

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2877

By: Wallace

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5
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2011, Section 1-110, as last amended by Section 1,
9 Chapter 374, O.S.L. 2016 (43A O.S. Supp. 2020,
10 Section 1-110), which relates to law enforcement
11 responsibility for transporting persons for mental
12 health services; authorizing certain use of
13 telemedicine; providing definitions; amending certain
14 responsibility; authorizing certain agreements;
15 amending 43A O.S. 2011, Section 5-207, as amended by
16 Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp.
17 2020, Section 5-207), which relates to the Local Law
18 Enforcement Mental Health Manpower Act; amending
19 certain transportation responsibility; providing for
20 certain contracting; removing certain transportation
21 determinants; defining term; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-110, as
last amended by Section 1, Chapter 374, O.S.L. 2016 (43A O.S. Supp.
2020, 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

1 treatment, as defined in Section 1-103 of this title, assessed by a
2 licensed mental health professional employed by or under contract
3 with a facility operated by or contracted with the Department of
4 Mental Health and Substance Abuse Services. To serve the mental
5 health needs of persons of their jurisdiction, peace officers shall
6 be responsible for transporting individuals in need of examination,
7 emergency detention or protective custody from the initial point of
8 contact to ~~and from designated sites or facilities for the purpose~~
9 ~~of examination, emergency detention, protective custody and~~
10 ~~inpatient services~~ the nearest facility, as defined in Section 1-103
11 of this title, within a thirty (30) mile radius of the peace
12 officer's operational headquarters. If there is not a facility
13 within a thirty (30) mile radius of the peace officer's operational
14 headquarters, transportation to a facility shall be completed by
15 either the Department of Mental Health and Substance Abuse Services
16 or an entity contracted by the Department for alternative
17 transportation. For purposes of this section, "initial contact" is
18 defined as contact with an individual in need of assessment,
19 emergency detention or protective custody made by a law enforcement
20 officer. Initial contact in this section does not include an
21 individual self-presenting at a facility as defined in Section 1-103
22 of this title.

23 B. A municipal law enforcement agency shall be responsible for
24 transportation as provided in this act for any individual found

1 within such municipality's jurisdiction. The county sheriff shall
2 be responsible for transportation as provided in this act for any
3 individual found outside of a municipality's jurisdiction, but
4 within the county.

5 C. ~~The law enforcement agency transporting an individual to and~~
6 ~~from designated sites or facilities pursuant to the provisions of~~
7 ~~this section shall maintain responsibility for the transportation of~~
8 ~~such individual pending completion of the examination, emergency~~
9 ~~detention, protective custody and inpatient services~~ Once an
10 individual has been presented to the facility, as provided in
11 subsection A of this section, by a transporting law enforcement
12 officer, the transporting law enforcement agency shall be
13 responsible for any subsequent transportation of such individual
14 pending completion of the examination, emergency detention,
15 protective custody or inpatient services within a thirty (30) mile
16 radius of the peace officer's operational headquarters. All
17 transportation over thirty (30) miles must be completed by either
18 the Department of Mental Health and Substance Abuse Services or an
19 entity contracted by the Department for alternative transportation.

20 D. Sheriffs and peace officers shall be entitled to
21 reimbursement from the Department of Mental Health and Substance
22 Abuse Services for transportation services associated with minors or
23 adults requiring examination, emergency detention, protective
24 custody and inpatient services.

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

7 F. Nothing in this section shall prohibit a law enforcement
8 agency or the Department of Mental Health and Substance Abuse
9 Services from entering into a lawful agreement with any other law
10 enforcement agency to fulfill the requirements established by this
11 section or from contracting with a third party to provide the
12 services established by this section provided the third party meets
13 minimum standards as determined by the Department. ~~Standards~~
14 ~~determined by the Department shall not exceed the standards required~~
15 ~~by law enforcement.~~

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

20 SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-207, as
21 amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2020,
22 Section 5-207), is amended to read as follows:

23 Section 5-207. A. Any person who appears to be or states that
24 such person is mentally ill, alcohol-dependent, or drug-dependent to

1 a degree that immediate emergency action is necessary may be taken
2 into protective custody and detained as provided pursuant to the
3 provisions of this section. Nothing in this section shall be
4 construed as being in lieu of prosecution under state or local
5 statutes or ordinances relating to public intoxication offenses.

6 B. 1. Any peace officer who reasonably believes that a person
7 is a person requiring treatment as defined in Section 1-103 of this
8 title shall take the person into protective custody. The officer
9 shall make every reasonable effort to take the person into custody
10 in the least conspicuous manner.

11 2. Upon taking the person into protective custody, the officer
12 may relinquish custody of the person believed to require treatment
13 to a duly qualified reserve officer or deputy employed by the same
14 agency to fulfill the officer's duties as required by this title.

