

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1646

By: Settle

AS INTRODUCED

An Act relating to poor persons; amending 56 O.S.

1991, Section 236, as amended by Section 1, Chapter 288, O.S.L. 1992 (56 O.S. Supp. 1992, Section 236), which relates to the legal divisions of the Department of Human Services; providing for transfer of certain powers and duties to the Attorney General; specifying certain transfers of certain powers and duties; prohibiting employment of attorneys in certain instances; adding to powers and duties of the Attorney General; providing for transfer of certain records, files, causes of action and other matters; requiring cooperation; authorizing certain contracts; providing an effective date; declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 236, as amended by Section 1, Chapter 288, O.S.L. 1992 (56 O.S. Supp. 1992, Section 236), is amended to read as follows:

Section 236. A. ~~The~~ Until July 1, 1994, the Commission for Human Services shall establish or provide for a legal division or unit in the Department of Human Services. The Director of the Department of Human Services shall employ attorneys as needed, which

may be on full-time and part-time basis. Such attorneys, in addition to advising the Commission, Director and Department personnel on legal matters, except as otherwise provided by this section, may appear for and represent the Commission, Director and Department in legal actions and proceedings. ~~Provided, that it shall continue to be the duty of~~

B. Beginning July 1, 1993, the Oklahoma Commission for Human Services, the Director, the Department and Department officers and employees shall be represented by the Office of the Attorney General in all legal matters involving civil rights or discrimination claims before administrative bodies or before courts of law purportedly arising under, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Equal Pay Act, the Civil Rights Act of 1866, or the Discrimination in Employment Act under state law. The Office of the Attorney General may take control of any such matters that may be pending on July 1, 1993, and all records, files and other materials relative to such pending matters shall be transferred to the Office of the Attorney General as directed by the Attorney General or designee. As of July 1, 1993, all officers, agents and employees of the Department shall cooperate, participate and assist in the efficient, effective and timely transfer of any materials related to pending matters and shall cooperate, participate and assist the Office of the Attorney General in an efficient, effective and timely transfer of representation in pending matters. Unless funds are specifically appropriated to the Office of the Attorney General to pay for the legal services to be provided pursuant to this section, the Department shall contract for and pay a reasonable fee for legal services and expenses of the Attorney General pursuant to Section 18 1 of Title 74 of the Oklahoma Statutes.

C. Beginning July 1, 1994, the Oklahoma Commission for Human Services shall be represented in all legal matters other than matters which are part of the duties and responsibilities of the Child Support Enforcement Division and the Child Support Hearing Unit of the Department of Human Services by the Attorney General to give his official opinion to who shall represent the Commission, Director or Department, and to who shall prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney's fee for such legal services from the Commission. Provided, however the charges which the Attorney General is authorized to levy and collect shall only include those costs and charges which exceed the costs associated with the salary and benefits of one attorney FTE position per fiscal year.

~~B.~~ D. The Commission shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state.

~~C.~~ E. The Attorney General shall be notified by the Commission or its counsel of all lawsuits against the Commission, its officers or employees that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if he considers it to be in the best interest of the state to do so, in which case he shall be paid as provided in subsection A of this section. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Commission as necessary to avoid conflicts of interest.

F. Beginning July 1, 1994, the Department of Human Services shall not employ or retain attorneys as such or retain outside

counsel unless first approved by the Attorney General. Provided,
however, the Department of Human Services may employ such attorneys
as are necessary to fulfill the duties and obligations of the Child
Support Enforcement Division and the Child Support Hearing Unit of
the Department of Human Services.

SECTION 2. This act shall become effective July 1, 1993.

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.

44-1-5038

KSM