

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1685

By: Pope (Tim) and Ferguson

AS INTRODUCED

An Act relating to prisons and reformatories;

changing the names of the Board of Corrections, the Department of Corrections and the Director of the Department of Corrections; providing for interpretation of certain references; amending 57 O.S. 1991, Sections 502, as last amended by Section 1, Chapter 277, O.S.L. 1994, 503, as amended by Section 5, Chapter 364, O.S.L. 1992, 505 and 506 (57 O.S. Supp. 1994, Sections 502 and 503), which relate to the Oklahoma Corrections Act of 1967; changing statutory references to reflect name changes; amending 57 O.S. 1991, Section 332.1, which relates to personnel employed by the Pardon and Parole Board; transferring probation-parole officers and other personnel to the Pardon and Parole Board, subject to certain conditions; transferring duties, powers, records and property; providing for promulgation of rules; amending 57 O.S. 1991, Section 512, as amended by Section 3, Chapter 166, O.S.L. 1993 (57 O.S. Supp. 1994, Section 512), which relates to supervision of inmates paroled from state penal institutions; transferring jurisdiction to the Pardon and Parole Board; amending 57 O.S. 1991, Section 515, which

relates to probation-parole officers; modifying exception; amending 57 O.S. 1991, Sections 516 and 517, which relate to parole and probation violators; transferring jurisdiction to the Pardon and Parole Board; providing for codification; providing an effective date; 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 501.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Department of Prisons under the administrative control of the Board of Prisons. The chief executive officer of the Department shall be the Director of the Department of Prisons. Any reference in the Oklahoma Statutes to the Board of Corrections or State Board of Corrections shall mean the Board of Prisons. Any reference in the Oklahoma Statutes to the Department of Corrections shall mean the Department of Prisons. Any reference in the Oklahoma Statutes to the Director of Corrections or the Director of the Department of Corrections shall mean the Director of the Department of Prisons.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 502, as last amended by Section 1, Chapter 277, O.S.L. 1994 (57 O.S. Supp. 1994, Section 502), is amended to read as follows:

Section 502. As used in this title, unless the context otherwise requires:

(a) "Board" means the State Board of ~~Corrections~~ Prisons;

(b) "Department" means the Department of ~~Corrections~~ Prisons of this state;

(c) "Institutions" means the Oklahoma State Penitentiary located at McAlester, Oklahoma; the Oklahoma State Reformatory located at Granite, Oklahoma; the Lexington Assessment and Reception Center located at Lexington, Oklahoma; the Joseph Harp Correctional Center located at Lexington, Oklahoma; the Jackie Brannon Correctional Center located at McAlester, Oklahoma; the Howard C. McLeod Correctional Center located at Farris, Oklahoma; the Mack H. Alford Correctional Center located at Stringtown, Oklahoma; the Ouachita Correctional Center located at Hodgen, Oklahoma; the Mabel Bassett Correctional Center located at Oklahoma City, Oklahoma; the R.B. "Dick" Conner Correctional Center located at Hominy, Oklahoma; the James Crabtree Correctional Center located at Helena, Oklahoma; the Jess Dunn Correctional Center located at Taft, Oklahoma; the John Lilley Correctional Center located at Boley, Oklahoma; the William S. Key Correctional Center located at Fort Supply, Oklahoma; the Dr. Eddie Walter Warrior Correctional Center located at Taft, Oklahoma; the Northeast Oklahoma Correctional Center located at Vinita, Oklahoma; the Oklahoma City, Clara Waters and Kate Barnard Community Corrections Centers located at Oklahoma City, Oklahoma; the Tulsa Community Corrections Center located at Tulsa, Oklahoma; the Community Corrections Centers located at Lawton, Enid, Muskogee and McAlester; and other facilities under the jurisdiction and control of the Department of ~~Corrections~~ Prisons or hereafter established by the Department of ~~Corrections~~ Prisons;

(d) "Director" means the Director of the Department of ~~Corrections~~ Prisons;

(e) "Halfway house" means a private facility for the placement of inmates in a community setting for the purpose of reintegrating into the community inmates who are nearing their release dates. The term shall not include private prisons.

