

1 **SENATE FLOOR VERSION**

2 February 27, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 458

By: Treat and Simpson

6 An Act relating to administration of Department of  
7 Corrections; amending 57 O.S. 2011, Sections 506, as  
8 last amended by Section 2, Chapter 386, O.S.L. 2016,  
9 502, as last amended by Section 1, Chapter 259,  
10 O.S.L. 2016, 505, 507, 508, as amended by Section 2,  
11 Chapter 267, O.S.L. 2012, 508.1, 508.3, 510, as last  
12 amended by Section 1, Chapter 279, O.S.L. 2018, 525,  
13 528, 541, as last amended by Section 1, Chapter 301,  
14 O.S.L. 2014, 543, 545, 549, as amended by Section 1,  
15 Chapter 265, O.S.L. 2014, 549.1, as last amended by  
16 Section 2, Chapter 197, O.S.L. 2018, 550, 559, 561,  
17 as amended by Section 255, Chapter 304, O.S.L. 2012,  
18 561.1, as last amended by Section 1, Chapter 84,  
19 O.S.L. 2014, 561.2, as amended by Section 257,  
20 Chapter 304, O.S.L. 2012, 561.3, 563.1, 563.3, as  
21 amended by Section 2, Chapter 268, O.S.L. 2015 and  
22 566.4 (57 O.S. Supp. 2018, Sections 506, 502, 508,  
23 510, 541, 549, 549.1, 561, 561.1, 561.2 and 563.3),  
24 which relate to the Oklahoma Corrections Act of 1967;  
requiring the Director of Corrections be appointed by  
the Governor with advice and consent of the Senate;  
requiring service at the pleasure of the Governor;  
abolishing Board of Corrections and transferring  
powers, duties and responsibilities to Director;  
modifying references to Board; providing that actions  
taken by Board remain in effect unless changed by  
Director; amending 57 O.S. 2011, Section 571, as last  
amended by Section 4, Chapter 117, O.S.L. 2018, (57  
O.S. Supp. 2018, Section 571), which relates to the  
Oklahoma Prison Overcrowding Emergency Powers;  
modifying references to Board; amending 57 O.S. 2011,  
Sections 216 and 217, which relate to the Prison  
Public Works Act; modifying references to Board;  
amending 57 O.S. 2011, Section 332.7, as last amended  
by Section 2, Chapter 117, O.S.L. 2018 (57 O.S. Supp.  
2018, Section 332.7), which relates to consideration  
for parole; modifying references to Board; amending

1 12 O.S. 2011, Section 1653, which relates to  
2 declaratory judgments; modifying references to Board;  
3 amending 61 O.S. 2011, Section 65, as last amended by  
4 Section 5, Chapter 302, O.S.L. 2013 (61 O.S. Supp.  
5 2018, Section 65), which relates to state  
6 consultants; modifying references to Board; amending  
7 65 O.S. 2011, Section 130, as last amended by Section  
8 1, Chapter 293, O.S.L. 2016 (65 O.S. Supp. 2018,  
9 Section 130), which relates to Public Competitive  
10 Bidding Act of 1974; modifying references to Board;  
11 amending 63 O.S. 2011, Section 1-502.1, as amended by  
12 Section 1, Chapter 246, O.S.L. 2013 (63 O.S. Supp.  
13 2018, Section 1-502.1), which relates to disease  
14 prevention and control; modifying references to  
15 Board; amending 73 O.S. 2011, Sections 183 and 185,  
16 which relate to construction and operation of  
17 correctional facilities; modifying references to  
18 Board; amending 74 O.S. 2011, Section 18c, as last  
19 amended by Section 1, Chapter 31, O.S.L. 2016 (74  
20 O.S. Supp. 2018, Section 18c), which relates to  
21 defense of actions by Attorney General; modifying  
22 references to Board; amending 75 O.S. 2011, Section  
23 250.4, as last amended by Section 12, Chapter 430,  
24 O.S.L. 2014 (75 O.S. Supp. 2018, Section 250.4),  
which relates to the Administrative Procedures Act;  
modifying references to Board; repealing 57 O.S.  
2011, Sections 503 and 504, which relate to Board of  
Corrections; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 506, as last  
amended by Section 2, Chapter 386, O.S.L. 2016 (57 O.S. Supp. 2018,  
Section 506), is amended to read as follows:

Section 506. A. There is hereby created the position of  
Director of Corrections. The Director shall be qualified for such  
position by character, knowledge, skill, ability, education,  
training and successful administrative experience and shall have

1 five (5) years of professional level work. The Director of  
2 Corrections shall be appointed by the ~~Board of Corrections~~ Governor,  
3 with the advice and consent of the Senate and shall ~~be subject to~~  
4 ~~removal by a vote of the majority of the entire Board or in the~~  
5 ~~manner provided by law for the removal of officers not subject to~~  
6 ~~impeachment~~ serve at the pleasure of the Governor.

7 B. The Board of Corrections is hereby abolished and its powers,  
8 duties and responsibilities are hereby transferred to the Director  
9 of Corrections. Any reference in the Oklahoma Statutes to the Board  
10 shall be deemed to be a reference to the Director. Any  
11 administrative rules or policies or performance standards adopted  
12 by, or any actions taken by, the Board of Corrections prior to  
13 November 1, 2019, shall be and remain in effect until amended,  
14 repealed or superseded by actions of the Director as provided in  
15 this section.

16 SECTION 2. AMENDATORY 57 O.S. 2011, Section 502, as last  
17 amended by Section 1, Chapter 259, O.S.L. 2016 (57 O.S. Supp. 2018,  
18 Section 502), is amended to read as follows:

19 Section 502. As used in this title, unless the context  
20 otherwise requires:

21 1. ~~"Board" means the State Board of Corrections;~~

22 2. "Department" means the Department of Corrections of this  
23 state;

24

1       ~~3.~~ 2. "Director" means the Director of the Department of  
2 Corrections;

3       ~~4.~~ 3. "Halfway house" means a private facility for the  
4 placement of inmates in a community setting for the purpose of  
5 reintegrating into the community inmates who are nearing their  
6 release dates. The term shall not include private prisons;

7       ~~5.~~ 4. "Institutions" means the Oklahoma State Penitentiary  
8 located at McAlester, Oklahoma; the Oklahoma State Reformatory  
9 located at Granite, Oklahoma; the Lexington Assessment and Reception  
10 Center located at Lexington, Oklahoma; the Joseph Harp Correctional  
11 Center located at Lexington, Oklahoma; the Jackie Brannon  
12 Correctional Center located at McAlester, Oklahoma; the Howard C.  
13 McLeod Correctional Center located at Farris, Oklahoma; the Mack H.  
14 Alford Correctional Center located at Stringtown, Oklahoma; the Jim  
15 E. Hamilton Correctional Center located at Hodgen, Oklahoma; the  
16 Mabel Bassett Correctional Center located at McLoud, Oklahoma; the  
17 R.B. "Dick" Conner Correctional Center located at Hominy, Oklahoma;  
18 the James Crabtree Correctional Center located at Helena, Oklahoma;  
19 the Jess Dunn Correctional Center located at Taft, Oklahoma; the  
20 John Lilley Correctional Center located at Boley, Oklahoma; the  
21 William S. Key Correctional Center located at Fort Supply, Oklahoma;  
22 the Dr. Eddie Walter Warrior Correctional Center located at Taft,  
23 Oklahoma; the Northeast Oklahoma Correctional Center located at  
24 Vinita, Oklahoma; the Clara Waters and Kate Barnard Community

1 Corrections Centers located at Oklahoma City, Oklahoma; the  
2 Community Corrections Centers located at Lawton, Enid, Oklahoma City  
3 and Union City; the Charles E. "Bill" Johnson Correctional Center,  
4 located east of Alva, Oklahoma; the Southern Oklahoma Resource  
5 Center located at Pauls Valley, Oklahoma; and other facilities under  
6 the jurisdiction and control of the Department of Corrections or  
7 hereafter established by the Department of Corrections;

8 ~~6.~~ 5. "Intermediate revocation facility" means a corrections  
9 center operated by the Department of Corrections or a private  
10 facility or public trust operating pursuant to contract with the  
11 Department of Corrections which provides housing and intensive  
12 programmatic services for offenders who have violated the terms or  
13 conditions of probation as determined by a supervising probation  
14 officer. "Intensive programmatic services" offered by the  
15 Department of Corrections includes, but shall not be limited to,  
16 alcohol and substance abuse counseling and treatment, mental health  
17 counseling and treatment and domestic violence courses and treatment  
18 programs;

19 ~~7.~~ 6. "Intermediate sanctions facility" means a community  
20 corrections center operated by the Department of Corrections or a  
21 private facility or public trust operating pursuant to contract with  
22 the Department of Corrections which provides for the housing and  
23 programmatic services of offenders such as probation or parole  
24 violators or community sentenced offenders placed in the facility

1 for disciplinary sanctions, work release offenders, offenders who  
2 need intensive programmatic services, or offenders who have  
3 demonstrated positive adjustment while in an institutional setting  
4 who need additional programmatic services to enhance their reentry  
5 into society upon release from a prison term; and

6 ~~8.~~ 7. "Private prison contractor" means:

- 7 a. a nongovernmental entity or public trust which,  
8 pursuant to a contract with the Department of  
9 Corrections, operates an institution within the  
10 Department other than a halfway house or intermediate  
11 sanctions facility, or provides for the housing, care,  
12 and control of inmates and performs other functions  
13 related to these responsibilities within a minimum,  
14 medium, or maximum security level facility not owned  
15 by the Department but operated by the contractor, or
- 16 b. a nongovernmental entity or public trust which,  
17 pursuant to a contract with the United States or  
18 another state, provides for the housing, care, and  
19 control of minimum or medium security inmates in the  
20 custody of the United States or another state, and  
21 performs other functions related to these  
22 responsibilities other than a halfway house or  
23 intermediate sanctions facility within a facility  
24 owned or operated by the contractor.

1 SECTION 3. AMENDATORY 57 O.S. 2011, Section 505, is  
2 amended to read as follows:

3 Section 505. There is hereby created the Department of  
4 Corrections which shall consist of divisions, subdivisions,  
5 institutions, and such sections, offices and positions as may be  
6 established by the Director, ~~subject to the approval of the Board,~~  
7 or by law.

8 SECTION 4. AMENDATORY 57 O.S. 2011, Section 507, is  
9 amended to read as follows:

10 Section 507. The Director shall be the executive officer of the  
11 Department of Corrections and shall have the following general  
12 powers and duties:

13 ~~(a)~~ 1. To supervise the activities of the Department and ~~and~~  
14 ~~subject to the~~ establish policies ~~established by the Board,~~ for the  
15 Department and to act for the Department in all matters, except as  
16 may be otherwise provided in ~~this act.~~ the Oklahoma Corrections Act  
17 of 1967;

18 ~~(b)~~ 2. To ~~prescribe~~ adopt and promulgate rules and ~~regulations~~  
19 for the operation of the Department, ~~consistent with the general~~  
20 ~~policies established by the Board.~~ including the adoption of an  
21 official seal;

22 ~~(c)~~ 3. To appoint and fix the duties and salaries of such  
23 personnel for the Department as may be necessary to administer and  
24 carry out the provisions of ~~this act~~ the Oklahoma Corrections Act of

1 1967. The Department and the employees thereof, ~~except the members~~  
2 ~~of the Board and the Director~~ shall be subject to the provisions of  
3 the State Merit System of Personnel Administration, but the Governor  
4 may by Executive Order exempt positions therefrom as authorized by  
5 Section 802 of Title 74 of the Oklahoma Statutes, except as may be  
6 otherwise provided in ~~this act.~~ the Oklahoma Corrections Act of  
7 1967;

8 ~~(d)~~ 4. To accept, use, disburse and administer grants,  
9 allotments, gifts, devises, bequests, appropriations and other  
10 monies and property offered or given to the Department, or any  
11 component or agency thereof, by any agency of the federal government  
12 or any corporation or individual for the use of the Department;

13 5. To establish and maintain such institutions as are necessary  
14 or convenient for the operation of programs for the education,  
15 training, vocational education and rehabilitation of prisoners under  
16 the jurisdiction of the Department;

17 6. To lease, from time to time, without restriction as to  
18 terms, any property which the Director shall determine advisable to  
19 more fully carry into effect the operation of prison industries;

20 7. To acquire, construct, extend, improve, maintain and operate  
21 any and all facilities of all kinds which in the judgment of the  
22 Director shall be necessary or convenient to foster the prison  
23 industries program;

24



1        8. To require other personnel of the Department, when deemed  
2 necessary, to give bond for the faithful performance of their  
3 duties;

4        9. To enter into contracts with private prison contractors; and

5        10. To provide training to employees of private prison  
6 contractors and other governmental entities on a fee basis.

7        SECTION 5.        AMENDATORY        57 O.S. 2011, Section 508, as  
8 amended by Section 2, Chapter 267, O.S.L. 2012 (57 O.S. Supp. 2018,  
9 Section 508), is amended to read as follows:

10        Section 508. The Director, ~~subject to the approval of the~~  
11 ~~Board,~~ of the Department of Corrections is hereby authorized to  
12 create divisions within the Department of Corrections as he or she  
13 may deem appropriate to effectively manage the Department. The  
14 divisions shall be under the immediate supervision and control of  
15 the Director. The Director is hereby authorized to appoint Deputy  
16 Directors for the divisions of the Department, who shall be exempt  
17 from the Merit System of Personnel Administration Act, and to fix  
18 the salaries and duties thereof; provided, the salary ranges of ~~said~~  
19 Deputy Directors shall be set by the Legislature in the Department's  
20 annual appropriation. The Deputy Directors shall have at least a  
21 master's degree from an accredited college or university and at  
22 least four (4) years of professional level work experience in  
23 corrections; or a bachelor's degree and at least five (5) years of  
24 work experience in corrections. Provided, however, that for the

1 position of Deputy Director of administrative services, professional  
2 level administrative experience may be substituted for work  
3 experience in corrections. The provisions of ~~this act~~ the Oklahoma  
4 Corrections Act of 1967 shall not apply to those presently serving  
5 as Deputy Director as herein defined.

6 SECTION 6. AMENDATORY 57 O.S. 2011, Section 508.1, is  
7 amended to read as follows:

8 Section 508.1. There is hereby created within the Department of  
9 Corrections a Legal Division. The Director may employ or contract  
10 with attorneys as needed and determine their salaries. These  
11 attorneys may advise the Director, ~~the Board of Corrections,~~  
12 administrative supervisors of facilities and Department personnel on  
13 legal matters and may appear for and represent the Director, ~~the~~  
14 ~~Board of Corrections,~~ administrative supervisors of facilities and  
15 Department personnel in administrative hearings and other legal  
16 actions and proceedings.

17 SECTION 7. AMENDATORY 57 O.S. 2011, Section 508.3, is  
18 amended to read as follows:

19 Section 508.3. A. There is hereby created the Construction  
20 Division within the Department of Corrections. The purpose of the  
21 division shall be to provide inmate construction crews for  
22 construction projects of the Department of Corrections.

23 B. The Director of the Department of Corrections shall adopt  
24 and promulgate such rules as may be necessary to carry out the

1 duties of the Construction Division and shall appoint a Director of  
2 the division who shall administer the activities of the division.

3 C. 1. An inmate working for the Construction Division of the  
4 Department of Corrections shall be subject to all rules established  
5 for inmate work by the ~~State Board of Corrections~~ Director and  
6 subject to all statutes governing the operation of the Construction  
7 Division of the Department of Corrections.

8 2. Inmates working for the Construction Division are not state  
9 employees, and are specifically forbidden from organizing into  
10 unions or other associations in connection with their work or from  
11 engaging in any strike, work stoppage, slowdown or collective  
12 bargaining process. This prohibition applies to any inmates forming  
13 a union local or similar organization at any Construction Division  
14 project or location; provided, however, it shall not prohibit any  
15 inmate from otherwise achieving or retaining status as a union  
16 member.

17 3. The claims of the state against an inmate to cover the costs  
18 of incarceration of an inmate shall be prior to the unsecured claims  
19 of any creditor.

20 4. The authorization for an inmate to work for the Construction  
21 Division is a privilege granted to the inmate by the state which may  
22 be revoked by the Director of the Department of Corrections.

23 5. As used in paragraph 3 of this subsection, "costs of  
24 incarceration" shall include all costs associated with maintaining

1 an inmate in the custody of the Department of Corrections and shall  
2 include costs paid by the state for medical care for the inmate.

