

1 **SENATE FLOOR VERSION**

2 March 7, 2019

3 ENGROSSED HOUSE  
4 BILL NO. 2479

5 By: McCall, Lawson, Mize,  
6 Boles, West (Josh), Osburn,  
7 Frix, Fetgatter, West  
8 (Tammy), Olsen, Vancuren,  
9 McEntire, Manger, Steagall,  
10 Kiger, Crosswhite Hader,  
11 Phillips, Smith, Strom,  
12 Cornwell, Davis, Burns,  
13 Hasenbeck, Dills, Sterling,  
14 Fincher, Moore, Marti,  
15 Miller, Pae, May, McBride,  
16 West (Kevin), Bush, Talley,  
17 Lepak, Sims, Stark, Conley,  
18 Taylor, Grego, Hardin  
19 (David), Patzkowsky,  
20 Boatman, Luttrell, Gann,  
21 Kerbs, Echols, Hill,  
22 Caldwell (Trey), McDugle,  
23 Johns, Kannady, Wallace,  
24 Hilbert, Baker, Roberts  
(Sean), Townley, Wright and  
Ford of the House

and

Treat of the Senate

19 An Act relating to the Office of Juvenile Affairs;  
20 amending 10A O.S. 2011, Sections 2-7-101 and 2-7-201,  
21 as last amended by Section 1, Chapter 386, O.S.L.  
22 2016 (10A O.S. Supp. 2018, Section 2-7-201), which  
23 relate to the Board of Juvenile Affairs; modifying  
24 appointment of members of the Board; modifying powers  
and duties of the Board; authorizing Governor to  
appoint Executive Director; providing for  
determination of compensation; authorizing the  
Legislature to remove the Executive Director from

1 office; specifying vote required for removal; and  
2 declaring an emergency.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-7-101, is  
6 amended to read as follows:

7 Section 2-7-101. A. There is hereby created, ~~effective~~  
8 ~~February 1, 1995,~~ the Board of Juvenile Affairs which shall consist  
9 of ~~seven (7) members who shall be appointed by the Governor with the~~  
10 ~~advice and consent of the Senate.~~

11 B. ~~One member shall be appointed from each congressional~~  
12 ~~district and any remaining members shall be appointed from the state~~  
13 ~~at large. However, when congressional districts are redrawn each~~  
14 ~~member appointed prior to July 1 of the year in which such~~  
15 ~~modification becomes effective shall complete the current term of~~  
16 ~~office and appointments made after July 1 of the year in which such~~  
17 ~~modification becomes effective shall be based on the redrawn~~  
18 ~~districts. Appointments made after July 1 of the year in which the~~  
19 ~~modification becomes effective shall be from any redrawn districts~~  
20 ~~which are not represented by a board member until such time as each~~  
21 ~~of the modified congressional districts are represented by a board~~  
22 ~~member. No appointments may be made after July 1 of the year in~~  
23 ~~which the modification becomes effective if such appointment would~~  
24 ~~result in more than two members serving from the same modified~~

1 ~~district. The terms of office of the members serving on the Board~~  
2 ~~on the effective date of this act shall expire at the end of the~~  
3 ~~current term of the member.~~

4 C. ~~1. All appointments made by the Governor pursuant to this~~  
5 ~~act shall be as follows:~~

- 6 a. ~~one member appointed by the Governor shall be a~~  
7 ~~resident of the First Congressional District,~~
- 8 b. ~~one member appointed by the Governor shall be a~~  
9 ~~resident of the Second Congressional District,~~
- 10 c. ~~one member appointed by the Governor shall be a~~  
11 ~~resident of the Third Congressional District,~~
- 12 d. ~~one member appointed by the Governor shall be a~~  
13 ~~resident of the Fourth Congressional District,~~
- 14 e. ~~one member appointed by the Governor shall be a~~  
15 ~~resident of the Fifth Congressional District,~~
- 16 f. ~~one member appointed by the Governor shall be~~  
17 ~~appointed at large, and~~
- 18 g. ~~one member appointed by the Governor shall be~~  
19 ~~appointed at large.~~

20 ~~All members~~ the following nine (9) members:

- 21 1. Five members appointed by the Governor;
- 22 2. Two members appointed by the Speaker of the House of  
23 Representatives; and

24

1        3. Two members appointed by the President Pro Tempore of the  
2 Senate.

