acute symptoms of mental illness, alcohol and other
24 drug abuse, and emotional distress. Unless the person receiving

treatment consents to a longer duration or unless the person is
placed into emergency detention under Sections 5-206 through 5-209
of this title, no more than twenty-three (23) hours and fifty-nine
(59) minutes of services may be provided to a consumer during one
episode of care at an urgent recovery clinic.

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

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

1. "Mental health evaluation" means the examination of a
person, either in person or via telemedicine, who appears to have a
mental illness or be alcohol- or drug-dependent by two licensed
mental health professionals, at least one of whom is a psychiatrist
who is a diplomat of the American Board of Psychiatry and Neurology,
a licensed clinical psychologist, or a licensed Doctor of Medicine
or Doctor of Osteopathy who has received specific training for and
is experienced in performing mental health therapeutic, diagnostic,
or counseling functions, for the purpose of:

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

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

10 3. "Emergency detention" means the detention of a person who
11 appears to be a person requiring treatment in a facility approved by
12 the Commissioner of Mental Health and Substance Abuse Services as
13 appropriate for such detention after the completion of an emergency
14 examination, either in person or via telemedicine, and a
15 determination that emergency detention is warranted for a period not
16 to exceed one hundred twenty (120) hours or five (5) days, excluding
17 weekends and holidays, except upon a court order authorizing
18 detention beyond this period or pending the hearing on a petition
19 requesting involuntary commitment or treatment as provided by ~~this~~
20 ~~act~~ Section 5-206 et seq. of this title. If during the emergency
21 detention a person who appears to be a person requiring treatment
22 becomes medically unstable, the time limit on the emergency
23 detention period stipulated in this paragraph shall be tolled until
24

1 the person who appears to be a person requiring treatment is
2 medically stabilized;

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

8 5. "Prehearing detention" means the court-ordered detention of
9 a person who is alleged to be mentally ill, alcohol-dependent, or
10 drug-dependent in a facility approved by the Commissioner as
11 appropriate for such detention, pending a hearing on a petition
12 requesting involuntary commitment or treatment as provided by
13 Section 5-415 of this title.

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

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

23 B. 1. Any peace officer who reasonably believes that a person
24 is a person requiring treatment as defined in Section 1-103 of this

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

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

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

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

1 consents to a longer duration, no more than twenty-three (23) hours
2 and fifty-nine (59) minutes of services are provided to a consumer
3 during one episode of care. If it is determined by the facility
4 director or designee that the person is not medically stable, the
5 officer shall immediately transport the person to the nearest
6 hospital or other appropriate treatment facility.

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

19 F. The parent, brother or sister who is eighteen (18) years of
20 age or older, child who is eighteen (18) years of age or older, or
21 guardian of the person, or a person who appears to be or states that
22 such person is mentally ill, alcohol-dependent or drug-dependent to
23 a degree that emergency action is necessary may request the
24 administrator of a facility designated by the Commissioner as an

1 appropriate facility for an initial assessment to conduct an initial
2 assessment to determine whether the condition of the person is such
3 that emergency detention is warranted and, if emergency detention is
4 warranted, to detain the person as provided in ~~Section~~ Sections 5-
5 206 through 5-209 of this title.

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

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

18 2. If, upon examination, the licensed mental health
19 professional determines that the consumer is not a person requiring
20 treatment or that the condition of the consumer is such that
21 emergency detention is not warranted, the consumer shall either be
22 returned by an officer immediately to the point where the consumer
23 was taken into protective custody and released or taken to the home
24 or residence of such consumer or to an alternative facility. If the

1 home or residence of the consumer is a nursing home or group home,
2 such home shall not refuse the return of the consumer to his or her
3 residence.

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

14 4. During the emergency detention period:

- 15 a. a mental health evaluation of the consumer shall be
16 conducted by two licensed mental health professionals
17 and, if the consumer appears to have a mental illness
18 or be alcohol- or drug-dependent and be a consumer
19 requiring treatment, and
- 20 b. reasonable efforts shall be made to determine whether
21 the consumer has a current and unrevoked advance
22 directive executed pursuant to the Advance Directives
23 for Mental Health Treatment Act.

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

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

17 ~~1. The~~

18 a. the consumer has refused to consent or has withdrawn
19 consent to voluntary treatment~~+~~1

20 ~~2. The~~

21 b. the consumer has been examined by a licensed mental
22 health professional who has determined that the
23 consumer is a person requiring treatment, the
24 condition of the consumer is such that emergency

1 detention is warranted, and a statement has been
2 prepared as provided in subsection A of this section~~7~~,
3 and

4 ~~3. The~~

5 c. the executive director or person in charge or the
6 designee shall provide for a mental health evaluation
7 of the consumer by two licensed mental health
8 professionals.

