

An Act

ENROLLED HOUSE
BILL NO. 2479

By: McCall, Lawson, Mize,
Boles, West (Josh), Osburn,
Frix, Fetgatter, West
(Tammy), Olsen, Vancuren,
McEntire, Manger, Steagall,
Kiger, Crosswhite Hader,
Phillips, Smith, Strom,
Cornwell, Davis, Burns,
Hasenbeck, Dills, Sterling,
Fincher, Moore, Marti,
Miller, Pae, May, McBride,
West (Kevin), Bush, Talley,
Lepak, Sims, Stark, Conley,
Taylor, Grego, Hardin
(David), Patzkowsky,
Boatman, Luttrell, Gann,
Kerbs, Echols, Hill,
Caldwell (Trey), McDugle,
Johns, Kannady, Wallace,
Hilbert, Baker, Roberts
(Sean), Townley, Wright and
Ford of the House

and

Treat of the Senate

An Act relating to the Office of Juvenile Affairs; amending 10A O.S. 2011, Sections 2-7-101 and 2-7-201, as last amended by Section 1, Chapter 386, O.S.L. 2016 (10A O.S. Supp. 2018, Section 2-7-201), which relate to the Board of Juvenile Affairs; modifying appointment of members of the Board; modifying powers and duties of the Board; authorizing Governor to appoint Executive Director; providing for determination of compensation; authorizing the Legislature to remove the Executive Director from office; specifying vote required for removal; and declaring an emergency.

SUBJECT: Juvenile Affairs

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

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

Section 2-7-101. A. There is hereby created, ~~effective February 1, 1995,~~ the Board of Juvenile Affairs which shall consist 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 at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which the modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which the modification becomes effective if such appointment would result in more than two members serving from the same modified district. The terms of office of the members serving on the Board on the effective date of this act shall expire at the end of the current term of the member.~~

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

- a. ~~one member appointed by the Governor shall be a resident of the First Congressional District,~~
- b. ~~one member appointed by the Governor shall be a resident of the Second Congressional District,~~
- c. ~~one member appointed by the Governor shall be a resident of the Third Congressional District,~~
- d. ~~one member appointed by the Governor shall be a resident of the Fourth Congressional District,~~

- ~~e. one member appointed by the Governor shall be a resident of the Fifth Congressional District,~~
- ~~f. one member appointed by the Governor shall be appointed at large, and~~
- ~~g. one member appointed by the Governor shall be appointed at large.~~

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

1. Five members appointed by the Governor;

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

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

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

~~2. Thereafter an appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following the vacancy, the Board may appoint a provisional member to serve in the interim until the Governor makes an appointment~~ Any member of the Board shall be prohibited from voting on any issue in which the member has a direct financial interest.

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

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

1. Be a citizen of the United States;

2. Be a resident of this state;

3. Be a qualified elector of this state; and

4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Effective July 1, 1995, any administrative policies adopted by the Commission for Human Services related to personnel and other administrative issues and any rules promulgated relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision shall be and remain in effect until amended or new rules are promulgated by the Board of Juvenile Affairs.

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

4. Starting April 1, 1995, the Board of Juvenile Affairs shall conduct an internal review of current permanent and emergency rules relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision to determine

whether such rules need to be amended, or repealed, reinstated, or recodified. By January 1, 1997, the Board shall have adopted permanent rules to implement the programs and functions within its jurisdiction and shall submit such rules for legislative review pursuant to Article I of the Administrative Procedures Act.

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

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

Section 2-7-201. A. ~~The Board of Juvenile Affairs shall appoint the~~ Executive Director of the Office of Juvenile Affairs shall be appointed by the Governor with the advice and consent of the Senate. The Executive Director shall serve at the pleasure of the Board Governor and may be removed or replaced without cause. Compensation for the Executive Director shall be determined pursuant to the Governor. The Executive Director may be removed from office by a two-thirds (2/3) vote of the members elected to and constituting each chamber of the Legislature.

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

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

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

2. Pursuant to legislative authorization employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, law enforcement officers, probation officers, psychologists, social workers, medical professionals, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in the judgment and discretion of the

Executive Director shall be deemed necessary in the performance or carrying out of any of the purposes, objectives, responsibilities, or statutory provisions relating to the Office of Juvenile Affairs, or to assist the Executive Director of the Office of Juvenile Affairs in the performance of official duties and functions;

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

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

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

It shall continue to be the duty of the Attorney General to give an official opinion to the Executive Director of the Office of Juvenile Affairs and the Office of Juvenile Affairs and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney fee for such legal services from the Office. The Office shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state. The Attorney General shall be notified by the Office of Juvenile Affairs or its counsel of all lawsuits against the Office of Juvenile Affairs or officers or employees thereof, that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in this subsection. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Office as necessary to avoid conflicts of interest.

E. The Executive Director of the Office of Juvenile Affairs shall have the authority to commission certified employees within

the Office of Juvenile Affairs as peace officers. The authority of employees so commissioned shall only include the authority to investigate crimes committed against the Office or crimes committed in the course of any program administered by the Office. Employees so commissioned shall also have the authority to serve and execute process, bench warrants, and other court orders in any judicial or administrative proceeding in which the agency is a party or participant. Use and possession of firearms for this purpose only shall be permitted. To become qualified as peace officers for the commission, employees shall first obtain a certificate as provided for in Section 3311 of Title 70 of the Oklahoma Statutes.

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

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

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 13th day of March, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____