

1 AN ACT

2 RELATING TO BEHAVIORAL HEALTH; ALLOWING EMERGENCY MEDICAL
3 TECHNICIANS OR EMERGENCY RESPONDERS TO TRANSPORT A PERSON FOR
4 EMERGENCY MENTAL HEALTH EVALUATION AND CARE IN THE ABSENCE OF
5 A COURT ORDER IF THE PERSON PROVIDES CONSENT OR AT THE
6 REQUEST OF A PEACE OFFICER UNDER LIMITED CIRCUMSTANCES.

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. Section 43-1-10 NMSA 1978 (being Laws 1977,
10 Chapter 279, Section 9, as amended) is amended to read:

11 "43-1-10. EMERGENCY MENTAL HEALTH EVALUATION AND
12 CARE.--

13 A. A peace officer may detain and transport a
14 person for emergency mental health evaluation and care in the
15 absence of a legally valid order from the court only if:

16 (1) the person is otherwise subject to
17 lawful arrest;

18 (2) the peace officer has reasonable grounds
19 to believe the person has just attempted suicide;

20 (3) the peace officer, based upon the peace
21 officer's own observation and investigation, has reasonable
22 grounds to believe that the person, as a result of a mental
23 disorder, presents a likelihood of serious harm to himself or
24 herself or to others and that immediate detention is
25 necessary to prevent such harm. Immediately upon arrival at

1 the evaluation facility, the peace officer shall be
2 interviewed by the admitting physician or the admitting
3 physician's designee; or

4 (4) a physician, a psychologist or a
5 qualified mental health professional licensed for independent
6 practice who is affiliated with a community mental health
7 center or core service agency has certified that the person,
8 as a result of a mental disorder, presents a likelihood of
9 serious harm to himself or herself or to others and that
10 immediate detention is necessary to prevent such harm. Such
11 certification shall constitute authority to transport the
12 person.

13 B. An emergency medical technician or emergency
14 medical responder may transport a person for emergency mental
15 health evaluation and care in the absence of a legally valid
16 order from the court only:

17 (1) if the person consents; or

18 (2) at the request of a peace officer for
19 any reason provided for in this section.

20 C. An emergency evaluation under this section
21 shall be accomplished upon the request of a peace officer or
22 jail or detention facility administrator or that person's
23 designee or upon the certification of a physician, a
24 psychologist or a qualified mental health professional
25 licensed for independent practice who is affiliated with a

1 community mental health center or core service agency. A
2 court order is not required under this section. If an
3 application is made to a court, the court's power to act in
4 furtherance of an emergency admission shall be limited to
5 ordering that:

6 (1) the client be seen by a certified
7 psychologist or psychiatrist prior to transport to an
8 evaluation facility; and

9 (2) a peace officer transport the person to
10 an evaluation facility.

11 D. An evaluation facility may accept for an
12 emergency-based admission any person when a physician or
13 certified psychologist certifies that such person, as a
14 result of a mental disorder, presents a likelihood of serious
15 harm to himself or herself or to others and that immediate
16 detention is necessary to prevent such harm. Such
17 certification shall constitute authority to transport the
18 person.

19 E. A person detained under this section shall,
20 whenever possible, be taken immediately to an evaluation
21 facility. Detention facilities shall be used as temporary
22 shelter for such persons only in cases of extreme emergency
23 for protective custody, and no person taken into custody
24 under the provisions of the code shall remain in a detention
25 facility longer than necessary and in no case longer than

1 twenty-four hours. If use of a detention facility is
2 necessary, the proposed client:

3 (1) shall not be held in a cell with
4 prisoners;

5 (2) shall not be identified on records used
6 to record custody of prisoners;

7 (3) shall be provided adequate protection
8 from possible suicide attempts; and

9 (4) shall be treated with the respect and
10 dignity due every citizen who is neither accused nor
11 convicted of a crime.

12 F. The admitting physician or certified
13 psychologist shall evaluate whether reasonable grounds exist
14 to detain the proposed client for evaluation and treatment,
15 and, if reasonable grounds are found, the proposed client
16 shall be detained. If the admitting physician or certified
17 psychologist determines that reasonable grounds do not exist
18 to detain the proposed client for evaluation and treatment,
19 the proposed client shall not be detained.

20 G. Upon arrival at an evaluation facility, the
21 proposed client shall be informed orally and in writing by
22 the evaluation facility of the purpose and possible
23 consequences of the proceedings, the right to a hearing
24 within seven days, the right to counsel and the right to
25 communicate with an attorney and a mental health professional

1 of the proposed client's own choosing and shall have the
2 right to receive necessary and appropriate treatment.

3 H. When an individual is transported pursuant to
4 this section:

5 (1) a peace officer who transports a
6 proposed client to an evaluation facility shall be reimbursed
7 by the referring county;

8 (2) an emergency medical technician or
9 emergency medical responder who transports a person pursuant
10 to this section shall be reimbursed by the agency requesting
11 the transport; and

12 (3) the individual transported shall not be
13 personally responsible for out-of-pocket costs of
14 transportation." _____

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