(f) "House arrest" means a program whereby persons committed to the Department of ~~Corrections~~ Prisons are authorized to be away from

a correctional facility and are placed by the Department in a community for the purpose of reintegration of the person into society, pursuant to the provisions of Section 510.2 of this title; and

(g) "Private prison contractor" means:

(1) a nongovernmental entity or public trust which, pursuant to a contract with the Department of ~~Corrections~~ Prisons, operates an institution within the Department, or provides for the housing, care, and control of inmates and performs other functions related to said responsibilities within a minimum or medium security level facility not owned by the Department but operated by the contractor; or

(2) a nongovernmental entity or public trust which, pursuant to a contract with the United States or another state, provides for the housing, care, and control of minimum or medium security inmates in the custody of the United States or another state, and performs other functions related to said responsibilities within a facility owned or operated by the contractor.

SECTION 3. AMENDATORY 57 O.S. 1991, Section 503, as amended by Section 5, Chapter 364, O.S.L. 1992 (57 O.S. Supp. 1994, Section 503), is amended to read as follows:

Section 503. There is hereby created the State Board of ~~Corrections~~ Prisons which shall be the governing board of the Department of ~~Corrections~~ Prisons herein created. The Board shall consist of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each of the six congressional districts, and the seventh member shall be appointed from the state at large. The terms of office of two members shall expire on March 15, 1969, and each six (6) years thereafter; the terms of two members shall expire on March 15, 1971, and each six (6) years thereafter; and the terms of three members shall expire on March 15, 1973, and each six (6)

years thereafter. Not more than four members of the Board shall be of the same political party. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment. Vacancies on the Board shall be filled for the unexpired term.

SECTION 4. AMENDATORY 57 O.S. 1991, Section 505, is amended to read as follows:

Section 505. There is hereby created the Department of ~~Corrections~~ Prisons which shall consist of divisions, subdivisions, institutions, and such sections, offices and positions as may be established by the Director, subject to the approval of the Board, or by law.

SECTION 5. AMENDATORY 57 O.S. 1991, Section 506, is amended to read as follows:

Section 506. There is hereby created the position of Director of ~~Corrections~~ the Department of Prisons. The Director shall be qualified for such position by character, personality, ability, education, training and successful administrative experience in the correctional field; shall have earned a Master's Degree from an accredited college or university with a major field of study in at least one of the following: Corrections, criminal justice, police science, criminology, psychology, sociology, administration, education, or a related social science, and five (5) years' work experience in corrections, or a bachelor's degree in the degree areas above specified and six (6) years' progressively responsible work experience in corrections. The Director of ~~Corrections~~ the Department of Prisons shall be appointed by the Board of ~~Corrections~~ Prisons, with the advice and consent of the Senate and shall be subject to removal by a vote of the majority of the entire Board or in the manner provided by law for the removal of officers not subject to impeachment.

SECTION 6. AMENDATORY 57 O.S. 1991, Section 332.1, is amended to read as follows:

Section 332.1 A. The Pardon and Parole Board created by Article VI, Section 10~~7~~, of the Oklahoma Constitution is authorized to employ professional investigators and such clerical and administrative personnel as may be required to carry out the duties and responsibilities under the provisions of this act.

B. Effective July 1, 1995, responsibility for monitoring probation and parole shall be transferred from the Department of Corrections to the Pardon and Parole Board. All probation-parole officers and support staff shall be transferred to the Pardon and Parole Board. Any such personnel shall be subject to the following provisions:

1. Classified personnel shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. The transfer of such employees shall be made pursuant to Section 530:10-11-74 of the Oklahoma Administrative Code;

2. Unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Pardon and Parole Board. Nothing in this section shall prohibit unclassified employees from making application and competing for positions in the classified service; and

3. All personnel who are transferred to the Pardon and Parole Board shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued. The salaries of personnel who are transferred shall not be reduced as a direct result of the transfer. The transfer of personnel shall be coordinated with the Office of Personnel Management.

C. All duties, powers, records and property of the Probation and Parole Division of the Department of Corrections shall be transferred to the Pardon and Parole Board.

