

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 393

BY: WRIGHT

AS INTRODUCED

AN ACT RELATING TO DELINQUENT CHILDREN; CREATING A YOUTH CORRECTIONS CODE; PROVIDING SHORT TITLE; AUTHORIZING APPOINTMENT OF EXECUTIVE DIRECTOR; STATING RESPONSIBILITIES AND DUTIES; DIRECTING THE COURT TO SPECIFY TYPE OF PLACEMENT FOR YOUTH OFFENDERS; AUTHORIZING STAFF; REQUIRING APPOINTMENT OF REGIONAL ADMINISTRATORS; REQUIRING ESTABLISHMENT OF MINIMUM STANDARDS FOR FACILITIES; REQUIRING CERTAIN TRAINING; TERMINATING THE JURISDICTION OF THE DEPARTMENT OF HUMAN SERVICES OVER ADJUDICATED DELINQUENTS; PROVIDING TRANSFER OF POWERS, DUTIES, RESPONSIBILITIES AND RECORDS; AMENDING 10 O.S. 1981, SECTION 1108, AS LAST AMENDED BY SECTION 6, CHAPTER 238, O.S.L. 1990, AND SECTION 1, CHAPTER 164, O.S.L. 1985, AS AMENDED BY SECTION 20, CHAPTER 266, O.S.L. 1988 (10 O.S. SUPP. 1990, SECTIONS 1108 AND 1404.1), WHICH RELATE TO DETENTION FACILITIES AND VICTIM RESTITUTION WORK PROGRAM, AND SECTION 41, CHAPTER 374, O.S.L. 1982, AS LAST AMENDED BY SECTION 1, CHAPTER 134, O.S.L. 1988 (56 O.S. SUPP. 1990, SECTION 200.6), WHICH RELATES TO JUVENILE DETENTION IMPROVEMENT REVOLVING FUND; SUBSTITUTING THE YOUTH CORRECTIONS AUTHORITY FOR THE DEPARTMENT

OF HUMAN SERVICES; MODIFYING STATUTORY REFERENCE;
DELETING LANGUAGE RELATED TO THE STATE PLAN FOR
ESTABLISHMENT OF JUVENILE DETENTION SERVICES;
DELETING REQUIREMENT FOR PROPOSED STANDARDS
DEVELOPED BY THE STATE DEPARTMENT OF HEALTH;
DELETING THE OPTION OF JUVENILE WORKING FOR THE
VICTIM; DELETING PROVISION FOR SUBSIDIZING
EMPLOYMENT OF JUVENILE OFFENDER; DELETING PROVISION
FOR CERTAIN APPLICATION FOR FUNDS; PROVIDING FOR
CODIFICATION; PROVIDING FOR RECODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 100 of Title 10A, unless there is created a duplication in numbering, reads as follows:

There is hereby created a Youth Corrections Code in the Oklahoma Statutes to establish and develop laws, procedures, programs and guidelines relating to youth offenders committing crimes before the age of eighteen (18) years, whether placed in the custody of the state or a parent or guardian, and to enforce the laws of this state.

This act shall be known and may be cited as the "Youth Offender Code".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101 of Title 10A, unless there is created a duplication in numbering, reads as follows:

There is hereby established the Youth Corrections Authority. The administration of the Authority shall be vested in an executive director appointed by the Governor. The executive director shall have experience in corrections, behavioral sciences, law, criminology, or a related field, and administration.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 102 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Youth Corrections Authority shall have responsibility for all offenders committed to it by the juvenile courts for secure confinement or supervision and treatment in the community.

B. The Authority shall establish and maintain detention facilities and state training schools and set minimum standards for those facilities.

C. The Authority shall establish and administer all community programs within the district court judicial districts for all youth offenders committed to the Authority.

D. The Authority shall place youth offenders committed to it in the most appropriate program for supervision and treatment in the community.

E. The Authority shall establish and maintain all secure residential facilities.

F. In any order committing an offender to the Authority, the juvenile court shall specify whether the offender is being committed for secure confinement or placement in a community-based program. The Authority shall place the offender in the most appropriate program within the category specified by the court.

G. The Authority shall employ staff necessary to supervise youth offenders in detention facilities or parole, and to supervise and coordinate treatment of offenders committed to the Authority for placement in community-based programs.

