

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. 2821

By: Lepak

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to the Office of Juvenile Affairs;
10 amending 10A O.S. 2011, Sections 2-7-101 and 2-7-201,
11 as last amended by Section 1, Chapter 386, O.S.L.
12 2016 (10A O.S. Supp. 2017, Section 2-7-201), which
13 relate to the Board of Juvenile Affairs; making Board
14 an advisory body; modifying powers and duties of the
15 Board; authorizing Governor to appoint Executive
16 Director; providing for determination of
17 compensation; and providing an effective date.

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

21 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-7-101, is
22 amended to read as follows:

23 Section 2-7-101. A. There is hereby created, ~~effective~~
24 ~~February 1, 1995,~~ the Board of Juvenile Affairs which shall be an
25 advisory body to the Executive Director of the Office of Juvenile
26 Affairs and shall consist of seven (7) members who shall be
27 appointed by the Governor with the advice and consent of the Senate.
28 Effective January 14, 2019, all duties and powers of the Board shall

1 be transferred to the Executive Director. Any provision in statute
2 that provides to the Board authority that is not advisory in nature
3 shall be deemed to grant the duty or power to the Executive
4 Director.

5 B. One member shall be appointed from each congressional
6 district and any remaining members shall be appointed from the state
7 at large. However, when congressional districts are redrawn each
8 member appointed prior to July 1 of the year in which such
9 modification becomes effective shall complete the current term of
10 office and appointments made after July 1 of the year in which such
11 modification becomes effective shall be based on the redrawn
12 districts. Appointments made after July 1 of the year in which the
13 modification becomes effective shall be from any redrawn districts
14 which are not represented by a board member until such time as each
15 of the modified congressional districts are represented by a board
16 member. No appointments may be made after July 1 of the year in
17 which the modification becomes effective if such appointment would
18 result in more than two members serving from the same modified
19 district. The terms of office of the members serving on the Board
20 on the effective date of this act shall expire at the end of the
21 current term of the member.

22 C. 1. All appointments made by the Governor pursuant to this
23 act shall be as follows:
24

- a. one member appointed by the Governor shall be a resident of the First Congressional District,
- b. one member appointed by the Governor shall be a resident of the Second Congressional District,
- c. one member appointed by the Governor shall be a resident of the Third Congressional District,
- d. one member appointed by the Governor shall be a resident of the Fourth Congressional District,
- e. one member appointed by the Governor shall be a resident of the Fifth Congressional District,
- f. one member appointed by the Governor shall be appointed at large, and
- g. one member appointed by the Governor shall be appointed at large.

All members shall be appointed for terms of four (4) years. All terms shall expire on the first day of July of the year in which the terms of each member expire.

2. Thereafter an appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following the vacancy, the Board may appoint a

1 provisional member to serve in the interim until the Governor makes
2 an appointment.

3 3. A member may be reappointed to succeed himself or herself
4 for one additional term.

5 D. To be eligible for appointment to the Board a person shall:

6 1. Be a citizen of the United States;

7 2. Be a resident of this state;

8 3. Be a qualified elector of this state; and

9 4. Not have been convicted of a felony pursuant to the laws of
10 this state, the laws of any other state, or the laws of the United
11 States.

12 E. Members appointed pursuant to this paragraph shall include
13 persons having experience in social work, juvenile justice, criminal
14 justice, community-based youth services, criminal-justice-related
15 behavioral sciences, indigent defense, and education. In making the
16 appointments, the Governor shall also give consideration to urban,
17 rural, gender, and minority representation.

18 F. Any member of the Board may be removed from office in the
19 manner provided by law for the removal of officers not subject to
20 impeachment.

21 G. ~~1. The Board shall hold meetings as necessary at a place~~
22 ~~and time to be fixed by the Board. The Board shall elect, at its~~
23 ~~first meeting, one of its members to serve as chair and another of~~
24 ~~its members to serve as vice-chair. At the first meeting in each~~

1 ~~calendar year thereafter, the chair and vice chair for the ensuing~~
2 ~~year shall be elected. Special meetings may be called by the chair~~
3 ~~or by five members of the Board by delivery of written notice to~~
4 ~~each member of the Board. A majority of members serving on the~~
5 ~~Board shall constitute a quorum of the Board.~~

6 ~~2. Members of the Board shall receive necessary travel expenses~~
7 ~~according to the provisions of the State Travel Reimbursement Act,~~
8 ~~but shall receive no other compensation. Travel expenses shall be~~
9 ~~paid from funds available to the Office of Juvenile Affairs.~~

