

1 ENGROSSED SENATE
2 BILL NO. 12x

By: Thompson (Roger) and Hall
of the Senate

3 and

4 Wallace and Martinez of the
5 House

6
7 An Act relating to mental health; creating the Mental
8 Health Transport Revolving Fund; specifying type of
9 fund and source of monies; authorizing expenditure of
10 funds for specified purpose; providing procedure for
11 expenditures; amending 43A O.S. 2021, Section 1-110,
12 as last amended by Section 1 of Enrolled Senate Bill
13 No. 286 of the 1st Session of the 59th Oklahoma
14 Legislature, which relates to law enforcement
15 responsibility for transporting persons for mental
16 health services; broadening alternatives to mandatory
17 transport; limiting conditions under which law
18 enforcement must provide transport; specifying type
19 of facility to which certain persons must be
20 transported; broadening conditions under which the
21 Department of Mental Health and Substance Abuse
22 Services must provide transport; stipulating
23 transport procedures for individuals who self-present
24 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.

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

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

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

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

21 Section 1-110. A. ~~Sheriffs~~ As an alternative to transport
22 under subsection B of this section for the sole purpose of initial
23 assessment of a person who the officer reasonably believes is a
24 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 telemedicine:

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

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

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

- 20 a. initial assessment, except when the individual has
21 been assessed at the point of initial contact by the
22 Department under subsection A of this section, or
23 b. emergency detention or protective custody under
24 Section 5-207 of this title, unless the officer has

1 already transported the individual to the facility for
2 initial assessment,
3 from the ~~initial~~ point of initial contact to the nearest facility,
4 as defined in Section 1-103 of this title, that is appropriate for
5 initial assessment or treatment of the individual within a thirty
6 ~~(30) mile~~ thirty-mile radius of the peace officer's operational
7 headquarters.

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

10 2. Transportation to a the nearest appropriate facility shall
11 be completed by either the Department of Mental Health and Substance
12 Abuse Services or an entity contracted by the Department for
13 alternative transportation if:

14 a. there is not an appropriate facility within a thirty-
15 mile radius of the peace officer's operational
16 headquarters, or

17 b. the officer has already transported the individual to
18 an appropriate facility for initial assessment.

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

24

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

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

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

1 appropriate facility staff, the peace officer shall not be required
2 to remain at the facility with the individual pending initial
3 assessment or treatment.

4 ~~B.~~ C. A municipal law enforcement agency shall be responsible
5 for transportation as provided in this ~~act~~ section for any
6 individual found within such municipality's jurisdiction. The
7 county sheriff shall be responsible for transportation as provided
8 in this ~~act~~ section for any individual found outside of a
9 municipality's jurisdiction, but within the county.

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

22 ~~D.~~ E. Sheriffs and peace officers shall be entitled to
23 reimbursement from the Department of Mental Health and Substance
24 Abuse Services for transportation services associated with minors or

1 adults requiring initial assessment, emergency detention, protective
2 custody and inpatient services.

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

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

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

21 ~~H.~~ I. 1. For purposes of transportation completed by the
22 Department of Mental Health and Substance Abuse Services or an
23 entity contracted by the Department as required by this section, the
24

1 use of mechanical restraints shall not be applied to an individual
2 being transported unless:

- 3 a. the individual being transported physically assaults
4 or attempts to physically assault the person lawfully
5 conducting the transportation of the individual
6 pursuant to the provisions of this section and the
7 person lawfully conducting the transportation believes
8 such restraints are necessary for the safety of
9 himself or herself or the protection of others,
- 10 b. the individual being transported attempts or causes
11 serious physical injury to self and the person
12 lawfully conducting the transportation believes such
13 restraints are necessary for the safety of the
14 individual being transported, or
- 15 c. the individual being transported has a propensity
16 toward violence as indicated by past transports,
17 criminal charges, or mental health history and as
18 identified in the transport request form, and the
19 person lawfully conducting the transportation believes
20 such restraints are necessary for the safety of
21 himself or herself, for the safety of the individual
22 being transported, or for the protection of others.

23 2. The mechanical restraint shall be continued for no longer
24 than is necessary under the circumstances described in paragraph 1

1 of this subsection. Every use of a mechanical restraint, the
2 reasons, and the length of time, shall be made a part of the
3 clinical record of the consumer under the signature of the
4 individual responsible for the transportation as required by this
5 section.

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

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

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

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

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

17 D. If the person is medically stable, the officer shall
18 immediately transport the person to an urgent recovery clinic or to
19 the nearest facility, as defined in Section 1-103 of this title, for
20 an initial assessment within a ~~thirty (30) mile~~ thirty-mile radius
21 of the peace officer's operational headquarters, or may use
22 ~~telemedicine with a licensed mental health professional employed or~~
23 ~~under contract with a facility operated by, certified by or~~
24 ~~contracted with~~ request an assessment at the point of initial

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

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

1 F. If it is determined by the facility director or designee
2 that the person is not medically stable, the ~~officer~~ Department
3 shall immediately transport the person to the nearest hospital or
4 other ~~appropriate treatment facility.~~

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

17 ~~F.~~ G. The parent, brother or sister who is eighteen (18) years
18 of age or older, child who is eighteen (18) years of age or older,
19 or guardian of the person, or a person who appears to be or states
20 that such person is mentally ill, alcohol-dependent or drug-
21 dependent to a degree that emergency action is necessary may request
22 the administrator of a facility designated by the Commissioner as an
23 appropriate facility for an initial assessment to conduct an initial
24 assessment to determine whether the condition of the person is such

1 that emergency detention is warranted and, if emergency detention is
2 warranted, to detain the person as provided in Sections 5-206
3 through 5-209 of this title.

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

5 Passed the Senate the 24th day of May, 2023.

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Presiding Officer of the Senate

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9 Passed the House of Representatives the ____ day of _____,

10 2023.

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Presiding Officer of the House
of Representatives

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