

1 2. The defendant knowingly created a great risk of death to
2 more than one person;

3 3. The person committed the murder for remuneration or the
4 promise of remuneration or employed another to commit the murder for
5 remuneration or the promise of remuneration;

6 4. The murder was especially heinous, atrocious, or cruel;

7 5. The murder was committed for the purpose of avoiding or
8 preventing a lawful arrest or prosecution;

9 6. The murder was committed by a person while serving a
10 sentence of imprisonment on conviction of a felony;

11 7. The existence of a probability that the defendant would
12 commit criminal acts of violence that would constitute a continuing
13 threat to society; or

14 8. The victim of the murder was a peace officer as defined by
15 Section 99 of ~~Title 21 of the Oklahoma Statutes~~ this title, or ~~guard~~
16 correctional employee of an institution under the control of the
17 Department of Corrections, and such person was killed while in
18 performance of official duty.

19 SECTION 2. AMENDATORY 57 O.S. 2001, Section 20, is
20 amended to read as follows:

21 Section 20. Every county, city or town convict in this state,
22 whether required to work upon the public highways of ~~such~~ the
23 county, city or town, in accordance with the laws of this state, or

1 merely confined in the county, city or town prison, shall receive
2 credit upon his or her fine and costs of One Dollar (\$1.00) for each
3 day ~~se~~ confined in prison, or worked upon the public highways, rock
4 pile, or rock crusher, or public work; provided that those prisoners
5 or convicts doing and performing the most efficient work and making
6 the best prisoners, shall be entitled to an additional credit of one
7 (1) day for every five (5) days of work, the ~~guard or~~ custodian of
8 ~~such~~ the prison to determine at the end of each five (5) days of
9 ~~such~~ imprisonment whether or not ~~such~~ the prisoner is entitled to
10 such credit, and to make a record of ~~such~~ the decision and notify
11 the prisoner of the same.

12 SECTION 3. AMENDATORY 57 O.S. 2001, Section 510, as last
13 amended by Section 1, Chapter 232, O.S.L. 2009 (57 O.S. Supp. 2010,
14 Section 510), is amended to read as follows:

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

18 1. To appoint, subject to the approval of the State Board of
19 Corrections, a warden or superintendent for each penal institution,
20 who shall qualify for the position by character, personality,
21 ability, training, and successful administrative experience in the
22 correctional field; and if the person is not the incumbent warden or
23 superintendent of a penal institution, the person shall have a

1 college degree with a major in the behavioral sciences. As used in
2 this section, "major in the behavioral sciences" means a major in
3 psychology, sociology, criminology, education, corrections, human
4 relations, guidance and counseling, administration, criminal justice
5 administration, or penology;

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

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

15 b. possession of a minimum of thirty (30) semester hours
16 from an accredited college or university, or
17 possession of a high school diploma acquired from an
18 accredited high school or GED equivalent testing
19 program and graduation from a training course
20 conducted by or approved by the Department and
21 certified by the Council on Law Enforcement Education
22 and Training either prior to employment or during the
23 first six (6) months of employment,

- 1 c. be of good moral character,
- 2 d. before going on duty alone, satisfactory completion of
- 3 an adequate training program for correctional officers
- 4 ~~and guards~~, as prescribed and approved by the State
- 5 Board of Corrections,
- 6 e. satisfactory completion of minimum testing or
- 7 professional evaluation through the Merit System of
- 8 Personnel Administration to determine the fitness of
- 9 the individual to serve in the position written
- 10 evaluations shall be submitted to the Department of
- 11 Corrections, and
- 12 f. satisfactory completion of a physical in keeping with
- 13 the conditions of the job description on an annual
- 14 basis and along the guidelines as established by the
- 15 Department of Corrections;

16 3. To designate as peace officers qualified personnel in any

17 Department of Corrections job classifications. The Director shall

18 designate as peace officers correctional officers who are employed

19 in positions requiring said designation. The peace officer

20 authority of employees designated as peace officers shall be limited

21 to: maintaining custody of prisoners; preventing attempted escapes;

