

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL 565

By: Wilkerson of the Senate

and

Askins of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to counties and county offices, criminal procedure, and prisons and corrections; amending 19 O.S. 1991, Section 215.1, which relates to district attorney districts; changing district attorney districts; amending Section 2, Chapter 355, O.S.L. 1994, as amended by Section 35, Chapter 133, O.S.L. 1997, Section 8, Chapter 355, O.S.L. 1994, as last amended by Section 22, Chapter 333, O.S.L. 1997, Section 9, Chapter 355, O.S.L. 1994, and Section 33, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1999, Sections 1502, 1508, 1509 and 1516), which relate to the Oklahoma Sentencing Commission; modifying membership of Commission; removing references to sentencing schedules and matrixes; requiring preparation of bill analysis reports within certain period of time; stating to whom reports shall be delivered; authorizing Commission to conduct study regarding certain offenders; requiring findings to be presented to Legislature by certain date; requiring courts to cooperate with Commission; amending 57 O.S. 1991, Section 508.2, as last amended by Section 6, Chapter 276, O.S.L. 1998 (57 O.S. Supp. 1999, Section 508.2), which relates to the Criminal Justice Resource Center; removing authority for Sentencing Commission to hire and set salaries for certain persons; authorizing director to hire and set salaries of employees; amending Section 25, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1999, Section 508.2b), which relates to the Oklahoma Criminal Justice Resource Center Revolving Fund; modifying agency within which revolving fund is designated; repealing Sections 10 and 11, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1999, Sections 1510 and 1511), which relate to duties of the Oklahoma Sentencing Commission to classify criminal offenses and establish sentencing criteria; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 215.1, is amended to read as follows:

Section 215.1 There is hereby created the office of district attorney in the State of Oklahoma, which office shall be filled and in the same manner as now prevails for district judge. Filing for said office shall be accomplished by filing with the State Election Board. There shall be one district attorney for each of the district court judicial districts as they are composed and exist on March 1, 1965, with the following exceptions. Provided, however, that that part of Judicial District No. (14) which is Pawnee County shall be consolidated with Osage County to form District Attorney's District No. (10) and Judicial District No. (25) shall be consolidated with Judicial No. (19) for the purposes of this act; and, provided further, that District Court Judicial District No. (5) be divided into two district attorney districts, one composed of Caddo, Grady, Stephens and Jefferson Counties to be denominated District Attorney's District No. (6) and the other composed of Comanche and Cotton Counties, to be denominated District Attorney's District No. (5); and, that District Court Judicial District No. (4) shall be composed of Canadian, Kingfisher, Blaine, Garfield and Grant Counties to be denominated District Attorney's District No. (4) and the other composed of Alfalfa, Major, Dewey, Woodward and Woods Counties, to be denominated District Attorney's District No. (26); that District Court Judicial District No. (15) be divided into two district attorneys' districts, one composed of Muskogee County to be denominated District Attorney's District No. (15) and the other composed of Wagoner, Cherokee, Sequoyah and Adair Counties to be denominated District Attorney's District No. (27); that Creek and Okfuskee Counties shall be denominated as District Attorney's District No. (24); Okmulgee and McIntosh Counties shall be denominated as District Attorney's District No. ~~(24-A)~~ (25); and Pittsburg and Haskell Counties shall be denominated as District

Attorney's District No. (18); and Latimer and LeFlore Counties shall be denominated as District Attorney's District No. (16); and District Attorney's District No. (7) shall consist of Oklahoma County; and, effective January 6, 2003, Kiowa, Jackson, Tillman, Harmon and Greer Counties shall be denominated District Attorney's District No. (3); and, effective January 6, 2003, Washita, Ellis, Roger Mills, Custer, and Beckham Counties shall be denominated District Attorney's District No. (2). The State Election Board shall conduct the elections in 2002 for District No. (2) and District No. (3) in accordance with the provisions of this section.

