

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 1765

By: Roberts (Eric)

AS INTRODUCED

An Act relating to mental health; providing for involuntary treatment for alcohol or other drug abuse; guaranteeing certain rights; providing eligibility criteria; providing for treatment duration; requiring the filing of a petition; requiring certain petition contents; requiring security deposit; obligating petitioner for certain costs; requiring court examination of petitioner; providing for hearing and notice to respondent; providing for evaluation of respondent by qualified health professionals; providing for court-ordered treatment; providing for cessation of treatment and dismissal of petition under certain circumstances; providing for emergency hospitalization; prohibiting holding of respondent in jail; providing exceptions; providing for summons; providing for transportation and costs of transportation; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-430 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A district court may order involuntary treatment for a person suffering from alcohol or other drug abuse pursuant to the procedures set forth in this act. Except as otherwise provided

1 herein, all rights guaranteed to involuntarily hospitalized mentally
2 ill persons shall be guaranteed to persons ordered to undergo
3 treatment for alcohol or other drug abuse pursuant to this act.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 5-431 of Title 43A, unless there
6 is created a duplication in numbering, reads as follows:

7 A. No person suffering from alcohol or other drug abuse shall
8 be ordered to undergo involuntary treatment unless that person:

- 9 1. Suffers from alcohol or other drug abuse;
- 10 2. Presents an imminent danger or imminent threat of danger to
11 self, family, or others as a result of alcohol or other drug abuse,
12 or there exists a substantial likelihood of such a threat in the
13 near future; and
- 14 3. Can reasonably benefit from treatment.

15 B. Proceedings for sixty (60) days or three hundred sixty (360)
16 days of treatment for an individual suffering from alcohol or other
17 drug abuse shall be initiated by the filing of a verified petition
18 in district court. The petition shall conform to the following
19 requirements:

- 20 1. The petition and all subsequent court documents shall be
21 styled "In the interest of [name of respondent]";
- 22 2. The petition shall be filed by a spouse, relative, or
23 guardian of the respondent concerning whom the petition is filed;
24 and

1 3. The petition shall set forth:

- 2 a. the petitioner's relationship to the respondent,
- 3 b. the respondent's name, residence, or current location,
- 4 if known,
- 5 c. the name and residence of the respondent's parents, if
- 6 living and known, or the respondent's legal guardian,
- 7 if any and known,
- 8 d. the name and residence of the respondent's spouse, if
- 9 any and known,
- 10 e. the name and residence of the person having custody of
- 11 the respondent, if any, or if no such person is known,
- 12 the name and residence of the nearest relative or
- 13 friend of the respondent or a statement that such a
- 14 person is unknown,
- 15 f. the petitioner's belief, including the factual basis
- 16 therefor, that the respondent is suffering from
- 17 alcohol or other drug abuse and presents an imminent
- 18 danger or imminent threat of danger to self, family,
- 19 or others if not treated for alcohol or other drug
- 20 abuse, and
- 21 g. whether treatment is being requested for sixty (60) or
- 22 three hundred sixty (360) days.

23 C. Any petition filed pursuant to this section shall be

24 accompanied by both of the following:

1 1. A security deposit to be deposited with the clerk of the
2 district court that will cover half of the estimated cost of
3 treatment of the respondent; and

4 2. A guarantee, signed by the petitioner, obligating the
5 petitioner to pay the costs of the medical evaluations of the
6 respondent conducted pursuant to this act and the costs for any
7 treatment ordered by the court.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5-432 of Title 43A, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Upon receipt of a petition filed pursuant to this act, the
12 court shall examine the petitioner under oath as to the contents of
13 the petition.

14 B. If after reviewing the allegations contained in the petition
15 and examining the petitioner under oath it appears to the court that
16 there is probable cause to believe the respondent should be ordered
17 to undergo treatment, then the court shall:

18 1. Set a date for a hearing within seven (7) days to determine
19 if there is clear and convincing evidence that the respondent may
20 reasonably benefit from treatment for alcohol or other drug abuse;

21 2. Notify the respondent and the legal guardian, if any and
22 known, the spouse, if any and known, parents, if living and known,
23 or nearest relative or friend of the respondent of the following:

24 a. the allegations and content of the petition,

- 1 b. the date and purpose of the hearing,
- 2 c. the right of the respondent to retain counsel and, if
- 3 indigent, that the respondent may be represented by
- 4 court-appointed counsel at public expense. Upon
- 5 appointment of counsel, an indigent respondent shall
- 6 be notified of the name and contact information for
- 7 the appointed attorney,
- 8 d. that the court shall cause the respondent to be
- 9 evaluated no later than twenty-four (24) hours before
- 10 the hearing date by a licensed physician for the
- 11 purpose of a physical examination and by a qualified
- 12 health professional for the purpose of a drug and
- 13 alcohol addiction assessment and diagnosis, and
- 14 e. that the respondent may have an independent expert
- 15 evaluation of the respondent's physical and mental
- 16 health conducted at the respondent's expense; and

17 3. Cause the respondent to be evaluated no later than twenty-

18 four (24) hours before the hearing date by two qualified health

19 professionals, one of whom is a licensed physician and the other of

20 whom is a health professional qualified to assess and diagnosis

21 substance abuse disorders. The qualified health professionals shall

22 certify their findings to the court within twenty-four (24) hours of

23 the evaluations. The findings of each qualified health professional

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1 shall include a recommendation for treatment if he or she determines
2 that treatment is necessary.

3 C. If, upon completion of the hearing, the court finds the
4 respondent should be ordered to undergo treatment, then the court
5 shall order such treatment for a period not to exceed sixty (60)
6 consecutive days or three hundred sixty (360) consecutive days,
7 whichever period was requested in the petition, agreed to at the
8 hearing, or recommended by the qualified health professionals who
9 evaluated the respondent. Failure of a respondent to appear at the
10 hearing or undergo treatment ordered pursuant to this act may result
11 in contempt of court proceedings.

12 D. If at any time after the petition is filed the court finds
13 that there is no probable cause to continue treatment or if the
14 petitioner withdraws the petition, then the proceedings shall be
15 dismissed.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 5-433 of Title 43A, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Following the prehearing evaluations required by this act,
20 if the court finds by clear and convincing evidence that the
21 respondent presents an imminent danger or imminent threat of danger
22 to self, family, or others as a result of alcohol or other drug
23 abuse, the court may order the respondent to be hospitalized for a
24 period not to exceed seventy-two (72) hours.

1 B. Any person who is admitted to a hospital pursuant to this
2 section shall be released from the hospital within seventy-two (72)
3 hours of admittance.

4 C. No respondent ordered hospitalized pursuant to this section
5 shall be held in jail pending transportation to the hospital unless
6 the court has previously found the respondent in contempt of court
7 for refusal to undergo treatment or failure to appear at the
8 prehearing evaluations.

9 SECTION 5. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 5-434 of Title 43A, unless there
11 is created a duplication in numbering, reads as follows:

12 When the court issues an order requiring a respondent to be
13 transported to the hospital or treatment facility or if the
14 respondent fails to attend a prehearing evaluation, then the court
15 shall issue a summons. The summons shall direct the respondent to
16 appear at the time and place therein specified. If a respondent who
17 has been summoned fails to appear as directed, the court may order
18 law enforcement to transport the respondent to a hospital or
19 treatment facility designated by the court. The transportation
20 costs shall be included in the treatment costs to be borne by the
21 petitioner pursuant to this act.

22 SECTION 6. This act shall become effective November 1, 2021.
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24 58-1-5987 AB 01/12/21