

ENROLLED HOUSE
BILL NO. 3336

By: Thompson, Roan, Sullivan
and Tibbs of the House

and

Lamb, Corn, Garrison and
Ballenger of the Senate

An Act relating to county jails; amending 19 O.S. 2001, Section 547, which relates to county sheriffs; requiring probationary period for certain deputy sheriffs and detention officers; prohibiting discharge except under certain circumstance; amending 22 O.S. 2001, Section 979a, as last amended by Section 2, Chapter 470, O.S.L. 2005 (22 O.S. Supp. 2007, Section 979a), which relates to payment of jail costs; prohibiting waiver of incarceration costs; providing procedure for reducing incarceration costs; amending 22 O.S. 2001, Section 988.12, as amended by Section 4, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2007, Section 988.12), which relates to the Oklahoma Community Sentencing Act; deleting medical expense payment requirements for certain community sentencing systems; amending 22 O.S. 2001, Section 991a-2, which relates to sentencing provisions of felony offenders; deleting medical care reimbursement requirement; amending 57 O.S. 2001, Section 21 and Section 1, Chapter 231, O.S.L. 2002 (57 O.S. Supp. 2007, Section 22), which relate to contraband in jails or penal institutions; updating language; making certain acts unlawful; providing penalties; expanding scope of certain prohibited act; amending 57 O.S. 2001, Section 37, as amended by Section 3, Chapter 239, O.S.L. 2004 (57 O.S. Supp. 2007, Section 37), which relates to capacity rates of correctional facilities; modifying time limitation for certain responsibility of the Department of Corrections; clarifying permissive language; defining terms; requiring reimbursement to health care providers under certain circumstances; requiring reimbursement according to

certain fee schedules; establishing authorization and notification requirements; requiring payment of health care screenings and certain medical services; establishing requirements for paying pharmacy providers; requiring certain treatment be provided through designated host facilities; designating responsibility of inmate transportation and security; providing exception to responsibility for health care costs under certain circumstances; stating circumstances for which the Department of Corrections shall not be responsible for payment of health care costs; amending 63 O.S. 2001, Section 1-523, which relates to the Oklahoma Public Health Code; requiring testing of county jail inmates under certain circumstances; requiring written notification of test results; requiring exposed employee be referred for certain services; 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 19 O.S. 2001, Section 547, is amended to read as follows:

Section 547. A. The sheriff shall be responsible for the official acts of the undersheriff and deputy sheriffs, and may revoke such appointments at the pleasure of the sheriff; provided, however, for counties with a population of five hundred thousand (500,000) or more persons, according to the latest Federal Decennial Census, with the exception of chief deputies and undersheriffs, all deputy sheriffs and detention officers shall serve a five-year probationary period during which the deputy sheriff or detention officer shall be considered an at-will employee. After the five-year probationary period, such deputy sheriff or detention officer shall not be discharged except for just cause. The sheriff or the undersheriff may in writing depute certain persons to do particular acts.

B. Each sheriff may appoint as many reserve force deputy sheriffs as are necessary to preserve the peace and dignity of the county. A current list of each person holding such appointment

shall be maintained by the county sheriff and shall be available to the public. Reserve force deputy sheriffs may perform duties which encompass a particular act or a series of acts. A sheriff or salaried deputy sheriff shall accompany a reserve force deputy sheriff in the performance of all duties assigned to such reserve force deputy sheriff unless such reserve deputy has completed the required one-hundred-sixty-hour basic police course. Reserve force deputies may receive compensation for their services. The sheriff may pay reserve force deputies for travel expenses pursuant to the State Travel Reimbursement Act. Such reserve deputy sheriffs shall complete a one-hundred-sixty-hour basic police course within twelve (12) months after they have been commissioned to be paid by the county as an individual reserve deputy. The sheriff may pay for additional training courses attended by reserve force deputies.

C. 1. For counties with a population of two hundred thousand (200,000) or more persons, according to the latest Federal Decennial Census, reserve force deputy sheriffs with at least one hundred sixty (160) hours of training pursuant to Section 3311 of Title 70 of the Oklahoma Statutes shall not serve more than one hundred forty (140) hours per calendar month.