H. The Authority shall establish observation and assessment programs necessary to serve offenders committed to it by the juvenile court for short term observation. Whenever possible, those programs shall be conducted in settings separate and distinct from secure facilities for offenders.

I. The executive director of the Authority shall appoint regional administrators within the various district court judicial districts. The regional administrator shall administer community-based programs and secure facilities, and shall have experience in corrections, behavioral sciences, law, criminology, or related fields, and in administration.

J. The Authority shall operate work programs designed to employ offenders in public service work projects for the purpose of reimbursing victims of offender delinquent behavior.

K. The Authority shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities which provide services to juveniles who have committed an act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult.

L. The Authority shall provide regular training for staff of secure facilities, case management staff, and staff of the community-based programs and continued educational training.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 103 of Title 10A, unless there is created a duplication in numbering, reads as follows:

The jurisdiction of the Department of Human Services over juvenile delinquents shall cease to exist as of the effective date of this act. All powers, duties and responsibilities assigned to the Department of Human Services are hereby transferred to the Youth Corrections Authority. All property, records, equipment, supplies, and funds, including trust funds and revolving funds, and other assets related to adjudicated delinquent children owned or possessed

by the Department of Human Services are hereby transferred to the Youth Corrections Authority.

SECTION 5. AMENDATORY 10 O.S. 1981, Section 1108, as last amended by Section 6, Chapter 238, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1108), is amended to read as follows:

Section 1108. A. Provision shall be made for the temporary detention of children in a juvenile detention facility or the court may arrange for the care and custody of such children temporarily in private homes, subject to the supervision of the court, ~~or the court may provide shelter or may enter into a contract with any institution or agency to receive, for temporary care and custody, children within the jurisdiction of the court. The Department of Human Services shall not be ordered to provide detention unless said Department has designated and is operating detention services or facilities~~ Youth Corrections Authority. ~~The Department of Human Services Authority~~ shall reimburse a county for expenses actually incurred by the county or its designee for the provision of necessary transportation for juveniles who have been ~~ordered~~ detained in a ~~regional~~ county operated detention facility.

Reimbursement to counties or its designees shall be as follows:

1. A fee for the cost of personal services at the rate of Eight Dollars (\$8.00) per hour;
2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes;
3. Meals for sheriff department personnel, not to exceed Five Dollars (\$5.00) per meal; and
4. Meals for juveniles being transported, not to exceed Five Dollars (\$5.00) per meal.

The ~~Department of Human Services~~ Authority shall process and mail reimbursement claims within sixty (60) days of receipt.

B. 1. ~~After July 1, 1983, "juvenile detention facility"~~
"Juvenile Detention Facility" shall mean a secure facility, entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. All juvenile detention facilities shall be required to meet standards for certification by the ~~Oklahoma Commission for Human Services Authority~~. ~~"Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Commission for Human Services pursuant to subsection C of this section and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility.~~

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the ~~State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection C of this section~~ Authority. The boards of county commissioners are hereby authorized to create multi-county trust authorities for the purpose of operating juvenile detention facilities.

3. In order to operate the juvenile detention facilities designated ~~in the State Plan for the Establishment of Juvenile Detention Services~~ by the Authority, the boards of county commissioners in the designated host counties shall:

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the ~~district court~~ Authority; or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other

expenses as may be necessary for its operation and maintenance; or

- c. contract with a public agency, private agency or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency pursuant to the provisions of this section, the ~~Department~~ Authority is authorized to directly contract with and pay such public or private agency for provision of detention services.

4. Management contracts for privately operated detention facilities shall be negotiated with the firm found most qualified by the board of county commissioners. However, no private management contract shall be entered into by the board unless the private contractor demonstrates to the satisfaction of the board:

- a. that the contractor has the qualifications, experience, and personnel necessary to implement the terms of the contract;
- b. that the financial condition of the contractor is such that the term of the contract can be fulfilled;
- c. that the ability of the contractor to obtain insurance or provide self-insurance to indemnify the county against possible lawsuits and to compensate the county for any property damage or expenses incurred due to the private operation of the juvenile detention facility; and
- d. that the contractor has the ability to comply with applicable ~~court orders and~~ rules and regulations of the ~~Department of Human Services~~ Authority.

