

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 128

3 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

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10 AN ACT

11 RELATING TO MENTAL HEALTH CARE; ENACTING THE SUICIDE
12 PREVENTION, RESPONSE AND TREATMENT ACT; PRESCRIBING GUIDELINES
13 FOR TREATMENT OF AT-RISK OR SUICIDAL PATIENTS AT OUTPATIENT
14 TREATMENT FACILITIES AND INPATIENT BEHAVIORAL HEALTH CARE
15 FACILITIES; PROVIDING INSTRUCTIONS FOR TELEBEHAVIORAL HEALTH
16 PROVIDERS; PROVIDING GUIDELINES FOR SUICIDE RISK ASSESSMENTS;
17 PROVIDING SUICIDE PREVENTION COUNSELOR SERVICES IN EMERGENCY
18 DEPARTMENTS; REQUIRING SUICIDE PREVENTION TRAINING; CREATING A
19 SUICIDE PREVENTION RESPONSE COORDINATOR; PROVIDING PUBLIC
20 SAFETY ANSWERING POINT PROCEDURES; PROVIDING FOR ADMINISTRATION
21 BY THE INTERAGENCY BEHAVIORAL HEALTH PURCHASING COLLABORATIVE;
22 PROVIDING FOR PENALTIES; CREATING A FUND; MAKING AN
23 APPROPRIATION.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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1 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
2 cited as the "Suicide Prevention, Response and Treatment Act".

3 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
4 Suicide Prevention, Response and Treatment Act:

5 A. "at-risk" means a person who is currently
6 experiencing an acute mental health crisis, is experiencing or
7 expressing thoughts of wanting to die by suicide, is
8 experiencing or expressing behaviors or tendencies related to
9 dying by suicide or is assessed or observed as undertaking or
10 contemplating actions of dying by suicide;

11 B. "care transition" means the transfer or
12 transition of an at-risk or suicidal patient from one health
13 care provider or behavioral health care provider to another;

14 C. "collaborative" means the interagency behavioral
15 health purchasing collaborative;

16 D. "evaluation facility" means a facility capable
17 of performing a mental status examination adequate to determine
18 the need for involuntary treatment for an at-risk or suicidal
19 person;

20 E. "inpatient behavioral health care facility"
21 means a residential facility, including a hospital, a
22 psychiatric unit of a hospital, a special psychiatric hospital
23 or another residential health care facility licensed by the
24 department of health;

25 F. "outpatient treatment facility" means a

1 nonresidential behavioral health care facility licensed by the
2 department of health;

3 G. "public safety answering point" means a twenty-
4 four-hour local communications facility that receives 911
5 service communications and directly dispatches emergency
6 response services or that relays communications to the
7 appropriate public or private emergency responders, including
8 suicide prevention response coordinators;

9 H. "rapid referral" means the taking of appropriate
10 steps:

11 (1) by an inpatient behavioral health care
12 facility, prior to an at-risk person's discharge from inpatient
13 care, to facilitate the at-risk person's immediate access to an
14 appropriate outpatient treatment facility appointment as soon
15 as is practicable or within forty-eight hours after discharge;

16 or

17 (2) by an outpatient treatment facility or
18 telebehavioral health provider to facilitate an at-risk or
19 suicidal person's immediate access to an appointment with
20 another telebehavioral health provider, outpatient treatment
21 facility or inpatient behavioral health care facility as soon
22 as is practicable or within forty-eight hours after referral;

23 I. "suicide prevention counselor" means a licensed
24 psychiatrist, licensed clinical psychologist, other licensed
25 mental health professional or qualified crisis counselor who

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1 has specialized certification or has completed specialized
2 training in the standardized assessment of suicide risk and
3 suicide prevention counseling to at-risk persons;

4 J. "supportive contacts" means communications
5 through postcards, letters, email messages, text messages,
6 phone calls or the undertaking of home visits either by an at-
7 risk person's licensed mental health care provider or suicide
8 prevention counselor or by an outside organization coordinating
9 with an at-risk person;

10 K. "telebehavioral health" means the use of
11 electronic information imaging and communication technologies,
12 including interactive audio, video and data communications, by
13 a suicide prevention counselor to provide suicide prevention
14 counseling and suicide risk assessments; and

15 L. "warm hand-off" means a care transition that:

16 (1) connects an at-risk person with a new
17 mental health care provider before the at-risk person's first
18 appointment with the new health care provider; or

19 (2) connects a person who is contemplating
20 suicide to an evaluation facility to determine whether
21 involuntary commitment is warranted pursuant to involuntary
22 commitment laws of this state.

