

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1042

By: Howard

AS INTRODUCED

An Act relating to guardianship; defining terms; authorizing application for court order for transportation of a ward to an inpatient treatment facility; establishing criteria for certain determination; prohibiting presumption of incompetence under certain circumstances; 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 3-131 of Title 30, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

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

2. "Inpatient mental health treatment" means a treatment service offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental

1 health or substance abuse treatment facility for the purpose of  
2 observation, evaluation, or treatment.

3 B. A guardian who has obtained an order by a court for  
4 inpatient mental health treatment for the ward may apply for an  
5 order requiring either municipal or county officials to retrieve and  
6 deliver the gravely disabled ward to an inpatient treatment facility  
7 when one of the following criteria is met:

8 1. The ward is unable to utilize the means available to provide  
9 for his or her basic personal needs regarding food, clothing, or  
10 shelter. Considerations that shall be made when making this  
11 evaluation include but are not limited to:

- 12 a. whether lab examinations reveal signs of malnutrition  
13 or dehydration,
- 14 b. whether there is observed, documented behavior showing  
15 an inability to consume adequate amounts of food or  
16 water due to a mental illness,
- 17 c. whether there is a history of public nudity or an  
18 inadvertent exhibitionism which has been observed and  
19 documented and is due to a mental illness,
- 20 d. the existence of physical evidence of exposure to the  
21 environment due to mental illness symptoms which  
22 prevent the ward from wearing adequate clothing,  
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- 1 e. whether there is observed behavior and symptoms of a  
2 mental illness which prevents the ward from utilizing  
3 or obtaining adequate shelter,  
4 f. the existence of a repeated and recent history of  
5 failure to maintain adequate shelter in the community  
6 due to behaviors and symptoms of a mental illness, or  
7 g. evidence of a failure to maintain a shelter in a  
8 manner that is safe to live in, due to symptoms of a  
9 mental illness;

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

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

16 C. No person shall be presumed to be incompetent because the  
17 person has been evaluated or treated for a mental disorder,  
18 regardless of whether such evaluation or treatment was voluntarily  
19 or involuntarily received.

20 SECTION 2. This act shall become effective November 1, 2023.  
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