3 SECTION 8. AMENDATORY 57 O.S. 2011, Section 510, as last  
4 amended by Section 1, Chapter 279, O.S.L. 2018 (57 O.S. Supp. 2018,  
5 Section 510), is amended to read as follows:

6 Section 510. A. The Director of the Department of Corrections  
7 shall have the following specific powers and duties relating to the  
8 penal institutions:

9 1. To appoint, ~~subject to the approval of the State Board of~~  
10 ~~Corrections,~~ a warden for each penal institution;

11 2. To fix the duties of the wardens and to appoint and fix the  
12 duties and compensation of such other personnel for each penal  
13 institution as may be necessary for the proper operation thereof.  
14 However, correctional officers hired after November 1, 1995, shall  
15 be subject to the following qualifications:

16 a. the minimum age for service shall be twenty (20) years  
17 of age. The Director shall have the authority to  
18 establish the maximum age for correctional officers  
19 entering service,

20 b. possession of a minimum of thirty (30) semester hours  
21 from an accredited college or university, or  
22 possession of a high school diploma acquired from an  
23 accredited high school or GED equivalent testing  
24 program,

1 c. satisfactory completion of minimum testing or  
2 professional evaluation through the Merit System of  
3 Personnel Administration to determine the fitness of  
4 the individual to serve in the position. All written  
5 evaluations shall be submitted to the Department of  
6 Corrections, and

7 d. satisfactory completion of a physical in keeping with  
8 the conditions of the job description on an annual  
9 basis and along the guidelines as established by the  
10 Department of Corrections;

11 3. The Director shall designate as correctional peace officers,  
12 correctional officers who are employed in job classifications of  
13 correctional security officer, correctional security manager,  
14 correctional chief of security and chief of security upon  
15 satisfactory completion of a basic course of instruction for  
16 correctional officers, as provided for in paragraph 4 of this  
17 subsection. The peace officer authority of employees designated as  
18 correctional peace officers shall be limited to: maintaining  
19 custody of prisoners; preventing attempted escapes; pursuing,  
20 recapturing and incarcerating escapees and parole or probation  
21 violators and arresting such escapees, parole or probation  
22 violators; serving warrants; carrying firearms; preventing  
23 contraband from entering any penal institutions; arresting  
24 individuals who commit crimes at any penal institution; and

1 performing any duties specifically required for the job  
2 descriptions. Such powers and duties of correctional peace officers  
3 may be exercised for the purpose of maintaining custody, security,  
4 and control of any prisoner being transported inside and outside  
5 this state as authorized by the Uniform Criminal Extradition Act and  
6 the Interstate Corrections Compact. The Director may implement  
7 policies that place additional limitations on the authority of  
8 correctional peace officers. The Director shall issue an  
9 identification card to each correctional peace officer that  
10 identifies the person as a correctional peace officer and grants the  
11 person the authority to carry a firearm and make arrests pursuant to  
12 this paragraph. Should a correctional peace officer terminate  
13 employment for any reason, fail to remain qualified as a  
14 correctional peace officer or for reasons stated in policies of the  
15 Department, the correctional peace officer shall return the  
16 identification card to the supervisor of the correctional peace  
17 officer immediately;

18 4. To develop and implement, ~~upon approval of the State Board~~  
19 ~~of Corrections,~~ a basic course of instruction for correctional  
20 officers that consists of a training academy that provides not less  
21 than two hundred (200) hours of core curriculum instruction and a  
22 firearms training program that provides not less than twenty (20)  
23 hours of instruction. The basic course of instruction shall be  
24 subject to the following:

1 a. the minimum qualifying score that must be shot to pass  
2 the firearms training program shall be equal to the  
3 minimum qualifying score required by the Council on  
4 Law Enforcement Education and Training for peace  
5 officers, and

6 b. the Director may waive any number of hours or courses  
7 required to complete the basic course of instruction  
8 for any person who, in the opinion of the Director,  
9 has received sufficient training or experience that  
10 such hours of instruction would be unduly burdensome  
11 or duplicative; however, completion of the firearms  
12 training program shall not be waived;

13 5. To develop and implement annual in-service training for  
14 correctional officers that consists of at least forty (40) hours of  
15 continued corrections education and annual recertification of  
16 firearms proficiency. The minimum qualifying score that must be  
17 shot to requalify for recertification of firearms proficiency shall  
18 be equal to the minimum qualifying score required by the Council on  
19 Law Enforcement Education and Training for the requalification of  
20 peace officers;

21 6. To require any person employed as a correctional security  
22 officer, correctional security manager, correctional chief of  
23 security and chief of security to remain qualified as a correctional  
24 peace officer. Any correctional peace officer who is unable to

1 remain qualified as a correctional peace officer may be offered an  
2 available position within the Department in the same or lesser pay  
3 grade for which the employee is eligible, or the employee may be  
4 terminated;

5 7. To authorize other employees of the Department to carry  
6 firearms anywhere in the state to use for self-defense pursuant to  
7 and consistent with policies developed by the Department upon  
8 satisfactory completion of the firearms training program provided  
9 for in paragraph 4 of this subsection. The Director shall issue an  
10 identification card to each authorized employee that grants the  
11 employee the authority to carry a firearm pursuant to the provisions  
12 of this paragraph. Should an authorized employee terminate  
13 employment for any reason, fail to remain qualified to carry a  
14 firearm, or for reasons stated in the policies of the Department,  
15 the authorized employee shall immediately return the identification  
16 card to the supervisor of the employee and shall no longer be  
17 authorized to carry firearms under the authority of this paragraph;

18 8. To maintain such industries, factories, plants, shops,  
19 farms, and other enterprises and operations, hereinafter referred to  
20 as prison industries, at each penal institution as the ~~State Board~~  
21 ~~of Corrections~~ Director deems necessary or appropriate to employ the  
22 prisoners or teach skills, or to sustain the penal institution; and  
23 as provided for by policies established by the ~~State Board of~~  
24 ~~Corrections~~ Director, to allow compensation for the work of the



1 prisoners, and to provide for apportionment of inmate wages, the  
2 amounts thus allowed to be kept in accounts by the ~~Board~~ Director  
3 for the prisoners and given to the inmates upon discharge from the  
4 penal institution, or upon an order paid to their families or  
5 dependents or used for the personal needs of the prisoners. Any  
6 industry that employs prisoners shall be deemed a "State Prison  
7 Industry" if the prisoners are paid from state funds including the  
8 proceeds of goods sold as authorized by Section 123f of Title 74 of  
9 the Oklahoma Statutes. Any industry in which wages of prisoners are  
10 paid by a nongovernmental person, group, or corporation, except  
11 those industries employing prisoners in work-release centers under  
12 the authority of the Department of Corrections shall be deemed a  
13 "Private Prison Industry";

14 9. To assign residences at each penal institution to penal  
15 institutional personnel and their families;

16 10. To provide for the education, training, vocational  
17 education, rehabilitation, and recreation of prisoners;

18 11. To regulate the operation of canteens for prisoners;

19 12. To prescribe rules for the conduct, management, and  
20 operation of each penal institution, including rules for the  
21 demeanor of prisoners, the punishment of recalcitrant prisoners, the  
22 treatment of incorrigible prisoners, and the disposal of property or  
23 contraband seized from inmates or offenders under the supervision of  
24 the Department;

1       13. To transfer prisoners from one penal institution to  
2 another;

3       14. To establish procedures that ensure inmates are educated  
4 and provided with the opportunity to execute advance directives for  
5 health care in compliance with Section 3101.2 of Title 63 of the  
6 Oklahoma Statutes. The procedures shall ensure that any inmate  
7 executing an advance directive for health care is competent and  
8 executes the directive with informed consent;

9       15. To maintain courses of training and instruction for  
10 employees of the Department;

11       16. To maintain a program of research and statistics;

12       17. To provide for the periodic audit, at least once annually,  
13 of all funds and accounts of each penal institution and the funds of  
14 each prisoner;

15       18. To provide, subject to rules established by the ~~State Board~~  
16 ~~of Corrections~~ Director, for the utilization of inmate labor for any  
17 agency of the state, city, town, or subdivision of this state, upon  
18 the duly authorized request for such labor by the agency. The  
19 inmate labor shall not be used to reduce employees or replace  
20 regular maintenance or operations of the agency. The inmate labor  
21 shall be used solely for public or state purposes. No inmate labor  
22 shall be used for private use or purpose. Insofar as it is  
23 practicable, all inmate labor shall be of such a nature and designed

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1 to assist and aid in the rehabilitation of inmates performing the  
2 labor;

3 19. To provide clerical services for, and keep and preserve the  
4 files and records of, the Pardon and Parole Board; make  
5 investigations and inquiries as to prisoners at the penal  
6 institutions who are to be, or who might be, considered for parole  
7 or other clemency; assist prisoners who are to be, or who might be,  
8 considered for parole or discharge in obtaining suitable employment  
9 in the event of parole or discharge; report to the Pardon and Parole  
10 Board, for recommendation to the Governor, violations of terms and  
11 conditions of paroles; upon request of the Governor, make  
12 investigations and inquiries as to persons who are to be, or who  
13 might be, considered for reprieves or leaves of absence; report to  
14 the Pardon and Parole Board, for recommendation to the Governor,  
15 whether a parolee is entitled to a pardon, when the terms and  
16 conditions of the parole have been completed; make presentence  
17 investigations for, and make reports thereof to, trial judges in  
18 criminal cases consistent with other laws of the state; supervise  
19 persons on felony probation or parole; and develop and operate,  
20 subject to the policies and guidelines of the ~~Board~~ Director, work-  
21 release centers, community treatment facilities or prerelease  
22 programs at appropriate sites throughout this state;

23 20. To establish an employee tuition assistance program and  
24 promulgate rules in accordance with the Administrative Procedures

1 Act for the operation of the program. The rules shall include, but  
2 not be limited to, program purposes, eligibility requirements, use  
3 of tuition assistance, service commitment to the Department,  
4 reimbursement of tuition assistance funds for failure to complete  
5 course work or service commitment, amounts of tuition assistance and  
6 limitations, and record keeping;

7 21. To establish an employee recruitment and referral incentive  
8 program and promulgate rules in accordance with the Administrative  
9 Procedures Act for the operation of the program. The rules shall  
10 include, but not be limited to, program purposes, pay incentives for  
11 employees, eligibility requirements, payment conditions and amounts,  
12 payment methods, and record keeping;

13 22. To provide reintegration referral services to any person  
14 discharged from the state custody who has volunteered to receive  
15 reintegration referral services. The Director may assign staff to  
16 refer persons discharged from state custody to services. The  
17 Director shall promulgate rules for the referral process. All  
18 reintegration referral services shall be subject to the availability  
19 of funds;

20 23. To conduct continual planning and research and periodically  
21 evaluate the effectiveness of the various correctional programs  
22 instituted by the Department; manage the designing, building, and  
23 maintaining of all the capital improvements of the Department;  
24 establish and maintain current and efficient business, bookkeeping,

1 and accounting practices and procedures for the operations of all  
2 penal institutions and facilities, and for the Department's fiscal  
3 affairs; conduct initial orientation and continuing in-service  
4 training for the Department employees; provide public information  
5 services; inspect and examine the condition and management of state  
6 penal and correctional institutions; investigate complaints  
7 concerning the management of prisons or alleged mistreatment of  
8 inmates thereof; and hear and investigate complaints as to  
9 misfeasance or nonfeasance of employees of the Department;

10 24. To authorize any division of the Department to sell  
11 advertising in any Department-approved publication, media production  
12 or other informational material produced by the Department;  
13 provided, that such advertising shall be approved by the Director or  
14 designee prior to acceptance for publication. The sale of  
15 advertising and negotiation of rates for the advertising shall not  
16 be subject to The Oklahoma Central Purchasing Act or the  
17 Administrative Procedures Act. The Department shall promulgate  
18 rules establishing criteria for accepting or using advertisements as  
19 authorized in this paragraph;

20 25. To issue subpoenas to assist or further investigations into  
21 allegations of crimes committed in public or private prisons within  
22 the State of Oklahoma. Subpoenas issued by the Director shall be  
23 enforced by the District Court in Oklahoma County, Oklahoma;

24

1        26. To authorize award of the badge of an employee who dies  
2 while employed by the Department to the spouse or next of kin of the  
3 deceased employee;

4        27. To establish, in conjunction with the Information Services  
5 Division of the Office of Management and Enterprise Services, an  
6 emergency alert notification system for the public, capable of  
7 distributing notifications of facility emergencies or prisoner  
8 escapes for all facilities and each facility of the Department of  
9 Corrections;

10       28. To declare an emergency when, due to shortage of staff,  
11 correctional officers at a facility are required to work more than  
12 two double shifts in a seven-day period. As used in this paragraph,  
13 "double shift" means two eight-hour shifts in a twenty-four-hour  
14 period; and

15       29. To enter into contracts with media or film production  
16 companies to allow the Department to authorize a media or film  
17 production company to shoot commercial films at penal institutions  
18 and other property under the control of the Department. Any funds  
19 received pursuant to ~~said~~ the contracts shall be deposited into the  
20 Department of Corrections Revolving Fund.

21       B. When an employee of the Department of Corrections has been  
22 charged with a violation of the rules of the Department or with a  
23 felony pursuant to the provisions of a state or federal statute, the  
24 Director may, in the Director's discretion, suspend the charged

1 employee, in accordance with the Oklahoma Personnel Act and/or the  
2 Merit System of Personnel Administration Rules, pending the hearing  
3 and final determination of the charges. Notice of suspension shall  
4 be given by the Director, in accordance with the provisions of the  
5 Oklahoma Personnel Act. If after completion of the investigation of  
6 the charges, it is determined that such charges are without merit or  
7 are not sustained before the Oklahoma Merit Protection Commission or  
8 in a court of law, the employee shall be reinstated and shall be  
9 entitled to receive all lost pay and benefits.

10 This subsection shall in no way deprive an employee of the right  
11 of appeal according to the Oklahoma Personnel Act.

12 SECTION 9. AMENDATORY 57 O.S. 2011, Section 525, is  
13 amended to read as follows:

14 Section 525. ~~On and after October 1, 1982, the Board of~~  
15 ~~Corrections~~ The Director of the Department of Corrections shall  
16 provide offices and residences for the wardens at the Oklahoma State  
17 Penitentiary and the Oklahoma State Reformatory and shall furnish  
18 and maintain them but shall not provide allowance for actual  
19 subsistence expenses for their families and guests therein, out of  
20 appropriated funds.

21 SECTION 10. AMENDATORY 57 O.S. 2011, Section 528, is  
22 amended to read as follows:

23 Section 528. The Director of the Department of Corrections  
24 shall appoint and fix the duties and compensation of employees

1 necessary to carry out the duties imposed upon the Department of  
2 Corrections by law. The ~~State Board of Corrections~~ Governor shall  
3 appoint the Director of the Department of Corrections with the  
4 advice and consent of the Senate. The salary of the Director shall  
5 be set by the Legislature in the annual appropriation bill.

6 SECTION 11. AMENDATORY 57 O.S. 2011, Section 541, as  
7 last amended by Section 1, Chapter 301, O.S.L. 2014 (57 O.S. Supp.  
8 2018, Section 541), is amended to read as follows:

9 Section 541. A. There is hereby created in the State Treasury  
10 an Industries Revolving Fund for the Department of Corrections.

11 B. The revolving fund shall consist of earnings derived from  
12 prison industries operated by the Department of Corrections and from  
13 that portion of the prisoner's income apportioned and paid into the  
14 prison system to recover the cost of incarceration of the prisoners  
15 as provided by law. Funds derived from prisoner wages shall be  
16 maintained and accounted for separately in this fund. The  
17 Industries Revolving Fund shall be a continuing fund, not subject to  
18 fiscal year limitations, and shall be under the control and  
19 management of the ~~State Board~~ Director of the Department of  
20 Corrections.

21 C. Expenditures from the Industries Revolving Fund shall be  
22 budgeted and expended pursuant to the laws of the state and the  
23 statutes relating to public finance and to the institution. The  
24 fund may be used to purchase, maintain and repair machinery, to



1 purchase materials and supplies for the prison industries and to  
2 defray any other expenses necessary to operation of the industries,  
3 with first priority being given to repairs, replacement and  
4 modernization of industrial or agricultural machinery or equipment.  
5 These funds may also be used to support the overall operation of the  
6 Department of Corrections subject to approval of the Director of the  
7 Department of Corrections. Expenditures from the fund derived from  
8 prisoner's income may be used for the maintenance of prisoners in  
9 prison institutions and all expenses related thereto under such  
10 rules as may be established by the ~~State Board~~ Director of the  
11 Department of Corrections. Warrants for expenditures from the  
12 Industries Revolving Fund shall be based on claims signed by an  
13 authorized employee or employees of the Department, and approved for  
14 payment by the Director of the Office of Management and Enterprise  
15 Services. The Department shall maintain a separate accounting of  
16 receipts and expenditures for each industry for periodic review by  
17 the Legislature. The fund may not be used to employ personnel in  
18 excess of those authorized by legislative action.

19 D. All funds in the Department of Corrections' Industries  
20 Revolving Funds not encumbered or obligated upon the operative date  
21 of this section shall be transferred to a single Industries  
22 Revolving Fund of the Department of Corrections.

23 E. The Administrator of Industrial Production will determine  
24 the prices of all goods produced through the state prison

1 industries, and the Administrator of Agri-Services will determine  
2 the prices of all goods produced by Agri-Service units. These  
3 prices will be filed with the Budget Office.

4 When industrial or agricultural items or products are furnished  
5 to the institutions of the Department, or sold to other governmental  
6 agencies, payment therefor shall be made within thirty (30) days for  
7 deposit in the revolving account to be used in purchasing expendable  
8 items, raw materials or other items needed to produce additional  
9 such products or items, and for such other purposes as are  
10 authorized by law. The Administrator of Industrial Production or  
11 Administrator of Agri-Services may establish higher prices for sale  
12 of products to governmental agencies, according to the current  
13 market value of each product.

14 F. The Department of Corrections is authorized to pay inmates  
15 for productive work in accordance with policies set by the ~~State~~  
16 ~~Board~~ Director of the Department of Corrections. The ~~State Board~~  
17 Director of the Department of Corrections shall certify the  
18 positions to be paid and the rate of pay in accordance with the  
19 responsibilities and skills required for the position. The  
20 Department of Corrections shall develop policies for payment of  
21 inmates in the Industries Program that promote productivity as well  
22 as compensate for responsibilities and skills. The Department shall  
23 file such policy statements with the Chairs of the appropriate  
24 committees of both the Senate and the House of Representatives as

1 designated by the President Pro Tempore of the Senate and the  
2 Speaker of the House of Representatives. Any change in this policy  
3 by the ~~State Board~~ Director of the Department of Corrections may be  
4 voided by legislative action to rescind such policy.

5 SECTION 12. AMENDATORY 57 O.S. 2011, Section 543, is  
6 amended to read as follows:

7 Section 543. The Department of Corrections, if authorized by  
8 the Legislature, may establish and operate work release centers or  
9 community treatment centers, under appropriate statutory authority,  
10 and in accordance with rules ~~and regulations~~ as promulgated by the  
11 ~~Board~~ Director of the Department of Corrections.

12 SECTION 13. AMENDATORY 57 O.S. 2011, Section 545, is  
13 amended to read as follows:

14 Section 545. A. Any inmate employed by any prison industry  
15 shall be subject to all rules established for his or her employment  
16 by the ~~State Board~~ Director of the Department of Corrections and to  
17 all statutes governing the operation of state prison industries as  
18 well as by all laws generally governing employment, wages and  
19 working conditions except as provided for herein.

20 B. Inmates employed by prison industries are not state  
21 employees, and they are specifically forbidden from organizing into  
22 unions or other associations in connection with their employment or  
23 from engaging in any strike, work stoppage, slowdown or collective  
24 bargaining process. This prohibition applies to any inmates forming

1 a union local or similar organization at any prison industry but it  
2 shall not prohibit any inmate from otherwise achieving or retaining  
3 status as a union member.

