STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

2ND CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 3379 By: Terrill of the House

and

Sykes of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to corrections; amending 57 O.S. Sections 510, as last amended by Section 1, Chapter 232, O.S.L. 2009, 510.9, as last amended by Section 2, Chapter 507, O.S.L. 2004, Section 2, Chapter 455, O.S.L. 2009, 537, as last amended by Section 1, Chapter 188, O.S.L. 2009, 549.1, as last amended by Section 39, Chapter 1, O.S.L. 2007, 561.1, as last amended by Section 3, Chapter 455, O.S.L. 2009, 562 and Section 5, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2009, Sections 510, 510.9, 530.4, 537, 549.1, 561.1 and 564.1), which relate to the Oklahoma Corrections Act of 1967; deleting all references to guards; modifying eligibility requirements for electronic monitoring program; updating statutory reference; providing additional circumstances for revoking the release of certain prisoners; authorizing the Director of the Department of Corrections to issue arrest warrants under certain circumstances; including offender electronic fund payment systems with canteen system operations of the Department of Corrections; providing statutory reference; authorizing certain entities to purchase products and services from the Prison Industries Program; directing all state agencies and entities to include the Prison Industries Program as a vendor in all solicitations for products and services provided by the program; clarifying purchasing and delivery

requirements; deleting authorization of state agencies and entities to purchase certain goods and products; authorizing certain corporation and agencies to purchase products and services; clarifying and updating language; deleting all references to guards; clarifying notice requirement for petitions for judicial review; amending 57 O.S. 2001, Section 584, as last amended by Section 2 of Enrolled House Bill No. 2934 of the 2nd Session of the 52nd Oklahoma Legislature, which relates to the Sex Offenders Registration Act; prohibiting courts from ordering attorney fees under certain circumstances; amending Section 3, Chapter 21, O.S.L. 2002, as last amended by Section 1, Chapter 337, O.S.L. 2007, and as renumbered by Section 2, Chapter 337, O.S.L. 2007 (57 O.S. Supp. 2009, Section 627), which relates to medical care of inmates; authorizing the Department of Corrections to contract with certain health care providers; allowing the inclusion of certain health care providers in a network developed by the Department of Corrections; clarifying fee reimbursement requirements; amending 74 O.S. 2001, Section 85.12, as last amended by Section 98 of Enrolled Senate Bill No. 2113 of the 2nd Session of he 52nd Oklahoma Legislature, which relates to The Oklahoma Central Purchasing Act; modifying list of products considered exempt from certain act; and declaring an emergency.

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 1, Chapter 232, O.S.L. 2009 (57 O.S. Supp. 2009, 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, who shall qualify for the position by character, personality, ability, training, and successful administrative experience in the correctional field; and if the person is not the incumbent warden or superintendent of a penal institution, the person shall have a college degree with a major in the behavioral sciences. As used in this section, "major in the behavioral sciences" means a major in psychology, sociology, criminology, education, corrections, human relations, guidance and counseling, administration, criminal justice administration, or penology;

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

a. the minimum age for service shall be twenty (20) years of age. The Director shall have the authority to establish the maximum age for correctional officers entering service,

b. possession of a minimum of thirty (30) semester hours from an accredited college or university, or possession of a high school diploma acquired from an accredited high school or GED <u>credential</u> equivalent

testing program and graduation from a training course conducted by or approved by the Department and certified by the Council on Law Enforcement Education and Training either prior to employment or during the first six (6) months of employment,

c. be of good moral character,

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

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

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

3. To designate as peace officers qualified personnel in any Department of Corrections job classifications. The Director shall designate as peace officers correctional officers who are employed in positions requiring said designation. The peace officer

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

4. To maintain such industries, factories, plants, shops, farms, and other enterprises and operations, hereinafter referred to as prison industries, at each institution as the State Board of Corrections deems necessary or appropriate to employ the prisoners or teach skills, or to sustain the institution; and as provided for by policies established by the State Board of Corrections, to allow compensation for the work of the prisoners, and to provide for apportionment of inmate wages, the amounts thus allowed to be kept

in accounts by the Board for the prisoners and given to the inmates upon discharge from the institution, or upon an order paid to their families or dependents or used for the personal needs of the prisoners. Any industry that employs prisoners shall be deemed a "State Prison Industry" if the prisoners are paid from state funds including the proceeds of goods sold as authorized by Section 123f of Title 74 of the Oklahoma Statutes. Any industry in which wages of prisoners are paid by a nongovernmental person, group, or corporation, except those industries employing prisoners in work-release centers under the authority of the Department of Corrections shall be deemed a "Private Prison Industry";

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

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

7. To regulate the operation of canteens for prisoners;

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

9. To transfer prisoners from one institution to another;

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

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

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

13. To maintain a program of research and statistics;

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

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

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

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

17. To establish an employee tuition assistance program and promulgate rules in accordance with the Administrative Procedures Act for the operation of the program. The rules shall include, but not be limited to, program purposes, eligibility requirements, use of tuition assistance, service commitment to the Department, reimbursement of tuition assistance funds for failure to complete course work or service commitment, amounts of tuition assistance and limitations, and record keeping;

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

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

20. To conduct continual planning and research and periodically evaluate the effectiveness of the various correctional programs instituted by the Department; manage the designing, building, and

maintaining of all the capital improvements of the Department; establish and maintain current and efficient business, bookkeeping, and accounting practices and procedures for the operations of all institutions and facilities, and for the Department's fiscal affairs; conduct initial orientation and continuing in-service training for the Department employees; provide public information services; inspect and examine the condition and management of state penal and correctional institutions; investigate complaints concerning the management of prisons or alleged mistreatment of inmates thereof; and hear and investigate complaints as to misfeasance or nonfeasance of employees of the Department;

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

22. To issue subpoenas to assist or further investigations into allegations of crimes committed in public or private prisons within

the State of Oklahoma. Subpoenas issued by the Director shall be enforced by the District Court in Oklahoma County, Oklahoma.

