

1 STATE OF OKLAHOMA

2 2nd Extraordinary Session of the 56th Legislature (2018)

3 HOUSE BILL 1027

By: Echols of the House

4 and

5 Treat of the Senate

6
7
8 AS INTRODUCED

9 An Act relating to state government; amending 2 O.S.
10 2011, Sections 1-2, 1-3, 2-1, 2-3 and 2-4, as last
11 amended by Section 1, Chapter 20, O.S.L. 2015 (2 O.S.
12 Supp. 2017, Section 2-4), which relate to the State
13 Board of Agriculture; clarifying language; modifying
14 definitions; making Board an advisory body;
15 authorizing Governor to appoint Secretary of
16 Agriculture; providing for determination of
17 compensation; modifying powers and duties of the
18 Board; amending 10A O.S. 2011, Sections 2-7-101 and
19 2-7-201, as last amended by Section 1, Chapter 386,
20 O.S.L. 2016 (10A O.S. Supp. 2017, Section 2-7-201),
21 which relate to the Board of Juvenile Affairs; making
22 Board an advisory body; authorizing Governor to
23 appoint Executive Director; providing for
24 determination of compensation; modifying powers and
duties of the Board; amending 43A O.S. 2011, Sections
1-103, as last amended by Section 1, Chapter 246,
O.S.L. 2017, 2-101, 2-103, as amended by Section 1,
Chapter 280, O.S.L. 2017, 2-106 and 2-111, as last
amended by Section 1, Chapter 139, O.S.L. 2017 (43A
O.S. Supp. 2017, Sections 1-103, 2-103 and 2-111),
which relate to the Board of Mental Health and
Substance Abuse Services; modifying definitions;
authorizing Governor to appoint Commissioner;
providing for determination of compensation; making
Board an advisory body; modifying powers and duties
of the Board; amending 57 O.S. 2011, Sections 503,
504 and 506, as last amended by Section 2, Chapter
386, O.S.L. 2016 (57 O.S. Supp. 2017, Section 506),
which relate to the State Board of Corrections;

1 making Board an advisory body; modifying powers and
2 duties of the Board; authorizing Governor to appoint
3 Director; providing for determination of
4 compensation; amending 63 O.S. 2011, Sections 1-103,
5 1-104 and 1-105, which relate to the State Board of
6 Health; making Board an advisory body; modifying
7 powers and duties of the Board; authorizing Governor
8 to appoint State Commissioner of Health; providing
9 for determination of compensation; clarifying
10 language; amending 63 O.S. 2011, Sections 5007 and
11 5008, which relate to the Oklahoma Health Care
12 Authority Board; making Board an advisory body;
13 modifying powers and duties of the Board; authorizing
14 Governor to appoint Administrator; providing for
15 determination of compensation; amending 74 O.S. 2011,
16 Sections 2203, 2204 and 2206, which relate to the
17 Oklahoma Tourism and Recreation Commission; making
18 Commission an advisory body; modifying powers and
19 duties of Commission; authorizing Governor to appoint
20 Executive Director; providing for determination of
21 compensation; repealing 2 O.S. 2011, Section 2-2, as
22 amended by Section 1, Chapter 7, O.S.L. 2012 (2 O.S.
23 Supp. 2017, Section 2-2), which relates to
24 compensation and meeting of the Board; and providing
an effective date.

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

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

Section 1-2. The ~~State~~ Oklahoma Department of Agriculture,
Food, and Forestry shall consist of ~~the State Board of Agriculture,~~
the divisions, and other positions and offices as established by law
and by the ~~Board~~ Secretary of Agriculture.

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

1 Section 1-3. For the purposes of the Oklahoma Agricultural Code,
2 unless the context indicates otherwise:

3 1. "Authorized agent" means a person who has been authorized by
4 the ~~State Board of Agriculture~~ Secretary of Agriculture to act on
5 behalf of the ~~Board~~ Oklahoma Department of Agriculture, Food, and
6 Forestry in making investigations, inspections, performing other
7 services, or doing any particular act or acts which have been vested
8 by the Oklahoma Agricultural Code ~~in the Board~~. A written or
9 printed commission signed by the ~~President of the Board~~ Secretary
10 shall be proof that the holder has lawful authority to act on behalf
11 of the ~~Board~~ Department in implementing the Oklahoma Agricultural
12 Code;

13 2. "Board" means the State Board of Agriculture;

14 3. "Code" means the Oklahoma Agricultural Code;

15 4. "Department" means the Oklahoma Department of Agriculture,
16 Food, and Forestry and its employees, officers, and divisions.

17 Whenever the name "Department of Agriculture" appears in any law,
18 contract or other document, it shall be deemed to refer to the
19 Oklahoma Department of Agriculture, Food, and Forestry;

20 5. "Director" means the Director of a division established in
21 the Oklahoma Department of Agriculture, Food, and Forestry;

22 6. "License" means a written document issued by the ~~Board~~
23 Department granting authority to a person to engage in a business,
24 occupation, or activity;

1 7. "Livestock" or "animals" means any cattle, bison, horses,
2 sheep, goats, asses, mules, swine, domesticated rabbits, and
3 chickens, turkeys, and other domesticated fowl, and any animal or
4 bird in captivity;

5 8. "Permit" means a written document issued by the ~~Board~~
6 Department giving consent for a person to engage in an activity;

7 9. "Person" means the state, any municipality, political
8 subdivision, institution, individual, public or private corporation,
9 partnership, association, firm, company, public trust, joint-stock
10 company, trust, estate, state or federal agency, other governmental
11 entity, or any other legal entity or an agent, employee,
12 representative, assignee or successor thereof;

13 10. ~~"President" means the President of the State Board of~~
14 ~~Agriculture. The President of the State Board of Agriculture shall~~
15 ~~also be designated as the Commissioner of Agriculture;~~

16 ~~11.~~ "Producer" means any person planting, raising, growing, or
17 harvesting agricultural products;

18 ~~12.~~ 11. "Quarantine" means a written document issued by the
19 ~~Board~~ Department to restrict the movement of animals, birds, plants,
20 or agricultural commodities into or out of a specified area for the
21 control or prevention of diseases or pests; and

22 ~~13.~~ 12. "Stop sale order" or "stop use order" means a written
23 or printed order signed by the ~~President~~ Secretary or authorized
24 agent of the ~~Board~~ Secretary, prohibiting the sale, offering for

1 NO.

2 1.....Atoka, Bryan, Choctaw, Coal, Haskell, Hughes, Johnston,
3 Latimer, LeFlore, Marshall, McCurtain, McIntosh, Muskogee,
4 Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pottawatomie,
5 Pushmataha, Seminole and Sequoyah.

6 2.....Adair, Cherokee, Craig, Creek, Delaware, Kay, Lincoln,
7 Logan, Mayes, Noble, Nowata, Oklahoma, Osage, Ottawa,
8 Pawnee, Payne, Rogers, Tulsa, Wagoner and Washington.

9 3.....Alfalfa, Beaver, Blaine, Cimarron, Custer, Dewey, Ellis,
10 Garfield, Grant, Harper, Kingfisher, Major, Roger Mills,
11 Texas, Woods and Woodward.

12 4.....Beckham, Caddo, Canadian, Carter, Cleveland, Comanche,
13 Cotton, Garvin, Grady, Greer, Harmon, Jackson, Jefferson,
14 Kiowa, Love, McClain, Murray, Stephens, Tillman and
15 Washita.

16 C. One member of the Board shall be appointed from each
17 district.

18 D. 1. On the effective date of this act, each district
19 established by subsection B of this section shall be represented by
20 the current board member position as follows:

- 21 a. the board member position currently representing
22 District 5 shall represent the new District 1,
- 23 b. the board member position currently representing
24 District 2 shall represent the new District 2,

- 1 c. the board member position currently representing
2 District 1 shall represent the new District 3, and
3 d. the board member position currently representing
4 District 4 shall represent the new District 4.

5 2. The board member position currently serving District 3 shall
6 be terminated.

7 3. Except as otherwise provided in this subsection, all board
8 members serving on the effective date of this act shall serve the
9 remainder of the term of office to which the board member was
10 originally appointed. Thereafter, successor board members shall be
11 appointed for terms of four (4) years. The at-large member shall
12 serve a term coterminous with that of the Governor.

13 4. In case of vacancy caused by the removal, death,
14 resignation, or disability of any member, the Governor shall appoint
15 a new member from the same district for which a vacancy was vacated
16 to serve for the unexpired term.

