

THE HOUSE OF REPRESENTATIVES
Monday, April 14, 2008

ENGROSSED
Senate Bill No. 1468

ENGROSSED SENATE BILL NO. 1468 - By: SCHULZ of the Senate and BILLY of the House.

An Act relating to corrections; amending 57 O.S. 2001, Section 510, as last amended by Section 3, Chapter 151, O.S.L. 2007 (57 O.S. Supp. 2007, Section 510), which relates to penal institutions; lowering minimum age of correctional officer; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 57 O.S. 2001, Section 510, as last amended by
2 Section 3, Chapter 151, O.S.L. 2007 (57 O.S. Supp. 2007, Section 510), is amended to
3 read as follows:
4 Section 510. A. The Director of the Department of Corrections shall have the
5 following specific powers and duties relating to the penal institutions:
6 1. To appoint, subject to the approval of the State Board of Corrections, a warden or
7 superintendent for each penal institution, who shall qualify for the position by character,
8 personality, ability, training, and successful administrative experience in the correctional
9 field; and if the person is not the incumbent warden or superintendent of a penal
10 institution, the person shall have a college degree with a major in the behavioral
11 sciences. As used in this section, “major in the behavioral sciences” means a major in

1 psychology, sociology, criminology, education, corrections, human relations, guidance and
2 counseling, administration, criminal justice administration, or penology;

3 2. To fix the duties of the wardens and superintendents and to appoint and fix the
4 duties and compensation of such other personnel for each institution as may be necessary
5 for the proper operation thereof. However, correctional officers and guards hired after
6 November 1, 1995, shall be subject to the following qualifications:

- 7 a. the minimum age for service shall be ~~twenty-one (21)~~ twenty (20) years
8 of age. The Director shall have the authority to establish the
9 maximum age for correctional officers entering service,
- 10 b. possession of a minimum of thirty (30) semester hours from an
11 accredited college or university, or possession of a high school diploma
12 acquired from an accredited high school or GED equivalent testing
13 program and graduation from a training course conducted by or
14 approved by the Department and certified by the Council on Law
15 Enforcement Education and Training either prior to employment or
16 during the first six (6) months of employment,
- 17 c. be of good moral character,
- 18 d. before going on duty alone, satisfactory completion of an adequate
19 training program for correctional officers and guards, as prescribed
20 and approved by the State Board of Corrections,
- 21 e. satisfactory completion of minimum testing or professional evaluation
22 through the Merit System of Personnel Administration to determine

1 the fitness of the individual to serve in the position written evaluations
2 shall be submitted to the Department of Corrections, and
3 f. satisfactory completion of a physical in keeping with the conditions of
4 the job description on an annual basis and along the guidelines as
5 established by the Department of Corrections;

6 3. To designate as peace officers qualified personnel in any Department of
7 Corrections job classifications. The Director shall designate as peace officers correctional
8 officers who are employed in positions requiring said designation. The peace officer
9 authority of employees designated as peace officers shall be limited to: maintaining
10 custody of prisoners; preventing attempted escapes; pursuing, recapturing and
11 incarcerating escapees and parole or probation violators and arresting such escapees,
12 parole or probation violators, serving warrants, and performing any duties specifically
13 required for the job descriptions. Such powers and duties of peace officers may be
14 exercised for the purpose of maintaining custody, security, and control of any prisoner
15 being transported outside this state as authorized by the Uniform Criminal Extradition
16 Act. To become qualified for designation as peace officers, employees shall meet the
17 training and screening requirements conducted by the Department and certified by the
18 Council on Law Enforcement Education and Training within twelve (12) months of
19 employment or, in the case of employees designated as peace officers on or before July 1,
20 1997, by July 1, 1998, and shall not be subject to Section 3311 of Title 70 of the
21 Oklahoma Statutes;

1 4. To maintain such industries, factories, plants, shops, farms, and other
2 enterprises and operations, hereinafter referred to as prison industries, at each
3 institution as the State Board of Corrections deems necessary or appropriate to employ
4 the prisoners or teach skills, or to sustain the institution; and as provided for by policies
5 established by the State Board of Corrections, to allow compensation for the work of the
6 prisoners, and to provide for apportionment of inmate wages, the amounts thus allowed
7 to be kept in accounts by the Board for the prisoners and given to the inmates upon
8 discharge from the institution, or upon an order paid to their families or dependents or
9 used for the personal needs of the prisoners. Any industry that employs prisoners shall
10 be deemed a “State Prison Industry” if the prisoners are paid from state funds including
11 the proceeds of goods sold as authorized by Section 123f of Title 74 of the Oklahoma
12 Statutes. Any industry in which wages of prisoners are paid by a nongovernmental
13 person, group, or corporation, except those industries employing prisoners in work-
14 release centers under the authority of the Department of Corrections shall be deemed a
15 “Private Prison Industry”;

16 5. To assign residences at each institution to institutional personnel and their
17 families;

18 6. To provide for the education, training, vocational education, rehabilitation, and
19 recreation of prisoners;

20 7. To regulate the operation of canteens for prisoners;

21 8. To prescribe rules for the conduct, management, and operation of each
22 institution, including rules for the demeanor of prisoners, the punishment of recalcitrant

1 prisoners, the treatment of incorrigible prisoners, and the disposal of property or
2 contraband seized from inmates or offenders under the supervision of the Department;

3 9. To transfer prisoners from one institution to another;