SECTION 2. AMENDATORY Section 2, Chapter 355, O.S.L. 1994, as amended by Section 35, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1999, Section 1502), is amended to read as follows:

Section 1502. A. The Commission shall consist of ~~eleven (11)~~ thirteen (13) members as follows:

1. The Chief Justice of the Oklahoma Supreme Court shall appoint a sitting Justice of the Oklahoma Supreme Court who shall serve an initial term of four (4) years;

2. The Director of the Administrative Office of the Courts shall appoint an indigent defender, who shall serve an initial term of three (3) years;

3. One member, to be appointed by the Governor, who shall serve an initial term of one (1) year;

4. Two members of the House of Representatives, one of whom shall be a Republican and one of whom shall be a Democrat, to be appointed by the Speaker of the House of Representatives each of whom shall serve an initial term of two (2) years;

5. Two members of the Senate, one of whom shall be a Republican and one of whom shall be a Democrat, to be appointed by the President Pro Tempore of the Senate each of whom shall serve an initial term of two (2) years;

6. A district attorney appointed by the District Attorneys Council who shall serve an initial term of five (5) years; provided any person appointed pursuant to this paragraph who is no longer serving as a district attorney shall not continue to serve on the Commission;

7. The Attorney General, the first assistant Attorney General, or the chief of the criminal division of the Office of Attorney General;

8. The Director of State Finance or the director of the budget division of the Office of State Finance; and

9. A defense attorney appointed by the Oklahoma Bar Association, who shall serve an initial term of five (5) years;

10. A judge of the district court appointed by the assembly of presiding judges; and

11. A crime victim or representative of crime victims appointed by the other twelve members of the Commission from a list of five persons submitted to the Commission by the Victim's Compensation Board.

B. All members of the Commission shall be voting members.

SECTION 3. AMENDATORY Section 8, Chapter 355, O.S.L. 1994, as last amended by Section 22, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1999, Section 1508), is amended to read as follows:

Section 1508. A. The Oklahoma Sentencing Commission may establish subcommittees or advisory committees composed of Commission members or others to accomplish duties imposed by this section.

B. It is the legislative intent that the Commission attach priority to accomplish the ~~following primary duties:~~

~~1. The promulgation of adjusted matrices, as necessary, pursuant to Section 13 of Title 21 of the Oklahoma Statutes; and~~

~~2. The formulation of proposals and recommendations as described in Section 1512 of this title.~~

C. In addition, the Commission may make recommendations to the Legislature for the recodification of the Penal Code of the State of Oklahoma. ~~In furtherance of this objective, the Commission shall study the issue of recodification of the Penal Code and shall issue a report of recommendations to the Legislature by February 1, 1998. The report shall include recommendations on recodification and changes in placement of crimes within sentencing schedules.~~

D. The Commission shall have the continuing duty to monitor and review the criminal justice and corrections systems in this state to ensure that sentencing remains uniform and consistent, and that the goals and policies established by the state are being implemented by sentencing practices, and it shall recommend methods by which this ongoing work may be accomplished and by which the correctional population simulation model shall continue to be used by the state.

E. ~~After the adoption of the Oklahoma Truth in Sentencing Act,~~ The Commission shall review all proposed legislation which creates a new criminal offense, ~~changes the classification of an offense, or changes the range of~~ or increases the punishment for a ~~particular classification,~~ an existing criminal offense and shall make recommendations to the Legislature.

~~1. In the case of a new criminal offense, the Commission shall review the proposed classification for the crime, based upon the considerations and principles set out in Section 1510 of this title. If the proposal does not assign the offense to a classification, it shall be the duty of the Commission to recommend the proper classification placement.~~

~~2. In the case of proposed changes in the classification of an offense or changes in the range of punishment for a classification, the Commission shall determine whether such a proposed change is consistent with the considerations and principles set out in Section 1510 of this title.~~

~~F.~~ The Oklahoma Criminal Justice Resource Center under the direction of the Oklahoma Sentencing Commission shall ~~meet~~ prepare a report within ~~ten (10)~~ twenty (20) days after the last day for filing bills in the Legislature for the purpose of reviewing containing a review of bills as described in this subsection. The Commission shall Oklahoma Criminal Justice Resource Center may include in its report on a bill an impact analysis based ~~on~~ upon an application of the correctional population simulation model to the provisions of the bill. The bill analysis report shall be delivered to the chair of the legislative committee to which the bill is assigned.