23 SECTION 3. [NEW MATERIAL] INPATIENT BEHAVIORAL HEALTH
24 CARE FACILITIES AND OUTPATIENT TREATMENT FACILITIES--SUICIDE
25 PREVENTION COUNSELORS--POLICIES--DUTIES.--

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1 A. A suicide prevention counselor employed by an
2 inpatient behavioral health care facility shall:

3 (1) assess each person's level of suicide risk
4 pursuant to Section 5 of the Suicide Prevention, Response and
5 Treatment Act;

6 (2) provide immediate suicide prevention
7 counseling to each person deemed to be at risk of suicide; and

8 (3) provide ongoing suicide prevention
9 counseling to each at-risk person, on a daily basis or on a
10 frequency proportionate to a person's suicide risk assessment,
11 for the duration of inpatient care or until that person is
12 deemed to be no longer at risk of suicide.

13 B. A suicide prevention counselor employed by an
14 outpatient treatment facility shall:

15 (1) assess a person's level of suicide risk
16 pursuant to Section 5 of the Suicide Prevention, Response and
17 Treatment Act;

18 (2) provide immediate suicide prevention
19 counseling to each person deemed to be at risk of suicide;

20 (3) provide a warm hand-off of a person deemed
21 to be at-risk of suicide to an evaluation facility; and

22 (4) provide suicide prevention counseling to
23 each at-risk person for whom involuntary commitment to an
24 inpatient behavioral health care facility is not warranted in a
25 manner and frequency that is proportionate to the at-risk

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1 person's suicide risk assessment.

2 C. Inpatient behavioral health care facilities and
3 outpatient treatment facilities shall ensure that suicide
4 prevention counselors are available, either at the facility or
5 through telebehavioral health access.

6 D. Inpatient behavioral health care facilities and
7 outpatient treatment facilities shall establish policies to
8 provide for the care transition of at-risk persons using warm
9 hand-offs, rapid referrals and supportive contacts.

10 E. An inpatient behavioral health care facility or
11 outpatient treatment facility may enter into contracts or
12 memoranda of understanding with outside organizations,
13 including telebehavioral health providers or other inpatient
14 behavioral health care facilities and outpatient treatment
15 facilities, to facilitate the care transition of at-risk
16 persons.

17 F. Staff of inpatient behavioral health care
18 facilities and outpatient treatment facilities shall not:

19 (1) discharge an at-risk person who lacks a
20 fixed residence or that is otherwise homeless; or

21 (2) arrange an at-risk person's arrest or
22 incarceration, unless the at-risk person poses an otherwise
23 uncontrollable risk to others or if failure to do so would
24 violate a law of this state.

25 SECTION 4. [NEW MATERIAL] TELEBEHAVIORAL HEALTH

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1 PROVIDERS.--A telebehavioral health provider acting pursuant to
2 the Suicide Prevention, Response and Treatment Act shall:

3 A. assess a person's level of suicide risk pursuant
4 to Section 5 of the Suicide Prevention, Response and Treatment
5 Act;

6 B. provide immediate suicide prevention counseling
7 to at-risk or suicidal persons;

8 C. provide a warm hand-off of an at-risk person to
9 an evaluation facility; and

10 D. provide suicide prevention counseling to each
11 at-risk person for whom involuntary commitment to an inpatient
12 behavioral health care facility is not warranted in a manner
13 and frequency that is proportionate to the at-risk person's
14 suicide risk assessment.

15 SECTION 5. [NEW MATERIAL] SUICIDE RISK ASSESSMENT.--

16 A. A suicide risk assessment shall be conducted:

17 (1) upon a person's admission to an emergency
18 room or inpatient behavioral health care facility, upon a
19 person's first appointment with an outpatient treatment
20 facility, during a telebehavioral health provider encounter and
21 during a physical health care setting appointment;

22 (2) when there is reason for attending staff
23 of a facility or provider listed under Paragraph (1) of this
24 subsection to believe that a person is developing new suicidal
25 ideation, behaviors or tendencies;

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1 (3) within three days prior to the discharge
2 of an at-risk person from an inpatient behavioral health care
3 facility;

4 (4) when a suicide prevention counselor or a
5 telebehavioral health encounter is requested to assess an at-
6 risk person in a hospital emergency department pursuant to
7 Section 6 of the Suicide Prevention, Response and Treatment
8 Act; and

9 (5) when a suicide prevention counselor is
10 dispatched or a telebehavioral health encounter is requested
11 pursuant to Section 9 of the Suicide Prevention, Response and
12 Treatment Act to assess a person at an emergency scene.