3        B. 1. Each member shall be appointed for terms of four (4)  
4 years. All terms shall expire on the first day of July of the year  
5 in which the terms of each member expire serve at the pleasure of  
6 his or her appointing authority and may be removed or replaced  
7 without cause.

8        2. Thereafter an appointment shall be made by the Governor  
9 within ninety (90) days after a vacancy has occurred due to  
10 resignation, death, or any cause resulting in an unexpired term. In  
11 the event of a vacancy on the Board due to resignation, death, or  
12 for any cause resulting in an unexpired term, if not filled within  
13 ninety (90) days following the vacancy, the Board may appoint a  
14 provisional member to serve in the interim until the Governor makes  
15 an appointment Any member of the Board shall be prohibited from  
16 voting on any issue in which the member has a direct financial  
17 interest.

18        3. A member may be reappointed to succeed himself or herself  
19 for one additional term The Executive Director of the Office of  
20 Juvenile Affairs shall be an ex officio member of the Board, but  
21 shall be entitled to vote only in case of a tie vote.

22        D. C. To be eligible for appointment to the Board a person  
23 shall:

24        1. Be a citizen of the United States;

- 1        2. Be a resident of this state;
- 2        3. Be a qualified elector of this state; and
- 3        4. Not have been convicted of a felony pursuant to the laws of
- 4 this state, the laws of any other state, or the laws of the United
- 5 States.

6        ~~E.~~ D. Members appointed pursuant to this paragraph shall

7 include persons having experience in social work, juvenile justice,

8 criminal justice, community-based youth services, criminal-justice-

9 related behavioral sciences, indigent defense, and education. In

10 making the appointments, the Governor shall also give consideration

11 to urban, rural, gender, and minority representation.

12        ~~F. Any member of the Board may be removed from office in the~~

13 ~~manner provided by law for the removal of officers not subject to~~

14 ~~impeachment.~~

15        ~~G.~~ E. 1. The Board shall hold meetings as necessary at a place

16 and time to be fixed by the Board. The Board shall elect, at its

17 first meeting, one of its members to serve as chair and another of

18 its members to serve as vice-chair. At the first meeting in each

19 calendar year thereafter, the chair and vice-chair for the ensuing

20 year shall be elected. Special meetings may be called by the chair

21 or by five members of the Board by delivery of written notice to

22 each member of the Board. A majority of members serving on the

23 Board shall constitute a quorum of the Board.

24

1           2. Members of the Board shall receive necessary travel expenses  
2 according to the provisions of the State Travel Reimbursement Act,  
3 but shall receive no other compensation. Travel expenses shall be  
4 paid from funds available to the Office of Juvenile Affairs.

5           ~~H.~~ F. The Board shall:

6           1. Adopt and promulgate rules for its government and may adopt  
7 an official seal for the Office of Juvenile Affairs;

8           ~~2. Appoint and fix the compensation of the Executive Director  
9 of the Office of Juvenile Affairs;~~

10          ~~3.~~ Be the rulemaking body for the Office of Juvenile Affairs;

11          ~~4.~~ 3. Review and approve the budget request of the Office of  
12 Juvenile Affairs to the Governor;

13          ~~5.~~ 4. Assist the Office of Juvenile Affairs in conducting  
14 periodic reviews and planning activities related to the goals,  
15 objectives, priorities, and policies of the Office;

16          ~~6.~~ 5. Provide a public forum for receiving comments and  
17 disseminating information to the public and the regulated community  
18 regarding goals, objectives, priorities, and policies of the Office  
19 of Juvenile Affairs at least quarterly. The Board shall have the  
20 authority to adopt nonbinding resolutions requesting action by the  
21 Office of Juvenile Affairs in response to comments received or upon  
22 the Board's own initiative; and

1       ~~7.~~ 6. Establish contracting procedures for the Office of  
2 Juvenile Affairs and guidelines for rates of payment for services  
3 provided by contract.

