

1 **SENATE FLOOR VERSION**

2 February 24, 2016

3 **AS AMENDED**

4 SENATE BILL NO. 1371

By: David of the Senate

and

Ownbey of the House

8 **[Office of Juvenile Affairs - temporary detention -**
9 **Juvenile Detention Improvement Revolving Fund -**
10 **secure detention beds - effective date]**

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-103, is
14 amended to read as follows:

15 Section 2-3-103. A. Provision shall be made for the temporary
16 detention of children in a juvenile detention facility or the court
17 may arrange for the care and custody of such children temporarily in
18 private homes, subject to the supervision of the court, or the court
19 may provide shelter or may enter into a contract with any
20 institution or agency to receive, for temporary care and custody,
21 children within the jurisdiction of the court. The Office of
22 Juvenile Affairs shall not be ordered to provide detention unless
23 said Office has designated and is operating detention services or
24 facilities.

1 B. County sheriffs, their designee, private contractors under
2 contract with the Office of Juvenile Affairs for transportation
3 services, or juvenile court officers shall provide for the
4 transportation of juveniles to and from secure detention for
5 purposes of admission, interfacility transfer, discharge, medical or
6 dental attention, court appearance, or placement designated by the
7 Office. No private contract for transportation services shall be
8 entered into by the Office unless the private contractor
9 demonstrates to the satisfaction of the Office that such contractor
10 is able to obtain insurance or provide self-insurance to indemnify
11 the Office against possible lawsuits and meets the requirements of
12 subparagraphs a, b and d of paragraph 4 of subsection C of this
13 section. The Office of Juvenile Affairs shall not be ordered to
14 provide transportation for a juvenile who is detained in or is
15 destined for secure detention. The Office of Juvenile Affairs shall
16 provide reimbursement to the entity transporting juveniles for
17 necessary and actual expenses for transporting juveniles who are
18 detained in or destined for a secure detention center as follows:

19 1. A fee for the cost of personal services at the rate of
20 Twelve Dollars (\$12.00) per hour;

21 2. Mileage reimbursement for each mile actually traveled at the
22 rate established in the State Travel Reimbursement Act;

23 3. Meals for transporting personnel, not to exceed Six Dollars
24 (\$6.00) per meal; and

1 4. Meals for juveniles being transported, not to exceed Six
2 Dollars (\$6.00) per meal.

3 The Office of Juvenile Affairs shall process and mail
4 reimbursement claims within sixty (60) days of receipt. Payments
5 for services provided by a county sheriff's office shall be paid to
6 the county and deposited in the service fee account of the sheriff.

7 C. 1. All juvenile detention facilities shall be certified by
8 the Office of Juvenile Affairs. To be certified, a juvenile
9 detention facility shall be required to meet standards for
10 certification promulgated by the Board of Juvenile Affairs.

11 2. The board of county commissioners of every county shall
12 provide for the temporary detention of a child who is or who may be
13 subject to secure detention and may construct a building or rent
14 space for such purpose. The boards of county commissioners shall
15 provide for temporary detention services and facilities in
16 accordance with the provisions of the State Plan for the
17 Establishment of Juvenile Detention Services adopted pursuant to
18 subsection D of this section and in accordance with subsections A
19 and C of Section 2-7-608 of this title. The boards of county
20 commissioners are hereby authorized to create multicounty trust
21 authorities for the purpose of operating juvenile detention
22 facilities.

23 3. In order to operate the juvenile detention facilities
24 designated in the State Plan for the Establishment of Juvenile

1 Detention Services and in subsections A and C of Section 2-7-608 of
2 this title, the boards of county commissioners in the designated
3 host counties shall:

4 a. operate the juvenile detention facility through a
5 statutorily constituted juvenile bureau subject to the
6 supervision of the district court, or

7 b. operate the juvenile detention facility by employing a
8 manager who may employ personnel and incur other
9 expenses as may be necessary for its operation and
10 maintenance, or

11 c. contract with a public agency, private agency,
12 federally recognized tribe, or single or multi-county
13 trust authority for the operation of the juvenile
14 detention facility. In the event any board of county
15 commissioners contracts with a public or private
16 agency or a federally recognized tribe, pursuant to
17 the provisions of this section, the Office is
18 authorized to directly contract with and pay such
19 public or private agency or federally recognized tribe
20 for provision of detention services. Any contract
21 with a federally recognized tribe shall become
22 effective upon approval by the board of county
23 commissioners.