17 SECTION 4. AMENDATORY 2 O.S. 2011, Section 2-3, is
18 amended to read as follows:

19 Section 2-3. ~~A. The at-large member appointed by the Governor,~~
20 ~~pursuant to Section 2-1 of this title, shall be the President of the~~
21 ~~State Board Secretary of Agriculture and shall be appointed by the~~
22 Governor. The Secretary shall serve at the pleasure of the Governor
23 and may be removed or replaced without cause. Compensation for the
24

1 Secretary shall be determined pursuant to Section 3601.2 of Title 74
2 of the Oklahoma Statutes.

3 ~~B. The President shall be the executive officer of the Board~~
4 ~~and, in the absence of the Board, shall, subject to approval of the~~
5 ~~Board, perform all of the duties imposed by law.~~

6 ~~C. The Board shall elect a Secretary who shall not be a member~~
7 ~~of the Board. The Board shall fix the duties of the person~~
8 ~~appointed.~~

9 SECTION 5. AMENDATORY 2 O.S. 2011, Section 2-4, as last
10 amended by Section 1, Chapter 20, O.S.L. 2015 (2 O.S. Supp. 2017,
11 Section 2-4), is amended to read as follows:

12 Section 2-4. A. The ~~State Board~~ Secretary of Agriculture shall
13 have the power to:

14 1. Adopt and prescribe the use of a seal, ~~which shall be in the~~
15 ~~custody of the Secretary of the Board;~~

16 2. Promulgate rules necessary, expedient, or appropriate to the
17 performance, enforcement, or carrying out of any of the purposes,
18 objectives, or provisions of the Oklahoma Agricultural Code;

19 3. Initiate and prosecute administrative, civil, or criminal
20 actions and proceedings necessary under the Oklahoma Agricultural
21 Code;

22 4. Appoint authorized agents to make inspections or
23 investigations and to perform other services for the ~~Board~~ Oklahoma

24

1 Department of Agriculture, Food, and Forestry or any division of the
2 ~~Oklahoma Department of Agriculture, Food, and Forestry;~~

3 5. Consolidate any of the divisions established by the Oklahoma
4 Agricultural Code, transfer any of the functions or activities to
5 another division, place additional functions or activities in a
6 division, establish new divisions, and create new or additional
7 positions in the Department, when conducive to a more efficient
8 administration and enforcement of laws pertaining to agriculture;

9 6. Sell, exchange, or dispose of property;

10 7. Have jurisdiction over all matters affecting animal
11 industry, animal health, and animal quarantine;

12 8. Issue stop-sale and stop-use orders and quarantines;

13 9. Employ, appoint, or contract and fix the duties and
14 compensation of the director of each division of the Department and
15 other personnel, either on a full-time, part-time, or contractual
16 basis, ~~as deemed necessary by the Board;~~

17 10. Fix the qualifications of the personnel in the Department;

18 11. Accept and use grants of money and other property from any
19 source;

20 12. Advise, consult, cooperate, and enter into agreements or
21 contracts with persons as defined in the Oklahoma Agricultural Code;

22 13. Coordinate with the federal government and other states on
23 matters pertaining to agriculture;

24

1 14. Revoke, suspend, or deny for up to one (1) year, any
2 license, permit, or charter issued by the ~~Board~~ Department if the
3 ~~Board~~ Department finds any violations of the Oklahoma Agricultural
4 Code or any rule of the ~~Board~~ Department;

5 15. Adopt a master plan and promulgate rules for the protection
6 of state-owned and private forestry, grazing, and other lands from
7 damage by fire and for suppressing fires on lands. In carrying out
8 the master plan the ~~Board~~ Department is authorized to enter into
9 contractual agreements with the federal government, local political
10 subdivisions of the state, individuals, private organizations,
11 companies, and corporations for protection and for the suppression
12 of fires and to expend funds as available for these services. To
13 effectuate the purposes of the Oklahoma Agricultural Code, the ~~Board~~
14 Department is authorized to enter into contractual agreements with
15 private landowners for the protection and suppression of fires,
16 provided that the private landowners reimburse the ~~Board~~ Department
17 for actual expenses incurred in the protection and suppression of
18 fires on privately owned lands;

19 16. Have jurisdiction over all matters affecting agriculture as
20 contained and set out in the Oklahoma Agricultural Code, which have
21 not been expressly delegated to another state or federal agency and
22 be responsible for fully implementing and enforcing the laws and
23 rules within its jurisdictional areas of environmental
24 responsibility.

1 a. The Department of Environmental Quality shall have
2 environmental jurisdiction over:

3 (1) commercial manufacturers of fertilizers, grain
4 and feed products, and chemicals, and over
5 manufacturing of food and kindred products,
6 tobacco, paper, lumber, wood, textile mill, and
7 other agricultural products,

8 (2) slaughterhouses, but not including feedlots at
9 these facilities, and

10 (3) aquaculture and fish hatcheries, including, but
11 not limited to, discharges of pollutants and
12 storm water to waters of the state, surface
13 impoundments and land application of wastes and
14 sludge, and other pollution originating at these
15 facilities.

16 b. Facilities storing grain, feed, seed, fertilizer, and
17 agricultural chemicals that are required by federal
18 National Pollutant Discharge Elimination System
19 (NPDES) regulations to obtain a permit for storm water
20 discharges shall only be subject to the jurisdiction
21 of the Department of Environmental Quality with
22 respect to storm water discharges;

23 17. Have jurisdiction over all matters affecting the
24 importation, health, and quarantining of exotic livestock;

1 18. Prescribe forms of application, certification, licenses,
2 charters, and other forms and blanks as may be necessary to carry
3 out the provisions of the Oklahoma Agricultural Code;

4 19. Stagger throughout the year the renewal dates for any
5 licenses or permits issued by the Department pursuant to the
6 provisions of the Oklahoma Agricultural Code by notifying licensees
7 in writing of the expiration and renewal date being assigned to the
8 licensee and permittee and by making an appropriate adjustment in
9 the fee charged for the license or permit;

10 20. Establish and collect fees for licenses, permits, charters,
11 and services provided. The fees shall be promulgated in accordance
12 with the Administrative Procedures Act and shall be fair and
13 equitable to all parties concerned;

14 21. Establish planting and harvesting seasons for the purpose
15 of meeting the maximum driving and on-duty time exemptions set forth
16 in the National Highway System Designation Act of 1995. The ~~Board~~
17 Department shall notify the United States Secretary of
18 Transportation of the seasons;

19 22. Fix and adopt official standards for grading and
20 classifying any agricultural commodity, meat, or meat product
21 prepared, produced, or distributed in Oklahoma;

22 23. Promulgate rules, make investigations, and conduct hearings
23 for the purpose of making inspection compulsory on any agricultural
24

1 commodity and designate the shipping points where compulsory
2 inspection applies;

3 24. Inspect agricultural commodities, at any time, upon request
4 of any financially interested party or when necessary and to issue
5 certificates showing the quality and condition of the commodities at
6 the time of the inspection;

7 25. Grade meat or meat products upon the request of any packing
8 plant in Oklahoma. The packing plant shall be required to pay the
9 cost of services, including the compensation and expenses of
10 personnel employed to perform the actual grading;

11 26. Apply to the district court for a temporary or permanent
12 injunction or any other remedy restraining any person from violating
13 the Oklahoma Agricultural Code;

14 27. Extend and implement the powers and provisions granted by
15 the Oklahoma Agricultural Code to all programs administered by the
16 Department regardless of whether the statutes creating the program
17 are codified in this title;

18 28. Increase its efforts to ensure the safety and quality of
19 food and food products for wholesalers and retail sales in this
20 state and shall include, but not be limited to, inspections of
21 retailers and wholesalers to ensure compliance with all federal and
22 state certification standards;

23

24

1 29. Exercise all incidental powers which are necessary and
2 proper to implement and administer the purposes of the Oklahoma
3 Agricultural Code;

4 30. Accept upon behalf of the Department any gift or donation
5 of property, including but not limited to monetary gifts;

6 31. Promulgate rules regarding prescribed burning and smoke
7 management;

8 32. Enter into written leases or lease-purchase agreements to
9 acquire equipment, furnishings, supplies and other items necessary
10 for the operation of the Oklahoma Department of Agriculture, Food,
11 and Forestry Agriculture Laboratory;

12 33. Exercise all incidental powers and promulgate rules,
13 procedures and forms which are necessary and proper to implement,
14 administer and enforce the Oklahoma Scrap Metal Dealers Act;

15 34. Promulgate rules to ensure state control of any federal
16 program relating to on-farm fruit and vegetable production
17 inspections and regulation; and

18 35. Develop a pollinator protection plan to promote the health
19 of and mitigate the risks to honeybees and other managed
20 pollinators.

21 B. 1. If upon inspection or investigation, or whenever the
22 Oklahoma Department of Agriculture, Food, and Forestry determines
23 that there are reasonable grounds to believe that any person is in
24 violation of any part of the Oklahoma Environmental Quality Code

1 which is the responsibility and jurisdiction of the Oklahoma
2 Department of Agriculture, Food, and Forestry, any rule promulgated
3 by the ~~State Board of Agriculture~~ Department, or of any order,
4 permit, certificate, registration, charter, or license issued by the
5 ~~Board~~ Department, the Department may give written notice to the
6 alleged violator of the specific violation and of the alleged
7 violator's duty to correct the violation immediately or within a set
8 time period or both and that the failure to do so shall result in
9 administrative fines or penalties.