13 B. A suicide risk assessment shall be performed
14 using standardized tools, methodologies or frameworks and:

15 (1) data obtained from the at-risk person by
16 the attending physician, nurse practitioner or nurse, assigned
17 suicide prevention counselors and other staff having direct
18 contact with the at-risk person; and

19 (2) available information regarding the past
20 and present suicidal ideation and behavior, obtained with the
21 person's consent from the person's licensed mental health care
22 providers, caseworkers, caregivers, family members, guardians
23 and other persons.

24 C. The suicide risk assessment shall include an
25 evaluation of the person's current housing status, existing

1 support systems and close relationships and shall indicate
 2 whether the person has been subjected to abuse, neglect,
 3 exploitation or undue influence by family members, caregivers
 4 or other persons, to the extent practicable.

5 D. Counseling and treatment provided to an at-risk
 6 person shall be supplemental to treatment that the person
 7 receives to treat other mental health conditions, if any.

8 E. The results of a suicide risk assessment and
 9 notes regarding the progress of suicide prevention counseling
 10 shall be documented in the person's health record.

11 SECTION 6. [NEW MATERIAL] TREATMENT OF AT-RISK PERSONS IN
 12 EMERGENCY OR URGENT CARE.--

13 A. A physician, nurse practitioner, nurse or other
 14 licensed or certified health care provider, or other
 15 administrative, support or facility staff who have observed
 16 concerns, treating a person in a hospital's emergency
 17 department who has reason to believe that a person is at risk
 18 shall ensure that the person is evaluated by a suicide
 19 prevention counselor prior to that person's discharge from the
 20 emergency department.

21 B. A suicide prevention counselor pursuant to this
 22 section shall:

- 23 (1) perform a suicide risk assessment;
- 24 (2) counsel the person prior to the person's
- 25 discharge from the emergency department or urgent care

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1 facility; and

2 (3) direct at-risk persons to appropriate
3 treatment facilities, programs and services through the use of
4 warm hand-offs and supportive contacts, as deemed by the
5 suicide prevention counselor to be appropriate based on the
6 results of that person's suicide risk assessment.

7 C. If a suicide prevention counselor concludes that
8 inpatient treatment is necessary to address an at-risk person,
9 the suicide prevention counselor shall, with the assistance of
10 an attending emergency room physician, nurse practitioner,
11 nurse or other licensed or certified health care provider,
12 facilitate the person's voluntary admission to an inpatient
13 behavioral health care facility and a warm hand-off to an
14 evaluation facility.

15 D. If an at-risk person refuses to be admitted to
16 an inpatient behavioral health care facility, the attending
17 emergency room physician, nurse practitioner, nurse or other
18 licensed or certified health care professional shall provide a
19 warm hand-off of that person to an evaluation facility.

20 SECTION 7. [NEW MATERIAL] COMMUNICATION WITH AT-RISK
21 PERSONS--TRAINING.--

22 A. Inpatient behavioral health care facilities,
23 outpatient treatment facilities, emergency rooms,
24 telebehavioral health providers, behavioral health care
25 providers, physical health care setting providers, public

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1 safety officials and public safety answering point staff shall
 2 adopt practices for staff communication with at-risk persons.
 3 Practices adopted by a facility pursuant to this section shall
 4 maintain the dignity of an at-risk person, promote respect and
 5 compassion and reduce existing stigma related to suicide;
 6 provided that the adoption of such a practice or procedure
 7 shall not impede the professional standards of care for a
 8 health care practitioner licensed or certified in this state or
 9 state or federal law providing standards for hospital
 10 operations.

11 B. Pursuant to this section, a suicide prevention
 12 counselor shall:

13 (1) encourage the at-risk person to use
 14 available services and resources offered within the inpatient
 15 behavioral health care facility or outpatient treatment
 16 facility or refer the person to resources outside of the
 17 inpatient behavioral health care facility or outpatient
 18 treatment facility, including telebehavioral health services;

19 (2) refrain from performing psychological
 20 testing, other than suicide risk assessments, if the at-risk
 21 person is in crisis or has recently recovered from a crisis
 22 incident; and

23 (3) avoid perpetuating stigma related to
 24 suicide.

