

An Act

ENROLLED SENATE
BILL NO. 87

By: Haste of the Senate

and

Bush and Provenzano of the
House

An Act relating to mental health diversion by law enforcement; amending 43A O.S. 2011, Section 3-428, which relates to intoxicated persons in public places; modifying language; modifying allowable facilities; allowing certain program establishment; directing certain authorization; and providing an effective date.

SUBJECT: Authorizing certain persons to be diverted to drug treatment or evaluation centers

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 3-428, is amended to read as follows:

Section 3-428. A. An intoxicated person in a public place, ~~as defined in Section 8 of Title 37 of the Oklahoma Statutes,~~ who appears to be in need of help, if the person consents to the offered help, may be assisted to:

1. His or her home;
2. An alternative facility pursuant to the provisions of this section; or

3. An approved treatment or evaluation facility by a peace officer or an emergency service patrol.

B. 1. A person who appears to be intoxicated, and as a result of such intoxication is unconscious in a public place or reasonably appears to be in danger of harming himself or herself or others, may be taken into protective custody by a peace officer or an emergency service patrol and immediately brought to an approved treatment facility for medical or nonmedical detoxification.

2. The peace officer or the emergency service patrol, in detaining the person and taking the person to an approved treatment facility, is taking the person into protective custody and shall make every reasonable effort to protect the person's health and safety.

3. In taking the person into protective custody, the detaining officer may take reasonable steps for self-protection. No record shall be made which indicates that the person has been arrested or charged with a crime.

C. 1. If the Department of Mental Health and Substance Abuse Services, or the governing body of any municipality, has approved a program alternative to statutory or municipal requirements of prosecution and imprisonment of such person, until the capacity to accommodate intoxicated persons has been exceeded in the facility wherein such alternative program is located, the arresting officer and other public officials involved in an arrest pursuant to this section shall utilize such alternative treatment program upon the voluntary approval of the intoxicated person and the receiving facility rather than proceed under the statutory or municipal laws pertaining to prosecution and imprisonment of intoxicated persons.

2. A facility in which the program is located may make application to the Department of Mental Health and Substance Abuse Services for approval, but no such program or facility wherein such program is located shall claim or advertise to be a certified treatment facility unless duly certified as such by the Department of Mental Health and Substance Abuse Services.

3. All facilities acquiring the approval of an alternative program shall establish their own capacity for the number of persons to be accommodated in the program.

4. It shall be the duty of the State Department of Health to investigate all complaints concerning general sanitation made in the form of a sworn affidavit against such municipally approved alternative facilities.

5. In the event the complaints are found to be true, the State Commissioner of Health shall have the power to order improvements or closure.

D. A person who is brought to an alternative facility or an approved treatment facility may be admitted as a consumer by the administrator in charge of the facility or referred to another treatment facility.

E. 1. A person may not be detained at the approved treatment facility when the person either is no longer unconscious, or no longer appears likely to be of harm to self or others.

2. If the person remains unconscious or likely to harm himself or herself or others, the person may be detained for no more than twelve (12) hours, excluding weekends and legal holidays, after admission unless a petition for an order directing the commitment of the person to an approved treatment facility has been filed according to the Mental Health Law provisions and procedures for commitment. The person may consent to remain in the facility as long as the administrator or physician in charge believes appropriate.

F. If a person is admitted to an approved treatment facility under this section, the person may notify relatives of the admission or another person may, with the consent of the admittee, notify relatives of the admission.

G. 1. A person in possession of a controlled dangerous substance, as defined in Section 2-101 of Title 63 of the Oklahoma Statutes, or in possession of drug paraphernalia, as defined in Section 2-405 of Title 63 of the Oklahoma Statutes, who appears to

be in need of help, and if the person consents to the offered help, in lieu of arrest, may be taken to:

- a. an approved drug treatment center,
- b. an approved center for substance abuse evaluation, or
- c. some other facility, as defined in paragraph 1 of subsection C of this section, by a law enforcement officer.

2. Any creation of a program as provided in this subsection shall be subject to the authority of the appropriate county, municipal or tribal governing body and any of its subsidiaries. The Department of Mental Health and Substance Abuse Services has the authority to approve or disapprove individual treatment centers as described in this subsection.

3. The creation of any program as provided in this subsection must be created with the advice and consent of the county's district attorney and must be approved annually by the county's district attorney.

SECTION 2. This act shall become effective November 1, 2021.

Passed the Senate the 1st day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2021.

Presiding Officer of the House
of Representatives

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: _____