

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2479

By: McCall, **Lawson** and **Mize**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to the Office of Juvenile Affairs;
10 amending 10A O.S. 2011, Sections 2-7-101 and 2-7-201,
11 as last amended by Section 1, Chapter 386, O.S.L.
12 2016 (10A O.S. Supp. 2018, Section 2-7-201), which
13 relate to the Board of Juvenile Affairs; modifying
14 appointment of members of the Board; modifying powers
15 and duties of the Board; authorizing Governor to
16 appoint Executive Director; providing for
17 determination of compensation; and declaring an
18 emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-7-101, is
21 amended to read as follows:

22 Section 2-7-101. A. There is hereby created, ~~effective~~
23 ~~February 1, 1995,~~ the Board of Juvenile Affairs which shall consist
24 of ~~seven (7) members who shall be appointed by the Governor with the~~
 ~~advice and consent of the Senate.~~

 B. ~~One member shall be appointed from each congressional~~
~~district and any remaining members shall be appointed from the state~~

1 ~~at large. However, when congressional districts are redrawn each~~
2 ~~member appointed prior to July 1 of the year in which such~~
3 ~~modification becomes effective shall complete the current term of~~
4 ~~office and appointments made after July 1 of the year in which such~~
5 ~~modification becomes effective shall be based on the redrawn~~
6 ~~districts. Appointments made after July 1 of the year in which the~~
7 ~~modification becomes effective shall be from any redrawn districts~~
8 ~~which are not represented by a board member until such time as each~~
9 ~~of the modified congressional districts are represented by a board~~
10 ~~member. No appointments may be made after July 1 of the year in~~
11 ~~which the modification becomes effective if such appointment would~~
12 ~~result in more than two members serving from the same modified~~
13 ~~district. The terms of office of the members serving on the Board~~
14 ~~on the effective date of this act shall expire at the end of the~~
15 ~~current term of the member.~~

16 ~~C. 1. All appointments made by the Governor pursuant to this~~
17 ~~act shall be as follows:~~

- 18 ~~a. one member appointed by the Governor shall be a~~
19 ~~resident of the First Congressional District,~~
- 20 ~~b. one member appointed by the Governor shall be a~~
21 ~~resident of the Second Congressional District,~~
- 22 ~~c. one member appointed by the Governor shall be a~~
23 ~~resident of the Third Congressional District,~~

24

- 1 ~~d. one member appointed by the Governor shall be a~~
2 ~~resident of the Fourth Congressional District,~~
3 ~~e. one member appointed by the Governor shall be a~~
4 ~~resident of the Fifth Congressional District,~~
5 ~~f. one member appointed by the Governor shall be~~
6 ~~appointed at large, and~~
7 ~~g. one member appointed by the Governor shall be~~
8 ~~appointed at large.~~

9 ~~All members~~ the following nine (9) members:

10 1. Five members appointed by the Governor;

11 2. Two members appointed by the Speaker of the House of
12 Representatives; and

13 3. Two members appointed by the President Pro Tempore of the
14 Senate.

15 B. 1. Each member shall be appointed for terms of four (4)
16 years. All terms shall expire on the first day of July of the year
17 in which the terms of each member expire serve at the pleasure of
18 his or her appointing authority and may be removed or replaced
19 without cause.

20 ~~2. Thereafter an appointment shall be made by the Governor~~
21 ~~within ninety (90) days after a vacancy has occurred due to~~
22 ~~resignation, death, or any cause resulting in an unexpired term. In~~
23 ~~the event of a vacancy on the Board due to resignation, death, or~~
24 ~~for any cause resulting in an unexpired term, if not filled within~~

1 ~~ninety (90) days following the vacancy, the Board may appoint a~~
2 ~~provisional member to serve in the interim until the Governor makes~~
3 ~~an appointment~~ Any member of the Board shall be prohibited from
4 voting on any issue in which the member has a direct financial
5 interest.

6 3. ~~A member may be reappointed to succeed himself or herself~~
7 ~~for one additional term~~ The Executive Director of the Office of
8 Juvenile Affairs shall be an ex officio member of the Board, but
9 shall be entitled to vote only in case of a tie vote.

10 ~~D.~~ C. To be eligible for appointment to the Board a person
11 shall:

- 12 1. Be a citizen of the United States;
- 13 2. Be a resident of this state;
- 14 3. Be a qualified elector of this state; and
- 15 4. Not have been convicted of a felony pursuant to the laws of
16 this state, the laws of any other state, or the laws of the United
17 States.

18 ~~E.~~ D. Members appointed pursuant to this paragraph shall
19 include persons having experience in social work, juvenile justice,
20 criminal justice, community-based youth services, criminal-justice-
21 related behavioral sciences, indigent defense, and education. In
22 making the appointments, the Governor shall also give consideration
23 to urban, rural, gender, and minority representation.

