

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 319

By: Smalley

6 AS INTRODUCED

7 An Act relating to prosecution fees; amending 22 O.S.  
8 2011, Section 1277, which relates to prosecution of  
9 offenses by inmates; modifying payment of certain  
10 fees; requiring certain actions; making certain  
11 allowances; amending 57 O.S. 2011, Section 549, as  
12 amended by Section 1, Chapter 265, O.S.L. 2014 (57  
13 O.S. Supp. 2016, Section 549), which relates to the  
14 powers and duties of the State Board of Corrections;  
15 authorizing certain fees; authorizing collection of  
16 fees; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1277, is  
16 amended to read as follows:

17 Section 1277. A. The Department of Corrections shall pay a fee  
18 as provided in subsection D of this section for criminal  
19 prosecutions conducted in any county where a penal institution or  
20 community correction center is located in this state when the  
21 prosecution involves:

22 1. A violation of any criminal law committed by any prisoner  
23 housed in any penal institution or community correction center of  
24 this state; or

1        2. A crime committed in furtherance of an escape, flight or  
2 concealment as a fugitive from any penal institution or community  
3 correction center of this state.

4        B. The provisions of subsection A of this section shall apply  
5 whether the prisoner is confined or permitted to be at large as a  
6 trusty or otherwise. Provided, however, the provisions of  
7 subsection A of this section shall not apply to inmates incarcerated  
8 in any correctional facility which is not operated by or under  
9 contract with the Oklahoma Department of Corrections.

10        C. ~~The cost of any habeas corpus proceedings instituted by any~~  
11 ~~prisoner of any penal institution or community correction center~~  
12 ~~which is operated by or under contract with this state shall be paid~~  
13 ~~by the Department of Corrections out of any funds provided for the~~  
14 ~~support and maintenance of the institution of which the person~~  
15 ~~committing such crime, or instituting such habeas corpus~~  
16 ~~proceedings, is a prisoner, upon the filing of a verified and~~  
17 ~~itemized claim from the court clerk of the county where the~~  
18 ~~proceedings were held.~~

19        ~~D.~~ The Department of Corrections shall pay a fee of Two Hundred  
20 Dollars (\$200.00) upon the filing of a criminal action pursuant to  
21 the provisions of paragraph 1 or 2 of subsection A of this section,  
22 and an additional fee of Three Hundred Dollars (\$300.00) upon  
23 acquittal or conviction of each such prisoner prosecuted, regardless  
24 of the number of charges or counts which arise out of the same

1 incident. The fee shall be paid to the district court fund of the  
2 county where the action arose. The fee shall be in lieu of any  
3 expenses authorized by law for a criminal prosecution and chargeable  
4 against the Department of Corrections. ~~The fee shall be paid at the~~  
5 ~~conclusion of the prosecution and upon a proper invoice by the court~~  
6 ~~clerk to the Department~~ Within thirty (30) days of the conclusion of  
7 the prosecution, the court clerk shall submit an invoice to the  
8 Department for chargeable fees. The Department shall not be  
9 required to pay an invoice submitted past the thirty (30) day  
10 timeframe. Failure to pay the cost shall not constitute grounds for  
11 dismissal of the criminal action.

12 D. The Department may pay the fee provided for in this section  
13 directly from the inmate's trust funds, including mandatory savings  
14 in accordance with Section 549 of Title 57 of the Oklahoma Statutes,  
15 or if there are not sufficient funds available in the inmate's trust  
16 funds, the Department shall invoice the inmate for reimbursement.

17 E. Nothing in this section shall prohibit the court from  
18 ordering the costs and expenses of a criminal prosecution to be paid  
19 by the inmate or restrict the court clerk from collecting such costs  
20 and expenses from the inmate.

21 SECTION 2. AMENDATORY 57 O.S. 2011, Section 549, as  
22 amended by Section 1, Chapter 265, O.S.L. 2014 (57 O.S. Supp. 2016,  
23 Section 549), is amended to read as follows:  
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1       Section 549. A. The State Board of Corrections shall have the  
2 following powers and duties with respect to the operation of prison  
3 industries, the Construction Division, and administration of inmate  
4 trust funds:

5       1. The power to make leases or other contracts consistent with  
6 the operation of prison industries, and to set aside land or  
7 facilities for the use of such industry;

8       2. The power to establish conditions for expenditures by the  
9 Department of Corrections from the Industries Revolving Fund;

10       3. The power to negotiate wages and working conditions on  
11 behalf of prisoners working in prison industries or prisoners  
12 working in the Construction Division. Pay grades for the  
13 Construction Division "on-the-job training" inmate crews shall be as  
14 follows:

15           a. Pay Grade "A" - Inmate Worker,

16           b. Pay Grade "B" - Inmate Worker,

17           c. Pay Grade "C" - Apprentice,

18           d. Pay Grade "D" - Skilled Craft;

19       4. The power to collect wages and other receipted funds on  
20 behalf of the inmate, to apportion inmate wages and funds in  
21 accordance with the law; and the duty to preserve those wages and  
22 funds reserved for the inmate in an account for his or her benefit,  
23 and to establish procedures by which the inmate can draw funds from  
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1 this account under the conditions and limitations and for the  
2 purposes allowed by law;

