

ENROLLED SENATE
BILL NO. 673

By: Crutchfield of the Senate

and

Roan, Smithson, Nance and
Walker of the House

An Act relating to public safety; amending 21 O.S. 2001, Section 533, which relates to refusing to receive prisoners; providing penalties for officers and contractors refusing to receive or fingerprint prisoners; amending 21 O.S. 2001, Section 1533, which relates to falsely personating certain officers; providing penalty for display of certain law enforcement items; requiring certain persons to be held in county where arrested by sheriff or contractor; amending 22 O.S. 2001, Section 459, which relates to nonbailable offenses; providing for prisoners to be held by certain contractors; amending 47 O.S. 2001, Section 2-102, as amended by Section 4, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2002, Section 2-102), which relates to Commissioner of Public Safety; clarifying statutory language; authorizing the Commissioner to participate in certain retirement systems; amending 47 O.S. 2001, Section 2-105.3a, which relates to executive security; authorizing the Commissioner to provide temporary executive security to certain officials; authorizing the Commissioner to provide executive security to certain political candidates and officials upon direction of the Governor; amending 47 O.S. 2001, Section 11-403, as amended by Section 76, Chapter 468, O.S.L. 2002 (47 O.S. Supp. 2002, Section 11-403), which relates to vehicles entering stop or yield intersections; deleting reference to certain "T intersections"; providing for violations in school zone; stating penalty; amending 47 O.S. 2001, Section 12-101, which relates to driving violations; providing for dismissal of certain charges resulting from certain defective equipment; amending 47 O.S. 2001, Section 13-102, which relates to vehicle inspections; providing for dismissal of certain charges resulting from defective equipment; amending 47 O.S. 2001, Section 14-101, as amended by Section 1, Chapter 201, O.S.L. 2002 (47 O.S. Supp. 2002, Section 14-101), which relates to oversize vehicles; stating exception for oversize vehicles on certain interstate or defense highways; modifying certain date; amending 74 O.S. 2001, Section 150.12, which relates to fingerprint and criminal history information; requiring certain officers receiving

custody of prisoners to take fingerprints; requiring contractors to take fingerprints; modifying certain requirements for fingerprinting persons in custody; amending 63 O.S. 2001, Section 2-103, which relates to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission; allowing certain retirement election; amending 74 O.S. 2001, Section 150.6, which relates to the Oklahoma State Bureau of Investigation; allowing certain retirement election; 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 21 O.S. 2001, Section 533, is amended to read as follows:

Section 533. ~~Every~~ A. Any officer or contractor who, in violation of a duty imposed upon ~~him~~ the officer or contractor by law as such officer or by contract to receive into ~~his~~ the officer's custody any person as a prisoner, willfully neglects or refuses so to receive such person into ~~his~~ the officer's custody, is guilty of a misdemeanor.

B. Any officer or contractor who, in violation of a duty imposed upon the officer by laws or by contract to fingerprint any person received into the officer's custody as a prisoner, willfully neglects or refuses so to fingerprint such person is guilty of a misdemeanor.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1533, is amended to read as follows:

Section 1533. A. Except as provided in subsection B of this section, every person who falsely personates any public officer, civil or military, any ~~fireman~~ firefighter, any law enforcement officer, any emergency medical technician or other emergency medical care provider, or any private individual having special authority by law to perform any act affecting the rights or interests of another,

or who assumes, without authority, any uniform or badge by which such officers or persons are usually distinguished, and in such assumed character does any act whereby another person is injured, defrauded, harassed, vexed or annoyed, upon conviction, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

B. Every person who falsely personates any public officer or any law enforcement officer in connection with or relating to any sham legal process shall, upon conviction, be guilty of a felony, punishable by imprisonment for not more than two (2) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

C. Every person who falsely asserts authority of law not provided for by federal or state law in connection with any sham legal process shall, upon conviction, be guilty of a felony, punishable by imprisonment for not more than two (2) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

D. Every person who, while acting falsely in asserting authority of law, attempts to intimidate or hinder a public official or law enforcement officer in the discharge of official duties by means of threats, harassment, physical abuse, or use of sham legal process, shall be guilty of a felony, punishable by imprisonment for not more than two (2) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

