

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 279 By: Newberry of the Senate
3 and
4 Mulready of the House
5

6 [counties and county officers - protection -
7 codification - effective date]
8

9
10 AUTHORS: Remove Representative Mulready as principal House author
and substitute with Representative Martinez.

11 Add as coauthor Representative Mulready.

12
13 AUTHOR: Remove Senator Newberry as principal Senate author and
substitute with Senator Pugh.

14 AMENDMENT NO. 1. Replace the stricken title, enacting clause and
entire bill and insert
15

16 "An Act relating to counties and county officers;
amending 19 O.S. 2011, Section 180.43, as amended by
17 Section 2, Chapter 263, O.S.L. 2017 (19 O.S. Supp.
2017, Section 180.43), which relates to feeding,
18 care, housing, and upkeep of prisoners; authorizing
county sheriff to contract with certain entities for
19 feeding, care, housing, and upkeep of prisoners in
the county jail; and declaring an emergency.
20

21
22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
23
24

1 SECTION 1. AMENDATORY 19 O.S. 2011, Section 180.43, as
2 amended by Section 2, Chapter 263, O.S.L. 2017 (19 O.S. Supp. 2017,
3 Section 180.43), is amended to read as follows:

4 Section 180.43 A. Each county sheriff may contract with any
5 public or private entity engaged in the business of transportation
6 of prisoners, the Department of Justice of the United States of
7 America, the Department of Corrections, or any municipality of this
8 state for the feeding, care, housing, and upkeep of federal, state,
9 or municipal prisoners, or alien detainees incarcerated in the
10 county jail. Any funds received pursuant to said contract shall be
11 the funds of the county where the federal, state, or municipal
12 prisoners, or alien detainees are incarcerated and shall be
13 deposited in a separate revolving fund with the county treasurer.
14 All purchases made pursuant to the provisions of this subsection
15 shall be made pursuant to the purchasing procedures specified in
16 Sections 1500 through 1507 of this title, including the use of
17 blanket purchase orders as provided for in Section 310.8 of Title 62
18 of the Oklahoma Statutes. The sheriff shall be permitted to expend
19 any surplus in the revolving fund for administering expenses for
20 salaries, training, equipment, or travel, or for capital
21 expenditures.

22 The claim for said expenses shall be filed with and allowed by
23 the board of county commissioners as other claims. The sheriff
24 shall receive no compensation for said services. The sheriff shall

1 file an annual report with the board of county commissioners not
2 later than January 15 of each year. The State Auditor and Inspector
3 shall conduct an audit of the report as on other public records of
4 the county.

5 B. In lieu of the travel reimbursement or monthly travel
6 allowance provided for by law, the board of county commissioners may
7 purchase and provide for the operation, maintenance, insurance,
8 equipping, and repair of an automobile for each county commissioner
9 to be used in performing the duties of his office. In lieu of the
10 travel reimbursement or monthly travel allowance provided for by
11 law, the board of county commissioners, with the concurrence of the
12 county sheriff, may purchase and provide for the operation,
13 maintenance, insurance, equipping, and repair of automobiles for the
14 use of the sheriff in performing the duties of his office. Any
15 automobile purchased pursuant to the authority granted in this
16 section shall be purchased by competitive bids. The use of any said
17 automobile for private or personal purposes is hereby prohibited.
18 In any county having a population of at least three hundred fifty
19 thousand (350,000), where it is determined by the sheriff to be more
20 economical and advantageous to the county, the sheriff may establish
21 a monthly automobile allowance of not more than Four Hundred Dollars
22 (\$400.00) per month in lieu of the mileage per mile for in-county
23 driving as authorized in this section. Any travel reimbursement
24 other than in-county driving as provided for in this section shall

1 be for actual and necessary expenses as provided for in the State
2 Travel Reimbursement Act. Any person violating the provisions of
3 this subsection, upon conviction, shall be guilty of a misdemeanor
4 and shall be punished by a fine of not more than One Hundred Dollars
5 (\$100.00) or by imprisonment in the county jail for not more than
6 thirty (30) days, or by both said fine and imprisonment, and in
7 addition thereto shall be discharged from county employment.

8 C. The State of Oklahoma hereby declares and states that the
9 increased number of persons impersonating law enforcement officers
10 by making routine traffic stops while using unmarked cars is a
11 threat to the public health and safety of all of the citizens of the
12 State of Oklahoma; therefore it shall be unlawful for any county
13 sheriff, deputy sheriff or reserve deputy sheriff to use any vehicle
14 which is not clearly marked as a law enforcement vehicle for routine
15 traffic enforcement except as provided in Section 12-218 of Title 47
16 of the Oklahoma Statutes. In addition to Section 12-218 of Title 47
17 of the Oklahoma Statutes, the peace officer operating the law
18 enforcement vehicle for routine traffic stops shall be dressed in
19 the official uniform including shoulder patches, badge, and any
20 other identifying insignias normally used by the employing law
21 enforcement agency.

22 D. Each county sheriff may operate, or contract the operation
23 of, a commissary for the benefit of persons lawfully confined in the
24 county jail under the custody of the county sheriff. Any funds

1 received pursuant to said operations shall be the funds of the
2 county where the persons are incarcerated and shall be deposited in
3 the Sheriff's Commissary Account. The sheriff shall be permitted to
4 expend the funds to improve or provide jail services. The sheriff
5 shall be permitted to expend any surplus in the Sheriff's Commissary
6 Account for administering expenses for training equipment, travel or
7 for capital expenditures. The claims for expenses shall be filed
8 with and allowed by the board of county commissioners in the same
9 manner as other claims. The sheriff shall receive no compensation
10 for the operation of said commissary. The sheriff shall file an
11 annual report on any said commissary under his or her operation no
12 later than January 15 of each year. The State Auditor and Inspector
13 shall conduct an audit of the report in the same manner as other
14 public records of the county.

