

ENROLLED SENATE
BILL NO. 561

By: Dickerson of the Senate

and

Satterfield of the House

An Act relating to civil procedures; amending 12 O.S. 1991, Sections 397 and 398, which relate to oral examination of prisoners and custody of prisoners during examination; providing purpose for production of prisoners for oral examination; authorizing writ of habeas corpus for certain oral examination; directing certain delivery of prisoner; providing prisoner pay all costs of transportation; making writ an enforceable judgment; setting limitations on enforcement of certain judgment; requiring notification of transportation costs; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 397, is amended to read as follows:

Section 397. A. A person confined in any prison in this state may by order of any court of record, be required to be produced for oral examination as a witness by the court in the county where he is imprisoned, but in all other cases his examination must be by deposition.

B. A prisoner confined in any prison or jail in this state who is the complaining party or defending party in a civil action brought pursuant to this title may apply for a Writ of Habeas Corpus for the purpose of appearing before the court. If the court issues such writ, it shall be issued to the custodian of the prisoner and shall order the prisoner to be delivered to the court the prisoner has named in the writ.

C. If upon application by the prisoner or the prisoner's attorney the court issues a Writ of Habeas Corpus as provided in subsection B of this section, it shall order the person applying for such writ or other appropriate party to pay to the custodian executing the writ all costs of transporting the prisoner to and from the court. The writ shall serve as a judgment against the prisoner and may be enforced by the detaining governmental unit without further order of any court for a period of five (5) years after the date of the writ. The custodian executing the release shall notify the prisoner and the court, at the time of delivery, of the costs of transportation.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 398, is amended to read as follows:

Section 398. ~~While~~ If a prisoner's testimony is taken by deposition is being taken, he shall remain in the custody of the ~~officer having him in charge who~~ official charged with the

prisoner's custody. The official custodian shall afford reasonable facilities for the taking of the deposition.

SECTION 3. 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.

Passed the Senate the 4th day of May, 1993.

President of the Senate

Passed the House of Representatives the 1st day of April, 1993.

Speaker of the House of Representatives