SECTION 4. AMENDATORY Section 9, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1999, Section 1509), is amended to read as follows:

Section 1509. A. The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing and corrections so that the primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to the state. The Oklahoma Sentencing Commission and the Department of Corrections shall work together to collect offender profile data and offense data. The data collection shall include all information provided on the offender profile data form and the offense data form developed by the Oklahoma Sentencing Commission and assessments of randomly selected offenders who receive probation and nonviolent offenders incarcerated on a third or fourth conviction. A report of the findings based upon the data collected by the Oklahoma Sentencing Commission and the Department of Corrections shall be presented to the Legislature by February 1st of the year following the fiscal year for which the data was collected. All state agencies and courts shall provide data as it is requested by the Commission. All meetings of the Commission shall be open to the public and the information presented to the

Commission shall be available to any state agency or member of the Legislature.

B. The Commission shall have the authority to apply for, accept, and use any gifts, grants, or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the state or from any other source including private associations, foundations, or corporations to accomplish any of the duties set out in this act.

SECTION 5. AMENDATORY Section 33, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1999, Section 1516), is amended to read as follows:

Section 1516. A. The Oklahoma Sentencing Commission, established by Section 1501 of ~~Title 22 of the Oklahoma Statutes~~ this title shall monitor, review, ~~and analyze the implementation of the Oklahoma Truth in Sentencing Act,~~ and provide fiscal impact statements and reports to the Legislature concerning ~~the continued implementation of the Oklahoma Truth in Sentencing Act~~ the criminal law of the State of Oklahoma. The Commission is vested with authority to collect data and reports from governmental entities and courts within the State of Oklahoma relating to all matters concerning the charging, pleading, sentencing, and release of persons charged, convicted, or placed on probation for criminal offenses within this state. Governmental entities and courts shall respond promptly to all reasonable requests of the Commission for data required to meet this directive. ~~The Commission shall publish an annual report reflecting the implementation of the Oklahoma Truth in Sentencing Act.~~ The Oklahoma Criminal Justice Resource Center under the direction of the Oklahoma Sentencing Commission shall prepare a ~~fiscal~~ an impact statement on ~~any changes to schedules or penalties of proposed legislation which impacts the criminal sentencing proposed in legislation~~ law of the State of Oklahoma.

B. The Oklahoma Sentencing Commission shall review each bill or joint resolution which impacts the Oklahoma criminal justice system introduced in the Oklahoma Legislature. The Commission shall prepare a ~~fiscal~~ an impact statement, as established by joint legislative rules. The Commission shall direct other state entities including, but not limited to, the Department of Corrections, the Oklahoma District Attorneys Council, the Office of the Oklahoma Attorney General, the Oklahoma State Bureau of Investigation, the Administrative Office of the Oklahoma Courts, the Oklahoma Court of Criminal Appeals, the Oklahoma Indigent Defense System, and county indigent defenders, to provide assistance and information in the preparation of the fiscal impact statement. The entities ~~directed by the Commission~~ and courts shall provide the information described in this subsection to the Commission within the time set by the requesting agency. The ~~fiscal~~ impact statement shall include, but ~~is~~ shall not be limited to:

1. ~~A~~ a report on the fiscal impact the proposal will have on ~~facility, maintenance, personnel, and other relevant costs~~ the criminal justice system,

2. ~~Information~~ information obtained from the Department of Corrections, including ~~but not limited to:~~

- a. a projection of offender population ~~and costs related to the population,~~ and
- b. a ~~projection of staffing for the Department of Corrections and costs related to the staff;~~ and

3. ~~Any~~ any other information relevant to the ~~fiscal~~ impact of the proposed legislation ~~will have on the Oklahoma criminal justice system.~~

C. A copy of the ~~fiscal~~ impact statement shall be attached to each copy of a bill or joint resolution reviewed by any committee of either house of the Legislature and to each copy of a bill or joint resolution that impacts the criminal justice system that is reviewed

by the entire membership of either house of the Oklahoma Legislature.