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

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

SECTION 2. AMENDATORY 57 O.S. 2001, Section 510.9, as last amended by Section 2, Chapter 507, O.S.L. 2004 (57 O.S. Supp. 2009, Section 510.9), is amended to read as follows:

Section 510.9 A. There is hereby created the Electronic Monitoring Program for inmates in the custody of the Department of Corrections who are sentenced for a nonviolent offense as defined by Section 571 of this title. The Department is authorized to use an

electronic monitoring global positioning device to satisfy its custody duties and responsibilities.

B. After an inmate has been processed and received through ~~the Lexington~~ a Department Assessment and Reception Center, has been incarcerated ~~in a secure facility~~ for a minimum of ~~one hundred eighty (180)~~ ninety (90) days, and has met the criteria established in subsection C of Section 521 of this title, the Director of the Department of Corrections may assign the inmate, if eligible, to the Electronic Monitoring Program. Nothing shall prohibit the Director from assigning an inmate to the Electronic Monitoring Program while assigned to the accredited halfway house or transitional living facility. The following inmates, youthful offenders, and juveniles shall not be eligible for assignment to the program:

1. Any inmate:

a. serving a sentence of more than five (5) years and who has eleven (11) months or more left on their sentence, or

b. any inmate serving a sentence of five (5) years or less whose initial custody assessment requires placement above the minimum security level;

2. Inmates convicted of a violent offense within the previous ten (10) years;

3. Inmates convicted of any violation of the provisions of the Trafficking in Illegal Drugs Act~~, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes~~;

4. Inmates denied parole within the previous twelve (12) months pursuant to Section 332.7 of this title;

5. Inmates convicted pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes who are not receptive to substance abuse treatment and follow-up treatment;

6. Inmates removed from the Electronic Monitoring Program or any other alternative to incarceration authorized by law for violation of any rule or condition of the program and reassigned to imprisonment in a correctional facility;

7. Inmates deemed by the Department to be a security risk or threat to the public;

8. Inmates requiring educational, medical or other services or programs not available in a community setting as determined by the Department;

9. Inmates convicted of any violation of subsection C of Section 644 of Title 21 of the Oklahoma Statutes or who have an active protection order that was issued under the Protection from Domestic Abuse Act, Sections 60 through 60.16 of Title 22 of the Oklahoma Statutes;

10. Inmates who have outstanding felony warrants or detainers from another jurisdiction;

11. Inmates convicted of a sex offense who, upon release from incarceration, would be required by law to register pursuant to the Sex Offender Registration Act;

12. Inmates convicted of racketeering activity as defined in Section 1402 of Title 22 of the Oklahoma Statutes;

13. Inmates convicted pursuant to subsection F of Section 2-401 of Title 63 of the Oklahoma Statutes;

14. Inmates convicted pursuant to Section 650 of Title 21 of the Oklahoma Statutes;

15. Inmates who have escaped from a penal or correctional institution within the previous ten (10) years; or

16. Inmates who currently have active misconduct actions on file with the Department of Corrections.

C. Every eligible inmate assigned to the Electronic Monitoring Program shall remain in such program until one of the following conditions has been met:

1. The inmate discharges the term of the sentence;

2. The inmate is removed from the Electronic Monitoring Program for violation of any rule or condition of the program and reassigned to imprisonment in a correctional facility; or

3. The inmate is paroled by the Governor pursuant to Section 332.7 of this title.

D. After an inmate has been assigned to the Electronic Monitoring Program, denial of parole pursuant to Section 332.7 of

this title, shall not be cause for removal from the program, provided the inmate has not violated the rules or conditions of the program. The inmate may remain assigned to the program, if otherwise eligible, until the completion of the sentence.

E. The Electronic Monitoring Program shall require active supervision of the inmate in a community setting by a correctional officer or other employee of the Department of Corrections with monitoring by a global positioning device approved by the Department under such rules and conditions as may be established by the Department. If an inmate violates any rule or condition of the program, the Department may take necessary disciplinary action consistent with the rules established pursuant to this section, including reassignment to a higher level of security or removing the inmate from the program with reassignment to imprisonment in a correctional facility. Any inmate who escapes from the Electronic Monitoring Program shall be subject to the provisions of Section 443 of Title 21 of the Oklahoma Statutes.

F. Upon an inmate assigned to the Electronic Monitoring Program becoming eligible for parole consideration, pursuant to Section 332.7 of this title, the Department of Corrections shall deliver the inmate, in person, to a correctional facility for interview, together with any Department records necessary for the Pardon and Parole Board's investigation. Inmates assigned to the Electronic

Monitoring Program shall not be allowed to waive consideration or recommendation for parole.

G. Prior to placement of any eligible inmate assigned to the Electronic Monitoring Program being placed in a community setting, the Department of Corrections shall deliver a written notification to the sheriff and district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be monitored and supervised under the program. The district attorney shall disseminate such information to victims of the crime for which the inmate is serving sentence, if any, when the victims are known to live in the same city, town or county.

H. An inmate assigned to the Electronic Monitoring Program may be required to pay the Department of Corrections for all or part of any monitoring equipment or fee, substance abuse treatment program or follow-up treatment expense, supervision cost, or other costs while assigned to the program. The Department shall determine whether the inmate has the ability to pay all or part of such fee or costs.

I. The Department of Corrections shall promulgate and adopt rules and procedures necessary to implement the Electronic Monitoring Program, including but not limited to methods of monitoring and supervision, disciplinary action, reassignment to higher and lower security levels, removal from the program, and

costs of monitoring and supervision to be paid by the inmate, if any.