5. All counties to be served by a ~~regional~~ juvenile detention facility may, upon the opening of such facility, contract with the

operators for the use of the facility for the temporary detention of children who are subject to secure detention; provided, however, a jail, adult lockup, or other adult detention facility may be used for the secure detention of a child as provided for in Section 1107.1 of this title.

6. Expenses incurred in carrying out the provisions of this section shall be paid from the general fund of the county or from other public funds lawfully appropriated for such purposes or from private funds that are available for such purposes. A county may also issue bonds for the construction of detention facilities.

7. The operation of a juvenile detention facility by a county shall constitute a quasi-judicial function and is also hereby declared to be a function of the State of Oklahoma for purposes of the Eleventh Amendment to the United States Constitution. In addition, no contract authorized by the provisions of this section for the operation of a juvenile detention facility shall be awarded until the contractor demonstrates to the satisfaction of the county that the contractor has obtained liability insurance against lawsuits arising from the operation of the juvenile detention facility by the contractor with the limits specified by the Torts Claim Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

C. ~~The Oklahoma Commission for Human Services~~ Youth Corrections Authority, from monies appropriated for that purpose, shall develop, adopt, and implement a plan for secure juvenile detention services and alternatives to secure detention, ~~to be known as the State Plan for the Establishment of Juvenile Detention Services,~~ which shall provide for the establishment of juvenile detention facilities and services with due regard for appropriate geographical distribution and existing juvenile detention programs operated by statutorily constituted juvenile bureaus. ~~Said plan may be amended or modified by the Commission as necessary and appropriate.~~

1. ~~The Oklahoma Commission for Human Services~~ Youth Corrections Authority shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 200.6 of Title 56 of the Oklahoma Statutes. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the ~~Commission~~ Authority which shall set the contract amount in accordance with the services offered and the degree of compliance with standards for certification.

2. ~~The Oklahoma Commission for Human Services~~ Authority shall establish standards for the certification of detention services and juvenile detention facilities. Such standards may include, but not be limited to: Screening for detention; education and recreation opportunities for juveniles in secure detention; and accreditation by the American Correctional Association. As a condition of continuing eligibility for grants or contracts, secure juvenile detention services and facilities shall be certified by the ~~Commission~~ Authority within two (2) years of the date of the initial grant or contract.

D. The State Department of Health, with the assistance of the ~~Department of Human Services~~ Youth Corrections Authority, shall establish standards for the certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: Separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is

authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. ~~After July 1, 1985, no~~ No jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health Authority.

~~1. The State Department of Health shall forward copies of proposed standards developed pursuant to the provisions of this paragraph to county commissioners, district attorneys, members of the Oklahoma Judiciary and members of the Oklahoma Legislature for their review and comment.~~

~~2. After consideration of all comments received and not later than January 1, 1985, the State Board of Health shall approve standards pursuant to the provisions of this paragraph. In all other respects, the development and approval of the standards provided for in this paragraph shall comply with the provisions of the Administrative Procedures Act.~~

SECTION 6. AMENDATORY Section 1, Chapter 164, O.S.L. 1985, as amended by Section 20, Chapter 266, O.S.L. 1988 (10 O.S. Supp. 1990, Section 1404.1), is amended to read as follows:

Section 1404.1 There is hereby created a program of juvenile crime victim restitution to be administered by the ~~Department of Human Services~~ Youth Corrections Authority. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

A. The ~~Commission for Human Services~~ Authority shall promulgate rules and regulations necessary for the implementation of the provisions of this ~~act~~ section.

B. The programs developed under the provisions of this ~~act~~ section shall provide restitution to a victim by requiring the child

to work or provide a service for the ~~victim~~ community, or to make monetary restitution to the victim from money earned from such a program. The supervised work or service program shall not deprive the child of schooling which is appropriate to his age, need, and specific rehabilitative goals. Provided, such program shall not prohibit the child from fulfilling his restitution obligation through jobs he has found, or by performing volunteer services for the community, ~~or by doing work for the victim.~~

C. Agreements for participation in the programs under this ~~act~~ section may include restitution not in excess of actual damages caused by the child which shall be paid from the net earnings of the child received through participation in a constructive program of service ~~or education~~ acceptable to the child, ~~the victim,~~ the ~~Department of Human Services,~~ Authority, the district attorney and/or the district court. During the course of such service, the child shall be paid no less than the federal minimum wage. In considering such agreement, the ~~Department of Human Services,~~ the ~~district attorney and/or the district court~~ Authority shall take into account the child's age, physical and mental capacity. The service shall be designed to relate to the child a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed, the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution.

