

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1712

By: Billy

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5  
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;  
8 amending 57 O.S. 2001, Section 510, as last amended  
9 by Section 5, Chapter 294, O.S.L. 2006 (57 O.S. Supp.  
10 2006, Section 510), which relates to the Oklahoma  
11 Corrections Act of 1967; modifying powers and duties  
12 of Director of the Department of Corrections;  
13 authorizing residential treatment of certain inmates;  
14 allowing for housing of eligible children under  
15 certain circumstances; requiring collaboration with  
16 certain agencies to provide services; providing  
17 immunity from liability; providing for codification;  
18 and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 510, as last  
amended by Section 5, Chapter 294, O.S.L. 2006 (57 O.S. Supp. 2006,  
Section 510), is amended to read as follows:

Section 510. A. The Director of the Department of Corrections  
shall have the following specific powers and duties relating to the  
penal institutions:

1. To appoint, subject to the approval of the State Board of  
Corrections, a warden or superintendent for each penal institution,

1 who shall qualify for the position by character, personality,  
2 ability, training, and successful administrative experience in the  
3 correctional field; and if the person is not the incumbent warden or  
4 superintendent of a penal institution, the person shall have a  
5 college degree with a major in the behavioral sciences. As used in  
6 this section, "major in the behavioral sciences" means a major in  
7 psychology, sociology, criminology, education, corrections, human  
8 relations, guidance and counseling, administration, criminal justice  
9 administration, or penology;

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

15 a. the minimum age for service shall be twenty-one (21)  
16 years of age. The Director shall have the authority  
17 to establish the maximum age for correctional officers  
18 entering service,

19 b. possession of a minimum of thirty (30) semester hours  
20 from an accredited college or university, or  
21 possession of a high school diploma acquired from an  
22 accredited high school or GED equivalent testing  
23 program and graduation from a training course  
24 conducted by or approved by the Department and

1 certified by the Council on Law Enforcement Education  
2 and Training either prior to employment or during the  
3 first six (6) months of employment,

4 c. be of good moral character,

5 d. before going on duty alone, satisfactory completion of  
6 an adequate training program for correctional officers  
7 and guards, as prescribed and approved by the State  
8 Board of Corrections,

9 e. satisfactory completion of minimum testing or  
10 professional evaluation through the Merit System of  
11 Personnel Administration to determine the fitness of  
12 the individual to serve in the position written  
13 evaluations shall be submitted to the Department of  
14 Corrections, and

15 f. satisfactory completion of a physical in keeping with  
16 the conditions of the job description on an annual  
17 basis and along the guidelines as established by the  
18 Department of Corrections;

19 3. To designate as peace officers qualified personnel in any  
20 Department of Corrections job classifications. The Director shall  
21 designate as peace officers correctional officers who are employed  
22 in positions requiring said designation. The peace officer  
23 authority of employees designated as peace officers shall be limited  
24 to: maintaining custody of prisoners; preventing attempted escapes;

1 pursuing, recapturing and incarcerating escapees and parole or  
2 probation violators and arresting such escapees, parole or probation  
3 violators, serving warrants, and performing any duties specifically  
4 required for the job descriptions. Such powers and duties of peace  
5 officers may be exercised for the purpose of maintaining custody,  
6 security, and control of any prisoner being transported outside this  
7 state as authorized by the Uniform Criminal Extradition Act. To  
8 become qualified for designation as peace officers, employees shall  
9 meet the training and screening requirements conducted by the  
10 Department and certified by the Council on Law Enforcement Education  
11 and Training within twelve (12) months of employment or, in the case  
12 of employees designated as peace officers on or before July 1, 1997,  
13 by July 1, 1998, and shall not be subject to Section 3311 of Title  
14 70 of the Oklahoma Statutes;

15 4. To maintain such industries, factories, plants, shops,  
16 farms, and other enterprises and operations, hereinafter referred to  
17 as prison industries, at each institution as the State Board of  
18 Corrections deems necessary or appropriate to employ the prisoners  
19 or teach skills, or to sustain the institution; and as provided for  
20 by policies established by the State Board of Corrections, to allow  
21 compensation for the work of the prisoners, and to provide for  
22 apportionment of inmate wages, the amounts thus allowed to be kept  
23 in accounts by the Board for the prisoners and given to the inmates  
24 upon discharge from the institution, or upon an order paid to their