2. For counties with a population of less than two hundred thousand (200,000) persons, according to the latest Federal Decennial Census, reserve force deputy sheriffs with at least one hundred sixty (160) hours of training shall not serve more than one hundred ten (110) hours per calendar month.

D. The sheriff or a designee may deputize municipal police officers subject to an interlocal governmental agreement to combine city and county law enforcement efforts and to encourage cooperation between city and county law enforcement officials. Liability for the conduct of any municipal police officers deputized under the terms and conditions of an interlocal governmental agreement shall remain the responsibility of their municipal employer.

E. The sheriff may enter into mutual aid agreements pursuant to the Interlocal Cooperation Act, Section 1002 et seq. of Title 74 of the Oklahoma Statutes, to assist or provide law enforcement services to any town, city, and county within this state and the sheriff and deputies shall have law enforcement authority within the jurisdiction making the request. The employing governmental unit shall remain responsible for their officers or deputies pursuant to any mutual aid agreement.

F. A sheriff of the county may respond to any request from any other jurisdiction within the state for law enforcement assistance in cases of emergency. The sheriff, deputy sheriffs and reserve deputy sheriffs serving in response to the emergency request shall have the same powers and duties as though employed by the requesting law enforcement agency, and when so acting they shall be deemed to be acting within the scope of employment of the requesting law enforcement agency. Salaries, insurance and other benefits shall be provided in the regular manner by the county in which the sheriff, deputy sheriffs and reserve deputy sheriffs are regularly employed. As used in this subsection, "emergency" means a sudden and unforeseeable occurrence or condition, either as to its onset or its extent, of such severity or magnitude that immediate response or action is necessary to assist law enforcement agencies having jurisdiction at the scene of the emergency to carry out their functions.

G. A reserve force deputy sheriff shall be authorized to serve civil process pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 979a, as last amended by Section 2, Chapter 470, O.S.L. 2005 (22 O.S. Supp. 2007, Section 979a), is amended to read as follows:

Section 979a. A. The court shall require a person who is actually received into custody at a jail facility or who is confined in a city or county jail or holding facility, for any offense, to pay the jail facility or holding facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court as provided for collection of other costs and fines, which shall be subject to review under the procedures set forth in Section VIII of the Rules of the Oklahoma Court of Criminal Appeals, Chapter 18, Appendix of ~~Title 22 of the Oklahoma Statutes~~ this title. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails and holding facilities, by the county sheriff for county jails or by contract amount, if applicable. In the event a person requires emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb prior to being actually received into the custody of any jail facility, the

provisions of Section 533 of Title 21 of the Oklahoma Statutes shall apply to taking custody, medical care and cost responsibility. The cost of incarceration shall be paid by the court clerk, when collected, to the municipality, holding facility, county or other public entity responsible for the operation of such facility where the person was held at any time. Except for medical costs, ten percent (10%) of any amount collected by the court clerk shall be paid to the municipal attorney's or district attorney's office, and the remaining amount shall be paid to the municipality, the sheriff's service fee account or, if the sheriff does not operate the jail facility, the remaining amount shall be deposited with the public entity responsible for the operation of the jail facility where the person was held at any time. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The sheriff shall give notice to the defendant of the actual costs owed before any court-ordered costs are collected. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant. The sheriff, municipality or other public entity responsible for the operation of the jail may collect costs of incarceration ordered by the court from the jail account of the inmate. If the funds collected from the jail account of the inmate are insufficient to satisfy the actual incarceration costs ordered by the court, the sheriff, municipality or other public entity responsible for the operation of the jail is authorized to collect the remaining balance of the incarceration costs by civil action. When the sheriff, municipality or other public entity responsible for the operation of the jail collects any court-ordered incarceration costs from the jail account of the inmate or by criminal or civil action, the court clerk shall be notified of the amount collected.

