

April 9, 2021

SENATE EXECUTIVE MESSAGE NO. 30

The Honorable Mimi Stewart, President Pro Tempore
and Members of the New Mexico State Senate
State Capitol Building
Santa Fe, New Mexico 87501

Dear President Pro Tempore Stewart and Members of the Senate:

I have decided to veto Senate Bill 285, as amended (“SB 285”), which would have limited the authority of emergency medical technicians (“EMTs”) and responders to transport individuals for emergency mental health evaluations and care in the absence of a court order. Specifically, SB 285 would restrict EMTs and responders to transporting an individual in need of an emergency mental health evaluation “only” when the individual consents or “at the request of a peace officer” for certain specified reasons. It appears SB 285 is a well-intended effort to de-escalate mental health crises by authorizing emergency medical personnel—as opposed to peace officers—to transport individuals in need of an emergency mental health evaluation. I wholeheartedly agree with this goal. However, SB 285’s use of the word “only” actually limits EMTs’ already existing authority ability to transport individuals for emergency mental health evaluations.

EMTs currently have clearly delineated forced transport criteria. Specifically, they may transport an individual to an appropriate health care facility without consent “under medical direction, when they make a good faith judgment that the person is incapable of making an informed decision about his [or her] own safety or need for medical attention and is reasonably likely to suffer disability or death without the medical intervention available at such a facility.” NMSA 1978, § 24-10B-9.1 (2003). In making this good faith determination, EMTs have the ability to consult with on-call physicians. In contrast, SB 285 would prohibit EMTs from transporting uncooperative individuals in need of an emergency mental health evaluation without a court order unless a peace officer requests such transport.

I do not see any way to reconcile SB 285’s requirement that EMTs “only” transport uncooperative individuals for emergency mental health evaluations pursuant to a peace officer’s request with Section 24-10B-9.1’s broad grant of authority to transport based on a good faith judgment under

medical direction. Thus, SB 285 would eliminate EMTs' ability to independently assess mental health crises from a medical perspective to determine the need for forced transport for an emergency mental health evaluation. *See* NMSA 1978, § 12-2A-10(A) (1997) (providing that a later-enacted statute generally governs in the event of an irreconcilable conflict with an earlier-enacted statute). And even if the two provisions of law could somehow be reconciled to leave EMTs' independent force transport authority intact, this would have to be resolved by the courts. In the meantime, EMTs would be left to guess whether they still had the legal authority to transport uncooperative individuals for evaluations without a peace officer's request.

Given SB 285's irreconcilable conflict with Section 24-10B-9.1, peace officers would effectively be required to respond to every call involving a mental health crisis in order to grant EMTs the authority to transport uncooperative individuals in need of an emergency mental health evaluation without a court order. This appears to be contrary to the intent behind SB 285, which is to de-escalate these fragile situations by reducing the role of peace officers in responding to a mental health crises. Rather than legislatively hamstringing the ability of medical professionals to independently analyze difficult and dynamic mental health crises, law enforcement agencies and emergency medical services should simply continue to utilize EMTs to transport uncooperative individuals in need of an emergency mental health evaluation pursuant to Section 24-10B-9.1.

For these reasons, and pursuant to my authority under Article IV, Section 22 of the New Mexico Constitution, I have vetoed SENATE BILL 285, as amended, enacted by the Fifty-Fifth Legislature, First Session.

Respectfully yours,

Michelle Lujan Grisham
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: _____
Date: _____

By _____
Secretary of State of New Mexico

Time: _____
Date: _____

By _____
Chief Clerk of the Senate