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STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2631 By: Babinec of the House

By: Babinec of the House

and

Fry of the Senate

AS INTRODUCED

An Act relating to prisons and reformatories; amending 57 O.S. 2011, Section 510, as last amended by Section 20, Chapter 42, O.S.L. 2017 (57 O.S. Supp. 2017, Section 510), which relates to the Oklahoma Corrections Act of 1967; modifying powers and duties of the Director of the Department of Corrections; removing qualifications for wardens; updating language; deleting certain employment qualifications for correctional officers; providing for the designation of correctional peace officers; authorizing implementation of policies related to correctional peace officer authority; deleting peace officer designation and qualifications; providing for the issuance of identification cards; providing for the development and implementation of basic course of instruction for correctional officers; establishing minimum curriculum instruction requirements; authorizing waiver of instruction requirements; providing for the development and implementation of in-service training; establishing minimum qualifying score for firearms training; providing for demotions or terminations under certain circumstances; authorizing the carrying of firearms for employees who complete firearms training; providing for the return of identification cards under certain circumstances; allowing Director to enter into contracts with media or film production companies;

1 directing deposit of funds into certain revolving
2 fund; and providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 57 O.S. 2011, Section 510, as last
6 amended by Section 20, Chapter 42, O.S.L. 2017 (57 O.S. Supp. 2017,
7 Section 510), is amended to read as follows:

8 Section 510. A. The Director of the Department of Corrections
9 shall have the following specific powers and duties relating to the
10 penal institutions:

11 1. To appoint, subject to the approval of the State Board of
12 Corrections, a warden for each penal institution, ~~who shall qualify~~
13 ~~for the position by character, knowledge, skill, ability, training,~~
14 ~~and successful administrative experience in the correctional field;~~
15 ~~and if the person is not the incumbent warden or superintendent of a~~
16 ~~penal institution, the person shall have a bachelor's degree from an~~
17 ~~accredited college or university and six (6) years of professional~~
18 ~~level work experience in corrections;~~

19 2. To fix the duties of the wardens ~~and superintendents~~ and to
20 appoint and fix the duties and compensation of such other personnel
21 for each penal institution as may be necessary for the proper
22 operation thereof. However, correctional officers hired after
23 November 1, 1995, shall be subject to the following qualifications:

- 1 a. the minimum age for service shall be twenty (20) years
2 of age. The Director shall have the authority to
3 establish the maximum age for correctional officers
4 entering service,
- 5 b. possession of a minimum of thirty (30) semester hours
6 from an accredited college or university, or
7 possession of a high school diploma acquired from an
8 accredited high school or GED equivalent testing
9 program ~~and graduation from a training course~~
10 ~~conducted by or approved by the Department and~~
11 ~~certified by the Council on Law Enforcement Education~~
12 ~~and Training either prior to employment or during the~~
13 ~~first six (6) months of employment,~~
- 14 c. ~~be of good moral character,~~
- 15 d. ~~before going on duty alone, satisfactory completion of~~
16 ~~an adequate training program for correctional~~
17 ~~officers, as prescribed and approved by the State~~
18 ~~Board of Corrections; provided, however, correctional~~
19 ~~officers reinstated within three (3) years of~~
20 ~~separating from the Department shall not be required~~
21 ~~to repeat preservice training. The Director or~~
22 ~~designee may, however, require the correctional~~
23 ~~officers to attend updated training to ensure~~
24 ~~compliance with agency training standards,~~

1 e. satisfactory completion of minimum testing or
2 professional evaluation through the Merit System of
3 Personnel Administration to determine the fitness of
4 the individual to serve in the position. All written
5 evaluations shall be submitted to the Department of
6 Corrections, and

7 f. d. satisfactory completion of a physical in keeping with
8 the conditions of the job description on an annual
9 basis and along the guidelines as established by the
10 Department of Corrections;

11 3. ~~To designate as peace officers qualified personnel in any~~
12 ~~Department of Corrections job classifications.~~ The Director shall
13 designate as correctional peace officers, correctional officers who
14 are employed in ~~positions requiring said designation job~~
15 classifications of correctional security officer, correctional
16 security manager, correctional chief of security and chief of
17 security upon satisfactory completion of a basic course of
18 instruction for correctional officers, as provided for in paragraph
19 4 of this subsection. The peace officer authority of employees
20 designated as correctional peace officers shall be limited to:
21 maintaining custody of prisoners; preventing attempted escapes;
22 pursuing, recapturing and incarcerating escapees and parole or
23 probation violators and arresting such escapees, parole or probation
24 violators; serving warrants; carrying firearms; preventing