15 E. Each county sheriff may operate, or contract the operation
16 of, a telephone system for the benefit of persons lawfully confined
17 in the county jail under the custody of the county sheriff. Any
18 funds received pursuant to said operations shall be the funds of the
19 county where the persons are incarcerated and shall be deposited in
20 the Sheriff's Service Fee Account. Such funds may be expended
21 according to the guidelines previously established for expenditures
22 from the general fund. The claims for expenses shall be filed with
23 and allowed by the board of county commissioners in the same manner
24 as other claims.

1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval."

5 Passed the House of Representatives the 8th day of March, 2018.

6
7
8 _____
Presiding Officer of the House of
Representatives

9
10 Passed the Senate the ____ day of _____, 2018.

11
12
13 _____
Presiding Officer of the Senate

14
15
16
17
18
19
20
21
22
23
24

1 ENGROSSED SENATE
2 BILL NO. 279

By: Newberry of the Senate

3 and

4 Mulready of the House

5
6 [counties and county officers - protection -
7 codification - effective date]
8

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

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 565 of Title 19, unless there is
12 created a duplication in numbering, reads as follows:

13 A. The following definitions apply in this section:

14 1. "Employing agency" means a sheriff's department or county
15 police department; and

16 2. "County law enforcement officer" means a full-time paid
17 employee of an employing agency who is actively serving in a
18 position with assigned primary duties and responsibilities for
19 prevention and detection of crime or the general enforcement of the
20 criminal laws of the state or serving civil processes and who
21 possesses the power of arrest by virtue of an oath administered
22 under the authority of the state.

23 B. It is the policy of this state that county law enforcement
24 officers shall be encouraged to report verbally or in writing to

1 their supervisor, department head or other appropriate authority
2 evidence of activity constituting any of the following:

3 1. A violation of state or federal law, rule or regulation or
4 the United States Constitution or the Constitution of the State of
5 Oklahoma;

6 2. Fraud;

7 3. Misappropriation of state and local government resources;

8 4. Substantial and specific danger to the public health and
9 safety; or

10 5. Gross mismanagement, a gross waste of monies or gross abuse
11 of authority. Further, it is the policy of this state that county
12 law enforcement officers be free of intimidation or harassment when
13 reporting to public bodies about matters of public concern,
14 including offering testimony to or testifying before appropriate
15 legislative or judicial panels.

16 C. No employing agency shall discharge, threaten or otherwise
17 discriminate against a county law enforcement officer regarding the
18 officer's compensation, terms, conditions, location or privileges of
19 employment because the officer or a person acting on behalf of the
20 officer reports or is about to report verbally or in writing any
21 activity described in subsection B of this section unless the
22 officer knows or has reason to believe that the report in
23 inaccurate.

24

1 1. No county law enforcement officer shall retaliate against
2 another county law enforcement officer because the officer or a
3 person acting on behalf of the officer reports or is about to report
4 verbally or in writing any activity described in subsection B of
5 this section.

6 2. No employing agency shall discharge, threaten or otherwise
7 discriminate against a county law enforcement officer regarding the
8 officer's compensation, terms, conditions, location or privileges of
9 employment because the officer has refused to carry out a directive
10 which in fact constitutes a violation of State or federal law, rule,
11 or regulation or the United States Constitution or the Constitution
12 of the State of Oklahoma or poses a substantial and specific danger
13 to the public health and safety.

14 3. No county law enforcement officer shall retaliate against
15 another county law enforcement officer because the officer has
16 refused to carry out a directive which may constitute a violation of
17 state or federal law, rule or regulation, the United States
18 Constitution or the Constitution of the State of Oklahoma or pose a
19 substantial and specific danger to the public health and safety.

20 D. For claims arising under this section only, a county law
21 enforcement officer injured by a violation of this section may
22 maintain a legal action for damages, an injunction or other remedies
23 provided in this section against the person or employing agency who
24

1 committed the violation within one (1) year after the occurrence of
2 the alleged violation of this section.

3 E. A court, in rendering a judgment in an action brought
4 pursuant to this section, may order an injunction, damages,
5 reinstatement of the county law enforcement officer, the payment of
6 back wages, full reinstatement of fringe benefits and seniority
7 rights, costs, reasonable attorneys' fees or any combination of
8 these. If an application for a permanent injunction is granted, the
9 officer shall be awarded costs and reasonable attorneys' fees. If
10 in an action for damages the court finds that the officer was
11 injured by a willful violation of this section, the court shall
12 award as damages three times the amount of actual damages, plus
13 costs and reasonable attorneys' fees against the person or employing
14 agency found to be in violation of this section.

15 F. It shall be the duty of the employing agency of the county
16 law enforcement officer to post notice as provided by law or use
17 other appropriate means to keep county law enforcement officers
18 informed of their protections and obligations under this section.

19 SECTION 4. This act shall become effective November 1, 2017.
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Passed the Senate the 22nd day of March, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2017.

Presiding Officer of the House
of Representatives