

1 **SENATE FLOOR VERSION**

2 February 18, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 3

By: Bullard of the Senate

and

Humphrey of the House

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

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

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

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

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

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

22 D. Sheriffs and peace officers shall be entitled to
23 reimbursement from the Department of Mental Health and Substance
24 Abuse Services for transportation services associated with minors or

1 adults requiring ~~examination~~ initial assessment, emergency
2 detention, protective custody and inpatient services.

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

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

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

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

4 Section 5-207. A. Any person who appears to be or states that
5 such person is mentally ill, alcohol-dependent, or drug-dependent to
6 a degree that immediate emergency action is necessary may be taken
7 into protective custody and detained as provided pursuant to the
8 provisions of this section. Nothing in this section shall be
9 construed as being in lieu of prosecution under state or local
10 statutes or ordinances relating to public intoxication offenses.

11 B. 1. Any peace officer who reasonably believes that a person
12 is a person requiring treatment as defined in Section 1-103 of this
13 title shall take the person into protective custody. The officer
14 shall make every reasonable effort to take the person into custody
15 in the least conspicuous manner.

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

20 C. The officer shall prepare a written statement indicating the
21 basis for the officer's belief that the person is a person requiring
22 treatment and the circumstances under which the officer took the
23 person into protective custody. The officer shall give a copy of
24 the statement to the person or the person's attorney upon the

1 request of either. If the officer does not make the determination
2 to take an individual into protective custody on the basis of the
3 officer's personal observation, the officer shall not be required to
4 prepare a written statement. However, the person stating to be
5 mentally ill, alcohol-dependent, or drug-dependent or the person
6 upon whose statement the officer relies shall sign a written
7 statement indicating the basis for such person's belief that the
8 person is a person requiring treatment. Any false statement given
9 to the officer by the person upon whose statement the officer relies
10 shall be a misdemeanor and subject to the sanctions of Title 21 of
11 the Oklahoma Statutes.

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

1 ~~appropriate for such detention,~~ that has bed space available if the
2 facility is within thirty (30) miles of the peace officer's
3 operational headquarters and the individual was determined to be a
4 person requiring treatment. The Department of Mental Health and
5 Substance Abuse Services may contract for the use of alternative
6 transportation providers to transport individuals to facilities
7 designated for emergency detention when the nearest facility with
8 available bed space is more than thirty (30) miles from the peace
9 officer's operational headquarters and the individual was determined
10 to be a person requiring treatment. For the purposes of this
11 section, "urgent recovery clinics" means clinics that offer services
12 aimed at the assessment and immediate stabilization of acute
13 symptoms of mental illness, alcohol and other drug abuse and
14 emotional distress, provided no more than twenty-three (23) hours
15 and fifty-nine (59) minutes of services are provided to a consumer
16 during one episode of care. If it is determined by the facility
17 director or designee that the person is not medically stable, the
18 officer shall immediately transport the person to the nearest
19 hospital or other appropriate treatment facility.

20 E. If the person is medically unstable, the person may be
21 transported to an appropriate medical facility for medical
22 treatment. A treating physician may authorize that the person be
23 detained until the person becomes medically stable. When the person
24 becomes medically stable, if in the opinion of the treating or

1 discharging physician, the patient is still a person requiring
2 treatment as defined in Section 1-103 of this title, the physician
3 shall authorize detention of the patient for transportation as
4 provided in subsection D of this section ~~by an appropriate law~~
5 ~~enforcement agency.~~

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

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

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

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

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

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

1 ~~G.~~ The parent, brother or sister who is eighteen (18) years of
2 age or older, child who is eighteen (18) years of age or older, or
3 guardian of the person, or a person who appears to be or states that
4 such person is mentally ill, alcohol-dependent, or drug-dependent to
5 a degree that emergency action is necessary may request the
6 administrator of a facility designated by the Commissioner as an
7 appropriate facility for an initial assessment to conduct an initial
8 assessment to determine whether the condition of the person is such
9 that emergency detention is warranted and, if emergency detention is
10 warranted, to detain the person as provided in Section 5-206 of this
11 title.

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 18, 2021 - DO PASS AS AMENDED
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