

Council on Law Enforcement Education & Training
2012 Legislative Update



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Please keep in mind that this document is, by necessity, a summary. If we were to copy all the new laws, this document would run to several thousand pages. Even a detailed summary of every provision would be hundreds of pages long, and that is simply not feasible. You are encouraged to read the complete laws, available at www.oscn.net. Click on 'legal research' and then click on 'Oklahoma Statutes Citationized'. You can get a complete history of each bill at the Oklahoma Legislature's website: <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>.

TITLE 47

MOTOR VEHICLES

HB 1952 (effective July 1, 2012) enacts new laws to be codified at 47 O.S. § 1200 et seq, known as the 'Oklahoma Weigh Station Act'. This provides for enhanced enforcement of laws which concern operation ports of entry and weigh stations. Some highlights:

- DOT, OTA, and the Corporation Commission may make interagency agreements to electronically upgrade weigh stations to 'minimize the duplication of inspections for compliant' trucks, and may share information electronically.
- The Commission is to operate the ports of entry 24/7, 'upon the availability of funds'.
- Roadside enforcement may continue in the 'general area where a fixed facility is planned' until the facility is located or until July, 2016, whichever is earlier.
- A 'commercial motor vehicle, its driver, or a motor carrier' may not get two citations for the same violation on the same day, 'provided neither the vehicle configuration nor the load have changed'.

HB 2250 (effective July 1, 2012) amends 47 O.S. § 14-111 to require an officer weighing a vehicle by means of portable scales to 'allow the driver of the vehicle to move the vehicle to the most level weighing area available within 2 miles of the stop'.

HB 2255 (effective November 1, 2012) enacts a new law to be codified at 47 O.S. § 11-315, to be known as the 'Patriot Guard Funeral Procession Act'. This law makes it a crime for any person to drive a motor vehicle 'between the vehicles comprising a funeral' or other 'authorized procession' while the vehicles are in

motion and when the procession vehicles are 'conspicuously designated'. The law does not apply at intersections controlled by traffic signals or police officers.

SB 1935 (effective May 8, 2012) enacts a new law to be codified at 47 O.S. § 1134 to require the licensing of vehicles used for 'transporting cotton modules' from the point of production to the gin. The annual fee is \$60, and no other license is required. OTC is to design permanent license plates for these vehicles. Transporting the cotton modules without a license is a misdemeanor punishable by a fine of up to \$500.

Also amends 47 O.S. § 14-101 to make the 'permanent license' serve as the overweight permit for these vehicles.

HB 2260 (effective April 16, 2012) amends 47 O.S. § 11-1401 to provide that notice of toll evasion may be sent by 'regular first-class mail'. This may be followed by a statement that failure to pay the toll evasion penalty (or contest the action) may result in adverse action. That second notice is to be sent by certified mail.

HB 2841 (effective November 1, 2012) amends 47 O.S. § 1135.2 to provide for some new special license plates. The new ones include:

- Military multi-decoration license plate - any honorably discharged or present member of the armed forces who 'qualifies for more than one military decoration license plate'.
- Global war on terror expeditionary license plate.

HB 2367 (effective November 1, 2012) amends several statutes in Title 47:

- **amends 47 O.S. § 6-101** so that the written examination and driving examination for a motorcycle may be waived by DPS for persons who have completed a 'certified Motorcycle Safety Foundation rider course'.
- **amends 47 O.S. § 6-105** to allow DPS to waive a written examination for a learner permit for persons who have 'successfully completed driver education'. The written examination and driving examination for a 'restricted Class D license with a motorcycle-only endorsement' may be waived if the person has completed a 'certified Motorcycle Safety Foundation rider course'
- **amends 47 O.S. § 6-110** to allow a person who is an 'operator or an employee of a commercial driver training school' or a person who is a 'driver education instructor' employed by a school district to apply to be a

designated examiner to administer the Class D examination.

