

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2631

By: Babinec of the House and Bergstrom of the Senate

Title: Prisons and reformatories; modifying powers and duties of the Director of the Department of Corrections; providing for the designation of correctional peace officers; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

Bergstrom	_____
Fry	_____
Brecheen	_____
Dugger	_____
Jech	_____
Brooks	_____
Matthews	_____

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2631

By: Babinec of the House

and

Fry of the Senate

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7 An Act relating to prisons and reformatories;
amending 57 O.S. 2011, Section 510, as last amended
8 by Section 20, Chapter 42, O.S.L. 2017 (57 O.S. Supp.
2017, Section 510), which relates to the Oklahoma
9 Corrections Act of 1967 *** allowing Director to
enter into contracts with media or film production
10 companies; directing deposit of funds into certain
revolving fund; and providing an effective date.
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13 AUTHOR: Remove Fry as the principal Senate Author and replace with
Bergstrom as principal Senate Author.
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15 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert
16

17 "An Act relating to prisons and reformatories;
amending 57 O.S. 2011, Section 507, which relates to
18 the duties of the Director of the Department of
Corrections; modifying allowable duties; allowing
19 certain pilot programs; authorizing certain actions;
and providing an effective date.
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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 57 O.S. 2011, Section 507, is
24 amended to read as follows:

1 Section 507. The Director shall be the executive officer of the
2 Department of Corrections and shall have the following general
3 powers and duties:

4 (a) To supervise the activities of the Department and, subject
5 to the policies established by the Board, to act for the Department
6 in all matters, except as may be otherwise provided in ~~this act~~ the
7 Oklahoma Corrections Act of 1967.

8 (b) To prescribe rules and regulations for the operation of the
9 Department, consistent with the general policies established by the
10 Board.

11 (c) To appoint and fix the duties and salaries of such
12 personnel for the Department as may be necessary to administer and
13 carry out the provisions of ~~this act~~ the Oklahoma Corrections Act of
14 1967. The Department and the employees thereof, except the members
15 of the Board and the Director shall be subject to the provisions of
16 the State Merit System of Personnel Administration, but the Governor
17 may by Executive Order exempt positions therefrom as authorized by
18 Section 802 of Title 74 of the Oklahoma Statutes, except as may be
19 otherwise provided in ~~this act~~ the Oklahoma Corrections Act of 1967.

20 (d) To accept, use, disburse and administer grants, allotments,
21 gifts, devises, bequests, appropriations and other monies and
22 property offered or given to the Department, or any component or
23 agency thereof, by any agency of the federal government or any
24 corporation or individual for the use of the Department.

1 (e) 1. To investigate the possible inclusion in a federally-
2 funded pilot program sponsored by the Federal Communications
3 Commission relating to the use of cellular and electronic
4 communication devices within the statewide network of prisons in
5 Oklahoma.

6 2. In the event that the Federal Communications Commission
7 amends the regulations relating to the use of cellular and
8 electronic communication devices within prisons, the Director is
9 authorized to initiate a pilot program regarding the use of
10 available technology to prohibit the use of cellular and electronic
11 communication devices by incarcerated offenders within the statewide
12 network of prisons in Oklahoma.

13 3. Absent regulations of the Federal Communications Commission
14 prohibiting the use of such technology, the Director is authorized
15 to use available technology to prohibit the use of cellular and
16 electronic communication devices by incarcerated offenders within
17 the statewide network of prisons in Oklahoma using federal or state
18 funds.

19 SECTION 2. This act shall become effective November 1, 2018."
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1 Passed the Senate the 25th day of April, 2018.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2018.

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8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2631

By: Babinec of the House

3 and

4 Fry of the Senate
5
6

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2011, Section 510, as last amended
9 by Section 20, Chapter 42, O.S.L. 2017 (57 O.S. Supp.
10 2017, Section 510), which relates to the Oklahoma
11 Corrections Act of 1967; modifying powers and duties
12 of the Director of the Department of Corrections;
13 removing qualifications for wardens; updating
14 language; deleting certain employment qualifications
15 for correctional officers; providing for the
16 designation of correctional peace officers;
17 authorizing implementation of policies related to
18 correctional peace officer authority; deleting peace
19 officer designation and qualifications; providing for
20 the issuance of identification cards; providing for
21 the development and implementation of basic course of
22 instruction for correctional officers; establishing
23 minimum curriculum instruction requirements;
24 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;
directing deposit of funds into certain revolving
fund; and providing an effective date.

