STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2109

By: Kirby of the House

and

Wilkerson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to prisons and reformatories; creating the Oklahoma Integrated Justice Information Systems Steering Committee; providing for membership; establishing attendance and meeting requirements; providing for appointment of Chair; providing for travel reimbursement; providing for duties; requiring certain report; providing for administrative support; requiring records of investigations be kept confidential unless specifically authorized; requiring court order for the production of investigation records of deaths; specifying who may apply; requiring notice and hearing; requiring payment of reasonable costs for production of records; providing penalty; providing for exceptions; directing that certain persons receive the investigation report; allowing the dissemination of the investigation report to certain persons under certain circumstances; requiring all discussions of pending investigations be held in executive session; amending 57 O.S. 2001, Section 510.9, as amended by Section 1 of Enrolled Senate Bill No. 816 of the 2nd Session of the 49th Oklahoma Legislature, which relates to the Electronic Monitoring Program; modifying eligibility requirements; authorizing assignment to Electronic Monitoring Program while residing at halfway house or transitional living facility; amending 57 O.S. 2001, Section 549.1, as amended by Section 1, Chapter 59, O.S.L. 2003 (57 O.S. Supp. 2003, Section 549.1), which relates to purchase of prison industry goods and services; modifying purchase requirement; providing for codification; providing an effective date; and declaring an emergency.

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 508.2c of Title 57, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Oklahoma Integrated Justice Information Systems (OIJIS) Steering Committee which shall serve as an advisory board to the Oklahoma Legislature regarding issues pertinent to the strategic planning, development, funding, implementation, and operations of the justice information systems of the state.

B. The Committee shall be composed of the following members, except as otherwise provided by this section:

1. Two senators appointed by the President Pro Tempore of the Senate;

2. Two representatives appointed by the Speaker of the House of Representatives;

3. The Commissioner of Public Safety or a designee;

4. A judge appointed by the Chief Justice of the Oklahoma Supreme Court or a designee;

5. The Executive Coordinator of the District Attorneys Council or a designee;

6. The Director of the Oklahoma State Bureau of Investigation or a designee;

7. The Director of the Department of Corrections or a designee;

8. The Executive Director of the Office of Juvenile Affairs or a designee;

9. The Executive Director of the Oklahoma Association of Chiefs of Police or a designee;

10. The Executive Director of the Oklahoma Sheriffs' Association or a designee;

11. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or a designee;

12. The Director of the Oklahoma Indigent Defense System or a designee; and

13. The Director of the Oklahoma Criminal Justice Resource Center or a designee.

C. Each committee member shall be required to attend the meetings of the committee. While designees are allowed, the member shall identify the designee in writing to the Chair of the committee prior to any meeting. The committee will meet twice a year and at any other time as the Chair may call a meeting, upon such notice and in such manner as may be fixed by the rules of the committee. Failure to attend two consecutive meetings by a designee shall automatically result in the removal of the designee from the committee and the individual making the designation shall select a new designee.

D. The committee shall be chaired by one of the appointed members from the Senate, selected by the President Pro Tempore of the Senate, in the odd-numbered years and one of the appointed members of the House of Representatives, selected by the Speaker of the House of Representatives, in the even-numbered years. A majority of the members shall constitute a quorum for purposes of transacting business. Committee members shall not be compensated but shall be reimbursed their actual and necessary travel expenses as provided in the State Travel Reimbursement Act for members who are not members of the Legislature, and as provided in Section 456 of Title 74 of the Oklahoma Statutes for legislative members.

