

SENATE BILL 285

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

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

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

SECTION 1. Section 43-1-10 NMSA 1978 (being Laws 1977,

.219455.1AIC March 18, 2021 (9:16pm)

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Chapter 279, Section 9, as amended) is amended to read:

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

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

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

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

(3) the peace officer, based upon the peace officer's own observation and investigation, has reasonable grounds to believe that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Immediately upon arrival at the evaluation facility, the peace officer shall be interviewed by the admitting physician or the admitting physician's designee; or

(4) a physician, a psychologist or a qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency has certified that the person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is

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necessary to prevent such harm. Such certification shall constitute authority to transport the person.

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

(1) if the person consents; or

(2) at the request of a peace officer for any reason provided for in HJC→Subsection A of←HJC this section.

~~[B-]~~ C. An emergency evaluation under this section shall be accomplished upon the request of a peace officer or jail or detention facility administrator or that person's designee or upon the certification of a physician, a psychologist or a qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency. A court order is not required under this section. If an application is made to a court, the court's power to act in furtherance of an emergency admission shall be limited to ordering that:

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

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

~~[G-]~~ D. An evaluation facility may accept for an

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emergency-based admission any person when a physician or certified psychologist certifies that such person, as a result of a mental disorder, presents a likelihood of serious harm to himself or herself or to others and that immediate detention is necessary to prevent such harm. Such certification shall constitute authority to transport the person.

~~[D-]~~ E. A person detained under this section shall, whenever possible, be taken immediately to an evaluation facility. Detention facilities shall be used as temporary shelter for such persons only in cases of extreme emergency for protective custody, and no person taken into custody under the provisions of the code shall remain in a detention facility longer than necessary and in no case longer than twenty-four hours. If use of a detention facility is necessary, the proposed client:

- (1) shall not be held in a cell with prisoners;
- (2) shall not be identified on records used to record custody of prisoners;
- (3) shall be provided adequate protection from possible suicide attempts; and
- (4) shall be treated with the respect and dignity due every citizen who is neither accused nor convicted of a crime.

~~[E-]~~ F. The admitting physician or certified

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psychologist shall evaluate whether reasonable grounds exist to detain the proposed client for evaluation and treatment, and, if reasonable grounds are found, the proposed client shall be detained. If the admitting physician or certified psychologist determines that reasonable grounds do not exist to detain the proposed client for evaluation and treatment, the proposed client shall not be detained.

[F-] G. Upon arrival at an evaluation facility, the proposed client shall be informed orally and in writing by the evaluation facility of the purpose and possible consequences of the proceedings, the right to a hearing within seven days, the right to counsel and the right to communicate with an attorney and a mental health professional of the proposed client's own choosing and shall have the right to receive necessary and appropriate treatment.

HJC→~~[G.] H. A peace officer who transports a proposed client to an evaluation facility under the provisions of this section shall not require a court order to be reimbursed by the referring county.~~"←HJC

HJC→H. When an individual is transported pursuant to this section:

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

(2) an emergency medical technician or

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emergency medical responder who transports a person pursuant to
this section shall be reimbursed by the agency requesting the
transport; and

(3) the individual transported shall not be
personally responsible for out-of-pocket costs of
transportation."←HJC

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