SECTION 3. AMENDATORY Section 2, Chapter 455, O.S.L. 2009 (57 O.S. Supp. 2009, Section 530.4), is amended to read as follows:

Section 530.4 A. Notwithstanding any law to the contrary, the Director of the Department of Corrections may release a prisoner to the custody and control of the United States Immigration and Customs Enforcement, provided the Department has received an order of deportation for the prisoner from the United States Citizenship and Immigration Services, the prisoner has served at least one-third (1/3) of the total amount of incarceration imposed by the court, and the prisoner has not been convicted of an offense as provided in Section 13.1 of Title 21 of the Oklahoma Statutes. The Director shall consider all sentences being served when calculating the total amount of incarceration, but shall not consider the suspended portion of any sentence.

B. If a prisoner released pursuant to this section returns illegally to the United States, upon notice from any federal or state law enforcement agency that the prisoner is incarcerated, <u>in custody, arrested, or detained in any manner,</u> the Director shall revoke the release of the prisoner and the prisoner shall serve the remainder of the incarceration originally imposed by the court. The prisoner shall not thereafter be eligible for parole on any sentence

affected by the release provided above. If the Director has reasonable suspicion to believe the prisoner has returned to the United States illegally and is not in custody, the Director may issue an arrest warrant which has the force and effect as any other arrest warrant provided for by Oklahoma law directing any peace officer to arrest the prisoner.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 537, as last amended by Section 1, Chapter 188, O.S.L. 2009 (57 O.S. Supp. 2009, Section 537), is amended to read as follows:

Section 537. A. There shall be established a Canteen System Board of Directors for all canteen system services operated within the Department of Corrections. The members of the Canteen System Board shall be appointed by the Director of the Department of Corrections. All canteen system operations shall be under the control of the Canteen System Board and shall operate pursuant to written guidelines established by the Board. The overall canteen operation composed of all correctional facility canteen operations, inmate telephone systems ~~and~~, inmate electronic mail systems and offender electronic fund payment systems shall be collectively called the Canteen System and such system shall be required to be self-supporting from sales receipts.

B. Each correctional facility may have a canteen system operation. Each facility canteen system when established shall require the warden of such facility or a designee to oversee the

day-to-day canteen system operations according to the guidelines set by the Canteen System Board. The Chief Financial Officer of the Department shall act as custodian of all canteen system funds and be responsible for all expenditures from the canteen system accounts. The Chief Financial Officer shall make daily deposits of all sales receipts in the canteen system accounts. Canteen system profits generated by items or services for resale shall be identified monthly by the Chief Financial Officer and transferred periodically from the canteen system account to the Department of Corrections Inmate and Employee Welfare and Canteen System Support Revolving Fund. All disbursements made from the canteen system account shall be by voucher approved by the Chief Financial Officer and shall be payable through the Office of the State Treasurer. Documentation of each disbursement shall be kept on file by the Department. Canteen system records may be disposed of in accordance with the records disposition schedule approved by the Archives and Records Commission. The Department shall notify the State Records Administrator thirty (30) days in advance of its intent to dispose of any canteen records. The Department shall follow accounting procedures in accordance with state fiscal accounting procedures in administering canteen system funds. All profits from the canteen system shall be used exclusively for the benefit of the inmates of the various institutions and personnel of the Department of Corrections and support of canteen system operations as determined

by the Canteen System Board of Directors pursuant to subsection A of this section.

C. Inmates may work in a correctional facility canteen and shall receive reimbursement for such work through the institution incentive pay program.

D. All correctional facilities canteen system operations and canteen system accounts shall be subject to an annual audit by the Office of the State Auditor and Inspector. Reports of the audit shall be provided to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Legislative Service Bureau, the Department of Corrections, and to the warden of the concerned institution.

E. Merchandise and services to be purchased for resale or distribution through the canteen system, inmate telephone equipment or services, ~~and~~ inmate electronic mail equipment and services <u>and offender electronic fund payment systems</u> shall be purchased by voucher drawn against canteen system accounts and all such purchases of goods and services shall be exempted from the provisions of The Oklahoma Central Purchasing Act <u>and Section 3001 et seq. of Title 74 of the Oklahoma Statutes</u>. All revenues from canteen operations, inmate telephone system services and inmate electronic mail system operations shall be used exclusively for the benefit of the inmates of the various institutions and personnel of the Department of Corrections as determined by the Canteen System Board of Directors.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 549.1, as last amended by Section 39, Chapter 1, O.S.L. 2007 (57 O.S. Supp. 2009, Section 549.1), is amended to read as follows:

Section 549.1 A. The Department of Corrections is authorized to purchase in the manner prescribed by law, facilities, equipment, raw materials and supplies, and to engage the supervisory personnel necessary to establish and maintain for this state at the penal institutions, now or hereafter under the control of the State Board of Corrections, industries and agricultural programs for the utilization of services of prisoners in the delivery, manufacture or production of the ~~articles or~~ products and services as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by this state and the political subdivisions thereof. Upon the request of the Oklahoma Historical Society or the Oklahoma Tourism and Recreation Department, the Department of Corrections shall provide labor for and shall produce or manufacture ~~articles,~~ products or materials needed for the repair, construction and maintenance of historical sites and state parks including, but not limited to, the production of materials and products needed for the reconstruction of historic forts in the state.

B. All ~~articles~~ products and services provided by the Prison Industries Program of the Department of Corrections ~~in the state correctional institutions, and not required for use therein, shall~~

~~be purchased as required by all~~, and not required for use therein, may be purchased by any office, department, institution, agency, county, city, district or political subdivision, school, college or university, or any agency thereof, or any agency of the state, which is supported in whole or in part by the state, directly without issuance of a solicitation or competitive bid.

