

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 305

By: Smith of the Senate

and

Askins of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Indigent Defense
11 System; amending 22 O.S. 1991, Sections 1355.4, as
12 last amended by Section 1, Chapter 326, O.S.L. 1997,
13 and 1355.14, as last amended by Section 7, Chapter
14 301, O.S.L. 1996 (22 O.S. Supp. 1998, Sections 1355.4
15 and 1355.14), which relate to the Oklahoma Indigent
16 Defense System; making certain services subject to
17 sole source contracting; making payment of certain
18 travel expenses discretionary; requiring certain
19 costs to be paid directly to the Oklahoma Indigent
20 Defense System; amending 74 O.S. 1991, Section 85.12,
21 as last amended by Section 32 of Enrolled House Bill
22 No. 1845 of the 1st Session of the 47th Oklahoma
23 Legislature, which relates to the Oklahoma Central
24 Purchasing Act; excluding certain contracts by the
25 Oklahoma Indigent Defense System from the Oklahoma
26 Central Purchasing Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1355.4, as
last amended by Section 1, Chapter 326, O.S.L. 1997 (22 O.S. Supp.
1998, Section 1355.4), is amended to read as follows:

Section 1355.4 A. The chief executive officer of the Oklahoma
Indigent Defense System shall be the Executive Director, who shall
be appointed by the Board and serve at the pleasure of the Board.
The Executive Director shall be an attorney who has been licensed to
practice law in this state for at least four (4) years preceding the
appointment, ~~with~~ and shall have experience in the representation of
persons accused or convicted of crimes.

1 B. The Executive Director shall perform administrative
2 functions which serve the Board.

3 C. The Executive Director shall have the following powers and
4 duties:

5 1. To prepare and administer a master budget to be submitted to
6 the Board and to process claims for the System, subject to approval
7 by the Board;

8 2. To enter into contracts, as necessary, with individuals to
9 provide counsel in cases in which the defendant is indigent and
10 unable to employ counsel and to approve or disapprove the provisions
11 of any such contract;

12 3. To review and approve or disapprove claims for expenditures
13 of monies from whatever source, on a monthly basis;

14 4. To take such actions as shall strengthen the criminal
15 justice system in this state;

16 5. To provide a professional organization for the education,
17 training, and coordination of technical efforts of all attorneys
18 representing indigent criminal defendants;

19 6. To maintain and improve defense efficiency and effectiveness
20 in guaranteeing effective representation for the indigent criminal
21 defendant;

22 7. To employ ~~such~~ personnel as necessary to carry out the
23 duties imposed upon the System by law;

24 8. To solicit and maintain a current list of attorneys licensed
25 to practice law in this state who are willing to accept court
26 appointments and who meet any other qualifications as set by the
27 Board;

28 9. To solicit and maintain a separate list of persons eligible
29 for appointment to capital cases, who meet the qualifications set by
30 the Board;

1 10. To establish reasonable hourly rates of compensation for
2 attorneys appointed in accordance with the Indigent Defense Act in
3 any county, subject to approval by the Board;

4 11. To establish maximum caseloads for attorneys employed by
5 the System, subject to approval by the Board;

6 12. To ~~require reduction of~~ reduce caseloads through
7 reassignment of cases to private attorneys, as necessary;

8 13. To approve the sharing of office space, equipment, or
9 personnel among the separate indigent defense programs within the
10 System;

11 14. To prepare and submit to the Board an annual report of
12 expenditures of funds, cases ~~involved in~~, and status of ~~such~~ cases
13 for the preceding fiscal year, and file such that report with the
14 Governor, the President Pro Tempore of the Senate, the Speaker of
15 the House of Representatives, the Chief Justice of the Oklahoma
16 Supreme Court, and the Presiding Judge of the Oklahoma Court of
17 Criminal Appeals ~~regarding the implementation of the Indigent~~
18 ~~Defense Act~~;

19 15. To ~~convene~~ conduct regional or statewide conferences and
20 training seminars for the purpose of implementing the provisions of
21 the Indigent Defense Act;

22 16. To serve in an advisory capacity to the indigent defenders
23 and defense attorneys who represent indigents pursuant to contract
24 or who volunteer to represent indigents of ~~the~~ this state;

25 17. To gather and disseminate information to indigent defenders
26 relative to their official duties, including, but not limited to,
27 changes in the law relative to their office;

28 18. To recommend additional legislation necessary to upgrade
29 the Oklahoma Indigent Defense System or to improve the justice
30 system; and

31 19. To operate a cost effective system by:
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- a. implementing procedures to track System expenditures to show costs by case and client and to track time and expenses by attorney if the attorney is employed by the System,
- b. adopting written policies regarding when employees are to be in travel status and making efforts to pool trips to reduce costs, and
- c. reviewing assignment of indigency status to identify clients who have available resources, and collecting costs of representation when feasible.