15 C. The officer shall prepare a written statement indicating the
16 basis for the officer's belief that the person is a person requiring
17 treatment and the circumstances under which the officer took the
18 person into protective custody. The officer shall give a copy of
19 the statement to the person or the person's attorney upon the
20 request of either. If the officer does not make the determination
21 to take an individual into protective custody on the basis of the
22 officer's personal observation, the officer shall not be required to
23 prepare a written statement. However, the person stating to be
24 mentally ill, alcohol-dependent, or drug-dependent or the person

1 upon whose statement the officer relies shall sign a written
2 statement indicating the basis for such person's belief that the
3 person is a person requiring treatment. Any false statement given
4 to the officer by the person upon whose statement the officer relies
5 shall be a misdemeanor and subject to the sanctions of Title 21 of
6 the Oklahoma Statutes.

7 D. If the person is medically stable, the officer shall
8 immediately transport the person to an urgent recovery clinic or to
9 the nearest facility ~~designated by the Commissioner of Mental Health~~
10 and ~~Substance Abuse Services as an appropriate facility~~ , as defined
11 in Section 1-103 of this title, for an initial assessment within a
12 thirty (30) mile radius of the peace officer's operational
13 headquarters, or may use telemedicine with a licensed mental health
14 professional employed or under contract with a facility operated by
15 or contracted with the Department of Mental Health and Substance
16 Abuse Services to perform an initial assessment. If, subsequent to
17 an initial assessment, it is determined that emergency detention is
18 warranted, the officer shall transport the person to the nearest
19 facility, ~~designated by the Commissioner as appropriate for such~~
20 ~~detention,~~ that has bed space available if the facility is within
21 thirty (30) miles of the peace officer's operational headquarters
22 and the individual was determined to be a person requiring
23 treatment. The Department of Mental Health and Substance Abuse
24 Services may contract for the use of alternative transportation

1 providers to transport individuals to facilities designated for
2 emergency detention when the nearest facility is more than thirty
3 (30) miles from the peace officer's operational headquarters and the
4 individual was determined to be a person requiring treatment. For
5 purposes of this section, "urgent recovery clinics" means clinics
6 that offer services aimed at the assessment and immediate
7 stabilization of acute symptoms of mental illness, alcohol and other
8 drug abuse, and emotional distress, provided no more than twenty-
9 three (23) hours and fifty-nine (59) minutes of services are
10 provided to a consumer during one episode of care. If it is
11 determined by the facility director or designee that the person is
12 not medically stable, the officer shall transport the person to the
13 nearest hospital or other appropriate treatment facility.

14 E. If the person is medically unstable, the person may be
15 transported to an appropriate medical facility for medical
16 treatment. A treating physician may authorize that the person be
17 detained until the person becomes medically stable. When the person
18 becomes medically stable, if in the opinion of the treating or
19 discharging physician, the patient is still a person requiring
20 treatment as defined in Section 1-103 of this title, the physician
21 shall authorize detention of the patient for transportation as
22 provided in subsection D of this section ~~by an appropriate law~~
23 ~~enforcement agency.~~

24

1 ~~F. If the nearest facility designated by the Commissioner as an~~
2 ~~appropriate facility for an initial assessment or detention is in~~
3 ~~excess of fifty (50) miles from the county seat of the county in~~
4 ~~which the person is located, and whenever, as provided in paragraph~~
5 ~~(b) of Article III of Section 6-201 of this title, there are factors~~
6 ~~based upon clinical determinations made within the state indicating~~
7 ~~that the care and treatment of the person would be facilitated or~~
8 ~~improved thereby, the person may be transported by the officer to a~~
9 ~~facility in another state if the facility:~~

10 ~~1. Is located in a state that has enacted into law and entered~~
11 ~~into the Interstate Compact on Mental Health;~~

12 ~~2. Is designated or accredited by the mental health authorities~~
13 ~~of that state as an appropriate facility for an initial assessment~~
14 ~~or detention of such person;~~

15 ~~3. Is accredited by the Joint Commission;~~

16 ~~4. Is the nearest available facility to the county seat of the~~
17 ~~county in which the person is located; and~~

18 ~~5. Has agreed prior to the person leaving the state to receive~~
19 ~~the person for initial assessment or detention.~~

20 ~~G. The parent, brother or sister who is eighteen (18) years of~~
21 ~~age or older, child who is eighteen (18) years of age or older, or~~
22 ~~guardian of the person, or a person who appears to be or states that~~
23 ~~such person is mentally ill, alcohol-dependent, or drug-dependent to~~
24 ~~a degree that emergency action is necessary may request the~~

1 administrator of a facility designated by the Commissioner as an
2 appropriate facility for an initial assessment to conduct an initial
3 assessment to determine whether the condition of the person is such
4 that emergency detention is warranted and, if emergency detention is
5 warranted, to detain the person as provided in Section 5-206 of this
6 title.

7 SECTION 3. This act shall become effective November 1, 2021.

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