10 ~~H.~~ The Board Executive Director of the Office of Juvenile
11 Affairs shall:

12 1. Adopt and promulgate rules ~~for its government~~ and may adopt
13 an official seal for the Office of Juvenile Affairs;

14 2. ~~Appoint and fix the compensation of the Executive Director~~
15 ~~of the Office of Juvenile Affairs;~~

16 ~~3.~~ Be the rulemaking body for the Office of Juvenile Affairs;

17 ~~4.~~ 3. Review and approve the budget request of the Office of
18 Juvenile Affairs to the Governor;

19 ~~5.~~ 4. Assist the Office of Juvenile Affairs in conducting
20 periodic reviews and planning activities related to the goals,
21 objectives, priorities, and policies of the Office;

22 ~~6.~~ 5. Provide a public forum for receiving comments and
23 disseminating information to the public and the regulated community
24 regarding goals, objectives, priorities, and policies of the Office

1 of Juvenile Affairs at least quarterly. The ~~Board~~ Executive
2 Director shall have the authority to adopt nonbinding resolutions
3 requesting action by the Office of Juvenile Affairs in response to
4 comments received ~~or upon the Board's own initiative~~; and

5 ~~7.~~ 6. Establish contracting procedures for the Office of
6 Juvenile Affairs and guidelines for rates of payment for services
7 provided by contract.

8 ~~I.~~ 1. H. As the rulemaking body of the Office of Juvenile
9 Affairs, the ~~Board~~ Executive Director is specifically charged with
10 the duty of promulgating rules which will implement the duties and
11 responsibilities of the Office pursuant to the Oklahoma Juvenile
12 Code.

13 ~~2. Effective July 1, 1995, any administrative policies adopted~~
14 ~~by the Commission for Human Services related to personnel and other~~
15 ~~administrative issues and any rules promulgated relating to the~~
16 ~~custody, care and supervision of children adjudicated to be~~
17 ~~delinquent or in need of supervision shall be and remain in effect~~
18 ~~until amended or new rules are promulgated by the Board of Juvenile~~
19 ~~Affairs.~~

20 ~~3. Any rules adopted by the Commission for Human Services~~
21 ~~related to personnel and other administrative issues and the~~
22 ~~custody, care and supervision of children adjudicated to be~~
23 ~~delinquent or in need of supervision and subject to review by the~~
24 ~~Legislature during the 1st Session of the 45th Oklahoma Legislature~~

1 ~~may be finally adopted and promulgated by the Board of Juvenile~~
2 ~~Affairs pursuant to the Administrative Procedures Act.~~

3 ~~4. Starting April 1, 1995, the Board of Juvenile Affairs shall~~
4 ~~conduct an internal review of current permanent and emergency rules~~
5 ~~relating to the custody, care and supervision of children~~
6 ~~adjudicated to be delinquent or in need of supervision to determine~~
7 ~~whether such rules need to be amended, or repealed, reinstated, or~~
8 ~~recodified. By January 1, 1997, the Board shall have adopted~~
9 ~~permanent rules to implement the programs and functions within its~~
10 ~~jurisdiction and shall submit such rules for legislative review~~
11 ~~pursuant to Article I of the Administrative Procedures Act.~~

12 ~~5. The Board of Juvenile Affairs shall develop performance~~
13 ~~standards for programs implemented, either directly or pursuant to~~
14 ~~contract, by the Office of Juvenile Affairs.~~

15 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-201, as
16 last amended by Section 1, Chapter 386, O.S.L. 2016 (10A O.S. Supp.
17 2017, Section 2-7-201), is amended to read as follows:

18 Section 2-7-201. A. ~~The Board of Juvenile Affairs shall~~
19 ~~appoint the~~ Executive Director of the Office of Juvenile Affairs
20 shall be appointed by the Governor, with the advice and consent of
21 the Senate. The Executive Director shall serve at the pleasure of
22 the ~~Board~~ Governor and may be removed or replaced without cause.
23 Compensation for the Executive Director shall be determined pursuant
24 to Section 3601.2 of Title 74 of the Oklahoma Statutes.

1 B. The Executive Director of the Office of Juvenile Affairs
2 shall be qualified for such position by character, ability,
3 education, training, and successful administrative experience in one
4 of the following: Corrections, juvenile justice, juvenile
5 delinquency, criminal justice, law, police science, criminology,
6 psychology, sociology, administration, education, or a related
7 social science.