- **amends 47 O.S. § 6-122** to provide that a license may not be renewed by mail 'unless the immediately preceding issuance or renewal was done in person by the applicant'.

SB 448 (effective May 8, 2012) changes several changes in Title 47. These include:

Amends 47 O.S. § 1-173.1 to narrow the definition of 'tank vehicle' to include those having a capacity of 119 gallons to 1,000 gallons, that are permanently or temporarily attached to the chassis. A commercial vehicle transporting an empty storage tank (with a rated capacity of over 1,000 gallons) that is 'temporarily attached' to a flatbed trailer is not considered a 'tank vehicle'.

Amends 47 O.S. § 6-205.2, which concerns grounds to suspend a driver license. This amendment adds 'Operating a commercial motor vehicle while using a cellular telephone or electronic communication device to write, send or read a text-based communication while the commercial motor vehicle is in motion'.

Amends 47 O.S. § 7-606 to reduce the time in which records of a conviction or bond forfeiture must be forwarded to DPS from 10 days to 5 days. **Also** removes 'deferral of sentence' from the list of documents to be forwarded to DPS.

Enacts a new law to be codified at 47 O.S. § 11-8-8.1 making it a crime to install, possess, operate, or use a 'radar detector' while operating, or as a passenger in, a commercial motor vehicle.

Amends 47 O.S. § 11-901c to add the operator of a commercial vehicle to the list of those prohibited from using a cell phone or other 'electronic communication device' while in operation. This amendment gives a definition of prohibited actions, but specifically *excepts* the following:

- using voice commands to initiate or receive a phone call
- 'inputting, selecting, or reading information on a global positioning system or navigation system'.
- using a multiple function device for other, non-prohibited, acts.

SB 1354 (effective November 1, 2012) enacts a new law to be codified at 47 O.S. § 6-119A providing for a new restricted Class D drivers license. DPS is to promulgate rules for 'bioptic driving'. 'Bioptic driving' is defined as a method of driving that uses the person's 'general vision in combination with intermittent spotting through a small telescopic system that improves the sharpness' of

vision.

SB 1640 (effective November 1, 2012) amends 47 O.S. § 11-1401.2 (turnpike tolls) to remove the 'escalator' on the fine for failure to pay the toll. Instead of subsequent violations being subject to a greater fine, every violation is punishable by a fine of \$25.00

SB 138 (effective November 1, 2012) enacts a new law to be codified at 47 O.S. § 6-124, providing that a driver license or identification may have a flag emblem and the word 'veteran'. To qualify, the applicant must present a 'valid Uniformed Services Identity Card' or an official form showing a discharge status of 'honorable' or 'general under honorable conditions' or a V.A. photo identification card.

SB 1874 (effective November 1, 2012) enacts a new law to be codified at 47 O.S. § 6-212.4. This provides that all 'revocation, cancellation and/or denial periods of driving privileges' are to be 'considered served upon successful graduation' from Drug Court, unless there is evidence of 'drug and/or alcohol use occurring post-graduation. This applies only to Class D driving privileges.

SB 1798 (effective November 1, 2012) amends 47 O.S. § 10-118 to allow a county or municipality to 'adopt ordinances or resolutions regarding the response of law enforcement to motor vehicle accidents occurring on private property'. Provides that law enforcement agencies 'shall respond to and report' motor vehicle accidents on private if they involve personal injury, DUI or DUI-D, or a vehicle owned by the state or a political subdivision.

HB 2374 (effective November 1, 2012) amends 47 O.S. § 2-405 as it concerns abandoned vehicles. If a vehicle that has been seized pursuant to 47 O.S. § 954A, it shall be returned to the 'licensed wrecker operator' prior to any other claim or assertion of ownership.

SB 1213 (effective April 16, 2012) amends 47 O.S. § 2-303.1 to make changes (to match I.R.S. regulations) to the Oklahoma Law Enforcement Retirement System. These changes are technical accounting matters in nature and beyond the scope of this update. Persons who are members of the Oklahoma Law Enforcement Retirement System are encouraged to review these changes with their accountant or tax adviser.

