STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 400 By: Stipe

AS INTRODUCED

An Act relating to the Department of Corrections; amending 57 O.S. 1991, Section 510, as last amended by Section 1, Chapter 351, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510), which relates to duties and powers; modifying peace officer positions; deleting certain positions; providing purpose; providing cash award; limiting cash awards; providing for reimbursement under certain conditions; establishing certain medical and mental health unclassified positions; granting option to remain classified; providing written election; providing classified status to certain future employees; exempting certain unclassified employees from unclassified appointment limitations; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 510, as last amended by Section 1, Chapter 351, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510), is amended to read as follows:

Section 510. A. The Director shall have the following specific powers and duties relating to the penal institutions:

1. To appoint, subject to the approval of the State Board of Corrections, a warden or superintendent for each penal institution, who shall qualify for the position by character, personality, ability, training, and successful administrative experience in the correctional field; and if he is not the incumbent warden or superintendent of a penal institution, he shall have a college degree with a major in the behavioral sciences. As used in this section, "major in the behavioral sciences" means a major in psychology, sociology, criminology, education, corrections, human

relations, guidance and counseling, administration, criminal justice administration, or penology;

2. To fix the duties of the wardens and superintendents and to appoint and fix the duties and compensation of such other personnel for each institution as may be necessary for the proper operation thereof. However, correctional officers and guards hired after November 1, 1995, shall be subject to the following qualifications:

a. the minimum age for service shall be twenty-one (21) years of age and the maximum age for service shall be seventy (70) years of age. However, the Director shall have the authority to establish the maximum age for correctional officers entering service, and

b. possession of a minimum of thirty (30) semester hours from an accredited college or university, or possession of a high school diploma acquired from an accredited high school or GED equivalent testing program and graduation from a training course conducted by or approved by the Department and certified by the Council on Law Enforcement Education and Training either prior to employment or during the first six (6) months of employment, and

c. be a resident of this state during employment, and

d. be of good moral character, and

e. before going on duty alone, satisfactory completion of an adequate training program for correctional officers and guards, as prescribed and approved by the State Board of Corrections, and

f. satisfactory completion of minimum testing or professional evaluation through the Merit System of Personnel Administration to determine the fitness of the individual to serve in the position written

evaluations shall be submitted to the Department of Corrections, and

g. satisfactory completion of a physical in keeping with the conditions of his job description on an annual basis and along the guidelines as established by the Department of Corrections;

3. To designate as peace officers qualified personnel in any Department of Corrections job classifications. The Director shall designate as peace officers correctional officers who are employed in K-9 units, certified emergency response teams, ~~transportation positions~~ Central Transportation Unit positions, ~~chief of security positions,~~ or whose work location is at Griffin Memorial Hospital or University Hospital. The peace officer authority of employees designated as peace officers shall be limited to: maintaining custody of prisoners; preventing attempted escapes; pursuing, recapturing and incarcerating escapees and parole or probation violators and arresting such escapees, parole or probation violators, serving warrants, and performing any duties specifically required for their job descriptions. Such powers and duties of peace officers may be exercised for the purpose of maintaining custody, security, and control of any prisoner being transported outside this state as authorized by the Uniform Criminal Extradition Act. To become qualified for designation as peace officers, employees shall meet the training and screening requirements conducted by the Department and certified by the Council on Law Enforcement Education and Training within twelve (12) months of employment or, in the case of employees designated as peace officers on or before July 1, 1997, by July 1, ~~1998~~ 1999, and shall not be subject to Section 3311 of Title 70 of the Oklahoma Statutes;

4. To maintain such industries, factories, plants, shops, farms, and other enterprises and operations, hereinafter referred to as prison industries, at each institution as the State Board of

Corrections deems necessary or appropriate to employ the prisoners or teach them skills, or to sustain the institution; and as provided for by policies established by the State Board of Corrections, to allow compensation for the work of the prisoners, and to provide for apportionment of their wages, the amounts thus allowed to be kept in accounts by the Board for the prisoners and given to them upon their discharge from the institution, or upon their order paid to their families or dependents or used for the personal needs of the prisoners. Any industry which employs prisoners shall be deemed a "State Prison Industry" if the prisoners are paid from state funds including the proceeds of goods sold as authorized by Section 123f of Title 74 of the Oklahoma Statutes. Any industry in which wages of prisoners are paid by a nongovernmental person, group, or corporation, except those industries employing prisoners in work-release centers under the authority of the Department of Corrections shall be deemed a "Private Prison Industry";

5. To assign residences at each institution to institutional personnel and their families;

6. To provide for the education, training, vocational education, rehabilitation, and recreation of prisoners;

7. To regulate the operation of canteens for prisoners;

8. To prescribe rules for the conduct, management, and operation of each institution, including rules for the demeanor of prisoners and punishment of recalcitrant prisoners or the treatment of incorrigible prisoners;

