

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1483

By: Biggs, McCall and Bennett
(John)

7 AS INTRODUCED

8 An Act relating to prisons and reformatories;
9 amending 57 O.S. 2011, Sections 37 and 38, as amended
10 by Sections 1 and 2, Chapter 307, O.S.L. 2015 (57
O.S. Supp. 2016, Sections 37 and 38), which relate to
11 county jail reimbursement rate; modifying
reimbursement requirements and transfer procedures;
12 establishing notification procedure when
incarceration costs exceed minimum reimbursement
13 rate; directing State Auditor to determine daily
incarceration costs under certain circumstances;
14 directing the Department of Corrections to distribute
monthly reimbursements; setting implementation date;
15 and providing an effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2011, Section 37, as
20 amended by Section 1, Chapter 307, O.S.L. 2015 (57 O.S. Supp. 2016,
21 Section 37), is amended to read as follows:

22 Section 37. A. If all correctional facilities reach maximum
23 capacity and the Department of Corrections is required to contract
24 for bed space to house state inmates:

1 1. The Pardon and Parole Board shall consider all nonviolent
2 offenders for parole who are within six (6) months of their
3 scheduled release from a penal facility; and

4 2. Prior to contracting with a private prison operator to
5 provide housing for state inmates, the Department shall send
6 notification to all county jails in this state that bed space is
7 required to house the overflow population of state inmates. Upon
8 receiving notification, the sheriff of a county jail is authorized
9 to enter into agreements with the Department to provide housing for
10 the inmates. Reimbursement for the cost of housing the inmates
11 shall be a negotiated per diem rate for each inmate as contracted
12 but shall in no event be less than the per diem rate provided for in
13 Section 38 of this title.

14 B. No inmate may be received by a penal facility from a county
15 jail without first scheduling a transfer with the Department.
16 Within three (3) business days after the court orders the judgment
17 and sentence, the county shall transmit to the Department by
18 facsimile, electronic mail, or actual delivery a certified copy of:

19 1. The judgment and sentence certifying that the inmate is
20 sentenced to the Department of Corrections;

21 2. A notice of judgment and sentence signed by the sentencing
22 judge or court clerk. The notice shall include the name of the
23 defendant, date of birth, case number, county of conviction, name of
24 the sentencing judge, the ~~crime(s)~~ crime for which the defendant was

1 convicted, the ~~sentence(s)~~ sentence imposed, if multiple sentences
2 whether the sentences run concurrently or consecutively, and whether
3 the defendant is to receive credit for any time served. The notice
4 of judgment and sentence shall be substantially in the form provided
5 for in subsection F of this section; or

6 3. Plea paperwork, Summary of Facts and Sentence on Plea or
7 Sentencing After Jury Trial Summary of Facts may be used as
8 sentencing documents.

9 C. The receipt of the certified copy of the judgment and
10 sentence shall be certification that the sentencing court has
11 entered a judgment and sentence and all other necessary commitment
12 documents. The Department of Corrections is authorized to determine
13 the appropriate method of delivery from each county based on
14 electronic or other capabilities. Once an appropriate judgment and
15 sentence document, as listed in subsection B of this section, is
16 received by the Department of Corrections, the Department shall
17 contact the sheriff when bed space is available to schedule the
18 transfer and reception of the inmate into the Department. The
19 Department shall assume custody of an inmate from a county prior to
20 receiving the certified copy of the judgment and sentence upon
21 receipt by the Department of any of the appropriate judgment and
22 sentence documents as listed in subsection B of this section.

23 D. When a county jail has reached its capacity of inmates as
24 provided in the standards set forth in Section 192 of Title 74 of

1 the Oklahoma Statutes, then the county sheriff shall notify the
2 Director of the Oklahoma Department of Corrections, or the
3 Director's designated representative, by facsimile, electronic mail,
4 or actual delivery, that the county jail has reached or exceeded its
5 capacity to hold inmates. The notification shall include copies of
6 any judgment and sentences not previously delivered as required by
7 subsection B of this section. Then within seventy-two (72) hours
8 following such notification, the county sheriff shall transport the
9 designated excess inmate or inmates to a penal facility designated
10 by the Department. The sheriff shall notify the Department of the
11 transport of the inmate prior to the reception of the inmate. The
12 Department shall schedule the reception date and receive the inmate
13 within seventy-two (72) hours of notification that the county jail
14 is at capacity, unless other arrangements can be made with the
15 sheriff.

16 E. ~~The~~ Once the judgment and sentence is transmitted to the
17 Department, the Department will be responsible for the cost of
18 housing the inmate in the county jail including costs of medical
19 care provided from the date the judgment and sentence was ordered by
20 the court until the date of transfer of the inmate ~~is scheduled to~~
21 ~~be transferred to the Department~~ from the county jail. The costs of
22 housing shall be the per diem rate specified in Section 38 of this
23 title. The Department shall implement a policy for determination of
24 scheduled dates on which an inmate or multiple inmates are to be