E. The duties of the committee shall be to:

1. Serve as the Executive Committee for oversight of the strategic planning, development, funding, implementation, and operations of the justice information systems of the state;

2. Review and discuss issues pertaining to justice information systems;

3. Make recommendations of issues relating to justice information systems to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, and the Secretary of the Safety and Security Cabinet;

4. Establish policy for the OIJIS Steering Committee;

5. Create an Operational Subcommittee for the OIJIS Steering Committee derived from the member agencies; and

6. Tasks for the Operational Subcommittee are:

a. to meet monthly or more frequently as needed,

b. to elect a Chair and Vice Chair of the Operational Subcommittee from their membership, each of whom will serve a two-year period with the Vice Chair assuming the duties automatically of the Chair upon completion of the two-year period of the Chair, or earlier in the case of the early loss of the Chair,

c. to review current justice information systems,

d. to create, annually update, and implement a strategic plan for improving the accuracy, completeness, and timeliness of criminal history information within the state,

e. to create, annually update, and implement a statewide plan for the integration of the justice information systems of the state, and

f. to assist as requested, review, and make recommendations on grant applications relative to justice information systems.

F. The committee is hereby authorized to enlist the aid of any agency of state government for assistance or for information to enable the committee to perform the duties charged in this section.

G. The committee shall make a written report each year to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, and the Secretary of the Safety and

Security Cabinet on any findings or recommendations concerning needed legislation, the potential impact, including fiscal estimates, of existing or proposed legislation, and the impact of agency policies which affect the justice information system.

H. The Oklahoma Criminal Justice Resource Center shall provide the administrative support in scheduling of meetings, providing records of the meetings, publication of reports, and any other support as required of and approved by the committee.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508.5 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Except as provided for in this section, all records relating to any investigation being conducted by the Investigations Division of the Department of Corrections shall be confidential and shall not be open to the public, unless authorized by the Director of the Department of Corrections at the conclusion of the investigation. Except as otherwise provided by law, the Director shall produce records of any investigation wherein a death has occurred only upon the order of a court of competent jurisdiction. Any interested party or litigant in a civil or criminal action may make application for an order to produce the records. The court, after notice to all parties and a hearing on the application, may, upon the showing of good cause, direct the release of a copy or any part of the records. In addition, the court shall direct the payment of reasonable costs by the requesting party for the production of the records. Any unauthorized disclosure of any information contained in the confidential files of the Investigations Division of the Department of Corrections shall be a misdemeanor.

B. Officers and agents of the investigations Division of the Department of Corrections shall disclose any investigative information to:

1. Officers and agents of federal, state, county, or municipal law enforcement agencies and district attorneys in the furtherance of criminal investigations within their respective jurisdictions; and

2. Appropriate accreditation bodies for purposes of obtaining or maintaining accreditation of the Investigations Division.

C. The Director of the Department of Corrections, the affected Deputy Director, the Legal Division of the Department of Corrections, and the Attorney General, in the case of investigations that focus on pending litigation, shall receive a report of the results of the requested investigation. The person or entity requesting the investigation may give that information only to the appropriate prosecutorial officer or agency having statutory authority in the matter, if that action appears proper from the information contained in the report, and shall not reveal or give such information to any other person or agency.

D. The State Board of Corrections may require the Director to advise the Board on the progress of pending investigations. All discussions of pending investigations shall be conducted in executive session not open to the public.

SECTION 3. AMENDATORY 57 O.S. 2001, Section 510.9, as amended by Section 1 of Enrolled Senate Bill No. 816 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 510.9 A. There is hereby created the Electronic Monitoring Program for inmates in the custody of the Department of Corrections who are sentenced for a nonviolent offense as defined by Section 571 of this title. The Department is authorized to use an electronic monitoring global positioning device to satisfy its custody duties and responsibilities.

