

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2746

By: Miller

AS INTRODUCED

An Act relating to guardianships; defining terms; allowing for the transportation of a ward to an inpatient treatment facility; requiring certain conditions; creating restriction; 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 30 of Title 30, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Courtney Smith Law".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 31 of Title 30, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "General guardianship" means a relationship where a person has been appointed by a court to serve as the guardian of an incapacitated person to ensure that the essential requirements for

1 the health and safety of the person are met, to manage the estate or
2 financial resources of the person, or both;

3 2. "Gravely disabled" means a condition in which a person,
4 because of a mental disorder, is unable to provide for his or her
5 basic personal needs for food, clothing, or shelter;

6 3. "Inpatient mental health treatment" means a treatment
7 service offered or provided for a continuous period of more than
8 twenty-four (24) hours in residence after admission to a mental
9 health or substance abuse treatment facility for the purpose of
10 observation, evaluation, or treatment; and

11 4. "Ward" means a person over whom a guardian is appointed and
12 a person over whose property a guardian or conservator is appointed.

13 B. A guardian who has general guardianship and who has obtained
14 an order by a court for inpatient mental health treatment for the
15 ward may apply for an order requiring either municipal or county
16 officials to retrieve and deliver the gravely disabled ward to an
17 inpatient treatment facility when one of the following criteria are
18 met:

19 1. The ward is unable to utilize the means available to provide
20 for his or her basic personal needs regarding food, clothing, or
21 shelter. Considerations that shall be made when making this
22 evaluation include, but shall not be limited to, the following:

- 23 a. whether lab examinations reveal signs of malnutrition
24 or dehydration,

- b. whether there is observed, documented behavior showing an inability to consume adequate amounts of food or water due to a mental illness,
- c. whether there is a history of public nudity or inadvertent exhibitionism which has been observed and documented and is due to a mental illness,
- d. the existence of physical evidence of exposure to the environment due to mental illness symptoms which prevent the ward from wearing adequate clothing,
- e. whether there is observed behavior and symptoms of a mental illness which prevent the ward from utilizing or obtaining adequate shelter,
- f. the existence of a repeated and recent history of failure to maintain adequate shelter in the community due to behaviors and symptoms of a mental illness, or
- g. evidence of a failure to maintain a shelter in a manner that is safe to live in, due to symptoms of a mental illness;

2. The ward is unable to voluntarily request and receive assistance for his or her basic personal needs; or

3. The ward is unable to survive safely without involuntary detention and does not have the help of family members, friends, or others to provide the person's basic personal needs regarding food, clothing, or shelter.

1 C. No person shall be presumed to be incompetent because the
2 person has been evaluated or treated for a mental disorder,
3 regardless of whether such evaluation or treatment was voluntarily
4 or involuntarily received.

5 SECTION 3. This act shall become effective November 1, 2023.

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