

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2746

By: Miller, Dollens, and
Schreiber of the House

5 and

6 Kirt and Bullard of the
7 Senate

8
9 An Act relating to guardianships; creating the
10 Courtney Smith Act; defining terms; allowing for the
11 transportation of a ward to an inpatient treatment
12 facility; requiring certain conditions; creating
13 restriction; providing for codification; and
14 providing an effective date.

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

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 30 of Title 30, unless there is
18 created a duplication in numbering, reads as follows:

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

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

24 A. As used in this act:

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

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

9 3. "Inpatient mental health treatment" means a treatment
10 service offered or provided for a continuous period of more than
11 twenty-four (24) hours in residence after admission to a mental
12 health or substance abuse treatment facility for the purpose of
13 observation, evaluation, or treatment; and

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

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

23 1. The ward is unable to utilize the means available to provide
24 for his or her basic personal needs regarding food, clothing, or

1 shelter. Considerations that shall be made when making this
2 evaluation shall include, but not be limited to, the following:

- 3 a. whether lab examinations reveal signs of malnutrition
4 or dehydration,
- 5 b. whether there is observed, documented behavior showing
6 an inability to consume adequate amounts of food or
7 water due to a mental illness,
- 8 c. whether there is a history of public nudity or
9 inadvertent exhibitionism which has been observed and
10 documented and is due to a mental illness,
- 11 d. the existence of physical evidence of exposure to the
12 environment due to mental illness symptoms which
13 prevent the ward from wearing adequate clothing,
- 14 e. whether there is observed behavior and symptoms of a
15 mental illness which prevent the ward from utilizing
16 or obtaining adequate shelter,
- 17 f. the existence of a repeated and recent history of
18 failure to maintain adequate shelter in the community
19 due to behaviors and symptoms of a mental illness, or
20 g. evidence of a failure to maintain a shelter in a
21 manner that is safe to live in, due to symptoms of a
22 mental illness;

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

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
11 April 11, 2023 - DO PASS

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