E. Any person who, without authority under federal or state law, acts as a supreme court justice, a district court judge, an associate district judge, a special judge, a magistrate, a clerk of

the court or deputy, a notary public, a juror or other official holding authority to determine a controversy or adjudicate the rights or interests of others, or signs a document in such capacity, shall be guilty of a felony, punishable by imprisonment for not more than two (2) years, or a fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

F. Every person who uses any motor vehicle or motor-driven cycle usually distinguished as a law enforcement vehicle or equips any motor vehicle or motor-driven cycle with any spot lamps, audible sirens, or flashing lights, in violation of Sections 12-217, 12-218 or 12-227 of Title 47 of the Oklahoma Statutes, or in any other manner uses any motor vehicle or motor-driven cycle for the purpose of falsely personating a law enforcement officer and who in such assumed character commits any act whereby another person is injured, defrauded, harassed, vexed or annoyed shall, upon conviction, be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years, or by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

G. 1. Any person who displays or causes to be displayed the words "State Police" alone or in conjunction with any other word or words on any motor vehicle, badge, clothing, identification card, or any other object or document with the intent to communicate policing authority shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not exceeding One Thousand Dollars (\$1,000.00).
This paragraph shall not apply to commissioned officers of:

- a. the Department of Public Safety,
- b. the Oklahoma State Bureau of Investigation,

- c. the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
- d. the Alcoholic Beverage Laws Enforcement Commission,
and
- e. the State Fire Marshal.

2. Any person who displays or causes to display such words as provided in this subsection for the purpose of falsely personating a law enforcement officer and as such commits any act whereby another person is injured, defrauded, harassed, vexed or annoyed shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding ten (10) years, or by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

H. As used in this section:

1. "Sham legal process" means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, and purports to do any of the following:

- a. to be a summons, subpoena, judgment, arrest warrant, search warrant, or other order of a court recognized by the laws of this state, a law enforcement officer commissioned pursuant to state or federal law or the law of a federally recognized Indian tribe, or a legislative, executive, or administrative agency established by state or federal law or the law of a federally recognized Indian tribe,
- b. to assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights,

duties, powers, or privileges of any person or property, or

- c. to require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property; and

2. "Lawfully issued" means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, or a political subdivision of a state.

~~H.~~ I. It shall not be a defense to a prosecution under subsection B, C, D or E of this section that:

1. The recipient of the sham legal process did not accept or believe in the authority falsely asserted in the sham legal process;

2. The person violating subsection B, C, D or E of this section does not believe in the jurisdiction or authority of this state or of the United States government; or

3. The office the person violating subsection B, C, D or E of this section purports to hold does not exist or is not an official office recognized by state or federal law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 190.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

The person, when arrested without warrant for an offense not bailable, shall be held in custody by the sheriff of the county in which the arrest was made. If the sheriff has contracted for the custody of prisoners in the county, the contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section.

SECTION 4. AMENDATORY 22 O.S. 2001, Section 459, is amended to read as follows:

Section 459. The defendant, when arrested under a warrant for an offense not bailable, ~~must~~ shall be held in custody by the sheriff of the county in which the indictment or information is filed. If the sheriff has contracted for the custody of prisoners in the county, such contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-102, as amended by Section 4, Chapter 397, O.S.L. 2002 (47 O.S. Supp. 2002, Section 2-102), is amended to read as follows:

Section 2-102. A. 1. The Department shall be under the control of an executive officer to be known as the "Commissioner of Public Safety", who shall be appointed by the Governor with the advice and consent of the Senate.

2. The Commissioner of Public Safety shall be a professional law enforcement officer with ten (10) years' experience in the field of law enforcement or with five (5) years' experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science.

3. Any vacancy in the office of the Commissioner ~~of Public Safety~~ shall be filled in the same manner as the original appointment is made.

~~Said~~ 4. The Commissioner ~~of Public Safety~~ shall be allowed the actual and necessary communication expenses incurred in the performance of ~~his~~ official duties of the Commissioner while away from ~~his~~ the office.

B. The Commissioner of Public Safety, after appointment and before entering upon the discharge of duties, shall take and subscribe to the oath of office required by the Constitution. Bonding of the Commissioner of Public Safety and other employees of the Department will be provided under the provisions of Section 85.26 of Title 74 of the Oklahoma Statutes.