C. All offices, departments, institutions, agencies, counties, schools, colleges, universities, or political subdivisions or any agency ~~thereof~~ of this state which are supported in whole or in part by this state, ~~if such article or service is the lowest and best bid, and no such article or product may be purchased by any such office, department, institution, agency, county, school, college, university, or political subdivisions or agency thereof from any other source unless excepted from the provisions as hereinafter provided. Purchases made by the above-described state agencies may be made by submitting the proper requisition through the Department of Central Services or by direct order to the prison industries program of~~ shall include the Prison Industries Program of the Department of Corrections as a vendor in all solicitations for the purchase of products and services that are provided by the Prison Industries Program, and if such product or service is the lowest and best bid, the agency shall purchase the product or service from the Prison Industries Program of the Department of Corrections.

~~C.~~ D. If a ~~requisition is received by the Department of Central Services or a direct order is received by the Prison Industries Program of the Department of Corrections from a state agency for any~~ product or service is provided by the Prison Industries Program of the Department of Corrections and ~~such product or service~~ is also available from a severely handicapped person or a qualified nonprofit agency for the severely handicapped as provided in Section 3001 et seq. of Title 74 of the Oklahoma Statutes at a comparable price, then the product or service shall be purchased from such severely handicapped person or qualified nonprofit agency for the severely handicapped. If the product or service ~~is not available within the time period required by the purchasing state agency,~~ delivery dates do not meet the requirements of the agency and a waiver is obtained through the Department of Central Services, then such product or service may be purchased under the provisions of subsection B of this section or, if competitively bid, shall be purchased from the Department of Corrections under the provisions of subsection C of this section.

~~D. All offices, departments, institutions, agencies, counties, cities, districts or political subdivisions, schools, colleges, or universities, or any agency thereof, or any agencies of the state, which are supported in whole or in part by this state, may purchase the goods or services produced by the prison industries of the Department of Corrections through their properly authorized~~

~~purchasing authority, or they may place a direct order without competitive bid, with the prison industries of the Department of Corrections.~~

E. Not-for-profit corporations or charitable agencies chartered in Oklahoma or other states may purchase ~~such goods~~ products and services provided by the Prison Industries Program and agriculture programs of the Department of Corrections. Units of the federal government and units of government in other states may also purchase such ~~goods~~ products and services. All entities which contract with the state, its political units, its agencies, its public institutions, not-for-profit corporations or charitable agencies chartered in Oklahoma may purchase ~~goods~~ products or services from the Department of Corrections which are used in the performance of such contracts. Any church located in the State of Oklahoma may also purchase ~~goods~~ products and services produced by the prison industries of the Department of Corrections. Any community action agency or council of governments within this state may purchase housing components produced by the prison industries of the Department of Corrections. Nothing shall prohibit the Department from bidding on portions of a state contract which are subcontracted by the primary contractor.

F. Others are prohibited from purchasing such ~~goods~~ products and services, with the exception that all surplus agricultural products may be sold on the open market or bartered and exchanged

for other food, feed or seed products of comparable value. The Department of Corrections shall keep complete and accurate records of any such barters or exchanges in such form and manner as the Department of Central Services may prescribe. A copy of such records shall be filed with the Department of Central Services no later than March 1 of each year for all barters or exchanges occurring in the previous calendar year.

G. Products provided, produced, or manufactured by the Department of Corrections shall be of styles, patterns, designs and quantities specified by the Department of Corrections except where the same have been or may be specified by the Department of Central Services. Products shall be provided at a fair market price for comparable quality.

H. State agencies shall make maximum utilization of such products and services and no similar products or services shall be purchased by state agencies from any other source than the Department of Corrections ~~except as provided~~ without compliance with the provisions in ~~subsection~~ subsections B, C and D of this section, unless the Department of Corrections certifies to the State Purchasing Director that it is not able to provide products, and no claim therefor shall be paid without such certification.

I. Exceptions from the mandatory provisions hereof may be made in any case where, in the opinion of the Department of Central Services, the ~~article or~~ product or service does not meet the

reasonable requirements of or for such offices, departments, institutions or agencies, or in any case where the requisitions made cannot be reasonably complied with. No such offices, departments, institutions or agencies, shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the Department of Central Services, when the ~~articles,~~ services provided or products produced or manufactured by the Department of Corrections, in accordance with established standards, are reasonably adapted to the actual needs of such offices, departments, institutions or agencies.

J. In the event of disagreement between the Department of Corrections and the State Purchasing Director on fairness of price, ability to comply to specifications, reasonableness of specifications and timeliness of delivery of products the matter will be resolved by the Central Purchasing Director.

K. The Department of Central Services shall cooperate with the Department of Corrections in seeking to promote for use in state agencies and by all other eligible customers, the products provided, produced and manufactured and services provided by the ~~prison industries~~ Prison Industries Program of the Department of Corrections.

L. The Department of Corrections shall prepare catalogs containing the description of all ~~goods~~ products and services provided, with the pricing of each item. Copies of such catalog

shall be sent by the Department of Corrections to all offices, departments, institutions and agencies of this state, and shall be available for distribution to all other eligible customers.

SECTION 6. AMENDATORY 57 O.S. 2001, Section 561.1, as last amended by Section 3, Chapter 455, O.S.L. 2009 (57 O.S. Supp. 2009, Section 561.1), is amended to read as follows:

Section 561.1 A. Except as otherwise provided by subsection K of this section, prior to entering into a contract with any private prison contractor for construction or operation, or both, of a correctional facility, the Department of Corrections shall establish a process for requesting proposals or negotiated contracts from such contractors. The Department of Corrections shall develop criteria for the process by which a contractor for the construction or operation, or both, of a private prison is to be awarded a contract. The criteria shall be subject to approval by the State Board of Corrections. The criteria for selection of a site for a proposed facility to be constructed or operated, or both, by a private contractor shall include, but shall not be limited to, the availability of medical services, support services, transportation services and the availability of potential employees who would be qualified to perform required functions at a state correctional facility.