1 4. Management contracts for privately operated detention
2 facilities shall be negotiated with the firm found most qualified by
3 the board of county commissioners. However, no private management
4 contract shall be entered into by the board unless the private
5 contractor demonstrates to the satisfaction of the board:

6 a. that the contractor has the qualifications,
7 experience, and personnel necessary to implement the
8 terms of the contract,

9 b. that the financial condition of the contractor is such
10 that the term of the contract can be fulfilled,

11 c. that the ability of the contractor to obtain insurance
12 or provide self-insurance to indemnify the county
13 against possible lawsuits and to compensate the county
14 for any property damage or expenses incurred due to
15 the private operation of the juvenile detention
16 facility, and

17 d. that the contractor has the ability to comply with
18 applicable court orders and rules of the Office of
19 Juvenile Affairs.

20 5. All counties to be served by a secure juvenile detention
21 facility may, upon the opening of such facility, contract with the
22 operators for the use of the facility for the temporary detention of
23 children who are subject to secure detention; provided, however, a
24 jail, adult lockup, or other adult detention facility may be used

1 for the secure detention of a child as provided for in Section 2-3-
2 101 of this title.

3 6. Expenses incurred in carrying out the provisions of this
4 section shall be paid from the general fund of the county or from
5 other public funds lawfully appropriated for such purposes or from
6 private funds that are available for such purposes. A county may
7 also issue bonds for the construction of detention facilities.

8 7. The operation of a juvenile detention facility by a county
9 shall constitute a quasi-judicial function and is also hereby
10 declared to be a function of the State of Oklahoma for purposes of
11 the Eleventh Amendment to the United States Constitution. In
12 addition, no contract authorized by the provisions of this section
13 for the providing of transportation services or for the operation of
14 a juvenile detention facility shall be awarded until the contractor
15 demonstrates to the satisfaction of the county that the contractor
16 has obtained liability insurance with the limits specified by The
17 Governmental Tort Claims Act against lawsuits arising from the
18 operation of the juvenile detention facility by the contractor, or
19 if the contract is for the providing of transportation services, the
20 contractor has obtained liability insurance with the limits
21 specified by The Governmental Tort Claims Act against lawsuits
22 arising from the transportation of juveniles as authorized by
23 subsection A of this section.

1 D. The Board of Juvenile Affairs, from monies appropriated for
2 that purpose, shall develop, adopt, and implement a plan for secure
3 juvenile detention services and alternatives to secure detention, to
4 be known as the State Plan for the Establishment of Juvenile
5 Detention Services, which shall provide for the establishment of
6 juvenile detention facilities and services with due regard for
7 appropriate geographical distribution and existing juvenile
8 detention programs operated by statutorily constituted juvenile
9 bureaus. Said plan may be amended or modified by the Board as
10 necessary and appropriate. Until said plan is adopted by the Board,
11 the plan adopted by the Commission for Human Services shall remain
12 in effect.

13 1. The Board of Juvenile Affairs shall establish procedures for
14 the letting of contracts or grants, including grants to existing
15 juvenile detention programs operated by statutorily constituted
16 juvenile bureaus, and the conditions and requirements for the
17 receipt of said grants or contracts for juvenile detention services
18 and facilities as provided in this section and Section 2-7-401 of
19 this title. A copy of such procedures shall be made available to
20 any member of the general public upon request. All such grants or
21 contracts shall require the participation of local resources in the
22 funding of juvenile detention facilities. A contract for services
23 shall be based upon a formula approved by the Board which shall set
24

1 the contract amount in accordance with the services offered and the
2 degree of compliance with standards for certification.