4 C. The claims of the state against an inmate to cover the costs  
5 of incarceration of an inmate shall be prior to the unsecured claims  
6 of any creditor.

7 D. The employment of any inmate by any prison industry is a  
8 privilege granted by the state which may be revoked by the Director  
9 of the Department of Corrections.

10 E. As used in subsection C of this section, "costs of  
11 incarceration" shall include all costs associated with maintaining  
12 an inmate in the custody of the Department of Corrections and shall  
13 include costs paid by the state for medical care for the inmate.

14 SECTION 14. AMENDATORY 57 O.S. 2011, Section 549, as  
15 amended by Section 1, Chapter 265, O.S.L. 2014 (57 O.S. Supp. 2018,  
16 Section 549), is amended to read as follows:

17 Section 549. A. ~~The State Board~~ Director of the Department of  
18 Corrections shall have the following powers and duties with respect  
19 to the operation of prison industries, the Construction Division,  
20 and administration of inmate trust funds:

21 1. The power to make leases or other contracts consistent with  
22 the operation of prison industries, and to set aside land or  
23 facilities for the use of such industry;

24

1           2. The power to establish conditions for expenditures by the  
2 Department of Corrections from the Industries Revolving Fund;

3           3. The power to negotiate wages and working conditions on  
4 behalf of prisoners working in prison industries or prisoners  
5 working in the Construction Division. Pay grades for the  
6 Construction Division "on-the-job training" inmate crews shall be as  
7 follows:

8           a. Pay Grade "A" - Inmate Worker,

9           b. Pay Grade "B" - Inmate Worker,

10          c. Pay Grade "C" - Apprentice,

11          d. Pay Grade "D" - Skilled Craft;

12          4. The power to collect wages and other receipted funds on  
13 behalf of the inmate, to apportion inmate wages and funds in  
14 accordance with the law; and the duty to preserve those wages and  
15 funds reserved for the inmate in an account for his or her benefit,  
16 and to establish procedures by which the inmate can draw funds from  
17 this account under the conditions and limitations and for the  
18 purposes allowed by law;

19          5. The duty to establish the percentages of such wages which  
20 shall be available for apportionment to inmate mandatory savings; to  
21 the inmate for his or her personal use; to the lawful dependents of  
22 the inmate, if any; to the victim of the inmate's crime; for payment  
23 of creditors; for payment of costs and expenses for criminal actions  
24 against such inmate; and to the Department of Corrections for costs

1 of incarceration. Provided, that not less than twenty percent (20%)  
2 of such wages shall be placed in an account, and shall be payable to  
3 the prisoner upon his or her discharge; however, inmates with a  
4 sentence of life without the possibility of parole shall be exempt  
5 from this provision. Funds from this account may be used by the  
6 inmate for fees or costs in filing a civil or criminal action as  
7 defined in Section 151 et seq. of Title 28 of the Oklahoma Statutes  
8 or for federal action as defined in Section 1911 et seq. of Title 28  
9 of the United States Code, 28 U.S.C., Section 1911 et seq.;

10 6. The power to invest funds held by the Department of  
11 Corrections on behalf of each inmate in an interest-bearing account  
12 with the interest accruing and payable to the Crime Victims  
13 Compensation Revolving Fund, as provided in Section 142.17 of Title  
14 21 of the Oklahoma Statutes. The interest from each inmate's  
15 savings account shall be payable to the Crime Victims Compensation  
16 Revolving Fund, at such intervals as may be determined by the ~~Board~~  
17 Director, in addition to any other payments to such fund required by  
18 the inmate's sentence or otherwise by law. An inmate shall not have  
19 the right, use or control of any interest derived from any funds  
20 placed in a mandatory savings account;

21 7. The power to invest funds held by the Department of  
22 Corrections on behalf of each inmate in a commingled offender  
23 interest-bearing account held by the Office of the State Treasurer.  
24 The State Treasurer shall post interest to this account monthly.

1 The Department of Corrections, at such intervals as may be  
2 determined by the ~~Board~~ Director, will credit interest to the inmate  
3 based on the pro rata account balance of the inmate. Deposits into  
4 the inmate interest-bearing account will only be allowed when the  
5 trust fund draw account of the inmate has a balance in excess of One  
6 Hundred Dollars (\$100.00). Inmate mandatory savings account  
7 balances will not be used to determine the eligibility of the inmate  
8 to participate in the interest-bearing savings account. Inmates who  
9 participate in the interest-bearing account will only be allowed to  
10 transfer funds from their interest-bearing account to their draw  
11 account once every ninety (90) days. All inmate transfers from the  
12 interest-bearing account of the inmate to the draw account of the  
13 inmate must be approved by appropriate Department staff prior to  
14 transfer. All transfers of funds from an inmate interest-bearing  
15 account to external recipients must be reviewed and approved by  
16 appropriate Department staff prior to transfer. The Department will  
17 define in policy those rules and procedures that govern inmate  
18 interest-bearing account deposits and funds transfers; and

19 8. The power to invest canteen system, offender restitution and  
20 other offender-related collections by the Department of Corrections  
21 in a commingled interest-bearing account held by the Office of the  
22 State Treasurer and invested as prescribed by Section 89.2 of Title  
23 62 of the Oklahoma Statutes. The State Treasurer shall post  
24 interest to this account monthly. By the fifteenth day of each

1 month, the proportionate share of the interest from the canteen  
2 system, offender restitution and other offender-related collections,  
3 excluding that portion of the interest payable to the Victims  
4 Compensation Revolving Fund and any interest payable to inmates for  
5 the inmate interest-bearing account, shall be remitted to the State  
6 Treasurer from the Department of Corrections for deposit into the  
7 General Revenue Fund.

8 B. The ~~State Board~~ Director of the Department of Corrections  
9 shall cause to be placed in an account income from the inmate's  
10 employment and any other income or benefits accruing to or payable  
11 to and for the benefit of ~~said~~ the inmate, including any workers'  
12 compensation or Social Security benefits.

13 1. From this account the ~~State Board~~ Director of the Department  
14 of Corrections may charge for costs of incarceration any inmate  
15 working in private prison industries or any other inmate for costs  
16 of incarceration not to exceed fifty percent (50%) of any deposits  
17 made to ~~said~~ the account, unless ~~said~~ the deposits were from a  
18 workers' compensation benefit.

19 2. From this account, the ~~State Board~~ Director of the  
20 Department of Corrections may charge any inmate for costs of  
21 incarceration, an amount equivalent to one hundred percent (100%) of  
22 any deposits from a workers' compensation benefit to ~~said~~ the  
23 account.

24



1           3. The Department of Corrections shall pay into the Crime  
2 Victims Compensation Revolving Fund, Section 142.17 of Title 21 of  
3 the Oklahoma Statutes, an amount equal to five percent (5%) of the  
4 gross wages earned by inmates working in a private prison industries  
5 program, ~~said~~ the amount to be paid from the amount deducted for  
6 cost of incarceration.

7           4. Withdrawals and deposits shall be made according to rules  
8 ~~and regulations~~ established by the ~~State Board~~ Director of the  
9 Department of Corrections.

10           C. The Department of Corrections may assess costs of  
11 incarceration against all inmates beginning on September 1, 1992.  
12 Such costs shall be a debt of the inmate owed to the Department of  
13 Corrections and may be collected as provided by law for collection  
14 of any other civil debt. In addition to the provisions of this  
15 section authorizing expenditure of inmate trust funds for costs of  
16 incarceration, any monies received for costs of incarceration shall  
17 be deposited in the Department of Corrections Revolving Fund.

18           SECTION 15.           AMENDATORY           57 O.S. 2011, Section 549.1, as  
19 last amended by Section 2, Chapter 197, O.S.L. 2018 (57 O.S. Supp.  
20 2018, Section 549.1), is amended to read as follows:

21           Section 549.1. A. The Department of Corrections is authorized  
22 to purchase in the manner prescribed by law, facilities, equipment,  
23 raw materials and supplies, and to engage the supervisory personnel  
24 necessary to establish and maintain for this state at the penal

1 institutions, now or hereafter under the control of the ~~State Board~~  
2 Director of the Department of Corrections, industries and  
3 agricultural programs for the utilization of services of prisoners  
4 in the manufacture, production, processing or assembly of the  
5 articles or products as may be needed for the construction,  
6 operation, maintenance or use of any office, department, institution  
7 or agency supported in whole or in part by this state and the  
8 political subdivisions thereof. Upon the request of the Oklahoma  
9 Historical Society or the Oklahoma Tourism and Recreation  
10 Department, the Department of Corrections shall provide labor for  
11 and shall produce or manufacture articles, products or materials  
12 needed for the repair, construction and maintenance of historical  
13 sites and state parks including, but not limited to, the production  
14 of materials and products needed for the reconstruction of historic  
15 forts in the state.

16 B. All articles and services provided by the Department of  
17 Corrections in the state correctional institutions, and not required  
18 for use therein, shall be purchased as required by all offices,  
19 departments, institutions, agencies, counties, schools, colleges,  
20 universities, or political subdivisions or any agency thereof of  
21 this state which are supported in whole or in part by this state, if  
22 such article or service is the lowest and best bid, and no such  
23 article or product may be purchased by any such office, department,  
24 institution, agency, county, school, college, university, or

1 political subdivisions or agency thereof from any other source  
2 unless excepted from the provisions as hereinafter provided.

3 Purchases made by the above-described state agencies may be made by  
4 submitting the proper requisition through the Office of Management  
5 and Enterprise Services or by direct order to the prison industries  
6 program of the Department of Corrections.

7 C. If a requisition is received by the Office of Management and  
8 Enterprise Services or a direct order is received by the Prison  
9 Industries Program of the Department of Corrections from a state  
10 agency for any product or service provided by the Department of  
11 Corrections and such product or service is also available from a  
12 severely handicapped person or a qualified nonprofit agency for the  
13 severely handicapped as provided in Section 3001 et seq. of Title 74  
14 of the Oklahoma Statutes at a comparable price, then the product or  
15 service shall be purchased from such severely handicapped person or  
16 qualified nonprofit agency for the severely handicapped. If the  
17 product or service is not available within the time period required  
18 by the purchasing state agency, then such product or service shall  
19 be purchased from the Department of Corrections under the provisions  
20 of this section.

21 D. All offices, departments, institutions, agencies, counties,  
22 cities, districts or political subdivisions, schools, colleges, or  
23 universities, or any agency thereof, or any agencies of the state,  
24 which are supported in whole or in part by this state, may purchase

1 the goods or services manufactured, produced, processed or assembled  
2 by the prison industries of the Department of Corrections through  
3 their properly authorized purchasing authority, or they may place a  
4 direct order without competitive bid, with the prison industries of  
5 the Department of Corrections.

6 E. Not-for-profit corporations or charitable agencies chartered  
7 in Oklahoma or other states may purchase such goods and services.  
8 Units of the federal government and units of government in other  
9 states may also purchase such goods and services. All entities  
10 which contract with the state, its political units, its agencies,  
11 its public institutions, not-for-profit corporations or charitable  
12 agencies chartered in Oklahoma may purchase goods or services from  
13 the Department of Corrections which are used in the performance of  
14 such contracts. Any church located in the State of Oklahoma may  
15 also purchase goods and services manufactured, produced, processed  
16 or assembled by the prison industries of the Department of  
17 Corrections. Any community action agency or council of governments  
18 within this state may purchase housing components produced by the  
19 prison industries of the Department of Corrections. Nothing shall  
20 prohibit the Department from bidding on portions of a state contract  
21 which are subcontracted by the primary contractor.

22 F. Others are prohibited from purchasing such goods and  
23 services, with the exception that all surplus agricultural products  
24 may be sold on the open market or bartered and exchanged for other

1 food, feed or seed products of comparable value. The Department of  
2 Corrections shall keep complete and accurate records of any such  
3 barters or exchanges in such form and manner as the Office of  
4 Management and Enterprise Services may prescribe. A copy of such  
5 records shall be filed with the Office of Management and Enterprise  
6 Services no later than March 1 of each year for all barters or  
7 exchanges occurring in the previous calendar year. When  
8 practicable, the Department of Corrections may accept and process  
9 agricultural products from the public and may export the resulting  
10 products to foreign markets.

11 G. Products manufactured, produced, processed or assembled by  
12 the Department of Corrections shall be of styles, patterns, designs  
13 and quantities specified by the Department of Corrections except  
14 where the same have been or may be specified by the Office of  
15 Management and Enterprise Services. Products shall be provided at a  
16 fair market price for comparable quality.

17 H. State agencies shall make maximum utilization of such  
18 products and no similar products shall be purchased by state  
19 agencies from any other source than the Department of Corrections  
20 except as provided in subsection C of this section, unless the  
21 Department of Corrections certifies to the State Purchasing Director  
22 that it is not able to provide products, and no claim therefor shall  
23 be paid without such certification.

24

1 I. Exceptions from the mandatory provisions hereof may be made  
2 in any case where, in the opinion of the Office of Management and  
3 Enterprise Services, the article or product does not meet the  
4 reasonable requirements of or for such offices, departments,  
5 institutions or agencies, or in any case where the requisitions made  
6 cannot be reasonably complied with. No such offices, departments,  
7 institutions or agencies, shall be allowed to evade the intent and  
8 meaning of this section by slight variations from standards adopted  
9 by the Office of Management and Enterprise Services, when the  
10 articles, services or products produced, manufactured, processed or  
11 assembled by the Department of Corrections, in accordance with  
12 established standards, are reasonably adapted to the actual needs of  
13 such offices, departments, institutions or agencies.

14 J. In the event of disagreement between the Department of  
15 Corrections and the State Purchasing Director on fairness of price,  
16 ability to comply to specifications, reasonableness of  
17 specifications and timeliness of delivery of products the matter  
18 will be resolved by the Purchasing Director of the Office of  
19 Management and Enterprise Services.

20 K. The Office of Management and Enterprise Services shall  
21 cooperate with the Department of Corrections in seeking to promote  
22 for use in state agencies and by all other eligible customers, the  
23 products manufactured and services provided by the prison  
24 industries.

1 L. The Department of Corrections shall prepare catalogs  
2 containing the description of all goods and services provided, with  
3 the pricing of each item. Copies of such catalog shall be sent by  
4 the Department of Corrections to all offices, departments,  
5 institutions and agencies of this state, and shall be available for  
6 distribution to all other eligible customers. In lieu of preparing  
7 and distributing catalogs, the Department of Corrections may  
8 maintain a website that contains a description of all goods and  
9 services provided, with the pricing of each item.

10 M. The Department of Corrections may keep confidential:

11 1. Business plans, feasibility studies, financing proposals,  
12 marketing plans, financial statements or trade secrets submitted by  
13 a person or entity seeking a corrections industries partnership with  
14 the Department of Corrections;

15 2. Proprietary information of the business submitted to the  
16 Department for the purposes of a corrections industries partnership,  
17 and related confidentiality agreements detailing the information or  
18 records designated as confidential; and

19 3. The Department of Corrections may not keep confidential  
20 information when and to the extent that the person or entity  
21 submitting the information consents to disclosure.

22 SECTION 16. AMENDATORY 57 O.S. 2011, Section 550, is  
23 amended to read as follows:

24

1 Section 550. In exercising the powers and duties granted to the  
2 ~~Board~~ Director of the Department of Corrections under ~~this act~~ the  
3 Oklahoma Corrections Act of 1967, the ~~Board~~ Director is hereby  
4 authorized to designate such person or persons as it may deem  
5 necessary to perform those functions on its behalf.

6 SECTION 17. AMENDATORY 57 O.S. 2011, Section 559, is  
7 amended to read as follows:

8 Section 559. Beginning July 1, 1983, all monies received by the  
9 Department of Corrections for prison rodeos and other special events  
10 for inmates shall be deposited in the State Treasury to the credit  
11 of the Department of Corrections Revolving Fund and expenditures for  
12 prison rodeos, and other special events for inmates shall be made  
13 from ~~said~~ the fund. The ~~Board~~ Director of the Department of  
14 Corrections may also authorize expenditures from ~~said~~ the fund for  
15 inmate recreation if ~~said~~ the expenditures are in excess of the  
16 amount required to support special events and the prison rodeos, and  
17 if the fund can support such additional expenditures. ~~On July 1,~~  
18 ~~1983, any cash remaining in the Department of Corrections Rodeo and~~  
19 ~~Special Events Revolving Fund in excess of allotment balances or~~  
20 ~~encumbrances for the fiscal year ending June 30, 1983, shall be~~  
21 ~~transferred to the Department of Corrections Revolving Fund and on~~  
22 ~~November 15, 1983, all cash remaining in the Department of~~  
23 ~~Corrections Rodeo and Special Events Revolving Fund shall be~~  
24 ~~transferred to the Department of Corrections Revolving Fund.~~



1 SECTION 18. AMENDATORY 57 O.S. 2011, Section 561, as  
2 amended by Section 255, Chapter 304, O.S.L. 2012 (57 O.S. Supp.  
3 2018, Section 561), is amended to read as follows:

4 Section 561. A. The Department of Corrections is hereby  
5 authorized to provide for incarceration, supervision, and  
6 residential treatment at facilities other than those operated by the  
7 Department of Corrections. Services offered for persons under the  
8 custody or supervision of the Department are to include, but not be  
9 limited to, housing, alcoholism or drug treatment, mental health  
10 services, nursing home care, or halfway house placement. Such  
11 services must meet standards prescribed and established by the ~~State~~  
12 ~~Board~~ Director of the Department of Corrections for implementing  
13 such a program, including but not limited to standards concerning  
14 internal and perimeter security, discipline of inmates, educational  
15 and vocational training programs, employment of inmates, and proper  
16 food, clothing, housing, and medical care. Such services must be  
17 contracted for in accordance with Section 85.7 of Title 74 of the  
18 Oklahoma Statutes. Such services, if provided by private prison  
19 contractors, shall be contracted for as required by this section.

20 B. The Department of Corrections is authorized to lease  
21 existing facilities or portions thereof from private prison  
22 contractors, counties or other governmental entities and operate  
23 such facilities or portions thereof in the same manner as other  
24 state owned and operated prison facilities. All lease agreements

1 entered into pursuant to this section shall be negotiated between  
2 the Department and the lessor. The Office of Management and  
3 Enterprise Services shall assist in the negotiations if requested by  
4 the Department of Corrections.