TITLE 37

INTOXICATING LIQUORS

SB 1218 (effective November 1, 2012) amends 37 O.S. § 163.27 and 518.3, which prohibit licensing to sell low-point beer within 300 feet of certain properties. Under the amendment, a 'college or university located within an improvement district' (created pursuant to Title 11) may waive the 300 foot requirement after publishing certain notices and allowing for protests.

SB 1263 (effective July 1, 2012) amends 37 O.S. § 163.11 as it concerns special event permits for sale and on-premises consumption of low-point beer. Such a permit is to be issued 14 days after the date of filing the application, unless a protest is filed. Each application is required to contain proof that a copy of the application has been supplied to local law enforcement. A procedure for handling any protests is included in the amended law.

Also amends 37 O.S. § 163.11a to require that any natural person who applies for a permit to 'sell low-point beer at retail' must be at least 21 years old.

SB 1667 (effective July 1, 2012) amends 37 O.S. § 163.7 *et al* to prohibit any 'agency, instrumentality, or political subdivision' from charging a 'license or permit or fee' related to a business licensed to sell, distribute, possess, or handle low-point beer. Further, an 'agency, instrumentality or political subdivision' may not interfere with OTC's regulation of, or a 'wholesaler's performance of' such transactions. Municipal license fees permissible under other sections are not affected.

TITLE 21

CRIMES AND PUNISHMENTS

HB 2329 (effective November 1, 2012) enacts a new law to be codified at 21 O.S. § 1406 which prohibits a person who has been convicted, or pled guilty or no contest to, a charge of arson, from 'working or volunteering as a firefighter' in Oklahoma.

HB 2433 (effective November 1, 2012) amends 21 O.S. § 1533 in two ways:

1. Using a motor vehicle which looks like an Oklahoma Highway Patrol car

is punishable by jail of up to one year and/or a fine of \$500.00.

2. Clarifies that a sentence of imprisonment for false personation of a public officer of law enforcement officer is to be served in the custody of the Department of Corrections, instead of county jail.

HB 2302 (effective November 1, 2012) amends 21 O.S. § 741 to expand the definition of kidnapping. The definition now reads: 'Any person who, without lawful authority, seizes, confines, inveigles, or decoys, kidnaps, abducts, or carries away another' to cause them to be confined; to cause them to be sent out of state: or to cause them to be sold as a slave.

HB 3009 (effective November 1, 2012) amends 21 O.S. § 701.7, which defines murder first degree. The list of potential victims is expanded to include a 'corrections employee', with 'law enforcement officer' and 'correctional officer'.

SB 987 (effective November 1, 2012) also amends 21 O.S. § 701.7 to expand the definition of murder first degree to include a homicide which occurs during the 'distributing or dispensing synthetic controlled substances', or 'manufacturing or attempting to manufacture a controlled dangerous substance'. This amendment provides a definition of 'synthetic controlled substance'.

HB 2518 (effective November 1, 2012) amends 21 O.S. § 748 (Human Trafficking) in two ways:

1. The definition of 'human trafficking for commercial sex' now includes 'recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act'.
2. Provides that the 'consent of the minor' shall not be considered a defense to any criminal charge under this statute.

SB 285 (effective November 1, 2012) amends 21 O.S. § 1024.1, related to child porn investigations. The definition is expanded to 'any visual depiction or individual image stored or contained in any format on any medium' as a way to prepare for future technological innovations. Each visual image, including multiple copies of the same image, is to be 'counted as a separate item'.

Also amends 74 O.S. § 151.1 to allow OSBI to enter into agreements with local law enforcement agencies to appoint 'Affiliate Task Force Agents' for the Internet Crimes Against Children (ICAC) unit of OSBI. These affiliate agents

have 'general peace officer posers statewide for 'investigating Internet crimes committed against children'. Affiliate agents serve solely at the 'discretion and will' of the Director of OSBI.