22 pursuing, recapturing and incarcerating escapees and parole or

23 probation violators and arresting such escapees, parole or probation

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

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

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

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

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

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

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

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

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

23 The prisoner shall be returned to the institution when the
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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 advance 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
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1 inmate labor shall be of such a nature and designed to assist and
2 aid in the rehabilitation of inmates performing the labor;

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

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

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

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

22 20. To conduct continual planning and research and periodically
23 evaluate the effectiveness of the various correctional programs

1 instituted by the Department; manage the designing, building, and
2 maintaining of all the capital improvements of the Department;
3 establish and maintain current and efficient business, bookkeeping,
4 and accounting practices and procedures for the operations of all
5 institutions and facilities, and for the Department's fiscal
6 affairs; conduct initial orientation and continuing in-service
7 training for the Department employees; provide public information
8 services; inspect and examine the condition and management of state
9 penal and correctional institutions; investigate complaints
10 concerning the management of prisons or alleged mistreatment of
11 inmates thereof; and hear and investigate complaints as to
12 misfeasance or nonfeasance of employees of the Department;

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

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1 22. To issue subpoenas to assist or further investigations into
2 allegations of crimes committed in public or private prisons within
3 the State of Oklahoma. Subpoenas issued by the Director shall be
4 enforced by the District Court in the county in which the person who
5 is subpoenaed resides.

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

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

21 SECTION 4. AMENDATORY 57 O.S. 2001, Section 561.1, as
22 last amended by Section 3, Chapter 455, O.S.L. 2009 (57 O.S. Supp.
23 2010, Section 561.1), is amended to read as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

17 B. Any contract between the Department of Corrections and a
18 private prison contractor, whereby the contractor provides for the
19 housing, care, and control of inmates in a nondepartmental facility
20 operated by the contractor, shall contain, in addition to other
21 provisions, terms and conditions:
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1 1. Requiring the contractor to provide said services in a
2 facility which meets accreditation standards established by the
3 American Correctional Association;

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

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

13 4. Granting the Department the option at the beginning of each
14 fiscal year pursuant to an agreement, to purchase any such facility,
15 with or without inventory or other personal property, at a
16 predetermined price, which shall be negotiated and included in a
17 schedule or a formula to be contained in the original agreement.

18 Such agreements relating to a correctional facility, the
19 construction of which was financed or is to be financed by
20 obligations issued from a local governmental entity the repayment of
21 which is to be made in whole or in part from rentals from the State
22 of Oklahoma or the Department of Corrections, shall be submitted to
23

1 the Oklahoma Bond Oversight Commissions as provided in subsection I
2 of this section.

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

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

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

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

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

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

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

18 4. Demonstrate a cost benefit to the State of Oklahoma when
19 compared to the level and quality of programs provided by state-

20 operated facilities that have similar types of inmates at an

21 operational cost not more than the cost of housing inmates in

22 similar facilities and providing similar programs to those types of

23 inmates in state-operated facilities. The Department of Corrections

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

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

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

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

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

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

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

22 11. Provide for an adequate plan of insurance for the private
23 vendor and its officers, ~~guards,~~ employees, and agents against all

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1 claims, including claims based on violations of civil rights arising
2 from the services performed under the contract by the private
3 vendor;

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

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

12 14. Contain comprehensive standards for conditions of
13 confinement.

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

1 medium security, minimum security, and community facilities. The
2 Department shall present to the State Board of Corrections at its
3 January meeting comparative data on budgeted daily cost versus
4 actual daily cost, and, after appropriate review and analysis, the
5 Board shall adopt as a final action of the Board an average daily
6 cost per inmate by facility category for the immediately preceding
7 fiscal year.

