

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1574

By: Martin

AS INTRODUCED

An Act relating to prisons; amending 57 O.S. 2001, Section 1, which relates to inspection of jails; modifying language; including the State Fire Marshal in jail inspections; amending 57 O.S. 2001, Section 4, which relates to care of prisoners; including sheriff and county commissioners in responsibility for certain administration; amending 57 O.S. 2001, Section 14, which relates to emergency removal of prisoners; modifying language; requiring removal of prisoners exposed to certain dangers; amending 57 O.S. 2001, Section 19, which relates to juvenile prisoners; clarifying language; amending 57 O.S. 2001, Section 51, which relates to medical officer; making gender neutral; clarifying language; authorizing certain report to the State Department of Health; amending 57 O.S. 2001, Section 52, which relates to duty of sheriff; clarifying language; amending 57 O.S. 2001, Section 53, which relates to monthly inspections; clarifying language; amending 74 O.S. 2001, Section 192, which relates to jail standards; modifying language; deleting language; requiring certain training within the first year of employment; requiring continuing training annually; allowing inmates to apply for certain medical assistance; making inmate liable for certain medical costs; providing for State Fire Marshal to issue violation report for failure to meet safety standards; directing the State Department of Health and State Fire Marshal to initiate complaint where criminal offense is revealed; requiring certain rules be promulgated by certain date; requiring certain rules be reviewed annually; requiring certain rules follow the intent and purpose of law; directing city and county jails to comply with rules on jail standards; providing penalty for failure to comply; allowing the State Department of Health to employ persons to implement jail standards and inspect jails; amending 74 O.S. 2001, Section 193, which relates to report of jail inspection; modifying language; including State Fire Marshal in right to inspect jail premises at any time; criminalizing refusal to allow certain inspections; setting penalty; clarifying language; expanding the areas of compliance in certain report; amending 74 O.S. 2001, Section 194, which relates to deficient jails; clarifying language; providing reference; limiting time for correction of jail deficiencies; authorizing certain extension of time to correct jail deficiencies; requiring the State Commissioner of Health to file certain complaint when jail deficiencies are not corrected in a timely manner;

requiring the Attorney General to file certain petition in district court to close jail facility for failure to comply with jail standards under certain circumstance; providing notice and hearing; directing the court to make certain determinations; authorizing the court to extend time for compliance within certain limitation; providing civil penalty for failure to comply with jail standards or court orders; providing for collection of civil penalty by court clerk; directing deposit; limiting time for removal of prisoners and employees from closed jail facility; deleting language; requiring closed jail to be condemned for purpose of use as jail facility; providing for future inspection and reopening of certain facility under certain circumstance; providing for hearing before reopening of closed jail facility; requiring compliance before reopening of closed jail facility; authorizing the State Department of Health to assess noncompliance penalty; directing deposit of certain assessment to General Fund; providing for recodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 1, is amended to read as follows:

Section 1. County commissioners shall inspect the jails in their respective counties at least once each year, and shall fully examine the ~~health, cleanliness and discipline~~ conditions of the jail and the health, cleanliness and discipline of prisoners kept in the jail. The person responsible for the administration of such jail shall provide the county commissioner with the name, age and basis for incarceration of each prisoner and if it appears to the commissioners that any provisions of law have been violated or neglected ~~they~~ the commissioners shall give notice to the district attorney of the county. This inspection shall be in addition to ~~that~~ any inspections performed by the State Department of Health, the State Fire Marshal or other persons.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 4, is amended to read as follows:

Section 4. The sheriff, county commissioners or other person responsible for administration of a jail shall see that the jail is constantly kept in a clean, safe and healthful condition, and shall see that strict attention is constantly paid to the personal cleanliness and health of all the prisoners in ~~his~~ jail custody.

