

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 773

By: Wilson

AS INTRODUCED

An Act relating to corrections; amending 57 O.S. 2001, Section 530.1, as amended by Section 2, Chapter 143, O.S.L. 2004 (57 O.S. Supp. 2004, Section 530.1), which relates to reception of inmates; modifying authority for placement of certain inmates upon reception; requiring treatment placement for certain inmates within certain time period; providing exception for certain prior offenses; specifying eligible offenses for treatment placement; providing for certain standards and services for treatment; directing the Department to contract for certain services or placements; requiring the Department of Corrections to determine certain safety and security of certain facilities; providing for outpatient and aftercare services; requiring development of certain alternatives to incarceration; amending 57 O.S. 2001, Section 612, which relates to classification of inmates convicted of driving under the influence of alcohol or other intoxicating substance; construing inmates status during certain period of placement; allowing for change in inmates status; allowing term of incarceration to be served in alternatives to incarceration; clarifying certain definitions; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 530.1, as amended by Section 2, Chapter 143, O.S.L. 2004 (57 O.S. Supp. 2004, Section 530.1), is amended to read as follows:

Section 530.1 A. The Department of Corrections, by the rules of that Department, shall have the following duties which shall be performed as part of the assessment and reception process of the Department of Corrections, upon reception of each inmate:

1. To administer, or cause to be administered, physical and psychological examination of all inmates, including the collection of DNA specimens as required pursuant to Section 991a of Title 22 of the Oklahoma Statutes;

2. To identify the vocational-technical skills of all inmates. The information shall be noted on and made a part of the record for each inmate;

3. To assess the educational and training needs of all inmates;

4. To determine from available records and interviews, the place of birth of new inmates. The Department of Corrections shall furnish a list of foreign-born nationals and suspected foreign-born nationals to the Immigration and Naturalization Service on a weekly basis;

5. To determine initial security and custody classifications, except as may otherwise be specified by law or provided in this section or Section 612 of this title;

6. To determine and ~~recommend for placement~~ place in an alcohol or substance abuse treatment facility or program, as provided for in subsection B of this section and Section 612 of this title, any inmate convicted of an alcohol related offenses offense or who otherwise in demonstrates an immediate need of alcohol or substance abuse treatment and any inmate convicted of possession or intent to distribute a controlled substance, unless the inmate has a previous conviction for a violent offense within the preceding ten (10) years. Such placement shall be within sixty (60) days of reception;

7. To determine and recommend for placement in the Department of Corrections Special Care Unit at the State Penitentiary at McAlester any inmate who is in need of acute psychiatric care;

8. To plan for immediate assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities, public or private, designated by the Department;

9. To recommend possible future assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities designated by the Department;

10. To provide orientation and instruction with respect to rules and procedures for prisoners; and

11. To obtain all relevant juvenile court records and relevant Department of Juvenile Justice agency records, if any, pertaining to inmates and make said records a part of the permanent record maintained by the Department of Corrections regarding the inmate. The information contained in those records shall be used to determine security level and placement of inmates.

B. The provisions of this subsection shall apply to any inmate eligible to receive alcohol or substance abuse treatment services and placement upon reception pursuant to the provisions of paragraph 6 of subsection A of this section or who subsequently becomes eligible pursuant to paragraph 8 or 9 of subsection A of this section. An alcohol or substance abuse treatment center in which an inmate is placed shall provide services and standards of treatment as ~~provided~~ required by the Department of Mental Health and Substance Abuse Services ~~under its rules for alcoholism or substance abuse treatment~~ for certification of substance abuse treatment providers. The Department of Corrections shall determine the facilities level of security and other requirements for housing assigned inmates. Upon placement of ~~a prisoner~~ an inmate in a center for alcoholism or substance abuse treatment, other than a facility operated by the Department of Corrections, the Department of Corrections shall enter into a third party contract with such center for the custodial and professional services rendered to ~~any prisoner~~ such persons. ~~Such~~ The contract may include requirements imposed by law on the Department of Corrections ~~or reimbursement and~~ shall determine the cost and payment for such services, ~~if necessary.~~ The Department of Corrections is further authorized to enter into third party contracts for substance abuse treatment programs which are certified by the Department of Mental Health and Substance Abuse Services to provide professional services on an

outpatient basis ~~to prisoners~~ for persons in need of substance abuse treatment and follow-up treatment while assigned to placements deemed alternatives to incarceration, including, but not limited to, residential treatment homes, group homes, transitional living facilities or other alternatives to incarceration located at the community level, or upon release from incarceration or any treatment facility to probation or parole.

C. The Department of Juvenile Justice shall allow reasonable access to its database for the purpose of obtaining the juvenile records required by subsection A of this section.

D. The Department of Corrections shall adopt rules governing the implementation of this section and shall develop alcohol and substance abuse treatment alternatives to incarceration for persons qualified in paragraphs 6, 8 and 9 of subsection A of this section.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 612, is amended to read as follows:

Section 612. A. Any person convicted of violating the provisions of Section 11-902 of Title 47 of the Oklahoma Statutes and sentenced to the custody of the Department of Corrections shall be processed through the Lexington Assessment and Reception Center or other location determined by the Director of the Department of Corrections, ~~classified and assigned as follows.~~ The person shall be deemed an inmate after reception and while placed in a treatment alternative to incarceration until there is a judicial review of the sentence and resentencing or a release to probation or parole. The person shall not be required to serve any term of incarceration in a correctional institution and shall be classified and assigned as follows:

1. To the Department of Mental Health and Substance Abuse Services for substance abuse treatment, if the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk as evidenced by any conviction for

a violent offense within the preceding ten (10) years. The inmate may be required to reimburse the Department of Mental Health and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate is assigned to the Department of Mental Health and Substance Abuse Services. The Department of Corrections shall determine whether the inmate has the ability to pay for all or part of the cost of treatment. While assigned to a Department of Mental Health and Substance Abuse Services treatment program the inmate shall comply with the rules and regulations as agreed upon by the Department of Mental Health and Substance Abuse Services and the Department of Corrections. Any infraction of said rules may result in the inmate's reassignment to a correctional facility of the Department of Corrections. Upon successful completion of the treatment program the inmate shall be properly reassigned by the Department of Corrections for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the treatment facility shall forward to the Department of Corrections a report and discharge summary including arrangements and recommendations for further disposition and follow-up treatment;

2. To an inpatient substance abuse treatment program with the offender paying for the treatment. Upon successful completion of the inpatient treatment program, the offender may be assigned to a halfway house, structured community placement, or home placement with the advice of the treatment provider. The Department of Corrections shall require as a condition of any assignment that the offender have electronic monitoring or ignition interlock device requirements, or both, as a condition of placement. The offender shall be responsible for all costs and fees associated with electronic monitoring, ignition interlock device, and supervision;
or

3. To a correctional facility when:

- a. the person is evaluated not to be receptive to treatment or fails to participate in treatment,
- b. the person is evaluated to be a security risk as evidenced by any conviction of a violent offense within the preceding ten (10) years or the person escapes while assigned to treatment or commits an additional offense, or
- c. the person requires immediate educational, medical or other services or programs not available in the community setting as determined by the Department.

B. As used in this section:

1. "Substance abuse treatment program" means a residential or outpatient program certified by the Department of Mental Health and Substance Abuse Services and selected by the Department of Corrections to provide substance abuse treatment for the inmate;

2. "Electronic monitoring" means monitoring of the inmate within a specified location or locations in a community setting by means of an electronic bracelet or other device; and

3. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater.

SECTION 3. 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.