

An Act

ENROLLED SENATE
BILL NO. 1371

By: David of the Senate

and

Ownbey of the House

An Act relating to the Office of Juvenile Affairs; amending 10A O.S. 2011, Section 2-3-103, which relates to temporary detention; specifying statutory reference; amending 10A O.S. 2011, Section 2-7-401, as amended by Section 43, Chapter 304, O.S.L. 2012 (10A O.S. Supp. 2015, Section 2-7-401), which relates to the Juvenile Detention Improvement Revolving Fund; deleting certain reimbursement rate; amending 10A O.S. 2011, Section 2-7-608, which relates to secure detention beds; deleting certain requirements relating to quantity and locations of detention beds; modifying language; directing promulgation of rules; and providing an effective date.

SUBJECT: Office of Juvenile Affairs

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-103, is amended to read as follows:

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

Juvenile Affairs shall not be ordered to provide detention unless said Office has designated and is operating detention services or facilities.

B. County sheriffs, their designee, private contractors under contract with the Office of Juvenile Affairs for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Office. No private contract for transportation services shall be entered into by the Office unless the private contractor demonstrates to the satisfaction of the Office that such contractor is able to obtain insurance or provide self-insurance to indemnify the Office against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The Office of Juvenile Affairs shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The Office of Juvenile Affairs shall provide reimbursement to the entity transporting juveniles for necessary and actual expenses for transporting juveniles who are detained in or destined for a secure detention center as follows:

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

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

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

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

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

C. 1. All juvenile detention facilities shall be certified by the Office of Juvenile Affairs. To be certified, a juvenile

detention facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs.

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of this section and in accordance with subsections A and C of Section 2-7-608 of this title. The boards of county commissioners are hereby authorized to create multicounty trust authorities for the purpose of operating juvenile detention facilities.

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

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the district court, or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other expenses as may be necessary for its operation and maintenance, or
- c. contract with a public agency, private agency, federally recognized tribe, or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency or a federally recognized tribe, pursuant to the provisions of this section, the Office is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally recognized tribe shall become

effective upon approval by the board of county commissioners.

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

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

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

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

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

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

1. The Board of Juvenile Affairs shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 2-7-401 of this title. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the Board which shall set

the contract amount in accordance with the services offered and the degree of compliance with standards for certification.

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

E. The State Department of Health, with the assistance of the Office of Juvenile Affairs, shall establish standards for the certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. No jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health.

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

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

1. For the purpose of ensuring the uniformity and compatibility of information related to the detention of persons under age eighteen (18), said rules shall be reviewed and approved by the

Oklahoma Commission on Children and Youth prior to their adoption by the Board; and

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

SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-401, as amended by Section 43, Chapter 304, O.S.L. 2012 (10A O.S. Supp. 2015, Section 2-7-401), is amended to read as follows:

Section 2-7-401. A. There is hereby created in the State Treasury a revolving fund for the Office of Juvenile Affairs to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the Office of Juvenile Affairs for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Office of Juvenile Affairs for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, in accordance with state-approved juvenile detention standards and the State Plan for the Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

1. The rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Office of Juvenile Affairs and fifteen percent (15%) for the county.

~~2. The rate of reimbursement of approved operating cost shall be fifty percent (50%) for the Office of Juvenile Affairs and fifty percent (50%) for any county that has failed to establish the beds required by the provisions of subsection A of Section 2-7-608 of this title.~~

~~3.~~ The Office of Juvenile Affairs shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

~~4.~~ 3. The Office of Juvenile Affairs shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are in compliance with or which are designed to achieve compliance with the State Plan for the Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title.

~~5.~~ 4. The Office of Juvenile Affairs shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services" in accordance with the provisions of the State Travel Reimbursement Act and in accordance with Section 2-3-103 of this title.

SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-7-608, is amended to read as follows:

Section 2-7-608. A. Beginning July 1, 1995, the Office of Juvenile Affairs shall oversee the expansion of the number of preadjudicatory secure detention beds available in this state. ~~By July 1, 1996, the number of such beds shall be increased by one hundred nine beds or by the number necessary to result in a total of~~

~~two hundred sixty five such beds. It is the intent of the Legislature to establish such detention beds on a geographic basis throughout the state in order to provide more accessibility to services for all regions of the state. Therefore, such beds shall be established as follows: In Oklahoma County thirty seven beds, in Tulsa County twenty six beds, in Cleveland County twelve beds, in Lincoln County ten beds, in Comanche County six beds, in Beckham County six beds, in Texas County six beds and in Talihina in LeFlore County six beds. The six beds in Comanche County shall be regional detention beds and out of county placements shall be given priority for these beds. The beds established by this subsection shall be established and operated in accordance with Section 2-3-103 of this title.~~

B. Effective July 1, 1995, the responsibilities for establishing and operating a regional juvenile facility in the southwestern part of the state shall be transferred to the Office of Juvenile Affairs. The facility shall include six transitional beds and seventy medium secure beds for such programs as the Office of Juvenile Affairs determines will most appropriately and effectively provide required services; provided, no more than thirty-two beds shall be used for any one type of program. It is the intent of the Legislature that the Office of Juvenile Affairs ~~locate~~ locates an existing facility that can be remodeled and used for this purpose.

C. Beginning July 1, 1998, detention beds constructed and operated by a county solely through revenues from county sources shall be exempt from the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of Section 2-3-103 of this title.

D. The Board of Juvenile Affairs shall promulgate rules to implement the provisions of this act.

SECTION 4. This act shall become effective November 1, 2016.

Passed the Senate the 8th day of March, 2016.

A. Griffin
Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2016.

Lee R. Dingman
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 11th

day of April, 20 16, at 2:37 o'clock P M.

By: *Audrey Rectwell*

Approved by the Governor of the State of Oklahoma this 14th

day of April, 20 16, at 3:29 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 14th

day of April, 20 16, at 3:44 o'clock P M.

By: *Chin Benz*