D. ~~The Department of Human Services may subsidize the employment of a child for the purposes of participation in a work program as provided by this section.~~

E. Any person, entity or political subdivision who is an employer of children or recipient of services either of which are under an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

1. Damage to the property of the child or injury to the child except as to the liability established by the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, if the child is covered thereunder; or

2. Damage to any property or injury to any person; which results from the services of the child pursuant to this ~~act~~ section.

SECTION 7. AMENDATORY Section 41, Chapter 374, O.S.L. 1982, as last amended by Section 1, Chapter 134, O.S.L. 1988 (56 O.S. Supp. 1990, Section 200.6), is amended to read as follows:

Section 200.6 A. There is hereby created in the State Treasury a revolving fund for the ~~Department of Human Services~~ Youth Corrections Authority to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the ~~Department of Human Services~~ Authority for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the ~~Department of Human Services~~ Authority for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, ~~in accordance with~~

~~state-approved juvenile detention standards and the State Plan for the Establishment of Juvenile Detention Services provided for in Section 1108 of Title 10 of the Oklahoma Statutes.~~ The participation of local resources shall be a requirement for the receipt by counties of said funds and the ~~Department~~ Authority shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

1. a. For counties having a population of less than four hundred fifty thousand (450,000) as shown by the last preceding Federal Decennial Census, the ~~Department of Human Services~~ Authority shall provide not less than ninety percent (90%) of the approved operational cost for secure detention effective July 1, 1987. Beginning July 1, 1992, the rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the ~~Department of Human Services~~ Authority.
- b. For those counties having a population of four hundred fifty thousand (450,000) or more, the sharing cost for the provision of secure juvenile detention facilities shall be fifty percent (50%) for the ~~Department of Human Services~~ Authority and fifty percent (50%) for the county.
- c. The ~~Department of Human Services~~ Authority shall reimburse operating per diem costs for said services, as approved, at the rate of ninety percent (90%) to be reduced to eighty-five percent (85%) effective July 1,

1992, to those counties having a population of four hundred fifty thousand (450,000) or more which:

- (1) provide secure detention services for juveniles who have been adjudicated delinquent, placed in the custody of the ~~Department of Human Services~~ Youth Corrections Authority and who are awaiting placement by the ~~Department~~ Authority, for each day that said county continues to provide such services beyond five (5) days after a dispositional order placing a juvenile in ~~Department~~ Authority custody is issued, or
- (2) provide detention services to other counties.

2. The ~~Department of Human Services~~ Authority shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

3. The ~~Department of Human Services~~ Authority shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are ~~in compliance with or which are~~ designed to achieve compliance with the ~~State Plan for the Establishment of Juvenile Detention Services provided for in Section 1108 of Title 10 of the Oklahoma Statutes~~ duties and responsibilities of the Authority.

4. The ~~Department of Human Services~~ Youth Corrections Authority shall, from appropriated state monies or from available federal grants, reimburse travel costs for counties utilizing the juvenile detention facilities ~~identified in the "State Plan for the Establishment of Juvenile Detention Services"~~ outside their county in accordance with the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

~~5. No application for funds available pursuant to the provisions of this section may be filed when the construction of new facilities or the renovation of existing facilities was begun prior to July 20, 1982.~~

SECTION 8. RECODIFICATION 10 O.S. 1981, Section 1108, as last amended by Section 5 of this act, and Section 1, Chapter 164, O.S.L. 1985, as last amended by Section 6 of this act, and Section 41, Chapter 374, O.S.L. 1982, as last amended by Section 7 of this act, shall be recodified as Sections 120, 121 and 122 of Title 10A of the Oklahoma Statutes.

SECTION 9. This act shall become effective January 1, 1992, 1991.

43-1-312

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