D. 1. The Executive Director is hereby authorized to develop, establish, and maintain lists of approved contractors that will be available to provide expert services. An attorney appointed in accordance with the Indigent Defense Act may select and have preapproved an expert or experts from the list of experts maintained by the Executive Director. An attorney may request to contract for expert services from one or more experts not on the list only when there is no expert on the list capable of providing the specific services needed and only with the prior approval of the Executive Director. The list shall include any expert who desires to furnish services to the agency and who has filed a schedule of fees for services with, and on a form approved by, the Executive Director. An attorney may agree to deviate from the schedule of fees only with the prior written approval of the Executive Director.

2. Attorneys appointed in accordance with the Indigent Defense Act may request and must have pre-approved investigative or other nonexpert witness services from the Executive Director on a form provided by the Executive Director. The Director may, subject to funds budgeted and available to the System, authorize such services at a reasonable hourly rate of compensation.

3. Services obtained under this section may be obtained as sole source contracts and are specifically exempt from the requirements

1 of soliciting no less than three quotations found in paragraph 7 of
2 subsection A of Title 74 of the Oklahoma Statutes.

3 E. Each individual performing the services provided for in
4 subsection D of this section ~~shall~~ may, with the approval of the
5 Executive Director, be reimbursed for ~~their~~ necessary travel
6 expenses ~~as provided~~ up to the amount permitted by the State Travel
7 Reimbursement Act.

8 F. Requests for expenses not included in subsections D and E of
9 this section shall require pre-approval by the Executive Director.

10 G. If there is a vacancy or extended absence in the Office of
11 Executive Director, the Board shall perform ~~said~~ the duties or
12 appoint an interim director to perform such duties until a new
13 Executive Director is appointed.

14 SECTION 2. AMENDATORY 22 O.S. 1991, Section 1355.14, as
15 last amended by Section 7, Chapter 301, O.S.L. 1996 (22 O.S. Supp.
16 1998, Section 1355.14), is amended to read as follows:

17 Section 1355.14 A. At the time of pronouncing the judgment and
18 sentence or other final order, the court shall order any person
19 represented by an attorney employed by the Indigent Defense System
20 or a defense attorney who contracts or volunteers to represent
21 indigents pursuant to the provisions of the Indigent Defense Act to
22 pay the costs for representation in total or in installments and, in
23 the case of installment payments, set the amount and due date of
24 each installment. The attorney representing the indigent person
25 shall document for the court the total costs for representation.

26 B. Costs assessed pursuant to this section shall be collected
27 by the court clerk and ~~deposited in~~ when collected paid monthly to
28 the Oklahoma Indigent Defense System for deposit to the Indigent
29 Defense System Revolving Fund. The court clerk may retain not more
30 than ten percent (10%) of all such costs collected as an
31 administrative fee, which shall be deposited in the Court Clerk's
32 Revolving Fund.

1 C. Costs of representation shall be a debt against the person
2 represented until paid and shall be subject to any method provided
3 by law for the collection of debts.

4 D. Any order directing the defendant to pay costs of
5 representation shall be a lien against all real and personal
6 property of the defendant and may be filed against such property and
7 foreclosed as provided by law for civil liens.

8 SECTION 3. AMENDATORY 74 O.S. 1991, Section 85.12, as
9 last amended by Section 32 of Enrolled House Bill No. 1845 of the
10 1st Session of the 47th Oklahoma Legislature, is amended to read as
11 follows:

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

17 B. Except as otherwise provided by this section, the following
18 acquisitions shall not be included within the purview of the
19 Oklahoma Central Purchasing Act, except for Section 85.39 of this
20 title:

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

23 2. Contracts for construction of new buildings and for the
24 repair, maintenance or modernization of old buildings by
25 institutions of The Oklahoma State System of Higher Education;

26 3. The printing or duplication of publications or forms of
27 whatsoever kind or character by state agencies, which service is
28 performed upon their own equipment, by their own employees. In
29 order to be exempt from Purchasing Division processing pursuant to
30 this paragraph, the state agency may only use equipment owned or
31 leased by the agency and may only utilize that equipment for
32 printing services required by the agency in performing duties

1 imposed upon the agency or functions authorized to be performed by
2 the agency. Any use of the equipment by the agency pursuant to an
3 agreement or contract with any other entity resulting in delivery of
4 intermediate or finished products to the entity purchasing or using
5 the products shall be subject to the provisions of the Oklahoma
6 Central Purchasing Act;

7 4. Acquisitions by institutions of The Oklahoma State System of
8 Higher Education, the Oklahoma State Regents for Higher Education,
9 or the University Centers subject to the State Regents insofar as
10 such acquisitions relate to textbooks, laboratory supplies,
11 instructional materials, and specialized laboratory equipment, or to
12 acquisitions for the telecommunications network known as OneNet,
13 whether said network is governed or operated by the State Regents or
14 any other state entity assigned responsibility for OneNet;

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

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

30 7. Acquisitions by the University Hospitals and the University
31 Hospitals Authority. The Authority shall develop standards for the
32 acquisition of products and services and may elect to utilize

