

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 191

BY: HERBERT

AS INTRODUCED

AN ACT RELATING TO COUNTIES AND COUNTY OFFICERS,
COURTS, AND SCHOOLS; AMENDING 19 O.S. 1981, SECTION
510, SECTION 18, CHAPTER 223, O.S.L. 1986, AS LAST
AMENDED BY SECTION 1, CHAPTER 74, O.S.L. 1988 (20
O.S. SUPP. 1990, SECTION 1313.2), AND 70 O.S. 1981,
SECTION 3311, AS LAST AMENDED BY SECTION 2, CHAPTER
185, O.S.L. 1989 (70 O.S. SUPP. 1990, SECTION
3311), WHICH RELATE TO QUALIFICATIONS FOR COUNTY
SHERIFF, TO CERTAIN PENALTIES AND DISPOSITION OF
FUNDS FROM PAYMENTS THEREOF, AND TO THE COUNCIL ON
LAW ENFORCEMENT EDUCATION AND TRAINING; REQUIRING
CERTAIN DRIVER TRAINING; CHANGING REQUIREMENTS FOR
DEPOSIT OF CERTAIN MONIES; PROVIDING AN EFFECTIVE
DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 19 O.S. 1981, Section 510, is
amended to read as follows:

Section 510. Any person, otherwise qualified, who has been a
resident of the State of Oklahoma for two (2) years, has been a
registered voter of the party whose nomination he seeks, or a
registered Independent, within the county from which such person

seeks election for the six (6) months next preceding the first day of the filing period, is at least twenty-five (25) years of age next preceding the date of filing for office, possesses at least a high school education, shall be eligible to hold the office of county sheriff or to file therefor. Persons filing for the office of sheriff in a county of eighty thousand (80,000) or more population shall have completed a basic police course of ~~one hundred twenty~~ one hundred thirty (130) hours or more, including ten (10) hours of law enforcement driver training which includes emergency high speed driving techniques, that has been approved by the Council on Law Enforcement Education and Training. Provided, however, the provisions of this section relating to qualifications shall not apply to any person serving as a county sheriff or to any person previously serving as county sheriff prior to the adoption of this statute.

SECTION 2. AMENDATORY Section 18, Chapter 223, O.S.L. 1986, as last amended by Section 1, Chapter 74, O.S.L. 1988 (20 O.S. Supp. 1990, Section 1313.2), is amended to read as follows:

Section 1313.2 A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment; and

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty.

B. Any person convicted of an offense punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration, excluding parking and standing violations, or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay Four Dollars (\$4.00) as a separate penalty assessment and One Hundred Fifty Dollars (\$150.00) as a Laboratory Analysis Fee if applicable pursuant to subsection C of this section, which assessment and fee shall be in addition to and not in substitution for any and all

finances and penalties otherwise provided for by law for such offense. The court shall provide for separate bail for the penalty assessment; provided that a defendant admitted to bail on an undertaking by a surety may include the amount of the penalty assessment in the undertaking.

C. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma State Bureau of Investigation, by the Toxicology Laboratory of the Office of the Chief Medical Examiner or by any municipality or county in connection with the case.

The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00), if collected, for every conviction as described in this subsection. The court may retain two percent (2%) of such monies to cover administrative costs pursuant to this subsection. The court clerk shall remit the remainder of the monies in said fund on a monthly basis either to:

1. The Oklahoma State Bureau of Investigation who shall deposit said monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation;

2. The Office of the Chief Medical Examiner who shall deposit said monies into the Office of the Chief Medical Examiner Toxicology Laboratory Revolving Fund provided for in Section 954 of Title 63 of the Oklahoma Statutes for services rendered or administered by the Toxicology Laboratory of the Office of the Chief Medical Examiner;

or

3. The appropriate municipality or county for services rendered or administered by a municipality or county.

The monies from the Laboratory Analysis Fee Fund deposited into the OSBI Revolving Fund shall be used for the following:

1. Providing criminalistic laboratory services;
2. The purchase and maintenance of equipment for use by the laboratory in performing analysis;
3. Education, training, and scientific development of Oklahoma State Bureau of Investigation personnel; and
4. The destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

D. Upon conviction or bond forfeiture, the court shall collect the penalty assessment provided for in subsection B of this section and deposit it in an account created for that purpose. As an administrative fee for handling funds collected as a penalty assessment, each court is authorized to retain two percent (2%) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. Except as otherwise provided in subsection E of this section, for the fiscal year ending June 30, 1987, the remainder of such monies shall be forwarded quarterly by the court clerk to the State Treasury. Deposits shall be due July 15 for the preceding quarter ending June 30, October 15 for the preceding quarter ending September 30, January 15 for the preceding quarter ending December 31, and April 15 for the preceding quarter ending March 31. There shall be a penalty imposed for failure to make timely deposits. Such penalty shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the penalty reaches one hundred percent (100%) of the principal amount due. The State Treasurer shall deposit ~~seventy percent (70%)~~ ninety-eight percent (98%) of the monies received in the C.L.E.E.T. Fund, and ~~thirty percent (30%)~~ two percent (2%) of the monies received in the General Revenue Fund. ~~Beginning on July 1, 1987, ninety percent (90%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be~~