5 C. Subject to the requirements of this section and Section  
6 561.1 of this title, the Department of Corrections is hereby  
7 authorized to provide for the construction or operation or both  
8 construction and operation of correctional institutions of the  
9 Department of Corrections by private prison contractors. Such  
10 operation shall meet standards prescribed by the ~~State Board~~  
11 Director of the Department of Corrections, including but not limited  
12 to, standards concerning internal and perimeter security, discipline  
13 of inmates, educational and vocational training programs, and proper  
14 food, clothing, housing, transportation, and medical care. Such  
15 services shall be contracted for in accordance with the provisions  
16 of Section 561.1 of this title and the provisions of this section.

17 D. A comprehensive file for all private prison contractors  
18 interested in and capable of operating an institution within the  
19 Department of Corrections or providing for the housing, care, and  
20 control of inmates in a facility owned and operated by the  
21 contractor shall be maintained by the Department. These files shall  
22 include:

- 23 1. A completed application form;
- 24 2. A resume of the contractor's staff and capability;

1           3. A completed performance evaluation form for past projects on  
2 which the contractor has provided private prison services;

3           4. A list of past contracts with this state;

4           5. A list of contracts to provide similar services to other  
5 states or to the United States; and

6           6. The mailing address of each private prison contractor.

7           Any person or firm wishing to be a private prison contractor may  
8 request at any time to be included in the comprehensive file, and  
9 shall be provided necessary forms within twenty (20) days of the  
10 request and the Department shall add such contractor to the list  
11 within twenty (20) days of receipt of a properly completed  
12 application.

13           The Department may solicit evaluation of work done by private  
14 prison contractors from members of the private sector, which  
15 evaluation shall be part of the comprehensive file.

16           E. If the Department intends to secure the services of a  
17 private prison contractor, all persons and firms included in the  
18 file shall be notified through the mail of such intent. Such  
19 notification shall contain the following information:

20           1. Description and scope of the project or projects;

21           2. Estimated time schedule for project;

22           3. Last date for submitting notice of interest in performing  
23 services to the Director; and

24           4. Other pertinent data.

1 Private prison contractors desiring consideration shall meet the  
2 requirements of this section and to be considered shall submit a  
3 letter expressing interest in the project to the Department within  
4 thirty (30) days of the postmark date of the letter of notification  
5 mailed by the Department. Contractors shall file an updated  
6 application form at the request of the Department.

7 F. The Department shall define the scope of a proposed project,  
8 determine the various project components, phases and timetables, and  
9 prepare detailed project descriptions to guide prospective  
10 contractors. Before the Department awards a contract to a private  
11 prison contractor, the plans shall be approved by the ~~State Board~~  
12 Director of the Department of Corrections.

13 G. The Department shall review the files of the private prison  
14 contractors desiring consideration for the project. After  
15 performing the analysis required by Section 561.1 of this title, the  
16 Department shall select no less than three and no more than five  
17 contractors for more detailed consideration. In the event  
18 interviews for more than one contract are being considered at the  
19 same time, the number of contractors selected for more detailed  
20 consideration should be at least twice the number of contracts  
21 contemplated. This initial screening should consider the  
22 requirements of the project, as well as the following factors to be  
23 determined from the comprehensive file, and replies to inquiries to  
24 former clients:

- 1 1. Specialized experience in the type of work contemplated;
- 2 2. Capacity of the contractor to accomplish the work in the
- 3 required time; and
- 4 3. Past performance, from the performance evaluation form.

5 H. A full report of the evaluation procedures and  
6 recommendations of the Department shall be prepared by the  
7 Department and submitted to the ~~State Board~~ Director of the  
8 Department of Corrections for the independent review of the entire  
9 process.

10 I. 1. The Department shall select the contractor whose  
11 qualifications and project proposal most substantially meet the  
12 criteria of the project description.

13 2. The Department shall execute the contract with the selected  
14 contractor, which contract shall include a fair and reasonable fee.

15 3. The negotiated scope and fee shall be reported to the ~~Board~~  
16 Director for the approval of the award of the contract.

17 J. The Office of Management and Enterprise Services shall  
18 render assistance to the Department of Corrections in implementing  
19 the contracting procedures provided for in this section. The Office  
20 of Management and Enterprise Services may have a representative at  
21 any meeting involving negotiations of a contract between the  
22 Department and a private prison contractor. Before submission of  
23 the proposed contract to the Council on Bond Oversight, and prior to  
24 the date as of which the proposed contract is executed by the ~~State~~

1 ~~Board~~ Director of the Department of Corrections, the Attorney  
2 General and the Director of the Office of Management and Enterprise  
3 Services shall review the proposed final version of the contract.  
4 The Attorney General and the Director of the Office of Management  
5 and Enterprise Services shall have a period of fifteen (15) days  
6 from receipt of the proposed final version of the contract to  
7 approve the contract and execute the document. If either the  
8 Attorney General or the Director of the Office of Management and  
9 Enterprise Services has objections to the proposed contract, the  
10 objections shall be communicated in writing to the Department of  
11 Corrections. The Department of Corrections shall take appropriate  
12 action regarding the objections and shall resubmit the proposed  
13 contract for additional review. The Attorney General and the Office  
14 of Management and Enterprise Services shall have an additional  
15 fifteen-day period to approve the proposed contract and to execute  
16 the document. Failure of the Attorney General or the Director of  
17 the Office of Management and Enterprise Services, respectively, to  
18 act within the fifteen-day period shall constitute approval of the  
19 respective official to the proposed final version of the contract.  
20 The contract shall contain a separate signature block or line for  
21 signature by the Attorney General and the Office of Management and  
22 Enterprise Services. The contract shall contain a statement to be  
23 executed by the Attorney General and the Director of the Office of  
24 Management and Enterprise Services that each one of them,

1 respectively, has reviewed the proposed contract for compliance with  
2 the provisions of this section and Section 561.1 of this title, and  
3 all other applicable provisions of law and that the contract  
4 conforms with those requirements. Neither the private prison  
5 contractor nor the ~~State Board~~ Director of the Department of  
6 Corrections shall execute the contract until the document has been  
7 executed by the Attorney General and the Director of the Office of  
8 Management and Enterprise Services as required by this subsection  
9 unless the approval of the respective official has been made as a  
10 result of failure to take action within the fifteen-day period  
11 prescribed by this subsection.

12 K. The Director of the Office of Management and Enterprise  
13 Services is authorized to lease real property and improvements  
14 thereon to a private prison contractor in conjunction with a  
15 contract for private management of a state correctional institution  
16 located or to be built on the property. ~~Said~~ The lease may be  
17 entered into for one (1) year periods, renewable at the sole option  
18 of the State of Oklahoma, but not to exceed a cumulative period of  
19 fifty (50) years.

20 L. Contracts awarded to private prison contractors pursuant to  
21 the provisions of this section shall be entered into for a period  
22 specified in each contract, subject to availability of funds  
23 annually appropriated by the Legislature for that purpose. No  
24

1 contract awarded pursuant to this section shall provide for the  
2 encumbrance of funds beyond the amount available for a fiscal year.

3 M. No contract authorized by the provisions of this section  
4 shall be awarded until the private prison contractor demonstrates to  
5 the satisfaction of the ~~State Board~~ Director of the Department of  
6 Corrections:

7 1. That the contractor possesses the necessary qualifications  
8 and experience to provide the services specified in the contract;

9 2. That the contractor can provide the necessary qualified  
10 personnel to implement the terms of the contract;

11 3. That the financial condition of the contractor is such that  
12 the terms of the contract can be fulfilled;

13 4. That the contractor has the ability to comply with  
14 applicable court orders and corrections standards; and

15 5. That, in the case of a contractor who will be providing the  
16 services in a nondepartmental facility operated by ~~said~~ the  
17 contractor, the contractor shall be able to meet accreditation  
18 standards and receive accreditation, as required by the terms of the  
19 contract pursuant to subsection C of Section 561.1 of this title.

20 N. No contract authorized by the provisions of this section  
21 shall be awarded until the private prison contractor demonstrates to  
22 the satisfaction of the ~~Board~~ Director that the contractor can  
23 obtain insurance or provide self-insurance to:

24



1 1. Indemnify the state against possible lawsuits arising from  
2 the operation of prison facilities by the contractor; and

3 2. Compensate the state for any property damage or expenses  
4 incurred due to the operation of prison facilities.

5 O. A private prison contractor shall not be bound by state laws  
6 or other legislative enactments governing the appointment,  
7 qualifications, duties, salaries, or benefits of wardens,  
8 superintendents, or other correctional employees, except that any  
9 personnel authorized to carry and use firearms shall comply with the  
10 certification standards required by the provisions of Section 3311  
11 of Title 70 of the Oklahoma Statutes and be authorized to use  
12 firearms only to prevent a felony, to prevent escape from custody,  
13 or to prevent an act which would cause death or serious bodily  
14 injury to the personnel or to another person.

15 P. Any offense which would be a crime if committed within a  
16 state correctional institution also shall be a crime if committed in  
17 an institution or facility operated by a private prison contractor.

18 Q. The Director or his designee shall monitor the performance  
19 of the contractor.

20 SECTION 19. AMENDATORY 57 O.S. 2011, Section 561.1, as  
21 last amended by Section 1, Chapter 84, O.S.L. 2014 (57 O.S. Supp.  
22 2018, Section 561.1), is amended to read as follows:

23 Section 561.1. A. Except as otherwise provided by subsection K  
24 of this section, prior to entering into a contract with any private

1 prison contractor for construction or operation, or both, of a  
2 correctional facility, the Department of Corrections shall establish  
3 a process for requesting proposals or negotiated contracts from such  
4 contractors. The Department of Corrections shall develop criteria  
5 for the process by which a contractor for the construction or  
6 operation, or both, of a private prison is to be awarded a contract.  
7 The criteria shall be subject to approval by the ~~State Board~~  
8 Director of the Department of Corrections. The criteria for  
9 selection of a site for a proposed facility to be constructed or  
10 operated, or both, by a private contractor shall include, but shall  
11 not be limited to, the availability of medical services, support  
12 services, transportation services and the availability of potential  
13 employees who would be qualified to perform required functions at a  
14 state correctional facility.

15 B. Any contract between the Department of Corrections and a  
16 private prison contractor, whereby the contractor provides for the  
17 housing, care, and control of inmates in a nondepartmental facility  
18 operated by the contractor, shall contain, in addition to other  
19 provisions, terms and conditions:

20 1. Requiring the contractor to provide ~~said~~ the services in a  
21 facility which meets accreditation standards established by the  
22 American Correctional Association;

23  
24

1           2. Requiring the contractor to receive accreditation for ~~said~~  
2 the facility from the American Correctional Association, within  
3 three (3) years of commencement of operations of the facility;

4           3. Requiring the contractor to obtain written authorization  
5 from the governing board of any municipality in which the facility  
6 is to be located, or if the facility is not to be located within a  
7 municipality, written authorization from the board of county  
8 commissioners of the county in which the facility is to be located;  
9 and

10          4. Granting the Department the option at the beginning of each  
11 fiscal year pursuant to an agreement, to purchase any such facility,  
12 with or without inventory or other personal property, at a  
13 predetermined price, which shall be negotiated and included in a  
14 schedule or a formula to be contained in the original agreement.  
15 Such agreements relating to a correctional facility, the  
16 construction of which was financed or is to be financed by  
17 obligations issued from a local governmental entity the repayment of  
18 which is to be made in whole or in part from rentals from the State  
19 of Oklahoma or the Department of Corrections, shall be submitted to  
20 the Council on Bond Oversight as provided in subsection I of this  
21 section.

22          C. A contractor proposing to enter a contract with the  
23 Department of Corrections for construction or operation, or both, of  
24 a correctional facility pursuant to this section must demonstrate:

1           1. The qualifications and the operations and management  
2 experience to carry out the terms of the contract; and

3           2. The ability to comply with the standards of the American  
4 Correctional Association and with specific court orders.

5           D. In addition to meeting the requirements specified in the  
6 requests for proposals, a proposal for the construction and  
7 operation of a correctional facility must:

8           1. Provide for regular, on-site monitoring by the Department of  
9 Corrections;

10          2. Acknowledge that payment by the state is subject to the  
11 availability of appropriations;

12          3. Provide for payment of a maximum amount per fiscal year;

13          4. Demonstrate a cost benefit to the State of Oklahoma when  
14 compared to the level and quality of programs provided by state-  
15 operated facilities that have similar types of inmates at an  
16 operational cost not more than the cost of housing inmates in  
17 similar facilities and providing similar programs to those types of  
18 inmates in state-operated facilities. The Department of Corrections  
19 shall be responsible for determining the cost/benefit of the  
20 proposal;

21          5. Permit the state to terminate the contract for cause;

22          6. Contain a proposed per diem operational cost per inmate for  
23 the initial year and subsequent years of operations;

24

1           7. Subject to appropriations, provide that cost adjustments may  
2 be made only once each fiscal year, to take effect at the beginning  
3 of the next fiscal year using as the maximum percentage increase, if  
4 any, an increase not to exceed the previous year's Consumer Price  
5 Index for All Urban Consumers (CPI-U) as prepared by the United  
6 States Bureau of Labor Statistics, except as otherwise provided by  
7 subsection K of this section;

8           8. Have an initial contract term of not more than one (1) year,  
9 with an option to renew for additional periods not to exceed twenty  
10 (20) years;

11           9. If the proposal includes construction of a facility, contain  
12 a performance bond approved by the Department that is adequate and  
13 appropriate for the proposed contract;

14           10. Provide for assumption of liability by the private vendor  
15 for all claims arising from the services performed under the  
16 contract by the private vendor;

17           11. Provide for an adequate plan of insurance for the private  
18 vendor and its officers, employees, and agents against all claims,  
19 including claims based on violations of civil rights arising from  
20 the services performed under the contract by the private vendor;

21           12. Provide for an adequate plan of insurance to protect the  
22 state against all claims arising from the services performed under  
23 the contract by the private vendor and to protect the state from  
24

1 actions by a third party against the private vendor, its officers,  
2 employees, and agents as a result of the contract;

3 13. Provide plans for the purchase and assumption of operations  
4 by the state in the event of the bankruptcy of the private vendor;  
5 and

6 14. Contain comprehensive standards for conditions of  
7 confinement.

8 E. At the beginning of each fiscal year, the Department of  
9 Corrections shall determine the budgeted average daily cost per  
10 inmate. The budgeted average daily cost per inmate shall include  
11 all direct and indirect costs incurred by the Department. There  
12 shall be a separate computation of budgeted average daily cost for  
13 maximum security, medium security, minimum security, and community  
14 facilities. This information shall be presented to the ~~State Board~~  
15 Director of the Department of Corrections for informational purposes  
16 only. After the close of each fiscal year, the Department shall  
17 determine the actual average daily cost per inmate for the  
18 operational costs at each major category of correctional facility.  
19 The actual average daily cost per inmate shall include all direct  
20 and indirect costs incurred by the Department. There shall be a  
21 separate computation of the average daily rate for maximum security,  
22 medium security, minimum security, and community facilities. The  
23 Department shall present to the ~~State Board~~ Director of the  
24 Department of Corrections at its January meeting comparative data on

1 budgeted daily cost versus actual daily cost, and, after appropriate  
2 review and analysis, the ~~Board~~ Director shall adopt as a final  
3 action of the ~~Board~~ Director an average daily cost per inmate by  
4 facility category for the immediately preceding fiscal year.

5 F. If a request for proposal process is utilized and no  
6 proposals conform to the established criteria, the Department shall  
7 prepare an additional request for proposals. The Department of  
8 Corrections shall evaluate the proposals within thirty (30) days of  
9 receipt from the prospective contractor. The Department of  
10 Corrections shall specifically determine whether a proposal meets  
11 the requirements of paragraph 4 of subsection D of this section by  
12 comparing the daily rate for housing and care of inmates pursuant to  
13 any proposed contract with a private contractor to the daily rate  
14 for housing and care of inmates at the comparable type of facility  
15 operated by the Department of Corrections using the information  
16 provided pursuant to paragraph 6 of subsection D of this section.  
17 The Department shall evaluate proposals taking into account any  
18 direct or indirect costs that would continue to be paid by the  
19 Department of Corrections including, but not limited to,  
20 transportation, records management, discipline, general  
21 administration, management of inmate trust funds, and major medical  
22 coverage. Such costs shall be added to the proposed per diem of the  
23 private vendor when comparing the total per diem costs of the state  
24 operating facilities.

1 G. If the Department of Corrections proposes to enter into a  
2 contract for the construction or the operation, or both, of a  
3 private prison, the Department shall compare both the capital costs  
4 and the operating costs for the facility to the imputed capital  
5 costs and the projected operating costs of a comparable facility  
6 constructed and operated by the Department of Corrections.

7 H. The Director of the Department of Corrections shall ~~deliver~~  
8 ~~to the State Board of Corrections~~ identify the top three qualified  
9 prospective private prison contractors identified pursuant to this  
10 section and pursuant to Section 561 of this title together with the  
11 information reviewed and analyzed by the Department of Corrections  
12 during analysis of the proposals as required by this section. The  
13 ~~Board~~ Director of Corrections shall evaluate the information  
14 provided and shall make a final decision selecting the contractor  
15 within fifteen (15) days of receipt of the information.

16 I. Any contract subject to the provisions of this section  
17 entered into by the ~~Board of~~ Director of the Department of  
18 Corrections shall be subject to the approval of the Council on Bond  
19 Oversight in the same manner as provided by law for the review of  
20 issuance of obligations by State Governmental Entities as prescribed  
21 by Section 695.8 of Title 62 of the Oklahoma Statutes.

