

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1164

By: Jech

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5  
6 AS INTRODUCED

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

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

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

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

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

23 2. To fix the duties of the wardens and to appoint and fix the  
24 duties and compensation of such other personnel for each penal  
25 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;

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  
24

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;

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,  
24

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.

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