

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 HOUSE BILL 2893

By: Conley of the House

5 and

6 **Bergstrom** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to prisons and reformatories;
11 amending 57 O.S. 2011, Section 510, as last amended
12 by Section 1, Chapter 279, O.S.L. 2018 (57 O.S. Supp.
13 2019, Section 510), which relates to powers of the
14 Director of the Department of Corrections;
15 authorizing Director to allow certain employees to
16 maintain peace officer status; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2011, Section 510, as last
20 amended by Section 1, Chapter 279, O.S.L. 2018 (57 O.S. Supp. 2019,
21 Section 510), is amended to read as follows:

22 Section 510. A. The Director of the Department of Corrections
23 shall have the following specific powers and duties relating to the
24 penal institutions:

1 1. To appoint, subject to the approval of the State Board of
2 Corrections, a warden for each penal institution;

3 2. To fix the duties of the wardens and to appoint and fix the
4 duties and compensation of such other personnel for each penal
5 institution as may be necessary for the proper operation thereof.
6 However, correctional officers hired after November 1, 1995, shall
7 be subject to the following qualifications:

8 a. the minimum age for service shall be twenty (20) years
9 of age. The Director shall have the authority to
10 establish the maximum age for correctional officers
11 entering service,

12 b. possession of a minimum of thirty (30) semester hours
13 from an accredited college or university, or
14 possession of a high school diploma acquired from an
15 accredited high school or GED equivalent testing
16 program,

17 c. satisfactory completion of minimum testing or
18 professional evaluation through the Merit System of
19 Personnel Administration to determine the fitness of
20 the individual to serve in the position. All written
21 evaluations shall be submitted to the Department of
22 Corrections, and

23 d. satisfactory completion of a physical in keeping with
24 the conditions of the job description on an annual

1 basis and along the guidelines as established by the
2 Department of Corrections;

3 3. The Director shall designate as correctional peace officers,
4 correctional officers who are employed in job classifications of
5 correctional security officer, correctional security manager,
6 correctional chief of security and chief of security upon
7 satisfactory completion of a basic course of instruction for
8 correctional officers, as provided for in paragraph 4 of this
9 subsection. The peace officer authority of employees designated as
10 correctional peace officers shall be limited to: maintaining
11 custody of prisoners; preventing attempted escapes; pursuing,
12 recapturing and incarcerating escapees and parole or probation
13 violators and arresting such escapees, parole or probation
14 violators; serving warrants; carrying firearms; preventing
15 contraband from entering any penal institutions; arresting
16 individuals who commit crimes at any penal institution; and
17 performing any duties specifically required for the job
18 descriptions. Such powers and duties of correctional peace officers
19 may be exercised for the purpose of maintaining custody, security,
20 and control of any prisoner being transported inside and outside
21 this state as authorized by the Uniform Criminal Extradition Act and
22 the Interstate Corrections Compact. The Director may implement
23 policies that place additional limitations on the authority of
24 correctional peace officers. The Director shall issue an

1 identification card to each correctional peace officer that
2 identifies the person as a correctional peace officer and grants the
3 person the authority to carry a firearm and make arrests pursuant to
4 this paragraph. Should a correctional peace officer terminate
5 employment for any reason, fail to remain qualified as a
6 correctional peace officer or for reasons stated in policies of the
7 Department, the correctional peace officer shall return the
8 identification card to the supervisor of the correctional peace
9 officer immediately;

10 4. To develop and implement, upon approval of the State Board
11 of Corrections, a basic course of instruction for correctional
12 officers that consists of a training academy that provides not less
13 than two hundred (200) hours of core curriculum instruction and a
14 firearms training program that provides not less than twenty (20)
15 hours of instruction. The basic course of instruction shall be
16 subject to the following:

- 17 a. the minimum qualifying score that must be shot to pass
18 the firearms training program shall be equal to the
19 minimum qualifying score required by the Council on
20 Law Enforcement Education and Training for peace
21 officers, and
22 b. the Director may waive any number of hours or courses
23 required to complete the basic course of instruction
24 for any person who, in the opinion of the Director,

1 has received sufficient training or experience that
2 such hours of instruction would be unduly burdensome
3 or duplicative; however, completion of the firearms
4 training program shall not be waived;

