

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 ENGROSSED SENATE
5 BILL NO. 1862

By: Haste of the Senate

and

McEntire of the House

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9 An Act relating to mental health; amending 43A O.S.
10 2021, Section 1-110, as last amended by Section 2,
11 Chapter 28, 1st Extraordinary Session, O.S.L. 2023
12 (43A O.S. Supp. 2023, Section 1-110), which relates
13 to transportation of persons for mental health
14 services; transferring certain duty to the Department
15 of Mental Health and Substance Abuse Services under
16 specified circumstances; and providing an effective
17 date.

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

19 SECTION 1. AMENDATORY 43A O.S. 2021, Section 1-110, as
20 last amended by Section 2, Chapter 28, 1st Extraordinary Session,
21 O.S.L. 2023 (43A O.S. Supp. 2023, Section 1-110), is amended to read
22 as follows:

23 Section 1-110. A. As an alternative to transport under
24 subsection B of this section for the sole purpose of initial
25 assessment of a person who the officer reasonably believes is a
26 person requiring treatment, as defined in Section 1-103 of this

1 title, sheriffs and peace officers may request an assessment at the
2 point of initial contact by the Department of Mental Health and
3 Substance Abuse Services. To conduct the assessment, the Department
4 may utilize:

5 1. Telemedicine, when such capability is available through a
6 mobile computing device in the possession of the local law
7 enforcement agency, to have the person assessed by a licensed mental
8 health professional employed by or under contract with a facility
9 operated by, certified by, or contracted with the Department; or

10 2. An in-person assessment by a licensed mental health
11 professional on a mobile crisis response team or who is employed by
12 or under contract with a facility operated by, certified by, or
13 contracted with the Department.

14 B. 1. To serve the mental health needs of persons of their
15 jurisdiction, peace officers shall be responsible for transporting
16 individuals in need of:

17 a. initial assessment, except when the individual has
18 been assessed at the point of initial contact by the
19 Department under subsection A of this section, or

20 b. emergency detention or protective custody under
21 Section 5-207 of this title, unless the officer has
22 already transported the individual to the facility for
23 initial assessment,
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1 from the point of initial contact to the nearest facility, as
2 defined in Section 1-103 of this title, that is appropriate for
3 initial assessment or treatment of the individual within a thirty-
4 mile radius of the peace officer's operational headquarters.

5 2. Transportation to the nearest appropriate facility shall be
6 completed by either the Department of Mental Health and Substance
7 Abuse Services or an entity contracted by the Department for
8 alternative transportation if:

9 a. there is not an appropriate facility within a thirty-
10 mile radius of the peace officer's operational
11 headquarters, or

12 b. the officer has already transported the individual to
13 an appropriate facility for initial assessment.

14 3. For purposes of this section, "initial contact" is defined
15 as contact with an individual in need of assessment, emergency
16 detention, or protective custody made by a law enforcement officer.
17 Initial contact in this section does not include an individual self-
18 presenting at a facility as defined in Section 1-103 of this title.

19 4. When an individual self-presents at a facility as defined in
20 Section 1-103 of this title or at a medical facility and is placed
21 into protective custody under Section 5-207 of this title due to a
22 determination that the individual is a person requiring treatment as
23 defined in Section 1-103 of this title, and if transport to another
24 facility is needed for initial assessment or treatment, the person

1 shall be transported to the nearest appropriate facility ~~as provided~~
2 ~~by this subsection~~ by the Department or an entity contracted by the
3 Department for alternative transportation.

4 5. When an individual self-presents at a facility as defined in
5 Section 1-103 of this title or at a medical facility and is not
6 placed into protective custody under Section 5-207 of this title,
7 but consents to voluntary transport to a facility as defined in
8 Section 1-103 of this title for treatment, transport or the
9 arrangement of transport shall be the responsibility of the facility
10 receiving the individual, unless the individual chooses to arrange
11 his or her own transportation.

12 6. The transportation requirements provided by this subsection,
13 to the extent such requirements are applicable to peace officers,
14 shall be considered fulfilled once the person has been transported
15 to the facility, the officer has made contact with the appropriate
16 staff of the facility, and the staff of the facility have determined
17 that the patient does not present a clear or immediate threat to his
18 or her own safety or to the safety of the staff of the facility.
19 Once custody of the individual has been transferred to the
20 appropriate facility staff, the peace officer shall not be required
21 to remain at the facility with the individual pending initial
22 assessment or treatment.

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

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

5 D. Once an individual has been presented to an appropriate
6 facility as provided in subsection B of this section, the Department
7 of Mental Health and Substance Abuse Services or an entity
8 contracted by the Department shall be responsible for any subsequent
9 transportation of such individual.

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

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

21 G. Nothing in this section shall prohibit a law enforcement
22 agency or the Department of Mental Health and Substance Abuse
23 Services from entering into a lawful agreement with any other law
24 enforcement agency to fulfill the requirements established by this

1 section or from contracting with a third party to provide the
2 services established by this section, provided the third party meets
3 minimum standards as determined by the Department.

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

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

- 13 a. the individual being transported physically assaults
14 or attempts to physically assault the person lawfully
15 conducting the transportation of the individual
16 pursuant to the provisions of this section and the
17 person lawfully conducting the transportation believes
18 such restraints are necessary for the safety of
19 himself or herself or the protection of others,
- 20 b. the individual being transported attempts or causes
21 serious physical injury to self and the person
22 lawfully conducting the transportation believes such
23 restraints are necessary for the safety of the
24 individual being transported, or

1 c. the individual being transported has a propensity
2 toward violence as indicated by past transports,
3 criminal charges, or mental health history and as
4 identified in the transport request form, and the
5 person lawfully conducting the transportation believes
6 such restraints are necessary for the safety of
7 himself or herself, for the safety of the individual
8 being transported, or for the protection of others.

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

16 SECTION 2. This act shall become effective November 1, 2024.

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18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
19 04/11/2024 - DO PASS.
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