B. Any contract between the Department of Corrections and a private prison contractor, whereby the contractor provides for the

housing, care, and control of inmates in a nondepartmental facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

1. Requiring the contractor to provide said services in a facility which meets accreditation standards established by the American Correctional Association;

2. Requiring the contractor to receive accreditation for said facility from the American Correctional Association, within three (3) years of commencement of operations of the facility;

3. Requiring the contractor to obtain written authorization from the governing board of any municipality in which the facility is to be located, or if the facility is not to be located within a municipality, written authorization from the board of county commissioners of the county in which the facility is to be located; and

4. Granting the Department the option at the beginning of each fiscal year pursuant to an agreement, to purchase any such facility, with or without inventory or other personal property, at a predetermined price, which shall be negotiated and included in a schedule or a formula to be contained in the original agreement. Such agreements relating to a correctional facility, the construction of which was financed or is to be financed by obligations issued from a local governmental entity the repayment of which is to be made in whole or in part from rentals from the State

of Oklahoma or the Department of Corrections, shall be submitted to the Oklahoma Bond Oversight Commissions as provided in subsection I of this section.

C. A contractor proposing to enter a contract with the Department of Corrections for construction or operation, or both, of a correctional facility pursuant to this section must demonstrate:

1. The qualifications and the operations and management experience to carry out the terms of the contract; and

2. The ability to comply with the standards of the American Correctional Association and with specific court orders.

D. In addition to meeting the requirements specified in the requests for proposals, a proposal for the construction and operation of a correctional facility must:

1. Provide for regular, on-site monitoring by the Department of Corrections;

2. Acknowledge that payment by the state is subject to the availability of appropriations;

3. Provide for payment of a maximum amount per fiscal year;

4. Demonstrate a cost benefit to the State of Oklahoma when compared to the level and quality of programs provided by state-operated facilities that have similar types of inmates at an operational cost not more than the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities. The Department of Corrections

shall be responsible for determining the cost/benefit of the proposal;

5. Permit the state to terminate the contract for cause;

6. Contain a proposed per diem operational cost per inmate for the initial year and subsequent years of operations;

7. Subject to appropriations, provide that cost adjustments may be made only once each fiscal year, to take effect at the beginning of the next fiscal year using as the maximum percentage increase, if any, an increase not to exceed the previous year's Consumer Price Index for All Urban Consumers (CPI-U) as prepared by the United States Bureau of Labor Statistics, except as otherwise provided by subsection K of this section;

8. Have an initial contract term of not more than one (1) year, with an option to renew for additional periods not to exceed twenty (20) years;

9. If the proposal includes construction of a facility, contain a performance bond approved by the Department that is adequate and appropriate for the proposed contract;

10. Provide for assumption of liability by the private vendor for all claims arising from the services performed under the contract by the private vendor;

11. Provide for an adequate plan of insurance for the private vendor and its officers, ~~guards,~~ employees, and agents against all claims, including claims based on violations of civil rights arising

from the services performed under the contract by the private vendor;

12. Provide for an adequate plan of insurance to protect the state against all claims arising from the services performed under the contract by the private vendor and to protect the state from actions by a third party against the private vendor, its ~~officer~~ officers, ~~guards,~~ employees, and agents as a result of the contract;

13. Provide plans for the purchase and assumption of operations by the state in the event of the bankruptcy of the private vendor; and

14. Contain comprehensive standards for conditions of confinement.

E. At the beginning of each fiscal year, the Department of Corrections shall determine the budgeted average daily cost per inmate. There shall be a separate computation of budgeted average daily cost for maximum security, medium security, minimum security, and community facilities. This information shall be presented to the State Board of Corrections for informational purposes only. After the close of each fiscal year, the Department shall determine the actual average daily cost per inmate for the operational costs at each major category of correctional facility. There shall be a separate computation of the average daily rate for maximum security, medium security, minimum security, and community facilities. The Department shall present to the State Board of Corrections at its

January meeting comparative data on budgeted daily cost versus actual daily cost, and, after appropriate review and analysis, the Board shall adopt as a final action of the Board an average daily cost per inmate by facility category for the immediately preceding fiscal year.

F. If a request for proposal process is utilized and no proposals conform to the established criteria, the Department shall prepare an additional request for proposals. The Department of Corrections shall evaluate the proposals within thirty (30) days of receipt from the prospective contractor. The Department of Corrections shall specifically determine whether a proposal meets the requirements of paragraph 4 of subsection D of this section by comparing the daily rate for housing and care of inmates pursuant to any proposed contract with a private contractor to the daily rate for housing and care of inmates at the comparable type of facility operated by the Department of Corrections using the information provided pursuant to paragraph 6 of subsection D of this section. The Department shall evaluate proposals taking into account any direct or indirect costs that would continue to be paid by the Department of Corrections including, but not limited to, transportation, records management, discipline, general administration, management of inmate trust funds, and major medical coverage. Such costs shall be added to the proposed per diem of the

private vendor when comparing the total per diem costs of the state operating facilities.

G. If the Department of Corrections proposes to enter into a contract for the construction or the operation, or both, of a private prison, the Department shall compare both the capital costs and the operating costs for the facility to the imputed capital costs and the projected operating costs of a comparable facility constructed and operated by the Department of Corrections.

H. The Department of Corrections shall deliver to the State Board of Corrections the top three qualified prospective private prison contractors identified pursuant to this section and pursuant to Section 561 of this title together with the information reviewed and analyzed by the Department of Corrections during analysis of the proposals as required by this section. The Board of Corrections shall evaluate the information provided and shall make a final decision selecting the contractor within fifteen (15) days of receipt of the information.

I. Any contract subject to the provisions of this section entered into by the Board of Corrections shall be subject to the approval of the Council on Bond Oversight in the same manner as provided by law for the review of issuance of obligations by State Governmental Entities as prescribed by Section 695.8 of Title 62 of the Oklahoma Statutes.

