

SENATE BILL 1391

By Bell

AN ACT to amend Tennessee Code Annotated, Title 33,
Chapter 6, relative to transportation of persons to
treatment facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 33-6-406, is amended by deleting the section and substituting instead the following:

(a) If the person certified for admission under § 33-6-404 is not already at the facility, hospital, or treatment resource at which the person is proposed to be admitted, the physician, psychologist, or designated professional who completed the certificate of need under § 33-6-404 shall give the transportation agent designated under part 9 of this chapter the original certificate and turn the person over to the custody of the transportation agent who shall transport the person to a hospital or treatment resource that has available suitable accommodations for the person for proceedings under § 33-6-407; provided, that, if admission is sought to a state-owned or -operated hospital or treatment resource, the physician, psychologist, or designated professional who completed the certificate of need under § 33-6-404 shall also provide to the transportation agent a written statement verifying that the state-owned or -operated hospital or treatment resource has been contacted and has available suitable accommodations, and the transportation agent is not required to take custody of the person for transportation unless both the original certificate and the written statement are provided. Failure of the transportation agent to provide both a certificate of need and the written statement to the receiving state-owned or -operated hospital or treatment

resource for proceedings under § 33-6-407 results in all costs attendant to the person's admission and treatment being assessed to the transporting county.

(b)

(1) Before transportation begins, the transportation agent shall notify the hospital or treatment resource at which the person is proposed to be admitted as to where the person is and the best estimate of anticipated time of arrival at the hospital or treatment resource.

(2) The transportation agent shall notify the hospital or treatment resource of the anticipated time of arrival. If the transportation agent has given notice and arrives at the hospital or treatment resource within the anticipated time of arrival, then the transportation agent is required to remain at the hospital or treatment resource long enough for the person to be evaluated for admission under § 33-6-407, but not longer than one (1) hour and forty-five (45) minutes. After one (1) hour and forty-five (45) minutes, the person is the responsibility of the evaluating hospital or treatment resource, and the transportation agent may leave.

(3) In counties having a population of six hundred thousand (600,000) or more, according to the 1970 federal census or any subsequent federal census, subdivisions (b)(1) and (2) do not apply, and the transportation agent is relieved of further transportation duties after the person has been delivered to the hospital or treatment resource, and transportation duties must be assumed by appropriate personnel of the hospital or treatment resource.

SECTION 2. Tennessee Code Annotated, Section 33-6-407, is amended by deleting the language "sheriff or" wherever it appears.

SECTION 3. Tennessee Code Annotated, Section 33-6-901, is amended by deleting the section and substituting instead the following:

(a)

(1) The county mayor shall designate an ambulance service provider in the county as the transportation agent for the county for persons with mental illness or serious emotional disturbance whom a physician or mandatory prescreening authority has evaluated. A transportation agent must be available twenty-four (24) hours per day, provide adequately for the safety and security of the person to be transported, and provide appropriate medical conditions for transporting persons for involuntary hospitalization. The county mayor shall take into account in designating a transportation agent both its funding and the characteristics of the persons who will be transported.

(2) The transportation agent designated by the county mayor pursuant to subdivision (a)(1) in the county in which a person with mental illness or serious emotional disturbance is to be transported under part 4 or 5 of this chapter, shall transport the person except for persons who are transported by:

(A) A person authorized under other provisions of this title; or

(B) One (1) or more friends, neighbors, other mental health professionals familiar with the person, relatives of the person, or a member of the clergy.

(3)

(A) If a physician, psychologist, or designated professional operating under § 33-6-404(3)(B)(iii) determines to a reasonable degree of professional certainty that the person subject to transportation under this part does not require physical restraint or vehicle security and does not pose a reasonable risk of danger to the person's self or others, then the transportation agent may permit a person designated under subdivision (a)(2)(B) to transport the person; provided, that the person

provide proof of current automobile insurance. Before a person is transported under this subdivision (a)(3), the transportation agent shall give the notice required by § 33-6-406(b), along with the name of the person who will actually transport the person subject to admission to a hospital or treatment resource. The person designated to transport under this subdivision (a)(3) must comply with the requirements of § 33-6-406(b)(2) and § 33-6-407(c), and must provide the original certificate completed under § 33-6-404(3)(B)(ii) to the hospital or treatment resource.

(B) When making this determination, the physician, psychologist, or designated professional operating under § 33-6-404(3)(B)(iii) is immune from any civil liability and has an affirmative defense to any criminal liability arising from that protected activity.

(C) When making this determination, if the physician, psychologist, or designated professional operating under § 33-6-404(3)(B)(iii) is an agent of a hospital, healthcare facility, or community mental health center, that hospital, healthcare facility, or community mental health center is immune from any civil liability and has an affirmative defense to any criminal liability arising from this agent's protected activity and from the transportation of the person to and from the facility.

(b) When a transportation agent is required to transport a person to a hospital or treatment resource for screening, evaluation, diagnosis, or hospitalization, the county in which the person is initially transported by the transportation agent is responsible for the remainder of such person's transportation requirements. The initial transporting county

is responsible for the continuing transportation of the person even if the person is assessed, diagnosed, screened, or evaluated in a second county before being admitted to a facility, hospital, or treatment resource in a third county. If the person is transported to a hospital or treatment resource by the transportation agent of a county other than the initial transporting county, the transportation agent actually providing transportation may bill the initial transporting county for transportation costs.

(c) The department shall provide training on mental health crisis management for transportation agents.

(d) It is the policy of this state that people with mental illness who are determined to be a danger to themselves and in need of physical restraint or vehicular security must be transported by the transportation agents designated by the county mayor.

(e) A transportation agent may seek reimbursement for the transportation services from the medical insurance of the person who was transported or, if the person had no insurance, from the department of mental health and substance abuse services.

SECTION 4. Tennessee Code Annotated, Section 33-6-505, is amended by deleting the language "the sheriff or other transportation agent" and substituting instead the language "the transportation agent designated by the county mayor pursuant to § 33-6-901".

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.