

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 12x

6 By: Thompson (Roger) and Hall
7 of the Senate

8 and

9 Wallace and Martinez of the
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to mental health; creating the Mental
13 Health Transport Revolving Fund; specifying type of
14 fund and source of monies; authorizing expenditure of
15 funds for specified purpose; providing procedure for
16 expenditures; amending 43A O.S. 2021, Section 1-110,
17 as last amended by Section 1 of Enrolled Senate Bill
18 No. 286 of the 1st Session of the 59th Oklahoma
19 Legislature, which relates to law enforcement
20 responsibility for transporting persons for mental
21 health services; broadening alternatives to mandatory
22 transport; limiting conditions under which law
23 enforcement must provide transport; specifying type
24 of facility to which certain persons must be
transported; broadening conditions under which the
Department of Mental Health and Substance Abuse
Services must provide transport; stipulating
transport procedures for individuals who self-present
at certain facilities; specifying required conditions
for certain transport requirements to be fulfilled;
eliminating certain duty of peace officers; amending
43A O.S. 2021, Section 5-207, as amended by Section
3, Chapter 297, O.S.L. 2022 (43A O.S. Supp. 2022,
Section 5-207), which relates to protective custody
and detention; conforming language; removing
duplicative language; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-110.1 of Title 43A, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Mental Health Transport Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department from appropriations or other monies directed to the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department to carry out the provisions of Section 1-110 of Title 43A of the Oklahoma Statutes. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 2. AMENDATORY 43A O.S. 2021, Section 1-110, as last amended by Section 1 of Enrolled Senate Bill No. 286 of the 1st Session of the 59th Oklahoma Legislature, is amended to read as follows:

1 Section 1-110. A. ~~Sheriffs~~ As an alternative to transport
2 under subsection B of this section for the sole purpose of initial
3 assessment of a person who the officer reasonably believes is a
4 person requiring treatment, as defined in Section 1-103 of this
5 title, sheriffs and peace officers may request an assessment at the
6 point of initial contact by the Department of Mental Health and
7 Substance Abuse Services. To conduct the assessment, the Department
8 may utilize telemedicine:

9 1. Telemedicine, when such capability is available and is
10 through a mobile computing device in the possession of the local law
11 enforcement agency, to have a person whom the officer reasonably
12 believes is a person requiring treatment, as defined in Section 1-
13 103 of this title, the person assessed by a licensed mental health
14 professional employed by or under contract with a facility operated
15 by, certified by or contracted with the Department of Mental Health
16 and Substance Abuse Services; or

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

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

- 1 a. initial assessment, except when the individual has
2 been assessed at the point of initial contact by the
3 Department under subsection A of this section, or
4 b. emergency detention or protective custody under
5 Section 5-207 of this title, unless the officer has
6 already transported the individual to the facility for
7 initial assessment,

8 from the ~~initial~~ point of initial contact to the nearest facility,
9 as defined in Section 1-103 of this title, that is appropriate for
10 initial assessment or treatment of the individual within a ~~thirty~~
11 ~~(30) mile~~ thirty-mile radius of the peace officer's operational
12 headquarters.

13 ~~If there is not a facility within a thirty (30) mile radius of~~
14 ~~the peace officer's operational headquarters, transportation~~

15 2. Transportation to a the nearest appropriate facility shall
16 be completed by either the Department of Mental Health and Substance
17 Abuse Services or an entity contracted by the Department for
18 alternative transportation if:

- 19 a. there is not an appropriate facility within a thirty-
20 mile radius of the peace officer's operational
21 headquarters, or
22 b. the officer has already transported the individual to
23 an appropriate facility for initial assessment.
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1 3. For purposes of this section, "initial contact" is defined
2 as contact with an individual in need of assessment, emergency
3 detention or protective custody made by a law enforcement officer.
4 Initial contact in this section does not include an individual self-
5 presenting at a facility as defined in Section 1-103 of this title.

6 4. When an individual self-presents at a facility as defined in
7 Section 1-103 of this title or at a medical facility and is placed
8 into protective custody under Section 5-207 of this title due to a
9 determination that the individual is a person requiring treatment as
10 defined in Section 1-103 of this title, and if transport to another
11 facility is needed for initial assessment or treatment, the person
12 shall be transported to the nearest appropriate facility as provided
13 by this subsection.

14 5. When an individual self-presents at a facility as defined in
15 Section 1-103 of this title or at a medical facility and is not
16 placed into protective custody under Section 5-207 of this title,
17 but consents to voluntary transport to a facility as defined in
18 Section 1-103 of this title for treatment, transport or the
19 arrangement of transport shall be the responsibility of the facility
20 receiving the individual, unless the individual chooses to arrange
21 his or her own transportation.

22 6. The transportation requirements provided by this subsection,
23 to the extent such requirements are applicable to peace officers,
24 shall be considered fulfilled once the person has been transported

1 to the facility, the officer has made contact with the appropriate
2 staff of the facility, and the staff of the facility have determined
3 that the patient does not present a clear or immediate threat to his
4 or her own safety or to the safety of the staff of the facility.
5 Once custody of the individual has been transferred to the
6 appropriate facility staff, the peace officer shall not be required
7 to remain at the facility with the individual pending initial
8 assessment or treatment.