B. Except as may otherwise be provided in Section 533 of Title 21 of the Oklahoma Statutes, any offender receiving routine or emergency medical services or medications or injured during the commission of a felony or misdemeanor offense and administered any medical care shall be required to reimburse the sheriff, municipality or other public entity responsible for the operation of the jail, the full amount paid by the sheriff, municipality or other public entity responsible for the operation of the jail for any medical care or treatment administered to such offender during any

period of incarceration or when the person was actually received into custody for any reason in that jail facility. The sheriff, municipality or other public entity responsible for the operation of the jail may deduct the costs of medical care and treatment as authorized by Section 531 of Title 19 of the Oklahoma Statutes. If the funds collected from the jail account of the inmate are insufficient to satisfy the actual medical costs paid, the sheriff, municipality or other public entity responsible for the operation of the jail shall be authorized to collect the remaining balance of the medical care and treatment by civil actions.

C. Costs of incarceration shall be a debt of the inmate owed to the municipality, county, or other public entity responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty.

D. The court shall not waive the costs of incarceration in their entirety. However, if the court determines that a reduction in the fine, costs, and costs of incarceration is warranted, the court shall equally apply the same percentage reduction to the fine, costs, and costs of incarceration owed by the defendant.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 988.12, as amended by Section 4, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2007, Section 988.12), is amended to read as follows:

Section 988.12 A. Any person sentenced to a community punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall not be deemed an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment Center. Persons sentenced to community punishment pursuant to the Oklahoma Community Sentencing Act shall be in community custody within the county.

B. Except as otherwise specifically provided by law, persons sentenced to a community punishment which does not include incarceration shall not have medical or dental expenses paid by the Department of Corrections or reimbursed by the Community Sentencing Division.

~~C. In jurisdictions where the local community sentencing system is receiving state funds, the state will pay all required medical expenses while a person is incarcerated in the county jail pursuant to a disciplinary sanction for a community punishment, provided the~~

~~state has the obligation to pay for the term of incarceration pursuant to the provisions of the Oklahoma Community Sentencing Act. Any community sentenced offender confined pursuant to a disciplinary sanction who requires extensive medical treatment may be transferred to the Department of Corrections for appropriate medical treatment upon order of the court. The community sentenced offender shall be returned to the local system following the necessary medical treatment or upon completion of the term of the disciplinary sanction whichever occurs first.~~

SECTION 4. AMENDATORY 22 O.S. 2001, Section 991a-2, is amended to read as follows:

Section 991a-2. A. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be:

1. Prescribed by law for the particular felony; or
2. A condition of a suspended sentence.

B. In addition to incarceration, the court may impose any fine, cost assessment, or other punishment provision allowed by law; provided, however, the punishment when taken in its entirety with the jail term shall not impose a greater punishment than allowed by law for the offense.

C. Any person incarcerated in the county jail pursuant to the provisions of this section may be assigned work duties as ordered or approved by the judge. The sentencing court may require a person incarcerated pursuant to the provisions of this section to pay the county, for food and maintenance for each day of incarceration, an amount equal to the maximum amount prescribed by law to be paid by the county to the sheriff for such expenses. If the judge does not so order, the Department of Corrections shall reimburse the county for the cost of feeding and care of the person during such periods of incarceration.

~~D. The Department of Corrections shall reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of a person incarcerated hereunder; provided the~~

~~injury or illness is directly related to the incarceration and the county is required by law to provide such care for inmates in the jail.~~

~~E.~~ Any person incarcerated pursuant to the provisions of this section shall not be considered to be in the custody of the Department of Corrections or an inmate of the Department. The person shall be deemed to be in the custody of the county.

~~F.~~ E. When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a suspended sentence, the court shall have the authority to revoke any unserved portion of the suspended sentence as provided by law.