1 contraband from entering any penal institutions; arresting
2 individuals who commit crimes at any penal institution; and
3 performing any duties specifically required for the job
4 descriptions. Such powers and duties of correctional peace officers
5 may be exercised for the purpose of maintaining custody, security,
6 and control of any prisoner being transported inside and outside
7 this state as authorized by the Uniform Criminal Extradition Act and
8 the Interstate Corrections Compact. ~~To become qualified for~~
9 ~~designation as peace officers, employees shall meet the training and~~
10 ~~screening requirements conducted by the Department and certified by~~
11 ~~the Council on Law Enforcement Education and Training within twelve~~
12 ~~(12) months of employment or, in the case of employees designated as~~
13 ~~peace officers on or before July 1, 1997, by July 1, 1998, and shall~~
14 ~~not be subject to Section 3311 of Title 70 of the Oklahoma Statutes~~
15 The Director may implement policies that place additional
16 limitations on the authority of correctional peace officers. The
17 Director shall issue an identification card to each correctional
18 peace officer that identifies the person as a correctional peace
19 officer and grants the person the authority to carry a firearm and
20 make arrests pursuant to this paragraph. Should a correctional
21 peace officer terminate employment for any reason, fail to remain
22 qualified as a correctional peace officer or for reasons stated in
23 policies of the Department, the correctional peace officer shall
24

1 return the identification card to the supervisor of the correctional
2 peace officer immediately;

3 4. To develop and implement, upon approval of the State Board
4 of Corrections, a basic course of instruction for correctional
5 officers that consists of a training academy that provides not less
6 than two hundred (200) hours of core curriculum instruction and a
7 firearms training program that provides not less than twenty (20)
8 hours of instruction. The basic course of instruction shall be
9 subject to the following:

10 a. the minimum qualifying score that must be shot to pass
11 the firearms training program shall be equal to the
12 minimum qualifying score required by the Council on
13 Law Enforcement Education and Training for peace
14 officers, and

15 b. the Director may waive any number of hours or courses
16 required to complete the basic course of instruction
17 for any person who, in the opinion of the Director,
18 has received sufficient training or experience that
19 such hours of instruction would be unduly burdensome
20 or duplicative; however, completion of the firearms
21 training program shall not be waived;

22 5. To develop and implement annual in-service training for
23 correctional officers that consists of at least forty (40) hours of
24 continued corrections education and annual recertification of

1 firearms proficiency. The minimum qualifying score that must be
2 shot to requalify for recertification of firearms proficiency shall
3 be equal to the minimum qualifying score required by the Council on
4 Law Enforcement Education and Training for the requalification of
5 peace officers;

6 6. To require any person employed as a correctional security
7 officer, correctional security manager, correctional chief of
8 security and chief of security to remain qualified as a correctional
9 peace officer. Any correctional peace officer who is unable to
10 remain qualified as a correctional peace officer may be offered an
11 available position within the Department in the same or lesser pay
12 grade for which the employee is eligible, or the employee may be
13 terminated;

14 7. To authorize other employees of the Department to carry
15 firearms anywhere in the state to use for self-defense pursuant to
16 and consistent with policies developed by the Department upon
17 satisfactory completion of the firearms training program provided
18 for in paragraph 4 of this subsection. The Director shall issue an
19 identification card to each authorized employee that grants the
20 employee the authority to carry a firearm pursuant to the provisions
21 of this paragraph. Should an authorized employee terminate
22 employment for any reason, fail to remain qualified to carry a
23 firearm, or for reasons stated in the policies of the Department,
24 the authorized employee shall immediately return the identification

1 card to the supervisor of the employee and shall no longer be
2 authorized to carry firearms under the authority of this paragraph;

