

An Act

ENROLLED HOUSE
BILL NO. 1181

By: Crosswhite Hader and Bush
of the House

and

Paxton of the Senate

An Act relating to mental health; amending 43A O.S. 2011, Section 5-204, which relates to treatment and medication; modifying location requirement for treatment of inmates in the custody of the Department of Corrections; amending 57 O.S. 2011, Section 400, which relates to special care units; modifying location requirement; and providing an effective date.

SUBJECT: Mental health treatment and medication for inmates

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-204, is amended to read as follows:

Section 5-204. A. Appropriate treatment and medication, including psychotropic medication, may be administered to a consenting individual:

1. During the detention periods authorized by the Mental Health Law;
2. During the time set forth in the Mental Health Law for the precommitment screening examination; or
3. While in the custody of the Department of Corrections.

B. Treatment and medication may be administered to a nonconsenting individual upon the written order of the physician who:

1. Has personally examined the consumer;
2. Finds the medication or treatment is necessary to protect the consumer, the facility or others from serious bodily harm; and
3. Notes in the medication record of the consumer, with an explanation of the facts leading up to the decision to administer treatment and medication including psychotropic medication.

C. Any physician who orders medication in good faith and any employee of the facility who administers medication in good faith pursuant to the written order of a physician, under the provision of this section, shall be immune from civil suits for damages that occur from the administration of medication.

D. Seclusion or restraint may be administered to a nonconsenting individual upon the written order of a physician who:

1. Personally examined the consumer; and
2. Finds that seclusion or restraint is necessary to protect the consumer, the facility, or other persons. The physician shall note in the chart of the consumer an explanation of the decision to administer seclusion or restraint, including administration of psychotropic medication. This shall not prohibit emergency seclusion or restraint, including mechanical restraint, pending notification of a physician.

E. If the consumer is under the influence of psychotropic medication during any court hearing held pursuant to Section ~~5-401~~ 5-415 of this title, the court, and the jury, if any, shall be advised by the district attorney at the beginning of the hearing that:

1. The consumer is under the influence of psychotropic medication;
2. The purpose of the medication; and
3. The effect which such medication may have on the actions, demeanor and participation of the consumer at the hearing.

F. If an inmate in the custody of the Department of Corrections has been properly assigned and committed to ~~the Special Care Unit at the State Penitentiary~~ a unit described in Section 400 of Title 57 of the Oklahoma Statutes, the provisions of this section shall apply.

SECTION 2. AMENDATORY 57 O.S. 2011, Section 400, is amended to read as follows:

Section 400. A. The Department of Corrections is hereby authorized to establish ~~a unit~~ units at ~~the Oklahoma State Penitentiary~~ one or more institutions for the care and treatment of inmates, ~~classified as maximum security~~, who are or become in need of acute psychiatric care. ~~The unit shall be hereinafter called the "Special Care Unit".~~ The Department shall have the following powers and duties in the operation thereof:

1. The Department shall establish procedures to outline means of identification of inmates who are or become in need of acute psychiatric care and for assignment of such inmates to the ~~Special Care Unit~~ units described in this subsection. Prior to assignment there shall be a due process hearing conducted by the Department of Corrections to determine whether the inmate is in need of acute psychiatric care. The inmate shall be entitled to have a staff representative appointed to represent him or her, if he or she so requests, but shall not have an attorney appointed or paid by the Department to represent him or her at the administrative hearing; and

2. Once an inmate has been assigned to ~~the Special Care Unit~~ a unit described in this subsection, treatment and medication may be administered to the inmate as provided in Section 5-204 of Title 43A of the Oklahoma Statutes.

B. The Carl Albert Mental Health and Substance Abuse Services Center shall provide to the Department of Corrections a psychiatrist as needed to assist in ~~the Special Care Unit~~ a unit described in subsection A of this section.

SECTION 3. This act shall become effective November 1, 2019.

Passed the House of Representatives the 12th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____