3 5. The duty to establish the percentages of such wages which  
4 shall be available for apportionment to inmate mandatory savings; to  
5 the inmate for his or her personal use; to the lawful dependents of  
6 the inmate, if any; to the victim of the inmate's crime; for payment  
7 of creditors; for payment of costs and expenses for criminal actions  
8 against such inmate; and to the Department of Corrections for costs  
9 of incarceration. Provided, that not less than twenty percent (20%)  
10 of such wages shall be placed in an account, and shall be payable to  
11 the prisoner upon his or her discharge; however, inmates with a  
12 sentence of life without the possibility of parole shall be exempt  
13 from this provision. Funds from this account may be used by the  
14 inmate for fees or costs in filing a civil or criminal action as  
15 defined in Section 151 et seq. of Title 28 of the Oklahoma Statutes  
16 or for federal action as defined in Section 1911 et seq. of Title 28  
17 of the United States Code, 28 U.S.C., Section 1911 et seq.;

18 6. The power to invest funds held by the Department of  
19 Corrections on behalf of each inmate in an interest-bearing account  
20 with the interest accruing and payable to the Crime Victims  
21 Compensation Revolving Fund, as provided in Section 142.17 of Title  
22 21 of the Oklahoma Statutes. The interest from each inmate's  
23 savings account shall be payable to the Crime Victims Compensation  
24 Revolving Fund, at such intervals as may be determined by the Board,

1 in addition to any other payments to such fund required by the  
2 inmate's sentence or otherwise by law. An inmate shall not have the  
3 right, use or control of any interest derived from any funds placed  
4 in a mandatory savings account;

5 7. The power to invest funds held by the Department of  
6 Corrections on behalf of each inmate in a commingled offender  
7 interest-bearing account held by the Office of the State Treasurer.  
8 The State Treasurer shall post interest to this account monthly.  
9 The Department of Corrections, at such intervals as may be  
10 determined by the Board, will credit interest to the inmate based on  
11 the pro rata account balance of the inmate. Deposits into the  
12 inmate interest-bearing account will only be allowed when the trust  
13 fund draw account of the inmate has a balance in excess of One  
14 Hundred Dollars (\$100.00). Inmate mandatory savings account  
15 balances will not be used to determine the eligibility of the inmate  
16 to participate in the interest-bearing savings account. Inmates who  
17 participate in the interest-bearing account will only be allowed to  
18 transfer funds from their interest-bearing account to their draw  
19 account once every ninety (90) days. All inmate transfers from the  
20 interest-bearing account of the inmate to the draw account of the  
21 inmate must be approved by appropriate Department staff prior to  
22 transfer. All transfers of funds from an inmate interest-bearing  
23 account to external recipients must be reviewed and approved by  
24 appropriate Department staff prior to transfer. The Department will

1 define in policy those rules and procedures that govern inmate  
2 interest-bearing account deposits and funds transfers; and

3 8. The power to invest canteen system, offender restitution and  
4 other offender-related collections by the Department of Corrections  
5 in a commingled interest-bearing account held by the Office of the  
6 State Treasurer and invested as prescribed by Section 89.2 of Title  
7 62 of the Oklahoma Statutes. The State Treasurer shall post  
8 interest to this account monthly. By the fifteenth day of each  
9 month, the proportionate share of the interest from the canteen  
10 system, offender restitution and other offender-related collections,  
11 excluding that portion of the interest payable to the Victims  
12 Compensation Revolving Fund and any interest payable to inmates for  
13 the inmate interest-bearing account, shall be remitted to the State  
14 Treasurer from the Department of Corrections for deposit into the  
15 General Revenue Fund.

16 B. The State Board of Corrections shall cause to be placed in  
17 an account income from the inmate's employment and any other income  
18 or benefits accruing to or payable to and for the benefit of ~~said~~  
19 the inmate, including any workers' compensation or Social Security  
20 benefits.

21 1. From this account, the State Board of Corrections may charge  
22 for costs of incarceration any inmate working in private prison  
23 industries or any other inmate for costs of incarceration not to  
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1 exceed fifty percent (50%) of any deposits made to ~~said~~ the account,  
2 unless ~~said~~ the deposits were from a workers' compensation benefit.

3 2. From this account, the State Board of Corrections may charge  
4 any inmate for costs of incarceration, an amount equivalent to one  
5 hundred percent (100%) of any deposits from a workers' compensation  
6 benefit to ~~said~~ the account.

7 3. From this account, the State Board of Corrections may charge  
8 any inmate for the costs of prosecution fees in accordance with  
9 Section 1277 of Title 21 of the Oklahoma Statutes. The Board may  
10 cause the prosecution fees to be paid directly from the inmates'  
11 trust funds, as provided in paragraph 5 of subsection A of this  
12 section, if sufficient funds are available.

13 4. The Department of Corrections shall pay into the Crime  
14 Victims Compensation Revolving Fund, Section 142.17 of Title 21 of  
15 the Oklahoma Statutes, an amount equal to five percent (5%) of the  
16 gross wages earned by inmates working in a private prison industries  
17 program, ~~said~~ the amount to be paid from the amount deducted for  
18 cost of incarceration.

19 ~~4.~~ 5. Withdrawals and deposits shall be made according to rules  
20 and regulations established by the State Board of Corrections.

21 C. The Department of Corrections may assess costs of  
22 incarceration against all inmates beginning on September 1, 1992.  
23 Such costs shall be a debt of the inmate owed to the Department of  
24 Corrections and may be collected as provided by law for collection



1 of any other civil debt. In addition to the provisions of this  
2 section authorizing expenditure of inmate trust funds for costs of  
3 incarceration, any monies received for costs of incarceration shall  
4 be deposited in the Department of Corrections Revolving Fund.

5 SECTION 3. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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