10 2. Whenever the Department finds that an emergency exists
11 requiring immediate action to protect the public health, welfare, or
12 the environment, the ~~President of the State Board~~ Secretary of
13 Agriculture may without notice or hearing issue an order, effective
14 upon issuance, reciting the existence of an emergency and requiring
15 that action be taken as specified in the order to meet the
16 emergency. Any person to whom an order is directed shall comply
17 immediately but may request an administrative enforcement hearing
18 within fifteen (15) days after the order is served. The hearing
19 shall be held by the Department within ten (10) days after receipt
20 of the request. On the basis of the hearing record, the ~~President~~
21 ~~of the Board~~ Secretary shall sustain or modify the original order.

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

24

1 Section 2-7-101. A. There is hereby created, ~~effective~~
2 ~~February 1, 1995,~~ the Board of Juvenile Affairs which shall be an
3 advisory body to the Executive Director of the Office of Juvenile
4 Affairs and shall consist of seven (7) members who shall be
5 appointed by the Governor with the advice and consent of the Senate.

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

23 C. 1. All appointments made by the Governor pursuant to this
24 act shall be as follows:

- 1 a. one member appointed by the Governor shall be a
2 resident of the First Congressional District,
3 b. one member appointed by the Governor shall be a
4 resident of the Second Congressional District,
5 c. one member appointed by the Governor shall be a
6 resident of the Third Congressional District,
7 d. one member appointed by the Governor shall be a
8 resident of the Fourth Congressional District,
9 e. one member appointed by the Governor shall be a
10 resident of the Fifth Congressional District,
11 f. one member appointed by the Governor shall be
12 appointed at large, and
13 g. one member appointed by the Governor shall be
14 appointed at large.

15 All members shall be appointed for terms of four (4) years. All
16 terms shall expire on the first day of July of the year in which the
17 terms of each member expire.

18 2. Thereafter an appointment shall be made by the Governor
19 within ninety (90) days after a vacancy has occurred due to
20 resignation, death, or any cause resulting in an unexpired term. In
21 the event of a vacancy on the Board due to resignation, death, or
22 for any cause resulting in an unexpired term, if not filled within
23 ninety (90) days following the vacancy, the Board may appoint a
24

1 provisional member to serve in the interim until the Governor makes
2 an appointment.

3 3. A member may be reappointed to succeed himself or herself
4 for one additional term.

5 D. To be eligible for appointment to the Board a person shall:

6 1. Be a citizen of the United States;

7 2. Be a resident of this state;

8 3. Be a qualified elector of this state; and

9 4. Not have been convicted of a felony pursuant to the laws of
10 this state, the laws of any other state, or the laws of the United
11 States.

12 E. Members appointed pursuant to this paragraph shall include
13 persons having experience in social work, juvenile justice, criminal
14 justice, community-based youth services, criminal-justice-related
15 behavioral sciences, indigent defense, and education. In making the
16 appointments, the Governor shall also give consideration to urban,
17 rural, gender, and minority representation.

18 F. Any member of the Board may be removed from office in the
19 manner provided by law for the removal of officers not subject to
20 impeachment.

21 G. ~~1. The Board shall hold meetings as necessary at a place~~
22 ~~and time to be fixed by the Board. The Board shall elect, at its~~
23 ~~first meeting, one of its members to serve as chair and another of~~
24 ~~its members to serve as vice-chair. At the first meeting in each~~

1 ~~calendar year thereafter, the chair and vice chair for the ensuing~~
2 ~~year shall be elected. Special meetings may be called by the chair~~
3 ~~or by five members of the Board by delivery of written notice to~~
4 ~~each member of the Board. A majority of members serving on the~~
5 ~~Board shall constitute a quorum of the Board.~~

6 ~~2. Members of the Board shall receive necessary travel expenses~~
7 ~~according to the provisions of the State Travel Reimbursement Act,~~
8 ~~but shall receive no other compensation. Travel expenses shall be~~
9 ~~paid from funds available to the Office of Juvenile Affairs.~~

10 ~~H.~~ The Board Executive Director of the Office of Juvenile
11 Affairs shall:

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

14 2. ~~Appoint and fix the compensation of the Executive Director~~
15 ~~of the Office of Juvenile Affairs;~~

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

17 4. 3. Review and approve the budget request of the Office of
18 Juvenile Affairs to the Governor;

19 5. 4. Assist the Office of Juvenile Affairs in conducting
20 periodic reviews and planning activities related to the goals,
21 objectives, priorities, and policies of the Office;

22 6. 5. Provide a public forum for receiving comments and
23 disseminating information to the public and the regulated community
24 regarding goals, objectives, priorities, and policies of the Office

1 of Juvenile Affairs at least quarterly. The ~~Board~~ Executive
2 Director shall have the authority to adopt nonbinding resolutions
3 requesting action by the Office of Juvenile Affairs in response to
4 comments received ~~or upon the Board's own initiative~~; and

5 ~~7.~~ 6. Establish contracting procedures for the Office of
6 Juvenile Affairs and guidelines for rates of payment for services
7 provided by contract.

8 ~~I.~~ ~~1.~~ H. As the rulemaking body of the Office of Juvenile
9 Affairs, the ~~Board~~ Executive Director is specifically charged with
10 the duty of promulgating rules which will implement the duties and
11 responsibilities of the Office pursuant to the Oklahoma Juvenile
12 Code.

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

20 ~~3.~~ ~~Any rules adopted by the Commission for Human Services~~
21 ~~related to personnel and other administrative issues and the~~
22 ~~custody, care and supervision of children adjudicated to be~~
23 ~~delinquent or in need of supervision and subject to review by the~~
24 ~~Legislature during the 1st Session of the 45th Oklahoma Legislature~~

1 ~~may be finally adopted and promulgated by the Board of Juvenile~~
2 ~~Affairs pursuant to the Administrative Procedures Act.~~

3 ~~4. Starting April 1, 1995, the Board of Juvenile Affairs shall~~
4 ~~conduct an internal review of current permanent and emergency rules~~
5 ~~relating to the custody, care and supervision of children~~
6 ~~adjudicated to be delinquent or in need of supervision to determine~~
7 ~~whether such rules need to be amended, or repealed, reinstated, or~~
8 ~~recodified. By January 1, 1997, the Board shall have adopted~~
9 ~~permanent rules to implement the programs and functions within its~~
10 ~~jurisdiction and shall submit such rules for legislative review~~
11 ~~pursuant to Article I of the Administrative Procedures Act.~~

12 ~~5. The Board of Juvenile Affairs shall develop performance~~
13 ~~standards for programs implemented, either directly or pursuant to~~
14 ~~contract, by the Office of Juvenile Affairs.~~

15 SECTION 7. AMENDATORY 10A O.S. 2011, Section 2-7-201, as
16 last amended by Section 1, Chapter 386, O.S.L. 2016 (10A O.S. Supp.
17 2017, Section 2-7-201), is amended to read as follows:

18 Section 2-7-201. A. ~~The Board of Juvenile Affairs shall~~
19 ~~appoint the~~ Executive Director of the Office of Juvenile Affairs
20 shall be appointed by the Governor. The Executive Director shall
21 serve at the pleasure of the ~~Board~~ Governor and may be removed or
22 replaced without cause. Compensation for the Executive Director
23 shall be determined pursuant to Section 3601.2 of Title 74 of the
24 Oklahoma Statutes.

1 B. The Executive Director of the Office of Juvenile Affairs
2 shall be qualified for such position by character, ability,
3 education, training, and successful administrative experience in one
4 of the following: Corrections, juvenile justice, juvenile
5 delinquency, criminal justice, law, police science, criminology,
6 psychology, sociology, administration, education, or a related
7 social science.

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

10 1. Be the executive officer and supervise the activities of the
11 Office of Juvenile Affairs;

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

24

1 3. Establish internal policies and procedures for the proper
2 and efficient administration of the Office of Juvenile Affairs; and

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

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

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

1 expenditure of funds in excess of unencumbered monies in the
2 agency's appropriations or beyond the current fiscal year. The
3 Attorney General shall review any such cases and may represent the
4 interests of the state, if the Attorney General considers it to be
5 in the best interest of the state to do so, in which case the
6 Attorney General shall be paid as provided in this subsection.
7 Representation of multiple defendants in such actions may, at the
8 discretion of the Attorney General, be divided with counsel for the
9 Office as necessary to avoid conflicts of interest.

