

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1697

By: Denney

5
6
7 COMMITTEE SUBSTITUTE

8 An Act relating to mental health; amending 43A O.S.
9 2011, Sections 1-103, as last amended by Section 1,
10 Chapter 213, O.S.L. 2013, 1-106, 1-107, 1-108, 3-325,
11 5-416 and 5-417, as amended by Section 3, Chapter 3,
12 O.S.L. 2013 (43A O.S. Supp. 2014, Sections 1-103 and
13 5-417), which relate to certain civil actions;
14 modifying definitions; updating references; requiring
15 certain procedures, protection and orders for
16 alleging and determining if person is an assisted
17 outpatient; requiring licensed mental health
18 professional to develop certain treatment plan prior
19 to court ordering assisted outpatient treatment;
20 permitting court to order certain drugs as part of
21 treatment program; requiring court order to be served
22 on certain individuals; requiring initial order for
23 treatment to be for certain period; providing
24 procedure to extend treatment order; requiring
treatment program to petition court before
instituting material change in treatment plan;
permitting assisted outpatient to be taken into
protective custody under certain circumstances;
requiring Board of Mental Health and Substance Abuse
Services to promulgate certain rules; providing for
codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-103, as
2 last amended by Section 1, Chapter 213, O.S.L. 2013 (43A O.S. Supp.
3 2014, Section 1-103), is amended to read as follows:

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

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

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

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

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

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

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

24

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

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

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

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

22 11. "Licensed mental health professional" means:

23 a. a psychiatrist who is a diplomate of the American
24 Board of Psychiatry and Neurology,

1 b. a psychiatrist who is a diplomate of the American
2 Osteopathic Board of Neurology and Psychiatry,

3 c. a physician licensed pursuant to the Oklahoma
4 Allopathic Medical and Surgical Licensure and
5 Supervision Act or the Oklahoma Osteopathic Medicine
6 Act,

7 ~~e.~~ d. a clinical psychologist who is duly licensed to
8 practice by the State Board of Examiners of
9 Psychologists,

10 ~~d.~~ e. a professional counselor licensed pursuant to the
11 Licensed Professional Counselors Act,

12 ~~e.~~ f. a person licensed as a clinical social worker pursuant
13 to the provisions of the Social Worker's Licensing
14 Act,

15 ~~f.~~ g. a licensed marital and family therapist as defined in
16 the Marital and Family Therapist Licensure Act,

17 ~~g.~~ h. a licensed behavioral practitioner as defined in the
18 Licensed Behavioral Practitioner Act,

19 ~~h.~~ i. an advanced practice nurse as defined in the Oklahoma
20 Nursing Practice Act specializing in mental health,

21 ~~i.~~ j. a physician's assistant who is licensed in good
22 standing in this state and has received specific
23 training for and is experienced in performing mental
24

1 health therapeutic, diagnostic, or counseling
2 functions, or

3 ~~j.~~ k. a licensed drug and alcohol counselor/mental health
4 ("LADC/MH") as defined in the Licensed Alcohol and
5 Drug Counselors Act;

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

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

12 (1) poses a substantial risk of immediate physical
13 harm to self as manifested by evidence or serious
14 threats of or attempts at suicide or other
15 significant self-inflicted bodily harm,

16 (2) poses a substantial risk of immediate physical
17 harm to another person or persons as manifested
18 by evidence of violent behavior directed toward
19 another person or persons,

20 (3) has placed another person or persons in a
21 reasonable fear of violent behavior directed
22 towards such person or persons or serious
23 physical harm to them as manifested by serious
24 and immediate threats,

- 1 (4) is in a condition of severe deterioration such
2 that, without immediate intervention, there
3 exists a substantial risk that severe impairment
4 or injury will result to the person, or
5 (5) poses a substantial risk of immediate serious
6 physical injury to self or death as manifested by
7 evidence that the person is unable to provide for
8 and is not providing for his or her basic
9 physical needs.

