STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1141 By: Helton

AS INTRODUCED

An Act relating to confinement officers; providing short title; defining terms; stating eligibility requirements for certification of confinement officers; requiring completion of psychological evaluation prior to certification; requiring employing agency to provide certain information on reports; requiring proof of high school diploma or GED certificate for certain persons; providing certain exemptions for certain persons; prohibiting persons participating in deferred sentence from being certified as confinement officers; requiring confinement officers to be fingerprinted; authorizing release of certain information to employing agencies; providing for release of liability; providing certain reports to the Council on Law Enforcement Education and Training; establishing criteria for revocation of certification; establishing criteria for suspension of certification; providing forms for certain complaints; authorizing investigation of complaints; providing for certain proceedings; specifying number of training hours required for certification; stating employment requirements for persons not certified as confinement officers; providing for extensions of time requirement; providing for certification for persons who have completed other course of study; specifying powers and duties of the Council; specifying continuing number of training hours required annually; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Confinement Officer Training Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Confinement Officer Training Act:

1. "Certification" means authorization issued by the Council pursuant to this act permitting the holder to perform the functions of a confinement officer;

2. "Confinement officer" means personnel responsible for the health, safety and security of a city, county or private jail facility; and

3. "Council" means the Council on Law Enforcement Education and Training.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751.2 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. No person shall be certified as a confinement officer in this state unless the employing agency has reported to the Council on Law Enforcement Education and Training that:

1. 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;

2. 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. 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 confinement officer in this state. 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 confinement 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 confinement 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;

3. 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 confinement officer prior to July 1, 2001; and

4. Such person is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude.

B. No person shall be certified as a confinement officer by the Council or be employed as a confinement officer by the state, a county, a city, or any political subdivision thereof or by a private entity operating jail facilities for any such governmental units, who has been convicted of a felony or a crime involving moral turpitude or a misdemeanor domestic violence offense unless a full pardon has been granted by the proper agency.

C. Every person employed as a confinement officer in this state shall be fingerprinted by a law enforcement agency. One set of such 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.

D. 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 confinement 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 confinement 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.

E. A law enforcement agency or a private entity engaged in the operation of jail facilities employing confinement officers in this state shall report the hiring, resignation, or termination for any reason of a confinement officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify such agency or entity from participating in training programs sponsored by the Council.

F. As used in this section, "employing agency" means a political subdivision or law enforcement agency or a private entity engaged in the operation of jail facilities which either has employed or received an employment application from a person who, if employed, would be subject to this section.

G. 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 or a misdemeanor domestic violence offense.

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.

H. 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 confinement officer as of July 1, 2001, shall not be subject to the provisions of this subsection for convictions occurring prior to July 1, 2001.

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 confinement officer shall not be subject to the provisions of this subsection for convictions occurring prior to July 1, 2001.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751.3 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. On and after January 1, 2002, no person shall be certified by the Council on Law Enforcement Education and Training pursuant to Sections 3 and 4 of this act as a confinement officer until such person has attended and completed a minimum of forty (40) hours of confinement officer training accredited or provided by the Council on Law Enforcement Education and Training. The Council shall promulgate rules to enforce the provisions of this section and shall enter into contracts and agreements for the payment of classroom space and training. Such training and seminars shall be conducted in all areas of this state at vocational-technical schools, institutions of higher education, or other approved sites.

B. Every inactive full-time confinement officer, certified by the Council, shall be exempt from these requirements during the inactive status. If a certified confinement officer has been inactive for five (5) or more years, upon re-entry to full-time

active status, the confinement officer shall be required to comply with paragraph A of this section.

C. Any active full-time certified confinement officer, who fails to meet the annual training requirements specified in this section, shall be subject to having the certification of the confinement officer suspended, after having been given written notice of noncompliance and a reasonable time, as defined by the Council, to comply with the provisions of this section. A confinement officer shall not be employed in the capacity of a confinement officer during any period of suspension. The suspension period shall be for a period of time until the confinement officer files a statement attesting to full compliance with the provisions of this section. Any confinement officer whose certification is suspended pursuant to this section may request a hearing with the Council, and the affected confinement officer has the burden to show the Council why the Council should not have the certification of the confinement officer suspended.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Every person who has not been certified as a confinement officer and is duly employed as a confinement officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of employment qualify as required by the Oklahoma Confinement Officer Training Act or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first employment as a confinement officer with any city, county or private jail in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. A confinement officer shall be eligible to enroll in a basic confinement officer course in accordance with this subsection upon being employed. A duty is hereby imposed upon

the employing city, county or private jail to withhold payment of the compensation or wage of a confinement officer who has not completed the certification course within the first year of employment.

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1751.5 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Council on Law Enforcement Education and Training shall have the following powers and duties:

1. To promulgate rules to carry out the purposes of this act;

2. To establish and enforce standards governing the training of persons required to be certified pursuant to this act with respect to:

a. issuing, denying, or revoking certificates of approval to confinement officers programs administered by the state, a county or a municipality, and

b. certifying instructors at approved confinement officer training sites.

B. Beginning January 1, 2003, and annually thereafter, every full-time confinement officer, certified by the Council shall attend and complete a minimum of twenty-four (24) hours of continuing confinement officer training accredited or provided by the Council. Such training and services shall be conducted in all areas of this state at vocational-technical schools, institutions of higher education, or other approved sites.

SECTION 7. This act shall become effective July 1, 2001.

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