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

23 F. The Executive Director of the Office of Juvenile Affairs,
24 ~~based upon rules established by the Board of Juvenile Affairs,~~ shall

1 have the authority to appoint and commission campus police for
2 secure juvenile facilities and their adjacent grounds under the
3 jurisdiction of the Office of Juvenile Affairs in the same manner
4 and with the same powers as campus police appointed by governing
5 boards of state institutions for higher education under the
6 provisions of Section 360.15 et seq. of Title 74 of the Oklahoma
7 Statutes.

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

16 SECTION 8. AMENDATORY 43A O.S. 2011, Section 1-103, as
17 last amended by Section 1, Chapter 246, O.S.L. 2017 (43A O.S. Supp.
18 2017, Section 1-103), is amended to read as follows:

19 Section 1-103. When used in this title, unless otherwise
20 expressly stated, or unless the context or subject matter otherwise
21 requires:

22 1. "Department" means the Department of Mental Health and
23 Substance Abuse Services;

24

1 2. ~~"Chair" means the chair of the Board of Mental Health and~~
2 ~~Substance Abuse Services;~~

3 ~~3.~~ "Mental illness" means a substantial disorder of thought,
4 mood, perception, psychological orientation or memory that
5 significantly impairs judgment, behavior, capacity to recognize
6 reality or ability to meet the ordinary demands of life;

7 ~~4.~~ 3. "Board" means the Board of Mental Health and Substance
8 Abuse Services as established by the Mental Health Law;

9 ~~5.~~ 4. "Commissioner" means the individual selected and
10 appointed by the ~~Board~~ Governor to serve as Commissioner of Mental
11 Health and Substance Abuse Services;

12 ~~6.~~ 5. "Indigent person" means a person who has not sufficient
13 assets or resources to support the person and to support members of
14 the family of the person lawfully dependent on the person for
15 support;

16 ~~7.~~ 6. "Facility" means any hospital, school, building, house or
17 retreat, authorized by law to have the care, treatment or custody of
18 an individual with mental illness, or drug or alcohol dependency,
19 gambling addiction, eating disorders, an opioid substitution
20 treatment program, including, but not limited to, public or private
21 hospitals, community mental health centers, clinics, satellites or
22 facilities; provided, that facility shall not mean a child guidance
23 center operated by the State Department of Health;

24

1 ~~8.~~ 7. "Consumer" means a person under care or treatment in a
2 facility pursuant to the Mental Health Law, or in an outpatient
3 status;

4 ~~9.~~ 8. "Care and treatment" means medical care and behavioral
5 health services, as well as food, clothing and maintenance,
6 furnished to a person;

7 ~~10.~~ 9. Whenever in this law or in any other law, or in any rule
8 or order made or promulgated pursuant to this law or to any other
9 law, or in the printed forms prepared for the admission of consumers
10 or for statistical reports, the words "insane", "insanity",
11 "lunacy", "mentally sick", "mental disease" or "mental disorder" are
12 used, such terms shall have equal significance to the words "mental
13 illness";

14 ~~11.~~ 10. "Licensed mental health professional" means:

- 15 a. a psychiatrist who is a diplomate of the American
16 Board of Psychiatry and Neurology,
- 17 b. a psychiatrist who is a diplomate of the American
18 Osteopathic Board of Neurology and Psychiatry,
- 19 c. a physician licensed pursuant to the Oklahoma
20 Allopathic Medical and Surgical Licensure and
21 Supervision Act or the Oklahoma Osteopathic Medicine
22 Act,

23
24

- 1 d. a clinical psychologist who is duly licensed to
2 practice by the State Board of Examiners of
3 Psychologists,
4 e. a professional counselor licensed pursuant to the
5 Licensed Professional Counselors Act,
6 f. a person licensed as a clinical social worker pursuant
7 to the provisions of the Social Worker's Licensing
8 Act,
9 g. a licensed marital and family therapist as defined in
10 the Marital and Family Therapist Licensure Act,
11 h. a licensed behavioral practitioner as defined in the
12 Licensed Behavioral Practitioner Act,
13 i. an advanced practice nurse as defined in the Oklahoma
14 Nursing Practice Act,
15 j. a physician's assistant who is licensed in good
16 standing in this state, or
17 k. a licensed drug and alcohol counselor/mental health
18 (LADC/MH) as defined in the Licensed Alcohol and Drug
19 Counselors Act;

20 ~~12.~~ 11. "Mentally incompetent person" means any person who has
21 been adjudicated mentally or legally incompetent by an appropriate
22 district court;

23 ~~13.~~

1 12. a. "Person requiring treatment" means a person who
2 because of his or her mental illness or drug or
3 alcohol dependency:

4 (1) poses a substantial risk of immediate physical
5 harm to self as manifested by evidence or serious
6 threats of or attempts at suicide or other
7 significant self-inflicted bodily harm,

8 (2) poses a substantial risk of immediate physical
9 harm to another person or persons as manifested
10 by evidence of violent behavior directed toward
11 another person or persons,

12 (3) has placed another person or persons in a
13 reasonable fear of violent behavior directed
14 towards such person or persons or serious
15 physical harm to them as manifested by serious
16 and immediate threats,

17 (4) is in a condition of severe deterioration such
18 that, without immediate intervention, there
19 exists a substantial risk that severe impairment
20 or injury will result to the person, or

21 (5) poses a substantial risk of immediate serious
22 physical injury to self or death as manifested by
23 evidence that the person is unable to provide for
24

1 and is not providing for his or her basic
2 physical needs.

3 b. The mental health or substance abuse history of the
4 person may be used as part of the evidence to
5 determine whether the person is a person requiring
6 treatment or an assisted outpatient. The mental
7 health or substance abuse history of the person shall
8 not be the sole basis for this determination.

9 c. Unless a person also meets the criteria established in
10 subparagraph a or b of this paragraph, person
11 requiring treatment or an assisted outpatient shall
12 not mean:

13 (1) a person whose mental processes have been
14 weakened or impaired by reason of advanced years,
15 dementia, or Alzheimer's disease,

16 (2) a mentally retarded or developmentally disabled
17 person as defined in Title 10 of the Oklahoma
18 Statutes,

19 (3) a person with seizure disorder,

20 (4) a person with a traumatic brain injury, or

21 (5) a person who is homeless.

22 d. A person who meets the criteria established in this
23 section, but who is medically unstable, or the
24 facility holding the person is unable to treat the

1 additional medical conditions of that person should be
2 discharged and transported in accordance with Section
3 1-110 of this title;

4 ~~14.~~ 13. "Petitioner" means a person who files a petition
5 alleging that an individual is a person requiring treatment or an
6 assisted outpatient;

7 ~~15.~~ 14. "Executive director" means the person in charge of a
8 facility as defined in this section;

9 ~~16.~~ 15. "Private hospital or facility" means any general
10 hospital maintaining a neuro-psychiatric unit or ward, or any
11 private hospital or facility for care and treatment of a person
12 having a mental illness, which is not supported by the state or
13 federal government. The term "private hospital" or "facility" shall
14 not include nursing homes or other facilities maintained primarily
15 for the care of elderly and disabled persons;

16 ~~17.~~ 16. "Individualized treatment plan" means a proposal
17 developed during the stay of an individual in a facility, under the
18 provisions of this title, which is specifically tailored to the
19 treatment needs of the individual. Each plan shall clearly include
20 the following:

- 21 a. a statement of treatment goals or objectives, based
22 upon and related to a clinical evaluation, which can
23 be reasonably achieved within a designated time
24 interval,

- 1 b. treatment methods and procedures to be used to obtain
2 these goals, which methods and procedures are related
3 to each of these goals and which include specific
4 prognosis for achieving each of these goals,
5 c. identification of the types of professional personnel
6 who will carry out the treatment procedures, including
7 appropriate medical or other professional involvement
8 by a physician or other health professional properly
9 qualified to fulfill legal requirements mandated under
10 state and federal law,
11 d. documentation of involvement by the individual
12 receiving treatment and, if applicable, the accordance
13 of the individual with the treatment plan, and
14 e. a statement attesting that the executive director of
15 the facility or clinical director has made a
16 reasonable effort to meet the plan's individualized
17 treatment goals in the least restrictive environment
18 possible closest to the home community of the
19 individual;

20 ~~18.~~ 17. "Telemedicine" means the practice of health care
21 delivery, diagnosis, consultation, evaluation, treatment, transfer
22 of medical data, or exchange of medical education information by
23 means of audio, video, or data communications. Telemedicine uses
24 audio and video multimedia telecommunication equipment which permits

1 two-way real-time communication between a health care practitioner
2 and a patient who are not in the same physical location.

