

1 STATE OF OKLAHOMA

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

3 SENATE BILL 286

By: Howard

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6 AS INTRODUCED

7 An Act relating to mental health; amending 43A O.S.
8 2021, Section 1-110, which relates to transporting
9 persons for mental health services; prohibiting use
10 of mechanical restraints by the Department of Mental
11 Health and Substance Abuse Services or contracted
entity except under certain conditions; limiting
duration of mechanical restraint use; requiring
certain documentation; and declaring an emergency.

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

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

16 Section 1-110. A. Sheriffs and peace officers may utilize
17 telemedicine, when such capability is available and is in the
18 possession of the local law enforcement agency, to have a person
19 whom the officer reasonably believes is a person requiring
20 treatment, as defined in Section 1-103 of this title, assessed by a
21 licensed mental health professional employed by or under contract
22 with a facility operated by, certified by or contracted with the
23 Department of Mental Health and Substance Abuse Services. To serve
24 the mental health needs of persons of their jurisdiction, peace

1 officers shall be responsible for transporting individuals in need
2 of initial assessment, emergency detention or protective custody
3 from the initial point of contact to the nearest facility, as
4 defined in Section 1-103 of this title, within a thirty (30) mile
5 radius of the peace officer's operational headquarters. If there is
6 not a facility within a thirty (30) mile radius of the peace
7 officer's operational headquarters, transportation to a facility
8 shall be completed by either the Department of Mental Health and
9 Substance Abuse Services or an entity contracted by the Department
10 for alternative transportation. For purposes of this section,
11 "initial contact" is defined as contact with an individual in need
12 of assessment, emergency detention or protective custody made by a
13 law enforcement officer. Initial contact in this section does not
14 include an individual self-presenting at a facility as defined in
15 Section 1-103 of this title.

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

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

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

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

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

19 F. Nothing in this section shall prohibit a law enforcement
20 agency or the Department of Mental Health and Substance Abuse
21 Services from entering into a lawful agreement with any other law
22 enforcement agency to fulfill the requirements established by this
23 section or from contracting with a third party to provide the
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1 services established by this section provided the third party meets
2 minimum standards as determined by the Department.

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

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

- 12 a. the individual being transported physically assaults
13 or attempts to physically assault the person lawfully
14 conducting the transportation of the individual
15 pursuant to the provisions of this section and the
16 person lawfully conducting the transportation believes
17 such restraints are necessary for the safety of
18 himself or herself or the protection of others, or
- 19 b. the individual being transported attempts or causes
20 serious physical injury to self and the person
21 lawfully conducting the transportation believes such
22 restraints are necessary for the safety of the
23 individual being transported.

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

8 SECTION 2. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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