C. The Commissioner of Public Safety shall be eligible to participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 2-105.3a, is amended to read as follows:

Section 2-105.3a A. Upon receipt from the Oklahoma State Bureau of Investigation of an investigative report pursuant to paragraph 9 of Section 150.2 of Title 74 of the Oklahoma Statutes, the Commissioner of Public Safety or a designee shall determine what, if any, executive security will be provided to the official by the Department of Public Safety. Nothing in this subsection shall preclude the Commissioner from providing temporary executive security to an official of this state or of any political subdivision of the state, if essential, prior to the receipt of the investigative report from the Oklahoma State Bureau of Investigation.

B. The Commissioner of Public Safety may, upon the request of a state agency head, appoint and commission qualified individuals to provide executive security for that agency. The Commissioner shall determine the qualifications of the individuals, the authority level and the time period for the appointment and commission. ~~Nothing in~~

~~this section shall preclude the Department of Public Safety from providing temporary executive security to a state official, if essential, prior to the receipt of the investigative report from the Oklahoma State Bureau of Investigation~~

C. The Commissioner of Public Safety shall, at the direction of the Governor, provide executive security for political candidates, foreign elected or appointed officials, visiting public officials, or any other person for whom executive security is deemed necessary by the Governor.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 11-403, as amended by Section 76, Chapter 468, O.S.L. 2002 (47 O.S. Supp. 2002, Section 11-403), is amended to read as follows:

Section 11-403. A. Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in Section 15-108 of this title.

B. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by subsection (d) of Section 11-703 of this title and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

C. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary as provided in subsection (e) of Section 11-703 of this title, and shall yield the

right-of-way to any pedestrian legally crossing the roadway on which the driver is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding, provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of ~~his~~ the driver's failure to yield right-of-way.

D. Where two or more vehicles face stop, slow, warning or caution signs or signals on two or more intersecting cross streets, and are approaching so as to enter the intersection at the same time, where each vehicle is required to stop, the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to slow, the vehicle coming from the right shall have the right-of-way. Where each vehicle is required to take caution, the vehicle coming from the right shall have the right-of-way. Where one vehicle is required to stop and the other to slow or take caution, the one slowing or taking caution shall have the right-of-way. Where one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right-of-way. In any event, a vehicle which has already entered the intersection shall have the right-of-way over one which has not so entered the intersection.

~~E. A "T intersection" is hereby defined as a publicly maintained road which terminates directly upon another publicly maintained road. Termination of the road means that it is not possible to continue in the same direction across the nonterminating~~

~~publicly maintained roadway. If continuous travel is possible without regard to whether said travel would continue on a public or private way, said nonterminating travel lane or road shall not be considered a T intersection. If said road terminates at a T intersection, where two or more vehicles approach said T intersection, the vehicle or vehicles approaching on the terminating branch of the T intersection, regardless of direction of travel of any approaching vehicle or vehicles on the nonterminating branch of through road, shall yield to said approaching vehicle or vehicles unless traffic control devices are posted to the contrary. However, if there is a contiguous travel lane through the intersection, public or private way, the intersection shall not be defined as a T intersection, and the rules as set forth in subsections A and D of this section shall apply.~~

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-806.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

Where any portion of a road, street, or highway is a properly marked school zone, as indicated with appropriate warning signs placed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices, and a reduced speed limit as properly posted, shall be in effect during certain times due to the presence or potential presence of school children, no person shall drive any vehicle upon that portion of the highway which is the school zone in excess of the reduced speed limit so posted when the reduced speed limit is in effect. Violation of the posted reduced speed limit in the school zone shall result in the doubling of the appropriate fine.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 12-101, is amended to read as follows:

Section 12-101. A. Except as otherwise provided, it shall be a misdemeanor, upon conviction, punishable by fine of not more than Ten Dollars (\$10.00), for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

B. Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with provisions of this chapter, and compliance with regulations of the Interstate Commerce Commission governing motor carriers operating in interstate commerce shall be deemed to be a compliance with all provisions of this chapter.

C. The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable.

D. A low-speed electrical vehicle which is in compliance with the equipment requirements in 49 C.F.R. 571.500 shall be deemed to be in compliance with the provisions of Chapter 12 of this title.

E. Any person producing proof within forty-eight (48) hours that a condition or equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall

be entitled to dismissal of such charge without assessment of court costs.

