

ENROLLED SENATE
BILL NO. 17

By: Wilkerson of the Senate

and

Plunk, Askins and Bonny of
the House

An Act relating to peace officers and public defender; creating the office of public defender in certain jurisdictions; providing for office space and equipment; construing certain provision; amending 19 O.S. 1991, Section 215.35A, as amended by Section 3, Chapter 295, O.S.L. 1994 (19 O.S. Supp. 1994, Section 215.35A), which relates to district attorney investigators; specifying jurisdiction of certain district attorney investigators; amending 21 O.S. 1991, Section 99, which relates to definition for peace officers; amending 22 O.S. 1991, Section 36, which relates to immunity for assisting a peace officer; granting the United States Marshals and Marshals Service deputies peace officer status; providing certain immunity; repealing 19 O.S. 1991, Section 138.1, which relates to public defender office; providing for codification; and declaring an emergency.

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 138.1a of Title 19, unless there is created a duplication in numbering, reads as follows:

A. In each county of this state possessing a population of over two hundred thousand (200,000) according to the Federal Decennial Census of 1990, or any succeeding Federal Decennial Census, there is hereby created the office of public defender, and such office shall be charged upon the order of any judge of a court of record of such county, with the protection of the rights of any defendant to a criminal action. The board of county commissioners of such county shall provide for necessary office supplies and equipment and arrange for sufficient office space in the county building, used by the courts of record of such county, to permit the efficient and effective operation of the office of public defender.

B. For purposes of liability under the Governmental Tort Claims Act, any public defender, assistant public defender or employee thereof, who is employed under this section shall be deemed a state employee.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 215.35A, as amended by Section 3, Chapter 295, O.S.L. 1994 (19 O.S. Supp. 1994, Section 215.35A), is amended to read as follows:

Section 215.35A A. ~~Investigators for a district~~ District attorney investigators serve under the direction of the district

attorney, and shall perform such services as are necessary in the investigation of criminal activity or preparation of civil litigation within the district at the direction of the district attorney.

B. If the district attorney's investigator is certified as a peace officer by the Council on Law Enforcement Education and Training the investigator shall be considered a peace officer and shall have the powers now or hereafter vested by law in peace officers.

C. While in the performance of official duties as an investigator for the district attorney, an investigator who has been certified as a peace officer by the Council on Law Enforcement Education and Training shall have jurisdiction in any portion of the state.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 99, is amended to read as follows:

Section 99. The term "peace officer" signifies any sheriff, ~~constable or policeman, and or any other officers~~ law enforcement officer whose duty it is to enforce and preserve the public peace.

Every United States Marshal and Marshals Service deputy who is employed full-time as a law enforcement officer by the Federal Government, who is authorized by federal law to conduct any investigation of, and make any arrest for, any offense in violation of federal law shall have the same authority, and be empowered to act, as peace officers within the State of Oklahoma in rendering assistance to any law enforcement officer in an emergency, or at the request of any officer, and to arrest any person committing any offense in violation of the laws of this state.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 36, is amended to read as follows:

Section 36. Private citizens aiding a ~~police~~ peace officer, or other officers of the law in the performance of their duties as ~~police~~ peace officers or officers of the law, shall have the same civil and criminal immunity as ~~such~~ a peace officer, as a result of any act or commission for aiding or attempting to aid a ~~police~~ peace officer or other officer of the law, when such officer is in imminent danger of loss of life or grave bodily injury or when such officer requests such assistance and when such action was taken under emergency conditions and in good faith.

Every United States Marshal and Marshals Service deputy while engaged in the performance of official duties as a federal law enforcement officer or when acting as a peace officer for the State of Oklahoma shall have the same immunity from civil and criminal actions as any other peace officer performing official duties within this state.

SECTION 5. REPEALER 19 O.S. 1991, Section 138.1, is hereby repealed.

SECTION 6. 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 8th day of May, 1995.

President of the Senate

Passed the House of Representatives the 17th day of May, 1995.

Speaker of the House of
Representatives