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

1 SECTION 3. AMENDATORY 57 O.S. 2011, Section 510, as last
2 amended by Section 20, Chapter 42, O.S.L. 2017 (57 O.S. Supp. 2017,
3 Section 510), is amended to read as follows:

4 Section 510. A. The Director of the Department of Corrections
5 shall have the following specific powers and duties relating to the
6 penal institutions:

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

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

20 a. the minimum age for service shall be twenty (20) years
21 of age. The Director shall have the authority to
22 establish the maximum age for correctional officers
23 entering service,
24

- b. possession of a minimum of thirty (30) semester hours from an accredited college or university, or possession of a high school diploma acquired from an accredited high school or GED equivalent testing program ~~and graduation from a training course conducted by or approved by the Department and certified by the Council on Law Enforcement Education and Training either prior to employment or during the first six (6) months of employment,~~
- c. ~~be of good moral character,~~
- d. ~~before going on duty alone, satisfactory completion of an adequate training program for correctional officers, as prescribed and approved by the State Board of Corrections; provided, however, correctional officers reinstated within three (3) years of separating from the Department shall not be required to repeat preservice training. The Director or designee may, however, require the correctional officers to attend updated training to ensure compliance with agency training standards,~~
- e. satisfactory completion of minimum testing or professional evaluation through the Merit System of Personnel Administration to determine the fitness of the individual to serve in the position. All written

1 evaluations shall be submitted to the Department of
2 Corrections, and

3 ~~f.~~ d. satisfactory completion of a physical in keeping with
4 the conditions of the job description on an annual
5 basis and along the guidelines as established by the
6 Department of Corrections;

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

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

22 4. To develop and implement, upon approval of the State Board
23 of Corrections, a basic course of instruction for correctional
24 officers that consists of a training academy that provides not less

1 than two hundred (200) hours of core curriculum instruction and a
2 firearms training program that provides not less than twenty (20)
3 hours of instruction. The basic course of instruction shall be
4 subject to the following:

5 a. the minimum qualifying score that must be shot to pass
6 the firearms training program shall be equal to the
7 minimum qualifying score required by the Council on
8 Law Enforcement Education and Training for peace
9 officers, and

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

17 5. To develop and implement annual in-service training for
18 correctional officers that consists of at least forty (40) hours of
19 continued corrections education and annual recertification of
20 firearms proficiency. The minimum qualifying score that must be
21 shot to requalify for recertification of firearms proficiency shall
22 be equal to the minimum qualifying score required by the Council on
23 Law Enforcement Education and Training for the requalification of
24 peace officers;

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

9 7. To authorize other employees of the Department to carry
10 firearms anywhere in the state to use for self-defense pursuant to
11 and consistent with policies developed by the Department upon
12 satisfactory completion of the firearms training program provided
13 for in paragraph 4 of this subsection. The Director shall issue an
14 identification card to each authorized employee that grants the
15 employee the authority to carry a firearm pursuant to the provisions
16 of this paragraph. Should an authorized employee terminate
17 employment for any reason, fail to remain qualified to carry a
18 firearm, or for reasons stated in the policies of the Department,
19 the authorized employee shall immediately return the identification
20 card to the supervisor of the employee and shall no longer be
21 authorized to carry firearms under the authority of this paragraph;

22 8. To maintain such industries, factories, plants, shops,
23 farms, and other enterprises and operations, hereinafter referred to
24 as prison industries, at each penal institution as the State Board

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

18 ~~5.~~ 9. To assign residences at each penal institution to penal
19 institutional personnel and their families;

20 ~~6.~~ 10. To provide for the education, training, vocational
21 education, rehabilitation, and recreation of prisoners;

22 ~~7.~~ 11. To regulate the operation of canteens for prisoners;

23 ~~8.~~ 12. To prescribe rules for the conduct, management, and
24 operation of each penal institution, including rules for the

1 demeanor of prisoners, the punishment of recalcitrant prisoners, the
2 treatment of incorrigible prisoners, and the disposal of property or
3 contraband seized from inmates or offenders under the supervision of
4 the Department;

5 ~~9.~~ 13. To transfer prisoners from one penal institution to
6 another;

7 ~~10.~~ 14. To establish procedures that ensure inmates are
8 educated and provided with the opportunity to execute advance
9 directives for health care in compliance with Section 3101.2 of
10 Title 63 of the Oklahoma Statutes. The procedures shall ensure that
11 any inmate executing an advance directive for health care is
12 competent and executes the directive with informed consent;

13 ~~11.~~ 15. To maintain courses of training and instruction for
14 employees ~~at each institution~~ of the Department;

15 ~~12.~~ 16. To maintain a program of research and statistics;

16 ~~13.~~ 17. To provide for the periodic audit, at least once
17 annually, of all funds and accounts of each penal institution and
18 the funds of each prisoner;

19 ~~14.~~ 18. To provide, subject to rules established by the State
20 Board of Corrections, for the utilization of inmate labor for any
21 agency of the state, city, town, or subdivision of this state, upon
22 the duly authorized request for such labor by the agency. The
23 inmate labor shall not be used to reduce employees or replace
24 regular maintenance or operations of the agency. The inmate labor

1 shall be used solely for public or state purposes. No inmate labor
2 shall be used for private use or purpose. Insofar as it is
3 practicable, all inmate labor shall be of such a nature and designed
4 to assist and aid in the rehabilitation of inmates performing the
5 labor;

