

1 ENGROSSED SENATE
2 BILL NO. 286

By: Howard of the Senate

3 and

4 Roe of the House

5
6 An Act relating to mental health; amending 43A O.S.
7 2021, Section 1-110, which relates to transporting
8 persons for mental health services; prohibiting use
9 of mechanical restraints by the Department of Mental
10 Health and Substance Abuse Services or contracted
11 entity except under certain conditions; limiting
duration of mechanical restraint use; requiring
certain documentation; and declaring an emergency.

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

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

15 Section 1-110. A. Sheriffs and peace officers may utilize
16 telemedicine, when such capability is available and is in the
17 possession of the local law enforcement agency, to have a person
18 whom the officer reasonably believes is a person requiring
19 treatment, as defined in Section 1-103 of this title, assessed by a
20 licensed mental health professional employed by or under contract
21 with a facility operated by, certified by or contracted with the
22 Department of Mental Health and Substance Abuse Services. To serve
23 the mental health needs of persons of their jurisdiction, peace
24 officers shall be responsible for transporting individuals in need

1 of initial assessment, emergency detention or protective custody
2 from the initial point of contact to the nearest facility, as
3 defined in Section 1-103 of this title, within a thirty (30) mile
4 radius of the peace officer's operational headquarters. If there is
5 not a facility within a thirty (30) mile radius of the peace
6 officer's operational headquarters, transportation to a facility
7 shall be completed by either the Department of Mental Health and
8 Substance Abuse Services or an entity contracted by the Department
9 for alternative transportation. For purposes of this section,
10 "initial contact" is defined as contact with an individual in need
11 of assessment, emergency detention or protective custody made by a
12 law enforcement officer. Initial contact in this section does not
13 include an individual self-presenting at a facility as defined in
14 Section 1-103 of this title.

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

21 C. Once an individual has been presented to the facility, as
22 provided in subsection A of this section, by a transporting law
23 enforcement officer, the transporting law enforcement agency shall
24 be responsible for any subsequent transportation of such individual

1 pending completion of the initial assessment, emergency detention,
2 protective custody or inpatient services within a thirty (30) mile
3 radius of the peace officer's operational headquarters. All
4 transportation over thirty (30) miles must be completed by either
5 the Department of Mental Health and Substance Abuse Services or an
6 entity contracted by the Department for alternative transportation.

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

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

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

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

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

10 a. the individual being transported physically assaults
11 or attempts to physically assault the person lawfully
12 conducting the transportation of the individual
13 pursuant to the provisions of this section and the
14 person lawfully conducting the transportation believes
15 such restraints are necessary for the safety of
16 himself or herself or the protection of others,

17 b. the individual being transported attempts or causes
18 serious physical injury to self and the person
19 lawfully conducting the transportation believes such
20 restraints are necessary for the safety of the
21 individual being transported, or

22 c. the individual being transported has a propensity
23 toward violence as indicated by past transports,
24 criminal charges, or mental health history and as

1 identified in the transport request form, and the
2 person lawfully conducting the transportation believes
3 such restraints are necessary for the safety of
4 himself or herself, for the safety of the individual
5 being transported, or for the protection of others.

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

13 SECTION 2. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2023.

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9 Presiding Officer of the House
10 of Representatives