

1 **SENATE FLOOR VERSION**

2 April 7, 2021

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2877

6 By: Wallace and Fugate of the  
7 House

8 and

9 Taylor and **Bullard** of the  
10 Senate

11 [ mental health - law enforcement responsibility for  
12 transporting persons for mental health services -  
13 effective date ]

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

15 SECTION 1. AMENDATORY 43A O.S. 2011, Section 1-110, as  
16 last amended by Section 1, Chapter 374, O.S.L. 2016 (43A O.S. Supp.  
17 2020, Section 1-110), is amended to read as follows:

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

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

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

3 C. ~~The law enforcement agency transporting an individual to and~~  
4 ~~from designated sites or facilities pursuant to the provisions of~~  
5 ~~this section shall maintain responsibility for the transportation of~~  
6 ~~such individual pending completion of the examination, emergency~~  
7 ~~detention, protective custody and inpatient services~~ Once an  
8 individual has been presented to the facility, as provided in  
9 subsection A of this section, by a transporting law enforcement  
10 officer, the transporting law enforcement agency shall be  
11 responsible for any subsequent transportation of such individual  
12 pending completion of the initial assessment, emergency detention,  
13 protective custody or inpatient services within a thirty-mile radius  
14 of the peace officer's operational headquarters. All transportation  
15 over thirty (30) miles must be completed by either the Department of  
16 Mental Health and Substance Abuse Services or an entity contracted  
17 by the Department for alternative transportation.

18 D. Sheriffs and peace officers shall be entitled to  
19 reimbursement from the Department of Mental Health and Substance  
20 Abuse Services for transportation services associated with minors or  
21 adults requiring ~~examination~~ initial assessment, emergency  
22 detention, protective custody and inpatient services.

23 E. Any transportation provided by a sheriff or deputy sheriff  
24 or a peace officer on behalf of any county, city, town or

1 municipality of this state, to or from any facility for the purpose  
2 of ~~examination~~ initial assessment, admission, interfacility  
3 transfer, medical treatment or court appearance shall be reimbursed  
4 in accordance with the provisions of the State Travel Reimbursement  
5 Act.

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

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

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

22 Section 5-207. A. Any person who appears to be or states that  
23 such person is mentally ill, alcohol-dependent, or drug-dependent to  
24 a degree that immediate emergency action is necessary may be taken

1 into protective custody and detained as provided pursuant to the  
2 provisions of this section. Nothing in this section shall be  
3 construed as being in lieu of prosecution under state or local  
4 statutes or ordinances relating to public intoxication offenses.

5 B. 1. Any peace officer who reasonably believes that a person  
6 is a person requiring treatment as defined in Section 1-103 of this  
7 title shall take the person into protective custody. The officer  
8 shall make every reasonable effort to take the person into custody  
9 in the least conspicuous manner.

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

14 C. The officer shall prepare a written statement indicating the  
15 basis for the officer's belief that the person is a person requiring  
16 treatment and the circumstances under which the officer took the  
17 person into protective custody. The officer shall give a copy of  
18 the statement to the person or the person's attorney upon the  
19 request of either. If the officer does not make the determination  
20 to take an individual into protective custody on the basis of the  
21 officer's personal observation, the officer shall not be required to  
22 prepare a written statement. However, the person stating to be  
23 mentally ill, alcohol-dependent, or drug-dependent or the person  
24 upon whose statement the officer relies shall sign a written

1 statement indicating the basis for such person's belief that the  
2 person is a person requiring treatment. Any false statement given  
3 to the officer by the person upon whose statement the officer relies  
4 shall be a misdemeanor and subject to the sanctions of Title 21 of  
5 the Oklahoma Statutes.

6 D. If the person is medically stable, the officer shall  
7 immediately transport the person to an urgent recovery clinic or to  
8 the nearest facility ~~designated by the Commissioner of Mental Health~~  
9 and Substance Abuse Services as an appropriate facility, as defined  
10 in Section 1-103 of this title, for an initial assessment within a  
11 thirty-mile radius of the peace officer's operational headquarters,  
12 or may use telemedicine with a licensed mental health professional  
13 employed or under contract with a facility operated by, certified  
14 by, or contracted with the Department of Mental Health and Substance  
15 Abuse Services to perform an initial assessment. If, subsequent to  
16 an initial assessment, it is determined that emergency detention is  
17 warranted, the officer shall immediately transport the person to the  
18 nearest facility, ~~designated by the Commissioner as appropriate for~~  
19 such detention, that has bed space available if the facility is  
20 within thirty (30) miles of the peace officer's operational  
21 headquarters and the individual was determined to be a person  
22 requiring treatment. The Department of Mental Health and Substance  
23 Abuse Services may contract for the use of alternative  
24 transportation providers to transport individuals to facilities

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

14 E. If the person is medically unstable, the person may be  
15 transported to an appropriate medical facility for medical  
16 treatment. A treating physician may authorize that the person be  
17 detained until the person becomes medically stable. When the person  
18 becomes medically stable, if in the opinion of the treating or  
19 discharging physician, the patient is still a person requiring  
20 treatment as defined in Section 1-103 of this title, the physician  
21 shall authorize detention of the patient for transportation as  
22 provided in subsection D of this section ~~by an appropriate law~~  
23 ~~enforcement agency.~~

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

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

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

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

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

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

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



1 administrator of a facility designated by the Commissioner as an  
2 appropriate facility for an initial assessment to conduct an initial  
3 assessment to determine whether the condition of the person is such  
4 that emergency detention is warranted and, if emergency detention is  
5 warranted, to detain the person as provided in Section 5-206 of this  
6 title.

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
9 April 7, 2021 - DO PASS AS AMENDED

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