

1 **SENATE FLOOR VERSION**

2 April 1, 2019

3 ENGROSSED HOUSE
4 BILL NO. 1181

By: Crosswhite Hader and Bush
of the House

5 and

6 Paxton of the Senate

7
8
9 An Act relating to mental health; amending 43A O.S.
10 2011, Section 5-204, which relates to treatment and
11 medication; modifying location requirement for
12 treatment of inmates in the custody of the Department
13 of Corrections; amending 57 O.S. 2011, Section 400,
14 which relates to special care units; modifying
15 location requirement; and providing an effective
16 date.

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

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

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

- 23 1. During the detention periods authorized by the Mental Health
24 Law;
2. During the time set forth in the Mental Health Law for the
precommitment screening examination; or

1 3. While in the custody of the Department of Corrections.

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

5 1. Has personally examined the consumer;

6 2. Finds the medication or treatment is necessary to protect
7 the consumer, the facility or others from serious bodily harm; and

8 3. Notes in the medication record of the consumer, with an
9 explanation of the facts leading up to the decision to administer
10 treatment and medication including psychotropic medication.

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

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

18 1. Personally examined the consumer; and

19 2. Finds that seclusion or restraint is necessary to protect
20 the consumer, the facility, or other persons. The physician shall
21 note in the chart of the consumer an explanation of the decision to
22 administer seclusion or restraint, including administration of
23 psychotropic medication. This shall not prohibit emergency
24

1 seclusion or restraint, including mechanical restraint, pending
2 notification of a physician.

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

8 1. The consumer is under the influence of psychotropic
9 medication;

10 2. The purpose of the medication; and

11 3. The effect which such medication may have on the actions,
12 demeanor and participation of the consumer at the hearing.

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

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

20 Section 400. A. The Department of Corrections is hereby
21 authorized to establish ~~a unit~~ units at ~~the Oklahoma State~~
22 ~~Penitentiary~~ one or more institutions for the care and treatment of
23 inmates, ~~classified as maximum security~~, who are or become in need
24 of acute psychiatric care. ~~The unit shall be hereinafter called the~~

1 ~~"Special Care Unit"~~. The Department shall have the following powers
2 and duties in the operation thereof:

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

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

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
24 April 1, 2019 - DO PASS