3 Telemedicine shall not include consultation provided by telephone or
4 facsimile machine;

5 ~~19.~~ 18. "Recovery and recovery support" means nonclinical
6 services that assist individuals and families to recover from
7 alcohol or drug problems. They include social support, linkage to
8 and coordination among allied service providers, including but not
9 limited to transportation to and from treatment or employment,
10 employment services and job training, case management and individual
11 services coordination, life skills education, relapse prevention,
12 housing assistance, child care, and substance abuse education;

13 ~~20.~~ 19. "Assisted outpatient" means a person who:

- 14 a. is either currently under the care of a facility
15 certified by the Department of Mental Health and
16 Substance Abuse Services as a Community Mental Health
17 Center, or is being discharged from the custody of the
18 Oklahoma Department of Corrections, or is being
19 discharged from a residential placement by the Office
20 of Juvenile Affairs,
21 b. is suffering from a mental illness,
22 c. is unlikely to survive safely in the community without
23 supervision, based on a clinical determination,
24

1 d. has a history of lack of compliance with treatment for
2 mental illness that has:

3 (1) prior to the filing of a petition, at least twice
4 within the last thirty-six (36) months been a
5 significant factor in necessitating
6 hospitalization or treatment in a hospital or
7 residential facility, or receipt of services in a
8 forensic or other mental health unit of a
9 correctional facility, or a specialized treatment
10 plan for treatment of mental illness in a secure
11 juvenile facility or placement in a specialized
12 residential program for juveniles, or

13 (2) prior to the filing of the petition, resulted in
14 one or more acts of serious violent behavior
15 toward self or others or threats of, or attempts
16 at, serious physical harm to self or others
17 within the last twenty-four (24) months,

18 e. is, as a result of his or her mental illness, unlikely
19 to voluntarily participate in outpatient treatment
20 that would enable him or her to live safely in the
21 community,

22 f. in view of his or her treatment history and current
23 behavior, is in need of assisted outpatient treatment
24 in order to prevent a relapse or deterioration which

1 would be likely to result in serious harm to the
2 person or persons as defined in this section, and
3 g. is likely to benefit from assisted outpatient
4 treatment; and

5 ~~21.~~ 20. "Assisted outpatient treatment" means outpatient
6 services which have been ordered by the court pursuant to a
7 treatment plan approved by the court to treat an assisted
8 outpatient's mental illness and to assist the person in living and
9 functioning in the community, or to attempt to prevent a relapse or
10 deterioration that may reasonably be predicted to result in suicide
11 or the need for hospitalization.

12 SECTION 9. AMENDATORY 43A O.S. 2011, Section 2-101, is
13 amended to read as follows:

14 Section 2-101. A. 1. There is hereby established in this
15 state a Department of Mental Health and Substance Abuse Services.

16 2. This Department's ~~governing board shall be the Board of~~
17 ~~Mental Health and Substance Abuse Services, and its~~ chief executive
18 officer shall be the Commissioner of Mental Health and Substance
19 Abuse Services. The Commissioner shall be appointed by the Governor
20 and shall serve at the pleasure of the Governor and may be removed
21 or replaced without cause. Compensation for the Commissioner shall
22 be determined pursuant to Section 3601.2 of Title 74 of the Oklahoma
23 Statutes.

1 3. The Department of Mental Health and Substance Abuse Services
2 shall exercise all functions of the state in relation to the
3 administration and operation of all state facilities for the care
4 and treatment of the mentally ill and drug- or alcohol-dependent
5 persons.

6 B. All references in the Oklahoma Statutes to the Department of
7 Mental Health or the Board of Mental Health shall be construed to
8 refer to the Department of Mental Health and Substance Abuse
9 Services or the Board of Mental Health and Substance Abuse Services,
10 respectively.

11 SECTION 10. AMENDATORY 43A O.S. 2011, Section 2-103, as
12 amended by Section 1, Chapter 280, O.S.L. 2017 (43A O.S. Supp. 2017,
13 Section 2-103), is amended to read as follows:

14 Section 2-103. A. The Board of Mental Health and Substance
15 Abuse Services shall be an advisory body to the Commissioner of
16 Mental Health and Substance Abuse Services and shall be composed of
17 eleven (11) members, appointed by the Governor, with the advice and
18 consent of the Senate. Each term is for a seven-year period and
19 members may be reappointed to subsequent terms. Board members shall
20 meet the following criteria:

21 1. One member, who shall be an allopathic physician licensed to
22 practice in this state and appointed from a list containing the
23 names of not less than two allopathic physicians and not less than
24

1 two psychiatrists submitted to the Governor by the Oklahoma State
2 Medical Association;

3 2. One member shall be an osteopathic physician licensed to
4 practice in this state, appointed from a list containing the names
5 of not less than two osteopathic physicians and not less than two
6 psychiatrists submitted to the Governor by the Oklahoma Osteopathic
7 Association;

8 3. One member, who shall be an attorney licensed to practice in
9 this state and shall be appointed from a list of not less than three
10 names submitted to the Governor by the Board of Governors of the
11 Oklahoma Bar Association;

12 4. One member, who shall be a psychologist, licensed to
13 practice in this state, who shall be appointed from a list of not
14 less than three names submitted to the Governor by the Oklahoma
15 State Psychological Association;

16 5. Three members, qualified by education and experience in the
17 area of substance abuse recovery, who shall be appointed from a list
18 of not less than ten names submitted to the Governor by a state
19 association of substance abuse recovery programs or organizations;
20 and

21 6. Four members who shall be citizens of this state, at least
22 one of whom shall be either a current or former consumer of mental
23 health services.

24

1 B. At least one physician appointed pursuant to paragraph 1 or
2 paragraph 2 of subsection A of this section shall be a psychiatrist
3 certified as a diplomate of the American Board of Psychiatry and
4 Neurology, or as a diplomate of the American Osteopathic Board of
5 Neurology and Psychiatry.

6 C. No person shall be appointed a member of the Board who has
7 been a member of the Legislature of this state within the preceding
8 five (5) years.

9 ~~D. The Board shall elect from among its members a chair and a~~
10 ~~vice-chair. The chair may call meetings at any time.~~

11 ~~E. All regularly scheduled meetings of the Board shall be held~~
12 ~~at the Central Office of the Department of Mental Health and~~
13 ~~Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise~~
14 ~~scheduled. Six members shall constitute a quorum at any meeting,~~
15 ~~and all action may be taken by an affirmative vote of the majority~~
16 ~~of the members present at any such meeting.~~

17 ~~F. The action taken by the Board on any matter, or any document~~
18 ~~passed by the Board, shall be considered official when such action~~
19 ~~is placed in writing and signed by the chair or vice chair.~~

20 ~~G. The duties of the Board shall pertain to the care,~~
21 ~~treatment, and hospitalization of persons with mental illness, or~~
22 ~~alcohol- or drug-dependent persons.~~

1 ~~H. Members of the Board of Mental Health and Substance Abuse~~
2 ~~Services shall be allowed their necessary travel expenses pursuant~~
3 ~~to the provisions of the State Travel Reimbursement Act.~~

4 ~~I.~~ Members of the Board of Mental Health and Substance Abuse
5 Services shall be allowed to serve on the State Board of Medical
6 Licensure and Supervision and the State Board of Osteopathic
7 Examiners during members' terms on the Board of Mental Health and
8 Substance Abuse Services.

9 SECTION 11. AMENDATORY 43A O.S. 2011, Section 2-106, is
10 amended to read as follows:

11 Section 2-106. A. 1. ~~The Board of Mental Health and Substance~~
12 ~~Abuse Services, the~~ Commissioner of Mental Health and Substance
13 Abuse Services or any employee of the Department of Mental Health
14 and Substance Abuse Services designated by the Commissioner may
15 solicit and receive contributions, gifts and donations for use by
16 the Department of Mental Health and Substance Abuse Services, or to
17 any institution therein. ~~The Board of Mental Health and Substance~~
18 ~~Abuse Services~~ Commissioner shall accept, hold in trust and
19 authorize the use of any grant or devise of land, or any donation or
20 bequest of money, or other personal property made to the Department
21 of Mental Health and Substance Abuse Services, or to any institution
22 therein, so long as the terms of the grant, donation, bequest, gift,
23 or will are carried out.

1 2. The ~~Board~~ Commissioner may invest and reinvest any funds and
2 may lease any real or personal property, may sell any personal
3 property and may invest the proceeds, for the benefit of the
4 Department or any institution therein unless prevented by the terms
5 of the grant, donation, bequest, gift or will.

6 B. The ~~Board~~ Commissioner may lease any property owned or held
7 in trust to any other state agency, political subdivision, federal
8 agency, county, municipality or a nonprofit organization for a
9 period not to exceed fifty (50) years.

10 C. The Department must annually account to the State Auditor
11 and Inspector for all monies or property received or expended by
12 virtue of this section. The account shall state:

13 1. The source of the monies or property received with the
14 actual date of its receipt;

15 2. The particular use or place for which it was expended; and

16 3. The balance on hand showing the place of deposit of the
17 unexpended balance.

