

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2692

By: Benson

AS INTRODUCED

An Act relating to juvenile justice; amending Section 2, Chapter 299, O.S.L. 1992, as amended by Section 189, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 601.13), which relates to the Juvenile Justice Advisory and Oversight Committee; modifying duties of the Committee; authorizing the Office of Juvenile Affairs to repair or replace personal property of employees under certain circumstances; amending 10 O.S. 1991, Section 10, Chapter 290, O.S.L. 1994, as amended by Section 78, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.2), which relates to the Advocate General; modifying duties and responsibilities of the Advocate General; amending 10 O.S. 1991, Section 1404.1, as last amended by Section 107, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-8.1), which relates to restitution; providing for employment of juveniles in work programs; creating the Juvenile Restitution Revolving Fund; stating purpose of fund; providing revenue source for fund; amending 74 O.S. 1991, Section 85.12, as last amended by Section 2,

Chapter 28, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12), which relates to acquisitions excluded from the Oklahoma Central Purchasing Act; expanding list of excluded acquisitions; amending Section 1, Chapter 280, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12c), which relates to exclusion from the Oklahoma Central Purchasing Act of purchases made from funds received from fund-raising activities and donations; expanding scope of provision to include purchases from such funds received by offices administered by the Office of Juvenile Affairs; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 299, O.S.L. 1992, as amended by Section 189, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 601.13), is amended to read as follows:

Section 601.13 A. In order to aid and assist the ~~Department of Human Services~~ Office of Juvenile Affairs in accomplishing its mission in regard to delinquent children and children in need of supervision there is hereby formed the Juvenile Justice Advisory and Oversight Committee to be composed of the following five (5) members:

1. One member who shall be a member of the public at large appointed by the Speaker of the House of Representatives;

2. One member who shall be a member of the public at large appointed by the President Pro Tempore of the Senate;

3. One member who shall be a member of the public at large appointed by the Governor;

4. One member who shall be a judge of the district court appointed by the Chief Justice of the Supreme Court; and

5. One member who shall be a district attorney appointed by the District Attorneys Council.

The member appointed by the Governor shall serve as the Chairman of the Committee.

B. The terms of office of the member appointed by the Speaker of the House of Representatives and the member appointed by the President Pro Tempore of the Senate shall expire on March 15, 1995, and each six (6) years thereafter; the term of the member appointed by the District Attorneys Council shall expire on March 15, 1997, and each six (6) years thereafter; and the terms of the member appointed by the Chief Justice of the Supreme Court and the member appointed by the Governor shall expire on March 15, 1999, and each six (6) years thereafter. Any member of the Committee may be removed from office in the manner provided by law for the removal of officers not subject to impeachment. Vacancies on the Committee shall be filled for the unexpired term by the original appointing authority.

C. The Committee shall have the following duties:

~~1. To review the policies and programs of the Department of Human Services concerning juveniles and make recommendations concerning those policies and programs to the Commission for Human Services;~~

~~2.~~ To review services provided by the Office of Juvenile Affairs and make recommendations thereon;

~~3.~~ 2. To review the funding of juvenile programs and make recommendations thereon;

~~4.~~ 3. To review any proposed settlement of lawsuits alleging negligent or other improper care and treatment of delinquent children or children in need of supervision while in state custody and make recommendations thereon; and

~~5.~~ 4. To review statutory provisions relating to juveniles and make recommendations thereon.

The Committee may review and discuss information made confidential by either Article V of the Oklahoma Children's Code or Article VII of the Oklahoma Juvenile Code as may be necessary for the performance of the duties of the Committee, but shall maintain the confidentiality of such information as required by law. All discussions and any writings produced or created by the Committee in the course of its review of a proposed settlement of any lawsuit, including any recommendation by the Committee as the result of such review, shall be privileged and shall not be admissible as evidence in any proceeding.

D. The Committee shall meet at least four times a year on a quarterly basis and at such other times as it deems necessary for the purpose of considering the funding and reviewing the operational and capital needs of the Office of Juvenile Affairs and to fulfill its other duties. The Committee shall formulate recommendations to be submitted to the Executive Director of the Office of Juvenile Affairs, the Director of the Department of Human Services, the Commission for Human Services, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. One quarterly meeting of the Committee shall be held in conjunction with the regularly scheduled meeting of the Board of Juvenile Affairs at which the budget request for the Office of Juvenile Affairs for the next fiscal year is considered for submission to the Office of State Finance. The Committee also may meet with the Board of Juvenile Affairs at such other times as necessary. A majority of the members shall constitute a quorum for

the purposes of conducting business. Members of the Committee shall serve without compensation but may be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

E. Administrative assistance for the Committee shall be provided by the Office of Juvenile Affairs.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7302-2.4 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Office of Juvenile Affairs is authorized to repair or replace the personal property of an employee if the personal property is damaged or destroyed by a juvenile who is in the custody of the Office of Juvenile Affairs while the employee is engaged in the performance of official duties for the Office of Juvenile Affairs. Any personal property repaired or replaced shall be comparable in kind, quality and cost to the original property. Reimbursement shall not duplicate insurance coverage carried by the employee.

SECTION 3. AMENDATORY Section 10, Chapter 290, O.S.L. 1994, as amended by Section 78, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.2), is amended to read as follows:

Section 7302-3.2 A. Effective July 1, 1995, there is hereby established within the Department of Juvenile Justice the Division of Advocate Defender which will be separate and apart from the Office of General Counsel. The administrative officer of the Division of Advocate Defender shall be the Advocate General, who shall be an attorney with a minimum of three (3) years' experience as an attorney. The Executive Director of the Office of Juvenile Affairs shall employ such other personnel as may be necessary to carry out the purposes of this section. Such personnel may be dismissed only for cause.

