

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE

5 BILL NO. 12x

By: Thompson (Roger) and Hall  
of the Senate

6 and

7 Wallace and Martinez of the  
8 House

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

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

2 SECTION 1. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 1-110.1 of Title 43A, unless  
4 there is created a duplication in numbering, reads as follows:  
5

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

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

23 Section 1-110. A. ~~Sheriffs~~ As an alternative to transport  
24 under subsection B of this section for the sole purpose of initial

1 assessment of a person who the officer reasonably believes is a  
2 person requiring treatment, as defined in Section 1-103 of this  
3 title, sheriffs and peace officers may request an assessment at the  
4 point of initial contact by the Department of Mental Health and  
5 Substance Abuse Services. To conduct the assessment, the Department  
6 may utilize telemedicine:

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

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

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

22 a. initial assessment, except when the individual has  
23 been assessed at the point of initial contact by the  
24 Department under subsection A of this section, or

1           **b.**    emergency detention or protective custody under  
2                                    Section 5-207 of this title, unless the officer has  
3                                    already transported the individual to the facility for  
4                                    initial assessment,

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

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

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

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

19           **b.**    the officer has already transported the individual to  
20                                    an appropriate facility for initial assessment.

21           **3.**    For purposes of this section, "initial contact" is defined  
22 as contact with an individual in need of assessment, emergency  
23 detention or protective custody made by a law enforcement officer.

1 Initial contact in this section does not include an individual self-  
2 presenting at a facility as defined in Section 1-103 of this title.

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

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

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

1 or her own safety or to the safety of the staff of the facility.  
2 Once custody of the individual has been transferred to the  
3 appropriate facility staff, the peace officer shall not be required  
4 to remain at the facility with the individual pending initial  
5 assessment or treatment.

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

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

24

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

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

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

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

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

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

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

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



1           himself or herself, for the safety of the individual  
2           being transported, or for the protection of others.

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

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

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

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

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

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

21           D. If the person is medically stable, the officer shall  
22 immediately transport the person to an urgent recovery clinic or to  
23 the nearest facility, as defined in Section 1-103 of this title, for  
24 an initial assessment within a ~~thirty (30) mile~~ thirty-mile radius

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

22 E. For the purposes of this section, "urgent recovery clinics"  
23 means clinics that offer voluntary services aimed at the assessment  
24 and immediate stabilization of acute symptoms of mental illness,

1 alcohol and other drug abuse and emotional distress; provided that,  
2 unless the person consents to a longer duration, no more than  
3 twenty-three (23) hours and fifty-nine (59) minutes of services are  
4 provided to a consumer during one episode of care.

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

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

21 ~~F.~~ G. The parent, brother or sister who is eighteen (18) years  
22 of age or older, child who is eighteen (18) years of age or older,  
23 or guardian of the person, or a person who appears to be or states  
24 that such person is mentally ill, alcohol-dependent or drug-

1 dependent to a degree that emergency action is necessary may request  
2 the administrator of a facility designated by the Commissioner as an  
3 appropriate facility for an initial assessment to conduct an initial  
4 assessment to determine whether the condition of the person is such  
5 that emergency detention is warranted and, if emergency detention is  
6 warranted, to detain the person as provided in Sections 5-206  
7 through 5-209 of this title.

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

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10 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
11 AND BUDGET, dated 05/23/2023 - DO PASS, As Amended.

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