

1 **SENATE FLOOR VERSION**

2 February 24, 2020

3 SENATE BILL NO. 1164

By: Jech

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6 An Act relating to contraband cellular phones inside
7 prison facilities; amending 57 O.S. 2011, Section
8 510, as last amended by Section 1, Chapter 279,
9 O.S.L. 2018 (57 O.S. Supp. 2019, Section 510), which
10 relates to the Director's powers and duties;
11 requiring certain annual report; updating statutory
12 language; and providing an effective date.

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

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

17 Section 510. A. The Director of the Department of Corrections
18 shall have the following specific powers and duties relating to the
19 penal institutions:

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

22 2. To fix the duties of the wardens and to appoint and fix the
23 duties and compensation of such other personnel for each penal
24 institution as may be necessary for the proper operation thereof.

1 However, correctional officers hired after November 1, 1995, shall
2 be subject to the following qualifications:

3 a. the minimum age for service shall be twenty (20) years
4 of age. The Director shall have the authority to
5 establish the maximum age for correctional officers
6 entering service,

7 b. possession of a minimum of thirty (30) semester hours
8 from an accredited college or university, or
9 possession of a high school diploma acquired from an
10 accredited high school or GED equivalent testing
11 program,

12 c. satisfactory completion of minimum testing or
13 professional evaluation through the Merit System of
14 Personnel Administration to determine the fitness of
15 the individual to serve in the position. All written
16 evaluations shall be submitted to the Department of
17 Corrections, and

18 d. satisfactory completion of a physical in keeping with
19 the conditions of the job description on an annual
20 basis and along the guidelines as established by the
21 Department of Corrections;

22 3. The Director shall designate as correctional peace officers,
23 correctional officers who are employed in job classifications of
24 correctional security officer, correctional security manager,

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

1 correctional peace officer or for reasons stated in policies of the
2 Department, the correctional peace officer shall return the
3 identification card to the supervisor of the correctional peace
4 officer immediately;

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

12 a. the minimum qualifying score that must be shot to pass
13 the firearms training program shall be equal to the
14 minimum qualifying score required by the Council on
15 Law Enforcement Education and Training for peace
16 officers, and

17 b. the Director may waive any number of hours or courses
18 required to complete the basic course of instruction
19 for any person who, in the opinion of the Director,
20 has received sufficient training or experience that
21 such hours of instruction would be unduly burdensome
22 or duplicative; however, completion of the firearms
23 training program shall not be waived;

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

9 6. To require any person employed as a correctional security
10 officer, correctional security manager, correctional chief of
11 security and chief of security to remain qualified as a correctional
12 peace officer. Any correctional peace officer who is unable to
13 remain qualified as a correctional peace officer may be offered an
14 available position within the Department in the same or lesser pay
15 grade for which the employee is eligible, or the employee may be
16 terminated;

17 7. To authorize other employees of the Department to carry
18 firearms anywhere in the state to use for self-defense pursuant to
19 and consistent with policies developed by the Department upon
20 satisfactory completion of the firearms training program provided
21 for in paragraph 4 of this subsection. The Director shall issue an
22 identification card to each authorized employee that grants the
23 employee the authority to carry a firearm pursuant to the provisions
24 of this paragraph. Should an authorized employee terminate

1 employment for any reason, fail to remain qualified to carry a
2 firearm, or for reasons stated in the policies of the Department,
3 the authorized employee shall immediately return the identification
4 card to the supervisor of the employee and shall no longer be
5 authorized to carry firearms under the authority of this paragraph;

6 8. To maintain such industries, factories, plants, shops,
7 farms, and other enterprises and operations, hereinafter referred to
8 as prison industries, at each penal institution as the State Board
9 of Corrections deems necessary or appropriate to employ the
10 prisoners or teach skills, or to sustain the penal institution; and
11 as provided for by policies established by the State Board of
12 Corrections, to allow compensation for the work of the prisoners,
13 and to provide for apportionment of inmate wages, the amounts thus
14 allowed to be kept in accounts by the Board for the prisoners and
15 given to the inmates upon discharge from the penal institution, or
16 upon an order paid to their families or dependents or used for the
17 personal needs of the prisoners. Any industry that employs
18 prisoners shall be deemed a "State Prison Industry" if the prisoners
19 are paid from state funds including the proceeds of goods sold as
20 authorized by Section 123f of Title 74 of the Oklahoma Statutes.
21 Any industry in which wages of prisoners are paid by a
22 nongovernmental person, group, or corporation, except those
23 industries employing prisoners in work-release centers under the

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1 authority of the Department of Corrections shall be deemed a
2 "Private Prison Industry";

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

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

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

8 12. To prescribe rules for the conduct, management, and
9 operation of each penal institution, including rules for the
10 demeanor of prisoners, the punishment of recalcitrant prisoners, the
11 treatment of incorrigible prisoners, and the disposal of property or
12 contraband seized from inmates or offenders under the supervision of
13 the Department;

