

1 ENGROSSED SENATE
2 BILL NO. 319

By: Smalley of the Senate

3 and

4 Biggs of the House

5
6 [prosecution fees - offenses by inmates - State
7 Board of Corrections - ~~emergency~~]
8
9

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

11 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1277, is
12 amended to read as follows:

13 Section 1277. A. The Department of Corrections shall pay a fee
14 as provided in subsection D of this section for criminal
15 prosecutions conducted in any county where a penal institution or
16 community correction center is located in this state when the
17 prosecution involves:

18 1. A violation of any criminal law committed by any prisoner
19 housed in any penal institution or community correction center of
20 this state; or

21 2. A crime committed in furtherance of an escape, flight or
22 concealment as a fugitive from any penal institution or community
23 correction center of this state.
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1 B. The provisions of subsection A of this section shall apply
2 whether the prisoner is confined or permitted to be at large as a
3 trusty or otherwise. Provided, however, the provisions of
4 subsection A of this section shall not apply to inmates incarcerated
5 in any correctional facility which is not operated by or under
6 contract with the Oklahoma Department of Corrections.

7 C. ~~The cost of any habeas corpus proceedings instituted by any~~
8 ~~prisoner of any penal institution or community correction center~~
9 ~~which is operated by or under contract with this state shall be paid~~
10 ~~by the Department of Corrections out of any funds provided for the~~
11 ~~support and maintenance of the institution of which the person~~
12 ~~committing such crime, or instituting such habeas corpus~~
13 ~~proceedings, is a prisoner, upon the filing of a verified and~~
14 ~~itemized claim from the court clerk of the county where the~~
15 ~~proceedings were held.~~

16 D. The Department of Corrections shall pay a fee of Two Hundred
17 Dollars (\$200.00) upon the filing of a criminal action pursuant to
18 the provisions of paragraph 1 or 2 of subsection A of this section,
19 and an additional fee of Three Hundred Dollars (\$300.00) upon
20 acquittal or conviction of each such prisoner prosecuted, regardless
21 of the number of charges or counts which arise out of the same
22 incident. The fee shall be paid to the district court fund of the
23 county where the action arose. The fee shall be in lieu of any
24 expenses authorized by law for a criminal prosecution and chargeable

1 against the Department of Corrections. ~~The fee shall be paid at the~~
2 ~~conclusion of the prosecution and upon a proper invoice by the court~~
3 ~~clerk to the Department~~ Within thirty (30) days of the conclusion of
4 the prosecution, the court clerk shall submit an invoice to the
5 Department for chargeable fees. The Department shall not be
6 required to pay an invoice submitted past the thirty (30) day
7 timeframe. Failure to pay the cost shall not constitute grounds for
8 dismissal of the criminal action.

9 D. The Department may pay the fee provided for in this section
10 directly from the inmate's trust funds, including mandatory savings
11 in accordance with Section 549 of Title 57 of the Oklahoma Statutes,
12 or if there are not sufficient funds available in the inmate's trust
13 funds, the Department shall invoice the inmate for reimbursement.

14 E. Nothing in this section shall prohibit the court from
15 ordering the costs and expenses of a criminal prosecution to be paid
16 by the inmate or restrict the court clerk from collecting such costs
17 and expenses from the inmate.

18 SECTION 2. AMENDATORY 57 O.S. 2011, Section 549, as
19 amended by Section 1, Chapter 265, O.S.L. 2014 (57 O.S. Supp. 2016,
20 Section 549), is amended to read as follows:

21 Section 549. A. The State Board of Corrections shall have the
22 following powers and duties with respect to the operation of prison
23 industries, the Construction Division, and administration of inmate
24 trust funds:

1 1. The power to make leases or other contracts consistent with
2 the operation of prison industries, and to set aside land or
3 facilities for the use of such industry;

4 2. The power to establish conditions for expenditures by the
5 Department of Corrections from the Industries Revolving Fund;

6 3. The power to negotiate wages and working conditions on
7 behalf of prisoners working in prison industries or prisoners
8 working in the Construction Division. Pay grades for the
9 Construction Division "on-the-job training" inmate crews shall be as
10 follows:

11 a. Pay Grade "A" - Inmate Worker,

12 b. Pay Grade "B" - Inmate Worker,

13 c. Pay Grade "C" - Apprentice,

14 d. Pay Grade "D" - Skilled Craft;

15 4. The power to collect wages and other receipted funds on
16 behalf of the inmate, to apportion inmate wages and funds in
17 accordance with the law; and the duty to preserve those wages and
18 funds reserved for the inmate in an account for his or her benefit,
19 and to establish procedures by which the inmate can draw funds from
20 this account under the conditions and limitations and for the
21 purposes allowed by law;

22 5. The duty to establish the percentages of such wages which
23 shall be available for apportionment to inmate mandatory savings; to
24 the inmate for his or her personal use; to the lawful dependents of