SB 1686 (effective November 1, 2012) amends 21 O.S. § 1247 to allow commercial airport operators to prohibit the use of 'lighted tobacco products' in any area open to or used by the public, so long as inside or within 175 feet from an entrance.

SB 1760 (effective November 1, 2012) amends 21 O.S. § 1321.4 to provide that in the event of a 'declared state of emergency', no governmental official may prohibit or suspend the 'sale, ownership, possession, transportation, carrying, transfer and storage of firearms, ammunition, and ammunition accessories'. A cause of action is created for any individual aggrieved by a violation of this statute.

SB 1785 (effective November 1, 2012) amends 21 O.S. § 1290.26, which concerns carrying firearms under reciprocity with other states.

- If the other state is a 'non-permitting carry state', Oklahoma 'shall reciprocate under the permitting law of that state'.
- Any person 'authorized for concealed carry upon the authority' of a non-permitting state must carry the weapon fully concealed, and upon coming in contact with any peace officer of this state must 'disclose the fact that he or she is in possession of a concealed firearm' pursuant to the laws of the state of residency, and must present proper identification as proof of residency.
- DPS is to keep a registry of non-permitting states for use of law enforcement officers.

SB 1733 (effective November 1, 2012) amends several statutes related to carry of firearms. Most of the changes simply remove the word 'concealed' or substitute 'concealed or unconcealed' but other changes are more substantive. These include:

Amends 21 O.S. § 1272 (Unlawful Carry) to remove the word 'concealed' from the provision for lawful carry by judges.

Amends 21 O.S. § 1272.1 to provide that a handgun license holder may carry concealed or unconcealed in 'any restaurant or other establishment licensed to dispense low-point beer or alcoholic beverages' as a side-line to the restaurant.

This bill also amends the punishment for unlawfully taking a firearm into a liquor establishment (and for violation of **21 O.S. § 1278 'Unlawful Intent to Carry'**) to clarify that imprisonment is to be in the custody of DOC

Amends 21 O.S. § 1277 to clarify that persons in possession of a valid handgun may not carry 'concealed or unconcealed' in certain places.

Amends 21 O.S. § 1283 (Convicted felons and delinquents) to clarify that a person who has been pardoned may, under certain circumstances, apply for a license to carry a handgun, concealed or unconcealed and makes other, unsubstantive, housekeeping changes.

Amends 21 O.S. § 1289.6, which concerns conditions under which firearms may be carried. This amendment adds 'for lawful self-defense and self-protection or other legitimate purpose in or on property that is owned, leased, rented, or otherwise legally controlled' by the person carrying the firearm.

Amends 21 O.S. § 1289.7 (Firearms in Vehicles) to change 'concealed handgun' to 'concealed or unconcealed'.

Amends 21 O.S. § 1289.7a to provide that ammunition may also be locked in a motor vehicle on any property 'set aside for any motor vehicle'.

Amends 21 O.S. § 1289.8 (Carrying Weapons Under Influence of Alcohol) by omitting the word 'concealed' from the portion allowing suspension of a license for carrying while under the influence.

Amends 21 O.S. § 1289.13 to provide that a handgun may be carried concealed or unconcealed in a vehicle if 'any person who is the operator of a vehicle or is a passenger in any vehicle' in which a person is licensed.

