

An Act

ENROLLED SENATE
BILL NO. 1862

By: Haste of the Senate

and

McEntire, Deck, and Swope
of the House

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

SUBJECT: Transportation for mental health services

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

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

Section 1-110. A. As an alternative to transport under subsection B of this section for the sole purpose of initial assessment of a person who the officer reasonably believes is a person requiring treatment, as defined in Section 1-103 of this 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. Telemedicine, when such capability is available through a mobile computing device in the possession of the local law enforcement agency, to have the person assessed by a licensed mental health professional employed by or under contract with a facility operated by, certified by, or contracted with the Department; or

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

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

- a. initial assessment, except when the individual has been assessed at the point of initial contact by the Department under subsection A of this section, or
- b. emergency detention or protective custody under Section 5-207 of this title, unless the officer has already transported the individual to the facility for initial assessment,

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

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

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

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

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

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

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

C. A municipal law enforcement agency shall be responsible for transportation as provided in this section for any individual found within such municipality's jurisdiction. The county sheriff shall be responsible for transportation as provided in this section for

any individual found outside of a municipality's jurisdiction, but within the county.

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

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

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

G. Nothing in this section shall prohibit a law enforcement agency or the Department of Mental Health and Substance Abuse Services from entering into a lawful agreement with any other law enforcement agency to fulfill the requirements established by this section or from contracting with a third party to provide the services established by this section, provided the third party meets minimum standards as determined by the Department.

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

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

- a. the individual being transported physically assaults or attempts to physically assault the person lawfully conducting the transportation of the individual pursuant to the provisions of this section and the person lawfully conducting the transportation believes such restraints are necessary for the safety of himself or herself or the protection of others,
- b. the individual being transported attempts or causes serious physical injury to self and the person lawfully conducting the transportation believes such restraints are necessary for the safety of the individual being transported, or
- c. the individual being transported has a propensity toward violence as indicated by past transports, criminal charges, or mental health history and as identified in the transport request form, and the person lawfully conducting the transportation believes such restraints are necessary for the safety of himself or herself, for the safety of the individual being transported, or for the protection of others.

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

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

Passed the Senate the 5th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____