

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1758

By: Hobson

AS INTRODUCED

An Act relating to criminal justice; creating the Office of Citizen Concerns for Criminal and Juvenile Justice within the Legislative Service Bureau; stating purpose; coordinating certain investigations and information with appropriate state agencies; requiring certain response to inquiries; requiring hiring of director by certain agencies; setting certain salary; directing certain support personnel be hired or provided by certain agencies; providing for office space and equipment by certain agencies; directing certain Office be funded within certain agency by appropriations; directing certain discrepancy be reported to the Governor's Cabinet Secretary for Safety and Security; authorizing access to certain facilities; allowing entry and inspection to certain facilities at reasonable times; providing for delegation of certain authority to inspect; stating procedure for denial of inspection of certain property; requiring written statement within certain period of time; requiring reporting of certain failures to certain official; creating the OCC Advisory and Complaint Board for certain purpose; stating membership; providing for appointments, terms of office, vacancies, and travel expense; providing for chair, other officers and subcommittees; requiring members serve without compensation; allowing complaint after certain determination; granting Board authority to determine complaint within certain provisions; requiring notice to all parties; requiring promulgation of rules for complaint hearings; providing for noncompliance or conflicts in law; prohibiting Board from enforcing its own determination; construing authority to seek other relief; directing reporting of criminal conduct discovered; stating where to report; making certain records confidential and exempt from the Oklahoma Open Records Act; exempting meeting from the Oklahoma Open Meeting Act; prohibiting reading, copying or removing certain records; providing exceptions; granting authority to administer oaths for certain purpose; providing for delegation of certain authority; authorizing Board to promulgate certain rules, procedures and forms; clarifying certain responsibilities for Office; allowing development of public service education; requiring approval by the Board; stating additional duties of Office; requiring certain report; directing certain Office to cooperate with certain entities; directing state agencies to respond to Office; granting immunity; prohibiting certain actions; 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 1550 of Title 22, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the Legislative Service Bureau, the Office of Citizen Concerns for Criminal and Juvenile Justice, hereinafter call the OCC Office. The OCC Office shall act as a central point of contact for the public, elected officials, and governmental agencies, to direct concerns or make inquiries regarding the criminal justice systems in this state, which shall include and not be limited to, state and local correctional, juvenile, and law enforcement agencies, criminal and juvenile court, prosecution and defense inquiries, offender inquiries, staff issues, and inquiries or recommendations concerning any rule, policy, procedure or law. The OCC Office shall ensure information and investigations are coordinated through the appropriate state agency and officials and that every inquiry receives honest and pertinent information, to address the issue.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

The OCC Office shall be administered by a director. The Executive Director of the Criminal Justice Resource Center and the Director of the Legislative Service Bureau shall hire the director. The initial salary of the director shall be the same as the Executive Director of the Criminal Justice Resource Center. Support personnel necessary to carry out the duties and responsibilities of the OCC Office may be hired by the OCC Director as either full-time, part-time or contract employees subject to available funds, or necessary personnel shall be provided by either the Legislative Service Bureau or the Criminal Justice Resource Center as determined by the location of the OCC Office. Office space and equipment shall

be provided for the OCC Office by either the Legislative Service Bureau or the Criminal Justice Resource Center as determined by the location of the Office. The OCC Office and all personnel shall be funded by Legislative appropriation to the Legislative Service Bureau.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

In the event the OCC Office reasonably determines that any offender in the custody of any state or local correctional or juvenile facility, or any offender housed by any entity under contract with any agency of this state, has been unreasonably treated or any misfeasance or discrepancy in administration by any public agency has occurred which is discovered by the OCC Office, or which is brought to the attention of the OCC Office by any person or as a result of any investigation on behalf of the OCC Office, such determination shall be reported to the Governor's Cabinet Secretary for Safety and Security and shall be made known in periodic reports, and in an annual report issued by the OCC Office to the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The OCC Office shall forward a copy of the determination to the Governor's Cabinet Secretary for Safety and Security for investigation as provided by the rules promulgated for this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

The OCC Director, and any designated personnel, shall have access to all correctional institutions, jails, juvenile facilities, and facilities contracting with any state correctional or juvenile agency. The OCC Director, or the Director's designee, may enter and inspect at any reasonable time the premises under the control of the

Department of Corrections or the Office of Juvenile Affairs, or under the control of any entity housing offenders under contract with such agencies, or any county jail or holding facility.

If the OCC Director, or the Director's designee, is denied access to any premises under the control of any jail, prison facility, or private person facility, within twenty-four (24) hours after the denial the administrative or executive officer of such premises shall give the OCC Director a written statement of the reason for denial of access. Failure to provide the written statement or to allow access shall be immediately reported to the Governor's Cabinet Secretary for Safety and Security for investigation.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.4 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the OCC Advisory and Complaint Board to consist of seven (7) members as follows:

1. The Director of the OCC Office shall serve as a member;
2. The Governor's Cabinet Secretary for Safety and Security shall serve as a member;
3. One member who shall be an attorney and who is not a member of the Senate shall be appointed by the President Pro Tempore of the Senate;
4. One member who shall be an attorney and who is not a member of the House of Representatives shall be appointed by the Speaker of the House of Representatives;
5. One member who shall not be a current or previous employee of the Department shall be appointed by the Director of Corrections;
6. One member who shall not be a current or previous employee shall be appointed by the Director of the Office of Juvenile Affairs; and