24

1 ~~F. Any member of the Board may be removed from office in the~~
2 ~~manner provided by law for the removal of officers not subject to~~
3 ~~impeachment.~~

4 ~~G.~~ E. 1. The Board shall hold meetings as necessary at a place
5 and time to be fixed by the Board. The Board shall elect, at its
6 first meeting, one of its members to serve as chair and another of
7 its members to serve as vice-chair. At the first meeting in each
8 calendar year thereafter, the chair and vice-chair for the ensuing
9 year shall be elected. Special meetings may be called by the chair
10 or by five members of the Board by delivery of written notice to
11 each member of the Board. A majority of members serving on the
12 Board shall constitute a quorum of the Board.

13 2. Members of the Board shall receive necessary travel expenses
14 according to the provisions of the State Travel Reimbursement Act,
15 but shall receive no other compensation. Travel expenses shall be
16 paid from funds available to the Office of Juvenile Affairs.

17 ~~H.~~ F. The Board shall:

18 1. Adopt and promulgate rules for its government and may adopt
19 an official seal for the Office of Juvenile Affairs;

20 2. ~~Appoint and fix the compensation of the Executive Director~~
21 ~~of the Office of Juvenile Affairs;~~

22 3. Be the rulemaking body for the Office of Juvenile Affairs;

23 4. 3. Review and approve the budget request of the Office of
24 Juvenile Affairs to the Governor;

1 ~~5.~~ 4. Assist the Office of Juvenile Affairs in conducting
2 periodic reviews and planning activities related to the goals,
3 objectives, priorities, and policies of the Office;

4 ~~6.~~ 5. Provide a public forum for receiving comments and
5 disseminating information to the public and the regulated community
6 regarding goals, objectives, priorities, and policies of the Office
7 of Juvenile Affairs at least quarterly. The Board shall have the
8 authority to adopt nonbinding resolutions requesting action by the
9 Office of Juvenile Affairs in response to comments received or upon
10 the Board's own initiative; and

11 ~~7.~~ 6. Establish contracting procedures for the Office of
12 Juvenile Affairs and guidelines for rates of payment for services
13 provided by contract.

14 ~~F.~~ G. 1. As the rulemaking body of the Office of Juvenile
15 Affairs, the Board is specifically charged with the duty of
16 promulgating rules which will implement the duties and
17 responsibilities of the Office pursuant to the Oklahoma Juvenile
18 Code.

19 2. Effective July 1, 1995, any administrative policies adopted
20 by the Commission for Human Services related to personnel and other
21 administrative issues and any rules promulgated relating to the
22 custody, care and supervision of children adjudicated to be
23 delinquent or in need of supervision shall be and remain in effect
24

1 until amended or new rules are promulgated by the Board of Juvenile
2 Affairs.

3 3. Any rules adopted by the Commission for Human Services
4 related to personnel and other administrative issues and the
5 custody, care and supervision of children adjudicated to be
6 delinquent or in need of supervision and subject to review by the
7 Legislature during the 1st Session of the 45th Oklahoma Legislature
8 may be finally adopted and promulgated by the Board of Juvenile
9 Affairs pursuant to the Administrative Procedures Act.

10 4. Starting April 1, 1995, the Board of Juvenile Affairs shall
11 conduct an internal review of current permanent and emergency rules
12 relating to the custody, care and supervision of children
13 adjudicated to be delinquent or in need of supervision to determine
14 whether such rules need to be amended, or repealed, reinstated, or
15 recodified. By January 1, 1997, the Board shall have adopted
16 permanent rules to implement the programs and functions within its
17 jurisdiction and shall submit such rules for legislative review
18 pursuant to Article I of the Administrative Procedures Act.

19 5. The Board of Juvenile Affairs shall develop performance
20 standards for programs implemented, either directly or pursuant to
21 contract, by the Office of Juvenile Affairs.

22 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-201, as
23 last amended by Section 1, Chapter 386, O.S.L. 2016 (10A O.S. Supp.
24 2018, Section 2-7-201), is amended to read as follows:

1 Section 2-7-201. A. ~~The Board of Juvenile Affairs shall~~
2 ~~appoint the~~ Executive Director of the Office of Juvenile Affairs
3 shall be appointed by the Governor with the advice and consent of
4 the Senate. The Executive Director shall serve at the pleasure of
5 the ~~Board~~ Governor and may be removed or replaced without cause.
6 Compensation for the Executive Director shall be determined pursuant
7 to the Governor.