4       ~~F.~~ G. 1. As the rulemaking body of the Office of Juvenile  
5 Affairs, the Board is specifically charged with the duty of  
6 promulgating rules which will implement the duties and  
7 responsibilities of the Office pursuant to the Oklahoma Juvenile  
8 Code.

9       2. Effective July 1, 1995, any administrative policies adopted  
10 by the Commission for Human Services related to personnel and other  
11 administrative issues and any rules promulgated relating to the  
12 custody, care and supervision of children adjudicated to be  
13 delinquent or in need of supervision shall be and remain in effect  
14 until amended or new rules are promulgated by the Board of Juvenile  
15 Affairs.

16       3. Any rules adopted by the Commission for Human Services  
17 related to personnel and other administrative issues and the  
18 custody, care and supervision of children adjudicated to be  
19 delinquent or in need of supervision and subject to review by the  
20 Legislature during the 1st Session of the 45th Oklahoma Legislature  
21 may be finally adopted and promulgated by the Board of Juvenile  
22 Affairs pursuant to the Administrative Procedures Act.

23       4. Starting April 1, 1995, the Board of Juvenile Affairs shall  
24 conduct an internal review of current permanent and emergency rules

1 relating to the custody, care and supervision of children  
2 adjudicated to be delinquent or in need of supervision to determine  
3 whether such rules need to be amended, or repealed, reinstated, or  
4 recodified. By January 1, 1997, the Board shall have adopted  
5 permanent rules to implement the programs and functions within its  
6 jurisdiction and shall submit such rules for legislative review  
7 pursuant to Article I of the Administrative Procedures Act.

8 5. The Board of Juvenile Affairs shall develop performance  
9 standards for programs implemented, either directly or pursuant to  
10 contract, by the Office of Juvenile Affairs.

11 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-201, as  
12 last amended by Section 1, Chapter 386, O.S.L. 2016 (10A O.S. Supp.  
13 2018, Section 2-7-201), is amended to read as follows:

14 Section 2-7-201. A. ~~The Board of Juvenile Affairs shall~~  
15 ~~appoint the~~ Executive Director of the Office of Juvenile Affairs  
16 shall be appointed by the Governor with the advice and consent of  
17 the Senate. The Executive Director shall serve at the pleasure of  
18 the ~~Board~~ Governor and may be removed or replaced without cause.  
19 Compensation for the Executive Director shall be determined pursuant  
20 to the Governor. The Executive Director may be removed from office  
21 by a two-thirds (2/3) vote of the members elected to and  
22 constituting each chamber of the Legislature.

23 B. The Executive Director of the Office of Juvenile Affairs  
24 shall be qualified for such position by character, ability,



1 education, training, and successful administrative experience in one  
2 of the following: Corrections, juvenile justice, juvenile  
3 delinquency, criminal justice, law, police science, criminology,  
4 psychology, sociology, administration, education, or a related  
5 social science.

6 C. The Executive Director shall provide for the administration  
7 of the Office of Juvenile Affairs and shall:

8 1. Be the executive officer and supervise the activities of the  
9 Office of Juvenile Affairs;

10 2. Pursuant to legislative authorization employ, discharge,  
11 appoint or contract with, and fix the duties and compensation of  
12 such assistants, attorneys, law enforcement officers, probation  
13 officers, psychologists, social workers, medical professionals,  
14 administrative, clerical and technical, investigators, aides and  
15 such other personnel, either on a full-time, part-time, fee or  
16 contractual basis, as in the judgment and discretion of the  
17 Executive Director shall be deemed necessary in the performance or  
18 carrying out of any of the purposes, objectives, responsibilities,  
19 or statutory provisions relating to the Office of Juvenile Affairs,  
20 or to assist the Executive Director of the Office of Juvenile  
21 Affairs in the performance of official duties and functions;

22 3. Establish internal policies and procedures for the proper  
23 and efficient administration of the Office of Juvenile Affairs; and  
24

1           4. Exercise all incidental powers which are necessary and  
2 proper to implement the purposes of the Office of Juvenile Affairs  
3 pursuant to the Oklahoma Juvenile Code.