7. One member who shall represent the public at large shall be appointed by the Governor.

B. The OCC Director and the Governor's Cabinet Secretary for Safety and Security shall serve as members coterminous with their positions. Of the initial members appointed, the members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall serve three-year terms; the members appointed by the Department of Corrections and the Office of Juvenile Affairs shall serve two-year terms; and the member appointed by the Governor shall serve a one-year term. Thereafter, all appointed members shall serve four-year terms. A vacancy in any term shall be filled by the appointing authority. All members may be reappointed. Members shall serve without compensation, but may be reimbursed for necessary travel expenses as provided by the State Travel and Reimbursement Act. A chair shall be selected by the membership to serve a two-year term. The membership may appoint other officers as deemed necessary, and the chair may establish subcommittees for purposes of studies, investigations, or as otherwise needed to accomplish the duties and responsibilities of the OCC Board and Office.

C. The Board shall advise the OCC Director and hear complaints concerning unresolved issues within the criminal or juvenile justice systems of this state. A complaint may be filed against any agency or office, or its contractors or employees, or any official of this state after the OCC Office and Board have determined that the issue cannot be resolved through other mediated efforts. The Board shall be authorized to hear and determine complaints within the provisions of law after notice to all parties. The Board shall establish rules for conducting complaint hearings. Any noncompliance of any agency and any omission or conflict in provisions of law shall be reported to the appropriate authority for further consideration. The Board shall not enforce its own determinations or finding on any

complaint. Nothing in this act shall prohibit the complaining party from seeking civil or other relief. Any criminal conduct discovered during any investigation or hearing shall be promptly reported to the district attorney of the jurisdiction where the alleged crime occurred, or the Attorney General, for investigation and prosecution as provided by law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.5 of Title 22, unless there is created a duplication in numbering, reads as follows:

All records of the OCC Office and the OCC Board which relate to complaints or investigations shall be confidential and shall not be disclosed, directly or indirectly, to any person, except as otherwise specifically required by law or authorized by a majority vote of the OCC Board together with written permission from the complaining or investigated party. All records of the OCC Office shall be exempt from the Oklahoma Open Records Act.

No documents relating to complaints, investigations or studies in the possession of the OCC Office, its contractors or employees, shall be read, copied, photographed, transmitted, taken or removed by any elected official, agency officer or personnel, or any other person, except as specifically authorized by law, or authorized by the OCC Director for purposes of information or investigation, or by a majority vote of the OCC Board together with written permission from the complaining or investigated party.

All meetings of the OCC Board and OCC office shall be exempt from the Oklahoma Open Meeting Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.6 of Title 22, unless there is created a duplication in numbering, reads as follows:

The OCC Director and the Chair of the OCC Board, and their designees, are hereby authorized to administer oaths as specified by

the rules of the OCC Board, for purposes of investigations, hearings, or obtaining any information.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.7 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The OCC Board shall promulgate rules, procedures and forms necessary to implement the provisions of this act and for the administration of the OCC Office and Board, its duties and responsibilities.

B. The OCC Office may serve as the liaison between the public and any state criminal or juvenile justice agency or official in an effort to provide general information or education, but primarily the OCC Office will respond to specific private concerns and inquiries directed to the OCC Office by elected officials, state and local agencies, families and friends of offenders, and the general public. The OCC Office may develop public service education and training segments in any area or on any specific issue relating to the criminal or juvenile justice systems of this state when there are multiple inquiries to the OCC Office on the same or similar issues indicating the public's need for clarification or education. Public service segments shall be approved by the OCC Board prior to public presentation.

C. In addition to any other duty or responsibility specified in this act, the OCC Office shall:

1. Be objective and responsive to concerns and inquiries from the public, state and local agencies, employees of such agencies, and elected officials;

2. Respond to informational inquiries regarding agency policies, procedures or actions;

3. Make appropriate referrals to state and local agencies and agency staff;

4. Act as a contact and information resource for special interest groups;

5. Gather information from several sources to provide a concise answer to an inquiry and eliminate duplication of efforts between agencies;

6. Identify conflicting laws, rules, policies or procedures;

7. Respond to offender inquiries or correspondence, and inquiries by family and friends of offenders; and

8. Make recommendations to agencies, elected officials, and the legislature.

The OCC Director may prepare a report annually and submit such report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The OCC Board shall review and approve any annual report prior to submitting the report, and may promulgate rules describing the type of information to be reported.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.8 of Title 22, unless there is created a duplication in numbering, reads as follows:

The OCC Office shall work cooperative with all state and local criminal and juvenile justice agencies and officials. All state and local criminal and juvenile agencies, and any entities contracting with such agencies, are hereby directed to promptly respond to any inquiry or investigation by the OCC Office, or any other agency or person acting on behalf in writing for the OCC Office.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.9 of Title 22, unless there is created a duplication in numbering, reads as follows:

All employees and contractors of the OCC Office are hereby granted immunity from civil liability for any omission that does not constitute gross neglect of duty and for all acts performed in good

faith within the scope of the duties and responsibilities provided in this act and by the rules promulgated by the OCC Board.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1550.10 of Title 22, unless there is created a duplication in numbering, reads as follows:

No agency, office or person shall take discriminatory, disciplinary or retaliatory actions against any person for filing a complaint in good faith with the OCC Office or providing any information in good faith to such Office based upon an investigation, inquiry or for purpose of any complaint.

SECTION 12. This act shall become effective July 1, 2006.

SECTION 13. 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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