An Act

ENROLLED HOUSE
BILL NO. 2746

By: Miller, Dollens, and Schreiber of the House

and

Kirt and Bullard of the Senate

An Act relating to guardianships; creating the Courtney Smith Act; defining terms; allowing for the transportation of a ward to an inpatient treatment facility; requiring certain conditions; creating restriction; providing for codification; and providing an effective date.

SUBJECT: Guardianships and the Courtney Smith Act

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 30 of Title 30, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Courtney Smith Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 31 of Title 30, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "General guardianship" means a relationship where a person has been appointed by a court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate or financial resources of the person, or both;

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

3. "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 health or substance abuse treatment facility for the purpose of observation, evaluation, or treatment; and

4. "Ward" means a person over whom a guardian is appointed and a person over whose property a guardian or conservator is appointed.

B. A guardian who has general guardianship and who has obtained an order by a court for inpatient mental health treatment for the ward may apply for an order requiring either municipal or county officials to retrieve, only if in an unsheltered environment, and deliver the gravely disabled ward to an inpatient treatment facility, pursuant to Section 1-110 of Title 43A of the Oklahoma Statutes, when one of the following criteria is met:

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

a. whether lab examinations reveal signs of malnutrition or dehydration,

b. whether there is observed, documented behavior showing an inability to consume adequate amounts of food or water due to a mental illness,

c. whether there is a history of public nudity or inadvertent exhibitionism which has been observed and documented and is due to a mental illness,

d. the existence of physical evidence of exposure to the environment due to mental illness symptoms which prevent the ward from wearing adequate clothing,

e. whether there is observed behavior and symptoms of a mental illness which prevent the ward from utilizing or obtaining adequate shelter,

f. the existence of a repeated and recent history of failure to maintain adequate shelter in the community due to behaviors and symptoms of a mental illness, or

g. evidence of a failure to maintain a shelter in a manner that is safe to live in, due to symptoms of a mental illness;

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

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

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

SECTION 3. This act shall become effective November 1, 2023.

Passed the House of Representatives the 13th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th

day of April, 20 23, at 2:36 o'clock p. M.

By: _____

Approved by the Governor of the State of Oklahoma this 2nd

day of May, 20 23, at 9:08 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 2nd

day of May, 20 23, at 1:01 o'clock p M.

By: _____