10 b. "Assisted outpatient" means a person who:

11 (1) is eighteen (18) years of age or older,

12 (2) is suffering from a mental illness,

13 (3) is unlikely to survive safely in the community
14 without supervision, based on a clinical
15 determination,

16 (4) has a history of lack of compliance with
17 treatment for mental illness that has:

18 (a) prior to the filing of a petition, at least
19 twice within the last thirty-six (36) months
20 been a significant factor in necessitating
21 hospitalization or treatment in a hospital
22 or residential facility, or receipt of
23 services in a forensic or other mental
24 health unit of a correctional facility, or

1 (b) prior to the filing of the petition,
2 resulted in one or more acts of serious
3 violent behavior toward self or others or
4 threats of, or attempts at, serious physical
5 harm to self or others within the last
6 twenty-four (24) months,

7 (5) is, as a result of his or her mental illness,
8 unlikely to voluntarily participate in outpatient
9 treatment that would enable him or her to live
10 safely in the community,

11 (6) in view of his or her treatment history and
12 current behavior, is in need of assisted
13 outpatient treatment in order to prevent a
14 relapse or deterioration which would be likely to
15 result in serious harm to the person or persons
16 as defined in this section, and

17 (7) is likely to benefit from assisted outpatient
18 treatment.

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

1 ~~e.~~ d. Unless a person also meets the criteria established in
2 subparagraph a or b of this paragraph, person
3 requiring treatment or an assisted outpatient shall
4 not mean:

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

8 (2) a mentally retarded or developmentally disabled
9 person as defined in Title 10 of the Oklahoma
10 Statutes,

11 (3) a person with seizure disorder,

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

13 (5) a person who is homeless.

14 ~~d.~~ e. A person who meets the criteria established in this
15 section, but who is medically unstable, or the
16 facility holding the person is unable to treat the
17 additional medical conditions of that person should be
18 discharged and transported in accordance with Section
19 1-110 of this title;

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

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

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 the practice of health care delivery,
13 diagnosis, consultation, evaluation, treatment, transfer of medical
14 data, or exchange of medical education information by means of
15 audio, video, or data communications. Telemedicine uses audio and
16 video multimedia telecommunication equipment which permits two-way
17 real-time communication between a health care practitioner and a
18 patient who are not in the same physical location. Telemedicine
19 shall not include consultation provided by telephone or facsimile
20 machine; ~~and~~

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

1 transportation to and from treatment or employment, employment
2 services and job training, case management and individual services
3 coordination, life skills education, relapse prevention, housing
4 assistance, child care, and substance abuse education;

5 20. "Assisted outpatient program" means a system to arrange for
6 and coordinate the provision of assisted outpatient treatment, to
7 monitor treatment compliance by assisted outpatients, to evaluate
8 the condition or needs of assisted outpatients, to take appropriate
9 steps to address the needs of such individuals and to ensure
10 compliance with court orders; and

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

18 SECTION 2. AMENDATORY 43A O.S. 2011, Section 1-106, is
19 amended to read as follows:

20 Section 1-106. The district attorneys of this state shall
21 represent the people of Oklahoma in all court proceedings provided
22 for in the Mental Health Law in which the State of Oklahoma
23 including any facility operated by the Department of Mental Health
24

1 and Substance Abuse Services is the petitioner for involuntary
2 commitment or assisted outpatient treatment.

3 SECTION 3. AMENDATORY 43A O.S. 2011, Section 1-107, is
4 amended to read as follows:

5 Section 1-107. A. Civil actions for involuntary commitment or
6 assisted outpatient treatment of a person may be brought in any of
7 the following counties:

- 8 1. The person's county of residence;
- 9 2. The county where the person was first taken into protective
10 custody; or
- 11 3. The county in which the person is being held on emergency
12 detention.

13 B. If a civil action for involuntary commitment or assisted
14 outpatient treatment can be brought in more than one county pursuant
15 to the provisions of subsection A of this section, the action may be
16 filed in any of such counties. No court shall refuse any case
17 solely because the action may have been brought in another county.

18 C. 1. Hearings in actions for involuntary commitment or
19 assisted outpatient treatment may be held within the mental health
20 facility in which the person is being detained or is to be committed
21 whenever the judge deems it to be in the best interests of the
22 consumer.

23 2. Such hearings shall be conducted by any judge designated by
24 the presiding judge of the judicial district. Hearings may be held

1 in an area of the facility designated by the executive director and
2 agreed upon by the presiding judge of that judicial district.

