An Act

ENROLLED HOUSE
BILL NO. 2254

By: Sherrer, Hoskin and Roan of the House

and

Burrage and Ivester of the Senate

An Act relating to mental health; creating the Local Law Enforcement Mental Health Manpower Act; amending 43A O.S. 2011, Section 5-207, which relates to protective custody of certain individuals; authorizing officer to relinquish certain person to designated individuals; amending 43A O.S. 2011, Section 5-421, which relates to emergency service patrols; permitting Department of Mental Health and Substance Abuse Services to establish certain emergency dispatch system if requested; requiring certain persons to submit to certain assessment and evaluation; requiring appropriate assistance to certain persons; providing access of certain results to certain persons; requiring that certain results not be admissible in criminal case; providing for exceptions; requiring certain results to be considered to determine sentencing options; repealing Section 1 of Enrolled House Bill No. 3052 of the 2nd Session of the 53rd Legislature, which relates to mental health and substance abuse assessment and evaluation requirements; providing for codification; providing for noncodification; and providing an effective date.

SUBJECT: Mental health

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Section 2 of this act shall be known and may be cited as the "Local Law Enforcement Mental Health Manpower Act".

SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-207, is amended to read as follows:

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

B. 1. Any peace officer who reasonably believes that a person is a person requiring treatment as defined in Section 1-103 of this title shall take the person into protective custody. The officer shall make every reasonable effort to take the person into custody in the least conspicuous manner.

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

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

D. If the person is medically stable, the officer shall immediately transport the person to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility for an initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the officer shall transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available. If it is determined by the facility director or designee that the person is not medically stable, the officer shall transport the person to the nearest hospital or other appropriate treatment facility.

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

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

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

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

3. Is accredited by the Joint Commission;

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

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

G. The parent, brother or sister who is eighteen (18) years of age or older, child who is eighteen (18) years of age or older, or guardian of the person, or a person who appears to be or states that such person is mentally ill, alcohol-dependent, or drug-dependent to a degree that emergency action is necessary may request the administrator of a facility designated by the Commissioner as an appropriate facility for an initial assessment to conduct an initial assessment to determine whether the condition of the person is such that emergency detention is warranted and, if emergency detention is warranted, to detain the person as provided in Section 5-206 of this title.

SECTION 3. AMENDATORY 43A O.S. 2011, Section 5-421, is amended to read as follows:

Section 5-421. A. Counties and municipalities may establish emergency service patrols. A patrol consists of persons trained to give assistance in public places to persons whom the patrol has reasonable grounds to believe are mentally ill. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport mentally ill persons to their homes and to and from approved treatment facilities and alternative facilities.

B. Standards for the establishment, training, and conduct of emergency service patrols shall be adopted by the county or municipality and approved by the Department of Mental Health and Substance Abuse Services. These standards shall comply with the standards of the regional emergency medical services plan.

C. All participating state and local agencies are directed to coordinate with each other and cooperate in assisting the Department of Mental Health and Substance Abuse Services as needed. <u>If specifically requested in two or more regional emergency medical service plans, the Department may establish a law enforcement behavioral health emergency dispatch system.</u>

D. All emergency service patrols shall be required to keep reliable data on services made available and provided by the emergency service patrols.

E. Upon the request of the Department of Mental Health and Substance Abuse Services, every state agency, board or commission shall provide any information requested by the Department of Mental Health and Substance Abuse Services to assess the effectiveness of emergency service patrols.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-704 of Title 43A, unless there is created a duplication in numbering, reads as follows:

Any person found guilty of a felony offense may, prior to sentencing, be required to submit to an approved risk, mental health and substance abuse assessment and evaluation which shall be administered and scored by assessment personnel certified by the Department of Mental Health and Substance Abuse Services. Any person lacking sufficient skills to comprehend or otherwise participate in the risk, mental health and substance abuse assessment and evaluation shall have appropriate assistance. The court, district attorney, arrested person and counsel for the arrested person shall have access to the results of the risk, mental health and substance abuse assessment and evaluation. The results of the risk, mental health and substance abuse assessment and evaluation shall not be admissible as evidence in the criminal case unless specifically waived by the defendant or for purposes of determining sentencing options for a defendant who has pled guilty and punishment is to be determined at the discretion of the court. The court and the district attorney shall consider the results of the risk, mental health and substance abuse assessment and evaluation to determine sentencing options for the person.

SECTION 5. REPEALER Section 1 of Enrolled House Bill No. 3052 of the 2nd Session of the 53rd Legislature, is hereby repealed.

SECTION 6. This act shall become effective November 1, 2012.

Passed the House of Representatives the 22nd day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 24th day of May, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 25th

day of May, **20** 12,

at 12:00 **o'clock** PM.

By: Janice R. Ryan

Approved by the Governor of the State of Oklahoma the 29th **day of**

May, **20** 12, **at** 9:55 **o'clock** AM

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

29th **day of** May, **20** 12,

at 3:51 **o'clock** P **M.**

By: Michelle R Day