Amends 21 O.S. § 1289.23 (Concealed Firearm for Off-Duty Police Officer) to provide that a peace officer or reserve peace officer may carry concealed or unconcealed if the officer has a 'valid license'. The portion of the statute which requires an off-duty officer who is not in uniform to carry concealed has not been changed. It appears the net effect is this: a certified peace officer who has completed CLEET firearms training, and re-qualified each year, must carry concealed if off-duty and not in uniform (unless the officer has a valid SDA handgun license). A person who has had only the 8 hour SDA carry class may carry unconcealed. *Note that 'when an off-duty officer elects to carry a handgun under the authority of the Oklahoma Self-Defense Act, the person shall comply with all provisions of subh act and shall not be representing the employing agency'.*

Amends 21 O.S. § 1290.2, which gives definitions for the Self Defense Act. 'unconcealed handgun' means a loaded or unloaded pistol 'carried upon the person in a belt or shoulder holster that is wholly or partially visible, or carried

upon the person in a scabbard or case designed for carrying firearms that is wholly or partially visible'

Amends 21 O.S. § 1290.8 (Notification to Police of Gun) to provide that a person carrying a handgun 'shall display the handgun license on demand of a law enforcement officer; provided, however, that in the absence of reasonable and articulable suspicion of other criminal activity, an individual carrying an unconcealed handgun shall not be disarmed or physically restrained unless the individual fails to display a valid handgun license in response to that demand'. In addition, this statute is amended to require the person to tell a law enforcement that the person is in actual possession of a firearm 'at the first opportunity'. The punishment for a violation is reduced from up to 90 days in jail and/or a fine of up to \$500 to a fine of up to \$100.

Amends 21 O.S. § 1290.9 to require that the applicant 'maintains a residence' in this state or has permanent military orders within this state.

Amends 21 O.S. § 1289.14, concerning municipal firearms ordinances: 'As provided in the preemption provisions of this section, the otherwise lawful open carrying of a handgun under the provisions of the Oklahoma Self-Defense Act shall not be punishable by any municipality or other political subdivision of this state as disorderly conduct, disturbing the peace or similar offense against public order.'

TITLE 29

GAME AND FISH

HB 1314 (effective April 13, 2012) repeals 29 O.S. § 5-414. The repealed section prohibited the hunting of 'white deer'. The result is that it is no longer a crime to hunt white deer.

HB 2198 (effective November 1, 2012) amends 29 O.S. § 6-303.1 to add a new penalty for the unlawful 'taking, possessing, or transporting' paddlefish products with a market value over \$5,000. This is punishable by up to one year in jail and/or a fine of up to \$25,000 and forfeiture of equipment used illegally.

HB 2495 (effective November 1, 2012) enacts a new law to be codified at 29 O.S. § 5-415, to provide that a 'meat processor' may release any 'unclaimed, processed, lawfully harvested venison' to the 'Hunters Against Hunger Program'. The processor must wait for 90 days following notification 'by telephone' to the person who brought the wild game for processing. The

processor gets the 'normal reimbursement fee' from the Program.

HB 2573 (effective November 1, 2012) amends 29 O.S. § 5-202 to make another change in trespass law. Under this new amendment, the definition of hunting is expanded to include taking game 'by any means or method'. Unoccupied lands are removed from the list of exceptions to this law. Entry onto the land with express or implied 'permission or legal authority' is an affirmative defense. The possession of written permission from the landowner (or agent) is an affirmative defense, which is not available if:

- The accused has previously pled to, or been convicted of, any act of trespass, or been found civilly liable for trespass; OR
- The accused does not have the written permission specified.

Violation (first offense) is punishable up to 30 days in jail and/or a fine of \$500 to \$1,500 (increased from \$50 to \$500). A second conviction is punishable by jail for up to 6 months and/or a fine of \$1,500 to \$2,500. A final conviction may also result in revocation of hunting or fishing license.

SB 1743 (effective November 1, 2012) amends 29 O.S. § 5-201 to exempt from the prohibitions found in that statute, any person 'hunting on property owned by the person' and any person hunting on property with the 'permission of the owner. This amendment also replaces the word 'silencer' with 'suppressor'. Finally, the amendment clarifies that this statute does 'exempt any person' from the requirements of the National Firearms Act.

HB 2920 (effective September 1, 2012) amends 29 O.S. § 5-502 to allow the use of 'enclosed trigger traps' when trapping is otherwise legal.