3 D. The court may conduct any nonjury hearing required or
4 authorized pursuant to the provisions of this title for detained or
5 confined persons, at the discretion of the judge, by video
6 teleconferencing after advising the person subject to possible
7 detention or commitment of his or her constitutional rights. If the
8 video teleconferencing hearing is conducted, the image of the
9 detainee or person subject to commitment may be broadcast by secure
10 video to the judge. A secure video system shall provide for two-way
11 communications including image and sound between the detainee and the
12 judge.

13 E. The provisions for criminal venue as provided otherwise by
14 law shall not be applicable to proceedings encompassed by commitment
15 statutes referred to in this title which are deemed civil in nature.

16 F. Unless otherwise provided by law, the rules of civil
17 procedure shall apply to all judicial proceedings provided for in
18 this title, including, but not limited to, the rules concerning
19 vacation of orders and appellate review.

20 SECTION 4. AMENDATORY 43A O.S. 2011, Section 1-108, is
21 amended to read as follows:

22 Section 1-108. A. Anyone in custody as a person in need of
23 treatment, assisted outpatient or a minor in need of mental health
24 treatment, pursuant to the provisions of this title, is entitled to

1 a writ of habeas corpus, upon a proper application made by such
2 person or some relative or friend in the person's behalf pursuant to
3 the provisions of Sections 1331 through 1355 of Title 12 of the
4 Oklahoma Statutes.

5 B. Upon the return of a writ of habeas corpus, whether the
6 person is a person requiring treatment or an assisted outpatient as
7 defined by Section 1-103 of this title or whether the minor is a
8 minor requiring treatment as defined by Section 5-502 of this title
9 shall be inquired into and determined.

10 C. Notice of hearing on the writ must be given to the guardian
11 of the consumer, if one has been appointed, to the person who
12 applied for the original commitment and to such other persons as the
13 court may direct.

14 D. The medical or other history of the consumer, as it appears
15 in the facility record, shall be given in evidence, and the
16 executive director of the facility wherein the consumer is held in
17 custody shall testify as to the condition of the consumer.

18 E. The executive director shall make available for examination
19 by physicians selected by the person seeking the writ, the consumer
20 whose freedom is sought by writ of habeas corpus.

21 F. Any evidence, including evidence adduced in any previous
22 habeas corpus proceedings, touching upon the mental condition of the
23 consumer shall be admitted in evidence.

24

1 SECTION 5. AMENDATORY 43A O.S. 2011, Section 3-325, is
2 amended to read as follows:

3 Section 3-325. A. The Department of Mental Health and
4 Substance Abuse Services is hereby authorized to contract with
5 public and private entities it certifies, as required by law, for
6 the purpose of providing treatment, evaluation, prevention and other
7 services related to the duties of the Department set forth in this
8 title.

9 B. The Department of Mental Health and Substance Abuse Services
10 shall not enter into a contract with any of the following programs
11 unless such program has been certified by the Department pursuant to
12 the provisions of this title:

- 13 1. Community mental health centers;
- 14 2. Community residential mental health programs;
- 15 3. Programs of assertive community treatment;
- 16 4. Eating disorder treatment programs;
- 17 5. Gambling addiction treatment programs;
- 18 6. Programs providing alcohol or drug abuse treatment services
19 as set forth under the Oklahoma Alcohol and Drug Abuse Services Act;
- 20 7. Community-based structured crisis centers; ~~and~~
- 21 8. Mental health facilities; and
- 22 9. Assisted outpatient treatment programs.

23
24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-410.1 of Title 43A, unless
3 there is created a duplication in numbering, reads as follows:

4 The procedures, protections and orders for alleging and
5 determining whether a person is an assisted outpatient, including
6 petition, rights, notice, prehearing detention, mental health
7 evaluation and hearings, shall be the same as those for a person
8 requiring treatment provided in Section 5-410 et seq. of Title 43A
9 of the Oklahoma Statutes. Assisted outpatient programs shall be
10 ordered as provided in Section 5-416 of Title 43A of the Oklahoma
11 Statutes.

12 SECTION 7. AMENDATORY 43A O.S. 2011, Section 5-416, is
13 amended to read as follows:

14 Section 5-416. A. The court, in considering a commitment
15 petition filed under Section 5-410 ~~or Section 9-102~~ of this title,
16 shall not order hospitalization without a thorough consideration of
17 available treatment alternatives to hospitalization, or without
18 addressing the competency of the consumer to consent to or refuse
19 the treatment that is ordered including, but not limited to, the
20 rights of the consumer:

- 21 1. To be heard concerning the treatment of the consumer; and
- 22 2. To refuse medications.

