

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2877

6 By: Wallace

7 COMMITTEE SUBSTITUTE

8 An Act relating to mental health; amending 43A O.S.
9 2011, Section 1-110, as last amended by Section 1,
10 Chapter 374, O.S.L. 2016 (43A O.S. Supp. 2020,
11 Section 1-110), which relates to law enforcement
12 responsibility for transporting persons for mental
13 health services; authorizing certain use of
14 telemedicine; providing definitions; amending certain
15 responsibility; authorizing certain agreements;
16 amending 43A O.S. 2011, Section 5-207, as amended by
17 Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp.
18 2020, Section 5-207), which relates to the Local Law
19 Enforcement Mental Health Manpower Act; amending
20 certain transportation responsibility; providing for
21 certain contracting; removing certain transportation
22 determinants; defining term; and providing an
23 effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-110, as
last amended by Section 1, Chapter 374, O.S.L. 2016 (43A O.S. Supp.
2020, Section 1-110), is amended to read as follows:

Section 1-110 A. Sheriffs and peace officers may utilize
telemedicine, when such capability is available and is in the
possession of the local law enforcement agency, to have a person

1 whom the officer reasonably believes is a person requiring
2 treatment, as defined in Section 1-103 of this title, assessed by a
3 licensed mental health professional employed by or under contract
4 with a facility operated by, certified by, or contracted with the
5 Department of Mental Health and Substance Abuse Services. To serve
6 the mental health needs of persons of their jurisdiction, peace
7 officers shall be responsible for transporting individuals in need
8 of initial assessment, emergency detention or protective custody
9 from the initial point of contact to and from designated sites or
10 facilities for the purpose of examination, emergency detention,
11 protective custody and inpatient services the nearest in-state
12 facility, as defined in Section 1-103 of this title, within a thirty
13 (30) mile radius of the peace officer's operational headquarters.
14 If there is not a facility within a thirty (30) mile radius of the
15 peace officer's operational headquarters, transportation to a
16 facility shall be completed by either the Department of Mental
17 Health and Substance Abuse Services or an entity contracted by the
18 Department for alternative transportation. For purposes of this
19 section, "initial contact" is defined as contact with an individual
20 in need of assessment, emergency detention or protective custody
21 made by a law enforcement officer. Initial contact in this section
22 does not include an individual self-presenting at a facility as
23 defined in Section 1-103 of this title.

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

7 ~~C. The law enforcement agency transporting an individual to and~~
8 ~~from designated sites or facilities pursuant to the provisions of~~
9 ~~this section shall maintain responsibility for the transportation of~~
10 ~~such individual pending completion of the examination, emergency~~
11 ~~detention, protective custody and inpatient services~~ Once an
12 individual has been presented to the facility, as provided in
13 subsection A of this section, by a transporting law enforcement
14 officer, the transporting law enforcement agency 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. 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. Any transportation provided by a sheriff or deputy sheriff
4 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 ~~examination~~ initial assessment, admission, interfacility
7 transfer, medical treatment or court appearance shall be reimbursed
8 in accordance with the provisions of the State Travel Reimbursement
9 Act.

10 F. Nothing in this section shall prohibit a law enforcement
11 agency or the Department of Mental Health and Substance Abuse
12 Services from entering into a lawful agreement with any other law
13 enforcement agency to fulfill the requirements established by this
14 section or from contracting with a third party to provide the
15 services established by this section provided the third party meets
16 minimum standards as determined by the Department. ~~Standards~~
17 ~~determined by the Department shall not exceed the standards required~~
18 ~~by law enforcement.~~

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

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1 SECTION 2. AMENDATORY 43A O.S. 2011, Section 5-207, as
2 amended by Section 2, Chapter 296, O.S.L. 2012 (43A O.S. Supp. 2020,
3 Section 5-207), is amended to read as follows:

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

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

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

20 C. The officer shall prepare a written statement indicating the
21 basis for the officer's belief that the person is a person requiring
22 treatment and the circumstances under which the officer took the
23 person into protective custody. The officer shall give a copy of
24 the statement to the person or the person's attorney upon the

