

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 59th Legislature (2023)

4   ENGROSSED SENATE  
5   BILL NO. 286

By: Howard of the Senate

and

Roe of the House

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

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

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

20       Section 1-110.   A.   Sheriffs and peace officers may utilize  
21      telemedicine, when such capability is available and is in the  
22      possession of the local law enforcement agency, to have a person  
23      whom the officer reasonably believes is a person requiring  
24      treatment, as defined in Section 1-103 of this title, assessed by a  
25      licensed mental health professional employed by or under contract  
26      with a facility operated by, certified by or contracted with the

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

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

1 C. Once an individual has been presented to the facility, as  
2 provided in subsection A of this section, by a transporting law  
3 enforcement officer, the transporting law enforcement agency shall  
4 be responsible for any subsequent transportation of such individual  
5 pending completion of the initial assessment, emergency detention,  
6 protective custody or inpatient services within a thirty (30) mile  
7 radius of the peace officer's operational headquarters. All  
8 transportation over thirty (30) miles must be completed by either  
9 the Department of Mental Health and Substance Abuse Services or an  
10 entity contracted by the Department for alternative transportation.

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

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

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

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

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

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

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

21 b. the individual being transported attempts or causes  
22 serious physical injury to self and the person  
23 lawfully conducting the transportation believes such  
24

1           restraints are necessary for the safety of the  
2           individual being transported, or

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

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

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

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23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/05/2023 -  
24 DO PASS.