

1 SENATE BILL 285

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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10 AN ACT

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

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

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

20 "43-1-10. EMERGENCY MENTAL HEALTH EVALUATION AND
21 CARE.--

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

25 (1) the person is otherwise subject to lawful

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1 arrest;

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

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

13 (4) a physician, a psychologist or a qualified
14 mental health professional licensed for independent practice
15 who is affiliated with a community mental health center or core
16 service agency has certified that the person, as a result of a
17 mental disorder, presents a likelihood of serious harm to
18 himself or herself or to others and that immediate detention is
19 necessary to prevent such harm. Such certification shall
20 constitute authority to transport the person.

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

25 (1) if the person consents; or

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

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

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

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

18 ~~[C.]~~ D. An evaluation facility may accept for an
19 emergency-based admission any person when a physician or
20 certified psychologist certifies that such person, as a result
21 of a mental disorder, presents a likelihood of serious harm to
22 himself or herself or to others and that immediate detention is
23 necessary to prevent such harm. Such certification shall
24 constitute authority to transport the person.

25 ~~[D.]~~ E. A person detained under this section shall,

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1 whenever possible, be taken immediately to an evaluation
2 facility. Detention facilities shall be used as temporary
3 shelter for such persons only in cases of extreme emergency for
4 protective custody, and no person taken into custody under the
5 provisions of the code shall remain in a detention facility
6 longer than necessary and in no case longer than twenty-four
7 hours. If use of a detention facility is necessary, the
8 proposed client:

9 (1) shall not be held in a cell with
10 prisoners;

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

13 (3) shall be provided adequate protection from
14 possible suicide attempts; and

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

18 [~~E.~~] F. The admitting physician or certified
19 psychologist shall evaluate whether reasonable grounds exist to
20 detain the proposed client for evaluation and treatment, and,
21 if reasonable grounds are found, the proposed client shall be
22 detained. If the admitting physician or certified psychologist
23 determines that reasonable grounds do not exist to detain the
24 proposed client for evaluation and treatment, the proposed
25 client shall not be detained.

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[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.

[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."