J. Before submission of the proposed contract to the Council on Bond Oversight, and prior to the date as of which the proposed contract is executed by the Board of Corrections, the Attorney General and the Director of the Department of Central Services shall review the proposed final version of the contract. The Attorney General and the Director of the Department of Central Services shall have a period of fifteen (15) days from receipt of the proposed final version of the contract to approve the contract and execute the document. If either the Attorney General or the Director of the Department of Central Services has objections to the proposed contract, the objections shall be communicated in writing to the Department of Corrections. The Department of Corrections shall take appropriate action regarding the objections and shall resubmit the proposed contract for additional review. The Attorney General and the Department of Central Services shall have an additional fifteen-day period to approve the proposed contract and to execute the document. Failure of the Attorney General or the Director of the Department of Central Services, respectively, to act within the fifteen-day period shall constitute approval of the respective official to the proposed final version of the contract. The contract shall contain a separate signature block or line for signature by the Attorney General and the Department of Central Services. The contract shall contain a statement to be executed by the Attorney General and the Director of the Department of Central

Services that each one of them, respectively, has reviewed the proposed contract for compliance with the provisions of this section and Section 561 of this title, and all other applicable provisions of law and that the contract conforms with those requirements. Neither the private prison contractor nor the State Board of Corrections shall execute the contract until the document has been executed by the Attorney General and the Director of the Department of Central Services as required by this subsection unless the approval of the respective official has been made as a result of failure to take action within the fifteen-day period prescribed by this subsection.

K. The State Board of Corrections may renew a private prison contract which is in effect for any time period during the fiscal year ending June 30, 2009, if the Board determines that the renewal of such contract will result in a reduced per diem in the fiscal year ending June 30, 2010. If the State Board of Corrections makes such determination, the contract shall not be subject to the restrictions of paragraph 7 of subsection D of this section and the Board shall negotiate the contract based upon such terms as the Board deems to be in the best interest of operational efficiency, including the inmate population, per inmate cost, public safety and such other terms as the State Board of Corrections determines to be relevant to such contract. The State Board of Corrections shall have the authority to negotiate the term of any contract executed

pursuant to the provisions of this subsection subject to the availability of appropriations to the Department of Corrections each year.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 562, is amended to read as follows:

Section 562. The Department of Corrections is hereby authorized to employ Correctional Officer Cadets that will meet all the qualifications established for correctional officers ~~and guards~~ in Section 510 of this title. After successful completion of the probationary period required in subsection D of Section 840-4.13 of Title 74 of the Oklahoma Statutes, Correctional Officer Cadets will be promoted to Correctional Officer I.

SECTION 8. AMENDATORY Section 5, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2009, Section 564.1), is amended to read as follows:

Section 564.1 A. In those instances of prison disciplinary proceedings that result in the revocation of earned credits, the prisoner, after exhausting administrative remedies, may seek judicial review in the district court of the official residence of the Department of Corrections. To be considered by the court, the inmate shall meet the following requirements:

1. The petition shall be filed within ninety (90) days of the date the petitioner is notified of the final Department of Corrections decision in the Department disciplinary appeal process.

2. The petition shall only name the Department of Corrections as the respondent and service shall be in accordance with the rules for service ~~under the laws of this state~~ pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

3. The petition shall be limited to the review of only one disciplinary report and no other pleading is allowed other than the petition and the answer.

4. The court shall not consider any pleadings from any intervening parties and shall not stay the Department disciplinary process during the review of the misconduct hearing.

B. The answer of the Department shall be filed within thirty (30) days of receipt of the petition unless the court orders a special report upon motion by one party or upon its own motion.

C. The petition shall assert that due process was not provided and prove which element of due process, relevant only to a prison administrative disciplinary proceeding, was not provided by the prison staff.

D. The court shall only determine whether due process was provided by the revoking authority. In determining whether due process was provided, the court shall determine:

1. Whether written notice of the charge was provided to the inmate;

2. Whether the inmate had a minimum of twenty-four (24) hours to prepare after notice of the charge;

3. Whether the inmate was provided an opportunity for a hearing by a prison employee not involved in bringing the charge;

4. Whether the inmate had the opportunity to present relevant documentary evidence;

5. Whether the inmate had the opportunity to call witnesses when doing so would not be hazardous to institutional safety or burden correctional goals;

6. Whether the inmate was provided a written statement as to the evidence relied on and the reasons for the discipline imposed; and

7. Whether any evidence existed in the record upon which the hearing officer could base a finding of guilt.

E. The judicial review as provided in this section shall not be an independent assessment of the credibility of any witness or a weighing of the evidence, and there shall be no right to an error free proceeding or to confront accusers. The only remedy to be provided, if the court finds due process was not provided, is an order to the Department to provide due process.

F. There shall be no recovery allowed for costs and fees, providing that frivolous petitions are subject to the sanctions provided by the laws of this state.

G. Either party aggrieved by the final order of the district court on a petition for judicial review may only appeal the order to

the Oklahoma Court of Criminal Appeals as set forth in the rules of such Court.

SECTION 9. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 2 of Enrolled House Bill No. 2934 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 584. A. Any registration with the Department of Corrections required by the Sex Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The name of the person and all aliases used or under which the person has been known;

2. A complete description of the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to testing for individuals registering shall be within thirty (30) days of registration. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate samples for testing;

3. The offenses listed in Section 582 of this title for which the person has been convicted or the person received a suspended sentence or any form of probation, where the offense was committed,

where the person was convicted or received the suspended sentence or any form of probation, and the name under which the person was convicted or received the suspended sentence or probation;

4. The name and location of each hospital or penal institution to which the person was committed for each offense listed in Section 582 of this title;

5. Where the person previously resided, where the person currently resides including a mappable address and a zip code, how long the person has resided there, how long the person expects to reside there, and how long the person expects to remain in the county and in this state. The Department of Corrections shall conduct address verification of each registered sex offender as follows:

a. on an annual basis, if the numeric risk level of the person is one, or

b. on a semiannual basis, if the numeric risk level of the person is two.