SECTION 10. AMENDATORY 47 O.S. 2001, Section 13-102, is amended to read as follows:

Section 13-102. ~~(a)~~ A. Members of the ~~State~~ Oklahoma Highway Patrol and other employees of the Department of Public Safety as designated by the Commissioner, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair or the operator is not properly licensed, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

~~(b)~~ B. In the event such vehicle or combination of vehicles is found to be in an unsafe mechanical condition or is not equipped as required by this act, the officer making the inspection may give the driver a notice of arrest or written warning. Any person producing proof within forty-eight (48) hours that a condition or equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall be entitled to dismissal of such charges without assessment of court costs.

~~(c)~~ C. No person shall operate or cause to be operated any vehicle or combination of vehicles after notice of arrest or written warning has been issued of such unsafe condition or that the vehicle is not equipped as required by this act, except as may be necessary to return such vehicle or combination of vehicles to the residence or place of business of the owner or driver if within a distance of twenty (20) miles or to a garage, until said vehicle and its

equipment has been made to conform with the requirements of this act.

~~(d)~~ D. Any vehicle or combination of vehicles found to have major mechanical defects which would be hazardous to other users of the highways if it were driven from the place of inspection as provided for in subsection ~~(e)~~ C of this section shall be towed to a garage for repairs, and any repair charge, tow charge or storage charge for the repair, removal and storing of the vehicle shall be the obligation of the owner or operator.

SECTION 11. AMENDATORY 47 O.S. 2001, Section 14-101, as amended by Section 1, Chapter 201, O.S.L. 2002 (47 O.S. Supp. 2002, Section 14-101), is amended to read as follows:

Section 14-101. A. It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this chapter or otherwise in violation of this chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state and local authorities shall have no power or authority to alter said limitations except as express authority may be granted in this chapter.

B. The provisions of this chapter governing size, weight and load shall not apply to fire apparatus, vehicles transporting heavy equipment on any highway other than an interstate and defense highway to and from areas during emergencies for the purpose of fighting fires, Department of Transportation research testing equipment, vehicles used by retail implement dealers while hauling implements of husbandry or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to a vehicle

operated under the terms of a special permit issued as herein provided.

C. All size, weight and load provisions covered by this chapter shall be subject to the limitations imposed by Title 23, United States Code, Section 127, and such other rules and regulations developed herein. Provided further that any size and weight provision authorized by the United States Congress for use on the National System of Interstate and Defense Highways, including but not limited to height, axle weight, gross weight, combinations of vehicles or load thereon shall be authorized for immediate use on such segments of the National System of Interstate and Defense Highways and any other highways or portions thereof as designated by the Transportation Commission or their duly authorized representative.

D. Any vehicle permitted for movement on the highways of this state as provided in Section 14-101 et seq. of this title, other than a vehicle permitted solely for overweight movement, shall be moved only during daylight hours. As used in Section 14-101 et seq. of this title, "daylight hours" shall mean one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

E. 1. Any vehicle permitted for movement on the highways of this state as provided in Section 14-101 et seq. of this title shall not be moved at any time on the following holidays:

- a. New Year's Day (January 1),
- b. Memorial Day (the last Monday in May),
- c. The Fourth of July (Independence Day),
- d. Labor Day (the first Monday in September),
- e. Thanksgiving Day (the fourth Thursday in November),

- f. The day following Thanksgiving Day (the fourth Friday in November),
- g. Christmas Eve (December 24), and
- h. Christmas Day (December 25), ~~and~~
- ~~i. New Year's Eve (December 31).~~

For the purposes of the prohibition of movement on holidays as prescribed in this paragraph, the holidays listed above shall be deemed to begin at twelve o'clock noon on the day preceding the holiday and continue through the holiday named above.

2. Any vehicle permitted for movement on the highways of this state as provided in Section 14-101 et seq. of this title shall be allowed to move on the following holidays:

- a. Martin Luther King, Jr.'s Birthday (the third Monday in January),
- b. President's Day, also known as Washington's Birthday (the third Monday in February), and
- c. Veteran's Day (November 11).

SECTION 12. AMENDATORY 74 O.S. 2001, Section 150.12, is amended to read as follows:

Section 150.12 A. 1. It is hereby the duty of any sheriff, chief of police, city marshal, constable and any other law enforcement officer, ~~immediately upon the arrest of any person who~~ takes custody of a person who has been arrested and who, in the best judgment of the arresting officer, is believed to have committed any offense, except an offense exempted by the rules promulgated by the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 150.1 et seq. of this title, to take or cause to be taken the fingerprint impressions of such person or persons in triplicate and to forward two copies of such fingerprint impressions together

with identification information to the Oklahoma State Bureau of Investigation, at its Oklahoma City office. If the sheriff, chief of police, city marshal, or constable has contracted for the custody of prisoners, such contractor shall be required to take the fingerprint impressions of such person.