22 J. Before submission of the proposed contract to the Council on  
23 Bond Oversight, and prior to the date as of which the proposed  
24 contract is executed by the ~~Board~~ Director of the Department of



1 Corrections, the Attorney General and the Director of the Office of  
2 Management and Enterprise Services shall review the proposed final  
3 version of the contract. The Attorney General and the Director of  
4 the Office of Management and Enterprise Services shall have a period  
5 of fifteen (15) days from receipt of the proposed final version of  
6 the contract to approve the contract and execute the document. If  
7 either the Attorney General or the Director of the Office of  
8 Management and Enterprise Services has objections to the proposed  
9 contract, the objections shall be communicated in writing to the  
10 Department of Corrections. The Department of Corrections shall take  
11 appropriate action regarding the objections and shall resubmit the  
12 proposed contract for additional review. The Attorney General and  
13 the Office of Management and Enterprise Services shall have an  
14 additional fifteen-day period to approve the proposed contract and  
15 to execute the document. Failure of the Attorney General or the  
16 Director of the Office of Management and Enterprise Services,  
17 respectively, to act within the fifteen-day period shall constitute  
18 approval of the respective official to the proposed final version of  
19 the contract. The contract shall contain a separate signature block  
20 or line for signature by the Attorney General and the Office of  
21 Management and Enterprise Services. The contract shall contain a  
22 statement to be executed by the Attorney General and the Director of  
23 the Office of Management and Enterprise Services that each one of  
24 them, respectively, has reviewed the proposed contract for

1 compliance with the provisions of this section and Section 561 of  
2 this title, and all other applicable provisions of law and that the  
3 contract conforms with those requirements. Neither the private  
4 prison contractor nor the ~~State Board~~ Director of the Department of  
5 Corrections shall execute the contract until the document has been  
6 executed by the Attorney General and the Director of the Office of  
7 Management and Enterprise Services as required by this subsection  
8 unless the approval of the respective official has been made as a  
9 result of failure to take action within the fifteen-day period  
10 prescribed by this subsection.

11 K. ~~The State Board of Corrections may renew a private prison~~  
12 ~~contract which is in effect for any time period during the fiscal~~  
13 ~~year ending June 30, 2009, if the Board determines that the renewal~~  
14 ~~of such contract will result in a reduced per diem in the fiscal~~  
15 ~~year ending June 30, 2010. If the State Board of Corrections makes~~  
16 ~~such determination, the contract shall not be subject to the~~  
17 ~~restrictions of paragraph 7 of subsection D of this section and the~~  
18 ~~Board shall negotiate the contract based upon such terms as the~~  
19 ~~Board deems to be in the best interest of operational efficiency,~~  
20 ~~including the inmate population, per inmate cost, public safety and~~  
21 ~~such other terms as the State Board of Corrections determines to be~~  
22 ~~relevant to such contract. The State Board~~ Director of the  
23 Department of Corrections shall have the authority to negotiate the  
24 term of any contract executed pursuant to the provisions of this

1 ~~subsection~~ section subject to the availability of appropriations to  
2 the Department of Corrections each year.

3 SECTION 20. AMENDATORY 57 O.S. 2011, Section 561.2, as  
4 amended by Section 257, Chapter 304, O.S.L. 2012 (57 O.S. Supp.  
5 2018, Section 561.2), is amended to read as follows:

6 Section 561.2. A. The Department of Corrections shall develop  
7 criteria for selection of a site upon which to construct the  
8 correctional facilities described in subsection B of Section 183 of  
9 Title 73 of the Oklahoma Statutes. The criteria shall include, but  
10 shall not be limited to, the availability of medical services,  
11 support services, transportation services, the availability of  
12 potential employees who would be qualified to perform required  
13 functions at a state correctional facility and any benefits or  
14 incentives offered by the applicant. The criteria shall be subject  
15 to approval by the ~~State Board~~ Director of the Department of  
16 Corrections.

17 B. The Department of Corrections shall establish a process for  
18 requesting proposals to construct a correctional facility built with  
19 the funds authorized pursuant to Section 183 of Title 73 of the  
20 Oklahoma Statutes.

21 C. Proposals shall be submitted not later than thirty (30) days  
22 after receipt of the request. The Department shall identify the  
23 proposals meeting the criteria approved pursuant to subsection A of  
24 this section within thirty (30) days after receipt of the proposals.

1 The Department of Corrections shall identify by appropriate review  
2 and analysis the proposals submitted and shall select a maximum of  
3 three proposals which conform to the criteria set out in subsection  
4 A of this section and shall forward the proposals meeting criteria  
5 to the ~~State Board~~ Director of the Department of Corrections.

6 D. The Director of the Department of Corrections shall ~~deliver~~  
7 ~~to the State Board of Corrections~~ identify the top three qualified  
8 proposals identified pursuant to this section together with the  
9 information reviewed and analyzed by the Department of Corrections  
10 during analysis of the proposals as required by this section. The  
11 ~~State Board~~ Director of the Department of Corrections shall evaluate  
12 the information provided and shall make a final decision selecting  
13 the best site for the correctional facility within fifteen (15) days  
14 of receipt of the information.

15 E. Any plans developed pursuant to the process for selection of  
16 a contractor for construction of a facility authorized pursuant to  
17 Section 183 of Title 73 of the Oklahoma Statutes shall become the  
18 nonexclusive property of the State of Oklahoma as a condition of the  
19 award of the final contract for construction of the facility. The  
20 State of Oklahoma shall not be obligated to obtain any further  
21 permission for use of the plans or to make payment to any person or  
22 other legal entity for the further use of the plans as may be needed  
23 for additional projects for site adaptation for buildings,  
24 structures, or both, for use by the Department of Corrections.

1 F. The Office of Management and Enterprise Services shall be  
2 responsible for any changes or updates of such plans for  
3 construction of any additional correctional facility constructed  
4 using the plans described in subsection E of this section. The  
5 Department of Transportation and the Office of Management and  
6 Enterprise Services shall provide such architectural, engineering  
7 and consulting services as the Department of Corrections may require  
8 in order to adapt existing plans for use in construction of  
9 additional correctional facilities.

10 G. If the Department of Corrections requires architectural,  
11 engineering or other consulting services in addition to those  
12 services authorized by subsection F of this section, the Office of  
13 Management and Enterprise Services shall be authorized to enter into  
14 a contract with an architect, engineer or for other necessary  
15 services, as may be required in order to adapt existing plans for  
16 new sites for additional correctional facilities. The costs of any  
17 such services shall be paid by the Department of Corrections.

18 SECTION 21. AMENDATORY 57 O.S. 2011, Section 561.3, is  
19 amended to read as follows:

20 Section 561.3. Every contract entered into on and after July 1,  
21 2000, between the Department of Corrections and a private prison  
22 operator which provides for the housing of inmates under the custody  
23 or supervision of the Department of Corrections, shall require that  
24 the private prison operator furnish medical care for such inmates as

1 part of the contract price. Such care shall meet standards prepared  
2 and established by the ~~State Board~~ Director of the Department of  
3 Corrections for inmate medical care.

4 SECTION 22. AMENDATORY 57 O.S. 2011, Section 563.1, is  
5 amended to read as follows:

6 Section 563.1. A. The location of any prison facility which is  
7 not operated by the Department of Corrections, a county, or a city:

8 1. Shall be subject to the nondiscriminatory zoning ordinances  
9 of the town or city in which located; and

10 2. Is specifically prohibited within one (1) mile of any public  
11 or private elementary or secondary school. The provision of this  
12 paragraph shall not apply to:

13 a. any private medium secure juvenile facility which was  
14 established and housed juveniles prior to July 1,  
15 1999,

16 b. any prison facility which was used as a prison  
17 facility prior to the establishment of a public or  
18 private elementary or secondary school within the one-  
19 mile radius of the prison facility as long as the  
20 prison facility remains in continuous use as a prison,

21 c. any prison or juvenile facility established within the  
22 prohibited distance from a private elementary or  
23 secondary school prior to May 20, 1994, or within the  
24

1 prohibited distance from a public elementary or  
2 secondary school prior to July 1, 1987,

3 d. any other juvenile facilities, or

4 e. a correctional facility not operated by the Department  
5 of Corrections that is granted permission to operate  
6 within the areas restricted by this subsection by a  
7 majority vote of the following entities:

8 (1) the district board of education of each school  
9 district with an affected school, and

10 (2) the equivalent governing body of each affected  
11 private school.

12 B. The distance indicated in this section shall be measured  
13 from the nearest property line of the school to the nearest property  
14 line of the prison facility.

15 C. 1. Prior to the establishment of any prison facility which  
16 is not operated by the Department of Corrections, a private prison  
17 contractor shall obtain written authorization to establish the  
18 facility from the governing body of any municipality in which the  
19 facility is to be located, or if the facility is not to be located  
20 within the incorporated limits of a municipality, from the board of  
21 county commissioners of the county in which the facility is to be  
22 located.

23 2. The authorization shall be submitted to the ~~Board~~ Director  
24 of the Department of Corrections before any contract between the

1 Department of Corrections and the private prison contractor is  
2 awarded.

3 D. The term "prison or prison facility" means any facility  
4 operated by a private prison contractor as such term is defined in  
5 Section 502 of this title.

6 SECTION 23. AMENDATORY 57 O.S. 2011, Section 563.3, as  
7 amended by Section 2, Chapter 268, O.S.L. 2015 (57 O.S. Supp. 2018,  
8 Section 563.3), is amended to read as follows:

9 Section 563.3. A. All private prison contractors and vendors  
10 operating in Oklahoma shall provide construction plans to the  
11 Department of Corrections for approval prior to commencement of  
12 construction of any new physical plant or addition to existing  
13 facilities. Approval shall be based on applicable American  
14 Correctional Association construction standards. Any private prison  
15 contractor or vendor that fails to comply with the requirements of  
16 this subsection shall be penalized according to the provisions of  
17 subsection E of this section.

18 B. A private prison contractor which does not have a contract  
19 with the Department of Corrections, but which houses federal inmates  
20 or inmates of another state, within two (2) months of commencing  
21 operations and thereafter as required by the Department of  
22 Corrections, shall:

23 1. Obtain from the Department of Corrections approval of all  
24 emergency response plans and the internal and perimeter security of



1 the facility of the private prison contractor. All emergency plans  
2 for the private prison facility shall be approved by the Department  
3 of Corrections annually on July 1 and within thirty (30) days of any  
4 subsequent change or modification to any plan. Such approval shall  
5 be given only if the Director of the Department of Corrections  
6 determines that the security and emergency response plan are  
7 adequate to protect the public;

8 2. Show, to the satisfaction of the Department of Corrections,  
9 that adequate food, housing and medical care shall be available for  
10 inmates, that the facility will have the necessary qualified  
11 personnel to operate the facility, that the financial condition of  
12 the private prison contractor is such that the facility can be  
13 operated adequately, and that the facility has the ability to comply  
14 with applicable court orders and American Correctional Association  
15 standards;

16 3. Furnish to the Department of Corrections satisfactory proof  
17 that the private prison contractor has obtained insurance or is  
18 self-insured, in such a manner and in such an amount as the Director  
19 of the Department of Corrections, after consulting with the Risk  
20 Management Administration, may deem necessary and adequate to  
21 reimburse this state or a political subdivision of this state, for  
22 expenses arising from any incident which occurs at ~~said~~ the prison  
23 or which requires intervention by this state or a political  
24 subdivision of this state. Such insurance, in addition, shall be in

1 an amount sufficient to indemnify this state and its officers and  
2 employees, for any liability or other loss, including property  
3 damage, judgments, costs, attorney fees or other expenses arising  
4 from the operation of the facility, and such facility shall in any  
5 event and regardless of the amount of insurance available indemnify  
6 and hold harmless this state and its officers and employees, for any  
7 and all acts of prison inmates, and/or all officers, employees and  
8 stockholders of such private prison contractor for any liability  
9 arising out of acts of ~~said~~ the inmates, officers, employees and  
10 stockholders of such private prison contractor in relation to the  
11 operation of the facility. The insurance required by this paragraph  
12 shall not provide coverage for more than one facility. If the  
13 private prison contractor owns or operates more than one facility,  
14 separate insurance coverage shall be obtained or provided for each  
15 facility;

16 4. Obtain written authorization from the governing board of any  
17 municipality in which the facility is to be located, or if the  
18 facility is not to be located within a municipality, written  
19 authorization from the board of county commissioners of the county  
20 in which the facility is to be located; and

21 5. Ensure every employee or prospective employee of the private  
22 prison contractor has submitted through the Department of  
23 Corrections a national criminal history records check, as defined by  
24 Section 150.9 of Title 74 of the Oklahoma Statutes. The private

1 prison contractor is hereby authorized to reimburse employees for  
2 the cost of the search. The record required by this paragraph shall  
3 include the name of the person, whether or not ~~said~~ the person has  
4 been convicted of any felony offense, a list of any felony  
5 convictions, and the dates of such convictions. The search records  
6 from national criminal history records checks shall be maintained by  
7 the Department of Corrections. The Department of Corrections shall  
8 not disseminate any national criminal history records information to  
9 a private entity.

10 C. A private prison contractor which does not have a contract  
11 with the Department of Corrections, but which houses federal inmates  
12 or inmates of another state shall attain accreditation by the  
13 American Correctional Association within three (3) years of  
14 commencing operation of the facility and thereafter shall maintain  
15 such accreditation.

16 D. The Department of Corrections shall monitor the performance  
17 of the private prison contractor and the continued compliance of the  
18 private prison contractor with the provisions of this section and  
19 Section 563.2 of this title. If at any time after commencing  
20 operations, a private prison contractor, that is subject to the  
21 provisions of subsection B of this section, fails to comply with any  
22 of ~~said~~ the provisions, the Director of the Department of  
23 Corrections may order the facility to cease operations. If a  
24 private prison contractor fails to attain or maintain the

1 accreditation required by subsection C of this section, the Director  
2 of the Department of Corrections shall order the facility to take  
3 corrective action pursuant to the Department of Corrections  
4 monitoring plan and, if corrective action is not pursued with due  
5 diligence, shall order the facility to cease operations. This order  
6 may be enforced by injunction issued by a district court of this  
7 state.

8 E. If the requirements provided for in this section are not  
9 followed, the Director may recommend ~~that the State Board of~~  
10 ~~Corrections assess~~ an assessment on the private prison contractor of  
11 at least one-half (1/2) the per diem rate up to but not to exceed  
12 the full per diem rate paid by the jurisdiction or jurisdictions to  
13 the private prison contractor for the period of time a violation of  
14 subsection A of this section continues and is not corrected with due  
15 diligence or when the Department of Corrections has identified other  
16 physical plant security deficiencies based on American Correctional  
17 Association standards and such deficiencies continue and are not  
18 corrected with due diligence. The penalty provided for in this  
19 subsection shall not preclude the Director from ordering the  
20 facility to cease operations.

21 F. The Department of Corrections may charge the private prison  
22 contractor a reasonable fee for any services provided by the  
23 Department staff to include, but not limited to, the costs of  
24 monitoring compliance with the provisions of paragraphs 1 and 2 of

1 subsection B of this section. The fee shall not exceed the cost  
2 incurred in performing the monitoring.

3 G. The Department of Corrections shall promulgate and adopt  
4 rules for the implementation of this section.

5 H. All fees collected by the Department of Corrections pursuant  
6 to this section shall be deposited with the State Treasurer to the  
7 credit of the Department of Corrections Revolving Fund.

8 I. The provisions of subsections B through H of this section  
9 shall not apply to a private prison contractor that has a direct  
10 contract with the Federal Bureau of Prisons of the United States  
11 Department of Justice for a facility that houses federal inmates and  
12 is monitored on-site by federal agency staff.

13 SECTION 24. AMENDATORY 57 O.S. 2011, Section 566.4, is  
14 amended to read as follows:

15 Section 566.4. A. No action may be brought in a court of this  
16 state by a prisoner or former prisoner for mental or emotional  
17 injury allegedly suffered while under arrest, being detained, or in  
18 custody or incarcerated without a prior showing of actual physical  
19 injury.

20 B. 1. Neither the state, any of its agencies or boards, the  
21 Department of Corrections, any county jail, city jail, private  
22 correctional company, nor their members, agents, servants or  
23 employees shall be liable for any form of civil claim or action  
24 alleged to have arisen from any theory of contract law. No arrest

1 or conviction resulting in detention or incarceration shall create  
2 any contractual obligation, either actual, implied or at common law,  
3 between the prisoner and the state, any of its agencies or boards,  
4 the Department of Corrections, any county jail, city jail nor their  
5 members, agents, servants or employees. No policy or internal  
6 management procedure issued for the management of the prison or jail  
7 shall constitute any contractual relationship or obligation between  
8 the state, agency, board, commission, prison, jail, or any of its  
9 officers, members, servants or employees, and the prisoner or any  
10 visitor to the prison or jail.

11 2. No tort action or civil claim may be filed against any  
12 employee, agent, or servant of the state, the Department of  
13 Corrections, private correctional company, or any county jail or any  
14 city jail alleging acts related to the duties of the employee, agent  
15 or servant, until all of the notice provisions of the Governmental  
16 Tort Claims Act have been fully complied with by the claimant. This  
17 requirement shall apply to any claim against an employee of the  
18 state, the Department of Corrections, or any county jail or city  
19 jail in either their official or individual capacity, and to any  
20 claim against a private correctional contractor and its employees  
21 for actions taken pursuant to or in connection with a governmental  
22 contract.

23 C. No civil action of any type may be brought seeking an  
24 injunction or temporary restraining order against any city, county

1 or state agency, or any officer or employee thereof, brought by a  
2 plaintiff who is currently incarcerated in any jail, state prison or  
3 private prison in the state if the claim alleges matters arising  
4 from the incarceration of the plaintiff and related to management of  
5 the prison, including but not limited to, prison transfers, cell  
6 assignments, prison job or work assignments and disciplinary action.

7 D. In any complaint or allegation made by a prisoner against  
8 any person holding a license to any state court, agency, board,  
9 commission or association which issues any form of license, in which  
10 the state court, agency, board, commission or association has made a  
11 determination that the complaint of the prisoner is frivolous,  
12 malicious or without merit, the state court, agency, board,  
13 commission or association may sanction the prisoner as provided for  
14 by law.

15 E. No prisoner of any city or county jail or of any state,  
16 federal or private prison in Oklahoma or any person on parole or  
17 probation may obtain any public records maintained by any government  
18 entity and pertaining in any manner to any public employee, officer  
19 or to any citizen, or any criminal history record of any convicted  
20 felon. No prisoner, probationer or parolee may obtain without  
21 prepayment of the required fees and costs any other public record  
22 subject to release. The Director of the Department of Corrections  
23 shall promulgate a rule for the release of criminal history records  
24 available to the public which shall include the requirement that

1 requests for criminal history records include the name of the person  
2 whose record is being requested and shall charge Fifteen Dollars  
3 (\$15.00) for each completed request responded to in any form of  
4 written communication by the Department.