TITLE 63

PUBLIC HEALTH AND SAFETY

HB 2566 (effective November 1, 2012) amends 63 O.S. § 1-890.3 to provide that a resident of an 'assisted living center' has the freedom to choose any 'personal attending physicians and all other providers of medical services and supplies' without a penalty or fee being charged by the assisted living center.

HB 2941 (effective July 1, 2012) enacts a new law to be codified at 63 O.S. § 2-

341 and amends some other statutes.

New Law at § 2-341 establishes an electronic system for the sale of ephedrine (and similar products). By January 1, 2013, each pharmacy shall have 'in place and operational' equipment to use a 'real-time electronic methamphetamine precursor tracking service' approved by OBN. This system is to be available free of charge to 'all law enforcement agencies within the state'. This record includes identification information of the buyer, and the details of the purchase, including the 'name and quantity of base pseudoephedrine or ephedrine purchased in grams'. The system does not apply to a purchase made 'pursuant to a valid prescription'.

The pharmacy is to enter the required information before completing the sale, and there is to be a real-time stop-sale alert system. A violation by the pharmacist is punishable by a fine of up to \$1,000 and possible action by the State Board of Pharmacy.

Amends 63 O.S. § 2-212 to requires the pharmacy to collect a 'service charge not to exceed the purchase price'. Upon verification that the purchaser is not on the methamphetamine offender registry, the service charge 'shall be deducted from the total purchase price'. If the purchaser is on the meth registry, the pharmacy is to halt the sale, and keeps the service charge. A sign about this service charge must be posted at the pharmacy. The quantity which may be purchased is reduced to 3.6 grams per day, and the prior exceptions for 'capsules' is repealed.

Amends 63 O.S. § 2-401 to provide that any person on the meth registry who attempts to purchase or 'otherwise acquire' any product with ephedrine is guilty of a felony, with enhanced punishment.

SB 1065 (effective November 1, 2012) amends 63 O.S. § 2-309D to make information collected pursuant to the Anti-Drug Diversion Act confidential, with several exceptions. A new exception allows the Director of OBN to release 'statistical information', limited to the types and quantities, and the county where dispensed.

SB 1734 (effective November 1, 2012) amends 63 O.S. § 2-501 and § 2-103 to clarify that 'any peace officer' may investigate and arrest for money laundering and human trafficking, and to specifically provide that Agents of OBN may investigate and arrest for money laundering and human trafficking.

SB 1401 (effective November 1, 2012) enacts a new law to be codified at 63 O.S.

§ 1-1925.4 to require that nursing facilities (and similar entities) that do not have emergency power generators available, or a written disaster plan must provide a written disclosure to any 'resident or resident's caregiver'.

TITLE 11

CITIES AND TOWNS

HB 2945 (effective November 1, 2012) amends 11 O.S. § 34-104, concerning disposal or personal property or money which is unclaimed after 90 days. The dollar limit requiring written notice of disposal is raised from \$100 to \$250.

SB 1346 (effective April 16, 2012) amends 11 O.S. § 27-105 to address handling of the disqualification of a municipal judge. The 'senior municipal judge' may appoint, on a case-by-case basis, a municipal judge from the same (or an adjoining) county to hear the case.

SB 1031 (effective May 25, 2012) amends 11 O.S. § 36-113 by repealing subsection E. The result is that municipal streets or roads which a county 'constructs, improves, repairs, or maintains' will now be included in the computation of 'mileage for purposes of any state tax revenues apportioned to the county'.

SB 1075 (effective November 1, 2012) amends 11 O.S. § 8-113 to give cities greater latitude for purchases from persons who are employed by the municipality. The population limit is increased from 2,500 to 5,000 and the dollar amount is increased from \$500 to \$2,500 (for a 'single activity') and from \$10,000 to \$15,000 for 'all activities in any calendar year'. The \$15,000 limit may be exceeded if the items are 'regularly sold to the general public in the normal course of business' and the price is the same as charged to the general public.