~~deposited in the C.L.E.E.T. Fund and ten percent (10%) shall be deposited in the General Revenue Fund.~~ Along with the deposits required by this subsection each court also shall submit a report stating the total amount of funds collected and the total number of penalty assessments imposed during the preceding quarter. Such report may be made on computerized or manual disposition reports.

E. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to this section, Two Dollars (\$2.00) from each penalty assessment less the two percent (2%) administrative fee retained by the court. Such monies shall be deposited into an account for the sole use of the municipality or county in implementing its law enforcement training functions. Not more than seven percent (7%) of such monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the State Treasury the report required by subsection D of this section.

F. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "C.L.E.E.T. Fund". The fund shall be subject to legislative appropriation and shall consist of any monies received from fees and receipts collected pursuant to the Oklahoma Open Records Act, reimbursements for parts used in the repair of weapons of law enforcement officers attending the basic academies, gifts, bequests, contributions, tuition, fees, devises, and the assessments levied pursuant to said fund pursuant to law.

SECTION 3. AMENDATORY 70 O.S. 1981, Section 3311, as last amended by Section 2, Chapter 185, O.S.L. 1989 (70 O.S. Supp. 1990, Section 3311), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training. The Council shall be composed

of five (5) police or peace officers, one selected by each of the following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a chairman and vice-chairman from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status.

2. Promulgate rules and regulations with respect to such matters as certification, revocation and withdrawal of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers.

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees.

4. Authorize additional staff and services necessary for program expansion.

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status.

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need.

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law.

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid for directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act.

9. Certify canines trained to detect controlled dangerous substances.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person has undergone psychological testing as provided for in paragraph 2

of this subsection and after the effective date of this act the applicant has certified he has a high school diploma or a GED equivalency certificate.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

- a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,
- b. such person has undergone evaluation similar to the Minnesota Multiphasic Personality Inventory or its equivalent, as determined by the Council on Law Enforcement Education and Training, and
- c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer on the effective date of this section,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than ~~one hundred twenty~~ ~~(120)~~ one hundred thirty (130) hours of accredited instruction, including ten (10) hours of law enforcement driver training which includes emergency high speed driving techniques, for reserve police officers and reserve deputies and not less than ~~three hundred (300)~~ three hundred twenty-four (324) hours, including twenty-four (24) hours of law enforcement driver training which includes emergency high speed driving techniques, for full-time salaried police or peace officers from the Council or curriculum or course of study approved by the Council.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace

officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course in accordance with this subsection upon his election. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit his position or the employing agency fails to require the officer to forfeit his position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers.

5. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided elected sheriffs and their deputies and elected and appointed chiefs of police shall meet the requirements of this subsection within the first twelve (12) months after assuming the duties of the office to which they are elected or appointed; provided further that this section shall not apply to persons designated by the Director of the

Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who has been convicted of a felony or a crime involving moral turpitude unless he has been granted a full pardon by the proper agency; however, any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of the effective date of this act shall not be subject to the provisions of this subsection for convictions occurring prior to the effective date of this act.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the law enforcement agency employing such person. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

- a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,
- b. administration of the psychological tests provided for herein,
- c. performance in the course of study or other basis of certification,
- d. previous certifications issued, and
- e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, resignation, or termination for any reason of a police or peace officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. Revocation of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine, in his judgment, whether there is reason to believe the person has been convicted of a felony or crime involving moral turpitude. If the Executive Director does not find there is reason to believe the person has been so convicted, the person shall remain certified. The proceedings for the revocation of certification shall be in accordance with the Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes.

K. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony or crime involving moral turpitude; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of the effective date of this act shall not be subject to the provisions of this subsection for convictions occurring prior to the effective date of this act.

L. 1. Every canine in the state trained to detect controlled dangerous substances shall be certified in the detection of such controlled dangerous substances and shall be recertified annually so long as the canine is used for such detection purposes. The certification and annual recertification provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Custom Service.

2. The fee for certification shall be Two Hundred Dollars (\$200.00) and the annual recertification fee shall be One Hundred Dollars (\$100.00) per canine. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

SECTION 4. This act shall become effective July 1, 1991.

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

43-1-453

WHT