8 C. The Executive Director shall provide for the administration
9 of the Office of Juvenile Affairs and shall:

10 1. Be the executive officer and supervise the activities of the
11 Office of Juvenile Affairs;

12 2. Pursuant to legislative authorization employ, discharge,
13 appoint or contract with, and fix the duties and compensation of
14 such assistants, attorneys, law enforcement officers, probation
15 officers, psychologists, social workers, medical professionals,
16 administrative, clerical and technical, investigators, aides and
17 such other personnel, either on a full-time, part-time, fee or
18 contractual basis, as in the judgment and discretion of the
19 Executive Director shall be deemed necessary in the performance or
20 carrying out of any of the purposes, objectives, responsibilities,
21 or statutory provisions relating to the Office of Juvenile Affairs,
22 or to assist the Executive Director of the Office of Juvenile
23 Affairs in the performance of official duties and functions;
24

1 3. Establish internal policies and procedures for the proper
2 and efficient administration of the Office of Juvenile Affairs; and

3 4. Exercise all incidental powers which are necessary and
4 proper to implement the purposes of the Office of Juvenile Affairs
5 pursuant to the Oklahoma Juvenile Code.

6 D. The Executive Director shall employ an attorney to be
7 designated the "General Counsel" who shall be the legal advisor for
8 the Office of Juvenile Affairs. Except as provided in this
9 subsection, the General Counsel is authorized to appear for and
10 represent the ~~Board and~~ Office in any litigation that may arise in
11 the discharge of the duties of the ~~Board and~~ Office.

12 It shall continue to be the duty of the Attorney General to give
13 an official opinion to the Executive Director of the Office of
14 Juvenile Affairs and the Office of Juvenile Affairs and to prosecute
15 and defend actions therefor, if requested to do so. The Attorney
16 General may levy and collect costs, expenses of litigation and a
17 reasonable attorney fee for such legal services from the Office.
18 The Office shall not contract for representation by private legal
19 counsel unless approved by the Attorney General. Such contract for
20 private legal counsel shall be in the best interests of the state.
21 The Attorney General shall be notified by the Office of Juvenile
22 Affairs or its counsel of all lawsuits against the Office of
23 Juvenile Affairs or officers or employees thereof, that seek
24 injunctive relief which would impose obligations requiring the

1 expenditure of funds in excess of unencumbered monies in the
2 agency's appropriations or beyond the current fiscal year. The
3 Attorney General shall review any such cases and may represent the
4 interests of the state, if the Attorney General considers it to be
5 in the best interest of the state to do so, in which case the
6 Attorney General shall be paid as provided in this subsection.
7 Representation of multiple defendants in such actions may, at the
8 discretion of the Attorney General, be divided with counsel for the
9 Office as necessary to avoid conflicts of interest.

10 E. The Executive Director of the Office of Juvenile Affairs
11 shall have the authority to commission certified employees within
12 the Office of Juvenile Affairs as peace officers. The authority of
13 employees so commissioned shall only include the authority to
14 investigate crimes committed against the Office or crimes committed
15 in the course of any program administered by the Office. Employees
16 so commissioned shall also have the authority to serve and execute
17 process, bench warrants, and other court orders in any judicial or
18 administrative proceeding in which the agency is a party or
19 participant. Use and possession of firearms for this purpose only
20 shall be permitted. To become qualified as peace officers for the
21 commission, employees shall first obtain a certificate as provided
22 for in Section 3311 of Title 70 of the Oklahoma Statutes.

23 F. The Executive Director of the Office of Juvenile Affairs,
24 ~~based upon rules established by the Board of Juvenile Affairs,~~ shall

1 have the authority to appoint and commission campus police for
2 secure juvenile facilities and their adjacent grounds under the
3 jurisdiction of the Office of Juvenile Affairs in the same manner
4 and with the same powers as campus police appointed by governing
5 boards of state institutions for higher education under the
6 provisions of Section 360.15 et seq. of Title 74 of the Oklahoma
7 Statutes.

8 G. In the event of the Executive Director's temporary absence,
9 the Executive Director may delegate the exercise of such powers and
10 duties to a designee during the Executive Director's absence. ~~In~~
11 ~~the event of a vacancy in the position of Executive Director, the~~
12 ~~Board of Juvenile Affairs shall appoint a new Executive Director.~~
13 ~~The Board may designate an interim or acting Executive Director who~~
14 ~~is authorized to exercise such powers and duties until a permanent~~
15 ~~Executive Director is employed.~~

16 SECTION 3. This act shall become effective January 14, 2019.
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18 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2018 - DO PASS,
19 As Amended and Coauthored.
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