5 F. No default judgment shall be rendered against any person,  
6 city, county or state agency, or any officer or employee thereof, in  
7 any form of civil action brought by a plaintiff who is currently  
8 incarcerated in any jail, state prison or private prison in the  
9 state.

10 G. Venue for tort actions filed by a prisoner or a former  
11 prisoner of any state prison in the state shall be as follows:

12 1. Venue for actions filed by any prisoner of any state prison  
13 or private prison in which the state, the Department of Corrections,  
14 ~~the Board of Corrections as a whole or individual members,~~ or any  
15 officer or employee that has multicounty responsibilities is named  
16 as a party shall be in the county of the official residence of the  
17 Department of Corrections; and

18 2. Venue for tort actions filed by prisoners of a county jail  
19 or city jail, and not involving the Department of Corrections, but  
20 against the sheriff, jailer, county officials or employees, or city  
21 officials or employees shall be in the county where the jail is  
22 located.

23 The limitations on venue set out in this section shall also  
24 apply to tort actions filed by former prisoners, if ~~said~~ the tort



1 action is based on facts that occurred while the plaintiff was a  
2 prisoner.

3 H. The Attorney General, district attorneys and the general  
4 counsel of the Department of Corrections shall notify the Pardon and  
5 Parole Board of all lawsuits filed by any prisoner in which a  
6 determination was made by a court that the lawsuit was either  
7 frivolous or malicious.

8 I. The Department of Corrections may assess an administrative  
9 fee not to exceed Five Dollars (\$5.00) for the processing of any  
10 grievance or disciplinary report that has been appealed to the  
11 Director and shall charge prisoners for the costs of any supplies,  
12 materials or services provided to the inmate at the request of the  
13 inmate. Any fees collected pursuant to this subsection shall be  
14 deposited into the Department of Corrections Revolving Fund. If the  
15 appeal of the grievance or the disciplinary report results in a  
16 finding in favor of the prisoner, all fees and costs collected  
17 pursuant to this section shall be returned to the prisoner.

18 J. Judgments rendered against prisoners and received by the  
19 Department of Corrections for, but not limited to, monetary damages,  
20 child support, transportation costs, filing fees, court costs,  
21 sanctions or attorney fees may be withdrawn by the Department from  
22 any funds deposited into a prison trust account of the prisoner and  
23 forwarded to the prevailing party.

24

1 K. Upon motion of the defendant or the court for a special  
2 report in any civil action filed by a prisoner or former prisoner or  
3 attorney of the prisoner against any party, the court shall stay all  
4 proceedings in the case and order the custodian or appropriate party  
5 to prepare a special report to the court prior to defendants being  
6 required to answer. The special report will order corrections  
7 officials or the appropriate party to undertake a review of the  
8 subject matter of the petition in order to provide the court with  
9 additional information for the processing of the claim of the  
10 prisoner, to ascertain the facts and circumstances, to consider  
11 whether any action can and should be taken by the institution or  
12 other appropriate officials to resolve the subject matter of the  
13 petition and to determine whether other like matters, whether  
14 pending in this court or elsewhere, are related to this matter and  
15 should be taken up and considered together. All reports made in the  
16 course of the review shall be attached to and filed with the special  
17 report, and a date the special report is due to the court shall be  
18 set. All pending motions are stricken without prejudice to their  
19 being reasserted after the special report is filed. All discovery  
20 under the Oklahoma Rules of Civil Procedure is stayed until the  
21 special report has been filed and any dispositive motions based on  
22 the special report are ruled upon. A copy of the special report  
23 shall be sent to the respective parties by the agency or person  
24 preparing the special report. Upon receipt of the special report,

1 dispositive motions may be filed by the parties and the district  
2 court may properly dismiss the petition as being frivolous or  
3 malicious or for failure to state a claim, may grant summary  
4 judgment or order that the case may proceed under the Oklahoma Rules  
5 of Civil Procedure.

6 L. Notwithstanding any other provision of law, appeal of a  
7 decision of the district court in a civil action related to a  
8 person's incarceration or supervision while in custody of the  
9 Department of Corrections, a county or municipal jail, or a private  
10 prison, adverse to a municipal, county or state employee or a person  
11 employed by a private prison, shall be appealed directly to the  
12 appropriate appellate court without further motions.

13 SECTION 25. AMENDATORY 57 O.S. 2011, Section 571, as  
14 last amended by Section 4, Chapter 117, O.S.L. 2018 (57 O.S. Supp.  
15 2018, Section 571), is amended to read as follows:

16 Section 571. As used in the Oklahoma Statutes, unless another  
17 definition is specified:

18 1. "Capacity" means the actual available bedspace as certified  
19 by the ~~State Board~~ Director of the Department of Corrections subject  
20 to applicable federal and state laws and the rules and regulations  
21 promulgated under such laws;

22 2. "Violent crime" means any of the following felony offenses  
23 and any attempts to commit or conspiracy or solicitation to commit  
24 the following crimes:

- 1 a. assault, battery, or assault and battery with a  
2 dangerous or deadly weapon, as provided for in  
3 Sections 645 and 652 of Title 21 of the Oklahoma  
4 Statutes,
- 5 b. assault, battery, or assault and battery with a deadly  
6 weapon or by other means likely to produce death or  
7 great bodily harm, as provided for in Section 652 of  
8 Title 21 of the Oklahoma Statutes,
- 9 c. aggravated assault and battery on a police officer,  
10 sheriff, highway patrolman, or any other officer of  
11 the law, as provided for in Section 650 of Title 21 of  
12 the Oklahoma Statutes,
- 13 d. poisoning with intent to kill, as provided for in  
14 Section 651 of Title 21 of the Oklahoma Statutes,
- 15 e. shooting with intent to kill, as provided for in  
16 Section 652 of Title 21 of the Oklahoma Statutes,
- 17 f. assault with intent to kill, as provided for in  
18 Section 653 of Title 21 of the Oklahoma Statutes,
- 19 g. assault with intent to commit a felony, as provided  
20 for in Section 681 of Title 21 of the Oklahoma  
21 Statutes,
- 22 h. assaults with a dangerous weapon while masked or  
23 disguised, as provided for in Section 1303 of Title 21  
24 of the Oklahoma Statutes,

- 1 i. murder in the first degree, as provided for in Section  
2 701.7 of Title 21 of the Oklahoma Statutes,  
3 j. murder in the second degree, as provided for in  
4 Section 701.8 of Title 21 of the Oklahoma Statutes,  
5 k. manslaughter in the first degree, as provided for in  
6 Section 711 of Title 21 of the Oklahoma Statutes,  
7 l. manslaughter in the second degree, as provided for in  
8 Section 716 of Title 21 of the Oklahoma Statutes,  
9 m. kidnapping, as provided for in Section 741 of Title 21  
10 of the Oklahoma Statutes,  
11 n. burglary in the first degree, as provided for in  
12 Section 1431 of Title 21 of the Oklahoma Statutes,  
13 o. burglary with explosives, as provided for in Section  
14 1441 of Title 21 of the Oklahoma Statutes,  
15 p. kidnapping for extortion, as provided for in Section  
16 745 of Title 21 of the Oklahoma Statutes,  
17 q. maiming, as provided for in Section 751 of Title 21 of  
18 the Oklahoma Statutes,  
19 r. robbery, as provided for in Section 791 of Title 21 of  
20 the Oklahoma Statutes,  
21 s. robbery in the first degree, as provided for in  
22 Section 797 et seq. of Title 21 of the Oklahoma  
23 Statutes,  
24

- 1 t. robbery in the second degree, as provided for in  
2 Section 797 et seq. of Title 21 of the Oklahoma  
3 Statutes,
- 4 u. armed robbery, as provided for in Section 801 of Title  
5 21 of the Oklahoma Statutes,
- 6 v. robbery by two or more persons, as provided for in  
7 Section 800 of Title 21 of the Oklahoma Statutes,
- 8 w. robbery with dangerous weapon or imitation firearm, as  
9 provided for in Section 801 of Title 21 of the  
10 Oklahoma Statutes,
- 11 x. child abuse, as provided for in Section 843.5 of Title  
12 21 of the Oklahoma Statutes,
- 13 y. wiring any equipment, vehicle or structure with  
14 explosives, as provided for in Section 849 of Title 21  
15 of the Oklahoma Statutes,
- 16 z. forcible sodomy, as provided for in Section 888 of  
17 Title 21 of the Oklahoma Statutes,
- 18 aa. rape in the first degree, as provided for in Section  
19 1114 of Title 21 of the Oklahoma Statutes,
- 20 bb. rape in the second degree, as provided for in Section  
21 1114 of Title 21 of the Oklahoma Statutes,
- 22 cc. rape by instrumentation, as provided for in Section  
23 1111.1 of Title 21 of the Oklahoma Statutes,
- 24

- 1 dd. lewd or indecent proposition or lewd or indecent act  
2 with a child under sixteen (16) years of age, as  
3 provided for in Section 1123 of Title 21 of the  
4 Oklahoma Statutes,
- 5 ee. use of a firearm or offensive weapon to commit or  
6 attempt to commit a felony, as provided for in Section  
7 1287 of Title 21 of the Oklahoma Statutes,
- 8 ff. pointing firearms, as provided for in Section 1279 of  
9 Title 21 of the Oklahoma Statutes,
- 10 gg. rioting, as provided for in Section 1311 of Title 21  
11 of the Oklahoma Statutes,
- 12 hh. inciting to riot, as provided for in Section 1320.2 of  
13 Title 21 of the Oklahoma Statutes,
- 14 ii. arson in the first degree, as provided for in Section  
15 1401 of Title 21 of the Oklahoma Statutes,
- 16 jj. injuring or burning public buildings, as provided for  
17 in Section 349 of Title 21 of the Oklahoma Statutes,
- 18 kk. sabotage, as provided for in Section 1262 of Title 21  
19 of the Oklahoma Statutes,
- 20 ll. criminal syndicalism, as provided for in Section 1261  
21 of Title 21 of the Oklahoma Statutes,
- 22 mm. extortion, as provided for in Section 1481 of Title 21  
23 of the Oklahoma Statutes,  
24

- 1 nn. obtaining signature by extortion, as provided for in  
2 Section 1485 of Title 21 of the Oklahoma Statutes,  
3 oo. seizure of a bus, discharging firearm or hurling  
4 missile at bus, as provided for in Section 1903 of  
5 Title 21 of the Oklahoma Statutes,  
6 pp. mistreatment of a mental patient, as provided for in  
7 Section 843.1 of Title 21 of the Oklahoma Statutes,  
8 qq. using a vehicle to facilitate the discharge of a  
9 weapon pursuant to Section 652 of Title 21 of the  
10 Oklahoma Statutes,  
11 rr. bombing offenses as defined in Section 1767.1 of Title  
12 21 of the Oklahoma Statutes,  
13 ss. child pornography or aggravated child pornography as  
14 defined in Section 1021.2, 1021.3, 1024.1 or 1040.12a  
15 of Title 21 of the Oklahoma Statutes,  
16 tt. child prostitution as defined in Section 1030 of Title  
17 21 of the Oklahoma Statutes,  
18 uu. abuse of a vulnerable adult as defined in Section 10-  
19 103 of Title 43A of the Oklahoma Statutes who is a  
20 resident of a nursing facility,  
21 vv. aggravated trafficking as provided for in subsection C  
22 of Section 2-415 of Title 63 of the Oklahoma Statutes,  
23 ww. aggravated assault and battery upon any person  
24 defending another person from assault and battery, as



1 provided for in Section 646 of Title 21 of the  
2 Oklahoma Statutes,

3 xx. human trafficking as provided for in Section 748 of  
4 Title 21 of the Oklahoma Statutes, or

5 yy. terrorism crimes as provided in Section 1268 et seq.  
6 of Title 21 of the Oklahoma Statutes.

7 Such offenses shall constitute exceptions to nonviolent offenses  
8 pursuant to Article VI, Section 10 of the Oklahoma Constitution.

9 SECTION 26. AMENDATORY 57 O.S. 2011, Section 216, is  
10 amended to read as follows:

11 Section 216. In ~~this act~~ Prisoners Public Works Act, unless the  
12 context otherwise requires:

13 1. "Director" shall mean the Director of the Department of  
14 Corrections.

15 2. "Public works project" means a project that has been  
16 determined by the ~~State Board~~ Director of the Department of  
17 Corrections to be of necessity for the public well-being conducive  
18 to rehabilitation and the reduction of recidivism among  
19 participating inmates by the written request of a majority of the  
20 board of county commissioners, the governing body of any  
21 municipality or any agency of the State of Oklahoma or of the United  
22 States or any subdivision thereof.

1 3. "Prisoner" shall mean any person who is under the custody  
2 and control of the Department of Corrections. No prisoner shall be  
3 assigned to any public works project if the inmate:

- 4 a. is deemed by the Director to be a threat to public  
5 safety,
- 6 b. has escaped or attempted to escape from a correctional  
7 institution within the last ten (10) years, or
- 8 c. has been convicted, whether upon a verdict or plea of  
9 guilty or upon a plea of nolo contendere, or received  
10 a suspended sentence or any probationary term for a  
11 crime or an attempt to commit a crime provided for in  
12 Section 843.5 of Title 21 of the Oklahoma Statutes if  
13 the offense involved sexual abuse or sexual  
14 exploitation as those terms are defined in Section 1-  
15 1-105 of Title 10A of the Oklahoma Statutes or Section  
16 741, 843.1, if the offense included sexual abuse or  
17 sexual exploitation, 865 through 869, 885, 886, 888,  
18 891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087,  
19 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma  
20 Statutes.

21 SECTION 27. AMENDATORY 57 O.S. 2011, Section 217, is  
22 amended to read as follows:

23 Section 217. ~~Upon approval by the Board of Corrections, the~~ The  
24 Director of the Department of Corrections shall determine which

1 prisoners shall be eligible for ~~said~~ the public project, and shall  
2 establish and may modify lists of prisoners eligible for the ~~said~~  
3 the public projects. ~~Upon the approval of said project by the Board~~  
4 ~~of Corrections, the~~ The Director may send to the place and at the  
5 time designated the number of prisoners mutually agreed upon as  
6 necessary for the timely completion of ~~said~~ the project.

7 SECTION 28. AMENDATORY 57 O.S. 2011, Section 332.7, as  
8 last amended by Section 2, Chapter 117, O.S.L. 2018 (57 O.S. Supp.  
9 2018, Section 332.7), is amended to read as follows:

10 Section 332.7. A. For a crime committed prior to July 1, 1998,  
11 any person in the custody of the Department of Corrections shall be  
12 eligible for consideration for parole at the earliest of the  
13 following dates:

- 14 1. Has completed serving one-third (1/3) of the sentence;
- 15 2. Has reached at least sixty (60) years of age and also has  
16 served at least fifty percent (50%) of the time of imprisonment that  
17 would have been imposed for that offense pursuant to the applicable  
18 matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.  
19 1997; provided, however, no inmate serving a sentence for crimes  
20 listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,  
21 O.S.L. 1997, or serving a sentence of life imprisonment without  
22 parole shall be eligible to be considered for parole pursuant to  
23 this paragraph;

24

1           3. Has reached eighty-five percent (85%) of the midpoint of the  
2 time of imprisonment that would have been imposed for an offense  
3 that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of  
4 Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable  
5 matrix; provided, however, no inmate serving a sentence of life  
6 imprisonment without parole shall be eligible to be considered for  
7 parole pursuant to this paragraph; or

8           4. Has reached seventy-five percent (75%) of the midpoint of  
9 the time of imprisonment that would have been imposed for an offense  
10 that is listed in any other schedule, pursuant to the applicable  
11 matrix; provided, however, no inmate serving a sentence of life  
12 imprisonment without parole shall be eligible to be considered for  
13 parole pursuant to this paragraph.

14           B. For a crime committed on or after July 1, 1998, and before  
15 November 1, 2018, any person in the custody of the Department of  
16 Corrections shall be eligible for consideration for parole who has  
17 completed serving one-third (1/3) of the sentence; provided,  
18 however, no inmate serving a sentence of life imprisonment without  
19 parole shall be eligible to be considered for parole pursuant to  
20 this subsection.

21           C. For a crime committed on or after November 1, 2018, any  
22 person in the custody of the Department of Corrections shall be  
23 eligible for parole after serving one-fourth (1/4) of the sentence  
24

1 or consecutive sentences imposed, according to the following  
2 criteria:

3 1. A person eligible for parole under this subsection shall be  
4 eligible for administrative parole under subsection R of this  
5 section once the person serves one-fourth (1/4) of the sentence or  
6 consecutive sentences imposed; provided, however, no inmate serving  
7 a sentence of life imprisonment without parole, a sentence for a  
8 violent crime as set forth in Section 571 of this title or any crime  
9 enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes  
10 shall be eligible for administrative parole.

11 2. A person eligible for parole under this subsection shall be  
12 eligible for parole once the person serves one-fourth (1/4) of the  
13 sentence or consecutive sentences imposed; provided, however no  
14 inmate serving a sentence of life imprisonment without parole is  
15 eligible for parole.

16 D. The parole hearings conducted for persons pursuant to  
17 paragraph 3 of subsection A of this section or for any person who  
18 was convicted of a violent crime as set forth in Section 571 of this  
19 title and who is eligible for parole consideration pursuant to  
20 paragraph 1 of subsection A of this section, subsection B or  
21 paragraph 2 of subsection C of this section shall be conducted in  
22 two stages, as follows:

23 1. At the initial hearing, the Pardon and Parole Board shall  
24 review the completed report submitted by the staff of the Board and

1 shall conduct a vote regarding whether, based upon that report, the  
2 Board decides to consider the person for parole at a subsequent  
3 meeting of the Board; and

4 2. At the subsequent meeting, the Board shall hear from any  
5 victim or representatives of the victim that want to contest the  
6 granting of parole to that person and shall conduct a vote regarding  
7 whether parole should be recommended for that person.

