

An Act

ENROLLED SENATE
BILL NO. 3

By: Bullard, David, Bergstrom
and Stephens of the Senate

and

Humphrey, Wallace, Fugate,
Roe and Luttrell of the
House

An Act relating to transportation for mental health services by law enforcement; amending 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), which relates to law enforcement responsibility for transporting persons for mental health services; authorizing certain use of telemedicine; providing definitions; amending certain responsibility; authorizing certain agreements; amending 43A O.S. 2011, Section 5-207, as amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2020, Section 5-207), which relates to the Local Law Enforcement Mental Health Manpower Act; amending certain transportation responsibility; providing for certain contracting; removing certain transportation determinants; and providing an effective date.

SUBJECT: Mental health transport by law enforcement

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

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

C. The law enforcement agency transporting an individual to and from designated sites or facilities pursuant to the provisions of this section shall maintain responsibility for the transportation of such individual pending completion of the examination, emergency detention, protective custody and inpatient services. Once an individual has been presented to the facility, as provided in subsection A of this section, by a transporting law enforcement officer, the transporting law enforcement agency shall be

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

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

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

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

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

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

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

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

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

C. The officer shall prepare a written statement indicating the basis for the officer's belief that the person is a person requiring treatment and the circumstances under which the officer took the person into protective custody. The officer shall give a copy of the statement to the person or the person's attorney upon the request of either. If the officer does not make the determination to take an individual into protective custody on the basis of the officer's personal observation, the officer shall not be required to prepare a written statement. However, the person stating to be mentally ill, alcohol-dependent, or drug-dependent or the person upon whose statement the officer relies shall sign a written statement indicating the basis for such person's belief that the person is a person requiring treatment. Any false statement given to the officer by the person upon whose statement the officer relies shall be a misdemeanor and subject to the sanctions of Title 21 of the Oklahoma Statutes.

D. If the person is medically stable, the officer shall immediately transport the person to an urgent recovery clinic or to the nearest facility designated by the Commissioner of Mental Health and Substance Abuse Services as an appropriate facility, as defined in Section 1-103 of this title, for an initial assessment within a thirty (30) mile radius of the peace officer's operational

headquarters, or may use telemedicine with a licensed mental health professional employed or under contract with a facility operated by, certified by or contracted with the Department of Mental Health and Substance Abuse Services to perform an initial assessment. If, subsequent to an initial assessment, it is determined that emergency detention is warranted, the officer shall immediately transport the person to the nearest facility, designated by the Commissioner as appropriate for such detention, that has bed space available if the facility is within thirty (30) miles of the peace officer's operational headquarters and the individual was determined to be a person requiring treatment. The Department of Mental Health and Substance Abuse Services may contract for the use of alternative transportation providers to transport individuals to facilities designated for emergency detention when the nearest facility with available bed space is more than thirty (30) miles from the peace officer's operational headquarters and the individual was determined to be a person requiring treatment. For the purposes of this section, "urgent recovery clinics" means clinics that offer services aimed at the assessment and immediate stabilization of acute symptoms of mental illness, alcohol and other drug abuse and emotional distress, provided no more than twenty-three (23) hours and fifty-nine (59) minutes of services are provided to a consumer during one episode of care. If it is determined by the facility director or designee that the person is not medically stable, the officer shall immediately transport the person to the nearest hospital or other appropriate treatment facility.

E. If the person is medically unstable, the person may be transported to an appropriate medical facility for medical treatment. A treating physician may authorize that the person be detained until the person becomes medically stable. When the person becomes medically stable, if in the opinion of the treating or discharging physician, the patient is still a person requiring treatment as defined in Section 1-103 of this title, the physician shall authorize detention of the patient for transportation as provided in subsection D of this section ~~by an appropriate law enforcement agency.~~

F. ~~If the nearest facility designated by the Commissioner as an appropriate facility for an initial assessment or detention is in excess of fifty (50) miles from the county seat of the county in which the person is located, and whenever, as provided in paragraph~~

~~(b) of Article III of Section 6-201 of this title, there are factors based upon clinical determinations made within the state indicating that the care and treatment of the person would be facilitated or improved thereby, the person may be transported by the officer to a facility in another state if the facility:~~

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

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

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

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

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

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

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

Passed the Senate the 1st day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 12th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____