The Department of Corrections shall mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement authority at that time. The local law enforcement authority shall require the person to produce proof of the identity

of the person and a current mappable address with a zip code. Upon confirming the information contained within the verification form, the local law enforcement authority shall forward the form to the Department of Corrections within three (3) days after receipt of the form. The verification form shall be signed by the person and state the current address of the person. Failure to return the verification form shall be a violation of the Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department of Corrections or has been assigned a level assignment of three, the address verification shall be conducted every ninety (90) days. The Department of Corrections shall notify the office of the district attorney and local law enforcement authority of the appropriate county, within forty-five (45) days if unable to verify the address of a sex offender. A local law enforcement authority may notify the office of the district attorney whenever it comes to the attention of the local law enforcement authority that a sex offender is not in compliance with any provisions of this act. A local law enforcement authority designated as the primary registration authority of the person may, at any time, mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority that mailed the form within ten (10) days after receipt of the form. The local law enforcement authority shall require the

person to produce proof of the identity of the person and a current mappable address with a zip code;

6. The name and address of any school where the person expects to become or is enrolled or employed for any length of time;

7. A description of all occupants residing with the person registering, including, but not limited to, name, date of birth, gender, relation to the person registering, and how long the occupant has resided there;

8. The level assignment of the person; and

9. Any electronic mail address information, instant message, chat or other Internet communication name or identity information that the person uses or intends to use while accessing the Internet or used for other purposes of social networking or other similar Internet communication.

B. Conviction data and fingerprints shall be promptly transmitted at the time of registration to the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) if the state has not previously sent the information at the time of conviction.

C. The registration with the local law enforcement authority required by the Sex Offenders Registration Act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and a mappable home address with a zip code;

2. A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable;

3. A photocopy of the driver license of the person;

4. The level assignment of the person.

For purposes of this section, "local law enforcement authority" means:

a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or

b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and

c. the police or security department of any institution of higher learning within this state if the person:

(1) enrolls as a full-time or part-time student,

(2) is a full-time or part-time employee at an institution of higher learning, or

(3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning; and

5. Any electronic mail address information, instant message, chat or other Internet communication name or identity information that the person uses or intends to use while accessing the Internet or used for other purposes of social networking or other similar Internet communication.

D. Any person subject to the provisions of the Sex Offenders Registration Act who changes address, employment or student enrollment status shall appear in person and give notification to the Department of Corrections and the local law enforcement authority of the change of address and the new mappable address with zip code, the change of employment or the change of student enrollment status no later than three (3) business days prior to the abandonment of or move from the current address or, in the case of change of employment or student enrollment, within three (3) business days of such change. If the new address, employment or student enrollment is under the jurisdiction of a different local law enforcement authority:

1. The Department of Corrections and the local law enforcement authority shall notify the new local law enforcement authority by teletype or electronic transmission of the change of address, employment or student enrollment status;

2. The offender shall notify the new local law enforcement authority of any previous registration; and

3. The new local law enforcement authority shall notify the most recent registering agency by teletype or electronic transmission of the change in address, employment or student enrollment status of the offender. If the new address is in another state the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender.

E. Any person subject to the provisions of the Sex Offenders Registration Act who is unable to provide a mappable address with a zip code to the Department of Corrections or local law enforcement authority as required in subsections A and C of this section and registers as a transient shall report in person to the nearest local law enforcement authority every seven (7) days and provide to the local law enforcement authority the approximate location of where the person is staying and where the person plans to stay.

F. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies, the State Superintendent of Public Instruction, the State Commissioner of Health, and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public

inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county.

G. The Department of Corrections shall, upon the request of any Internet entity, release to such entity any information required pursuant to paragraph 9 of subsection A of this section or paragraph 5 of subsection C of this section that would enable the Internet entity to prescreen or remove sex offenders from its services or, in conformity with state and federal law, advise law enforcement or other governmental entities of potential violations of law or threats to public safety. Before releasing information to an Internet entity the Department shall require an Internet entity that requests information to submit to the Department the name, address and telephone number of such entity and the specific legal nature and corporate status of such entity. Except for the purposes specified in this subsection, an Internet entity shall not publish or in any way disclose or redisclose any information provided to it by the Department pursuant to this subsection. The Department shall update any information released pursuant to this subsection on a monthly basis to ensure that the information of every individual that has been removed from the sex offender registry in this state

is no longer released pursuant to this subsection. The Department may charge the Internet entity a fee for access to information pursuant to this subsection. The Department shall promulgate any rules necessary to implement the provisions of this subsection. As used in this subsection "Internet entity" means any business, organization or other entity providing or offering a service over the Internet which permits persons under eighteen (18) years of age to access, meet, congregate or communicate with other users for the purpose of social networking. This definition shall not include general e-mail services.

H. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

I. The State Commissioner of Health is authorized to distribute information from the sex offender registry to any nursing home or long-term care facility. Nothing in this subsection shall be deemed to impose any liability upon or give rise to a cause of action against any person, agency, organization, or company for failing to

release information in accordance with the Sex Offenders Registration Act.

J. Each local law enforcement authority shall make its sex offender registry available upon request, without restriction, at a cost that is no more than what is charged for other records provided by the local law enforcement authority pursuant to the Oklahoma Open Records Act.

When a local law enforcement authority sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

K. Samples of blood or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples

is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department of Corrections a fee of Fifteen Dollars ($15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

L. 1. Any person who has been convicted of or received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime listed in Section 582 of this title and:

a. who is subsequently convicted of a crime or an attempt to commit a crime listed in subsection A of Section 582 of this title, or

b. who enters this state after November 1, 1997, and who has been convicted of an additional crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in subsection A of Section 582 of this title,

shall be subject to all of the registration requirements of this act and shall be designated by the Department of Corrections as a

habitual sex offender. A habitual sex offender shall be required to register for the lifetime of the habitual sex offender.

