

ENGROSSED HOUSE
BILL NO. 1734

BY: WILLIAMS and STANLEY of
the HOUSE

and

WILKERSON of the SENATE

AN ACT RELATING TO PRISONS AND REFORMATORIES;
AMENDING 57 O.S. 1981, SECTIONS 212, AS AMENDED BY
SECTION 30, CHAPTER 304, O.S.L. 1983, 213, AS
AMENDED BY SECTION 31, CHAPTER 304, O.S.L. 1983,
214, AS AMENDED BY SECTION 32, CHAPTER 304, O.S.L.
1983, 216, 218, 222, AS AMENDED BY SECTION 1,
CHAPTER 92, O.S.L. 1989 AND 224, AS AMENDED BY
SECTION 2, CHAPTER 122, O.S.L. 1988 (57 O.S. SUPP.
1990, SECTIONS 212, 213, 214, 222 AND 224), WHICH
RELATE TO USE OF PRISONER LABOR; MODIFYING OUTDATED
LANGUAGE TO REFLECT ADMINISTRATION OF CERTAIN
PRISONER WORK ACTIVITIES BY THE DIRECTOR OF
CORRECTIONS OR DESIGNEE; MODIFYING IMMUNITY FROM
CIVIL SUITS; MODIFYING DEFINITIONS; MODIFYING
CERTAIN CONTACTING PROCEDURES; EXPANDING AUTHORIZED
ENTITIES WITH WHOM THE DEPARTMENT OF CORRECTIONS
MAY CONTRACT TO PROVIDE INMATE LABOR FOR PUBLIC
WORKS PROJECTS; PROVIDING PREFERENCE FOR CERTAIN
INMATES; REPEALING 57 O.S. 1981, SECTION 223, WHICH
RELATES TO PRISONERS PUBLIC WORKS PROJECTS; AND
PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 57 O.S. 1981, Section 212, as amended by Section 30, Chapter 304, O.S.L. 1983 (57 O.S. Supp. 1990, Section 212), is amended to read as follows:

Section 212. When there is a need therefor at any state eleemosynary institution, maintenance services of prisoners may be requisitioned by the governing body of such institution. Such requisition shall be submitted to the ~~Office of Public Affairs~~ Director of Corrections or the designee of the Director and shall state the services desired and the number of prisoners necessary therefor, and there shall be incorporated therein or attached thereto a detailed statement showing arrangements for quarters, subsistence, and security of the prisoners. If the ~~Office of Public Affairs~~ Director of Corrections or the designee of the Director, after considering such requisition, finds that there is a need for the services desired or any part thereof, ~~at the~~ the Director or designee may thereupon direct the ~~Warden of the Oklahoma State Penitentiary or the Warden of the Oklahoma State Reformatory~~ appropriate warden or superintendent to furnish qualified prisoner personnel to perform the services found to be needed at the institution for which the requisition was made.

SECTION 2. AMENDATORY 57 O.S. 1981, Section 213, as amended by Section 31, Chapter 304, O.S.L. 1983 (57 O.S. Supp. 1990, Section 213), is amended to read as follows:

Section 213. Upon being directed to do so by the ~~Office of Public Affairs~~, ~~the Warden of the Oklahoma State Penitentiary or the Warden of the Oklahoma State Reformatory~~ Director of Corrections or the designee of the Director, the appropriate warden or superintendent shall send to the institution for which the requisition was made, current qualified prisoners to perform the services found by the ~~Office of Public Affairs~~ Director or the

designee to be needed at such institution, and shall furnish the names of such prisoners to the State Pardon and Parole Board for the purpose of securing limited clemency for such prisoners for the performance of services at such institution. ~~A receipt in triplicate for the delivery of such prisoners shall be executed by the head of the institution receiving the prisoners, one copy to be retained by the head of the institution receiving the prisoners, one copy to be transmitted to and retained by the Office of Public Affairs, and the remaining copy to be delivered to and retained by the penitentiary or reformatory from which the prisoners were sent.~~ Any such prisoner shall be returned to the ~~penitentiary or reformatory~~ institution from which he was sent, upon order of the ~~Office of Public Affairs~~ Director or the designee or the head of such institution, either with or without notice, and the return of a prisoner shall be compulsory for a violation of any law or a violation of his parole agreement.