9. To transfer prisoners from one institution to another;

10. To transfer to a state hospital for the mentally ill for care and treatment, any prisoner who appears to be mentally ill. Said prisoner shall be returned to the institution when the superintendent of the hospital certifies that the prisoner has been restored to mental health;

11. To maintain courses of training and instruction for employees at each institution;

12. To maintain a program of research and statistics;

13. To provide for the periodic audit, at least once annually, of all funds and accounts of each institution and the funds of each prisoner;

14. To provide, subject to rules and regulations established by the State Board of Corrections, for the utilization of prison labor for any agency of the state, city, town, or subdivision of this state, upon the duly authorized request for such labor by said agency. Said labor shall not be used to reduce employees or replace regular maintenance or operations of the agency. The labor shall be used solely for public or state purposes. Any such prison labor shall not be used for private use or purpose. Insofar as it is practicable, all such prison labor shall be of such a nature and designed to assist and aid in the rehabilitation of inmates performing the labor;

15. To provide clerical services for, and keep and preserve the files and records of, the Pardon and Parole Board; make investigations and inquiries as to prisoners at the institutions who are to be, or who might be, considered for parole or other clemency; assist prisoners who are to be, or who might be, considered for parole or discharge in obtaining suitable employment in the event of parole or discharge; report to the Pardon and Parole Board, for recommendation to the Governor, violations of terms and conditions of paroles; upon request of the Governor, make investigations and inquiries as to persons who are to be, or who might be, considered for reprieves or leaves of absence; report to the Pardon and Parole Board, for recommendation to the Governor, whether a parolee is entitled to a pardon, when the terms and conditions of his parole have been completed; make presentence investigations for, and make reports thereof to, trial judges in criminal cases before sentences

are pronounced; supervise persons undergoing suspended sentences, or who are on probation or parole; and develop and operate, subject to the policies and guidelines of the Board, work-release centers, community treatment facilities or prerelease programs at appropriate sites throughout this state; and

16. To conduct continual planning and research and periodically evaluate the effectiveness of the various correctional programs instituted by the Department; manage the designing, building, and maintaining of all the capital improvements of the Department; establish and maintain current and efficient business, bookkeeping, and accounting practices and procedures for the operations of all institutions and facilities, and for the Department's fiscal affairs; conduct initial orientation and continuing in-service training for the Department employees; provide public information services; inspect and examine the condition and management of state penal and correctional institutions; investigate complaints concerning the management of prisons or alleged mistreatment of inmates thereof; and hear and investigate complaints as to misfeasance or nonfeasance of employees of the Department.

B. When an employee of the Department of Corrections has been charged with a violation of the rules of the Department or with a felony pursuant to the provisions of a state or federal statute, the Director may, in his discretion, suspend the charged employee, in accordance with the Oklahoma Personnel Act and/or the Merit System of Personnel Administration Rules, pending the hearing and final determination of the charges. Notice of suspension shall be given by the Director, in accordance with the provisions of the Oklahoma Personnel Act. If after completion of the investigation of the charges, it is determined that such charges are without merit or are not sustained before the Oklahoma Merit Protection Commission or in a court of law, the employee shall be reinstated and shall be entitled to receive all lost pay and benefits.

This subsection shall in no way deprive an employee of the right of appeal according to the Oklahoma Personnel Act, Section 840-6.5 of Title 74 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 528.6 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. In order to encourage the pursuit of excellence through education and prepare employees for leadership positions within the Department of Corrections, the Department is authorized to provide cash awards to those employees who complete the degree requirements for an associate's, bachelor's, or master's level program, through an accredited college or university, in the behavioral sciences as defined in Section 510 of Title 57 of the Oklahoma Statutes.

B. The Department will ensure that any employee who completes one of the specified degree programs is offered an award. No single award shall exceed One Thousand Dollars ($1,000.00). No employee shall be awarded more than Two Thousand Five Hundred Dollars ($2,500.00) during the duration of his or her employment with the Department. No more than Ten Thousand Dollars ($10,000.00) shall be awarded in any fiscal year.

C. Any employee who accepts such cash award and voluntarily leaves employment with the Department within two (2) years after receipt shall reimburse the Department in full.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 528.7 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections is hereby authorized to establish positions in the unclassified service for the purpose of providing direct medical or mental health treatment or care to offenders under the custody or supervision of the Department. Incumbents who were classified under the Merit System of Personnel Administration on the effective date the position they occupy

becomes part of the unclassified service shall have the option of retaining their status in the classified service. An incumbent who chooses to change status from classified to unclassified shall so indicate in writing. All future appointees to such positions shall be in the unclassified service.

B. No position or employee occupying a position in the unclassified service established under subsection A shall be counted against any authorized limits for unclassified appointments established by law.

SECTION 4. This act shall become effective July 1, 1999.

SECTION 5. 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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