~~G.~~ F. For the purposes of subsection A of this section, weekend incarceration shall commence at 6 p.m. on Friday and continue until 8 a.m. on the following Monday, and incarceration overnight shall commence at 6 p.m. on one day and continue until 8 a.m. of the next day. Provided, that the sentencing judge may modify the incarceration times if the circumstances of the particular case require such action. Persons who have been sentenced to incarceration in the county jail under the provisions of this section will not have to be processed through the Lexington Assessment and Reception Center prior to incarceration.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 21, is amended to read as follows:

Section 21. A. Any person who, without authority, brings into or has in his or her possession in any jail or state penal institution or other place where prisoners are located, any gun, knife, bomb or other dangerous instrument, any controlled dangerous substance as defined by Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, any intoxicating beverage or low-point beer as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, money, or financial documents for a person other than the inmate or a spouse of the inmate, including, but not limited to tax returns, shall be guilty of a felony and is subject to imprisonment in the State Penitentiary custody of the Department of Corrections for not less than one (1) year or more than five (5) years, or a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

B. If an inmate is found to be in possession of any such item, upon conviction, such inmate shall be guilty of a felony and shall

be subject to imprisonment for not less than five (5) years nor more than twenty (20) years in the State Penitentiary custody of the Department of Corrections.

C. If the person found to be in possession of any such item has, prior to the commission of said offense, committed two or more felony offenses, and said possession of contraband was within ten (10) years of the completion of the execution of the sentence, such person, upon conviction, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary custody of the Department of Corrections for a term of not less than twenty (20) years. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location.

D. Any person who, without authority, brings into or has in his or her possession in any jail or state penal institution or other place where prisoners are located, cigarettes, cigars, snuff, chewing tobacco, or any other form of tobacco product, or any cellular phone or electronic device capable of sending or receiving digital transmissions shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one (1) year, or a fine not to exceed Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

SECTION 6. AMENDATORY Section 1, Chapter 231, O.S.L. 2002 (57 O.S. Supp. 2007, Section 22), is amended to read as follows:

Section 22. A. Except as otherwise provided in this section, any detention officer, deputy sheriff, or other person employed as jail operations staff by a county, city, or other entity that operates a jail who receives compensation from any person other than the sheriff or jail administrator for providing goods, tobacco products, or services for the benefit of an inmate, upon conviction, shall be guilty of a misdemeanor if the compensation is an amount of less than Five Hundred Dollars (\$500.00), punishable by up to six (6) months in the county jail, or a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment and shall be guilty of a felony if the compensation is an amount of Five Hundred Dollars (\$500.00) or more, punishable by imprisonment in the State Penitentiary custody of the Department of Corrections for not more than two (2) years, or a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

B. The provisions of this section shall not apply to any person operating, or employed by, a vendor facility licensed by the State Department of Rehabilitation Services pursuant to Sections 71 through 78 of Title 7 of the Oklahoma Statutes for purposes of carrying out the provisions of the Randolph-Sheppard Act, 20 U.S.C.A., Section 107 et seq., or any other duly authorized vendor.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 37, as amended by Section 3, Chapter 239, O.S.L. 2004 (57 O.S. Supp. 2007, 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 certified copy of the judgment and sentence certifying that the inmate is sentenced to the Department of Corrections. The 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 determine the appropriate method of delivery from each county based on electronic or other capabilities. Once the 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 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~~ sentence was ordered by the court 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 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~~ may 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 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 38.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Emergency care" means the medical or surgical care necessary to treat the sudden onset of a potentially life- or limb-threatening condition or symptom;

2. "Dental emergency" means acute problems in the mouth exhibiting symptoms of pain, swelling, bleeding or elevation of temperature; and

3. "Mental health emergency" means a person exhibiting behavior due to mental illness that may be an immediate threat to others or

himself or herself that renders the person incapable of caring for himself or herself.

B. The Department of Corrections shall reimburse health care providers for medical care and treatment for inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Health care providers that are in the network established by the Department of Corrections in conjunction with the State and Education Employees Group Insurance Board shall be reimbursed according to the fee schedule established for that network; provided, that reimbursement will be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Health care providers that are out of network shall be reimbursed according to the Oklahoma Medicaid Fee Schedule; provided, that reimbursement shall be no less than the fee structure that was in effect January 1, 2007, or the current fee schedule, whichever is greater. Prior to obtaining nonemergency care outside the county jail facility, authorization must be received from the Department of Corrections. For any emergency care, dental emergency or mental health emergency care obtained outside the county jail facility, the Department of Corrections must be notified within twenty-four (24) hours. The Department of Corrections is hereby authorized to reject claims if proper notification has not been provided.