3 2. The Board of Juvenile Affairs shall establish standards for
4 the certification of detention services and juvenile detention
5 facilities. Such standards may include, but not be limited to:
6 screening for detention; education and recreation opportunities for
7 juveniles in secure detention; and accreditation by the American
8 Correctional Association. As a condition of continuing eligibility
9 for grants or contracts, secure juvenile detention services and
10 facilities shall be certified by the Board within two (2) years of
11 the date of the initial grant or contract.

12 E. The State Department of Health, with the assistance of the
13 Office of Juvenile Affairs, shall establish standards for the
14 certification of jails, adult lockups, and adult detention
15 facilities used to detain juveniles. Such standards shall include
16 but not be limited to: separation of juveniles from adults;
17 supervision of juveniles; and health and safety measures for
18 juveniles. The Department of Health is authorized to inspect any
19 jail, adult lockup, or adult detention facility for the purpose of
20 determining compliance with such standards. No jail, adult lockup,
21 or other adult detention facility shall be used to detain juveniles
22 unless such jail, adult lockup, or other adult detention facility
23 complies with the standards established by the Department of Health
24 and is designated as a place for the detention of juveniles by the

1 judge having juvenile docket responsibility in the county from a
2 list of eligible facilities supplied by the Department of Health.

3 The development and approval of the standards provided for in
4 this paragraph shall comply with the provisions of the
5 Administrative Procedures Act.

6 F. The State Board of Health shall promulgate rules providing
7 for the routine recording and reporting of the use of any adult
8 jail, lockup or other adult facility for the detention of any person
9 under the age of eighteen (18).

10 1. For the purpose of ensuring the uniformity and compatibility
11 of information related to the detention of persons under age
12 eighteen (18), said rules shall be reviewed and approved by the
13 Oklahoma Commission on Children and Youth prior to their adoption by
14 the Board; and

15 2. ~~Said records~~ Records of detention shall be reviewed during
16 each routine inspection of adult jails, lockups or other adult
17 detention facilities inspected by the State Department of Health and
18 a statistical report of said detentions shall be submitted to the
19 Office of Juvenile Affairs at least every six (6) months in a form
20 approved by the Board of Juvenile Affairs.

21 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-401, as
22 amended by Section 43, Chapter 304, O.S.L. 2012 (10A O.S. Supp.
23 2015, Section 2-7-401), is amended to read as follows:
24

1 Section 2-7-401. A. There is hereby created in the State
2 Treasury a revolving fund for the Office of Juvenile Affairs to be
3 designated the "Juvenile Detention Improvement Revolving Fund". The
4 fund shall be a continuing fund, not subject to fiscal year
5 limitations, and shall consist of all monies appropriated to the
6 Juvenile Detention Improvement Revolving Fund and monies which may
7 otherwise be available to the Office of Juvenile Affairs for use as
8 provided for in this section.

9 B. All monies appropriated to the fund shall be budgeted and
10 expended by the Office of Juvenile Affairs for the purpose of
11 providing funds to counties to renovate existing juvenile detention
12 facilities, to construct new juvenile detention facilities, to
13 operate juvenile detention facilities and otherwise provide for
14 secure juvenile detention services and alternatives to secure
15 detention as necessary and appropriate, in accordance with state-
16 approved juvenile detention standards and the State Plan for the
17 Establishment of Juvenile Detention Services provided for in Section
18 2-3-103 of this title. The participation of local resources shall
19 be a requirement for the receipt by counties of said funds and the
20 Department shall establish a system of rates for the reimbursement
21 of secure detention costs to counties. The methodology for the
22 establishment of said rates may include, but not be limited to,
23 consideration of detention costs, the size of the facility, services
24 provided and geographic location. Expenditures from said fund shall

1 be made upon warrants issued by the State Treasurer against claims
2 filed as prescribed by law with the Director of the Office of
3 Management and Enterprise Services for approval and payment.

