

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1461

By: Babinec of the House

and

Treat of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to state government; amending 74 O.S.
12 2011, Sections 192, as amended by Section 1, Chapter
13 322, O.S.L. 2014, 193 and 194 (74 O.S. Supp. 2017,
14 Section 192), which relate to city and county jail
15 inspections; deleting references to the American
16 Correctional Association Standards and Jail
17 Inspection Division of the State Department of
18 Health; replacing all references to jailers with
19 detention officer; authorizing inspectors to share
20 jail inspections with other offices when deemed
21 appropriate; authorizing the Commissioner of Health
22 to file complaint when seeking assistance in
23 obtaining compliance; and providing an effective
24 date.

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:

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

- 5 1. Uniform admission and release procedures;
- 6 2. Uniform, safe, and sensible security measures;
- 7 3. Proper, fit, and sanitary conditions;
- 8 4. Inmates to be fed a wholesome and adequate diet;
- 9 5. Inmates to have adequate clothing and a useable bed ~~as~~

10 ~~determined by the American Correctional Association Standards.~~ Such
11 facility shall have showers with hot and cold running water,
12 toilets, and water basins provided in the ratio of not less than one
13 to every twenty prisoners. Counties may build barracks-style jails,
14 single or double cell, to meet the security needs of the county for
15 minimum security prisoners. These jails shall meet all the minimum
16 requirements set forth in this section or any other provision of
17 law. Except as otherwise provided in this section, all facilities
18 under this section shall have showers with hot and cold running
19 water, toilets and water basins provided in the ratio of not less
20 than one to every twenty prisoners. Counties may also build tent
21 jails, which shall be temporary in nature, to meet the security
22 needs of the county for minimum security prisoners. The temporary
23 tent jails shall not be required to meet the minimum requirements
24 set forth in this section or any other provision of law. The State

1 Board of Health shall promulgate minimum standards for temporary
2 tent jails, which standards shall be designed to specifically
3 address and take into consideration the temporary status of the
4 inmate housing needs of the county;

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

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

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

18 9. Adequate medical care, provided such medical care shall be
19 limited to illnesses or injuries incurred during the time beginning
20 with the arrest and throughout the time of incarceration. This
21 shall not prevent an inmate from applying for assistance and
22 receiving assistance, provided the inmate meets or exceeds
23 established requirements;

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

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

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

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

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

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

7 2. Provides an intercommunication system that terminates in a
8 location that is staffed twenty-four (24) hours a day and is capable
9 of providing an emergency response,
10 shall not be required to have more than one ~~jailer~~ detention officer
11 or dispatcher on-site to provide for the security, custody, and
12 supervision of prisoners.

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

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

19 2. Provides an intercommunication system that terminates in a
20 location that is staffed twenty-four (24) hours a day and is capable
21 of providing an emergency response,
22 shall be required to have more than one ~~jailer~~ detention officer or
23 one ~~jailer~~ detention officer and at least one other basic CLEET-
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1 certified person on the same premises as the jail facility to
2 provide for the security, custody, and supervision of prisoners.

3 Within ninety (90) days after June 9, 1994, the State Board of
4 Health shall promulgate new rules governing square footage
5 requirements, double-celling of prisoners and the ratio of showers,
6 toilets, and water basins to prisoners. The rules so promulgated
7 shall be governed by the guidelines enumerated in this section, and
8 shall be designed to carry out the intent and purpose of the
9 guidelines. Each city or county jail facility in this state shall
10 be in compliance with the rules so promulgated on or before January
11 1, 1995.

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

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

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

23 B. The results of these inspections shall be presented in the
24 form of a written report to the ~~Commissioner of Health and to the~~

1 person immediately responsible for the administration of the
2 facility inspected and such other offices the Department deems
3 appropriate. The report shall contain:

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

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

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

11 Section 194. If the deficiencies listed in the report have not
12 been corrected, within sixty (60) days after delivery of the report,
13 the Commissioner of Health shall be authorized to file a complaint
14 with the Attorney General or the district attorney for the purpose
15 of assistance in obtaining compliance or to close the deficient
16 facility. Provided, that upon demonstration of a good-faith effort
17 by the governmental entity involved to correct said deficiencies and
18 achieve compliance with the established standards, the Commissioner
19 of Health shall extend the time for compliance a reasonable period
20 before filing the complaint requesting assistance in obtaining
21 compliance or the closing of the facility. An action to close such
22 facility shall be brought in the district court having jurisdiction
23 in the county in which the facility is located. Upon the issuance
24 of an order by the district court to close the facility, the

1 facility shall be closed and prisoners shall be removed to a
2 suitable facility at the expense of the governmental entity
3 responsible for the facility ordered closed. Provided, that upon
4 demonstration of a good-faith effort by the governmental entity
5 involved to correct said deficiencies and achieve compliance with
6 the established standards, the district court shall extend the time
7 for compliance a reasonable period before ordering the facility
8 closed.

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

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11 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT OVERSIGHT AND
12 ACCOUNTABILITY, dated 03/05/2018 - DO PASS, As Amended and
Coauthored.

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