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February 23, 2023

By: Howard of the Senate

and

Roe of the House

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

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

SECTION 1. AMENDATORY 43A O.S. 2021, 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 treatment, as defined in Section 1-103 of this title, assessed by a licensed mental health professional employed by or under contract with a facility operated by, certified by or contracted with the Department of Mental Health and Substance Abuse Services. To serve

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

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

23 C. Once an individual has been presented to the facility, as
24 provided in subsection A of this section, by a transporting law

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

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

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

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

1 services established by this section provided the third party meets
2 minimum standards as determined by the Department.

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

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

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

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
13 February 23, 2023 - DO PASS
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