8 E. Any inmate who has parole consideration dates calculated  
9 pursuant to subsection A, B or C of this section may be considered  
10 up to two (2) months prior to the parole eligibility date. Except  
11 as otherwise directed by the Pardon and Parole Board, any person who  
12 has been considered for parole and was denied parole or who has  
13 waived consideration shall not be reconsidered for parole:

14 1. Within three (3) years of the denial or waiver, if the  
15 person was convicted of a violent crime, as set forth in Section 571  
16 of this title, and was eligible for consideration pursuant to  
17 paragraph 1 of subsection A of this section, subsection B of this  
18 section or paragraph 2 of subsection C of this section, unless the  
19 person is within one (1) year of discharge; or

20 2. Until the person has served at least one-third (1/3) of the  
21 sentence imposed, if the person was eligible for consideration  
22 pursuant to paragraph 3 of subsection A of this section. Thereafter  
23 the person shall not be considered more frequently than once every  
24

1 three (3) years, unless the person is within one (1) year of  
2 discharge.

3 F. Any person in the custody of the Department of Corrections  
4 for a crime committed prior to July 1, 1998, who has been considered  
5 for parole on a docket created for a type of parole consideration  
6 that has been abolished by the Legislature shall not be considered  
7 for parole except in accordance with this section.

8 G. The Pardon and Parole Board shall promulgate rules for the  
9 implementation of subsections A, B and C of this section. The rules  
10 shall include, but not be limited to, procedures for reconsideration  
11 of persons denied parole under this section and procedure for  
12 determining what sentence a person eligible for parole consideration  
13 pursuant to subsection A of this section would have received under  
14 the applicable matrix.

15 H. The Pardon and Parole Board shall not recommend to the  
16 Governor any person who has been convicted of three or more felonies  
17 arising out of separate and distinct transactions, with three or  
18 more incarcerations for such felonies, unless such person shall have  
19 served the lesser of at least one-third (1/3) of the sentence  
20 imposed, or ten (10) years; provided, that whenever the population  
21 of the prison system exceeds ninety-five percent (95%) of the  
22 capacity as certified by the ~~State Board~~ Director of the Department  
23 of Corrections, the Pardon and Parole Board may, at its discretion,  
24 recommend to the Governor for parole any person who is incarcerated

1 for a nonviolent offense not involving injury to a person and who is  
2 within six (6) months of his or her statutory parole eligibility  
3 date.

4 I. Inmates sentenced to consecutive sentences shall not be  
5 eligible for parole consideration on any such consecutive sentence  
6 until one-third (1/3) of the consecutive sentence has been served or  
7 where parole has been otherwise limited by law, until the minimum  
8 term of incarceration has been served as required by law. Unless  
9 otherwise ordered by the sentencing court, any credit for jail time  
10 served shall be credited to only one offense.

11 J. The Pardon and Parole Board shall consider the prior  
12 criminal record of inmates under consideration for parole  
13 recommendation or granting of parole.

14 K. In the event the Board grants parole for a nonviolent  
15 offender who has previously been convicted of an offense enumerated  
16 in Section 13.1 of Title 21 of the Oklahoma Statutes or Section 571  
17 of this title, such offender shall be subject to nine (9) months  
18 postimprisonment supervision upon release.

19 L. It shall be the duty of the Pardon and Parole Board to cause  
20 an examination to be made at the penal institution where the person  
21 is assigned, and to make inquiry into the conduct and the record of  
22 the ~~said~~ the person during his custody in the Department of  
23 Corrections, which shall be considered as a basis for consideration  
24 of ~~said~~ the person for recommendation to the Governor for parole.



1 However, the Pardon and Parole Board shall not be required to  
2 consider for parole any person who has completed the time period  
3 provided for in this subsection if the person has participated in a  
4 riot or in the taking of hostages, or has been placed on escape  
5 status, while in the custody of the Department of Corrections. The  
6 Pardon and Parole Board shall adopt policies and procedures  
7 governing parole consideration for such persons.

8 M. Any person in the custody of the Department of Corrections  
9 who is convicted of an offense not designated as a violent offense  
10 by Section 571 of this title, is not a citizen of the United States  
11 and is subject to or becomes subject to a final order of deportation  
12 issued by the United States Department of Justice shall be  
13 considered for parole to the custody of the United States  
14 Immigration and Naturalization Service for continuation of  
15 deportation proceedings at any time subsequent to reception and  
16 processing through the Department of Corrections. No person shall  
17 be considered for parole under this subsection without the  
18 concurrence of at least three members of the Pardon and Parole  
19 Board. The vote on whether or not to consider such person for  
20 parole and the names of the concurring Board members shall be set  
21 forth in the written minutes of the meeting of the Board at which  
22 the issue is considered.

23 N. Upon application of any person convicted and sentenced by a  
24 court of this state and relinquished to the custody of another state

1 or federal authorities pursuant to Section 61.2 of Title 21 of the  
2 Oklahoma Statutes, the Pardon and Parole Board may determine a  
3 parole consideration date consistent with the provisions of this  
4 section and criteria established by the Pardon and Parole Board.

5 O. All references in this section to matrices or schedules  
6 shall be construed with reference to the provisions of Sections 6,  
7 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

8 P. Any person in the custody of the Department of Corrections  
9 who is convicted of a felony sex offense pursuant to Section 582 of  
10 this title who is paroled shall immediately be placed on intensive  
11 supervision.

12 Q. A person in the custody of the Department of Corrections  
13 whose parole consideration date is calculated pursuant to subsection  
14 B or C of this section, and is not serving a sentence of life  
15 imprisonment without parole or who is not convicted of an offense  
16 designated as a violent offense by Section 571 of this title or any  
17 crime enumerated in Section 13.1 of Title 21 of the Oklahoma  
18 Statutes shall be eligible for administrative parole under  
19 subsection R of this section.

20 R. The Pardon and Parole Board shall, by majority vote, grant  
21 administrative parole to any person in the custody of the Department  
22 of Corrections if:

23 1. The person has substantially complied with the requirements  
24 of the case plan established pursuant to Section 512 of this title;

1           2. A victim, as defined in Section 332.2 of this title, or the  
2 district attorney speaking on behalf of a victim, has not submitted  
3 an objection;

4           3. The person has not received a primary class X infraction  
5 within two (2) years of the parole eligibility date;

6           4. The person has not received a secondary class X infraction  
7 within one (1) year of the parole eligibility date; or

8           5. The person has not received a class A infraction within six  
9 (6) months of the parole eligibility date.

10          S. Any person granted parole pursuant to subsection R of this  
11 section shall be released from the institution at the time of the  
12 parole eligibility date of the person as calculated under subsection  
13 B or C of this section.

14          T. No less than ninety (90) days prior to the parole  
15 eligibility date of the person, the Department shall notify the  
16 Pardon and Parole Board in writing of the compliance or  
17 noncompliance of the person with the case plan and any infractions  
18 committed by the person.

19          U. The Pardon and Parole Board shall not be required to conduct  
20 a hearing before granting administrative parole pursuant to  
21 subsection R of this section.

22          V. Any person who is not granted administrative parole shall be  
23 otherwise eligible for parole pursuant to this section.

24

1 W. Any person who is granted administrative parole under  
2 subsection R of this section shall be supervised and managed by the  
3 Department of Corrections in the same manner as a parolee who has  
4 been granted parole pursuant to this section. The person shall be  
5 subject to all of the rules and regulations of parole.

6 SECTION 29. AMENDATORY 12 O.S. 2011, Section 1653, is  
7 amended to read as follows:

8 Section 1653. A. When a declaratory relief is sought, all  
9 persons shall be made parties who have or claim any interest which  
10 would be affected by the declaration, and no declaration shall  
11 prejudice the rights of persons not parties to the proceeding.

12 B. The venue of the action shall be established by existing  
13 statutes; provided, however, where the action involves an individual  
14 defendant, the venue shall be in the county of the defendant's  
15 residence or where the defendant may be served with summons. If the  
16 action involves two or more defendants who reside in different  
17 counties, the venue shall be in any county where any defendant  
18 resides or may be served with summons. Where the action has as a  
19 defendant the Department of Corrections, ~~the Board of Corrections or~~  
20 ~~any of the agents, officers or employees of the Department or Board,~~  
21 the venue shall be in the county of the official residence of the  
22 Department ~~or Board~~.

23 C. In any proceeding which involves the validity of a municipal  
24 ordinance or regulation, the municipality shall be made a party, and

1 shall be entitled to be heard, and if a statute or regulation is  
2 alleged to be unconstitutional, the Attorney General of the state  
3 shall also be served with a copy of the proceeding and be entitled  
4 to be heard.

5 SECTION 30. AMENDATORY 61 O.S. 2011, Section 65, as last  
6 amended by Section 5, Chapter 302, O.S.L. 2013 (61 O.S. Supp. 2018,  
7 Section 65), is amended to read as follows:

8 Section 65. A. In addition to the conditions prescribed  
9 pursuant to subsections C and D of this section, the provisions of  
10 Section 62 of this title shall not apply whenever the Department of  
11 Real Estate Services of the Office of Management and Enterprise  
12 Services with concurrence of the chief administrative officer of the  
13 public agency affected declares that an emergency exists. The  
14 construction manager or consultant shall be selected by the State  
15 Facilities Director of the Department of Real Estate Services of the  
16 Office of Management and Enterprise Services. The resulting  
17 construction manager or consultant contract shall not exceed Fifty  
18 Thousand Dollars (\$50,000.00). The reasons for the emergency shall  
19 be recorded in the official records of the Department.

20 B. Emergency as used in this section shall be limited to  
21 conditions resulting from any of the following:

22 1. A sudden unexpected happening or unforeseen occurrence if it  
23 is impossible for the provisions of Section 62 of this title to be  
24

1 observed because of the time factor and if the public health or  
2 safety is endangered; and

3 2. A condition or situation which, if allowed to continue,  
4 would lead to economic loss to the state or to further damage of  
5 state property.

6 C. The provisions of Section 62 of this title shall not apply  
7 to the process for construction of a correctional facility whenever  
8 the ~~State Board~~ Director of the Department of Corrections informs  
9 the Department that an emergency condition threatens the security of  
10 the state correctional system, including inmate population growth,  
11 and the condition requires expeditious treatment for the review,  
12 approval and bid process as it relates to construction or expansion  
13 of correctional facilities. The Department and the Department of  
14 Corrections are authorized to implement an expedited competitive bid  
15 process for the contracting of construction managers or consultants  
16 and construction of new or expanded correctional facilities that  
17 adequately respond to the emergency. The ~~State Board~~ Director of  
18 the Department of Corrections shall provide written notification to  
19 the Governor, the Speaker of the House of Representatives and to the  
20 President Pro Tempore of the Senate of the emergency conditions.

21 D. The provisions of Section 62 of this title shall not apply  
22 to CompSource Oklahoma if CompSource Oklahoma is operating pursuant  
23 to a pilot program authorized by Sections 3316 and 3317 of Title 74  
24 of the Oklahoma Statutes.

1 SECTION 31. AMENDATORY 61 O.S. 2011, Section 130, as  
2 last amended by Section 1, Chapter 293, O.S.L. 2016 (61 O.S. Supp.  
3 2018, Section 130), is amended to read as follows:

4 Section 130. A. The provisions of the Public Competitive  
5 Bidding Act of 1974 with reference to notice and bids shall not  
6 apply to an emergency if:

7 1. The governing body of a public agency declares by a two-  
8 thirds (2/3) majority vote of all of the members of the governing  
9 body that an emergency exists;

10 2. The Transportation Commission and the Oklahoma Tourism and  
11 Recreation Commission, by majority vote of all the members of each  
12 Commission, declare that an emergency exists; or

13 3. The chief administrative officer of a public agency without  
14 a governing body declares that an emergency exists.

15 B. The governing body of a public agency may, upon approval of  
16 two-thirds (2/3) majority of all of the members of the governing  
17 body, delegate to the chief administrative officer of a public  
18 agency the authority to declare an emergency whereby the provisions  
19 of the Public Competitive Bidding Act of 1974 with reference to  
20 notice and bids shall not apply to contracts less than Seventy-five  
21 Thousand Dollars (\$75,000.00) in amount; provided, such authority of  
22 the Department of Transportation and the Oklahoma Turnpike Authority  
23 shall not extend to any contract exceeding Seven Hundred Fifty  
24 Thousand Dollars (\$750,000.00) in amount and such authority of the

1 Department of Corrections shall not extend to any contract exceeding  
2 Two Hundred Fifty Thousand Dollars (\$250,000.00) in amount for  
3 situations in which the emergency impacts the conditions of  
4 confinement, health and safety of correctional officers and inmates  
5 in the custody of the Department of Corrections.

6 C. Upon approval of a two-thirds (2/3) majority vote, the  
7 Oklahoma Conservation Commission may delegate to the Executive  
8 Director the authority to declare an emergency and set a monetary  
9 limit for the declaration. The provisions of this subsection may  
10 only be used for the purpose of responding to an emergency involving  
11 the reclamation of abandoned coal mines or the repair of damaged  
12 upstream floodwater retarding structures.

13 D. An emergency declared by the ~~Board~~ Director of the  
14 Department of Corrections pursuant to subsection C of Section 65 of  
15 this title shall exempt the Department of Corrections from the  
16 limits which would otherwise be imposed pursuant to subsection B of  
17 this section for the contracting and construction of new or expanded  
18 correctional facilities.

19 E. The chief administrative officer of a public agency with a  
20 governing body shall notify the governing body within ten (10) days  
21 of the declaration of an emergency if the governing body did not  
22 approve the emergency. The notification shall contain a statement  
23 of the reasons for the action, and shall be recorded in the official  
24 minutes of the governing body.



1 F. Emergency as used in this section shall be limited to  
2 conditions resulting from a sudden unexpected happening or  
3 unforeseen occurrence or condition whereby the public health or  
4 safety is endangered.

5 G. The chief administrative officer of a public agency shall  
6 report an emergency within ten (10) days of the emergency  
7 declaration and include the official minutes of the governing body  
8 of the public agency, if applicable, to the State Construction  
9 Administrator of the Construction and Properties Division of the  
10 Office of Management and Enterprise Services who shall compile an  
11 annual report detailing all emergencies declared pursuant to this  
12 section during the previous calendar year. The report shall be  
13 submitted to the Governor, the President Pro Tempore of the Senate,  
14 and the Speaker of the House of Representatives.

15 SECTION 32. AMENDATORY 63 O.S. 2011, Section 1-502.1, as  
16 amended by Section 1, Chapter 246, O.S.L. 2013 (63 O.S. Supp. 2018,  
17 Section 1-502.1), is amended to read as follows:

18 Section 1-502.1. A. All agencies and organizations that  
19 regularly employ emergency medical technicians, paramedics,  
20 firefighters, peace officers, as defined in Section 648 of Title 21  
21 of the Oklahoma Statutes, correctional officers and employees, or  
22 health care workers, all mental health or mentally retarded  
23 treatment or evaluation programs that employ persons involved with  
24 providing care for patients, the J.D. McCarty Center for Children

1 with Developmental Disabilities, and all juvenile institutions of  
2 the Department of Human Services shall implement the universal  
3 precautions for the prevention of the transmission of communicable  
4 diseases published by the Centers for Disease Control, U.S. Public  
5 Health Service, in the Morbidity and Mortality Weekly Report, Volume  
6 36, Number 2S or as subsequently amended.

7 B. The State Board of Health shall promulgate rules and  
8 guidelines that will implement a system of notification of emergency  
9 medical technicians, paramedics, firefighters, health care workers,  
10 funeral directors, peace officers, and any person who in good faith  
11 renders aid in accordance with the Good Samaritan Act relating to  
12 risk exposures during health care activities, emergency response  
13 activities or funeral preparations. Risk exposure shall be defined  
14 by the State Board of Health to be exposure that is  
15 epidemiologically demonstrated to have the potential for  
16 transmitting a communicable disease.

17 C. The Board of Mental Health and Substance Abuse Services,  
18 Department of Human Services, Oklahoma Cerebral Palsy Commission,  
19 and ~~State Board~~ Director of the Department of Corrections shall each  
20 promulgate rules, guidelines or policies to provide for such  
21 notification of risk exposures to persons employed by such agencies.

22 SECTION 33. AMENDATORY 73 O.S. 2011, Section 183, is  
23 amended to read as follows:  
24

1 Section 183. A. Upon authorization by the Legislature, the  
2 Oklahoma Capitol Improvement Authority shall acquire real property,  
3 and construct improvements and facilities located thereon, and  
4 personal property to be used for purposes of the construction or  
5 operation of correctional facilities.

6 B. The correctional facilities authorized herein may consist  
7 of:

8 1. One or more facilities of medium security level or higher of  
9 not less than nine hundred beds nor more than two thousand five  
10 hundred beds for male inmates;

11 2. One or more facilities of medium security level or higher of  
12 not less than five hundred beds nor more than one thousand five  
13 hundred beds for female inmates; and

14 3. Other inmate facilities with such security levels and size  
15 as may be designated by the Legislature.

16 C. Construction of the facilities described in subsection B of  
17 this section may be undertaken in phases as described in the  
18 proposal.

19 D. Prior to the construction of the facilities, the ~~Board~~  
20 Director of the Department of Corrections shall approve the site for  
21 each of the facilities in the manner provided by Section ~~80 of this~~  
22 ~~act~~ 561.2 of Title 57 of the Oklahoma Statutes.

23 E. The Authority may hold title to the real property and  
24 personal property and improvements until such time as any

1 obligations issued for this purpose are retired or defeased and may  
2 lease the real property and personal property and improvements to  
3 the Oklahoma Department of Corrections. Upon final redemption or  
4 defeasance of the obligations created pursuant to this section,  
5 title to the real property and personal property and improvements  
6 shall be transferred from the Oklahoma Capitol Improvement Authority  
7 to the Oklahoma Department of Corrections.