4 1. The rate of reimbursement of approved operating cost shall
5 be eighty-five percent (85%) for the Office of Juvenile Affairs and
6 fifteen percent (15%) for the county.

7 ~~2. The rate of reimbursement of approved operating cost shall~~
8 ~~be fifty percent (50%) for the Office of Juvenile Affairs and fifty~~
9 ~~percent (50%) for any county that has failed to establish the beds~~
10 ~~required by the provisions of subsection A of Section 2-7-608 of~~
11 ~~this title.~~

12 ~~3.~~ The Office of Juvenile Affairs shall approve only those
13 applications for funds to renovate an existing juvenile detention
14 facility or any other existing facility or to construct a new
15 juvenile detention facility which contain proposed plans that are in
16 compliance with state-approved juvenile detention standards.

17 ~~4.~~ 3. The Office of Juvenile Affairs shall approve only those
18 applications or contracts for funds to operate juvenile detention
19 facilities or otherwise provide for secure juvenile detention
20 services and alternatives to secure detention which are in
21 compliance with or which are designed to achieve compliance with the
22 State Plan for the Establishment of Juvenile Detention Services
23 provided for in Section 2-3-103 of this title.

1 ~~5.~~ 4. The Office of Juvenile Affairs shall, from appropriated
2 state monies or from available federal grants, provide for payment
3 pursuant to contract for transportation personnel and vehicle-
4 related costs and reimburse for eligible travel costs for counties
5 utilizing the juvenile detention facilities identified in the "State
6 Plan for the Establishment of Juvenile Detention Services" in
7 accordance with the provisions of the State Travel Reimbursement Act
8 and in accordance with Section 2-3-103 of this title.

9 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-7-608, is
10 amended to read as follows:

11 Section 2-7-608. A. Beginning July 1, 1995, the Office of
12 Juvenile Affairs shall oversee the expansion of the number of
13 preadjudicatory secure detention beds available in this state. ~~By~~
14 ~~July 1, 1996, the number of such beds shall be increased by one~~
15 ~~hundred nine beds or by the number necessary to result in a total of~~
16 ~~two hundred sixty-five such beds.~~ It is the intent of the
17 Legislature to establish ~~such~~ detention beds on a geographic basis
18 throughout the state in order to provide more accessibility to
19 services for all regions of the state. ~~Therefore, such beds shall~~
20 ~~be established as follows: In Oklahoma County thirty-seven beds, in~~
21 ~~Tulsa County twenty-six beds, in Cleveland County twelve beds, in~~
22 ~~Lincoln County ten beds, in Comanche County six beds, in Beckham~~
23 ~~County six beds, in Texas County six beds and in Talihina in LeFlore~~
24 ~~County six beds. The six beds in Comanche County shall be regional~~

1 ~~detention beds and out of county placements shall be given priority~~
2 ~~for these beds.~~ The beds established by this subsection shall be
3 established and operated in accordance with Section 2-3-103 of this
4 title.

5 B. Effective July 1, 1995, the responsibilities for
6 establishing and operating a regional juvenile facility in the
7 southwestern part of the state shall be transferred to the Office of
8 Juvenile Affairs. The facility shall include six transitional beds
9 and seventy medium secure beds for such programs as the Office of
10 Juvenile Affairs determines will most appropriately and effectively
11 provide required services; provided, no more than thirty-two beds
12 shall be used for any one type of program. It is the intent of the
13 Legislature that the Office of Juvenile Affairs ~~locate~~ locates an
14 existing facility that can be remodeled and used for this purpose.

15 C. Beginning July 1, 1998, detention beds constructed and
16 operated by a county solely through revenues from county sources
17 shall be exempt from the provisions of the State Plan for the
18 Establishment of Juvenile Detention Services adopted pursuant to
19 subsection D of Section 2-3-103 of this title.

20 D. The Board of Juvenile Affairs shall promulgate rules to
21 implement the provisions of this act.

22 SECTION 4. This act shall become effective November 1, 2016.

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
24 February 24, 2016 - DO PASS AS AMENDED