18 SECTION 12. AMENDATORY 43A O.S. 2011, Section 2-111, as
19 last amended by Section 1, Chapter 139, O.S.L. 2017 (43A O.S. Supp.
20 2017, Section 2-111), is amended to read as follows:

21 Section 2-111. A. 1. The ~~Board~~ Commissioner of Mental Health
22 and Substance Abuse Services is hereby authorized and directed to
23 create a trust into which all real property held by or for the
24

1 benefit of the Department of Mental Health and Substance Abuse
2 Services shall be transferred.

3 2. The trust shall provide that:

4 a. the property placed into the trust may never be sold,
5 except for the tracts specifically described in
6 subparagraph c of this paragraph, if it is determined
7 by the trustees for the Department's Real Property
8 Trust and by the Department that such a sale is in the
9 best interests of the Department, and then the
10 proceeds shall be used exclusively for tangible
11 infrastructure improvements that benefit the persons
12 served by the Department, otherwise the property shall
13 be held in perpetuity for the sole benefit of the
14 Department,

15 b. the property held by the trust which is not needed for
16 use by the Department may be leased or rented to
17 others and all income received from such leases or
18 rentals shall be payable to the Department for use by
19 the Department to fulfill the purposes of the
20 Department, except as provided in subparagraph d of
21 this section,

22 c. the following tract or tracts of land may be sold as
23 set forth in subparagraph a of this paragraph:
24

1 (1) Land owned by the Department located in Sections
2 20 and 29, Township 9 North, Range 2 West,
3 Cleveland County, Oklahoma,

4 (2) Land owned by the Department located in Block 5
5 of Culbertson Heights Addition to the City of
6 Oklahoma City, Oklahoma County, Oklahoma, and

7 (3) Land owned by the Department located in Section
8 27, Township 9 North, Range 2 West, Cleveland
9 County, Oklahoma, and

10 d. under no condition should any real property held in
11 trust be sold to fund prevention, mental health or
12 addiction treatment services.

13 B. Upon the creation of the trust authorized in subsection A of
14 this section, the Office of Management and Enterprise Services is
15 directed to provide all necessary assistance to the Department of
16 Mental Health and Substance Abuse Services to identify and transfer
17 all property held by or for the benefit of the Department of Mental
18 Health and Substance Abuse Services to the trust. Except as
19 provided in subsection C of this section, the Office of Management
20 and Enterprise Services is authorized and directed to provide all
21 requested assistance to the Department of Mental Health and
22 Substance Abuse Services in leasing property placed in such trust.

23 C. The Commissioners of the Land Office are authorized and
24 directed to provide all requested assistance to the Department of

1 Mental Health and Substance Abuse Services in leasing mineral
2 interests placed in such trust.

3 SECTION 13. AMENDATORY 57 O.S. 2011, Section 503, is
4 amended to read as follows:

5 Section 503. There is hereby created the State Board of
6 Corrections which ~~shall be the governing board of the Department of~~
7 ~~Corrections herein created~~ shall be an advisory body to the Director
8 of Corrections. The Board shall consist of seven (7) members who
9 shall be appointed by the Governor with the advice and consent of
10 the Senate. One member shall be appointed from each congressional
11 district and any remaining members shall be appointed from the state
12 at large. However, when congressional districts are redrawn each
13 member appointed prior to July 1 of the year in which such
14 modification becomes effective shall complete the current term of
15 office and appointments made after July 1 of the year in which such
16 modification becomes effective shall be based on the redrawn
17 districts. Appointments made after July 1 of the year in which such
18 modification becomes effective shall be from any redrawn districts
19 which are not represented by a board member until such time as each
20 of the modified congressional districts are represented by a board
21 member. No appointments may be made after July 1 of the year in
22 which such modification becomes effective if such appointment would
23 result in more than two members serving from the same modified
24 district. The terms of office of two members shall expire on March

1 15, 1969, and each six (6) years thereafter; the terms of two
2 members shall expire on March 15, 1971, and each six (6) years
3 thereafter; and the terms of three members shall expire on March 15,
4 1973, and each six (6) years thereafter. Not more than four members
5 of the Board shall be of the same political party. Any member of
6 the Board may be removed from office in the manner provided by law
7 for the removal of officers not subject to impeachment. Vacancies
8 on the Board shall be filled for the unexpired term.

9 SECTION 14. AMENDATORY 57 O.S. 2011, Section 504, is
10 amended to read as follows:

11 Section 504. (a) ~~The Board shall elect from its members a~~
12 ~~chairman, vice chairman and a secretary. It~~ The Director of
13 Corrections shall adopt rules and regulations for its government and
14 may adopt an official seal for the Department. ~~Members shall be~~
15 ~~reimbursed for travel expenses, as provided in the State Travel~~
16 ~~Reimbursement Act while attending meetings of the Board or while~~
17 ~~performing other official duties.~~

18 (b) The ~~Board~~ Director shall have the following powers and
19 duties:

20 (1) To establish policies for the operation of the Department;

21 (2) To establish and maintain such institutions as are
22 necessary or convenient for the operation of programs for the
23 education, training, vocational education and rehabilitation of
24 prisoners under the jurisdiction of the Department;

1 (3) To lease, from time to time, without restriction as to
2 terms, any property which said ~~Board~~ Director shall determine
3 advisable to more fully carry into effect the operation of prison
4 industries;

5 (4) To acquire, construct, extend, improve, maintain and
6 operate any and all facilities of all kinds which in the judgment of
7 the ~~Board~~ Director shall be necessary or convenient to foster the
8 prison industries program;

9 ~~(5) To require the Director and any other personnel of the~~
10 ~~Department, when deemed necessary by the Board, to give bond for the~~
11 ~~faithful performance of their duties;~~

12 ~~(6) To appoint and fix the salary of the Director;~~

13 ~~(7) To enter into contracts with private prison contractors;~~
14 and

15 ~~(8) (6)~~ (6) To provide training to employees of private prison
16 contractors and other governmental entities on a fee basis.

17 SECTION 15. AMENDATORY 57 O.S. 2011, Section 506, as
18 last amended by Section 2, Chapter 386, O.S.L. 2016 (57 O.S. Supp.
19 2017, Section 506), is amended to read as follows:

20 Section 506. There is hereby created the position of Director
21 of Corrections. The Director shall be qualified for such position
22 by character, knowledge, skill, ability, education, training and
23 successful administrative experience and shall have five (5) years
24 of professional level work. The Director of Corrections shall be

1 appointed by the ~~Board of Corrections, with the advice and consent~~
2 ~~of the Senate and shall be subject to removal by a vote of the~~
3 ~~majority of the entire Board or in the manner provided by law for~~
4 ~~the removal of officers not subject to impeachment~~ Governor and
5 shall serve at the pleasure of the Governor and may be removed or
6 replaced without cause. Compensation for the Director shall be
7 determined pursuant to Section 3601.2 of Title 74 of the Oklahoma
8 Statutes.

9 SECTION 16. AMENDATORY 63 O.S. 2011, Section 1-103, is
10 amended to read as follows:

11 Section 1-103. A. 1. There is hereby created the State Board
12 of Health, which shall be an advisory body to the State Commissioner
13 of Health and shall consist of nine (9) members appointed by the
14 Governor and confirmed by the Senate for regular terms of nine (9)
15 years, except as hereinafter otherwise indicated.

16 2. Not less than four members shall hold a current license to
17 practice medicine in this state pursuant to the Oklahoma Allopathic
18 Medical and Surgical Licensure and Supervision Act and the Oklahoma
19 Osteopathic Medicine Act. At least one physician member shall be a
20 person licensed to practice medicine in this state by the State
21 Board of Osteopathic Examiners. Physician members licensed by the
22 State Board of Medical Licensure and Supervision shall be members of
23 the Oklahoma State Medical Association. One physician member shall
24

1 be a diplomate of the American Board of Psychiatry and Neurology or
2 be similarly qualified.

3 B. 1. The term of office of one member shall expire on June
4 30, 1964, and each nine (9) years thereafter, and such member shall
5 be a resident of one of the following counties and shall have been a
6 resident of one or more of such counties for not less than five (5)
7 years immediately preceding such member's appointment: Creek,
8 Lincoln, Okfuskee, Seminole, Pottawatomie, Pontotoc, Hughes,
9 Johnston, and Coal.

10 2. The term of office of one member shall expire on June 30,
11 1965, and each nine (9) years thereafter, and such member shall be a
12 resident of one of the following counties and shall have been a
13 resident of one or more of such counties for not less than five (5)
14 years immediately preceding such member's appointment: Blaine,
15 Kingfisher, Canadian, Caddo, Grady, Comanche, Stephens, Jefferson,
16 and Cotton.