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

12 D. If the person is medically stable, the officer shall
13 immediately transport the person to an urgent recovery clinic or to
14 the nearest facility ~~designated by the Commissioner of Mental Health~~
15 and Substance Abuse Services as an appropriate facility , as defined
16 in Section 1-103 of this title, for an initial assessment within a
17 thirty (30) mile radius of the peace officer's operational
18 headquarters, or may use telemedicine with a licensed mental health
19 professional employed or under contract with a facility operated by,
20 certified by, or contracted with the Department of Mental Health and
21 Substance Abuse Services to perform an initial assessment. If,
22 subsequent to an initial assessment, it is determined that emergency
23 detention is warranted, the officer shall immediately transport the
24 person to the nearest facility, ~~designated by the Commissioner as~~

1 ~~appropriate for such detention,~~ that has bed space available if the
2 facility is within thirty (30) miles of the peace officer's
3 operational headquarters and the individual was determined to be a
4 person requiring treatment. The Department of Mental Health and
5 Substance Abuse Services may contract for the use of alternative
6 transportation providers to transport individuals to facilities
7 designated for emergency detention when the nearest facility with
8 bed space available is more than thirty (30) miles from the peace
9 officer's operational headquarters and the individual was determined
10 to be a person requiring treatment. For purposes of this section,
11 "urgent recovery clinics" means clinics that offer services aimed at
12 the assessment and immediate stabilization of acute symptoms of
13 mental illness, alcohol and other drug abuse, and emotional
14 distress, provided no more than twenty-three (23) hours and fifty-
15 nine (59) minutes of services are provided to a consumer during one
16 episode of care. If it is determined by the facility director or
17 designee that the person is not medically stable, the officer shall
18 immediately transport the person to the nearest hospital or other
19 appropriate treatment facility.

20 E. If the person is medically unstable, the person may be
21 transported to an appropriate medical facility for medical
22 treatment. A treating physician may authorize that the person be
23 detained until the person becomes medically stable. When the person
24 becomes medically stable, if in the opinion of the treating or

1 discharging physician, the patient is still a person requiring
2 treatment as defined in Section 1-103 of this title, the physician
3 shall authorize detention of the patient for transportation as
4 provided in subsection D of this section ~~by an appropriate law~~
5 ~~enforcement agency.~~

6 F. ~~If the nearest facility designated by the Commissioner as an~~
7 ~~appropriate facility for an initial assessment or detention is in~~
8 ~~excess of fifty (50) miles from the county seat of the county in~~
9 ~~which the person is located, and whenever, as provided in paragraph~~
10 ~~(b) of Article III of Section 6-201 of this title, there are factors~~
11 ~~based upon clinical determinations made within the state indicating~~
12 ~~that the care and treatment of the person would be facilitated or~~
13 ~~improved thereby, the person may be transported by the officer to a~~
14 ~~facility in another state if the facility:~~

15 1. ~~Is located in a state that has enacted into law and entered~~
16 ~~into the Interstate Compact on Mental Health;~~

17 2. ~~Is designated or accredited by the mental health authorities~~
18 ~~of that state as an appropriate facility for an initial assessment~~
19 ~~or detention of such person;~~

20 3. ~~Is accredited by the Joint Commission;~~

21 4. ~~Is the nearest available facility to the county seat of the~~
22 ~~county in which the person is located; and~~

23 5. ~~Has agreed prior to the person leaving the state to receive~~
24 ~~the person for initial assessment or detention.~~

1 ~~G.~~ The parent, brother or sister who is eighteen (18) years of
2 age or older, child who is eighteen (18) years of age or older, or
3 guardian of the person, or a person who appears to be or states that
4 such person is mentally ill, alcohol-dependent, or drug-dependent to
5 a degree that emergency action is necessary may request the
6 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 Section 5-206 of this
11 title.

12 SECTION 3. This act shall become effective November 1, 2021.

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14 58-1-7775 MKS 02/25/21

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