9 ~~B.~~ C. A municipal law enforcement agency shall be responsible
10 for transportation as provided in this ~~act~~ section for any
11 individual found within such municipality's jurisdiction. The
12 county sheriff shall be responsible for transportation as provided
13 in this ~~act~~ section for any individual found outside of a
14 municipality's jurisdiction, but within the county.

15 ~~C.~~ D. Once an individual has been presented to ~~the~~ an
16 appropriate facility, as provided in subsection A B of this section,
17 ~~by a transporting law enforcement officer, the transporting law~~
18 ~~enforcement agency~~ the Department of Mental Health and Substance
19 Abuse Services or an entity contracted by the Department shall be
20 responsible for any subsequent transportation of such individual
21 ~~pending completion of the initial assessment, emergency detention,~~
22 ~~protective custody or inpatient services within a thirty (30) mile~~
23 ~~radius of the peace officer's operational headquarters. All~~
24 ~~transportation over thirty (30) miles must be completed by either~~

1 ~~the Department of Mental Health and Substance Abuse Services or an~~
2 ~~entity contracted by the Department for alternative transportation.~~

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

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

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

21 ~~G.~~ H. A law enforcement agency shall not be liable for the
22 actions of a peace officer commissioned by the agency when such
23 officer is providing services as a third party pursuant to

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1 subsection ~~F~~ G of this section outside his or her primary employment
2 as a peace officer.

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

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

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

20 c. the individual being transported has a propensity
21 toward violence as indicated by past transports,
22 criminal charges, or mental health history and as
23 identified in the transport request form, and the
24 person lawfully conducting the transportation believes

1 such restraints are necessary for the safety of
2 himself or herself, for the safety of the individual
3 being transported, or for the protection of others.

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

11 SECTION 3. AMENDATORY 43A O.S. 2021, Section 5-207, as
12 amended by Section 3, Chapter 297, O.S.L. 2022 (43A O.S. Supp. 2022,
13 Section 5-207), is amended to read as follows:

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

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

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

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

23 D. If the person is medically stable, the officer shall
24 immediately transport the person to an urgent recovery clinic or to

1 the nearest facility, as defined in Section 1-103 of this title, for
2 an initial assessment within a ~~thirty (30) mile~~ thirty-mile radius
3 of the peace officer's operational headquarters, or may ~~use~~
4 ~~telemedicine with a licensed mental health professional employed or~~
5 ~~under contract with a facility operated by, certified by or~~
6 ~~contracted with~~ request an assessment at the point of initial
7 contact by the Department of Mental Health and Substance Abuse
8 Services to perform an initial assessment as provided by subsection
9 A of Section 1-110 of this title. If, subsequent to an initial
10 assessment, it is determined that emergency detention is warranted,
11 ~~the officer shall immediately transport the person~~ shall immediately
12 be transported to the nearest facility that is appropriate for
13 treatment of the individual and has bed space available if ~~the~~
14 ~~facility is within thirty (30) miles of the peace officer's~~
15 ~~operational headquarters and the individual was~~ has been determined
16 to be a person requiring treatment. ~~The Department of Mental Health~~
17 ~~and Substance Abuse Services may contract for the use of alternative~~
18 ~~transportation providers to transport individuals to facilities~~
19 ~~designated for emergency detention when the nearest facility with~~
20 ~~available bed space is more than thirty (30) miles from the peace~~
21 ~~officer's operational headquarters and the individual was determined~~
22 ~~to be a person requiring treatment.~~ Transport shall be provided in
23 accordance with subsection B of Section 1-110 of this title.

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1 E. For the purposes of this section, "urgent recovery clinics"
2 means clinics that offer voluntary services aimed at the assessment
3 and immediate stabilization of acute symptoms of mental illness,
4 alcohol and other drug abuse and emotional distress; provided that,
5 unless the person consents to a longer duration, no more than
6 twenty-three (23) hours and fifty-nine (59) minutes of services are
7 provided to a consumer during one episode of care.

8 F. If it is determined by the facility director or designee
9 that the person is not medically stable, the ~~officer~~ Department
10 shall immediately transport the person to the nearest hospital or
11 other ~~appropriate treatment facility.~~

12 ~~E. If the person is medically unstable, the person may be~~
13 ~~transported to an~~ appropriate medical facility for medical
14 treatment. A treating physician may authorize that the person be
15 detained until the person becomes medically stable. The time limit
16 on the emergency detention period stipulated under Section 5-208 of
17 this title shall be tolled until the person who appears to be a
18 person requiring treatment is medically stabilized. When the person
19 becomes medically stable, if in the opinion of the treating or
20 discharging physician, the patient is still a person requiring
21 treatment as defined in Section 1-103 of this title, the physician
22 shall authorize detention of the patient for transportation as
23 provided in subsection D of this section.

1 ~~F.~~ G. The parent, brother or sister who is eighteen (18) years
2 of age or older, child who is eighteen (18) years of age or older,
3 or guardian of the person, or a person who appears to be or states
4 that such person is mentally ill, alcohol-dependent or drug-
5 dependent to a degree that emergency action is necessary may request
6 the administrator of a facility designated by the Commissioner as an
7 appropriate facility for an initial assessment to conduct an initial
8 assessment to determine whether the condition of the person is such
9 that emergency detention is warranted and, if emergency detention is
10 warranted, to detain the person as provided in Sections 5-206
11 through 5-209 of this title.

12 SECTION 4. This act shall become effective November 1, 2023.

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