SECTION 6. AMENDATORY 57 O.S. 1991, Section 508.2, as last amended by Section 6, Chapter 276, O.S.L. 1998 (57 O.S. Supp. 1999, Section 508.2), is amended to read as follows:

Section 508.2 A. Effective July 1, 1998, there is hereby transferred from the Department of Public Safety to the Legislative Service Bureau the Oklahoma Criminal Justice Resource Center which shall consist of the entity recognized by the Bureau of Justice Statistics as the Statistical Analysis Center, a prevention and intervention unit, a resource development unit, and an administrative support unit.

B. Effective July 1, 1998, all unexpended funds, property, records, personnel, and outstanding financial obligations and encumbrances of the Oklahoma Criminal Justice Resource Center are hereby transferred to the Legislative Service Bureau. All transferred personnel shall retain their employment position and status as unclassified or classified employees. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations, or encumbrances, provided for by the provisions of this subsection.

C. The duties of the Oklahoma Criminal Justice Resource Center shall be to:

1. Provide a clearinghouse for criminal justice information;
2. Provide a central contact point for federal, state, and local criminal justice agencies;
3. Provide technical assistance for all criminal justice agencies of this state;
4. Provide consultation for criminal justice agencies of this state in preparing reports, gaining funding, or preparing information;

5. Obtain information from criminal justice agencies in this state for analyses of criminal justice issues;
6. Collect and analyze criminal justice data;
7. Produce reports for state and local criminal justice agencies;
8. Facilitate information networking between criminal justice agencies;
9. Attend meetings concerning criminal justice issues;
10. Represent this state at national meetings including, but not limited to, meetings or conferences of criminal justice statistics associations of other states;
11. Provide administrative support to the Oklahoma Sentencing Commission;
12. Assist in developing resources for the criminal justice system;
13. Address pertinent issues related to prevention and intervention programs;
14. Provide assistance to the State Crime Stoppers Association; and
15. Maintain support and provide assistance to the Oklahoma Council on Violence Prevention.

D. The Legislative Service Bureau shall provide office space, equipment, and other administrative support required by the Oklahoma Criminal Justice Resource Center.

E. The Oklahoma Criminal Justice Resource Center shall have a director and other necessary staff. The Oklahoma Sentencing Commission shall hire and set the ~~salaries~~ salary of the director ~~and any other staff.~~ The Director of the Oklahoma Criminal Justice Resource Center, subject to ~~appropriation~~ the approval of the Oklahoma Sentencing Commission, shall hire and set salaries for employees as may be necessary to complete the statutory functions of the Oklahoma Criminal Justice Resource Center.

SECTION 7. AMENDATORY Section 25, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1999, Section 508.2b), is amended to read as follows:

Section 508.2b There is hereby created in the State Treasury a revolving fund for the Oklahoma Criminal Justice Resource Center within the ~~Department of Public Safety~~ Legislative Service Bureau to be designated the "Oklahoma Criminal Justice Resource Center Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated to the ~~Department of Public Safety~~ Legislative Service Bureau for the Oklahoma Criminal Justice Resource Center by the Legislature, grants, gifts, ~~request~~ bequests and any other lawful ~~money~~ monies received for the benefit of the Oklahoma Criminal Justice Resource Center. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Director of the Oklahoma Criminal Justice Resource Center for the operation of the Oklahoma Criminal Justice Resource Center or other purposes authorized by law. Expenditures from said fund shall be for the general operating expenses of the Oklahoma Criminal Justice Resource Center or other purposes authorized by law.

SECTION 8. REPEALER Sections 10 and 11, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1999, Sections 1510 and 1511), are hereby repealed.

SECTION 9. This act shall become effective July 1, 2000.

SECTION 10. 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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