

1 **SENATE FLOOR VERSION**

2 April 12, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2864

By: Wallace of the House

and

Bullard of the Senate

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7
8
9 [mental health - fund - expenditures - mental health
10 services - transport - protective custody and
11 detention - codification - effective date]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

17 There is hereby created in the State Treasury a revolving fund
18 for the Department of Mental Health and Substance Abuse Services to
19 be designated the "Mental Health Transport Revolving Fund". The
20 fund shall be a continuing fund, not subject to fiscal year
21 limitations, and shall consist of all monies received by the
22 Department from appropriations or other monies directed to the fund.
23 All monies accruing to the credit of the fund are hereby
24 appropriated and may be budgeted and expended by the Department to

1 carry out the provisions of Section 1-110 of Title 43A of the
2 Oklahoma Statutes. Expenditures from the fund shall be made upon
3 warrants issued by the State Treasurer against claims filed as
4 prescribed by law with the Director of the Office of Management and
5 Enterprise Services for approval and payment.

6 SECTION 2. AMENDATORY 43A O.S. 2021, Section 1-110, is
7 amended to read as follows:

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

16 1. Telemedicine, when such capability is available ~~and is~~
17 through a mobile computing device in the possession of the local law
18 enforcement agency, to have ~~a person whom the officer reasonably~~
19 ~~believes is a person requiring treatment, as defined in Section 1-~~
20 ~~103 of this title,~~ the person assessed by a licensed mental health
21 professional employed by or under contract with a facility operated
22 by, certified by or contracted with the Department ~~of Mental Health~~
23 ~~and Substance Abuse Services;~~ or

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

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

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

11 b. emergency detention or protective custody under
12 Section 5-207 of this title, unless the officer has
13 already transported the individual to the facility for
14 initial assessment,

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

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

22 2. Transportation to a the nearest appropriate facility shall
23 be completed by either the Department of Mental Health and Substance
24

1 Abuse Services or an entity contracted by the Department for
2 alternative transportation if:

3 a. there is not an appropriate facility within a thirty-
4 mile radius of the peace officer's operational
5 headquarters, or

6 b. the officer has already transported the individual to
7 an appropriate facility for initial assessment.

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

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

21 5. When an individual self-presents at a facility as defined in
22 Section 1-103 of this title or at a medical facility and is not
23 placed into protective custody under Section 5-207 of this title,
24 but consents to voluntary transport to a facility as defined in

1 Section 1-103 of this title for treatment, transport or the
2 arrangement of transport shall be the responsibility of the facility
3 receiving the individual, unless the individual chooses to arrange
4 his or her own transportation.

5 6. The transportation requirements provided by this subsection,
6 to the extent such requirements are applicable to peace officers,
7 shall be considered fulfilled once the person has been transported
8 to the facility, the officer has made contact with the appropriate
9 staff of the facility, and the staff of the facility have determined
10 that the patient does not present a clear or immediate threat to his
11 or her own safety or to the safety of the staff of the facility.

12 Once custody of the individual has been transferred to the
13 appropriate facility staff, the peace officer shall not be required
14 to remain at the facility with the individual pending initial
15 assessment or treatment.

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

22 ~~C.~~ D. Once an individual has been presented to ~~the~~ an
23 appropriate facility, as provided in subsection A B of this section,
24 ~~by a transporting law enforcement officer, the transporting law~~

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

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

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

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

1 section or from contracting with a third party to provide the
2 services established by this section, provided the third party meets
3 minimum standards as determined by the Department.

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

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

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

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

24

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.

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS

10 April 12, 2023 - DO PASS AS AMENDED BY CS

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