1 transferred from county jails. The policy shall allow for no less
2 than three alternative dates from which the sheriff of a county jail
3 may select and shall provide for weather-related occurrences or
4 other emergencies that may prevent or delay transfers on the
5 scheduled date. The policy shall be available for review upon
6 request by any sheriff of a county jail. ~~If an appropriate judgment~~
7 ~~and sentence document, as listed in subsection B of this section, is~~
8 ~~not received by the Department within three (3) business days, the~~
9 ~~Department will not be responsible for the cost of housing the~~
10 ~~inmate in the county jail until the date the Department receives the~~
11 ~~necessary documentation. Should the inmate not be transferred on~~
12 ~~the date scheduled by the Department, the Department shall not be~~
13 ~~responsible for any costs incurred beyond the date scheduled by the~~
14 ~~Department. The cost of housing shall be the per diem rate~~
15 ~~specified in Section 38 of this title.~~ In the event the inmate has
16 one or more criminal charges pending in the same Oklahoma
17 jurisdiction and the county jail refuses to transfer the inmate to
18 the Department because of the pending charges, the Department shall
19 not be responsible for the housing costs of the inmate while the
20 inmate remains in the county jail with pending charges. Once the
21 inmate no longer has pending charges in the jurisdiction, the
22 Department shall be responsible for the housing costs of the inmate
23 for the period beginning on the date the judgment and sentence or
24 final order was ~~ordered in the pending case and ending on the date~~

1 ~~the inmate is scheduled to be transferred to~~ received by the
2 Department. In the event the inmate has other criminal charges
3 pending in another Oklahoma jurisdiction, the Department shall be
4 responsible for the housing costs while the inmate remains in the
5 county jail awaiting transfer to another jurisdiction ~~or until the~~
6 ~~date the inmate is scheduled to be transferred to the Department,~~
7 ~~whichever is earlier.~~ Once the inmate is transferred to another
8 jurisdiction, the Department is not responsible for the housing cost
9 of the inmate until such time that another judgment and sentence is
10 received by the Department from another Oklahoma jurisdiction. The
11 sheriff shall be reimbursed by the Department for the cost of
12 housing the inmate in one of two ways:

13 1. The sheriff may submit invoices for the cost of housing the
14 inmate on a monthly basis; or

15 2. The sheriff may submit one invoice for the total amount due
16 for the inmate after the Department has received the inmate. Final
17 payment for housing an offender will be made only after the official
18 judgment and sentence is received by the Department of Corrections.

19 F. Form for Notice of Judgment and Sentencing.

20 In the District Court of _____ County

21 The State of Oklahoma

22 State of Oklahoma,)

23 _____)

24 Plaintiff)

1)
2 vs.) Case No. _____
3 _____,) The Honorable Judge _____
4 Defendant)
5 D.O.B. _____)
6 NOTICE OF JUDGMENT AND SENTENCE
7 On this _____ day of _____, _____, to the best
8 knowledge and belief of the undersigned, the conviction(s) and
9 sentence(s) of the above-captioned defendant was/were announced and
10 ordered as follow:
11 Count 1: _____ O.S. _____
12 Count 1 Sentence: _____
13 Count 2: _____ O.S. _____
14 Count 2 Sentence: _____
15 Running Concurrently _____ or Running Consecutively _____
16 With Count _____
17 Count 3: _____ O.S. _____
18 Count 3 Sentence: _____
19 Running Concurrently _____ or Running Consecutively _____
20 With Count _____
21 Count 4: _____ O.S. _____
22 Count 4 Sentence: _____
23 Running Concurrently _____ or Running Consecutively _____
24 With Count _____

1 Credit for time served: _____

2 _____
3 Judge of the District Court

4 or

5 _____
6 Clerk of the District Court

7 SECTION 2. AMENDATORY 57 O.S. 2011, Section 38, as
8 amended by Section 2, Chapter 307, O.S.L. 2015 (57 O.S. Supp. 2016,
9 Section 38), is amended to read as follows:
10

11 Section 38. The Department of Corrections shall reimburse any
12 county which is required to retain an inmate pursuant to subsection
13 ~~D E~~ of Section 37 of this title in an amount ~~not to exceed~~ of not
14 less than Twenty-seven Dollars (\$27.00) per day for each inmate
15 during such period of retention, unless the actual daily cost as
16 determined by the Department of Corrections Daily Rate as defined in
17 this section, exceeds Twenty-seven Dollars (\$27.00). If the actual
18 daily cost as determined by the Department of Corrections Daily Rate
19 exceeds Twenty-seven Dollars (\$27.00), the county shall notify the
20 Department of Corrections of the actual daily cost no later than
21 September 30. If the county's actual daily cost is accepted by the
22 Department, that shall be the reimbursement rate for the county
23 beginning the next fiscal year. If the Department rejects the
24 county's actual daily cost application, then the actual daily cost

1 shall be determined by the State Auditor. The ~~proceeds of this~~
2 Department shall distribute the reimbursement ~~shall be used on a~~
3 monthly basis upon receipt and approval of a billing statement from
4 the county. The county shall use the reimbursement to ~~defray~~
5 ~~expenses~~ provide for the expense of equipping and maintaining the
6 jail and payment of personnel. The provisions in this act shall be
7 implemented by the Department to allow sufficient time for
8 application to FY2019. The Department of Corrections shall
9 reimburse the county for the emergency medical care for physical
10 injury or illness of the inmate retained under this act if the
11 injury or illness is directly related to the incarceration and the
12 county is required by law to provide such care for inmates in the
13 jail. The Department shall not pay fees for medical care in excess
14 of the rates established for Medicaid providers. The state shall
15 not be liable for medical charges in excess of the Medicaid
16 scheduled rate. The Director may accept any inmate required to have
17 extended medical care upon application of the county.

18 SECTION 3. This act shall become effective November 1, 2017.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
21 02/28/2017 - DO PASS, As Coauthored.