D. The Pardon and Parole Board shall promulgate rules for the implementation of this section.

SECTION 7. AMENDATORY 57 O.S. 1991, Section 512, as amended by Section 3, Chapter 166, O.S.L. 1993 (57 O.S. Supp. 1994, Section 512), is amended to read as follows:

Section 512. Any inmate in a state penal institution who has been granted a parole shall be released from the institution upon the following conditions:

1. That ~~he~~ the inmate comply with specified requirements of the ~~Division of Community Services of the Department of Corrections~~ Pardon and Parole Board under the active supervision of a Probation and Parole Officer. Such active supervision shall be for a period not to exceed three (3) years, except as provided in paragraph 2 of this section.

2. That ~~he~~ the inmate be actively supervised by a Probation and Parole Officer for an extended period not to exceed the expiration of the maximum term or terms for which ~~he~~ the inmate was sentenced if convicted of a sex offense or upon the determination by the ~~Division of Community Services~~ Pardon and Parole Board that the best interests of the public and the parolee will be served by such an extended period of supervision.

Provided, for the purposes of this section, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.

The Probation and Parole Officer, upon information sufficient to give ~~him~~ the officer reasonable grounds to believe that the parolee has violated the terms of and conditions of ~~his~~ parole, shall notify the ~~Deputy Director of the Division of Community Services~~ Pardon and Parole Board in accordance with Section 516 of ~~Title 57 of the Oklahoma Statutes~~ this title.

SECTION 8. AMENDATORY 57 O.S. 1991, Section 515, is amended to read as follows:

Section 515. A. Except as provided in subsection B of this section, all probation-parole officers shall be deemed peace officers and shall possess the powers granted by law to peace officers. Probation-parole officers shall meet all of the training and qualifications for peace officers required by Section 3311 of Title 70 of the Oklahoma Statutes. Qualifications for probation-parole officers shall be good character and, except for those probation-parole officers employed prior to May 4, 1974, a bachelor's degree from an accredited college or university including at least twenty-four (24) credit hours in any combination of psychology, sociology, social work, criminology, education, criminal justice administration, penology or police science. Provided, that any employee of the ~~Department~~ Pardon and Parole Board, formerly classified and who worked as a probation-parole officer for at least one (1) year, who was later promoted to an administrative or supervisory position within the Department of Corrections or the Pardon and Parole Board and who has been employed continuously by the Department or the Board may be reappointed to the position of probation-parole officer without having to meet the currently established qualifications in this ~~act~~ section.

B. Persons employed as probation-parole officers on or before July 1, 1988, shall not be qualified and certified as peace officers until completion of the requirements of Section 3311 of Title 70 of the Oklahoma Statutes. Said officers shall complete the requirements prior to January 1, 1990.

SECTION 9. AMENDATORY 57 O.S. 1991, Section 516, is amended to read as follows:

Section 516. The probation and parole officer shall, upon information sufficient to give ~~him~~ the officer reasonable grounds to believe that the parolee has violated the terms of and conditions of ~~his~~ parole, notify the ~~Department~~ Pardon and Parole Board. If it is determined that the facts justify such action, the ~~Department~~ Board

shall issue a warrant for the arrest of any such parolee and any such warrant shall have the force and effect of any warrant of arrest issued by a district court in this state. Any such parolee shall, after arrest, be immediately incarcerated in the nearest county jail or Department of Corrections facility to await action of the Governor as to revocation of ~~his~~ parole. Parole time shall cease to run after the issuance of a warrant for arrest by the ~~Department of Corrections~~ Pardon and Parole Board, and earned credits shall not be accrued during the period of time that the parolee is incarcerated pending action by the Governor.

SECTION 10. AMENDATORY 57 O.S. 1991, Section 517, is amended to read as follows:

Section 517. The Probation and Parole Officer shall, upon information sufficient to give ~~him~~ the officer reasonable grounds to believe that a person on probation has violated the terms or conditions of ~~his~~ probation, notify the ~~Department~~ Pardon and Parole Board. If it is determined that the facts justify such action, the ~~Department Board~~ shall issue a warrant for the arrest of any such person on probation and any such warrant shall have the force and effect of any warrant of arrest issued by a district court in this state. Any such person on probation shall, after arrest, be immediately incarcerated in the nearest county jail to await action of the court as to revocation of ~~his~~ the probation.

SECTION 11. This act shall become effective July 1, 1995.

SECTION 12. 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.

45-1-5255 SD