17 3. The term of office of one member shall expire on June 30,
18 1966, and each nine (9) years thereafter, and such member shall be a
19 resident of one of the following counties and shall have been a
20 resident of one or more of such counties for not less than five (5)
21 years immediately preceding such member's appointment: Le Flore,
22 Latimer, Pittsburg, Atoka, Pushmataha, McCurtain, Choctaw, Bryan,
23 Marshall, Carter, and Love.

24

1 4. The term of office of one member shall expire on June 30,
2 1967, and each nine (9) years thereafter, and such member shall be a
3 resident of one of the following counties and shall have been a
4 resident of one or more of such counties for not less than five (5)
5 years immediately preceding such member's appointment: Cimarron,
6 Texas, Beaver, Harper, Woodward, Woods, Major, Alfalfa, Grant,
7 Garfield, Kay, and Noble.

8 5. The term of office of one member shall expire on June 30,
9 1968, and each nine (9) years thereafter, and such member shall be a
10 resident of one of the following counties and shall have been a
11 resident of one or more of such counties for not less than five (5)
12 years immediately preceding such member's appointment: Adair,
13 Sequoyah, Cherokee, Wagoner, Muskogee, Haskell, McIntosh, and
14 Okmulgee.

15 6. The term of office of one member shall expire on June 30,
16 1969, and each nine (9) years thereafter, and such member shall be a
17 resident of one of the following counties and shall have been a
18 resident of one or more of such counties for not less than five (5)
19 years immediately preceding such member's appointment: Ottawa,
20 Delaware, Craig, Mayes, Nowata, Rogers, Washington, Tulsa, Pawnee,
21 and Osage.

22 7. The term of office of one member shall expire on June 30,
23 1970, and each nine (9) years thereafter, and such member shall be a
24 resident of one of the following counties and shall have been a

1 resident of one or more of such counties for not less than five (5)
2 years immediately preceding such member's appointment: Logan,
3 Oklahoma, Cleveland, McClain, Garvin, Murray, and Payne.

4 8. The term of office of one member shall expire on June 30,
5 1971, and each nine (9) years thereafter, and such member shall be a
6 resident of one of the following counties and shall have been a
7 resident of one or more of such counties for not less than five (5)
8 years immediately preceding such member's appointment: Ellis, Dewey,
9 Roger Mills, Custer, Beckham, Washita, Kiowa, Greer, Jackson,
10 Harmon, and Tillman.

11 9. The term of office of one member shall expire on June 30,
12 1972, and each nine (9) years thereafter, and such member shall be
13 appointed from the State of Oklahoma at large, and shall have been a
14 resident of the state for not less than five (5) years immediately
15 preceding such member's appointment.

16 SECTION 17. AMENDATORY 63 O.S. 2011, Section 1-104, is
17 amended to read as follows:

18 Section 1-104. A. ~~The State Board of Health shall elect~~
19 ~~annually from its membership a President, Vice President and~~
20 ~~Secretary. The Board shall adopt rules for its government, and~~
21 State Commissioner of Health may adopt an official seal for the
22 State Department of Health. ~~It~~ The State Commissioner of Health
23 shall hold such meetings as ~~it~~ he or she deems necessary. ~~Each~~

24

1 ~~member of the Board shall be paid travel expenses, as provided in~~
2 ~~the State Travel Reimbursement Act.~~

3 B. The ~~Board~~ Commissioner shall have the following powers and
4 duties:

5 1. ~~Appoint and fix the compensation of a State Commissioner of~~
6 ~~Health;~~

7 2. Adopt such rules and standards as ~~it~~ he or she deems
8 necessary to carry out any of the provisions of ~~this Code~~ the
9 Oklahoma Public Health Code;

10 3. ~~2.~~ Accept and disburse grants, allotments, gifts, devises,
11 bequests, funds, appropriations, and other property made or offered
12 to ~~it~~ the Department; and

13 4. ~~3.~~ Establish such divisions, sections, bureaus, offices, and
14 positions in the State Department of Health as ~~it~~ the Commissioner
15 deems necessary to carry out the provisions of this Code.

16 C. The State Commissioner of Health shall be appointed by the
17 Governor. The Commissioner shall serve at the pleasure of the
18 Governor and may be removed or replaced without cause. Compensation
19 for the Commissioner shall be determined pursuant to Section 3601.2
20 of Title 74 of the Oklahoma Statutes.

21 SECTION 18. AMENDATORY 63 O.S. 2011, Section 1-105, is
22 amended to read as follows:

23 Section 1-105. There is hereby created a State Department of
24 Health, which shall consist of the State Commissioner of Health, and

1 such divisions, sections, bureaus, offices, and positions as may be
2 established by the ~~State Board of Health~~ Commissioner, or by law.

3 SECTION 19. AMENDATORY 63 O.S. 2011, Section 5007, is
4 amended to read as follows:

5 Section 5007. A. There is hereby created the Oklahoma Health
6 Care Authority Board which shall be an advisory body to the
7 Administrator of the Oklahoma Health Care Authority. On and after
8 July 1, 1994, as the terms of the initially appointed members
9 expire, the Board shall be composed of seven (7) appointed members
10 who shall serve for terms of four (4) years and shall be appointed
11 as follows:

12 1. Two members shall be appointed by the President Pro Tempore
13 of the Senate;

14 2. Two members shall be appointed by the Speaker of the House
15 of Representatives; and

16 3. Three members shall be appointed by the Governor. Two of
17 the members appointed by the Governor shall be consumers.

18 B. Members appointed pursuant to this paragraph, with the
19 exception of the consumer members, shall include persons having
20 experience in medical care, health care services, health care
21 delivery, health care finance, health insurance and managed health
22 care. Consumer members shall have no financial or professional
23 interest in medical care, health care services, health care
24 delivery, health finance, health insurance or managed care. In

1 making the appointments, the appointing authority shall also give
2 consideration to urban, rural, gender and minority representation.

3 C. 1. As the terms of office of members appointed before July
4 1, 1995, expire, appointments made on or after July 1, 1995, shall
5 be subject to the following requirements:

6 a. One member appointed by the Governor shall be a
7 resident of the First Congressional District. The
8 term of office of the member appointed by the Governor
9 and serving as of the effective date of this act shall
10 expire on September 1, 2003;

11 b. One member appointed by the President Pro Tempore of
12 the Senate shall be a resident of the Second
13 Congressional District and a consumer. The term of
14 office of the member appointed by the President Pro
15 Tempore of the Senate and serving as of the effective
16 date of this act shall expire on September 1, 1999;

17 c. One member appointed by the President Pro Tempore of
18 the Senate shall be a resident of the Third
19 Congressional District. The term of office of the
20 member appointed by the President Pro Tempore of the
21 Senate and serving as of the effective date of this
22 act shall expire on September 1, 2004;

23 d. One member appointed by the Speaker of the House of
24 Representatives shall be a resident of the Fourth

1 Congressional District. The term of office of the
2 member appointed by the Speaker of the House of
3 Representatives and serving as of the effective date
4 of this act shall expire on September 1, 2001;

5 e. One member appointed by the Speaker of the House of
6 Representatives shall be a resident of the Fifth
7 Congressional District and a consumer. The term of
8 office of the member appointed by the Speaker of the
9 House of Representatives and serving as of the
10 effective date of this act shall expire on September
11 1, 1998;

12 f. One member appointed by the Governor shall be a
13 resident of the Sixth Congressional District and a
14 consumer. The term of office of the member appointed
15 by the Governor and serving as of the effective date
16 of this act shall expire on September 1, 2000; and

17 g. The second consumer member appointed by the Governor
18 shall be appointed at large. The term of office of
19 the member appointed by the Governor and serving as of
20 the effective date of this act shall expire on
21 September 1, 2002.

22 2. Appointments made subsequent to the effective date of this
23 act shall not be restricted to any particular congressional
24 district. Appointments made after July 1 of the year in which a

1 redrawing of a congressional district becomes effective shall be
2 from the state at large. However, no appointments may be made after
3 July 1 of the year in which such modification becomes effective if
4 such appointment would result in more than two members serving from
5 the same modified district.

6 D. The terms of the members serving on the Board as of the
7 effective date of this act shall expire on September 1 of the year
8 in which the respective terms expire. Thereafter, as new terms
9 begin, members shall be appointed to four-year staggered terms which
10 shall expire on September 1. Should a member serve less than a
11 four-year term, the term of office of the member subsequently
12 appointed shall be for the remainder of the four-year term.

13 E. On and after July 1, 1994, any subsequently appointed
14 administrator of the Authority shall be appointed by the Board. The
15 administrator shall have the training and experience necessary for
16 the administration of the Authority, as determined by the Board,
17 including, but not limited to, prior experience in the
18 administration of managed health care. The administrator shall
19 serve at the pleasure of the Board.

