

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2252:

O'Neal

AS INTRODUCED

An Act relating to electronic transmission of documents; amending 22 O.S. 2001, Section 980, as amended by Section 2, Chapter 294, O.S.L. 2003 (22 O.S. Supp. 2003, Section 980), which relates to items that a sheriff must deliver when delivering a defendant to the Department of Corrections; providing that copy of judgment and sentence does not have to be delivered if previously sent electronically; amending 57 O.S. 2001, Section 37, which relates to procedures when correctional facilities reach maximum capacity; modifying procedure for transfer; authorizing documentation transfer by electronic mail; authorizing documentation transfer by court clerk; providing for transfer of judgment and sentence; amending 57 O.S. 2001, Section 95, which relates to delivery of sentenced persons by the sheriff; providing that copy of judgment and sentence does not have to be delivered if previously sent electronically; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 980, as amended by Section 2, Chapter 294, O.S.L. 2003 (22 O.S. Supp. 2003, Section 980), is amended to read as follows:

Section 980. If the judgment is for imprisonment in a state prison, the sheriff of the county or subdivision must, upon receipt of a certified copy thereof or authorized notification thereof, take and deliver the defendant to the warden of the Lexington Assessment and Reception Center or to a place determined by the Director of the Department of Corrections. The sheriff must also deliver to the Department of Corrections:

1. A certified copy of the judgment and sentence, unless the judgment and sentence has previously been sent electronically by an authorized clerk of the court;

2. A copy of any medical, dental, or mental health records of the defendant for conditions reviewed or treated while in the custody of the sheriff;

3. Any medication or medical or dental device prescribed for the defendant while in the custody of the sheriff or for a pre-existing condition;

4. Any forms required to be filed pursuant to the rules of the Court of Criminal Appeals at the time of the formal sentencing; and

5. Any forms of identification of the defendant that were in the possession of the defendant at the time of sentencing.

Upon delivery of the defendant with the required judgment, records and medication or devices, the sheriff must take from the Department of Corrections a receipt for the defendant, and make return thereof to the court.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 37, is amended to read as follows:

Section 37. A. If all correctional facilities reach maximum capacity and the Department of Corrections is required to contract for bed space to house state inmates, then the Pardon and Parole Board shall consider all nonviolent offenders for parole who are within six (6) months of their scheduled release from a penal facility.

B. No inmate may be received by a penal facility from a county jail without first scheduling a transfer with the Department. The sheriff or court clerk shall transmit by facsimile, electronic mail, or actual delivery a ~~transfer form~~ certified copy of the judgment and sentence certifying that the inmate is sentenced to the Department of Corrections. The ~~transfer form shall contain information~~ receipt of the certified copy of the judgment and

sentence shall be certification that the sentencing court has entered a judgment and sentence and all other necessary commitment documents. The Department of Corrections is authorized to ~~promulgate the transfer form for use by the sheriff~~ determine the appropriate method of delivery from each county based on electronic or other capabilities. Once the ~~form~~ judgment and sentence is received by the Department of Corrections, the Department shall contact the sheriff when bed space is available to schedule the transfer and reception of the inmate into the Department.

C. When a county jail has reached its capacity of inmates as defined in Section 192 of Title 74 of the Oklahoma Statutes, then the county sheriff shall notify the Director of the Oklahoma Department of Corrections, or the Director's designated representative, by facsimile, electronic mail, or actual delivery, that the county jail has reached or exceeded its capacity to hold inmates. The notification shall include copies of any judgment and sentences not previously delivered as required by subsection B of this section. Then within seventy-two (72) hours following such notification, the county sheriff shall transport the designated excess inmate or inmates to a penal facility designated by the Department. The sheriff shall notify the Department of the transport of the inmate prior to the reception of the inmate. The Department shall schedule the reception date and receive the inmate within seventy-two (72) hours of notification that the county jail is at capacity, unless other arrangements can be made with the sheriff.

D. Once the ~~transfer form~~ judgment and sentence is transmitted to the Department of Corrections, the Department will be responsible for the cost of housing the inmate in the county jail from the date the Department receives the transmittal until the date of transfer of the inmate from the county jail. The cost of housing shall be the per diem rate specified in Section 38 of this title. In the

event the inmate has other criminal charges pending in another Oklahoma jurisdiction the Department shall be responsible for the housing costs while the inmate remains in the county jail awaiting transfer to another jurisdiction. Once the inmate is transferred to another jurisdiction, the Department is not responsible for the housing cost of the inmate until such time that another ~~transfer~~ from judgment and sentence is received from another Oklahoma jurisdiction. The sheriff shall be reimbursed by the Department for the cost of housing the inmate in one of two ways:

1. The sheriff is authorized to submit invoices for the cost of housing the inmate on a monthly basis; or

2. The sheriff may submit one invoice for the total amount due for the inmate after the Department has received the inmate.

SECTION 3. AMENDATORY 57 O.S. 2001, Section 95, is amended to read as follows:

Section 95. A. Any person convicted of an offense against the laws of this state and sentenced to imprisonment that is not to be served in a county jail shall be transported by the sheriff of the county where the person is sentenced, or transported by a designated representative of the sheriff, to the Department of Corrections at the Lexington Assessment and Reception Center or other location designated by the Director of the Department of Corrections. The sheriff shall deliver the person to the Department at such center together with:

1. A certified copy of the judgment and sentence from the court ordering such imprisonment, unless the judgment and sentence previously has been sent electronically by an authorized clerk of the court;

2. A certificate setting forth the number of days served in the county jail after the pronouncement of judgment and rendering of sentence for the offenses committed;

3. A copy of any medical, dental, or mental health records of the defendant for conditions reviewed or treated while in the custody of the sheriff; ~~and~~

4. Any medication or medical or dental device prescribed for the defendant while in the custody of the sheriff or for a pre-existing condition; and

5. A copy of the presentence investigation report, if a report was prepared.

B. The Department shall give the sheriff a receipt for each person received into the custody of the Department at the Lexington Assessment and Reception Center. The receipt shall be filed by the sheriff in the office of the clerk of the court where the sentence was made.

SECTION 4. This act shall become effective July, 1, 2004.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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