1 families or dependents or used for the personal needs of the  
2 prisoners. Any industry that employs prisoners shall be deemed a  
3 "State Prison Industry" if the prisoners are paid from state funds  
4 including the proceeds of goods sold as authorized by Section 123f  
5 of Title 74 of the Oklahoma Statutes. Any industry in which wages  
6 of prisoners are paid by a nongovernmental person, group, or  
7 corporation, except those industries employing prisoners in work-  
8 release centers under the authority of the Department of Corrections  
9 shall be deemed a "Private Prison Industry";

10 5. To assign residences at each institution to institutional  
11 personnel and their families;

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

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

15 8. To prescribe rules for the conduct, management, and  
16 operation of each institution, including rules for the demeanor of  
17 prisoners, the punishment of recalcitrant prisoners, the treatment  
18 of incorrigible prisoners, and the disposal of property or  
19 contraband seized from inmates or offenders under the supervision of  
20 the Department;

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

22 10. To transfer to a state hospital for the mentally ill for  
23 care and treatment, any prisoner who appears to be mentally ill.

24 The prisoner shall be returned to the institution when the

1 superintendent of the hospital certifies that the prisoner has been  
2 restored to mental health;

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

9 12. To maintain courses of training and instruction for  
10 employees at each institution;

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

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

15 15. To provide, subject to rules established by the State Board  
16 of Corrections, for the utilization of inmate labor for any agency  
17 of the state, city, town, or subdivision of this state, upon the  
18 duly authorized request for such labor by the agency. The inmate  
19 labor shall not be used to reduce employees or replace regular  
20 maintenance or operations of the agency. The inmate labor shall be  
21 used solely for public or state purposes. No inmate labor shall be  
22 used for private use or purpose. Insofar as it is practicable, all  
23 inmate labor shall be of such a nature and designed to assist and  
24 aid in the rehabilitation of inmates performing the labor;

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

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

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

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

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

18 20. To conduct continual planning and research and periodically  
19 evaluate the effectiveness of the various correctional programs  
20 instituted by the Department; manage the designing, building, and  
21 maintaining of all the capital improvements of the Department;  
22 establish and maintain current and efficient business, bookkeeping,  
23 and accounting practices and procedures for the operations of all  
24 institutions and facilities, and for the Department's fiscal

1 affairs; conduct initial orientation and continuing in-service  
2 training for the Department employees; provide public information  
3 services; inspect and examine the condition and management of state  
4 penal and correctional institutions; investigate complaints  
5 concerning the management of prisons or alleged mistreatment of  
6 inmates thereof; and hear and investigate complaints as to  
7 misfeasance or nonfeasance of employees of the Department; and

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

18 B. When an employee of the Department of Corrections has been  
19 charged with a violation of the rules of the Department or with a  
20 felony pursuant to the provisions of a state or federal statute, the  
21 Director may, in the Director's discretion, suspend the charged  
22 employee, in accordance with the Oklahoma Personnel Act and/or the  
23 Merit System of Personnel Administration Rules, pending the hearing  
24 and final determination of the charges. Notice of suspension shall

1 be given by the Director, in accordance with the provisions of the  
2 Oklahoma Personnel Act. If after completion of the investigation of  
3 the charges, it is determined that such charges are without merit or  
4 are not sustained before the Oklahoma Merit Protection Commission or  
5 in a court of law, the employee shall be reinstated and shall be  
6 entitled to receive all lost pay and benefits.

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

9 SECTION 2. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 561.4 of Title 57, unless there  
11 is created a duplication in numbering, reads as follows:

12 The Department of Corrections is further authorized to provide  
13 for residential treatment at facilities other than those operated by  
14 the Department of Corrections for inmates who are eligible for  
15 halfway house placement, have an identified need for substance abuse  
16 treatment or follow-up, and are pregnant or have children under the  
17 age of seven (7) years who will reside with the inmate after  
18 discharge. The Department shall have authority to house eligible  
19 children with the properly executed consent from the appropriate  
20 legal authority or authorities, as required by law. The Department  
21 shall collaborate with relevant state agencies and child advocacy  
22 agencies to provide for the basic needs of the child including, but  
23 not limited to, medical and mental health treatment and other  
24 services for children. The State of Oklahoma, all counties and

1 municipalities of this state and all of their officers, agents,  
2 servants, and employees are hereby immune from liability, and in no  
3 event shall the state, counties or municipalities be held liable for  
4 any action taken under this section.

5 SECTION 3. This act shall become effective November 1, 2007.

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7 51-1-6162 GRS 01/03/07

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