5 5. To develop and implement annual in-service training for
6 correctional officers that consists of at least forty (40) hours of
7 continued corrections education and annual recertification of
8 firearms proficiency. The minimum qualifying score that must be
9 shot to requalify for recertification of firearms proficiency shall
10 be equal to the minimum qualifying score required by the Council on
11 Law Enforcement Education and Training for the requalification of
12 peace officers;

13 6. To require any person employed as a correctional security
14 officer, correctional security manager, correctional chief of
15 security and chief of security to remain qualified as a correctional
16 peace officer. Any correctional peace officer who is unable to
17 remain qualified as a correctional peace officer may be offered an
18 available position within the Department in the same or lesser pay
19 grade for which the employee is eligible, or the employee may be
20 terminated. When an employee who is commissioned as a peace officer
21 by the Department voluntarily moves into a position which does not
22 require peace officer status, the Director may allow the employee to
23 maintain their peace officer status;

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

14 8. To maintain such industries, factories, plants, shops,
15 farms, and other enterprises and operations, hereinafter referred to
16 as prison industries, at each penal institution as the State Board
17 of Corrections deems necessary or appropriate to employ the
18 prisoners or teach skills, or to sustain the penal institution; and
19 as provided for by policies established by the State Board of
20 Corrections, to allow compensation for the work of the prisoners,
21 and to provide for apportionment of inmate wages, the amounts thus
22 allowed to be kept in accounts by the Board for the prisoners and
23 given to the inmates upon discharge from the penal institution, or
24 upon an order paid to their families or dependents or used for the

1 personal needs of the prisoners. Any industry that employs
2 prisoners shall be deemed a "State Prison Industry" if the prisoners
3 are paid from state funds including the proceeds of goods sold as
4 authorized by Section 123f of Title 74 of the Oklahoma Statutes.
5 Any industry in which wages of prisoners are paid by a
6 nongovernmental person, group, or corporation, except those
7 industries employing prisoners in work-release centers under the
8 authority of the Department of Corrections shall be deemed a
9 "Private Prison Industry";

10 9. To assign residences at each penal institution to penal
11 institutional personnel and their families;

12 10. To provide for the education, training, vocational
13 education, rehabilitation, and recreation of prisoners;

14 11. To regulate the operation of canteens for prisoners;

15 12. To prescribe rules for the conduct, management, and
16 operation of each penal institution, including rules for the
17 demeanor of prisoners, the punishment of recalcitrant prisoners, the
18 treatment of incorrigible prisoners, and the disposal of property or
19 contraband seized from inmates or offenders under the supervision of
20 the Department;

21 13. To transfer prisoners from one penal institution to
22 another;

23 14. To establish procedures that ensure inmates are educated
24 and provided with the opportunity to execute advance directives for

1 health care in compliance with Section 3101.2 of Title 63 of the
2 Oklahoma Statutes. The procedures shall ensure that any inmate
3 executing an advance directive for health care is competent and
4 executes the directive with informed consent;

5 15. To maintain courses of training and instruction for
6 employees of the Department;

7 16. To maintain a program of research and statistics;

8 17. To provide for the periodic audit, at least once annually,
9 of all funds and accounts of each penal institution and the funds of
10 each prisoner;

11 18. To provide, subject to rules established by the State Board
12 of Corrections, for the utilization of inmate labor for any agency
13 of the state, city, town, or subdivision of this state, upon the
14 duly authorized request for such labor by the agency. The inmate
15 labor shall not be used to reduce employees or replace regular
16 maintenance or operations of the agency. The inmate labor shall be
17 used solely for public or state purposes. No inmate labor shall be
18 used for private use or purpose. Insofar as it is practicable, all
19 inmate labor shall be of such a nature and designed to assist and
20 aid in the rehabilitation of inmates performing the labor;

21 19. To provide clerical services for, and keep and preserve the
22 files and records of, the Pardon and Parole Board; make
23 investigations and inquiries as to prisoners at the penal
24 institutions who are to be, or who might be, considered for parole

1 or other clemency; assist prisoners who are to be, or who might be,
2 considered for parole or discharge in obtaining suitable employment
3 in the event of parole or discharge; report to the Pardon and Parole
4 Board, for recommendation to the Governor, violations of terms and
5 conditions of paroles; upon request of the Governor, make
6 investigations and inquiries as to persons who are to be, or who
7 might be, considered for reprieves or leaves of absence; report to
8 the Pardon and Parole Board, for recommendation to the Governor,
9 whether a parolee is entitled to a pardon, when the terms and
10 conditions of the parole have been completed; make presentence
11 investigations for, and make reports thereof to, trial judges in
12 criminal cases consistent with other laws of the state; supervise
13 persons on felony probation or parole; and develop and operate,
14 subject to the policies and guidelines of the Board, work-release
15 centers, community treatment facilities or prerelease programs at
16 appropriate sites throughout this state;

