

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1394

By: Nance and Paulk of the
House

and

Herbert of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to prisons and reformatories; amending 57 O.S. 1991, Section 21, as last amended by Section 368, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (57 O.S. Supp. 2000, Section 21), which relates to contraband in penal institutions or jails; adding to list of items considered contraband; amending 57 O.S. 1991, Section 54, which relates to persons authorized to act as jailer; authorizing jailer to use nonlethal weaponry; amending 57 O.S. 1991, Section 563, as last amended by Section 4, Chapter 290, O.S.L. 1998 (57 O.S. Supp. 2000, Section 563), which relates to creation and construction of correctional facilities; specifying application of certain restrictions to privately owned facilities; providing pay increase for certain employees of the Department of Corrections; authorizing back pay for certain period of time; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 21, as last amended by Section 368, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (57 O.S. Supp. 2000, Section 21), is amended to read as follows:

Section 21. A. Any person who, without authority, brings into or has in his or her possession in any jail or state penal institution or other place where prisoners are located, any gun, knife, bomb or other dangerous instrument, any controlled dangerous substance as defined by Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, any intoxicating beverage or low-point beer as

defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, ~~or~~ money, or financial documents for a person other than the inmate or a spouse of the inmate, including, but not limited to tax returns, shall be guilty of a felony and is subject to imprisonment in the State Penitentiary for not less than one (1) year or more than five (5) years, or a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

B. If an inmate is found to be in possession of any such item, upon conviction, such inmate shall be guilty of a felony and shall be subject to imprisonment for not less than five (5) years nor more than twenty (20) years in the State Penitentiary.

C. If the person found to be in possession of any such item has, prior to the commission of said offense, committed two or more felony offenses, and said possession of contraband was within ten (10) years of the completion of the execution of the sentence, such person, upon conviction, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of not less than twenty (20) years. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 54, is amended to read as follows:

Section 54. The jailer, jail director or keeper of the jail shall, unless the sheriff elects to act as jailer in person, be a deputy appointed by the sheriff; provided, that the sheriff may, with approval as provided in Section 162 of Title 19 of the Oklahoma Statutes, appoint civilian employees as ~~he~~ the sheriff may require to operate the county jail. Those persons hired as civilian employees need not complete the training prescribed for peace officers, as provided by Section 3311 of Title 70 of the Oklahoma Statutes, but need only complete such training as the sheriff deems

necessary for the civilians to properly perform the duties assigned to them, or such training as may otherwise be prescribed by law. The jailer shall take the necessary oaths before entering upon the duties of ~~his~~ the office. A jailer in a county having a population of greater than four hundred thousand (400,000), according to the latest Federal Decennial Census, may be authorized by the sheriff of the county to use nonlethal weaponry upon completion of appropriate training. The sheriff shall in all cases be liable for the negligence and misconduct of the jailer as of other deputies.

The provisions of this section shall not apply to jails operated by private prison contractors pursuant to a contract with the board of county commissioners.

SECTION 3. AMENDATORY 57 O.S. 1991, Section 563, as last amended by Section 4, Chapter 290, O.S.L. 1998 (57 O.S. Supp. 2000, Section 563), is amended to read as follows:

Section 563. A. Except as otherwise authorized by Section 183 of Title 73 of the Oklahoma Statutes, before any correctional facility other than an inmate work center as authorized in subsection B of this section or an inmate drug offender work camp, whether within the Department of Corrections or within any other state agency, may be created or any construction performed which may significantly increase, extend or expand the present facility, such creation or construction shall be approved by the Legislature. Correctional facilities owned or operated by private prison contractors shall not be deemed to be within the Department of Corrections or other state agency.

B. The Department of Corrections is hereby authorized to establish inmate work centers, not to exceed one hundred (100) inmates, in locations where a need for labor to conduct public work projects is determined. The Department shall select the inmate work center locations based on objective comparisons of interested communities in accordance with procedures and criteria established

by the Department of Corrections. The procedures, selection criteria and decision case analysis shall be made available to the public upon request.

C. No state, county or municipal correctional facility including any inmate work center, inmate drug offender work camp, inmate halfway house, inmate transitional living center and any other place where state, county or municipal inmates are housed, including privately owned and operated facilities, shall be located within one thousand (1,000) feet of any public or private elementary or secondary school nor within two thousand five hundred (2,500) feet of any state training school. The distance indicated in this subsection shall be measured from property line to property line. The provisions of this subsection shall not apply to any inmate work center, inmate drug offender work camp, inmate halfway house, inmate transitional living center and any other place where state, county or municipal inmates are housed established prior to May 20, 1994. Provided, that the provisions of this subsection shall not apply to state, county, or municipal correctional facilities that are granted permission to operate within the areas restricted by this subsection by a majority vote of the following entities:

1. The district board of education of each school district with an affected school; and
2. The governing body of each affected private school.

D. In any county with a population of two hundred fifty thousand (250,000) or more, as determined by the latest Federal Decennial Census, the Department of Corrections shall not cause, permit or require any inmate in the custody of the Department or cause, permit or require any offender under the supervision of the Department to enter, remain or be present in any Department of Corrections facility located within one thousand (1,000) feet of a private or public elementary or secondary school, or on the grounds of such a facility, for any activities involving or relating to

processing, training, instructing, interviewing, counseling, reporting, conferring, imposing discipline, reviewing or adjudicating or any correctional function requiring or permitting the presence of the offender, except offenders may be employed in construction, maintenance or janitorial activities in or on the structures or grounds while under supervision of a correctional employee. The provisions of this subsection shall not apply to any facility established or acquired by the Department of Corrections prior to May 20, 1994.

SECTION 4. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Upon the effective date of this act, fugitive apprehension officers employed by the Department of Corrections shall be awarded an annualized pay increase equal to the amount of increase awarded to other commissioned officers of the Department of Corrections on October 1, 1994, exclusive of longevity pay or shift differential pay.

Upon the effective date of this act, fugitive apprehension officers who were employed by the Department of Corrections on October 1, 1994, shall receive back pay for the period beginning with the month of October, 1994, and ending with the month this act becomes effective.

SECTION 5. This act shall become effective November 1, 2001.

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