2. It shall not be the responsibility of, nor shall the sheriff, chief of police, city marshal, constable, other law enforcement officer, or contractor receiving custody of an arrested person as a prisoner require the arresting officer to take the fingerprint impressions of the arrested person; provided, if the arresting officer is employed by the same law enforcement agency as the sheriff, chief of police, city marshal, or constable receiving custody of such person, the arresting officer may be required to take such impressions.

3. The law enforcement officers shall also forward the prosecution filing report and the disposition report forms to the appropriate prosecuting authority within seventy-two (72) hours. If fingerprint impressions have not been taken at the time of an arrest, the court shall order the fingerprints to be taken by the sheriff at the arraignment, first appearance, or at the time of final adjudication of a defendant whose court attendance has been secured by a summons or citation for any offense, except an offense exempted by the rules promulgated by the Bureau. If a person is in the custody of a law enforcement or correctional agency and a warrant issues or an information is filed alleging the person to have committed an offense other than the offense for which the person is in custody, the custodial law enforcement or correctional agency shall take the fingerprints of such person in connection with the new offense, provided the offense is not exempted by the rules

of the Bureau. Any fingerprint impressions and identification information required by this subsection shall be sent to the Bureau within seventy-two (72) hours after taking such fingerprints.

B. In order to maintain a complete criminal history record, the court shall inquire at the time of sentencing whether or not the person has been fingerprinted for the offense upon which the sentence is based and, if not, shall order the fingerprints be taken immediately of such person and those fingerprints shall be sent by the law enforcement agency taking the fingerprint impressions to the Bureau within seventy-two (72) hours after taking the fingerprint impressions.

C. In addition to any other fingerprints which may have been taken of a person in a criminal matter, the Department of Corrections shall take the fingerprints of all prisoners received at the Lexington Reception and Assessment Center or otherwise received into the custody of the Department and shall send copies of such fingerprints together with identification information to the Bureau within seventy-two (72) hours of taking such fingerprints.

D. The Bureau shall, upon receipt of fingerprint impressions and identification information for offenses not exempt by rule of the Bureau, send one copy of the fingerprint impressions to the Federal Bureau of Investigation, at its Washington, D.C., office, and the other copy shall be filed in the Oklahoma State Bureau of Investigation's office. The rules promulgated by the Bureau pursuant to the provision of this act exempting certain offenses from mandatory reporting shall be based upon recommended Federal Bureau of Investigation standards for reporting criminal history information and are not intended to include violators of city or town ordinances and great care shall be exercised to exclude the

reporting of criminal history information for such offenses, except when recommended by the Federal Bureau of Investigation standards.

E. The reporting to the Oklahoma State Bureau of Investigation of criminal history information on each person subject to the mandatory reporting requirements of Section 150.1 et seq. of this title shall be mandatory for all law enforcement agencies, courts, judicial officials, district attorneys and correctional administrators participating in criminal matters, whether reported directly or indirectly, manually or by automated system as may be provided by the rules promulgated by the Bureau.

F. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within seventy-two (72) hours and the Bureau shall have seventy-two (72) hours after receipt of the report to enter such information into a criminal record data base:

1. An arrest;
2. The release of a person after arrest without the filing of any charge; and
3. A decision of a prosecutor not to commence criminal proceedings or to defer or postpone prosecution.

G. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within thirty (30) days and the Bureau shall have thirty (30) days after receipt of the report to enter such information into a criminal record data base:

1. A decision by a prosecutor to modify or amend initial charges upon which the arrest was made, including deletions or additions of charges or counts;

2. The presentment of an indictment or the filing of a criminal information or other statement of charges;

3. The dismissal of an indictment or criminal information or any charge specified in such indictment or criminal information;

4. An acquittal, conviction or other court disposition at trial or before, during or following trial, including dispositions resulting from pleas or other agreements;

5. The imposition of a sentence;

6. The commitment to or release from the custody of the Department of Corrections or incarceration in any jail or other correctional facility;

7. The escape from custody of any correctional facility, jail or authority;

8. The commitment to or release from probation or parole;

9. An order of any appellate court;

10. A pardon, reprieve, commutation of sentence or other change in sentence, including a change ordered by the court;

11. A revocation of probation or parole or other change in probation or parole status; and

12. Any other event arising out of or occurring during the course of criminal proceedings or terms of the sentence deemed necessary as provided by the rules established by the Bureau.