B. Effective July 1, 1995, the duties and responsibilities of the Advocate General are as follows:

1. Supervise personnel assigned to children's institutions and facilities as student defender/representatives;
2. Monitor and review grievance procedures and hearings;
3. Investigate grievances of juveniles and staff grievances related to juveniles which are not resolved at the facility level;
4. ~~Report to the Department of Human Services~~ Investigate allegations of abuse or neglect of juveniles who are in the custody of the Office of Juvenile Affairs and placed in private facilities or facilities operated by the Office of Juvenile Affairs and report findings of abuse or neglect to the Department of Human Services; ex
5. Coordinate any hearings or meetings of administrative review committees conducted as a result of unresolved grievances or as a result of investigations;
6. Make recommendations to the Deputy Director of the Department of Juvenile Justice, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Executive Director of the Office of Juvenile Affairs, the Office of Juvenile System Oversight and other appropriate persons as necessary;
7. Forward to the Office of Juvenile Systems Oversight, for the information of the Executive Director of the Office of Juvenile Systems Oversight, a copy of the final report of a complaint which is not resolved, through the system for resolution of grievances established by the Office of Juvenile Affairs, in the favor of the complainant; and
8. Perform such other duties as required by the Executive Director of the Office of Juvenile Affairs.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1404.1, as last amended by Section 107, Chapter 352, O.S.L. 1995, and as

renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-8.1), is amended to read as follows:

Section 7302-8.1 A. There is hereby created a program of juvenile crime victim restitution to be administered by the Office of Juvenile Affairs through its Department of Juvenile Justice. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

B. The Board of Juvenile Affairs shall promulgate rules necessary for the implementation of the provisions of this section. Until the rules are promulgated by the Board, the rules promulgated by the Commission for Human Services shall remain in effect.

C. The programs developed under the provisions of this section shall provide restitution to a victim by requiring the ~~child~~ juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Restitution shall be made through the employment of the juvenile in work programs. The supervised work or service program shall not deprive the ~~child~~ juvenile of schooling which is appropriate to the ~~child's~~ age, need, and specific rehabilitative goals of the juvenile. ~~Provided, such~~ The program shall not prohibit the ~~child~~ juvenile from fulfilling restitution ~~obligation~~ obligations through jobs the ~~child~~ juvenile has found, by performing volunteer services for the community, or by doing work for the victim.

D. Agreements for participation in the programs under this section may include restitution not in excess of actual damages caused by the ~~child~~ juvenile which shall be paid from the net earnings of the ~~child~~ juvenile received through participation in a constructive program of service or education acceptable to the ~~child~~ juvenile, the victim, the Department of Juvenile Justice, the district attorney and/or the district court. During the course of such service, the ~~child~~ juvenile shall be paid no less than the

federal minimum wage. In considering ~~such~~ a restitution agreement, the Department of Juvenile Justice, the district attorney and/or the district court shall take into account the ~~child's~~ age, physical and mental capacity of the juvenile. The service shall be designed to relate to the ~~child~~ juvenile a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the ~~child's~~ net earnings of the juvenile shall be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed, the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the ~~child's~~ net earnings of the juvenile shall be used for restitution. The amount of earnings designated for restitution to victims shall be placed in the Juvenile Restitution Revolving Fund, established by Section 5 of this act.

E. The Department of Juvenile Justice may subsidize the employment of a ~~child~~ juvenile for the purposes of participation in a work program as provided by this section.

F. Any person, entity or political subdivision who is an employer of ~~children~~ juveniles or recipient of services ~~either of which are under~~ from a juvenile, pursuant to an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

1. Damage to the property of the ~~child~~ juvenile or injury to the ~~child~~ juvenile except as to the liability established by the Workers' Compensation Act if the ~~child~~ juvenile is covered thereunder; or

2. Damage to any property or injury to any person~~r~~ which results from the services of the ~~child~~ juvenile pursuant to this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7302-4.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Office of Juvenile Affairs to be designated the "Juvenile Restitution Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of Juvenile Affairs from payments made to the fund pursuant to Section 4 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Juvenile Affairs for restitution payments to victims harmed by acts of delinquent juveniles and for administration of the Juvenile Offender Victim Restitution Work Program. 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.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 2, Chapter 28, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure

appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section ~~6-156~~ 6-187 of Title 70 of the Oklahoma Statutes;

17. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

18. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of ~~Section 5009.1 et seq. of this title and~~ Section 5066.4 of this title;

21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

23. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of ~~Section 3~~ Section 1010.3 of Title 56 of the Oklahoma Medicaid Healthcare Options Act;

24. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products;

25. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two

Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases; ~~and~~

26. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services; and

27. Purchases or acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and purchases and acquisitions of food for group homes operated by the Office of Juvenile Affairs.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 7. AMENDATORY Section 1, Chapter 280, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12c), is amended to read as follows:

Section 85.12c A. Purchases made from funds received by local offices administered by the Department of Human Services for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds, shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an Agency Special Account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Department of Human Services, and all other nonrestricted cash and cash-equivalent items received by employees of the Department of Human Services shall be deposited in the Agency Special Account established for this purpose. Such deposits shall be made at local banking institutions approved by the State Treasurer.

B. Purchases made from funds received by local offices administered by the Office of Juvenile Affairs for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an Agency Special Account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Office of Juvenile Affairs, and all other nonrestricted cash and cash-equivalent items received by employees of the Office of Juvenile Affairs shall be deposited in the Agency Special Account established for this purpose. The deposits shall be made at local banking institutions approved by the State Treasurer.

SECTION 8. This act shall become effective July 1, 1996.

SECTION 9. 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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