25 C. Inpatient behavioral health care facilities,

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1 outpatient treatment facilities, emergency rooms,
2 telebehavioral health providers, behavioral health care
3 providers, physical health care setting providers, public
4 safety officials and public safety answering point staff shall
5 administer and require staff to complete two training sessions
6 each year, addressing:

7 (1) suicide prevention policies at the
8 facilities;

9 (2) suicide care policies that are relevant to
10 each staff member's role and responsibilities;

11 (3) the signs and symptoms that can be used by
12 staff to identify existing persons of concern who may be
13 developing new at-risk ideation, behaviors or tendencies;

14 (4) methods and principles to be used in
15 discharge and care transition of at-risk persons of concern;
16 and

17 (5) methods for respectful treatment of and
18 effective communication with at-risk persons.

19 SECTION 8. [NEW MATERIAL] LAW ENFORCEMENT--SUICIDE
20 RESPONSE TRAINING REQUIRED.--

21 A. The New Mexico law enforcement academy, in
22 coordination with the collaborative, shall provide or approve
23 training for police officers that shall consist of two hours of
24 in-service training on the appropriate response to emergencies
25 that involve an at-risk person.

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1 B. The in-service training course required pursuant
2 to this section shall:

3 (1) include instruction on:

4 (a) calm, gentle and respectful
5 interactions with an at-risk person;

6 (b) avoidance of the use of unnecessary
7 force;

8 (c) verbal methods of communication and
9 other nonviolent means to stabilize an emergency involving an
10 at-risk person; and

11 (d) specific techniques, means and
12 methods, consistent with the principles identified under this
13 subsection, to facilitate law enforcement officer interactions
14 with an at-risk person; and

15 (2) require training program participants to
16 engage in simulated role-playing scenarios to demonstrate the
17 participants' ability to effectively interact with and
18 stabilize an at-risk person.

19 C. Each instructor who is assigned to teach the
20 courses required by this section shall have received at least
21 forty hours of training in mental health crisis intervention
22 from a nationally recognized organization that educates law
23 enforcement officers in the use of appropriate emergency
24 response methods.

25 **SECTION 9. [NEW MATERIAL] SUICIDE PREVENTION RESPONSE**

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1 AGENCY--DUTIES.--

2 A. The collaborative shall:

3 (1) contract with a suicide prevention
4 response agency to dispatch suicide prevention counselors to
5 emergency scenes involving an at-risk person; and

6 (2) compensate the suicide prevention response
7 agency.

8 B. The suicide prevention response agency shall
9 utilize a list of suicide prevention counselors and
10 telebehavioral health providers available in this state and
11 dispatch a suicide prevention counselor and telebehavioral
12 health providers to an emergency.

13 C. A suicide prevention counselor dispatched to an
14 emergency scene pursuant to this section shall:

15 (1) coordinate with ongoing emergency response
16 to a nonviolent emergency involving an at-risk person to
17 facilitate the stabilization of that person;

18 (2) perform a suicide risk assessment of an
19 at-risk person pursuant to Section 5 of the Suicide Prevention,
20 Response and Treatment Act;

21 (3) direct an at-risk person to appropriate
22 treatment facilities, programs and services through the use of
23 warm hand-offs and supportive contacts, based on the results of
24 the on-site suicide risk assessment;

25 (4) facilitate admission of an at-risk person

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1 to an outpatient treatment facility or warm hand-off to an
2 inpatient behavioral health care facility if the suicide
3 prevention counselor believes that person poses harm to the
4 person's own self; or

5 (5) facilitate the warm hand-off of an at-risk
6 person to an evaluation facility if that person refuses to be
7 admitted to an inpatient behavioral health care facility.

8 D. The collaborative shall establish:

9 (1) the necessary qualifications for a suicide
10 prevention response coordinator pursuant to this section; and

11 (2) guidelines to be used by the suicide
12 prevention response agency and coordinator, including:

13 (a) working with state agencies and
14 behavioral health providers to maintain a list of qualified and
15 locally available suicide prevention counselors pursuant to
16 Subsection B of this section; and

17 (b) ensuring the coordination of a
18 suicide prevention counselor to each emergency scene involving
19 an at-risk person.

20 SECTION 10. [NEW MATERIAL] PUBLIC SAFETY ACCESS POINT--
21 PROCEDURES.--

22 A. When the staff of a public safety access point
23 determines that a request for emergency services involves an
24 at-risk or suicidal person, the staff shall notify the suicide
25 prevention response agency to facilitate the appropriate

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1 response for that person.

