

An Act

ENROLLED SENATE
BILL NO. 286

By: Howard of the Senate

and

Roe of the House

An Act relating to mental health; amending 43A O.S. 2021, Section 1-110, which relates to transporting persons for mental health services; prohibiting use of mechanical restraints by the Department of Mental Health and Substance Abuse Services or contracted entity except under certain conditions; limiting duration of mechanical restraint use; requiring certain documentation; and declaring an emergency.

SUBJECT: Mental health

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

SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-110, is amended to read as follows:

Section 1-110. A. Sheriffs and peace officers may utilize telemedicine, when such capability is available and is in the possession of the local law enforcement agency, to have a person whom the officer reasonably believes is a person requiring treatment, as defined in Section 1-103 of this title, assessed by a licensed mental health professional employed by or under contract with a facility operated by, certified by or contracted with the Department of Mental Health and Substance Abuse Services. To serve the mental health needs of persons of their jurisdiction, peace officers shall be responsible for transporting individuals in need of initial assessment, emergency detention or protective custody from the initial point of contact to the nearest facility, as defined in Section 1-103 of this title, within a thirty (30) mile

radius of the peace officer's operational headquarters. If there is not a facility within a thirty (30) mile radius of the peace officer's operational headquarters, transportation to a 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. 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.

B. A municipal law enforcement agency shall be responsible for transportation as provided in this act for any individual found within such municipality's jurisdiction. The county sheriff shall be responsible for transportation as provided in this act for any individual found outside of a municipality's jurisdiction, but within the county.

C. Once an individual has been presented to the facility, as provided in subsection A of this section, by a transporting law enforcement officer, the transporting law enforcement agency shall be responsible for any subsequent transportation of such individual pending completion of the initial assessment, emergency detention, protective custody or inpatient services within a thirty (30) mile radius of the peace officer's operational headquarters. All transportation over thirty (30) miles must be completed by either the Department of Mental Health and Substance Abuse Services or an entity contracted by the Department for alternative transportation.

D. 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.

E. 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.

F. 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.

G. 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 F of this section outside his or her primary employment as a peace officer.

H. 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. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 14th day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2023.

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: _____