23 B. 1. If the court, in considering a commitment petition filed
24 under Section 5-410 ~~or Section 9-102~~ of this title, finds that a

1 program other than hospitalization, including an assisted outpatient
2 treatment program, is adequate to meet the treatment needs of the
3 individual and is sufficient to prevent injury to the individual or
4 to others, the court may order the individual to receive whatever
5 treatment other than hospitalization is appropriate for a period set
6 by the court. During this time the court:

7 a. shall have continuing jurisdiction over the individual
8 as a person requiring treatment or an assisted
9 outpatient, and

10 b. shall periodically, no less often than annually,
11 review the treatment needs of the individual and
12 determine whether or not to continue, discontinue, or
13 modify the treatment.

14 2. If at any time it comes to the attention of the court from a
15 person competent to file or request the filing of a petition,
16 pursuant to subsection A of Section 5-410 of this title, that the
17 individual ordered to undergo a program of alternative treatment to
18 hospitalization is not complying with the order or that the
19 alternative treatment program has not been sufficient to prevent
20 harm or injury which the individual may be inflicting upon himself
21 or others, the court may order the person to show cause why the
22 court should not:

23 a. implement other alternatives to hospitalization,
24 modify or rescind the original order or direct the

1 individual to undergo another program of alternative
2 treatment, if necessary and appropriate, based on
3 written findings of the court, or

4 b. enter an order of admission pursuant to the provisions
5 of this title, directing that the person be committed
6 to inpatient treatment and, if the individual refuses
7 to comply with this order of inpatient treatment, the
8 court may direct a peace officer to take the
9 individual into protective custody and transport the
10 person to a public or private facility designated by
11 the court.

12 3. The court shall give notice to the person ordered to show
13 cause and hold the hearing within seventy-two (72) hours of the
14 notice. The person ordered to undergo a program of alternative
15 treatment shall not be detained in emergency detention pending the
16 show cause hearing unless, prior to the emergency detention, the
17 person has undergone an initial examination and a determination is
18 made that emergency detention is warranted.

19 4. If an order of alternative treatment will expire without
20 further review by the court and it is believed that the individual
21 continues to require treatment, a person competent to file or
22 request the filing of a petition, pursuant to subsection A of
23 Section 5-410 of this title, may file or request the district
24 attorney file either an application for an extension of the court's

1 previous order or an entirely new petition for a determination that
2 the individual is a person requiring treatment or an assisted
3 outpatient.

4 5. A hearing on the application or petition filed pursuant to
5 paragraph 4 of this subsection shall be held within ten (10) days
6 after the application or petition is filed, unless the court extends
7 the time for good cause. In setting the matter for hearing, the
8 court shall consider whether or not the prior orders of the court
9 will expire during the pendency of the hearing and shall make
10 appropriate orders to protect the interests of the individual who is
11 the subject of the hearing.

12 C. Prior to ordering the inpatient treatment of an individual,
13 the court shall inquire into the adequacy of treatment to be
14 provided to the individual by the facility, and inpatient treatment
15 shall not be ordered unless the facility in which the individual is
16 to be treated can provide such person with treatment which is
17 adequate and appropriate to such person's condition.

18 D. Nothing in this section shall prohibit the Department of
19 Mental Health and Substance Abuse Services or the facility or
20 program providing the alternative treatment from discharging a
21 person admitted pursuant to this section, at a time prior to the
22 expiration of the period of alternative treatment, or any extension
23 thereof. The facility or program providing the alternative
24 treatment shall file a report with the court outlining the

1 disposition of each person admitted pursuant to this section within
2 forty-eight (48) hours after discharge.

3 E. Notice of any proceedings pursuant to this section shall be
4 given to the person, the person's guardian, the person's attorney,
5 and the person filing the petition or application.

6 F. If the petition alleges the person to be an assisted
7 outpatient as provided in Section 6 of this act, the court shall not
8 order assisted outpatient treatment unless a licensed mental health
9 professional, in consultation with an assisted outpatient treatment
10 program, develops and provides to the court a proposed written
11 treatment plan. All service providers included in the treatment
12 plan shall be notified regarding their inclusion in the written
13 treatment plan. Where deemed advisable, the court may make a
14 finding that a person is an assisted outpatient and delay the
15 treatment order until such time as the treatment plan is provided to
16 the court. Such plan shall be provided to the court no later than
17 the date set by the court pursuant to subsection J of this section.