20 F. The ~~Board~~ Administrator shall have the power and duty to:

21 1. Establish the policies of the Oklahoma Health Care
22 Authority;

23 2. ~~Appoint the Administrator of the Authority;~~

24

1 ~~3.~~ Adopt and promulgate rules as necessary and appropriate to
2 carry out the duties and responsibilities of the Authority. The
3 ~~Board~~ Administrator shall be the rulemaking body for the Authority;
4 and

5 4. 3. Adopt, publish and submit by January 1 of each year to
6 the Governor, the President Pro Tempore of the Senate, and the
7 Speaker of the House of Representatives appropriate administrative
8 policies and the business plan for that year. All actions governed
9 by said administrative policies and annual business plan shall be
10 examined annually in an independent audit.

11 G. ~~1.~~ A vacancy in a position shall be filled in the same
12 manner as provided in subsection A of this section.

13 ~~2.~~ A majority of the members of the Board shall constitute a
14 quorum for the transaction of business and for taking any official
15 action. Official action of the Board must have a favorable vote by
16 a majority of the members present.

17 ~~3.~~ Members appointed pursuant to subsection A of this section
18 shall serve without compensation but shall be reimbursed for
19 expenses incurred in the performance of their duties in accordance
20 with the State Travel Reimbursement Act.

21 H. The Board and the Authority shall act in accordance with the
22 provisions of the Oklahoma Open Meeting Act, the Oklahoma Open
23 Records Act and the Administrative Procedures Act.

24

1 SECTION 20. AMENDATORY 63 O.S. 2011, Section 5008, is
2 amended to read as follows:

3 Section 5008. A. The Administrator of the Oklahoma Health Care
4 Authority shall have the training and experience necessary for the
5 administration of the Authority, ~~as determined by the Oklahoma~~
6 ~~Health Care Authority Board, including, but not limited to, prior~~
7 ~~experience in the administration of managed health care.~~ The
8 Administrator shall be appointed by the Governor and shall serve at
9 the pleasure of the ~~Board~~ Governor and may be removed or replaced
10 without cause. Compensation for the Administrator shall be
11 determined pursuant to Section 3601.2 of Title 74 of the Oklahoma
12 Statutes.

13 B. The Administrator of the Oklahoma Health Care Authority
14 shall be the chief executive officer of the Authority and shall act
15 for the Authority in all matters except as may be otherwise provided
16 by law. The powers and duties of the Administrator shall include
17 but not be limited to:

- 18 1. Supervision of the activities of the Authority;
- 19 2. Formulation and recommendation of rules for approval or
20 rejection ~~by the Oklahoma Health Care Authority Board~~ and
21 enforcement of rules and standards promulgated by the ~~Board~~
22 Authority;

23 3. Preparation of the plans, reports and proposals required by
24 the Oklahoma Health Care Authority Act, Section 5003 et seq. of this

1 title, other reports as necessary and appropriate, and an annual
2 budget for the review and approval of the ~~Board~~ Authority;

3 4. Employment of such staff as may be necessary to perform the
4 duties of the Authority including but not limited to an attorney to
5 provide legal assistance to the Authority for the state Medicaid
6 program; and

7 5. Establishment of a contract bidding process which:

- 8 a. encourages competition among entities contracting with
9 the Authority for state-purchased and state-subsidized
10 health care; provided, however, the Authority may make
11 patient volume adjustments to any managed care plan
12 whose prime contractor is a state-sponsored,
13 nationally accredited medical school. The Authority
14 may also make education or research supplemental
15 payments to state-sponsored, nationally accredited
16 medical schools based on the level of participation in
17 any managed care plan by managed care plan
18 participants,
- 19 b. coincides with the state budgetary process, and
- 20 c. specifies conditions for awarding contracts to any
21 insuring entity.

22 C. The Administrator may appoint advisory committees as
23 necessary to assist the Authority with the performance of its duties
24 or to provide the Authority with expertise in technical matters.

1 SECTION 21. AMENDATORY 74 O.S. 2011, Section 2203, is
2 amended to read as follows:

3 Section 2203. A. The Oklahoma Tourism and Recreation
4 Commission shall be an advisory body to the Executive Director of
5 the Oklahoma Tourism and Recreation Department and shall consist of
6 eight (8) members who shall serve a term of six (6) years. No more
7 than one Commission member shall be from any one county. The
8 Lieutenant Governor shall serve as an ex officio voting member of
9 the Commission.

10 B. One member shall be appointed from each congressional
11 district, who shall be a resident and a qualified elector in the
12 district from which appointed, and the remaining members shall be
13 appointed from the state at large. If congressional districts are
14 redrawn each member appointed shall complete the current term of
15 office at which time a new appointment shall be made in compliance
16 with the redrawn congressional district.

17 C. Commission members shall be appointed by the Governor, with
18 the advice and consent of the Senate, and shall serve at the
19 pleasure of the Governor. Whenever a vacancy on the Commission
20 occurs by death, resignation, or otherwise, the Governor shall fill
21 the same by appointment, with the advice and consent of the Senate,
22 and the appointee shall hold office during the unexpired term. Each
23 member shall hold office until a successor has been appointed and
24 qualified. ~~Five members of the Commission shall constitute a~~

1 ~~quorum, and the vote of the majority of members present shall be~~
2 ~~necessary for any action to be taken by the Commission. No vacancy~~
3 ~~in the membership of the Commission shall impair the rights of a~~
4 ~~quorum to exercise and perform all the rights and duties of the~~
5 ~~Commission.~~

6 D. With the exception of the ex officio, no member of the
7 Commission shall seek election to a federal, state, or county office
8 while serving on the Commission.

9 E. Each member of the Commission, before serving on the
10 Commission, shall take and subscribe to the constitutional and
11 statutory oaths of office and file said oaths with the Secretary of
12 State. ~~Members of the Commission shall be reimbursed for travel~~
13 ~~expenses to Commission meetings as provided in the State Travel~~
14 ~~Reimbursement Act of the Oklahoma Statutes.~~

15 F. ~~The Commission shall be organized by the Governor who shall~~
16 ~~appoint from the Commission the Chair, the Vice Chair, and the~~
17 ~~Secretary. The Commission is authorized and directed to adopt rules~~
18 ~~pursuant to the provisions of the Administrative Procedures Act to~~
19 ~~execute the powers and duties of the Commission and Department.~~

20 G. ~~The Commission may meet monthly and shall meet at least~~
21 ~~quarterly. The Commission may meet at such other times as it deems~~
22 ~~necessary for effectively performing its duties and~~
23 ~~responsibilities. Special meetings may be called by the Chair or by~~
24

1 ~~any three members of the Commission. The meetings of the Commission~~
2 ~~shall be subject to the Oklahoma Open Meeting Act.~~

3 ~~H. The Commission is hereby declared to be a governmental~~
4 ~~agency and instrumentality of the State of Oklahoma with authority~~
5 ~~to exercise, in addition to those it now has, the rights, privileges~~
6 ~~and functions hereinafter specified.~~

7 SECTION 22. AMENDATORY 74 O.S. 2011, Section 2204, is
8 amended to read as follows:

9 Section 2204. There are hereby granted to and imposed in the
10 ~~Commission, and in any commission or body which may hereafter~~
11 ~~succeed to the powers, rights and duties of the Commission, Oklahoma~~
12 ~~Tourism and Recreation Department the following additional powers,~~
13 rights and duties:

14 1. Sue and be sued;

15 2. Adopt, use, and alter an official seal;

16 3. Make bylaws for the management and regulation of its
17 affairs;

18 4. Appoint, prescribe the duties, and fix the compensation for
19 officers, agents, and employees;

20 5. Make contracts and execute instruments as in the judgment of
21 the ~~Commission~~ Department are necessary or convenient to the
22 exercise of the powers conferred upon it by law; and

23 6. Promulgate rules and policies necessary and convenient to
24 the exercise of the powers conferred upon it by law.

1 SECTION 23. AMENDATORY 74 O.S. 2011, Section 2206, is
2 amended to read as follows:

3 Section 2206. The chief executive officer of the Oklahoma
4 Tourism and Recreation Department shall be the Executive Director,
5 who shall be appointed by the ~~Commission~~ Governor and who shall
6 serve at the pleasure of ~~said Commission~~ the Governor and may be
7 removed or replaced without cause. The Executive Director shall be
8 chosen with regard to knowledge, training, experience, and ability
9 to administer the functions of the Department. ~~The Commission shall~~
10 ~~establish the salary of the~~ Compensation for the Executive Director
11 shall be determined pursuant to Section 3601.2 of Title 74 of the
12 Oklahoma Statutes.

13 SECTION 24. REPEALER 2 O.S. 2011, Section 2-2, as
14 amended by Section 1, Chapter 7, O.S.L. 2012 (2 O.S. Supp. 2017,
15 Section 2-2), is hereby repealed.

16 SECTION 25. This act shall become effective January 14, 2019.

18 56-2EX-50338 LRB 02/05/18

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