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SENATE BILL 147

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO BEHAVIORAL HEALTH CARE; AMENDING THE MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES CODE TO EXTEND EMERGENCY
DETENTION FROM TWENTY-FOUR TO SEVENTY-TWO HOURS.

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

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

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

10 (4) a licensed physician or a certified
11 psychologist has certified that the person, as a result of a
12 mental disorder, presents a likelihood of serious harm to
13 himself or herself or others and that immediate detention is
14 necessary to prevent such harm. Such certification shall
15 constitute authority to transport the person.

16 B. An emergency evaluation under this section shall
17 be accomplished upon the request of a peace officer or jail or
18 detention facility administrator or ~~[his]~~ that person's
19 designee or upon the certification of a licensed physician or
20 certified psychologist as described in Subsection C of this
21 section. A court order is not required under this section. If
22 an application is made to a court, the court's power to act in
23 furtherance of an emergency admission shall be limited to
24 ordering that:

25 (1) the client be seen by a certified

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1 psychologist or psychiatrist prior to transport to an
2 evaluation facility; and

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

5 C. An evaluation facility may accept a person for
6 an emergency-based admission [~~any person~~] when a licensed
7 physician or certified psychologist certifies that [~~such~~] the
8 person, as a result of a mental disorder, presents a likelihood
9 of 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 D. [~~Any~~] A person detained under this section
14 shall, whenever possible, be taken immediately to an evaluation
15 facility. Detention facilities shall be used as temporary
16 shelter for such persons only in cases of extreme emergency for
17 protective custody, and no person taken into custody under the
18 provisions of the code shall remain in a detention facility
19 longer than necessary and in no case longer than [~~twenty-four~~]
20 seventy-two hours. If use of a detention facility is
21 necessary, the proposed client:

22 (1) shall not be held in a cell with
23 prisoners;

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

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1 (3) shall be provided adequate protection from
2 possible suicide attempts; and

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

6 E. The admitting physician or certified
7 psychologist shall evaluate whether reasonable grounds exist to
8 detain the proposed client for evaluation and treatment, and,
9 if [~~such~~] reasonable grounds are found, the proposed client
10 shall be detained. If the admitting physician or certified
11 psychologist determines that reasonable grounds do not exist to
12 detain the proposed client for evaluation and treatment, the
13 proposed client shall not be detained.

14 F. Upon arrival at an evaluation facility, the
15 proposed client shall be informed orally and in writing by the
16 evaluation facility of the purpose and possible consequences of
17 the proceedings, the allegations in the petition, [~~his~~] the
18 right to a hearing within seven days, [~~his~~] the right to
19 counsel and [~~his~~] the right to communicate with an attorney and
20 an independent mental health professional of [~~his~~] the proposed
21 client's own choosing and shall have the right to receive
22 necessary and appropriate treatment.

23 G. A peace officer who transports [~~any~~] a proposed
24 client to an evaluation facility under the provisions of this
25 section shall not require a court order to be reimbursed by the

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