3 8. To maintain such industries, factories, plants, shops,
4 farms, and other enterprises and operations, hereinafter referred to
5 as prison industries, at each penal institution as the State Board
6 of Corrections deems necessary or appropriate to employ the
7 prisoners or teach skills, or to sustain the penal institution; and
8 as provided for by policies established by the State Board of
9 Corrections, to allow compensation for the work of the prisoners,
10 and to provide for apportionment of inmate wages, the amounts thus
11 allowed to be kept in accounts by the Board for the prisoners and
12 given to the inmates upon discharge from the penal institution, or
13 upon an order paid to their families or dependents or used for the
14 personal needs of the prisoners. Any industry that employs
15 prisoners shall be deemed a "State Prison Industry" if the prisoners
16 are paid from state funds including the proceeds of goods sold as
17 authorized by Section 123f of Title 74 of the Oklahoma Statutes.
18 Any industry in which wages of prisoners are paid by a
19 nongovernmental person, group, or corporation, except those
20 industries employing prisoners in work-release centers under the
21 authority of the Department of Corrections shall be deemed a
22 "Private Prison Industry";

23 ~~5- 9.~~ To assign residences at each penal institution to penal
24 institutional personnel and their families;

1 ~~6.~~ 10. To provide for the education, training, vocational
2 education, rehabilitation, and recreation of prisoners;

3 ~~7.~~ 11. To regulate the operation of canteens for prisoners;

4 ~~8.~~ 12. To prescribe rules for the conduct, management, and
5 operation of each penal institution, including rules for the
6 demeanor of prisoners, the punishment of recalcitrant prisoners, the
7 treatment of incorrigible prisoners, and the disposal of property or
8 contraband seized from inmates or offenders under the supervision of
9 the Department;

10 ~~9.~~ 13. To transfer prisoners from one penal institution to
11 another;

12 ~~10.~~ 14. To establish procedures that ensure inmates are
13 educated and provided with the opportunity to execute advance
14 directives for health care in compliance with Section 3101.2 of
15 Title 63 of the Oklahoma Statutes. The procedures shall ensure that
16 any inmate executing an advance directive for health care is
17 competent and executes the directive with informed consent;

18 ~~11.~~ 15. To maintain courses of training and instruction for
19 employees ~~at each institution~~ of the Department;

20 ~~12.~~ 16. To maintain a program of research and statistics;

21 ~~13.~~ 17. To provide for the periodic audit, at least once
22 annually, of all funds and accounts of each penal institution and
23 the funds of each prisoner;

1 ~~14.~~ 18. To provide, subject to rules established by the State
2 Board of Corrections, for the utilization of inmate labor for any
3 agency of the state, city, town, or subdivision of this state, upon
4 the duly authorized request for such labor by the agency. The
5 inmate labor shall not be used to reduce employees or replace
6 regular maintenance or operations of the agency. The inmate labor
7 shall be used solely for public or state purposes. No inmate labor
8 shall be used for private use or purpose. Insofar as it is
9 practicable, all inmate labor shall be of such a nature and designed
10 to assist and aid in the rehabilitation of inmates performing the
11 labor;

12 ~~15.~~ 19. To provide clerical services for, and keep and preserve
13 the files and records of, the Pardon and Parole Board; make
14 investigations and inquiries as to prisoners at the penal
15 institutions who are to be, or who might be, considered for parole
16 or other clemency; assist prisoners who are to be, or who might be,
17 considered for parole or discharge in obtaining suitable employment
18 in the event of parole or discharge; report to the Pardon and Parole
19 Board, for recommendation to the Governor, violations of terms and
20 conditions of paroles; upon request of the Governor, make
21 investigations and inquiries as to persons who are to be, or who
22 might be, considered for reprieves or leaves of absence; report to
23 the Pardon and Parole Board, for recommendation to the Governor,
24 whether a parolee is entitled to a pardon, when the terms and

1 conditions of the parole have been completed; make presentence
2 investigations for, and make reports thereof to, trial judges in
3 criminal cases ~~before sentences are pronounced~~ consistent with other
4 laws of the state; supervise persons ~~undergoing suspended sentences,~~
5 ~~or who are~~ on felony probation or parole; and develop and operate,
6 subject to the policies and guidelines of the Board, work-release
7 centers, community treatment facilities or prerelease programs at
8 appropriate sites throughout this state;

9 ~~16.~~ 20. To establish an employee tuition assistance program and
10 promulgate rules in accordance with the Administrative Procedures
11 Act for the operation of the program. The rules shall include, but
12 not be limited to, program purposes, eligibility requirements, use
13 of tuition assistance, service commitment to the Department,
14 reimbursement of tuition assistance funds for failure to complete
15 course work or service commitment, amounts of tuition assistance and
16 limitations, and record keeping;