4 10. To transfer to a state hospital for the mentally ill for care and treatment, any
5 prisoner who appears to be mentally ill. The prisoner shall be returned to the institution
6 when the superintendent of the hospital certifies that the prisoner has been restored to
7 mental health;

8 11. To establish procedures that ensure inmates are educated and provided with
9 the opportunity to execute advanced directives for health care in compliance with Section
10 3101.2 of Title 63 of the Oklahoma Statutes. The procedures shall ensure that any
11 inmate executing an advanced directive for health care is competent and executes the
12 directive with informed consent;

13 12. To maintain courses of training and instruction for employees at each
14 institution;

15 13. To maintain a program of research and statistics;

16 14. To provide for the periodic audit, at least once annually, of all funds and
17 accounts of each institution and the funds of each prisoner;

18 15. To provide, subject to rules established by the State Board of Corrections, for
19 the utilization of inmate labor for any agency of the state, city, town, or subdivision of
20 this state, upon the duly authorized request for such labor by the agency. The inmate
21 labor shall not be used to reduce employees or replace regular maintenance or operations
22 of the agency. The inmate labor shall be used solely for public or state purposes. No

1 inmate labor shall be used for private use or purpose. Insofar as it is practicable, all
2 inmate labor shall be of such a nature and designed to assist and aid in the rehabilitation
3 of inmates performing the labor;

4 16. To provide clerical services for, and keep and preserve the files and records of,
5 the Pardon and Parole Board; make investigations and inquiries as to prisoners at the
6 institutions who are to be, or who might be, considered for parole or other clemency;
7 assist prisoners who are to be, or who might be, considered for parole or discharge in
8 obtaining suitable employment in the event of parole or discharge; report to the Pardon
9 and Parole Board, for recommendation to the Governor, violations of terms and
10 conditions of paroles; upon request of the Governor, make investigations and inquiries as
11 to persons who are to be, or who might be, considered for reprieves or leaves of absence;
12 report to the Pardon and Parole Board, for recommendation to the Governor, whether a
13 parolee is entitled to a pardon, when the terms and conditions of the parole have been
14 completed; make presentence investigations for, and make reports thereof to, trial judges
15 in criminal cases before sentences are pronounced; supervise persons undergoing
16 suspended sentences, or who are on probation or parole; and develop and operate, subject
17 to the policies and guidelines of the Board, work-release centers, community treatment
18 facilities or prerelease programs at appropriate sites throughout this state;

19 17. To establish an employee tuition assistance program and promulgate rules in
20 accordance with the Administrative Procedures Act for the operation of the program.
21 The rules shall include, but not be limited to, program purposes, eligibility requirements,
22 use of tuition assistance, service commitment to the Department, reimbursement of

1 tuition assistance funds for failure to complete course work or service commitment,
2 amounts of tuition assistance and limitations, and record keeping;

3 18. To establish an employee recruitment and referral incentive program and
4 promulgate rules in accordance with the Administrative Procedures Act for the operation
5 of the program. The rules shall include, but not be limited to, program purposes, pay
6 incentives for employees, eligibility requirements, payment conditions and amounts,
7 payment methods, and record keeping;

8 19. To provide reintegration referral services to any person discharged from the
9 state custody who has volunteered to receive reintegration referral services. The
10 Director may assign staff to refer persons discharged from state custody to services. The
11 Director shall promulgate rules for the referral process. All reintegration referral
12 services shall be subject to the availability of funds;

13 20. To conduct continual planning and research and periodically evaluate the
14 effectiveness of the various correctional programs instituted by the Department; manage
15 the designing, building, and maintaining of all the capital improvements of the
16 Department; establish and maintain current and efficient business, bookkeeping, and
17 accounting practices and procedures for the operations of all institutions and facilities,
18 and for the Department's fiscal affairs; conduct initial orientation and continuing in-
19 service training for the Department employees; provide public information services;
20 inspect and examine the condition and management of state penal and correctional
21 institutions; investigate complaints concerning the management of prisons or alleged

1 mistreatment of inmates thereof; and hear and investigate complaints as to misfeasance
2 or nonfeasance of employees of the Department; and

3 21. To authorize any division of the Department to sell advertising in any
4 Department-approved publication, media production or other informational material
5 produced by the Department; provided, that such advertising shall be approved by the
6 Director or designee prior to acceptance for publication. The sale of advertising and
7 negotiation of rates for the advertising shall not be subject to The Oklahoma Central
8 Purchasing Act or the Administrative Procedures Act. The Department shall promulgate
9 rules establishing criteria for accepting or using advertisements as authorized in this
10 paragraph.

11 B. When an employee of the Department of Corrections has been charged with a
12 violation of the rules of the Department or with a felony pursuant to the provisions of a
13 state or federal statute, the Director may, in the Director's discretion, suspend the
14 charged employee, in accordance with the Oklahoma Personnel Act and/or the Merit
15 System of Personnel Administration Rules, pending the hearing and final determination
16 of the charges. Notice of suspension shall be given by the Director, in accordance with
17 the provisions of the Oklahoma Personnel Act. If after completion of the investigation of
18 the charges, it is determined that such charges are without merit or are not sustained
19 before the Oklahoma Merit Protection Commission or in a court of law, the employee
20 shall be reinstated and shall be entitled to receive all lost pay and benefits.

21 This subsection shall in no way deprive an employee of the right of appeal according
22 to the Oklahoma Personnel Act.

1 SECTION 2. This act shall become effective July 1, 2008.

2 SECTION 3. It being immediately necessary for the preservation of the public
3 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
4 this act shall take effect and be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
6 dated 04-10-28 - DO PASS.