

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2410

By: Smith (Dale)

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Section 1108, as amended by Section 2, Chapter 320, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1108) and 56 O.S. 1991, Section 200.6, which relate to juvenile detention facilities; requiring the Department of Human Services to pay the total expense of detention of certain adjudicated delinquents under certain conditions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1108, as amended by Section 2, Chapter 320, O.S.L. 1993 (10 O.S. Supp. 1993, 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.

County sheriffs, their designee, private contractors under contract with the Department of Human Services for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, discharge, medical attention or court appearance. No private contract for transportation services shall be entered into by the Department unless the private contractor demonstrates to the satisfaction of the Department that such contractor is able to obtain insurance or provide self-insurance to indemnify the Department against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection B of this section. The Department of Human Services shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The Department of Human Services shall provide reimbursement to the entity transporting juveniles for necessary and actual expenses for transporting juveniles who are detained in or destined for a regional detention center 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;
3. Meals for transporting 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 shall process and mail reimbursement claims within sixty (60) days of receipt.

B. 1. After July 1, 1983, "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. "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. 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, 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; 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 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 of the Department of Human Services.

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 Except as otherwise provided in this subsection, 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 providing of transportation services or 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 with the limits specified by the Tort Claims Act against lawsuits arising from the operation of the juvenile detention facility by the contractor, or if the contract is for the providing of transportation services, the contractor has obtained liability insurance with the limits specified by the Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

8. The expenses of travel and detention, including food, clothes, medical and psychiatric treatment for any child who:

- a. is adjudicated delinquent, and
- b. is from a county other than the county currently detaining such child, or
- c. escaped from the county of his residence and is being detained in another county,

shall be paid totally by the Department of Human Services and shall not be the responsibility of the county currently detaining such child.

C. The Oklahoma Commission for Human Services, 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 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 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 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 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, 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 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.

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.

E. The State Board of Health shall adopt rules providing for the routine recording and reporting of the use of any adult jail,

lockup or other adult facility for the detention of any person under the age of eighteen (18).

1. For the purpose of ensuring the uniformity and compatibility of information related to the detention of persons under age eighteen (18), said rules shall be reviewed and approved by the Oklahoma Commission on Children and Youth prior to their adoption by the Board; and

2. Said records of detention shall be reviewed during each routine inspection of adult jails, lockups or other adult detention facilities inspected by the State Department of Health and a statistical report of said detentions shall be submitted to the Oklahoma Commission on Children and Youth at least every six (6) months in a form approved by the Commission.

SECTION 2. AMENDATORY 56 O.S. 1991, 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 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 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 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~~ Except as specified in paragraph 8 of subsection B of 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 shall establish a system of rates for the reimbursement of secure detention costs to counties. ~~The~~ Except as specified in paragraph 8 of subsection B of Section 1108 of Title 10 of the Oklahoma Statutes, 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 shall provide not less than ~~ninety percent (90%)~~ eighty-five percent (85%) 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.~~

b. For those counties having a population of four hundred fifty thousand (450,000) or more, except as specified in paragraph 8 of subsection B of Section 1108 of Title 10 of the Oklahoma Statutes, the sharing cost for the provision of secure juvenile detention facilities shall be fifty percent (50%) for the Department of Human Services and fifty percent (50%) for the county.

c. ~~The~~ Except as specified in paragraph 8 of subsection B of Section 1108 of Title 10 of the Oklahoma Statutes, the Department of Human Services 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 and who are awaiting placement by the Department, for each day that said county continues to provide such services beyond five (5) days after a dispositional order placing a juvenile in Department custody is issued, or
- (2) provide detention services to other counties.

2. The Department of Human Services 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 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.

4. The Department of Human Services 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" in accordance with the provisions of the State Travel Reimbursement Act.

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 3. This act shall become effective July 1, 1994.

SECTION 4. 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.

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