8 F. If a request for proposal process is utilized and no
9 proposals conform to the established criteria, the Department shall
10 prepare an additional request for proposals. The Department of
11 Corrections shall evaluate the proposals within thirty (30) days of
12 receipt from the prospective contractor. The Department of
13 Corrections shall specifically determine whether a proposal meets
14 the requirements of paragraph 4 of subsection D of this section by
15 comparing the daily rate for housing and care of inmates pursuant to
16 any proposed contract with a private contractor to the daily rate
17 for housing and care of inmates at the comparable type of facility
18 operated by the Department of Corrections using the information
19 provided pursuant to paragraph 6 of subsection D of this section.
20 The Department shall evaluate proposals taking into account any
21 direct or indirect costs that would continue to be paid by the
22 Department of Corrections including, but not limited to,
23 transportation, records management, discipline, general

1 administration, management of inmate trust funds, and major medical
2 coverage. Such costs shall be added to the proposed per diem of the
3 private vendor when comparing the total per diem costs of the state
4 operating facilities.

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

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

20 I. Any contract subject to the provisions of this section
21 entered into by the Board of Corrections shall be subject to the
22 approval of the Council on Bond Oversight in the same manner as
23 provided by law for the review of issuance of obligations by State

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1 Governmental Entities as prescribed by Section 695.8 of Title 62 of
2 the Oklahoma Statutes.

3 J. Before submission of the proposed contract to the Council on
4 Bond Oversight, and prior to the date as of which the proposed
5 contract is executed by the Board of Corrections, the Attorney
6 General and the Director of the Department of Central Services shall
7 review the proposed final version of the contract. The Attorney
8 General and the Director of the Department of Central Services shall
9 have a period of fifteen (15) days from receipt of the proposed
10 final version of the contract to approve the contract and execute
11 the document. If either the Attorney General or the Director of the
12 Department of Central Services has objections to the proposed
13 contract, the objections shall be communicated in writing to the
14 Department of Corrections. The Department of Corrections shall take
15 appropriate action regarding the objections and shall resubmit the
16 proposed contract for additional review. The Attorney General and
17 the Department of Central Services shall have an additional fifteen-
18 day period to approve the proposed contract and to execute the
19 document. Failure of the Attorney General or the Director of the
20 Department of Central Services, respectively, to act within the
21 fifteen-day period shall constitute approval of the respective
22 official to the proposed final version of the contract. The
23 contract shall contain a separate signature block or line for

1 signature by the Attorney General and the Department of Central
2 Services. The contract shall contain a statement to be executed by
3 the Attorney General and the Director of the Department of Central
4 Services that each one of them, respectively, has reviewed the
5 proposed contract for compliance with the provisions of this section
6 and Section 561 of this title, and all other applicable provisions
7 of law and that the contract conforms with those requirements.
8 Neither the private prison contractor nor the State Board of
9 Corrections shall execute the contract until the document has been
10 executed by the Attorney General and the Director of the Department
11 of Central Services as required by this subsection unless the
12 approval of the respective official has been made as a result of
13 failure to take action within the fifteen-day period prescribed by
14 this subsection.

15 K. The State Board of Corrections may renew a private prison
16 contract which is in effect for any time period during the fiscal
17 year ending June 30, 2009, if the Board determines that the renewal
18 of such contract will result in a reduced per diem in the fiscal
19 year ending June 30, 2010. If the State Board of Corrections makes
20 such determination, the contract shall not be subject to the
21 restrictions of paragraph 7 of subsection D of this section and the
22 Board shall negotiate the contract based upon such terms as the
23 Board deems to be in the best interest of operational efficiency,

1 including the inmate population, per inmate cost, public safety and
2 such other terms as the State Board of Corrections determines to be
3 relevant to such contract. The State Board of Corrections shall
4 have the authority to negotiate the term of any contract executed
5 pursuant to the provisions of this subsection subject to the
6 availability of appropriations to the Department of Corrections each
7 year.

8 SECTION 5. AMENDATORY 57 O.S. 2001, Section 562, is
9 amended to read as follows:

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

17 SECTION 6. This act shall become effective November 1, 2011.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-17-2011 -
19 DO PASS, As Coauthored.

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