SECTION 3. AMENDATORY 57 O.S. 1981, Section 214, as amended by Section 32, Chapter 304, O.S.L. 1983 (57 O.S. Supp. 1990, Section 214), is amended to read as follows:

Section 214. ~~The Warden of the Oklahoma State Penitentiary, the Warden of the Oklahoma State Reformatory, the members of the Office of Public Affairs,~~ Director of Corrections and responsible officials at a state institution shall be considered individually and collectively to enjoy the sovereign immunity of the state ~~from~~ , as provided in The Governmental Tort Claims Act, for civil suits which might arise from their administration of Sections 211 through 214 of this title when acting in their regular course of duty, and in good faith under the provisions of Sections 211 through 214 of this title.

SECTION 4. AMENDATORY 57 O.S. 1981, Section 216, is amended to read as follows:

Section 216. In this act, unless the context otherwise requires:

1. "Director" shall mean the Director of the State Department of Corrections.

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

3. "Prisoner" shall mean any person who is under the custody and control of the Department of Corrections. No prisoner shall be assigned to any public works project who is deemed by the Director to be a threat to public safety, or who has escaped or attempted to escape from ~~previous incarceration~~ a correctional institution within the last ten (10) years.

SECTION 5. AMENDATORY 57 O.S. 1981, Section 218, is amended to read as follows:

Section 218. The Department of Corrections may contract with any requesting public agency to provide inmate labor for public works projects. The Department of Corrections shall promulgate and adopt rules which may require the requesting agency for the public works project shall to pay up to the base cost plus ten percent (10%), on a monthly billing. ~~The base cost shall be the cost of transportation to and from the project, the cost of lodging and food for the prisoners and correctional personnel assigned to said project, the cost of guarding said prisoners, the cost of all tools and materials furnished by the Department and the cost of salaries of said prisoners. Ten percent (10%) above the base cost shall be charged to cover the cost of equipment repair and replacement.~~ The rules shall provide guidelines which establish the criteria for how

said charges are determined and the amounts the agencies are to be charged. The requesting agency shall furnish all tools and materials, unless otherwise agreed upon, necessary in the performance of said public works project. The prisoner, while assigned on said public works project, shall, for the purpose of punishment for escape, be deemed to be on a trusty status and shall be under the custody and control of the Department of Corrections.

SECTION 6. AMENDATORY 57 O.S. 1981, Section 222, as amended by Section 1, Chapter 92, O.S.L. 1989 (57 O.S. Supp. 1990, Section 222), is amended to read as follows:

Section 222. It shall be unlawful to use prisoners assigned to said public works project on any property other than public property, except that inmate labor may be used on private property for a public purpose. As used in this section "public purpose" means a purpose affecting the inhabitants of the state or political subdivision utilizing the inmate labor, as a group, and not merely as individuals. The work performed shall be essentially public and for the general good of the inhabitants of the state or political subdivision. The purpose of the work performed shall be to aid the federal government, a state agency or a political subdivision, utilizing the inmate labor in the exercise of a governmental function. Any person willfully violating the provisions of this section shall be guilty of a felony.

SECTION 7. AMENDATORY 57 O.S. 1981, Section 224, as amended by Section 2, Chapter 122, O.S.L. 1988 (57 O.S. Supp. 1990, Section 224), is amended to read as follows:

Section 224. A. An inmate of a state correctional ~~facility~~ institution may be assigned to a state agency other than the Department of Corrections ~~or,~~ to a county or municipal jail, or to a federal agency, for service and maintenance work for the federal agency, the state, county or municipality. Such transfer shall be subject to the approval of the chief administrative officer of the

federal or state agency, sheriff of the county or the chief of police of a municipality, which will employ the inmate. ~~Each inmate who works for the state, county or municipality under this section shall be provided credit, to be taken off his sentenced time, for each earned day of service, pursuant to the provisions of Section 138 of this title.~~ Preference shall be given to inmates who, while incarcerated in a state correctional institution, have attained a high school diploma or equivalent general education diploma or completed a literacy program approved by the Department of Corrections. Such federal or state agency, county or municipality, shall be responsible for the security, lodging, food costs, and personal expense money of each inmate under the care of the chief administrative officer of the federal or state agency, county sheriff or the chief of police of such municipality. Any expense monies shall be approved by the chief administrative officer, sheriff or the chief of police.

B. The Department of Corrections shall reimburse the state, county or municipality for the actual costs paid for any emergency medical care for physical injury or illness of the inmate retained under this act. The Director may transfer any inmate required to have extended medical care back into the custody of the Department.

SECTION 8. REPEALER 57 O.S. 1981, Section 223, is hereby repealed.

SECTION 9. This act shall become effective September 1, 1991.

Passed the House of Representatives the 13th day of March, 1991.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate