

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1121

By: Stipe of the Senate

and

Mass of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Council on Law Enforcement Education and Training; amending 20 O.S. 1991, Section 1313.2, as last amended by Section 1, Chapter 386, O.S.L. 1999 (20 O.S. Supp. 1999, Section 1313.2), which relates to the court fund; increasing penalty assessment for certain offenses; modifying penalty assessment court is authorized to retain; deleting obsolete language; modifying apportionment of assessment; amending 70 O.S. 1991, Section 3311, as last amended by Section 29, Chapter 1, O.S.L. 1999 (70 O.S. Supp. 1999, Section 3311), which relates to the Council on Law Enforcement Education and Training; clarifying status of Council as governmental agency; authorizing Council to enter into certain agreements; stating purpose of agreements; stating Legislative intent; requiring agreement and bonds to contain certain statement; authorizing Council to accept gifts; creating revolving fund, authorizing expenditures of monies in fund and providing procedure for expenditure; authorizing lease-purchase agreement and providing for funding; authorizing pledge of certain revenues; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 1313.2, as last amended by Section 1, Chapter 386, O.S.L. 1999 (20 O.S. Supp. 1999, Section 1313.2), is amended to read as follows:

Section 1313.2 A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment;

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty; and

3. "DNA" means Deoxyribonucleic acid.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay ~~Four Dollars (\$4.00)~~ Seven Dollars (\$7.00) as a separate penalty assessment and One Hundred Fifty Dollars (\$150.00) as a Laboratory Analysis Fee if applicable pursuant to subsection C of this section, and One Hundred Fifty Dollars (\$150.00) as a DNA fee if applicable pursuant to subsection G of this section, which assessment and fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

C. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma State Bureau of Investigation, by the Toxicology Laboratory of the Office of the Chief Medical Examiner or by any municipality or county in connection with the case.

The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection. The court clerk shall remit the remainder of the monies in the fund on a monthly basis either to:

1. The Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation;

2. The Office of the Chief Medical Examiner who shall deposit the monies into the Office of the Chief Medical Examiner Toxicology Laboratory Revolving Fund provided for in Section 954 of Title 63 of the Oklahoma Statutes for services rendered or administered by the Toxicology Laboratory of the Office of the Chief Medical Examiner; or

3. The appropriate municipality or county for services rendered or administered by a municipality or county.

The monies from the Laboratory Analysis Fee Fund deposited into the OSBI Revolving Fund shall be used for the following:

1. Providing criminalistic laboratory services;

2. The purchase and maintenance of equipment for use by the laboratory in performing analysis;

3. Education, training, and scientific development of Oklahoma State Bureau of Investigation personnel; and

4. The destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

D. Upon conviction or bond forfeiture, the court shall collect the penalty assessment provided for in subsection B of this section and deposit it in an account created for that purpose. As an administrative fee for handling funds collected as a penalty assessment, each court is authorized to retain ~~two percent (2%)~~ eight cents (\$0.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in this subsection. Except as otherwise provided in subsection E of this section, ~~for the fiscal year ending June 30, 1987,~~ the remainder of such monies shall be forwarded quarterly by the court clerk to the State Treasury. Deposits shall be due July 15 for the preceding quarter ending June 30, October 15 for the preceding quarter ending September 30, January 15 for the preceding quarter ending December 31, and April 15 for the preceding quarter ending

March 31. There shall be a penalty imposed for failure to make timely deposits. Such penalty shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the penalty reaches one hundred percent (100%) of the principal amount due. ~~The State Treasurer shall deposit seventy percent (70%) of the monies received in the C.L.E.E.T. Fund, and thirty percent (30%) of the monies received in the General Revenue Fund.~~ Beginning on July 1, 1987, ninety percent (90%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be deposited in the C.L.E.E.T. Fund and ten percent (10%) shall be deposited in the General Revenue Fund. Beginning January 1, 2001, fifty-two and ninety-two one hundredths percent (52.92%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be deposited in the C.L.E.E.T. Fund, five and eighty-five one hundredths percent (5.85%) shall be deposited in the General Revenue Fund and forty-one and twenty-three one hundredths percent (41.23%) shall be deposited in the C.L.E.E.T. Training Center Revolving Fund created pursuant to Section 3 of this act. Along with the deposits required by this subsection each court ~~also~~ shall also submit a report stating the total amount of funds collected and the total number of penalty assessments imposed during the preceding quarter. ~~Such~~ The report may be made on computerized or manual disposition reports.

E. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to this section, Two Dollars (\$2.00) from each penalty assessment less the two percent (2%) administrative fee retained by the court. ~~Such~~ These monies shall be deposited into an account for the sole use of the municipality or county in implementing its law

enforcement training functions. Not more than seven percent (7%) of such monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the State Treasury the report required by subsection D of this section.

F. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "C.L.E.E.T. Fund". The fund shall be subject to legislative appropriation and shall consist of any monies received from fees and receipts collected pursuant to the Oklahoma Open Records Act, reimbursements for parts used in the repair of weapons of law enforcement officers attending the basic academies, gifts, bequests, contributions, tuition, fees, devises, and the assessments levied pursuant to the fund pursuant to law.

G. 1. Any person convicted of violating Section 7115 of Title 10 of the Oklahoma Statutes or Section 645, 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173, or 1192.1 of Title 21 of the Oklahoma Statutes shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00). ~~Such~~ This fee shall not be collected if the person has a valid DNA sample in the OSBI DNA Offender Database at the time of sentencing.

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection. The court clerk shall remit the remainder of the monies in said fund on a monthly basis to the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation.

3. The monies from the DNA sample fee deposited into the OSBI Revolving Fund shall be used for creating, staffing, and maintaining the OSBI DNA Laboratory and OSBI DNA Offender Database.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 3311, as last amended by Section 29, Chapter 1, O.S.L. 1999 (70 O.S. Supp. 1999, Section 3311), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training which shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges and functions specified by this act and as hereinafter specified. The Council shall be composed of six (6) police or peace officers, one selected by each of the following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Oklahoma Association of Police Chiefs, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a chair and vice-chair from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status-;

2. Promulgate rules with respect to such matters as certification, revocation, suspension and withdrawal of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers-;

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees-;

4. Authorize additional staff and services necessary for program expansion-;

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status-;

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need-;

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law-;

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act-;

9. Certify canine teams, consisting of a dog and a handler working together as a team, trained to detect controlled dangerous substances;

10. Enter into a lease, loan or other agreement with the Oklahoma Development Finance Authority or a local public trust for the purpose of facilitating the financing of a new facility for its operations and use and pledge, to the extent authorized by law, all or a portion of its receipts of the assessment penalty herein referenced for the payment of its obligations under such lease, loan or other agreement. It is the intent of the Legislature to increase the assessment penalty to such a level or appropriate sufficient monies to the Council on Law Enforcement Education and Training to make payments on the lease, loan or other agreement for the purpose of retiring the bonds to be issued by the Oklahoma Development Finance Authority or local public trust. Such lease, loan or other agreement and the bonds issued to finance such facilities shall not constitute an indebtedness of the State of Oklahoma or be backed by the full faith and credit of the State of Oklahoma, and the lease, loan or other agreement and the bonds shall contain a statement to such effect; and

11. Accept gifts, bequests, devises, contributions and grants, public or private, of real or personal property.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person

has undergone psychological testing as provided for in paragraph 2 of this subsection, and the applicant has certified the completion of a high school diploma or a GED equivalency certificate and that he is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

- a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,
- b. such person has undergone psychological evaluation such as the Minnesota Multiphasic Personality Inventory, the California Personality Inventory, or other psychological instrument approved by the Council on Law Enforcement Education and Training. The psychological instrument utilized shall be evaluated by a psychologist licensed by the State of Oklahoma, and the employing agency shall certify to the Council that the evaluation was conducted in accordance with this provision and that the employee/applicant is suitable to serve as a peace officer in the State of Oklahoma. Nothing herein shall preclude a psychologist licensed in the state from employing additional psychological techniques to assist the employing agency's determination of the employee/applicant's suitability to serve as a peace officer in the State of Oklahoma. Any person found not to be suitable for employment or certification by the Council shall not be employed, retained in employment as a peace officer, or certified by the

Council for at least one (1) year, at which time the employee/applicant may be re-evaluated by a psychologist licensed by the State of Oklahoma. This section shall also be applicable to all reserve peace officers in the State of Oklahoma,

c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer prior to November 1, 1985, and

d. such person is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies and not less than three hundred (300) hours for full-time salaried police or peace officers from the Council or curriculum or course of study approved by the Council. Said training shall include training in crime and drug prevention, crisis intervention, and youth and family intervention techniques.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course

in accordance with this subsection upon being elected. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit the position or the employing agency fails to require the officer to forfeit the position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers.

5. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided elected sheriffs and their deputies and elected and appointed chiefs of police shall meet the requirements of this subsection within the first twelve (12) months after assuming the duties of the office to which they are elected or appointed; provided further that this section shall not apply to persons designated by the Director of the Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who has been convicted of a felony or a crime involving moral turpitude unless a full pardon has been granted by the proper agency; however, any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer

as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the employing law enforcement agency. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

- a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,
- b. administration of the psychological tests provided for herein,
- c. performance in the course of study or other basis of certification,
- d. previous certifications issued, and
- e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, resignation, or termination for any reason of a police or peace officer to the Council at a time

established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. 1. Revocation of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

2. Suspension of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a misdemeanor domestic violence offense and is currently participating in a deferred sentence which has not been completed.

3. Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine whether:

- a. there is reason to believe the person has been convicted of a felony or crime involving moral turpitude, or
- b. there is reason to believe the person has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a domestic violence offense and is currently participating in a deferred sentence agreement.

4. If the Executive Director does not find there is reason to believe the person has been so convicted, or has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a misdemeanor domestic violence offense and is currently participating in a deferred sentence agreement, the person shall remain certified. The proceedings for the revocation or suspension of certification shall be in accordance with Articles I and II of the Administrative Procedures Act.

K. 1. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony or crime involving moral turpitude; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

2. The Council shall suspend the certification of any person upon determining that such person has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a misdemeanor domestic violence offense and is currently participating in a deferred sentence agreement; provided, that if the plea of guilty or nolo contendere has been withdrawn, and the case dismissed or vacated, such plea shall not be the basis for suspension of certification; provided further, that any person who has been trained and certified by the Council and is actively employed as a full-time peace officer shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

L. 1. Every canine team in the state trained to detect controlled dangerous substances shall be certified, by test, in the detection of such controlled dangerous substances and shall be

recertified annually so long as the canine is used for such detection purposes. The certification test and annual recertification test provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Custom Service.

2. The fee for the certification test shall be Two Hundred Dollars (\$200.00) and the annual recertification test fee shall be One Hundred Dollars (\$100.00) per canine team. A retest fee of Fifty Dollars (\$50.00) will be charged if the team fails the test. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

M. All tribal police officers of any Indian tribe or nation which has entered into a cross-deputization agreement with the State of Oklahoma or any political subdivision of the State of Oklahoma pursuant to the provisions of Section 1221 of Title 74 of the Oklahoma Statutes shall be eligible to enroll in and receive the training provided for in this section under the same terms and conditions that such training is made available to members of the law enforcement agencies of the State of Oklahoma and its political subdivisions, except that a fee of Three Dollars and sixteen cents (\$3.16) per hour of training shall be charged for all training provided pursuant to this subsection. Such fees shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

N. If an employing law enforcement agency in this state has paid the salary of a person while that person is completing in this state a basic police course approved by the Council and if within one (1) year after certification that person resigns and is hired by another law enforcement agency in this state, the second agency or

the person receiving the training shall reimburse the original employing agency for the salary paid to the person while completing the basic police course by the original employing agency.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3311.6 of Title 70, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Council on Law Enforcement Education and Training to be designated the "C.L.E.E.T. Training Center Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund pursuant to subsection D of Section 1313.2 of Title 20 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Council on Law Enforcement Education and Training for the purpose of acquiring and constructing a statewide law enforcement training center and for operation and maintenance of such center. Expenditures from the 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 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Council on Law Enforcement Education and Training is authorized to enter into a lease-purchase agreement for the acquisition of a statewide training facility that is consistent with the proposal presented to the Oklahoma State Facility Capital Needs Committee on November 12, 1997, as adjusted for inflation. Funding for such lease-purchase agreement shall be provided by assessments deposited in the C.L.E.E.T. Training Center Revolving Fund pursuant to Section 3 of this act. The Council on Law Enforcement Education and Training is authorized to pledge such revenues to the payments required by the lease-purchase agreement.

SECTION 5. This act shall become effective November 1, 2000.

47-2-3403

CP

6/11/2015 8:22:25 PM