

An Act

ENROLLED HOUSE
BILL NO. 1461

By: Babinec of the House

and

Rosino of the Senate

An Act relating to state government; amending 74 O.S. 2011, Sections 192, as amended by Section 1, Chapter 322, O.S.L. 2014, 193 and 194 (74 O.S. Supp. 2017, Section 192), which relate to city and county jail inspections; deleting references to the American Correctional Association Standards and Jail Inspection Division of the State Department of Health; replacing all references to jailers with detention officer; authorizing inspectors to share jail inspections with other offices when deemed appropriate; authorizing the Commissioner of Health to file complaint when seeking assistance in obtaining compliance; and providing an effective date.

SUBJECT: City and county jail inspections

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 192, as amended by Section 1, Chapter 322, O.S.L. 2014 (74 O.S. Supp. 2017, Section 192), is amended to read as follows:

Section 192. A. The State Department of Health shall inspect at least once each year all city and county jails to ensure compliance with the standards promulgated pursuant to the provisions of this section. The standards shall provide provision for:

1. Uniform admission and release procedures;
2. Uniform, safe, and sensible security measures;

3. Proper, fit, and sanitary conditions;

4. Inmates to be fed a wholesome and adequate diet;

5. Inmates to have adequate clothing and a useable bed ~~as determined by the American Correctional Association Standards~~. Such facility shall have showers with hot and cold running water, toilets, and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may build barracks-style jails, single or double cell, to meet the security needs of the county for minimum security prisoners. These jails shall meet all the minimum requirements set forth in this section or any other provision of law. Except as otherwise provided in this section, all facilities under this section shall have showers with hot and cold running water, toilets and water basins provided in the ratio of not less than one to every twenty prisoners. Counties may also build tent jails, which shall be temporary in nature, to meet the security needs of the county for minimum security prisoners. The temporary tent jails shall not be required to meet the minimum requirements set forth in this section or any other provision of law. The State Board of Health shall promulgate minimum standards for temporary tent jails, which standards shall be designed to specifically address and take into consideration the temporary status of the inmate housing needs of the county;

6. Inmates to be properly advised of rules of the facility in which they are detained;

7. Staff members to receive training in order to assist them in performing their assigned tasks, such training to be provided through a program approved by the Jail Inspection Division of the State Department of Health. All employees who work in direct contact with inmates after the first year of employment shall receive, at a minimum, four (4) hours' review of material as required by the Jail Inspection Division State Department of Health and at a maximum, eight (8) hours of jailer detention officer training per year after the first year of employment;

8. Proper steps to be taken to ensure the safety and segregation of women, the infirm, and minors;

9. Adequate medical care, provided such medical care shall be limited to illnesses or injuries incurred during the time beginning with the arrest and throughout the time of incarceration. This

shall not prevent an inmate from applying for assistance and receiving assistance, provided the inmate meets or exceeds established requirements;

10. No person to be confined without twenty-four-hour supervision; and

11. At least one designated exit in the facility that will permit prompt evacuation of inmates and staff in an emergency. A facility in existence on November 1, 1985, shall not be required to construct additional exits if it has one exit which is deemed adequate by the State Fire Marshal.

In the event such inspection shall reveal to the State Department of Health the commission of a crime or crimes incidental to the operations of a city or county jail facility, it shall be the duty of the Department to initiate a complaint with the appropriate district attorney, and to cooperate in the prosecution of the alleged offender in the event an information is filed pursuant to such complaint.

B. Any county, city, or town may operate a holding facility for the incarceration of persons under arrest who are to be charged with a crime, which holding facility shall not be required to meet the standards established in this section for jails, as long as no person is held therein for a period longer than twelve (12) hours and as long as an employee of the county, city, or town is available to render aid to or to release any person so confined in the event aid or release is required because of a health or life-endangering emergency.

C. Notwithstanding any other provision of law or rule, any county or municipality that operates a jail facility which houses forty or fewer prisoners at all times which:

1. Provides twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television; and

2. Provides an intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response,

shall not be required to have more than one ~~jailer~~ detention officer or dispatcher on-site to provide for the security, custody, and supervision of prisoners.

D. Any county or municipality that operates a jail facility which houses more than forty and less than seventy-five prisoners at all times which:

1. Provides twenty-four-hour supervision of prisoner activity that is conducted either by direct observation or electronically by closed-circuit television; and

2. Provides an intercommunication system that terminates in a location that is staffed twenty-four (24) hours a day and is capable of providing an emergency response,

shall be required to have more than one ~~jailer~~ detention officer or one ~~jailer~~ detention officer and at least one other basic CLEET-certified person on the same premises as the jail facility to provide for the security, custody, and supervision of prisoners.

Within ninety (90) days after June 9, 1994, the State Board of Health shall promulgate new rules governing square footage requirements, double-celling of prisoners and the ratio of showers, toilets, and water basins to prisoners. The rules so promulgated shall be governed by the guidelines enumerated in this section, and shall be designed to carry out the intent and purpose of the guidelines. Each city or county jail facility in this state shall be in compliance with the rules so promulgated on or before January 1, 1995.

E. The State Department of Health shall employ inspectors and other personnel as necessary and specifically authorized by the Legislature in order to carry out the provisions of this section and may rent or purchase premises or equipment in order to assist inspectors in the performance of their functions.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 193, is amended to read as follows:

Section 193. A. Inspectors employed by the State Department of Health shall be permitted to enter all jail premises and administrative offices for the purpose of performing their assigned duties.

B. The results of these inspections shall be presented in the form of a written report to the ~~Commissioner of Health and to the~~ person immediately responsible for the administration of the facility inspected and such other offices the Department deems appropriate. The report shall contain:

1. A list of deficiencies in the condition or operation of the facility and specific proposals for their solution; and

2. A statement as to whether or not the facility inspected is in substantial compliance with the jail standards established pursuant to Section 192 of this title.

SECTION 3. AMENDATORY 74 O.S. 2011, Section 194, is amended to read as follows:

Section 194. If the deficiencies listed in the report have not been corrected, within sixty (60) days after delivery of the report, the Commissioner of Health shall be authorized to file a complaint with the Attorney General or the district attorney for the purpose of assistance in obtaining compliance or to close the deficient facility. Provided, that upon demonstration of a good-faith effort by the governmental entity involved to correct said deficiencies and achieve compliance with the established standards, the Commissioner of Health shall extend the time for compliance a reasonable period before filing the complaint requesting assistance in obtaining compliance or the closing of the facility. An action to close such facility shall be brought in the district court having jurisdiction in the county in which the facility is located. Upon the issuance of an order by the district court to close the facility, the facility shall be closed and prisoners shall be removed to a suitable facility at the expense of the governmental entity responsible for the facility ordered closed. Provided, that upon demonstration of a good-faith effort by the governmental entity involved to correct said deficiencies and achieve compliance with the established standards, the district court shall extend the time for compliance a reasonable period before ordering the facility closed.

SECTION 4. This act shall become effective November 1, 2018.

Passed the House of Representatives the 12th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 17th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____