SECTION 3. AMENDATORY 57 O.S. 2001, Section 14, is amended to read as follows:

Section 14. If any prison or jail, or any building thereof, shall be on fire or destroyed by any cause, and the prisoners shall be exposed to such danger ~~by such fire~~, the ~~keeper may~~ person responsible for the administration of the prison or jail shall remove ~~such~~ the prisoners to a place of safety, and there confine ~~them~~ the prisoners, so long as may be necessary to avoid ~~such~~ the danger, and ~~such~~ the removal and confinement of any prisoners allowed by this section shall not be deemed an escape ~~of such~~ by any prisoners.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 19, is amended to read as follows:

Section 19. Juvenile prisoners shall be treated with humaneness and in a manner calculated to promote ~~their reformation and they~~ behavioral reform. All juvenile prisoners shall be kept separate from adult prisoners and more experienced and hardened criminals. Visits of parents, guardians and friends who desire to exert a positive moral influence over ~~them~~ the juvenile shall at all reasonable times be permitted.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 51, is amended to read as follows:

Section 51. It shall be the duty of the county commissioners, at the expense of ~~their~~ the county, to provide suitable means for warming the county jail and its cells or apartments, providing for beds and bedding, and such other permanent fixtures, and to promptly make ~~such~~ all repairs as may be prescribed by the district judge ~~or~~,

the State Department of Health or the State Fire Marshal. The commissioners shall also have power to appoint a medical officer to the jail and pay ~~him~~ the medical officer such salary as ~~they~~ may ~~think~~ be reasonable and proper, ~~which~~. The salary shall be drawn out of the county treasury, and ~~said~~ the medical officer or any physician or surgeon who may be employed in the jail shall make a report in writing whenever required by ~~said~~ the commissioners, the State Department of Health, district judge or grand jury.

SECTION 6. AMENDATORY 57 O.S. 2001, Section 52, is amended to read as follows:

Section 52. It shall be the duty of the sheriff of each county to provide bed clothing, washing, board ~~and~~, medical care when required, and ~~all~~ necessities for the comfort and welfare of prisoners as specified by the jail standards promulgated pursuant to Section 192 of Title 74 of the Oklahoma Statutes ~~and he~~. The sheriff shall be allowed ~~such~~ compensation for services required by the provisions of Sections 41 through 64 of this title, as may be prescribed by the county commissioners or as otherwise provided by law. All purchases made pursuant to the provisions of this section shall be made pursuant to the purchasing procedures specified in Sections 1500 through 1505 of Title 19 of the Oklahoma Statutes, including the use of blanket purchase orders as provided for in Section 310.8 of Title 62 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 53, is amended to read as follows:

Section 53. The sheriff or designated employee shall visit the county jail in person and inquire into the condition of the jail and each prisoner at least once each month and it shall be ~~his~~ the duty of the sheriff to comply with all jail standards promulgated pursuant to Section 192 of Title 74 of the Oklahoma Statutes by the State Department of Health.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 192, is amended to read as follows:

Section 192. A. The State Department of Health shall inspect at least once each year all city and county jails to ensure compliance with the standards promulgated pursuant to the provisions of this section. ~~Such Jail~~ standards shall provide, but are not limited to:

1. Uniform admission and release procedures; ~~and~~
2. Uniform, safe, and sensible security measures; ~~and~~
3. Proper, fit, safe and sanitary conditions; ~~and~~
4. Inmates are being fed a wholesome and adequate diet; ~~and~~
5. Inmates have adequate clothing and a living area of no less

than forty (40) square feet of floor space per inmate plus twenty (20) square feet of floor space in ~~such the~~ living area per each additional inmate in existing facilities, and no less than sixty (60) square feet of floor space per cell for two prisoners in facilities constructed after November 1, 1985. Nothing in this section shall be construed to prohibit double-celling of prisoners, provided there exists no less than forty (40) square feet per initial inmate plus twenty (20) square feet for each additional prisoner. In every barrack-style housing area the square footage shall meet the minimum requirements provided in ~~Section 192 of this title section~~. Such Except as otherwise provided by law, every jail facility shall have showers with hot and cold running water, toilets, and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may build barracks-style jails, or single or double cell jails, to meet the security needs of the county for minimum security prisoners. These jails shall meet all the minimum requirements set forth in this section or any other provision of law. ~~Except as otherwise provided in this section, all facilities under this section shall have showers with hot and cold running water, toilets and water basins provided in the ratio of not~~

~~less than one to every twenty prisoners.~~ Counties may also build tent jails, which shall be temporary in nature, to meet the security needs of the county for minimum security prisoners. The temporary tent jails shall not be required to meet the minimum requirements set forth in this section or any other provision of law. The State Board of Health shall promulgate minimum standards for temporary tent jails which standards shall be designed to specifically address and take into consideration the temporary status of the inmate housing needs of the county; ~~and~~

