

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 460

By: Treat

4
5
6 AS INTRODUCED

7 An Act relating to the Office of Juvenile Affairs;
8 amending 10A O.S. 2011, Sections 2-7-101 and 2-7-201,
9 as last amended by Section 1, Chapter 386, O.S.L.
10 2016 (10A O.S. Supp. 2018, Section 2-7-201), which
11 relate to the Executive Director and Board of
12 Juvenile Affairs; requiring that Director be
13 appointed by Governor with advice and consent of the
14 Senate and serve at the pleasure of the Governor;
15 modifying powers and duties of Board; updating
16 statutory references; and providing an effective
17 date.

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

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

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

25 B. One member shall be appointed from each congressional
26 district and any remaining members shall be appointed from the state
27 at large. However, when congressional districts are redrawn each

1 member appointed prior to July 1 of the year in which such
2 modification becomes effective shall complete the current term of
3 office and appointments made after July 1 of the year in which such
4 modification becomes effective shall be based on the redrawn
5 districts. Appointments made after July 1 of the year in which the
6 modification becomes effective shall be from any redrawn districts
7 which are not represented by a board member until such time as each
8 of the modified congressional districts are represented by a board
9 member. No appointments may be made after July 1 of the year in
10 which the modification becomes effective if such appointment would
11 result in more than two members serving from the same modified
12 district. The terms of office of the members serving on the Board
13 on ~~the effective date of this act~~ June 4, 2004, shall expire at the
14 end of the current term of the member.

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

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

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

All members shall be appointed for terms of four (4) years. All terms shall expire on the first day of July of the year in which the terms of each member expire.

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

3. A member may be reappointed to succeed himself or herself for one additional term.

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

- 1. Be a citizen of the United States;
- 2. Be a resident of this state;
- 3. Be a qualified elector of this state; and

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

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

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

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

22 2. Members of the Board shall receive necessary travel expenses
23 according to the provisions of the State Travel Reimbursement Act,
24

1 but shall receive no other compensation. Travel expenses shall be
2 paid from funds available to the Office of Juvenile Affairs.

3 H. The Board shall:

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

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

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

9 4. Review and approve the budget request of the Office of
10 Juvenile Affairs to the Governor;

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

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

21 7. Establish contracting procedures for the Office of Juvenile
22 Affairs and guidelines for rates of payment for services provided by
23 contract.

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

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

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

20 4. Starting April 1, 1995, the Board of Juvenile Affairs shall
21 conduct an internal review of current permanent and emergency rules
22 relating to the custody, care and supervision of children
23 adjudicated to be delinquent or in need of supervision to determine
24 whether such rules need to be amended, or repealed, reinstated, or

1 recodified. By January 1, 1997, the Board shall have adopted
2 permanent rules to implement the programs and functions within its
3 jurisdiction and shall submit such rules for legislative review
4 pursuant to Article I of the Administrative Procedures Act.

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

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

11 Section 2-7-201. A. The ~~Board of Juvenile Affairs~~ Governor
12 shall appoint the Executive Director of the Office of Juvenile
13 Affairs, with the advice and consent of the Senate. The Executive
14 Director shall serve at the pleasure of the ~~Board~~ Governor.

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

22 C. The Executive Director shall provide for the administration
23 of the Office of Juvenile Affairs and shall:
24

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

3 2. Pursuant to legislative authorization employ, discharge,
4 appoint or contract with, and fix the duties and compensation of
5 such assistants, attorneys, law enforcement officers, probation
6 officers, psychologists, social workers, medical professionals,
7 administrative, clerical and technical, investigators, aides and
8 such other personnel, either on a full-time, part-time, fee or
9 contractual basis, as in the judgment and discretion of the
10 Executive Director shall be deemed necessary in the performance or
11 carrying out of any of the purposes, objectives, responsibilities,
12 or statutory provisions relating to the Office of Juvenile Affairs,
13 or to assist the Executive Director of the Office of Juvenile
14 Affairs in the performance of official duties and functions;

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

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

20 D. The Executive Director shall employ an attorney to be
21 designated the "General Counsel" who shall be the legal advisor for
22 the Office of Juvenile Affairs. Except as provided in this
23 subsection, the General Counsel is authorized to appear for and
24

1 represent the Board and Office in any litigation that may arise in
2 the discharge of the duties of the Board and Office.

3 It shall continue to be the duty of the Attorney General to give
4 an official opinion to the Executive Director of the Office of
5 Juvenile Affairs and the Office of Juvenile Affairs and to prosecute
6 and defend actions therefor, if requested to do so. The Attorney
7 General may levy and collect costs, expenses of litigation and a
8 reasonable attorney fee for such legal services from the Office.

9 The Office shall not contract for representation by private legal
10 counsel unless approved by the Attorney General. Such contract for
11 private legal counsel shall be in the best interests of the state.

12 The Attorney General shall be notified by the Office of Juvenile
13 Affairs or its counsel of all lawsuits against the Office of
14 Juvenile Affairs or officers or employees thereof, that seek
15 injunctive relief which would impose obligations requiring the
16 expenditure of funds in excess of unencumbered monies in the
17 agency's appropriations or beyond the current fiscal year. The
18 Attorney General shall review any such cases and may represent the
19 interests of the state, if the Attorney General considers it to be
20 in the best interest of the state to do so, in which case the
21 Attorney General shall be paid as provided in this subsection.

22 Representation of multiple defendants in such actions may, at the
23 discretion of the Attorney General, be divided with counsel for the
24 Office as necessary to avoid conflicts of interest.

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

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

23 G. In the event of the Executive Director's temporary absence,
24 the Executive Director may delegate the exercise of such powers and
25

1 duties to a designee during the Executive Director's absence. In
2 the event of a vacancy in the position of Executive Director, the
3 ~~Board of Juvenile Affairs~~ Governor, with the advice and consent of
4 the Senate, shall appoint a new Executive Director. The ~~Board~~
5 Governor may designate an interim or acting Executive Director who
6 is authorized to exercise such powers and duties until a permanent
7 Executive Director is employed.

8 SECTION 3. This act shall become effective November 1, 2019.

9
10 57-1-1434 CD 1/16/2019 2:49:15 PM
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25