6 ~~15.~~ 19. To provide clerical services for, and keep and preserve
7 the files and records of, the Pardon and Parole Board; make
8 investigations and inquiries as to prisoners at the penal
9 institutions who are to be, or who might be, considered for parole
10 or other clemency; assist prisoners who are to be, or who might be,
11 considered for parole or discharge in obtaining suitable employment
12 in the event of parole or discharge; report to the Pardon and Parole
13 Board, for recommendation to the Governor, violations of terms and
14 conditions of paroles; upon request of the Governor, make
15 investigations and inquiries as to persons who are to be, or who
16 might be, considered for reprieves or leaves of absence; report to
17 the Pardon and Parole Board, for recommendation to the Governor,
18 whether a parolee is entitled to a pardon, when the terms and
19 conditions of the parole have been completed; make presentence
20 investigations for, and make reports thereof to, trial judges in
21 criminal cases ~~before sentences are pronounced~~ consistent with other
22 laws of the state; supervise persons ~~undergoing suspended sentences,~~
23 ~~or who are on~~ felony probation or parole; and develop and operate,
24 subject to the policies and guidelines of the Board, work-release

1 centers, community treatment facilities or prerelease programs at
2 appropriate sites throughout this state;

3 ~~16.~~ 20. To establish an employee tuition assistance program and
4 promulgate rules in accordance with the Administrative Procedures
5 Act for the operation of the program. The rules shall include, but
6 not be limited to, program purposes, eligibility requirements, use
7 of tuition assistance, service commitment to the Department,
8 reimbursement of tuition assistance funds for failure to complete
9 course work or service commitment, amounts of tuition assistance and
10 limitations, and record keeping;

11 ~~17.~~ 21. To establish an employee recruitment and referral
12 incentive program and promulgate rules in accordance with the
13 Administrative Procedures Act for the operation of the program. The
14 rules shall include, but not be limited to, program purposes, pay
15 incentives for employees, eligibility requirements, payment
16 conditions and amounts, payment methods, and record keeping;

17 ~~18.~~ 22. To provide reintegration referral services to any
18 person discharged from the state custody who has volunteered to
19 receive reintegration referral services. The Director may assign
20 staff to refer persons discharged from state custody to services.
21 The Director shall promulgate rules for the referral process. All
22 reintegration referral services shall be subject to the availability
23 of funds;

1 ~~19.~~ 23. To conduct continual planning and research and
2 periodically evaluate the effectiveness of the various correctional
3 programs instituted by the Department; manage the designing,
4 building, and maintaining of all the capital improvements of the
5 Department; establish and maintain current and efficient business,
6 bookkeeping, and accounting practices and procedures for the
7 operations of all penal institutions and facilities, and for the
8 Department's fiscal affairs; conduct initial orientation and
9 continuing in-service training for the Department employees; provide
10 public information services; inspect and examine the condition and
11 management of state penal and correctional institutions; investigate
12 complaints concerning the management of prisons or alleged
13 mistreatment of inmates thereof; and hear and investigate complaints
14 as to misfeasance or nonfeasance of employees of the Department;

15 ~~20.~~ 24. To authorize any division of the Department to sell
16 advertising in any Department-approved publication, media production
17 or other informational material produced by the Department;
18 provided, that such advertising shall be approved by the Director or
19 designee prior to acceptance for publication. The sale of
20 advertising and negotiation of rates for the advertising shall not
21 be subject to The Oklahoma Central Purchasing Act or the
22 Administrative Procedures Act. The Department shall promulgate
23 rules establishing criteria for accepting or using advertisements as
24 authorized in this paragraph;

1 ~~21.~~ 25. To issue subpoenas to assist or further investigations
2 into allegations of crimes committed in public or private prisons
3 within the State of Oklahoma. Subpoenas issued by the Director
4 shall be enforced by the District Court in Oklahoma County,
5 Oklahoma;

6 ~~22.~~ 26. To authorize award of the badge of an employee who dies
7 while employed by the Department to the spouse or next of kin of the
8 deceased employee;

9 ~~23.~~ 27. To establish, in conjunction with the Information
10 Services Division of the Office of Management and Enterprise
11 Services, an emergency alert notification system for the public,
12 capable of distributing notifications of facility emergencies or
13 prisoner escapes for all facilities and each facility of the
14 Department of Corrections; ~~and~~

15 ~~24.~~ 28. To declare an emergency when, due to shortage of staff,
16 correctional officers at a facility are required to work more than
17 two double shifts in a seven-day period. As used in this paragraph,
18 "double shift" means two eight-hour shifts in a twenty-four-hour
19 period; and

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

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

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

18 SECTION 4. This act shall become effective November 1, 2018.
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1 Passed the House of Representatives the 8th day of March, 2018.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2018.

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8 _____
9 Presiding Officer of the Senate