9 2. If during the emergency detention the consumer becomes
10 medically unstable, the time limit on the emergency detention period
11 stipulated in paragraph 1 of this subsection shall be tolled until
12 the consumer is treated at a medical facility and is medically
13 stabilized.

14 C. Whenever it appears that a consumer detained pursuant to the
15 provisions of this section is no longer a person requiring treatment
16 and will not require treatment beyond the period of detention, the
17 consumer shall be discharged and returned by an officer to the point
18 where he or she was taken into protective custody, or if the
19 consumer had not been in protective custody, the consumer shall be
20 taken to the home or residence of the consumer or to an alternative
21 facility. If the home or residence of the consumer is a nursing
22 home or group home, it shall not refuse the return of the consumer
23 to his or her residence.

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

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

14 Section 5-302. A. Any person may be admitted to a state mental
15 hospital or state-operated community mental health center or a
16 private mental health hospital or private community mental health
17 center on a voluntary basis as an informal consumer when there are
18 available accommodations and in the judgment of the person in charge
19 of the facility or a designee such person may require treatment
20 therein. Such person may be admitted as an informal consumer
21 without making formal or written application therefor and any such
22 informal consumer shall be free to leave such facility on any day
23 between the hours of 9:00 a.m. and 5:00 p.m. and at such other times
24 as the person in charge of the facility may determine.

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

6 1. The rules and procedures of the facility relating to the
7 discharge of informal consumers;

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

10 3. The types of treatment which are available to the informal
11 consumer at the facility.

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

14 Section 5-309. No consumer admitted to a state or private
15 mental hospital under the provisions of the Mental Hospital
16 Voluntary Admission Procedures Act shall be detained in a mental
17 hospital against the will of the person more than one hundred twenty
18 (120) hours or five (5) days, excluding weekends and holidays, after
19 the consumer gives notice in writing to the executive director of
20 the facility of the desire of the consumer to be discharged from the
21 facility. If during the emergency detention the consumer becomes
22 medically unstable, the time limit on the emergency detention period
23 stipulated in this section shall be tolled until the consumer is
24 treated at a medical facility and is medically stabilized. The

1 executive director of the facility may designate one or more
2 employees of the facility to receive a notification provided by this
3 section with the same effect as if delivered to the executive
4 director personally.

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

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

10 1. If the person alleged to be a person requiring treatment
11 does not have an attorney, the court shall immediately appoint an
12 attorney for the person.

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

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

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1 C. The court, at the hearing on the petition, shall determine
2 by clear and convincing evidence whether the person is a person
3 requiring treatment.

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

8 2. If a jury trial is not demanded, the court may receive as
9 evidence and act upon the affidavits of the licensed mental health
10 professionals who evaluated the person and the mental health
11 evaluation.

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

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

22 E. After the hearing, when the court determines the person to
23 be a person requiring treatment, the court shall order the person to
24 receive the least restrictive treatment consistent with the

1 treatment needs of the person and the safety of the person and
2 others.

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

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

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

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

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

8 6. The person shall be discharged from inpatient treatment at
9 such time as the person no longer requires treatment as determined
10 by the executive director of the facility or the designee of the
11 executive director, or as otherwise required by law.

12 F. The court shall make and keep records of all cases brought
13 before it.

14 1. Except as provided in Section ~~3~~ 1290.27 of ~~this act~~ Title 21
15 of the Oklahoma Statutes, no records of proceedings pursuant to this
16 section shall be open to public inspection except by order of the
17 court or to employees of the Department of Mental Health and
18 Substance Abuse Services if the person is placed at a state facility
19 or the employees of the private facility where admitted if accepted
20 into a private facility, the person's attorney of record, the
21 person's treatment advocate as defined pursuant to Section 1-109.1
22 of this title, if any, a person having a valid power of attorney
23 with health care decision-making authority, a person having valid
24 guardianship with health care decision-making authority, a person

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

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

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

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

21 B. Any person receiving involuntary inpatient treatment, or
22 such person's attorney, may at any time file a written request that
23 the treatment order be reviewed by the committing court, or a court
24 in the county where the person is located. If a review is

1 requested, the court shall hear the matter within thirty (30) days
2 after the request, and the court shall give notice to the person and
3 such person's attorney and the person in charge of the facility of
4 the time and place of the hearing. The hearing shall be to
5 determine if the person can be treated on a less restrictive basis.
6 At the conclusion of the hearing, the court may confirm the order of
7 treatment, modify the order of treatment, discharge the respondent,
8 or enter any appropriate order.

9 SECTION 9. REPEALER 43A O.S. 2021, Sections 8-101, 8-
10 103, 8-104, 8-105, 8-106, 8-107, and 8-108, are hereby repealed.

11 SECTION 10. This act shall become effective November 1, 2022.
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