18 G. The licensed mental health professional who develops the
19 written treatment plan shall provide the following persons with an
20 opportunity to actively participate in the development of such plan:

- 21 1. The assisted outpatient;
- 22 2. The treating physician, if any;
- 23 3. The treatment advocate as defined in Section 1-109.1 of this
24 title, if any; and

1 4. An individual significant to the assisted outpatient,
2 including any relative, close friend or individual otherwise
3 concerned with the welfare of the assisted outpatient, upon the
4 request of the assisted outpatient.

5 H. The licensed mental health professional shall make a
6 reasonable effort to gather relevant information for the development
7 of the treatment plan from a member of the assisted outpatient's
8 family or significant other. If the assisted outpatient has
9 executed an advance directive for mental health treatment, the
10 physician shall consider any directions included in such advance
11 directive for mental health treatment in developing the written
12 treatment plan.

13 I. The court shall not order assisted outpatient treatment
14 unless a licensed mental health professional testifies to explain
15 the proposed written treatment plan; provided, the parties may
16 stipulate upon mutual consent that such licensed mental health
17 professional need not testify. Such licensed mental health
18 professional shall state facts which establish that such treatment
19 is the least restrictive alternative. If the assisted outpatient
20 has executed an advance directive for mental health treatment, the
21 licensed mental health professional shall state the consideration
22 given to any directions included in such advance directive for
23 mental health treatment in developing the written treatment plan.

1 Such testimony shall be given on the date set by the court pursuant
2 to subsection J of this section.

3 J. If the court has yet to be provided with a written treatment
4 plan at the time of the hearing in which the court finds a person to
5 be an assisted outpatient, the court shall order such treatment plan
6 and testimony no later than the third day, excluding Saturdays,
7 Sundays and holidays, immediately following the date of such hearing
8 and order; provided, the parties may stipulate upon mutual consent
9 that such testimony need not be provided. Upon receiving such plan
10 and any required testimony, the court may order assisted outpatient
11 treatment as provided in this section.

12 K. A court may order the patient to self-administer
13 psychotropic drugs or accept the administration of such drugs by
14 authorized personnel as part of an assisted outpatient treatment
15 program. Such order may specify the type and dosage range of such
16 psychotropic drugs and such order shall be effective for the
17 duration of such assisted outpatient treatment.

18 L. A copy of any court order for assisted outpatient treatment
19 shall be served personally, or by mail, facsimile or electronic
20 means, upon the assisted outpatient, the assisted outpatient
21 treatment program and all others entitled to notice under the
22 provisions of subsection D of Section 5-412 of this title.

23 M. The initial order for assisted outpatient treatment shall be
24 for a period of one (1) year. Within thirty (30) days prior to the

1 expiration of the order, any person listed in Section 5-410 of this
2 title as a person who may file a petition may petition to extend the
3 order of outpatient treatment. Notice shall be given in accordance
4 with Section 5-412 of this title. The court shall hear the
5 petition, review the treatment plan and determine if the assisted
6 outpatient continues to meet the criteria for assisted outpatient
7 treatment and such treatment is the least restrictive alternative.
8 If the court finds the assisted outpatient treatment should continue
9 it will make such an order extending the assisted treatment an
10 additional year and order the treatment plan updated as necessary.
11 Subsequent extensions of the order may be obtained in the same
12 manner. If the court's disposition of the motion does not occur
13 prior to the expiration date of the current order, the current order
14 shall remain in effect for up to thirty (30) additional days until
15 such disposition.

16 N. In addition to any other right or remedy available by law
17 with respect to the order for assisted outpatient treatment, the
18 assisted outpatient or anyone acting on the assisted outpatient's
19 behalf may petition the court on notice to the assisted outpatient
20 treatment program, the original petitioner and all others entitled
21 to notice under Section 5-412 of this title to stay, vacate or
22 modify the order.

