

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3133

By: Kendrix of the House

and

**Howard** of the Senate

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10                               COMMITTEE SUBSTITUTE

11           An Act relating to children; amending 10A O.S. 2021,  
12           Section 2-3-103, which relates to transporting  
13           children; modifying who shall provide transportation;  
14           modifying dollar amounts; and providing an effective  
15           date.

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

17           SECTION 1.           AMENDATORY           10A O.S. 2021, Section 2-3-103, is  
18 amended to read as follows:

19           Section 2-3-103.   A.   Provision shall be made for the temporary  
20 detention of children in a juvenile detention facility or the court  
21 may arrange for the care and custody of such children temporarily in  
22 private homes, subject to the supervision of the court, or the court  
23 may provide shelter or may enter into a contract with any  
24 institution or agency to receive, for temporary care and custody,

1 children within the jurisdiction of the court. The Office of  
2 Juvenile Affairs shall not be ordered to provide detention unless  
3 said Office has designated and is operating detention services or  
4 facilities.

5 B. County sheriffs of the arresting agency, their designee, any  
6 peace officer, private contractors under contract with the Office of  
7 Juvenile Affairs for transportation services, or juvenile court  
8 officers shall provide for the transportation of juveniles to and  
9 from secure detention for purposes of admission, interfacility  
10 transfer, discharge, medical or dental attention, court appearance,  
11 or placement designated by the Office. No private contract for  
12 transportation services shall be entered into by the Office unless  
13 the private contractor demonstrates to the satisfaction of the  
14 Office that such contractor is able to obtain insurance or provide  
15 self-insurance to indemnify the Office against possible lawsuits and  
16 meets the requirements of subparagraphs a, b and d of paragraph 4 of  
17 subsection C of this section. The Office of Juvenile Affairs shall  
18 not be ordered to provide transportation for a juvenile who is  
19 detained in or is destined for secure detention. The Office of  
20 Juvenile Affairs shall provide reimbursement to the entity  
21 transporting juveniles for necessary and actual expenses for  
22 transporting juveniles who are detained in or destined for a secure  
23 detention center as follows:

1 1. A fee for the cost of personal services at the rate of  
2 ~~Twelve Dollars (\$12.00)~~ Seventeen Dollars (\$17.00) per hour;

3 2. Mileage reimbursement for each mile actually traveled at the  
4 rate established in the State Travel Reimbursement Act;

5 3. Meals for transporting personnel, not to exceed ~~Six Dollars~~  
6 ~~(\$6.00)~~ Ten Dollars (\$10.00) per meal; and

7 4. Meals for juveniles being transported, not to exceed ~~Six~~  
8 ~~Dollars (\$6.00)~~ Ten Dollars (\$10.00) per meal.

9 The Office of Juvenile Affairs shall process and mail  
10 reimbursement claims within sixty (60) days of receipt. Payments  
11 for services provided by a county sheriff's office shall be paid to  
12 the county and deposited in the service fee account of the sheriff.

13 C. 1. All juvenile detention facilities shall be certified by  
14 the Office of Juvenile Affairs. To be certified, a juvenile  
15 detention facility shall be required to meet standards for  
16 certification promulgated by the Board of Juvenile Affairs.

17 2. The board of county commissioners of every county shall  
18 provide for the temporary detention of a child who is or who may be  
19 subject to secure detention and may construct a building or rent  
20 space for such purpose. The boards of county commissioners shall  
21 provide for temporary detention services and facilities in  
22 accordance with the provisions of the State Plan for the  
23 Establishment of Juvenile Detention Services adopted pursuant to  
24 subsection D of this section and in accordance with subsections A

1 and C of Section 2-7-608 of this title. The boards of county  
2 commissioners are hereby authorized to create multicounty trust  
3 authorities for the purpose of operating juvenile detention  
4 facilities.

5 3. In order to operate the juvenile detention facilities  
6 designated in the State Plan for the Establishment of Juvenile  
7 Detention Services and in subsections A and C of Section 2-7-608 of  
8 this title, the boards of county commissioners in the designated  
9 host counties shall:

- 10 a. operate the juvenile detention facility through a  
11 statutorily constituted juvenile bureau subject to the  
12 supervision of the district court, or
- 13 b. operate the juvenile detention facility by employing a  
14 manager who may employ personnel and incur other  
15 expenses as may be necessary for its operation and  
16 maintenance, or
- 17 c. contract with a public agency, private agency,  
18 federally recognized tribe, or single or multi-county  
19 trust authority for the operation of the juvenile  
20 detention facility. In the event any board of county  
21 commissioners contracts with a public or private  
22 agency or a federally recognized tribe, pursuant to  
23 the provisions of this section, the Office is  
24 authorized to directly contract with and pay such

1 public or private agency or federally recognized tribe  
2 for provision of detention services. Any contract  
3 with a federally recognized tribe shall become  
4 effective upon approval by the board of county  
5 commissioners.

6 4. Management contracts for privately operated detention  
7 facilities shall be negotiated with the firm found most qualified by  
8 the board of county commissioners. However, no private management  
9 contract shall be entered into by the board unless the private  
10 contractor demonstrates to the satisfaction of the board:

- 11 a. that the contractor has the qualifications,  
12 experience, and personnel necessary to implement the  
13 terms of the contract,
- 14 b. that the financial condition of the contractor is such  
15 that the term of the contract can be fulfilled,
- 16 c. that the ability of the contractor to obtain insurance  
17 or provide self-insurance to indemnify the county  
18 against possible lawsuits and to compensate the county  
19 for any property damage or expenses incurred due to  
20 the private operation of the juvenile detention  
21 facility, and
- 22 d. that the contractor has the ability to comply with  
23 applicable court orders and rules of the Office of  
24 Juvenile Affairs.

