

SHORT TITLE: Juveniles; transportation of juveniles; increasing amount paid for transportation and meals of juveniles in certain counties; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 312

By: Helton

AS INTRODUCED

An Act relating to juveniles; amending 10 O.S. 1991, Section 1108, as last amended by Section 36, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1108), which relates to transportation of juveniles; increasing amount paid for transportation and meals of juveniles in certain counties; modifying references; 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 last amended by Section 36, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, 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.

B. Except as provided in subsection C or D of this section, transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance or placement designated by the Department shall be the responsibility of detention centers. Transportation and vehicle related costs shall be provided through a contract between the Department and each detention center. No private contract for transportation services shall be entered into by a detention center 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 E 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.

C. The office of the sheriff of the sending county shall be responsible for providing transportation of juveniles to secure detention for purposes of admission, unless the transportation is ordered by the court or is authorized by the district attorney for the sending county. If the transportation is ordered or authorized, the detention center shall be responsible for the transportation. If the office of the sheriff provides the transportation, the Department of Human Services shall provide reimbursement to the sheriff 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 ~~Four Dollars (\$4.00)~~ Eight Dollars (\$8.00) per hour;

2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes;

3. Meals for transporting personnel, not to exceed ~~Three Dollars (\$3.00)~~ Six Dollars (\$6.00) per meal; and

4. Meals for juveniles being transported, not to exceed ~~Three Dollars (\$3.00)~~ Six Dollars (\$6.00) per meal.

The Department of Human Services shall process and mail reimbursement claims within sixty (60) days of receipt.

D. In counties with populations of five hundred thousand (500,000) or more that have duly constituted juvenile bureaus, 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, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Department. 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 E 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 Six Dollars (\$6.00) per meal; and

4. Meals for juveniles being transported, not to exceed Six Dollars (\$6.00) per meal.

The Department of Human Services shall process and mail reimbursement claims within sixty (60) days of receipt.

E. 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 promulgated 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 F 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 F of this section and in accordance with Section ~~11~~ 1507.8 of this ~~act~~ title. 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 and in Section ~~11~~ 1507.8 of this ~~act~~ title, 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, federally recognized tribe, 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 or a federally recognized tribe, pursuant to the provisions of this section, the Department is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally recognized tribe shall become effective upon approval by the board of county commissioners.

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 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

Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes, 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 Governmental Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

F. 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.

G. 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, Section 250.1 et seq. of Title 75 of the Oklahoma Statutes.

H. 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. This act shall become effective July 1, 1995.

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.

45-1-0700

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