2. On or after November 1, 1999, any person who has been convicted of a crime or an attempt to commit a crime, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department of Corrections as an aggravated sex offender. An aggravated sex offender shall be required to register for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

a. the family of the habitual or aggravated sex offender,

b. any prior victim of the habitual or aggravated sex offender,

c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent, and

d. a nursing facility, a specialized facility, a residential care home, a continuum-of-care facility, an assisted living center, and an adult day care facility.

4. The notification may include, but is not limited to, the following information:

a. the name and physical address of the habitual or aggravated sex offender,

b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,

c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,

d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,

e. a description of the primary and secondary targets of the habitual or aggravated sex offender,

f. a description of the method of offense of the habitual or aggravated sex offender,

g. a current photograph of the habitual or aggravated sex offender,

h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender, and

i. the level assignment of the person.

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated sex offender available to any person upon request.

M. If the probation and parole officer supervising a person subject to registration receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or educational status, higher educational status, incarceration, or terms of release, the supervising officer or administrator shall notify the appropriate local law enforcement authority or authorities of that change.

N. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under any provision of the Sex Offenders Registration Act <u>and the court shall not order attorney fees against a public official, public employee or public agency enforcing this act</u>.

1. Nothing in the Sex Offenders Registration Act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for releasing information to the public or for failing to release information in accordance with the Sex Offenders Registration Act.

2. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in the Sex Offenders Registration Act.

SECTION 10. AMENDATORY Section 3, Chapter 21, O.S.L. 2002, as last amended by Section 1, Chapter 337, O.S.L. 2007, and as renumbered by Section 2, Chapter 337, O.S.L. 2007 (57 O.S. Supp. 2009, Section 627), is amended to read as follows:

Section 627. A. It shall be the responsibility of the Department of Corrections to provide such medical and surgical inpatient and outpatient care as may be required by inmates of the Department of Corrections. The Department may refer to the Oklahoma University Medical Center, and the Oklahoma University Medical Center shall accept, those inmates who need services, as determined by the Department of Corrections to be beyond the professional capabilities of the Department of Corrections.

B. The Department of Corrections may also contract with providers of general inpatient hospital services. Any such provider

shall be a hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes. The Department of Corrections may also contract with physicians and other providers of inpatient and outpatient health care services, equipment and health-care-related products as may be necessary for the delivery of health care which is beyond the professional capabilities of the Department of Corrections.

C. When the Department of Corrections determines the medical necessity for urgent hospitalization of an inmate, an appropriate inpatient hospital in close proximity to the correctional facility shall be used for emergency care and stabilization. The Department of Corrections is authorized to develop a network of inpatient hospitals, physicians, and other inpatient and outpatient medical providers that are capable of providing necessary health care services, equipment and other health-care-related products. Those hospitals, physicians, and other inpatient or outpatient providers of health care services and products that are in the network established by the Department of Corrections in conjunction with the ~~Oklahoma~~ State and Education Employees Group Insurance Board shall be reimbursed according to the current fee schedule established for that network~~; provided however, reimbursement shall be no less than the fee structure in effect on January 1, 2007, or the current fee schedule, whichever is greater~~. Hospitals and inpatient and outpatient providers that are out-of-network shall be reimbursed according to the current Oklahoma Medicaid fee schedule~~; provided~~

~~however, reimbursement shall be no less than the fee structure in effect on January 1, 2007, or the current fee schedule, whichever is greater~~.

D. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of inmate consumers as may be required beyond that security normal to hospital operation. The Department of Corrections shall immediately remove from the hospital those inmate consumers when discharged by the hospital.

E. The hospital services provided by the Oklahoma University Medical Center shall be without cost to the Department of Corrections.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 85.12, as last amended by Section 98 of Enrolled Senate Bill No. 2113 of the 2nd Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in

compliance with Section 85.39 of this title but are not subject to other provisions of The Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of The Oklahoma Central Purchasing Act;

3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases; contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts; and contracts for public service

type announcements initiated by the Department of Transportation; but not contractual services for advertising or public relations or employment services;

4. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by municipal ordinance, or by an Indian Tribal Council for use by the Department of Corrections only;

5. Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall include appropriate safeguards and record-keeping requirements to ensure appropriate competition and economical and efficient purchasing;

6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. Acquisitions by rural water, sewer, gas, or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

13. Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;

14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

15. Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for training and supportive services that address the needs of new or expanding industries;

16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

18. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;

20. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such contracts;

21. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

22. Acquisitions by the Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

23. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;

24. Acquisitions by the Oklahoma Energy Resources Board;

25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;

26. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

27. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction;

28. Acquisitions by the Native America Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to

assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

29. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes;

30. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps, and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;

31. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts, trailer, and other products, any equipment excluding vehicles below a gross vehicle weight of fourteen thousand (14,000) pounds, and any services excluding computer consultant services used to ~~produce~~ provide goods or services for resale and for the ~~production~~ provision of agricultural products;

33. Contracts entered into by the Department of Human Services for provision of supported living services to members of the plaintiff class in Homeward Bound, Inc., et. al., v. The Hissom

Memorial Center, et. al., Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma;

34. Contracts negotiated by the Office of Juvenile Affairs with designated Youth Services Agencies and the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, pursuant to the provisions of Section 2-7-306 of Title 10A of the Oklahoma Statutes; and

35. Contracts not to exceed One Hundred Thousand Dollars ($100,000.00) entered into by the Department of Environmental Quality for engineering services to assist qualifying small municipalities or rural water or sewer districts with engineering reports or plans and specifications needed for construction or repairs to achieve compliance with federal and state public water supply or wastewater laws and regulations.

C. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer, or any program contract, purchase, acquisition or expenditure that is not subject to the provisions of The Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing

Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

D. The State Purchasing Director shall make periodic audits of the purchasing procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that the procedures are being followed.

SECTION 12. 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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