B. After an inmate has been processed and received through the Lexington Assessment and Reception Center ~~and~~, has been incarcerated

in a secure facility for a minimum of one hundred eighty (180) days, ~~then assigned to an accredited halfway house or transitional living facility~~ and has met the criteria established in subsection C of Section 521 of this title, the Director of the Department of Corrections may assign the inmate, if eligible, to the Electronic Monitoring Program. Nothing shall prohibit the Director from assigning an inmate to the Electronic Monitoring Program while assigned to the accredited halfway house or transitional living facility. The following inmates, youthful offenders, and juveniles shall not be eligible for assignment to the program:

1. Any inmate who has eleven (11) months or more left on their sentence;

2. Inmates convicted of a violent offense within the previous ten (10) years;

3. Inmates convicted of any violation of the provisions of the Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes;

4. Inmates denied parole within the previous twelve (12) months pursuant to Section 332.7 of this title;

5. Inmates convicted pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes who are not receptive to substance abuse treatment and follow-up treatment;

6. Inmates removed from the Electronic Monitoring Program or any other alternative to incarceration authorized by law for violation of any rule or condition of the program and reassigned to imprisonment in a correctional facility;

7. Inmates deemed by the Department to be a security risk or threat to the public;

8. Inmates requiring educational, medical or other services or programs not available in a community setting as determined by the Department;

9. Inmates convicted of any violation of subsection C of Section 644 of Title 21 of the Oklahoma Statutes or who have an active protection order that was issued under the Protection from Domestic Abuse Act, Sections 60 through 60.16 of Title 22 of the Oklahoma Statutes;

10. Inmates who have outstanding felony warrants or detainers from another jurisdiction;

11. Inmates convicted of a sex offense who, upon release from incarceration, would be required by law to register pursuant to the Sex Offender Registration Act;

12. Inmates convicted of racketeering activity as defined in Section 1402 of Title 22 of the Oklahoma Statutes;

13. Inmates convicted pursuant to subsection F of Section 2-401 of Title 63 of the Oklahoma Statutes;

14. Inmates convicted pursuant to Section 650 of Title 21 of the Oklahoma Statutes;

15. Inmates who have escaped from a penal or correctional institution within the previous ten (10) years; or

16. Inmates who currently have active misconduct actions on file with the Department of Corrections.

C. Every eligible inmate assigned to the Electronic Monitoring Program shall remain in such program until one of the following conditions has been met:

1. The inmate discharges the term of the sentence;

2. The inmate is removed from the Electronic Monitoring Program for violation of any rule or condition of the program and reassigned to imprisonment in a correctional facility; or

3. The inmate is paroled by the Governor pursuant to Section 332.7 of this title.

D. After an inmate has been assigned to the Electronic Monitoring Program, denial of parole pursuant to Section 332.7 of this title, shall not be cause for removal from the program,

provided the inmate has not violated the rules or conditions of the program. The inmate may remain assigned to the program, if otherwise eligible, until the completion of the sentence.

E. The Electronic Monitoring Program shall require active supervision of the inmate in a community setting by a correctional officer or other employee of the Department of Corrections with monitoring by a global positioning device approved by the Department under such rules and conditions as may be established by the Department. If an inmate violates any rule or condition of the program, the Department may take necessary disciplinary action consistent with the rules established pursuant to this section, including reassignment to a higher level of security or removing the inmate from the program with reassignment to imprisonment in a correctional facility. Any inmate who escapes from the Electronic Monitoring Program shall be subject to the provisions of Section 443 of Title 21 of the Oklahoma Statutes.

F. Upon an inmate assigned to the Electronic Monitoring Program becoming eligible for parole consideration, pursuant to Section 332.7 of this title, the Department of Corrections shall deliver the inmate, in person, to a correctional facility for interview, together with any Department records necessary for the Pardon and Parole Board's investigation. Inmates assigned to the Electronic Monitoring Program shall not be allowed to waive consideration or recommendation for parole.

G. Prior to placement of any eligible inmate assigned to the Electronic Monitoring Program being placed in a community setting, the Department of Corrections shall deliver a written notification to the sheriff and district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be monitored and supervised under the program. The district attorney shall disseminate such information to victims of

the crime for which the inmate is serving sentence, if any, when the victims are known to live in the same city, town or county.