17 ~~17.~~ 21. To establish an employee recruitment and referral
18 incentive program and promulgate rules in accordance with the
19 Administrative Procedures Act for the operation of the program. The
20 rules shall include, but not be limited to, program purposes, pay
21 incentives for employees, eligibility requirements, payment
22 conditions and amounts, payment methods, and record keeping;

23 ~~18.~~ 22. To provide reintegration referral services to any
24 person discharged from the state custody who has volunteered to

1 receive reintegration referral services. The Director may assign
2 staff to refer persons discharged from state custody to services.
3 The Director shall promulgate rules for the referral process. All
4 reintegration referral services shall be subject to the availability
5 of funds;

6 ~~19.~~ 23. To conduct continual planning and research and
7 periodically evaluate the effectiveness of the various correctional
8 programs instituted by the Department; manage the designing,
9 building, and maintaining of all the capital improvements of the
10 Department; establish and maintain current and efficient business,
11 bookkeeping, and accounting practices and procedures for the
12 operations of all penal institutions and facilities, and for the
13 Department's fiscal affairs; conduct initial orientation and
14 continuing in-service training for the Department employees; provide
15 public information services; inspect and examine the condition and
16 management of state penal and correctional institutions; investigate
17 complaints concerning the management of prisons or alleged
18 mistreatment of inmates thereof; and hear and investigate complaints
19 as to misfeasance or nonfeasance of employees of the Department;

20 ~~20.~~ 24. To authorize any division of the Department to sell
21 advertising in any Department-approved publication, media production
22 or other informational material produced by the Department;
23 provided, that such advertising shall be approved by the Director or
24 designee prior to acceptance for publication. The sale of

1 advertising and negotiation of rates for the advertising shall not
2 be subject to The Oklahoma Central Purchasing Act or the
3 Administrative Procedures Act. The Department shall promulgate
4 rules establishing criteria for accepting or using advertisements as
5 authorized in this paragraph;

6 ~~21.~~ 25. To issue subpoenas to assist or further investigations
7 into allegations of crimes committed in public or private prisons
8 within the State of Oklahoma. Subpoenas issued by the Director
9 shall be enforced by the District Court in Oklahoma County,
10 Oklahoma;

11 ~~22.~~ 26. To authorize award of the badge of an employee who dies
12 while employed by the Department to the spouse or next of kin of the
13 deceased employee;

14 ~~23.~~ 27. To establish, in conjunction with the Information
15 Services Division of the Office of Management and Enterprise
16 Services, an emergency alert notification system for the public,
17 capable of distributing notifications of facility emergencies or
18 prisoner escapes for all facilities and each facility of the
19 Department of Corrections; ~~and~~

20 ~~24.~~ 28. To declare an emergency when, due to shortage of staff,
21 correctional officers at a facility are required to work more than
22 two double shifts in a seven-day period. As used in this paragraph,
23 "double shift" means two eight-hour shifts in a twenty-four-hour
24 period; and

1 29. To enter into contracts with media or film production
2 companies to allow the Department to authorize a media or film
3 production company to shoot commercial films at penal institutions
4 and other property under the control of the Department. Any funds
5 received pursuant to said contracts shall be deposited into the
6 Department of Corrections Revolving Fund.

7 B. When an employee of the Department of Corrections has been
8 charged with a violation of the rules of the Department or with a
9 felony pursuant to the provisions of a state or federal statute, the
10 Director may, in the Director's discretion, suspend the charged
11 employee, in accordance with the Oklahoma Personnel Act and/or the
12 Merit System of Personnel Administration Rules, pending the hearing
13 and final determination of the charges. Notice of suspension shall
14 be given by the Director, in accordance with the provisions of the
15 Oklahoma Personnel Act. If after completion of the investigation of
16 the charges, it is determined that such charges are without merit or
17 are not sustained before the Oklahoma Merit Protection Commission or
18 in a court of law, the employee shall be reinstated and shall be
19 entitled to receive all lost pay and benefits.

20 This subsection shall in no way deprive an employee of the right
21 of appeal according to the Oklahoma Personnel Act.

22 SECTION 2. This act shall become effective November 1, 2018.

23
24 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/01/2018 -
DO PASS, As Coauthored.