A new exception is provided where 'competitive bids were obtained' in accordance with city ordinances or state laws and 'two or more bids were submitted' and the notice of bids was 'made public and open to all potential bidders'. Bid documents are public records and must be maintained for at least five years.

SB 1214 (effective April 16, 2012) amends 11 O.S. § 50-105.4 *et al* to make changes (to match I.R.S. regulations) to the Oklahoma Police Pension and Retirement System. These changes are technical accounting matters in nature

and beyond the scope of this update. Persons who are members of the Oklahoma Police Pension and Retirement System are encouraged to review these changes with their accountant or tax adviser.

TITLE 19

COUNTIES AND COUNTY OFFICERS

HB 2281 (effective November 1, 2012) amends 19 O.S. § 180.65 to add ‘undersheriff’ to the list of persons required to be designated of record, in the office of the county clerk, to carry on the duties of the office of the sheriff in the event of the ‘death, removal or resignation’ of the sheriff.

HB 2499 (effective November 1, 2012) enacts a new law to be codified at 19 O.S. § 105 *et seq.* to provide for regional jail districts, for the purpose of ‘planning, financing’, and constructing regional jails. Any county or ‘combination of counties’ may, by Resolution, create a regional jail district. A commission composed of the Sheriff and the ‘presiding county commissioner’ from each county governs the regional jail. The commission has authority to appoint a director to run the regional jail on a day-to-day basis. Any county, city, or town may contract with a regional jail for the purpose of holding prisoners.

HB 2578 (effective November 1, 2012) enacts a new law to be codified at 19 O.S. § 339.7 which allows the county commissioners to enter into a contract with a collection agency to collect ‘accounts receivable including, but not limited to, unpaid fees, penalties, interest, and other sums’ due to the county. The collection fee may not exceed 35% on ‘each item’ that has been referred to the agency.

SB 1000 (effective July 1, 2012) amends 19 O.S. § 1501, which concerns County purchasing procedures. With the amendment, a County may participate in a nationwide purchasing program and ‘local cooperative procurement agreements entered into by the counties and other local jurisdictions’.

TITLE 70

SCHOOLS

HB 2750 (effective November 1, 2012) amends 70 O.S. § 24-131 to allow the

'superintendent or principal of any secondary, middle, or elementary' to have the authority to remove from the premises 'any individual attending an official school activity or field trip where students are present' (even if not on school property) when it is determined that a 'threat to the peaceful conduct of students exists'. Refusal of the person to leave is punishable by jail up to 90 days and/or a fine of up to \$500.

SB 1188 (effective November 1, 2012) amends 70 O.S. § 3311.4 to require any certified reserve officer who has been inactive for more than five years to complete a 'legal update as prescribed by CLEET'.

SB 1187 (effective November 1, 2012) amends 70 O.S. § 3311 to allow CLEET to waive receivables that are deemed uncollectable by the Council.

HB 2967 (effective November 1, 2012) amends 70 O.S. § 821.85 to reduce the amount of the required surety bond from \$250,000 to \$50,000 'conditioned upon the athlete agent not violating any provision' of the Uniform Athlete Agents Act.

TITLE 43A

MENTAL HEALTH

HB 2580 (effective November 1, 2012) amends 43A O.S. § 5-410 to add 'grandparent' to the list of family members who may file a petition for a court hearing on whether an individual is a 'person requiring treatment'.

TITLE 76

TORTS

SB 875 (effective November 1, 2012) enacts a new law to be codified at 76 O.S. § 50.6 providing immunity for certain civil suits. Any 'owner, employee, participant, member, guest, or customer of a gun range, gun shop, or gun club' shall not be liable for injuries when such injuries result from the 'inherent risks of such activities. The owner, employer, &c must be acting in good faith and 'pursuant to the standards of the firearm industry and the duty of care under common law and gun club rules'. There is no limitation of liability if the owner or employee commits willful or wanton 'disregard for the safety of the person' or 'intentionally injures' the person. The statute has no effect on workers comp

claims of employees of gun ranges.