H. An inmate assigned to the Electronic Monitoring Program may be required to pay the Department of Corrections for all or part of any monitoring equipment or fee, substance abuse treatment program or follow-up treatment expense, supervision cost, or other costs while assigned to the program. The Department shall determine whether the inmate has the ability to pay all or part of such fee or costs.

I. The Department of Corrections shall promulgate and adopt rules and procedures necessary to implement the Electronic Monitoring Program, including but not limited to methods of monitoring and supervision, disciplinary action, reassignment to higher and lower security levels, removal from the program, and costs of monitoring and supervision to be paid by the inmate, if any.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 549.1, as amended by Section 1, Chapter 59, O.S.L. 2003 (57 O.S. Supp. 2003, Section 549.1), is amended to read as follows:

Section 549.1 A. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the manufacture or production of such articles or products as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof.

B. All articles and services provided by the Department of Corrections in the state correctional institutions, and not required

for use therein, shall be purchased as required by all offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency thereof of this state which are supported in whole or in part by this state, if such article or service is the lowest ~~and best bid~~ price, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the Office of Public Affairs or by direct order to the prison industries program of the Department of Corrections.

C. If a requisition is received by the Office of Public Affairs or a direct order is received by the Prison Industries Program of the Department of Corrections from a state agency for any product or service provided by the Department of Corrections and such product or service is also available from a severely handicapped person or a qualified nonprofit agency for the severely handicapped as provided in ~~Sections~~ Section 3001 et seq. of Title 74 of the Oklahoma Statutes at a comparable price, then the product or service shall be purchased from such severely handicapped person or qualified nonprofit agency for the severely handicapped. If the product or service is not available within the time period required by the purchasing state agency, then such product or service shall be purchased from the Department of Corrections under the provisions of this section.

D. All counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, which are supported in whole or in part by this state, may purchase the goods or services produced by the prison industries of the Department of Corrections through their properly authorized purchasing authority,

or they may place a direct order without competitive bid, with the prison industries of the Oklahoma Department of Corrections.

E. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase such goods and services. Units of the federal government and units of government in other states may also purchase such goods and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-for-profit corporations or charitable agencies chartered in Oklahoma may purchase goods or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase goods and services produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.

F. Others are prohibited from purchasing such goods and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged for other food, feed or seed products of comparable value. The Department of Corrections shall keep complete and accurate records of any such barters or exchanges in such form and manner as the Office of Public Affairs may prescribe. A copy of such records shall be filed with the Office of Public Affairs no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year.

G. Products manufactured by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Office of Public Affairs. Products shall be provided at a fair market price for comparable quality.

H. State agencies shall make maximum utilization of such products and no similar products shall be purchased by state agencies from any other source than the Department of Corrections

except as provided in subsection C of this section, unless the Department of Corrections certifies to the Central Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.

I. Exceptions from the mandatory provisions hereof may be made in any case where, in the opinion of the Office of Public Affairs, the article or product does not meet the reasonable requirements of or for such offices, departments, institutions or agencies, or in any case where the requisitions made cannot be reasonably complied with. No such offices, departments, institutions or agencies, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the Office of Public Affairs, when the articles, services or products produced or manufactured by the Oklahoma Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such offices, departments, institutions or agencies.

J. In the event of disagreement between the Department of Corrections and the Central Purchasing Director on fairness of price, ability to comply to specifications, reasonableness of specifications and timeliness of delivery of products the matter will be resolved by the Director of Public Affairs.

K. The Office of Public Affairs shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products manufactured and services provided by the prison industries.

L. The Department of Corrections shall prepare catalogs containing the description of all goods and services provided, with the pricing of each item. Copies of such catalog shall be sent by the Department of Corrections to all offices, departments, institutions and agencies of this state, and shall be available for distribution to all other eligible customers.

SECTION 5. Section 2 of this act shall become effective November 1, 2004.

SECTION 6. 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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