1 the inmate, if any; to the victim of the inmate's crime; for payment
2 of creditors; for payment of costs and expenses for criminal actions
3 against such inmate; and to the Department of Corrections for costs
4 of incarceration. Provided, that not less than twenty percent (20%)
5 of such wages shall be placed in an account, and shall be payable to
6 the prisoner upon his or her discharge; however, inmates with a
7 sentence of life without the possibility of parole shall be exempt
8 from this provision. Funds from this account may be used by the
9 inmate for fees or costs in filing a civil or criminal action as
10 defined in Section 151 et seq. of Title 28 of the Oklahoma Statutes
11 or for federal action as defined in Section 1911 et seq. of Title 28
12 of the United States Code, 28 U.S.C., Section 1911 et seq.;

13 6. The power to invest funds held by the Department of
14 Corrections on behalf of each inmate in an interest-bearing account
15 with the interest accruing and payable to the Crime Victims
16 Compensation Revolving Fund, as provided in Section 142.17 of Title
17 21 of the Oklahoma Statutes. The interest from each inmate's
18 savings account shall be payable to the Crime Victims Compensation
19 Revolving Fund, at such intervals as may be determined by the Board,
20 in addition to any other payments to such fund required by the
21 inmate's sentence or otherwise by law. An inmate shall not have the
22 right, use or control of any interest derived from any funds placed
23 in a mandatory savings account;

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1 7. The power to invest funds held by the Department of
2 Corrections on behalf of each inmate in a commingled offender
3 interest-bearing account held by the Office of the State Treasurer.
4 The State Treasurer shall post interest to this account monthly.
5 The Department of Corrections, at such intervals as may be
6 determined by the Board, will credit interest to the inmate based on
7 the pro rata account balance of the inmate. Deposits into the
8 inmate interest-bearing account will only be allowed when the trust
9 fund draw account of the inmate has a balance in excess of One
10 Hundred Dollars (\$100.00). Inmate mandatory savings account
11 balances will not be used to determine the eligibility of the inmate
12 to participate in the interest-bearing savings account. Inmates who
13 participate in the interest-bearing account will only be allowed to
14 transfer funds from their interest-bearing account to their draw
15 account once every ninety (90) days. All inmate transfers from the
16 interest-bearing account of the inmate to the draw account of the
17 inmate must be approved by appropriate Department staff prior to
18 transfer. All transfers of funds from an inmate interest-bearing
19 account to external recipients must be reviewed and approved by
20 appropriate Department staff prior to transfer. The Department will
21 define in policy those rules and procedures that govern inmate
22 interest-bearing account deposits and funds transfers; and

23 8. The power to invest canteen system, offender restitution and
24 other offender-related collections by the Department of Corrections

1 in a commingled interest-bearing account held by the Office of the
2 State Treasurer and invested as prescribed by Section 89.2 of Title
3 62 of the Oklahoma Statutes. The State Treasurer shall post
4 interest to this account monthly. By the fifteenth day of each
5 month, the proportionate share of the interest from the canteen
6 system, offender restitution and other offender-related collections,
7 excluding that portion of the interest payable to the Victims
8 Compensation Revolving Fund and any interest payable to inmates for
9 the inmate interest-bearing account, shall be remitted to the State
10 Treasurer from the Department of Corrections for deposit into the
11 General Revenue Fund.

12 B. The State Board of Corrections shall cause to be placed in
13 an account income from the inmate's employment and any other income
14 or benefits accruing to or payable to and for the benefit of ~~said~~
15 the inmate, including any workers' compensation or Social Security
16 benefits.

17 1. From this account, the State Board of Corrections may charge
18 for costs of incarceration any inmate working in private prison
19 industries or any other inmate for costs of incarceration not to
20 exceed fifty percent (50%) of any deposits made to ~~said~~ the account,
21 unless ~~said~~ the deposits were from a workers' compensation benefit.

22 2. From this account, the State Board of Corrections may charge
23 any inmate for costs of incarceration, an amount equivalent to one
24

1 hundred percent (100%) of any deposits from a workers' compensation
2 benefit to ~~said~~ the account.

3 3. From this account, the State Board of Corrections may charge
4 any inmate for the costs of prosecution fees in accordance with
5 Section 1277 of Title 22 of the Oklahoma Statutes. The Board may
6 cause the prosecution fees to be paid directly from the inmates'
7 trust funds, as provided in paragraph 5 of subsection A of this
8 section, if sufficient funds are available.

9 4. The Department of Corrections shall pay into the Crime
10 Victims Compensation Revolving Fund, Section 142.17 of Title 21 of
11 the Oklahoma Statutes, an amount equal to five percent (5%) of the
12 gross wages earned by inmates working in a private prison industries
13 program, ~~said~~ the amount to be paid from the amount deducted for
14 cost of incarceration.

15 ~~4.~~ 5. Withdrawals and deposits shall be made according to rules
16 and regulations established by the State Board of Corrections.

17 C. The Department of Corrections may assess costs of
18 incarceration against all inmates beginning on September 1, 1992.
19 Such costs shall be a debt of the inmate owed to the Department of
20 Corrections and may be collected as provided by law for collection
21 of any other civil debt. In addition to the provisions of this
22 section authorizing expenditure of inmate trust funds for costs of
23 incarceration, any monies received for costs of incarceration shall
24 be deposited in the Department of Corrections Revolving Fund.

~~SECTION 3. It being immediately necessary for the preservation of the public peace, health or 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.~~

Passed the Senate the 22nd day of March, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2017.

Presiding Officer of the House
of Representatives