14 13. To transfer prisoners from one penal institution to
15 another;

16 14. To establish procedures that ensure inmates are educated
17 and provided with the opportunity to execute advance directives for
18 health care in compliance with Section 3101.2 of Title 63 of the
19 Oklahoma Statutes. The procedures shall ensure that any inmate
20 executing an advance directive for health care is competent and
21 executes the directive with informed consent;

22 15. To maintain courses of training and instruction for
23 employees of the Department;

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

1 17. To provide for the periodic audit, at least once annually,
2 of all funds and accounts of each penal institution and the funds of
3 each prisoner;

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

14 19. To provide clerical services for, and keep and preserve the
15 files and records of, the Pardon and Parole Board; make
16 investigations and inquiries as to prisoners at the penal
17 institutions who are to be, or who might be, considered for parole
18 or other clemency; assist prisoners who are to be, or who might be,
19 considered for parole or discharge in obtaining suitable employment
20 in the event of parole or discharge; report to the Pardon and Parole
21 Board, for recommendation to the Governor, violations of terms and
22 conditions of paroles; upon request of the Governor, make
23 investigations and inquiries as to persons who are to be, or who
24 might be, considered for reprieves or leaves of absence; report to

1 the Pardon and Parole Board, for recommendation to the Governor,
2 whether a parolee is entitled to a pardon, when the terms and
3 conditions of the parole have been completed; make presentence
4 investigations for, and make reports thereof to, trial judges in
5 criminal cases consistent with other laws of the state; supervise
6 persons on felony probation or parole; and develop and operate,
7 subject to the policies and guidelines of the Board, work-release
8 centers, community treatment facilities or prerelease programs at
9 appropriate sites throughout this state;

10 20. To establish an employee tuition assistance program and
11 promulgate rules in accordance with the Administrative Procedures
12 Act for the operation of the program. The rules shall include, but
13 not be limited to, program purposes, eligibility requirements, use
14 of tuition assistance, service commitment to the Department,
15 reimbursement of tuition assistance funds for failure to complete
16 course work or service commitment, amounts of tuition assistance and
17 limitations, and record keeping;

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

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1 22. To provide reintegration referral services to any person
2 discharged from the state custody who has volunteered to receive
3 reintegration referral services. The Director may assign staff to
4 refer persons discharged from state custody to services. The
5 Director shall promulgate rules for the referral process. All
6 reintegration referral services shall be subject to the availability
7 of funds;

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

22 24. To authorize any division of the Department to sell
23 advertising in any Department-approved publication, media production
24 or other informational material produced by the Department;

1 provided, that such advertising shall be approved by the Director or
2 designee prior to acceptance for publication. The sale of
3 advertising and negotiation of rates for the advertising shall not
4 be subject to The Oklahoma Central Purchasing Act or the
5 Administrative Procedures Act. The Department shall promulgate
6 rules establishing criteria for accepting or using advertisements as
7 authorized in this paragraph;

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

12 26. To authorize award of the badge of an employee who dies
13 while employed by the Department to the spouse or next of kin of the
14 deceased employee;

15 27. To establish, in conjunction with the Information Services
16 Division of the Office of Management and Enterprise Services, an
17 emergency alert notification system for the public, capable of
18 distributing notifications of facility emergencies or prisoner
19 escapes for all facilities and each facility of the Department of
20 Corrections;

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

3 29. To enter into contracts with media or film production
4 companies to allow the Department to authorize a media or film
5 production company to shoot commercial films at penal institutions
6 and other property under the control of the Department. Any funds
7 received pursuant to ~~said~~ the contracts shall be deposited into the
8 Department of Corrections Revolving Fund; and

9 30. To report annually to the Governor, President Pro Tempore
10 of the Senate and to the Speaker of the House of Representatives
11 regarding the issue of contraband cellular phones inside Department
12 facilities including any locations operated by private prison
13 management companies. The annual report shall contain, but not be
14 limited to: the current status of contraband cellular phone usage,
15 number of illegal cellular phones collected in the current year and
16 an updated plan of action to address the contraband issue.

17 B. When an employee of the Department of Corrections has been
18 charged with a violation of the rules of the Department or with a
19 felony pursuant to the provisions of a state or federal statute, the
20 Director may, in the Director's discretion, suspend the charged
21 employee, in accordance with the Oklahoma Personnel Act and/or the
22 Merit System of Personnel Administration Rules, pending the hearing
23 and final determination of the charges. Notice of suspension shall
24 be given by the Director, in accordance with the provisions of the

1 Oklahoma Personnel Act. If after completion of the investigation of
2 the charges, it is determined that such charges are without merit or
3 are not sustained before the Oklahoma Merit Protection Commission or
4 in a court of law, the employee shall be reinstated and shall be
5 entitled to receive all lost pay and benefits.

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

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

9 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
10 February 24, 2020 - DO PASS

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