23 O. The assisted outpatient treatment program shall petition the
24 court for approval before instituting a proposed material change in

1 the assisted outpatient treatment plan, unless such change is
2 authorized by the order of the court. Such petition shall be filed
3 on notice to all parties entitled to notice under Section 5-412 of
4 this title. Not later than five (5) days after receiving such
5 petition, excluding Saturdays, Sundays and holidays, the court shall
6 hold a hearing on the petition; provided, that if the assisted
7 outpatient informs the court that he or she agrees to the proposed
8 material change, the court may approve such change without a
9 hearing. Nonmaterial changes may be instituted by the assisted
10 outpatient program without court approval. For the purposes of this
11 subsection, a material change is an addition or deletion of a
12 category of services to or from a current assisted outpatient
13 treatment plan or any deviation, without the assisted outpatient's
14 consent, from the terms of a current order relating to the
15 administration of psychotropic drugs.

16 P. Where, in the clinical judgment of a licensed mental health
17 professional:

18 1. The assisted outpatient has failed or refused to comply with
19 the assisted outpatient treatment;

20 2. Efforts were made to solicit compliance; and

21 3. Such assisted outpatient appears to be a person requiring
22 treatment,

23 the licensed mental health professional may cause the assisted
24 outpatient to be taken into protective custody pursuant to the

1 provisions of Sections 5-206 through 5-209 of this title or may
2 refer or initiate proceedings pursuant to Sections 5-410 through 5-
3 415 of this title for involuntary commitment to a hospital.

4 Failure or refusal to comply with assisted outpatient treatment
5 shall include, but not be limited to, a substantial failure to take
6 medication, to submit to blood testing or urinalysis where such is
7 part of the treatment plan, failure of such tests or failure to
8 receive treatment for alcohol or substance abuse if such is part of
9 the treatment plan.

10 Q. Failure to comply with an order of assisted outpatient
11 treatment shall not be grounds for involuntary civil commitment or a
12 finding of contempt of court.

13 R. The Board of Mental Health and Substance Abuse Services
14 shall promulgate rules and standards for certification of facilities
15 or organizations that desire to be certified as an assisted
16 outpatient treatment program to provide categories of outpatient
17 services which have been ordered by the court for assisted
18 outpatients. Such treatment may include case management services or
19 assertive community treatment team services to provide care
20 coordination and may also include, but not be limited to, any of the
21 following categories of services:

- 22 1. Medication;
23 2. Medication or symptom management training or education;
24

- 1 3. Periodic blood tests or urinalysis to determine compliance
- 2 with prescribed medications;
- 3 4. Individual or group therapy;
- 4 5. Day or partial day programming activities;
- 5 6. Educational and vocational training or activities;
- 6 7. Appointment of a representative payee or other financial
- 7 management services;
- 8 8. Alcohol or substance abuse treatment and counseling and
- 9 periodic or random tests for the presence of alcohol or illegal
- 10 drugs for persons with a history of alcohol or substance abuse;
- 11 9. Supervision of living arrangements; and
- 12 10. Any other services, clinical or nonclinical, prescribed to
- 13 treat the person's mental illness and to assist the person in living
- 14 and functioning in the community, or to attempt to prevent a relapse
- 15 or deterioration that may reasonably be predicted to result in
- 16 suicide or the need for hospitalization.

17 SECTION 8. AMENDATORY 43A O.S. 2011, Section 5-417, as
18 amended by Section 3, Chapter 3, O.S.L. 2013 (43A O.S. Supp. 2014,
19 Section 5-417), is amended to read as follows:

20 Section 5-417. A precommitment examination ordered by the court
21 shall include, but is not limited to:

- 22 1. A physical evaluation;
- 23 2. A mental evaluation;
- 24 3. A social history;

- 1 4. A study of the individual's family and community situation;
- 2 5. A list of available forms of care and treatment which may
- 3 serve as an alternative to admission to a hospital;
- 4 6. Powers of attorney or advance health care directives, if
- 5 any; and
- 6 7. A recommendation as to the least restrictive placement
- 7 suitable to the person's needs, as identified by this section,
- 8 should the individual be ordered to undergo treatment by the court.
- 9 Programs other than hospitalization to be considered shall include,
- 10 but not be limited to, outpatient clinics, assisted outpatient
- 11 treatment where available, extended care facilities, nursing homes,
- 12 sheltered care arrangements, home care and homemaker services, and
- 13 other treatment programs or suitable arrangements.

14 SECTION 9. This act shall become effective November 1, 2016.

15

16 55-1-6906 AM 02/18/15

17

18

19

20

21

22

23

24