1 Central Purchasing when appropriate. Such standards shall foster
2 economy, short response time, and shall include appropriate
3 safeguards and written records to ensure appropriate competition and
4 economical and efficient purchasing, and shall be approved by the
5 Director of Central Purchasing;

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

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

11 10. Purchases by the Oklahoma Municipal Power Authority;

12 11. Acquisitions by the Grand River Dam Authority;

13 12. Purchases by rural water, sewer, gas or solid waste
14 management districts created pursuant to the Rural Water, Sewer, Gas
15 and Solid Waste Management Districts Act;

16 13. Purchases by the Oklahoma Ordnance Works Authority, the
17 Northeast Oklahoma Public Facilities Authority or the Midwestern
18 Oklahoma Development Authority;

19 14. Contracts entered into by the Oklahoma Industrial Finance
20 Authority for the services of an appraiser or for acquisition of
21 insurance when the Authority's Board of Directors determines that an
22 emergency exists, and for the services of legal counsel when
23 approved by the Attorney General;

24 15. Expenditure of monies appropriated to the State Board of
25 Education for the purpose of Local, State-supported Programs and
26 State-supported Programs except monies appropriated for the
27 Administrative and Support Functions of the State Department of
28 Education;

29 16. Expenditure of monies appropriated to the State Department
30 of Rehabilitation Services for educational programs or educational
31 materials for the Oklahoma School for the Blind and the Oklahoma
32 School for the Deaf;

1 17. Contracts entered into by the Oklahoma Department of
2 Vocational and Technical Education for the development, revision, or
3 updating of vocational curriculum materials, and contracts entered
4 into by the Oklahoma Department of Vocational and Technical
5 Education for training and supportive services that meet the needs
6 of new or expanding industries;

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

9 19. Contracts entered into by the Oklahoma Department of
10 Commerce pursuant to the provisions of Section 5066.4 of this title;

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

13 21. Purchases of products available to an agency through a
14 General Services Administration contract or other federal contract
15 if the item is on current statewide contract and the terms of such
16 contract are more favorable to the agency than the terms of a
17 statewide contract for the same products as determined by the
18 Director of Central Purchasing;

19 22. Contracts for managed health care services entered into by
20 the state entity designated by law or the Department of Human
21 Services, as specified in paragraph 1 of subsection A of Section
22 1010.3 of Title 56 of the Oklahoma Statutes;

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

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

1 25. Purchases made or contracts entered into by the Oklahoma
2 Energy Resources Board;

3 26. Purchases or acquisitions of clothing for juveniles in the
4 custody of the Office of Juvenile Affairs and purchases and
5 acquisitions of food for group homes operated by the Office of
6 Juvenile Affairs;

7 27. State contracts for flexible benefits plans pursuant to the
8 Oklahoma State Employees Benefits Act, Section 1361 et seq. of this
9 title;

10 28. Expenditures incurred by the Department of Securities to
11 investigate, initiate, or pursue administrative, civil, or criminal
12 proceedings involving potential violations of the acts under the
13 Department's jurisdiction;

14 29. Acquisitions by the Native America Cultural and Educational
15 Authority and acquisitions by the Oklahoma Department of Commerce to
16 assist the Native American Cultural and Educational Authority
17 pursuant to Section 5017 of this title;

18 30. Acquisitions for resale in and through canteens operated
19 pursuant to Section 537 of Title 57 of the Oklahoma Statutes; ~~and~~

20 31. Expenditures of money or contracts entered into by the
21 Oklahoma Boll Weevil Eradication Organization for employment and
22 personnel services, and for the purchase or leasing of sprayers,
23 blowers, traps, and attractants, related to the eradication of boll
24 weevils in this state, or as part of a national regional boll weevil
25 eradication program; and

26 32. Contracts entered into by the Oklahoma Indigent Defense
27 System for expert services pursuant to the provisions of subsection
28 D of Section 1355.4 of Title 22 of the Oklahoma Statutes.

29 C. Any agency or common school of Oklahoma, any municipality of
30 the state, any rural fire protection district, and county officers
31 may, unless the contract with the state specifies otherwise, avail
32 themselves of the Purchasing Division statewide contracts and the

1 services of the State Purchasing Director. Provided, that any
2 subdivision of government and any rural fire protection district of
3 the state may designate the State Purchasing Director as its agent
4 for the purchase or procurement of any acquisition from a statewide
5 contract or otherwise available to the state.

6 D. The purchasing policies and procedures of the Oklahoma
7 Ordnance Works Authority, the Northeast Oklahoma Public Facilities
8 Authority, the University Hospitals Authority, and the Midwestern
9 Oklahoma Development Authority shall be subject to approval by the
10 Director of the Department of Central Services, and the State
11 Purchasing Director shall make periodic audits of the purchasing
12 policies and procedures of the Oklahoma Ordnance Works Authority,
13 the Northeast Oklahoma Public Facilities Authority, the University
14 Hospitals Authority, and the Midwestern Oklahoma Development
15 Authority to ensure that said purchasing policies and procedures, as
16 approved, are being followed.

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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