The Bureau shall have authority to withhold any entry on a criminal history record when there is reason to believe the entry is based on error or an unlawful order. The Bureau shall in such case take immediate action to clarify or correct the entry.

H. Information reportable under the provisions of this section shall be reportable by the law enforcement officer or person directly responsible for the action, event or decision, unless

otherwise provided by rule or agreement. The form and content of information to be reported and methods for reporting information, including fingerprint impressions and other identification information, shall be established by the rules promulgated by the Bureau. The Bureau is hereby directed to establish rules to implement the provisions of Section 150.1 et seq. of this title, provided any rule relating to reporting by courts or judicial officials shall be issued jointly by the Bureau and the Oklahoma Supreme Court.

I. Any person or agency subject to the mandatory reporting of criminal history information or fingerprints as required by the provisions of this act shall take appropriate steps to ensure that appropriate agency officials and employees understand such requirements. Each agency shall establish, and in appropriate cases impose, administrative sanctions for failure of an official or employee to report as provided by law. Refusal or persistent failure of a person or agency to comply with the mandatory reporting requirements of this act may result in the discontinued access to Bureau information or assistance until such agency complies with the law.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 2-103, is amended to read as follows:

Section 2-103. A. The Director shall be appointed by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission. The Director of Narcotics and Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director. The succeeding Director shall, at the time of ~~his~~ the appointment, have a Bachelor's Degree from an accredited college or university and at least five (5) years' experience in drug law enforcement. The

Director may appoint necessary assistants, agents, and other personnel to perform the work of the office and may prescribe their titles and duties and fix their compensation pursuant to Merit System rules. The Director may appoint an employee to the position of Public Information/Education Officer. Said position shall be unclassified and exempt from the rules and procedures of the Office of Personnel Management, except leave regulations. The office of the Director shall be located at a suitable place in Oklahoma City, Oklahoma.

B. 1. Agents appointed by the Director shall have the powers of peace officers generally; provided, the Director may appoint special agents to meet specific investigatory need, who do not meet the age and educational requirements as specified in this section.

2. Agents appointed on and after November 1, 1998, shall be at least twenty-one (21) years of age and shall have a Bachelor's Degree from an accredited college or university.

3. Each entering agent shall be required to serve one (1) year in a probationary status as a prerequisite to being placed on permanent status.

C. Agents appointed pursuant to the provisions of this section shall have the responsibility of investigating alleged violations and shall have the authority to arrest those suspected of having violated the provisions of the Uniform Controlled Dangerous Substances Act.

D. A commissioned employee of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be entitled to receive upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.

E. A commissioned employee of the Bureau may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement upon written approval of the Director.

F. Custody and possession of the sidearm and badge of a commissioned employee killed in the line of duty may be awarded by the Director to the spouse or next of kin of the deceased employee.

G. Custody and possession of the sidearm and badge of a commissioned employee who dies while employed at the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may be awarded by the Director to the spouse or next of kin of the deceased employee.

H. Any Director appointed on or after July 1, 2003, shall be eligible to participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

SECTION 14. AMENDATORY 74 O.S. 2001, Section 150.6, is amended to read as follows:

Section 150.6 A. The Oklahoma State Bureau of Investigation shall be under the operational control of a Director. The Director shall be appointed or dismissed by a majority vote of the total membership of the Commission. The Director shall be a professional law enforcement officer who possesses a bachelor's degree from an accredited college or university and who shall have a minimum of five (5) years' experience in criminal investigation and/or law enforcement or five (5) years' experience as an agent with said Bureau and must have at least two (2) years' experience in an administrative position.

B. Any Director appointed on or after July 1, 2003, may participate in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law Enforcement Retirement System and shall make an irrevocable election in writing to participate in one of the two retirement systems.

SECTION 15. Sections 1 through 12 of this act shall become effective November 1, 2003.

SECTION 16. 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.

Passed the Senate the 30th day of April, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2003.

Presiding Officer of the House
of Representatives