

1 ENGROSSED SENATE  
2 BILL NO. 1208

By: Bergstrom of the Senate

3 and

4 West (Josh) of the House

5  
6 An Act relating to mental health; amending 43A O.S.  
7 2011, Section 5-207, as amended by Section 2, Chapter  
8 296, O.S.L. 2012 (43A O.S. Supp. 2019, Section 5-  
9 207), which relates to emergency detention; providing  
10 for assessment via telemedicine; adding statutory  
11 reference; and providing an effective date.

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

13 SECTION 1. AMENDATORY 43A O.S. 2011, Section 5-207, as  
14 amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2019,  
15 Section 5-207), is amended to read as follows:

16 Section 5-207. A. Any person who appears to be or states that  
17 such person is mentally ill, alcohol-dependent, or drug-dependent to  
18 a degree that immediate emergency action is necessary may be taken  
19 into protective custody and detained as provided pursuant to the  
20 provisions of this section. Nothing in this section shall be  
21 construed as being in lieu of prosecution under state or local  
22 statutes or ordinances relating to public intoxication offenses.

23 B. 1. Any peace officer who reasonably believes that a person  
24 is a person requiring treatment as defined in Section 1-103 of this  
title shall take the person into protective custody. The officer

1 shall make every reasonable effort to take the person into custody  
2 in the least conspicuous manner.

3 2. Upon taking the person into protective custody, the officer  
4 may relinquish custody of the person believed to require treatment  
5 to a duly qualified reserve officer or deputy employed by the same  
6 agency to fulfill the officer's duties as required by this title.

7 C. The officer shall prepare a written statement indicating the  
8 basis for the officer's belief that the person is a person requiring  
9 treatment and the circumstances under which the officer took the  
10 person into protective custody. The officer shall give a copy of  
11 the statement to the person or the person's attorney upon the  
12 request of either. If the officer does not make the determination  
13 to take an individual into protective custody on the basis of the  
14 officer's personal observation, the officer shall not be required to  
15 prepare a written statement. However, the person stating to be  
16 mentally ill, alcohol-dependent, or drug-dependent or the person  
17 upon whose statement the officer relies shall sign a written  
18 statement indicating the basis for such person's belief that the  
19 person is a person requiring treatment. Any false statement given  
20 to the officer by the person upon whose statement the officer relies  
21 shall be a misdemeanor and subject to the sanctions of Title 21 of  
22 the Oklahoma Statutes.

23 D. If the person is medically stable, the officer shall  
24 immediately transport the person to the nearest facility designated

1 by the Commissioner of Mental Health and Substance Abuse Services as  
2 an appropriate facility for an initial assessment or have the  
3 individual assessed by a licensed mental health professional  
4 employed by or under contract with a facility as defined in Section  
5 1-103 of this title or a community mental health center via  
6 telemedicine if such capability is available. If, subsequent to an  
7 initial assessment, it is determined that emergency detention is  
8 warranted, the officer shall transport the person to the nearest  
9 facility, designated by the Commissioner as appropriate for such  
10 detention, that has bed space available. If it is determined by the  
11 facility director or designee that the person is not medically  
12 stable, the officer shall transport the person to the nearest  
13 hospital or other appropriate treatment facility.

14 E. If the person is medically unstable, the person may be  
15 transported to an appropriate medical facility for medical  
16 treatment. A treating physician may authorize that the person be  
17 detained until the person becomes medically stable. When the person  
18 becomes medically stable, if in the opinion of the treating or  
19 discharging physician, the patient is still a person requiring  
20 treatment as defined in Section 1-103 of this title, the physician  
21 shall authorize detention of the patient for transportation as  
22 provided in subsection D of this section by an appropriate law  
23 enforcement agency.

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1 F. If the nearest facility designated by the Commissioner as an  
2 appropriate facility for an initial assessment or detention is in  
3 excess of fifty (50) miles from the county seat of the county in  
4 which the person is located, and whenever, as provided in paragraph  
5 (b) of Article III of Section 6-201 of this title, there are factors  
6 based upon clinical determinations made within the state indicating  
7 that the care and treatment of the person would be facilitated or  
8 improved thereby, the person may be transported by the officer to a  
9 facility in another state if the facility:

10 1. Is located in a state that has enacted into law and entered  
11 into the Interstate Compact on Mental Health;

12 2. Is designated or accredited by the mental health authorities  
13 of that state as an appropriate facility for an initial assessment  
14 or detention of such person;

15 3. Is accredited by the Joint Commission;

16 4. Is the nearest available facility to the county seat of the  
17 county in which the person is located; and

18 5. Has agreed prior to the person leaving the state to receive  
19 the person for initial assessment or detention.

20 G. The parent, brother or sister who is eighteen (18) years of  
21 age or older, child who is eighteen (18) years of age or older, or  
22 guardian of the person, or a person who appears to be or states that  
23 such person is mentally ill, alcohol-dependent, or drug-dependent to  
24 a degree that emergency action is necessary may request the

1 administrator of a facility designated by the Commissioner as an  
2 appropriate facility for an initial assessment to conduct an initial  
3 assessment to determine whether the condition of the person is such  
4 that emergency detention is warranted and, if emergency detention is  
5 warranted, to detain the person as provided in Section 5-206 of this  
6 title.

7 SECTION 2. This act shall become effective November 1, 2020.

8 Passed the Senate the 3rd day of March, 2020.

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Presiding Officer of the Senate

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12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2020.

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Presiding Officer of the House  
of Representatives

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