4           D. The Executive Director shall employ an attorney to be  
5 designated the "General Counsel" who shall be the legal advisor for  
6 the Office of Juvenile Affairs. Except as provided in this  
7 subsection, the General Counsel is authorized to appear for and  
8 represent the Board and Office in any litigation that may arise in  
9 the discharge of the duties of the Board and Office.

10           It shall continue to be the duty of the Attorney General to give  
11 an official opinion to the Executive Director of the Office of  
12 Juvenile Affairs and the Office of Juvenile Affairs and to prosecute  
13 and defend actions therefor, if requested to do so. The Attorney  
14 General may levy and collect costs, expenses of litigation and a  
15 reasonable attorney fee for such legal services from the Office.  
16 The Office shall not contract for representation by private legal  
17 counsel unless approved by the Attorney General. Such contract for  
18 private legal counsel shall be in the best interests of the state.  
19 The Attorney General shall be notified by the Office of Juvenile  
20 Affairs or its counsel of all lawsuits against the Office of  
21 Juvenile Affairs or officers or employees thereof, that seek  
22 injunctive relief which would impose obligations requiring the  
23 expenditure of funds in excess of unencumbered monies in the  
24 agency's appropriations or beyond the current fiscal year. The

1 Attorney General shall review any such cases and may represent the  
2 interests of the state, if the Attorney General considers it to be  
3 in the best interest of the state to do so, in which case the  
4 Attorney General shall be paid as provided in this subsection.  
5 Representation of multiple defendants in such actions may, at the  
6 discretion of the Attorney General, be divided with counsel for the  
7 Office as necessary to avoid conflicts of interest.

8 E. The Executive Director of the Office of Juvenile Affairs  
9 shall have the authority to commission certified employees within  
10 the Office of Juvenile Affairs as peace officers. The authority of  
11 employees so commissioned shall only include the authority to  
12 investigate crimes committed against the Office or crimes committed  
13 in the course of any program administered by the Office. Employees  
14 so commissioned shall also have the authority to serve and execute  
15 process, bench warrants, and other court orders in any judicial or  
16 administrative proceeding in which the agency is a party or  
17 participant. Use and possession of firearms for this purpose only  
18 shall be permitted. To become qualified as peace officers for the  
19 commission, employees shall first obtain a certificate as provided  
20 for in Section 3311 of Title 70 of the Oklahoma Statutes.

21 F. The Executive Director of the Office of Juvenile Affairs,  
22 based upon rules established by the Board of Juvenile Affairs, shall  
23 have the authority to appoint and commission campus police for  
24 secure juvenile facilities and their adjacent grounds under the

1 jurisdiction of the Office of Juvenile Affairs in the same manner  
2 and with the same powers as campus police appointed by governing  
3 boards of state institutions for higher education under the  
4 provisions of Section 360.15 et seq. of Title 74 of the Oklahoma  
5 Statutes.

6 G. In the event of the Executive Director's temporary absence,  
7 the Executive Director may delegate the exercise of such powers and  
8 duties to a designee during the Executive Director's absence. In  
9 the event of a vacancy in the position of Executive Director, the  
10 ~~Board of Juvenile Affairs~~ Governor shall appoint a new Executive  
11 Director. The Board may designate an interim or acting Executive  
12 Director who is authorized to exercise such powers and duties until  
13 a permanent Executive Director is employed.

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

18 COMMITTEE REPORT BY: COMMITTEE ON RULES  
19 March 7, 2019 - DO PASS  
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