8 F. For the purpose of paying the costs for acquisition of the  
9 real property and improvements and personal property authorized in  
10 subsections A and B of this section, and for the purpose authorized  
11 in subsection G of this section, the Authority is hereby authorized  
12 to borrow monies on the credit of the income and revenues to be  
13 derived from the leasing of such real property, personal property  
14 and improvements and, in anticipation of the collection of such  
15 income and revenues, to issue negotiable obligations in an amount  
16 not to exceed the amount required to provide for construction of  
17 facilities described in subsection B of this section. It is the  
18 intent of the Legislature to appropriate to the Oklahoma Department  
19 of Corrections sufficient monies to make rental payments for the  
20 purposes of retiring the obligations created pursuant to this  
21 section. The costs for acquisition of the real property or  
22 improvements or both and personal property authorized in subsections  
23 A and B of this section shall not exceed the amount required to  
24 provide for the purchase of real and personal property and

1 construction of facilities described in subsection B of this  
2 section.

3 G. To the extent funds are available from the proceeds of the  
4 borrowing authorized by subsection F of this section, the Oklahoma  
5 Capitol Improvement Authority shall provide for the payment of  
6 professional fees and associated costs approved by the Oklahoma  
7 Department of Corrections. The Oklahoma Capitol Improvement  
8 Authority shall use the resources of the State Bond Advisor, the  
9 Attorney General and the State Treasurer in order to evaluate the  
10 costs and expenses associated with the issuance of its obligations  
11 and shall use such information as may be required to reduce the  
12 costs associated with the issuance of the obligations.

13 H. The Authority may issue obligations in one or more series  
14 and in conjunction with other issues of the Authority. The  
15 Authority is authorized to hire bond counsel, financial consultants,  
16 and such other professionals as it may deem necessary to provide for  
17 the efficient sale of the obligations and may utilize a portion of  
18 the proceeds of any borrowing to create such reserves as may be  
19 deemed necessary and to pay costs associated with the issuance and  
20 administration of such obligations.

21 I. The obligations authorized under this section may be sold at  
22 either competitive or negotiated sale, as determined by the  
23 Authority, and in such form and at such prices as may be authorized  
24 by the Authority. The Authority may enter into agreements with such

1 credit enhancers and liquidity providers as may be determined  
2 necessary to efficiently market the obligations. The obligations  
3 may mature and have such provisions for redemption as shall be  
4 determined by the Authority, but in no event shall the final  
5 maturity of such obligations occur later than thirty (30) years from  
6 the first principal maturity date. The State Treasurer shall be  
7 authorized to purchase the obligations as an investment of public  
8 funds under the State Treasurer's control.

9 J. Any interest earnings on funds or accounts created for the  
10 purposes of this section may be utilized as partial payment of the  
11 annual debt service or for the purposes directed by the Authority.

12 K. The obligations issued under this section, the transfer  
13 thereof and the interest earned on such obligations, including any  
14 profit derived from the sale thereof, shall not be subject to  
15 taxation of any kind by the State of Oklahoma, or by any county,  
16 municipality or political subdivision therein.

17 L. The Authority may direct the investment of all monies in any  
18 funds or accounts created in connection with the offering of the  
19 obligations authorized under this section. Such investments shall  
20 be made in a manner consistent with the investment guidelines of the  
21 State Treasurer. The Authority may place additional restrictions on  
22 the investment of such monies if necessary to enhance the  
23 marketability of the obligations.

24

1 SECTION 34. AMENDATORY 73 O.S. 2011, Section 185, is  
2 amended to read as follows:

3 Section 185. A. The Oklahoma Capitol Improvement Authority is  
4 authorized to construct improvements and facilities upon property  
5 under the control of the Department of Corrections suitable for use  
6 as a district probation and parole office.

7 B. Prior to the construction of the facilities, the ~~State Board~~  
8 Director of the Department of Corrections shall approve the site for  
9 such facility.

10 C. The Authority may hold title to the personal property and  
11 improvements until such time as any obligations issued for this  
12 purpose are retired or defeased and may lease the personal property  
13 and improvements to the Department of Corrections. Upon final  
14 redemption or defeasance of the obligations created pursuant to this  
15 section, title to the personal property and improvements shall be  
16 transferred from the Oklahoma Capitol Improvement Authority to the  
17 Department of Corrections.

18 D. For the purpose of paying the costs of the improvements and  
19 facilities authorized in subsection A of this section, and for the  
20 purpose authorized in subsection E of this section, the Authority is  
21 hereby authorized to borrow monies on the credit of the income and  
22 revenues to be derived from the leasing of such facility and, in  
23 anticipation of the collection of such income and revenues, to issue  
24 negotiable obligations in an amount not to exceed Three Hundred

1 Thirty Thousand Dollars (\$330,000.00). It is the intent of the  
2 Legislature to appropriate to the Department of Corrections  
3 sufficient monies to make rental payments for the purposes of  
4 retiring the obligations created pursuant to this section.

5 E. To the extent funds are available from the proceeds of the  
6 borrowing authorized by subsection D of this section, the Oklahoma  
7 Capitol Improvement Authority shall provide for the payment of  
8 professional fees and associated costs approved by the Department of  
9 Corrections. The Oklahoma Capitol Improvement Authority shall use  
10 the resources of the Oklahoma State Bond Advisor, the Attorney  
11 General and the State Treasurer in order to evaluate the costs and  
12 expenses associated with the issuance of its obligations and shall  
13 use such information as may be required to reduce the costs  
14 associated with the issuance of the obligations.

15 F. The Authority may issue obligations in conjunction with  
16 other issues of the Authority. The Authority is authorized to hire  
17 bond counsel, financial consultants, and such other professionals as  
18 it may deem necessary to provide for the efficient sale of the  
19 obligations and may utilize a portion of the proceeds of any  
20 borrowing to create such reserves as may be deemed necessary and to  
21 pay costs associated with the issuance and administration of such  
22 obligations.

23 G. The obligations authorized under this section may be sold at  
24 either competitive or negotiated sale, as determined by the



1 Authority, and in such form and at such prices as may be authorized  
2 by the Authority. The Authority may enter into agreements with such  
3 credit enhancers and liquidity providers as may be determined  
4 necessary to efficiently market the obligations. The obligations  
5 may mature and have such provisions for redemption as shall be  
6 determined by the Authority, but in no event shall the final  
7 maturity of such obligations occur later than thirty (30) years from  
8 the first principal maturity date. The State Treasurer shall be  
9 authorized to purchase the obligations as an investment of public  
10 funds under the State Treasurer's control.

11 H. Any interest earnings on funds or accounts created for the  
12 purposes of this section may be utilized as partial payment of the  
13 annual debt service or for the purposes directed by the Authority.

14 I. The obligations issued under this section, the transfer  
15 thereof and the interest earned on such obligations, including any  
16 profit derived from the sale thereof, shall not be subject to  
17 taxation of any kind by the State of Oklahoma, or by any county,  
18 municipality or political subdivision therein.

19 J. The Authority may direct the investment of all monies in any  
20 funds or accounts created in connection with the offering of the  
21 obligations authorized under this section. Such investments shall  
22 be made in a manner consistent with the investment guidelines of the  
23 State Treasurer. The Authority may place additional restrictions on  
24

1 the investment of such monies if necessary to enhance the  
2 marketability of the obligations.

3 SECTION 35. AMENDATORY 74 O.S. 2011, Section 18c, as  
4 last amended by Section 1, Chapter 31, O.S.L. 2016 (74 O.S. Supp.  
5 2018, Section 18c), is amended to read as follows:

6 Section 18c. A. 1. Except as otherwise provided by this  
7 subsection, no state officer, board or commission shall have  
8 authority to employ or appoint attorneys to advise or represent ~~said~~  
9 the officer, board or commission in any matter.

10 2. The provisions of this subsection shall not apply to the  
11 Corporation Commission, the Council on Law Enforcement Education and  
12 Training, the Consumer Credit Commission, the Board of Managers of  
13 the State Insurance Fund, the Oklahoma Tax Commission, the  
14 Commissioners of the Land Office, the Oklahoma Public Welfare  
15 Commission also known as the Commission for Human Services, the  
16 ~~State Board~~ Department of Corrections, the Oklahoma Health Care  
17 Authority, the Department of Public Safety, the Oklahoma State  
18 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic  
19 Beverage Laws Enforcement Commission, the Transportation Commission,  
20 the Oklahoma Energy Resources Board, the Oklahoma Merit Protection  
21 Commission, the Office of Management and Enterprise Services, the  
22 Oklahoma Water Resources Board, the Department of Labor, the  
23 Department of Agriculture, Food, and Forestry, the Northeast  
24 Oklahoma Public Facilities Authority, the Oklahoma Firefighters

1 Pension and Retirement System, the Oklahoma Public Employees  
2 Retirement System, the Uniform Retirement System for Justices and  
3 Judges, the Oklahoma Conservation Commission, the Office of Juvenile  
4 Affairs, the State Board of Pharmacy, and until January 1, 2022,  
5 the Oklahoma Department of Veterans Affairs.

6 3. The provisions of paragraph 2 of this subsection shall not  
7 be construed to authorize the Office of Juvenile Affairs to employ  
8 any attorneys that are not specifically authorized by law.

9 4. All the legal duties of such officer, board or commission  
10 shall devolve upon and are hereby vested in the Attorney General;  
11 provided that:

12 a. the Governor shall have authority to employ special  
13 counsel to protect the rights or interest of the state  
14 as provided in Section 6 of this title, and

15 b. liquidation agents of banks shall have the authority  
16 to employ local counsel, with the consent of the Bank  
17 Commissioner and the Attorney General and the approval  
18 of the district court.

19 B. At the request of any state officer, board or commission,  
20 except the Corporation Commission, the Board of Managers of the  
21 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners  
22 of the Land Office, the Grand River Dam Authority, the Oklahoma  
23 State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic  
24 Beverage Laws Enforcement Commission, the Oklahoma Firefighters

1 Pension and Retirement System, the Oklahoma Public Employees  
2 Retirement System, the Uniform Retirement System for Justices and  
3 Judges and the Interstate Oil and Gas Compact Commission, the  
4 Attorney General shall defend any action in which they may be sued  
5 in their official capacity. At the request of any such state  
6 officer, board or commission, the Attorney General shall have  
7 authority to institute suits in the name of the State of Oklahoma on  
8 their relation, if after investigation the Attorney General is  
9 convinced there is sufficient legal merit to justify the action.

10 C. Any officer, board, or commission which has the authority to  
11 employ or appoint attorneys may request that the Attorney General  
12 defend any action arising pursuant to the provisions of The  
13 Governmental Tort Claims Act.

14 D. Nothing in this section shall be construed to repeal or  
15 affect the provisions of the statutes of this state pertaining to  
16 attorneys and legal advisors of the several commissions and  
17 departments of state specified in subsection B of this section, and  
18 all acts and parts of acts pertaining thereto shall be and remain in  
19 full force and effect.

20 SECTION 36. AMENDATORY 75 O.S. 2011, Section 250.4, as  
21 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.  
22 2018, Section 250.4), is amended to read as follows:  
23  
24

1 Section 250.4. A. 1. Except as is otherwise specifically  
2 provided in this subsection, each agency is required to comply with  
3 Article I of the Administrative Procedures Act.

4 2. The Corporation Commission shall be required to comply with  
5 the provisions of Article I of the Administrative Procedures Act  
6 except for subsections A, B, C and E of Section 303 of this title  
7 and Section 306 of this title. To the extent of any conflict or  
8 inconsistency with Article I of the Administrative Procedures Act,  
9 pursuant to Section 35 of Article IX of the Oklahoma Constitution,  
10 it is expressly declared that Article I of the Administrative  
11 Procedures Act is an amendment to and alteration of Sections 18  
12 through 34 of Article IX of the Oklahoma Constitution.

13 3. The Oklahoma Military Department shall be exempt from the  
14 provisions of Article I of the Administrative Procedures Act to the  
15 extent it exercises its responsibility for military affairs.

16 4. The Oklahoma Ordnance Works Authority, the Northeast  
17 Oklahoma Public Facilities Authority, the Oklahoma Office of  
18 Homeland Security and the Board of Trustees of the Oklahoma College  
19 Savings Plan shall be exempt from Article I of the Administrative  
20 Procedures Act.

21 5. The Transportation Commission and the Department of  
22 Transportation shall be exempt from Article I of the Administrative  
23 Procedures Act to the extent they exercise their authority in  
24 adopting standard specifications, special provisions, plans, design

1 standards, testing procedures, federally imposed requirements and  
2 generally recognized standards, project planning and programming,  
3 and the operation and control of the State Highway System.

4 6. The Oklahoma State Regents for Higher Education shall be  
5 exempt from Article I of the Administrative Procedures Act with  
6 respect to:

- 7 a. prescribing standards of higher education,
- 8 b. prescribing functions and courses of study in each  
9 institution to conform to the standards,
- 10 c. granting of degrees and other forms of academic  
11 recognition for completion of the prescribed courses,
- 12 d. allocation of state-appropriated funds, and
- 13 e. fees within the limits prescribed by the Legislature.

14 7. Institutional governing boards within The Oklahoma State  
15 System of Higher Education shall be exempt from Article I of the  
16 Administrative Procedures Act.

17 8. a. The Commissioner of Public Safety shall be exempt from  
18 Sections 303.1, 304, 307.1, 308 and 308.1 of this  
19 title insofar as it is necessary to promulgate rules  
20 pursuant to the Oklahoma Motor Carrier Safety and  
21 Hazardous Materials Transportation Act, to maintain a  
22 current incorporation of federal motor carrier safety  
23 and hazardous material regulations, or pursuant to  
24 Chapter 6 of Title 47 of the Oklahoma Statutes, to

1 maintain a current incorporation of federal commercial  
2 driver license regulations, for which the Commissioner  
3 has no discretion when the state is mandated to  
4 promulgate rules identical to federal rules and  
5 regulations.

6 b. Such rules may be adopted by the Commissioner and  
7 shall be deemed promulgated twenty (20) days after  
8 notice of adoption is published in "The Oklahoma  
9 Register". Such publication need not set forth the  
10 full text of the rule but may incorporate the federal  
11 rules and regulations by reference.

12 c. Such copies of promulgated rules shall be filed with  
13 the Secretary as required by Section 251 of this  
14 title.

15 d. For any rules for which the Commissioner has  
16 discretion to allow variances, tolerances or  
17 modifications from the federal rules and regulations,  
18 the Commissioner shall fully comply with Article I of  
19 the Administrative Procedures Act.

20 9. The Council on Judicial Complaints shall be exempt from  
21 Section 306 of Article I of the Administrative Procedures Act, with  
22 respect to review of the validity or applicability of a rule by an  
23 action for declaratory judgment, or any other relief based upon the  
24 validity or applicability of a rule, in the district court or by an

1 appellate court. A party aggrieved by the validity or applicability  
2 of a rule made by the Council on Judicial Complaints may petition  
3 the Court on the Judiciary to review the rules and issue opinions  
4 based upon them.

5 10. The Department of Corrections, ~~State Board of Corrections,~~  
6 and county sheriffs and managers of city jails shall be exempt from  
7 Article I of the Administrative Procedures Act with respect to:

- 8 a. prescribing internal management procedures for the  
9 management of the state prisons, county jails and city  
10 jails and for the management, supervision and control  
11 of all incarcerated prisoners, and
- 12 b. prescribing internal management procedures for the  
13 management of the probation and parole unit of the  
14 Department of Corrections and for the supervision of  
15 probationers and parolees.

16 11. The State Board of Education shall be exempt from Article I  
17 of the Administrative Procedures Act with respect to prescribing  
18 subject matter standards as provided for in Section 11-103.6a of  
19 Title 70 of the Oklahoma Statutes.

20 B. As specified, the following agencies or classes of agency  
21 activities are not required to comply with the provisions of Article  
22 II of the Administrative Procedures Act:

- 23 1. The Oklahoma Tax Commission;
- 24 2. The Commission for Human Services;



- 1        3. The Oklahoma Ordnance Works Authority;
- 2        4. The Corporation Commission;
- 3        5. The Pardon and Parole Board;
- 4        6. The Midwestern Oklahoma Development Authority;
- 5        7. The Grand River Dam Authority;
- 6        8. The Northeast Oklahoma Public Facilities Authority;
- 7        9. The Council on Judicial Complaints;
- 8        10. The Board of Trustees of the Oklahoma College Savings Plan;
- 9        11. The supervisory or administrative agency of any penal,
- 10       mental, medical or eleemosynary institution, only with respect to
- 11       the institutional supervision, custody, control, care or treatment
- 12       of inmates, prisoners or patients therein; provided, that the
- 13       provisions of Article II shall apply to and govern all
- 14       administrative actions of the Oklahoma Alcohol Prevention, Training,
- 15       Treatment and Rehabilitation Authority;
- 16       12. The Board of Regents or employees of any university,
- 17       college, or other institution of higher learning;
- 18       13. The Oklahoma Horse Racing Commission, its employees or
- 19       agents only with respect to hearing and notice requirements on the
- 20       following classes of violations which are an imminent peril to the
- 21       public health, safety and welfare:
- 22            a. any rule regarding the running of a race,
- 23            b. any violation of medication laws and rules,
- 24

- 1           c. any suspension or revocation of an occupation license  
2           by any racing jurisdiction recognized by the  
3           Commission,  
4           d. any assault or other destructive acts within  
5           Commission-licensed premises,  
6           e. any violation of prohibited devices, laws and rules,  
7           or  
8           f. any filing of false information;

9           14. The Commissioner of Public Safety only with respect to  
10 driver license hearings and hearings conducted pursuant to the  
11 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12           15. The Administrator of the Department of Securities only with  
13 respect to hearings conducted pursuant to provisions of the Oklahoma  
14 Take-over Disclosure Act of 1985;

15           16. Hearings conducted by a public agency pursuant to Section  
16 962 of Title 47 of the Oklahoma Statutes;

17           17. The Oklahoma Military Department;

18           18. The University Hospitals Authority, including all hospitals  
19 or other institutions operated by the University Hospitals  
20 Authority;

21           19. The Oklahoma Health Care Authority Board and the  
22 Administrator of the Oklahoma Health Care Authority; and

23           20. The Oklahoma Office of Homeland Security.  
24

1 SECTION 37. REPEALER 57 O.S. 2011, Sections 503 and 504,  
2 are hereby repealed.

3 SECTION 38. It being immediately necessary for the preservation  
4 of the public peace, health or safety, an emergency is hereby  
5 declared to exist, by reason whereof this act shall take effect and  
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON RULES  
8 February 27, 2019 - DO PASS AS AMENDED  
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