8 B. The Executive Director of the Office of Juvenile Affairs
9 shall be qualified for such position by character, ability,
10 education, training, and successful administrative experience in one
11 of the following: Corrections, juvenile justice, juvenile
12 delinquency, criminal justice, law, police science, criminology,
13 psychology, sociology, administration, education, or a related
14 social science.

15 C. The Executive Director shall provide for the administration
16 of the Office of Juvenile Affairs and shall:

17 1. Be the executive officer and supervise the activities of the
18 Office of Juvenile Affairs;

19 2. Pursuant to legislative authorization employ, discharge,
20 appoint or contract with, and fix the duties and compensation of
21 such assistants, attorneys, law enforcement officers, probation
22 officers, psychologists, social workers, medical professionals,
23 administrative, clerical and technical, investigators, aides and
24 such other personnel, either on a full-time, part-time, fee or

1 contractual basis, as in the judgment and discretion of the
2 Executive Director shall be deemed necessary in the performance or
3 carrying out of any of the purposes, objectives, responsibilities,
4 or statutory provisions relating to the Office of Juvenile Affairs,
5 or to assist the Executive Director of the Office of Juvenile
6 Affairs in the performance of official duties and functions;

7 3. Establish internal policies and procedures for the proper
8 and efficient administration of the Office of Juvenile Affairs; and

9 4. Exercise all incidental powers which are necessary and
10 proper to implement the purposes of the Office of Juvenile Affairs
11 pursuant to the Oklahoma Juvenile Code.

12 D. The Executive Director shall employ an attorney to be
13 designated the "General Counsel" who shall be the legal advisor for
14 the Office of Juvenile Affairs. Except as provided in this
15 subsection, the General Counsel is authorized to appear for and
16 represent the Board and Office in any litigation that may arise in
17 the discharge of the duties of the Board and Office.

18 It shall continue to be the duty of the Attorney General to give
19 an official opinion to the Executive Director of the Office of
20 Juvenile Affairs and the Office of Juvenile Affairs and to prosecute
21 and defend actions therefor, if requested to do so. The Attorney
22 General may levy and collect costs, expenses of litigation and a
23 reasonable attorney fee for such legal services from the Office.
24 The Office shall not contract for representation by private legal

1 counsel unless approved by the Attorney General. Such contract for
2 private legal counsel shall be in the best interests of the state.
3 The Attorney General shall be notified by the Office of Juvenile
4 Affairs or its counsel of all lawsuits against the Office of
5 Juvenile Affairs or officers or employees thereof, that seek
6 injunctive relief which would impose obligations requiring the
7 expenditure of funds in excess of unencumbered monies in the
8 agency's appropriations or beyond the current fiscal year. The
9 Attorney General shall review any such cases and may represent the
10 interests of the state, if the Attorney General considers it to be
11 in the best interest of the state to do so, in which case the
12 Attorney General shall be paid as provided in this subsection.
13 Representation of multiple defendants in such actions may, at the
14 discretion of the Attorney General, be divided with counsel for the
15 Office as necessary to avoid conflicts of interest.

16 E. The Executive Director of the Office of Juvenile Affairs
17 shall have the authority to commission certified employees within
18 the Office of Juvenile Affairs as peace officers. The authority of
19 employees so commissioned shall only include the authority to
20 investigate crimes committed against the Office or crimes committed
21 in the course of any program administered by the Office. Employees
22 so commissioned shall also have the authority to serve and execute
23 process, bench warrants, and other court orders in any judicial or
24 administrative proceeding in which the agency is a party or

1 participant. Use and possession of firearms for this purpose only
2 shall be permitted. To become qualified as peace officers for the
3 commission, employees shall first obtain a certificate as provided
4 for in Section 3311 of Title 70 of the Oklahoma Statutes.

5 F. The Executive Director of the Office of Juvenile Affairs,
6 based upon rules established by the Board of Juvenile Affairs, shall
7 have the authority to appoint and commission campus police for
8 secure juvenile facilities and their adjacent grounds under the
9 jurisdiction of the Office of Juvenile Affairs in the same manner
10 and with the same powers as campus police appointed by governing
11 boards of state institutions for higher education under the
12 provisions of Section 360.15 et seq. of Title 74 of the Oklahoma
13 Statutes.

14 G. In the event of the Executive Director's temporary absence,
15 the Executive Director may delegate the exercise of such powers and
16 duties to a designee during the Executive Director's absence. In
17 the event of a vacancy in the position of Executive Director, the
18 ~~Board of Juvenile Affairs~~ Governor shall appoint a new Executive
19 Director. The Board may designate an interim or acting Executive
20 Director who is authorized to exercise such powers and duties until
21 a permanent Executive Director is employed.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT EFFICIENCY, dated
5 02/27/2019 - DO PASS, As Amended and Coauthored.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24