6. Inmates are properly advised of the rules of the jail facility in which ~~they~~ the inmates are detained; ~~and~~

7. Staff members receive training ~~in order~~ to assist ~~them to~~ with better perform their performance of assigned tasks, ~~such the~~ training ~~to~~ shall be provided by the Jail Inspection Division of the State Department of Health. All employees who work in direct contact with inmates ~~after~~ within the first year of employment shall receive, ~~at a minimum,~~ at least four (4) ~~hours' review of material~~ ~~as~~ hours of education and training in such subjects required by the Jail Inspection Division and ~~at a maximum,~~ not less than eight (8) hours of jailer training per year after the first year of employment; ~~and~~

8. Proper steps are taken to ensure the safety and segregation of women, the infirm, and minors; ~~and~~

9. Adequate medical care, provided such medical care shall be limited to illnesses or injuries incurred during the time beginning with the arrest and throughout the time of incarceration. This shall not prevent an inmate from applying for medical assistance and receiving minimal medical assistance ~~provided when~~ the inmate meets or exceeds established ~~requirements~~ eligibility criteria for medical services, and in such circumstances, the inmate shall be liable for medical and related costs as provided in Section 746 of Title 19 of the Oklahoma Statutes; ~~and~~

10. No person is confined without twenty-four-hour supervision;
and

11. At least one designated exit in the jail facility that will permit a prompt, safe evacuation of inmates and staff in an emergency; provided, however, any jail facility that fails to meet necessary safety standards required by the State Fire Marshal shall be issued a violation report that shall be enforced as provided by law. A facility in existence on November 1, 1985, shall not be required to construct additional exits if it has one exit which is deemed adequate by the State Fire Marshal.

In the event ~~said~~ any jail inspection shall reveal to the State Department of Health or the State Fire Marshal the commission of a crime or crimes incidental to the operations of a city or county jail facility, it shall be the duty of the Department or the State Fire Marshal to initiate a complaint with the appropriate district attorney, and to cooperate in the prosecution of the alleged offender in the event an information is filed pursuant to ~~said~~ the complaint.

B. Any county, city, or town may operate a holding facility for the incarceration of persons under arrest who are to be charged with a crime, which holding facility shall not be required to meet the standards established in this section for jails, as long as no person is held therein for a any period longer than twelve (12) hours and as long as ~~some~~ an employee of ~~said~~ the county, city, or town is available to render aid to or to release any person so confined in the event aid or release is required because of a health or life endangering emergency.

C. ~~Within ninety (90) days after the effective date of this act, the~~ By July 1, 2001, the State Board of Health shall promulgate ~~new~~ rules governing square footage requirements, double-celling of prisoners ~~and,~~ the ratio of showers, toilets, and water basins to prisoners, and any other provisions required for safe and sanitary

jail operations. Each year thereafter, the rules shall be reviewed and amended as necessary. The rules ~~so promulgated~~ shall be governed by the guidelines enumerated in this section and by law, and shall be designed to carry out the intent and purpose of ~~the guidelines law~~. Each city or county jail facility in this state shall ~~be in compliance~~ comply with the rules ~~so promulgated on or before January 1, 1995~~ for jail standards. Any jail failing to comply after notice of the deficiencies shall be fined as provided in Section 194 of Title 74 of the Oklahoma Statutes.

D. The State Department of Health shall employ inspectors and other personnel as necessary ~~and specifically authorized by the Legislature in order to carry out the provisions of this section and implementation of jail standards and inspection of jail facilities~~ as required by law. The Department may rent or purchase premises or equipment in order to assist inspectors in the performance of their ~~functions~~ duties.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 193, is amended to read as follows:

Section 193. A. ~~Inspectors~~ Jail inspectors employed by the State Department of Health and State Fire Marshal shall be permitted to enter all jail premises and administrative offices at any time for the purpose of performing their assigned duties. Any person who willfully refuses to permit a jail inspector or State Fire Marshal to enter jail premises or administrative officers to inspect the facility as required by law shall be deemed guilty of a misdemeanor. Upon conviction, the violator shall be punished by a fine in an amount of One Thousand Dollars (\$1,000.00) per day until the inspection is completed.

