

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2746

6 By: Miller

7 COMMITTEE SUBSTITUTE

8 An Act relating to guardianships; creating the
9 Courtney Smith Act; defining terms; allowing for the
10 transportation of a ward to an inpatient treatment
11 facility; requiring certain conditions; creating
12 restriction; providing for codification; and
13 providing an effective date.

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 30 of Title 30, unless there is
17 created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Courtney Smith
19 Act".

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

23 A. As used in this act:

24 1. "General guardianship" means a relationship where a person
has been appointed by a court to serve as the guardian of an

1 incapacitated person to ensure that the essential requirements for
2 the health and safety of the person are met, to manage the estate or
3 financial resources of the person, or both;

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

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

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

14 B. A guardian who has general guardianship and who has obtained
15 an order by a court for inpatient mental health treatment for the
16 ward may apply for an order requiring either municipal or county
17 officials to retrieve, only if in an unsheltered environment, and
18 deliver the gravely disabled ward to an inpatient treatment
19 facility, pursuant to Section 1-110 of Title 43A of the Oklahoma
20 Statutes, when one of the following criteria are met:

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

- a. whether lab examinations reveal signs of malnutrition 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

1 others to provide the ward's basic personal needs regarding food,
2 clothing, or shelter.

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

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

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