

1 **SENATE FLOOR VERSION**

2 February 15, 2024

3 SENATE BILL NO. 1862

By: Haste

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5
6 An Act relating to mental health; amending 43A O.S.
7 2021, Section 1-110, as last amended by Section 2,
8 Chapter 28, 1st Extraordinary Session, O.S.L. 2023
9 (43A O.S. Supp. 2023, Section 1-110), which relates
10 to transportation of persons for mental health
11 services; transferring certain duty to the Department
12 of Mental Health and Substance Abuse Services under
13 specified circumstances; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-110, as
17 last amended by Section 2, Chapter 28, 1st Extraordinary Session,
18 O.S.L. 2023 (43A O.S. Supp. 2023, Section 1-110), is amended to read
19 as follows:

20 Section 1-110. A. As an alternative to transport under
21 subsection B of this section for the sole purpose of initial
22 assessment of a person who the officer reasonably believes is a
23 person requiring treatment, as defined in Section 1-103 of this
24 title, sheriffs and peace officers may request an assessment at the
point of initial contact by the Department of Mental Health and
Substance Abuse Services. To conduct the assessment, the Department
may utilize:

1 1. Telemedicine, when such capability is available through a
2 mobile computing device in the possession of the local law
3 enforcement agency, to have the person assessed by a licensed mental
4 health professional employed by or under contract with a facility
5 operated by, certified by, or contracted with the Department; or

6 2. An in-person assessment by a licensed mental health
7 professional on a mobile crisis response team or who is employed by
8 or under contract with a facility operated by, certified by, or
9 contracted with the Department.

10 B. 1. To serve the mental health needs of persons of their
11 jurisdiction, peace officers shall be responsible for transporting
12 individuals in need of:

13 a. initial assessment, except when the individual has
14 been assessed at the point of initial contact by the
15 Department under subsection A of this section, or

16 b. emergency detention or protective custody under
17 Section 5-207 of this title, unless the officer has
18 already transported the individual to the facility for
19 initial assessment,

20 from the point of initial contact to the nearest facility, as
21 defined in Section 1-103 of this title, that is appropriate for
22 initial assessment or treatment of the individual within a thirty-
23 mile radius of the peace officer's operational headquarters.

1 2. Transportation to the nearest appropriate facility shall be
2 completed by either the Department of Mental Health and Substance
3 Abuse Services or an entity contracted by the Department for
4 alternative transportation if:

- 5 a. there is not an appropriate facility within a thirty-
6 mile radius of the peace officer's operational
7 headquarters, or
- 8 b. the officer has already transported the individual to
9 an appropriate facility for initial assessment.

10 3. For purposes of this section, "initial contact" is defined
11 as contact with an individual in need of assessment, emergency
12 detention, or protective custody made by a law enforcement officer.
13 Initial contact in this section does not include an individual self-
14 presenting at a facility as defined in Section 1-103 of this title.

15 4. When an individual self-presents at a facility as defined in
16 Section 1-103 of this title or at a medical facility and is placed
17 into protective custody under Section 5-207 of this title due to a
18 determination that the individual is a person requiring treatment as
19 defined in Section 1-103 of this title, and if transport to another
20 facility is needed for initial assessment or treatment, the person
21 shall be transported to the nearest appropriate facility ~~as provided~~
22 ~~by this subsection~~ by the Department or an entity contracted by the
23 Department for alternative transportation.

1 5. When an individual self-presents at a facility as defined in
2 Section 1-103 of this title or at a medical facility and is not
3 placed into protective custody under Section 5-207 of this title,
4 but consents to voluntary transport to a facility as defined in
5 Section 1-103 of this title for treatment, transport or the
6 arrangement of transport shall be the responsibility of the facility
7 receiving the individual, unless the individual chooses to arrange
8 his or her own transportation.

9 6. The transportation requirements provided by this subsection,
10 to the extent such requirements are applicable to peace officers,
11 shall be considered fulfilled once the person has been transported
12 to the facility, the officer has made contact with the appropriate
13 staff of the facility, and the staff of the facility have determined
14 that the patient does not present a clear or immediate threat to his
15 or her own safety or to the safety of the staff of the facility.
16 Once custody of the individual has been transferred to the
17 appropriate facility staff, the peace officer shall not be required
18 to remain at the facility with the individual pending initial
19 assessment or treatment.

20 C. A municipal law enforcement agency shall be responsible for
21 transportation as provided in this section for any individual found
22 within such municipality's jurisdiction. The county sheriff shall
23 be responsible for transportation as provided in this section for
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1 any individual found outside of a municipality's jurisdiction, but
2 within the county.

3 D. Once an individual has been presented to an appropriate
4 facility as provided in subsection B of this section, the Department
5 of Mental Health and Substance Abuse Services or an entity
6 contracted by the Department shall be responsible for any subsequent
7 transportation of such individual.

8 E. Sheriffs and peace officers shall be entitled to
9 reimbursement from the Department of Mental Health and Substance
10 Abuse Services for transportation services associated with minors or
11 adults requiring initial assessment, emergency detention, protective
12 custody, and inpatient services.

13 F. Any transportation provided by a sheriff or deputy sheriff
14 or a peace officer on behalf of any county, city, town, or
15 municipality of this state, to or from any facility for the purpose
16 of initial assessment, admission, interfacility transfer, medical
17 treatment, or court appearance shall be reimbursed in accordance
18 with the provisions of the State Travel Reimbursement Act.

19 G. Nothing in this section shall prohibit a law enforcement
20 agency or the Department of Mental Health and Substance Abuse
21 Services from entering into a lawful agreement with any other law
22 enforcement agency to fulfill the requirements established by this
23 section or from contracting with a third party to provide the

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1 services established by this section, provided the third party meets
2 minimum standards as determined by the Department.

3 H. A law enforcement agency shall not be liable for the actions
4 of a peace officer commissioned by the agency when such officer is
5 providing services as a third party pursuant to subsection G of this
6 section outside his or her primary employment as a peace officer.

7 I. 1. For purposes of transportation completed by the
8 Department of Mental Health and Substance Abuse Services or an
9 entity contracted by the Department as required by this section, the
10 use of mechanical restraints shall not be applied to an individual
11 being transported unless:

- 12 a. the individual being transported physically assaults
13 or attempts to physically assault the person lawfully
14 conducting the transportation of the individual
15 pursuant to the provisions of this section and the
16 person lawfully conducting the transportation believes
17 such restraints are necessary for the safety of
18 himself or herself or the protection of others,
- 19 b. the individual being transported attempts or causes
20 serious physical injury to self and the person
21 lawfully conducting the transportation believes such
22 restraints are necessary for the safety of the
23 individual being transported, or

1 c. the individual being transported has a propensity
2 toward violence as indicated by past transports,
3 criminal charges, or mental health history and as
4 identified in the transport request form, and the
5 person lawfully conducting the transportation believes
6 such restraints are necessary for the safety of
7 himself or herself, for the safety of the individual
8 being transported, or for the protection of others.

9 2. The mechanical restraint shall be continued for no longer
10 than is necessary under the circumstances described in paragraph 1
11 of this subsection. Every use of a mechanical restraint, the
12 reasons, and the length of time, shall be made a part of the
13 clinical record of the consumer under the signature of the
14 individual responsible for the transportation as required by this
15 section.

16 SECTION 2. This act shall become effective November 1, 2024.

17 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
18 February 15, 2024 - DO PASS