1        5. All counties to be served by a secure juvenile detention  
2 facility may, upon the opening of such facility, contract with the  
3 operators for the use of the facility for the temporary detention of  
4 children who are subject to secure detention; provided, however, a  
5 jail, adult lockup, or other adult detention facility may be used  
6 for the secure detention of a child as provided for in Section 2-3-  
7 101 of this title.

8        6. Expenses incurred in carrying out the provisions of this  
9 section shall be paid from the general fund of the county or from  
10 other public funds lawfully appropriated for such purposes or from  
11 private funds that are available for such purposes. A county may  
12 also issue bonds for the construction of detention facilities.

13        7. The operation of a juvenile detention facility by a county  
14 shall constitute a quasi-judicial function and is also hereby  
15 declared to be a function of the State of Oklahoma for purposes of  
16 the Eleventh Amendment to the United States Constitution. In  
17 addition, no contract authorized by the provisions of this section  
18 for the providing of transportation services or for the operation of  
19 a juvenile detention facility shall be awarded until the contractor  
20 demonstrates to the satisfaction of the county that the contractor  
21 has obtained liability insurance with the limits specified by The  
22 Governmental Tort Claims Act against lawsuits arising from the  
23 operation of the juvenile detention facility by the contractor, or  
24 if the contract is for the providing of transportation services, the

1 contractor has obtained liability insurance with the limits  
2 specified by The Governmental Tort Claims Act against lawsuits  
3 arising from the transportation of juveniles as authorized by  
4 subsection A of this section.

5 D. The Board of Juvenile Affairs, from monies appropriated for  
6 that purpose, shall develop, adopt, and implement a plan for secure  
7 juvenile detention services and alternatives to secure detention, to  
8 be known as the State Plan for the Establishment of Juvenile  
9 Detention Services, which shall provide for the establishment of  
10 juvenile detention facilities and services with due regard for  
11 appropriate geographical distribution and existing juvenile  
12 detention programs operated by statutorily constituted juvenile  
13 bureaus. Said plan may be amended or modified by the Board as  
14 necessary and appropriate. Until said plan is adopted by the Board,  
15 the plan adopted by the Commission for Human Services shall remain  
16 in effect.

17 1. The Board of Juvenile Affairs shall establish procedures for  
18 the letting of contracts or grants, including grants to existing  
19 juvenile detention programs operated by statutorily constituted  
20 juvenile bureaus, and the conditions and requirements for the  
21 receipt of said grants or contracts for juvenile detention services  
22 and facilities as provided in this section and Section 2-7-401 of  
23 this title. A copy of such procedures shall be made available to  
24 any member of the general public upon request. All such grants or

1 contracts shall require the participation of local resources in the  
2 funding of juvenile detention facilities. A contract for services  
3 shall be based upon a formula approved by the Board which shall set  
4 the contract amount in accordance with the services offered and the  
5 degree of compliance with standards for certification.

6 2. The Board of Juvenile Affairs shall establish standards for  
7 the certification of detention services and juvenile detention  
8 facilities. Such standards may include, but not be limited to:  
9 screening for detention; education and recreation opportunities for  
10 juveniles in secure detention; and accreditation by the American  
11 Correctional Association. As a condition of continuing eligibility  
12 for grants or contracts, secure juvenile detention services and  
13 facilities shall be certified by the Board within two (2) years of  
14 the date of the initial grant or contract.

15 E. The State Department of Health, with the assistance of the  
16 Office of Juvenile Affairs, shall establish standards for the  
17 certification of jails, adult lockups, and adult detention  
18 facilities used to detain juveniles. Such standards shall include  
19 but not be limited to: separation of juveniles from adults;  
20 supervision of juveniles; and health and safety measures for  
21 juveniles. The Department of Health is authorized to inspect any  
22 jail, adult lockup, or adult detention facility for the purpose of  
23 determining compliance with such standards. No jail, adult lockup,  
24 or other adult detention facility shall be used to detain juveniles



1 unless such jail, adult lockup, or other adult detention facility  
2 complies with the standards established by the Department of Health  
3 and is designated as a place for the detention of juveniles by the  
4 judge having juvenile docket responsibility in the county from a  
5 list of eligible facilities supplied by the Department of Health.

6 The development and approval of the standards provided for in  
7 this paragraph shall comply with the provisions of the  
8 Administrative Procedures Act.

9 F. The State Board of Health shall promulgate rules providing  
10 for the routine recording and reporting of the use of any adult  
11 jail, lockup or other adult facility for the detention of any person  
12 under the age of eighteen (18).

13 1. For the purpose of ensuring the uniformity and compatibility  
14 of information related to the detention of persons under age  
15 eighteen (18), said rules shall be reviewed and approved by the  
16 Oklahoma Commission on Children and Youth prior to their adoption by  
17 the Board; and

18 2. Records of detention shall be reviewed during each routine  
19 inspection of adult jails, lockups or other adult detention  
20 facilities inspected by the State Department of Health and a  
21 statistical report of said detentions shall be submitted to the  
22 Office of Juvenile Affairs at least every six (6) months in a form  
23 approved by the Board of Juvenile Affairs.

SECTION 2. This act shall become effective November 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
03/03/2022 - DO PASS, As Amended and Coauthored.