C. The sheriff shall be responsible for providing and paying for medical, dental and mental health care screening when an inmate is admitted, routine sick calls within the county jail and access to on-site physician services as is routinely provided for all inmates in the custody of the sheriff and as provided by Section 52 of Title 57 of the Oklahoma Statutes.

D. The Department of Corrections shall pay the pharmacy provider for medications provided to inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. If the pharmacy provider is a Medicaid provider, the pharmacy provider must bill the Department at Medicaid rates. The county jail shall be responsible for paying for any medications that are not listed on the Department of Corrections formulary, unless the county jail receives a written exception from the Department.

E. Dental and mental health care shall be provided through the designated host facility of the Department of Corrections for inmates retained in county jails after a certified copy of a judgment and sentence has been entered pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Each county jail is encouraged to work with local community mental health centers to provide necessary medications and emergency services that would be reimbursed pursuant to the provisions of this subsection.

F. The sheriff shall be responsible for transportation and security of inmates to all outside health care appointments including host facilities of the Department of Corrections.

G. Neither the Department of Corrections nor the sheriff shall be responsible for the cost of health care while an inmate is on escape status or for any injury incurred while on escape status.

H. The Department of Corrections shall not be responsible for payment of health care of inmates housed in the county jail under the following circumstances:

1. Prior to entry of a certified judgment and sentence pursuant to the provisions of Section 980 of Title 22 of the Oklahoma Statutes;

2. When an inmate is detained in the county jail pursuant to a writ of habeas corpus;

3. When an inmate is detained in the county jail for additional cases pending after a certified copy of the judgment and sentence has been entered;

4. When an inmate is detained in the county jail and his or her status is on hold for another jurisdiction; or

5. When an inmate is detained in the county jail and the inmate is sentenced to county jail time only.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 1-523, is amended to read as follows:

Section 1-523. A. 1. Any and all institutions in this state, whether penal or eleemosynary, public or private, and free or for

pay, shall make, and preserve for a period of at least one (1) year, a record showing the name, age, sex, race, nationality and place of residence of any infected inmate of such institution who may come to their knowledge.

2. The institution shall make available such record at all reasonable hours for inspection by the State Commissioner of Health or the local health officer.

3. Such institutions shall further furnish a physician and all proper medicines, instruments and apparatus for the proper treatment of such infected inmate.

B. Each institution and each Department of Corrections district office, and each county or municipal jail shall notify their correctional officers, probation and parole officers, and any jailor, or other employee or any employee of the Pardon and Parole Board, who has or will have direct contact with an inmate, when such inmate is infected with the human immunodeficiency virus (HIV) or has the Acquired Immune Deficiency Syndrome (AIDS) disease.

C. 1. If an officer or employee of the State of Oklahoma, or any other person comes into contact with the bodily fluids of an inmate in a state correctional facility, the Director of the Department of Corrections or designee, under such rules as the Director shall promulgate to carry out the provisions of this section, shall cause such inmate to be tested for such disease, if no prior record of the existence of such disease exists. If an officer or employee of a county jail, or any other person, comes into contact with the bodily fluids of an inmate in a county jail, the sheriff or designee, under policies the sheriff shall promulgate to carry out the provisions of this section, shall cause the inmate to be tested for such disease, if no prior record of the existence of such disease exists.

2. The Director or designee shall promptly communicate in writing the results of the test to the person so exposed and refer the employee to the Department of Correction's Employee Assistance Program for appropriate referrals for counseling, health care, and support services for the person so exposed. If the exposure occurs within a county jail, the sheriff or designee shall promptly communicate in writing the results of the test to the person so exposed and refer the employee to the employee assistance program of the county for appropriate referrals for counseling, health care, and support services for the person so exposed.

3. As used in this section, the term "serious transmissible disease" means the Human Immunodeficiency Virus (HIV) and hepatitis.

SECTION 10. Section 7 of this act shall become effective July 1, 2009.

SECTION 11. 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 House of Representatives the 22nd day of May, 2008.

Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2008.

Presiding Officer of the Senate