2 B. Notice shall be provided to the suicide
3 prevention response agency, pursuant to Subsection A of this
4 section, at the time of dispatch or prior to the dispatch of
5 law enforcement to the emergency scene.

6 SECTION 11. [NEW MATERIAL] COLLABORATIVE TO PROMULGATE
7 RULES--AGENCY AND COLLABORATIVE COOPERATION.--

8 A. The collaborative shall promulgate rules as are
9 necessary to implement and enforce the provisions of the
10 Suicide Prevention, Response and Treatment Act.

11 B. State agencies shall cooperate with the
12 collaborative to carry out the provisions of the Suicide
13 Prevention, Response and Treatment Act.

14 SECTION 12. [NEW MATERIAL] ADMINISTRATIVE PENALTIES--
15 APPROPRIATION.--

16 A. If the collaborative has reason to believe that
17 an outpatient treatment facility or an inpatient behavioral
18 health care facility, or other facility providing care to an
19 at-risk person, is failing to comply with the provisions of the
20 Suicide Prevention, Response and Treatment Act, the
21 collaborative shall order the facility to take corrective
22 action within a reasonable time frame as may be deemed by the
23 collaborative to be necessary to ensure future compliance with
24 the Suicide Prevention, Response and Treatment Act.

25 B. The collaborative may assess an administrative

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1 penalty of:

2 (1) not more than two thousand five hundred
 3 dollars (\$2,500) for a first offense and not more than five
 4 thousand dollars (\$5,000) for a second or subsequent offense on
 5 an inpatient behavioral health care facility or outpatient
 6 treatment facility, or other facility providing care to an at-
 7 risk person, that fails to comply with an order of the
 8 collaborative issued pursuant to Subsection A of this section;

9 (2) not more than five hundred dollars (\$500)
 10 for a first offense, not more than one thousand dollars
 11 (\$1,000) for a second offense and not more than two thousand
 12 five hundred dollars (\$2,500) for a third or subsequent offense
 13 on an outpatient treatment facility or an inpatient behavioral
 14 health care facility, or other facility providing care to an
 15 at-risk person, that violates the provisions of Paragraph (4)
 16 of Subsection B of Section 3 of the Suicide Prevention,
 17 Response and Treatment Act; or

18 (3) not more than five hundred dollars (\$500)
 19 for a first offense, not more than one thousand dollars
 20 (\$1,000) for a second offense and not more than two thousand
 21 five hundred dollars (\$2,500) for a third or subsequent offense
 22 on an outpatient treatment facility or an inpatient behavioral
 23 health care facility, or other facility providing care to an
 24 at-risk person, that violates the provisions of Subsection A of
 25 Section 7 of the Suicide Prevention, Response and Treatment

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1 Act.

2 C. The administrative penalties imposed pursuant to
3 this section shall be retained by the collaborative and are
4 appropriated to the human services department for the purpose
5 of administering and enforcing the Suicide Prevention, Response
6 and Treatment Act.

7 SECTION 13. [NEW MATERIAL] SUICIDE PREVENTION, RESPONSE
8 AND TREATMENT FUND--CREATED.--

9 A. The "suicide prevention, response and treatment
10 fund" is created in the state treasury. The fund consists of
11 money appropriated to the human services department from fines
12 imposed under Section 12 of the Suicide Prevention, Response
13 and Treatment Act. Money in the fund shall not revert to any
14 other fund at the end of a fiscal year. The collaborative
15 shall administer the fund, and money in the fund is
16 appropriated to the human services department to implement the
17 provisions of the Suicide Prevention, Response and Treatment
18 Act.

19 B. Money in the fund shall be disbursed on warrants
20 signed by the secretary of finance and administration pursuant
21 to vouchers signed by the secretary of human services or the
22 secretary's authorized representative.

23 SECTION 14. [NEW MATERIAL] HEARING.--

24 A. An outpatient treatment facility or an inpatient
25 behavioral health care facility that the collaborative imposes

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1 an administrative penalty against shall be entitled to a
2 hearing:

3 (1) upon request from the outpatient treatment
4 facility or inpatient behavioral health care facility; and

5 (2) within ten days after receiving the notice
6 of a penalty imposed by the collaborative pursuant to Section
7 12 of the Suicide Prevention, Response and Treatment Act.

8 B. A hearing under this section shall be held in
9 accordance with rules that the collaborative shall adopt
10 pursuant to the Suicide Prevention, Response and Treatment Act
11 regarding adjudication procedures.

12 SECTION 15. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2021.