17 20. To establish an employee tuition assistance program and
18 promulgate rules in accordance with the Administrative Procedures
19 Act for the operation of the program. The rules shall include, but
20 not be limited to, program purposes, eligibility requirements, use
21 of tuition assistance, service commitment to the Department,
22 reimbursement of tuition assistance funds for failure to complete
23 course work or service commitment, amounts of tuition assistance and
24 limitations, and record keeping;

1 21. To establish an employee recruitment and referral incentive
2 program and promulgate rules in accordance with the Administrative
3 Procedures Act for the operation of the program. The rules shall
4 include, but not be limited to, program purposes, pay incentives for
5 employees, eligibility requirements, payment conditions and amounts,
6 payment methods, and record keeping;

7 22. To provide reintegration referral services to any person
8 discharged from the state custody who has volunteered to receive
9 reintegration referral services. The Director may assign staff to
10 refer persons discharged from state custody to services. The
11 Director shall promulgate rules for the referral process. All
12 reintegration referral services shall be subject to the availability
13 of funds;

14 23. To conduct continual planning and research and periodically
15 evaluate the effectiveness of the various correctional programs
16 instituted by the Department; manage the designing, building, and
17 maintaining of all the capital improvements of the Department;
18 establish and maintain current and efficient business, bookkeeping,
19 and accounting practices and procedures for the operations of all
20 penal institutions and facilities, and for the Department's fiscal
21 affairs; conduct initial orientation and continuing in-service
22 training for the Department employees; provide public information
23 services; inspect and examine the condition and management of state
24 penal and correctional institutions; investigate complaints

1 concerning the management of prisons or alleged mistreatment of
2 inmates thereof; and hear and investigate complaints as to
3 misfeasance or nonfeasance of employees of the Department;

4 24. To authorize any division of the Department to sell
5 advertising in any Department-approved publication, media production
6 or other informational material produced by the Department;
7 provided, that such advertising shall be approved by the Director or
8 designee prior to acceptance for publication. The sale of
9 advertising and negotiation of rates for the advertising shall not
10 be subject to The Oklahoma Central Purchasing Act or the
11 Administrative Procedures Act. The Department shall promulgate
12 rules establishing criteria for accepting or using advertisements as
13 authorized in this paragraph;

14 25. To issue subpoenas to assist or further investigations into
15 allegations of crimes committed in public or private prisons within
16 the State of Oklahoma. Subpoenas issued by the Director shall be
17 enforced by the District Court in Oklahoma County, Oklahoma;

18 26. To authorize award of the badge of an employee who dies
19 while employed by the Department to the spouse or next of kin of the
20 deceased employee;

21 27. To establish, in conjunction with the Information Services
22 Division of the Office of Management and Enterprise Services, an
23 emergency alert notification system for the public, capable of
24 distributing notifications of facility emergencies or prisoner

1 escapes for all facilities and each facility of the Department of
2 Corrections;

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

8 29. To enter into contracts with media or film production
9 companies to allow the Department to authorize a media or film
10 production company to shoot commercial films at penal institutions
11 and other property under the control of the Department. Any funds
12 received pursuant to said contracts shall be deposited into the
13 Department of Corrections Revolving Fund.

14 B. When an employee of the Department of Corrections has been
15 charged with a violation of the rules of the Department or with a
16 felony pursuant to the provisions of a state or federal statute, the
17 Director may, in the Director's discretion, suspend the charged
18 employee, in accordance with the Oklahoma Personnel Act and/or the
19 Merit System of Personnel Administration Rules, pending the hearing
20 and final determination of the charges. Notice of suspension shall
21 be given by the Director, in accordance with the provisions of the
22 Oklahoma Personnel Act. If after completion of the investigation of
23 the charges, it is determined that such charges are without merit or
24 are not sustained before the Oklahoma Merit Protection Commission or

1 in a court of law, the employee shall be reinstated and shall be
2 entitled to receive all lost pay and benefits.

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

5 SECTION 2. This act shall become effective November 1, 2020.

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7 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/20/2020 -
8 DO PASS, As Coauthored.

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