B. The results of ~~these~~ any jail premises and administrative office inspections shall be presented in ~~the form of~~ a written report to the State Commissioner of Health and to the person

immediately responsible for the administration of the facility inspected. The report shall contain, but is not limited to:

1. A list of deficiencies in the condition or operation of the facility and specific proposals for ~~their solution~~ correcting the deficiencies; and

2. A time specific when deficiencies must be corrected but not later than sixty (60) days from the date of the inspection report; and

3. A statement as to whether or not the facility inspected is in ~~substantial~~ compliance with the jail standards established pursuant to Section 192 of this title, the rules promulgated by the State Department of Health, requirements of the State Fire Marshal, or other provisions of law.

SECTION 10. AMENDATORY 74 O.S. 2001, Section 194, is amended to read as follows:

Section 194. ~~If~~ A. Following any jail premises inspection, when the deficiencies listed in the report provided pursuant to Section 193 of this title have not been corrected, within ~~sixty (60) days after delivery of the time specified in the report,~~ the State Commissioner of Health shall ~~be authorized to~~ file a complaint with the Attorney General ~~or the district attorney~~ to remedy the deficiencies or in the alternative to close the deficient jail facility. Provided, that upon demonstration of a good faith effort by the governmental entity involved to correct ~~said~~ the deficiencies and achieve compliance with the established jail standards, the State Commissioner of Health shall may extend the time for compliance ~~a reasonable period before filing the complaint requesting the closing of the facility~~ to any period not exceeding six (6) months from the date that the inspection required the deficiencies to be corrected. At the conclusion of any extension period, the State Commissioner of Health shall file a complaint with the Attorney General to close the jail for noncompliance after

extension to comply. An action to close ~~such~~ any jail facility shall be brought in the district court having jurisdiction in the county in which the facility is located. Upon the ~~issuance of an order by~~ written complaint by the State Commissioner of Health, the Attorney General shall file a petition in the district court of the county where the jail facility is located within ten (10) days of receiving the complaint alleging failure to comply to jail standards and request a jail closure. Notice shall be mailed by regular mail with postage prepaid to the county commissioners, the district attorney and the sheriff of the county where the facility is located. The court shall set a hearing within seven (7) days of the date the notice is mailed. At the hearing the court shall determine whether the facility is in compliance, whether the jail can be brought into compliance within a reasonable time, and whether the person responsible for the jail administration has acted in good faith to correct the deficiencies. If the court finds the jail deficiencies can be corrected, the court may extend the time for compliance not exceeding six (6) months. The court may order a civil penalty against the county, in an amount not less than Ten Dollars (\$10.00) per day and not to exceed One Hundred Dollars (\$100.00) per day for failure to comply with jail standards, if the court finds the lack of compliance is due to bad faith, or failure to comply with court orders. Any civil penalty ordered shall be collected by the court clerk as provided for collection of criminal fines. Civil penalties shall be deposited in the court fund. When the district court ~~to close the~~ orders a jail facility to be closed, the facility shall be closed within twenty-one (21) days of the court order and all prisoners and employees shall be removed to a suitable facility at the expense of the governmental entity responsible for the closed facility ordered closed. ~~Provided, that upon demonstration of a good faith effort by the governmental entity involved to correct said deficiencies and achieve compliance with~~

~~the established standards, the district court shall extend the time for compliance a reasonable period before ordering the facility closed~~ When a jail has been ordered closed by the district court pursuant to the provisions of this section, the order shall condemn the facility and it shall not be utilized as a jail facility. The court may order a future inspection of the facility and set the date of such inspection and a hearing date to consider the inspection report if proper repairs to the jail facility are anticipated. At that hearing, if the court finds that the jail facility is in compliance with required building codes, jail standards, State Fire Marshal regulations, and other provisions of law, the court may allow the jail to reopen as a jail facility.

B. The State Department of Health is authorized to assess a noncompliance penalty against any jail facility that fails to be in compliance with the rules or jail standards within the sixty-day period allowed pursuant to subsection A of this section. The noncompliance penalty shall accrue on the sixty-first day even when an extension has been granted by the State Commissioner of Health. The noncompliance penalty shall be Twenty Dollars (\$20.00) per day until the deficiencies are corrected or the jail is closed by court order. The fee shall be paid by the county to the State Department of Health to be deposited in the General Fund of the State Treasury.

SECTION 11. RECODIFICATION 74 O.S. 2001, Section 195, shall be recodified as Section 70 of Title 57 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 12. 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.