HB 2414 (effective April 23, 2012) enacts a new law to be codified at 76 O.S. § 101. The ostensible purpose of this law is to protect a person who offers shelter in a storm from civil lawsuits. The definitions are so vague that it is not clear just how much protection is afforded.

- 'Safe place' is defined as any 'property, dwelling, shelter, or other structure' that can be 'reasonably considered protection from severe weather'.
- 'Severe weather' is defined to include (but is not limited to) 'tornadoes, high winds, and floods'.
- The entity who provides shelter must act in good faith, and is not entitled to immunity if the damage or injury was caused by the 'willful or wanton negligence or misconduct' of the entity.

TITLE 22

CRIMINAL PROCEDURE

HB 3052 (effective November 1, 2012) makes several changes in sentencing procedures:

- **enacts a new law to be codified at 22 O.S. § 210** which requires a person found guilty of a felony to have an 'approved risk, mental health and substance abuse assessment and evaluation' done by DMHSAS. This evaluation may be used by the court for sentencing but is not normally admissible in a criminal trial.
- **amends 22 O.S. § 471.2** to require that a drug court participant be warned that failure to comply with drug court rules can be sanctioned by 6 months in an 'intermediate revocation facility' operated by DOC. An offender may not serve more than two separate terms in the revocation facility.
- **amends 22 O.S. § 982a** to provide that a motion for judicial review must be filed within 24 months, instead of 12 months, of sentencing. Any application filed after 12 months must be approved by the D.A. and notice must be given to victims.
- **enacts a new law to be codified at 22 O.S. § 991a-21** to require that any person, convicted of a felony and sentenced to a term in DOC, must also be sentenced to at least 9 months of post-imprisonment supervision. Failure of the offender to comply with the rules of the supervision may result in a

term of 6 months in an intermediate revocation facility.

- **enacts a new law to be codified at 74 O.S. § 20k** to establish the 'Justice Reinvestment Grant Program'. Local law enforcement agencies may submit proposals to the Attorney General focusing on 'increasing the capacity of the law enforcement agency to address violent crime' through one of the following strategies:
 1. directed patrols, intelligence-led policing, and similar tactics
 2. increased use of technologies like crime-mapping software and GPS and 'smart phone tools'.
 3. enhanced analytical capabilities focused on 'analysis of crime trends' and 'data-driven strategies' using 'civilian crime analysts'
 4. engagement with 'community partners'
 5. increased direct services to crime victims.

HB 2396 (effective November 1, 2012) amends 22 O.S. § 60.4 to provide that a Victim's Protective Order may be for a term of five years (instead of 3). This also allows a 'continuous' VPO if the court finds that:

- the respondent has a history of violating court orders; OR
- the respondent has been convicted of a violent felony; OR
- the respondent has a previous felony conviction for stalking and there has been a previous VPO.

The court may also consider any history of violent acts. This 'continuous' VPO remains in effect 'until modified, vacated, or rescinded upon motion' or pursuant to a 'consent agreement'. A VPO continues in effect during any period of incarceration of the respondent.

TITLE 10

CHILDREN

HB 2251 (effective November 1, 2012) amends 10A O.S. § 1-1-105 to add a new definition of 'drug endangered child':

'a child who is at risk of suffering physical, psychological or sexual harm as a result of the use, possession, distribution, manufacture or cultivation of controlled substances, or the attempt of any of these acts, by a person responsible for the health, safety or welfare of the child, as defined in paragraph 51 of this section. This term includes circumstances wherein the substance abuse of the person responsible for the health, safety or welfare of the child interferes with that

person's ability to parent and provide a safe and nurturing environment for the child. The term also includes newborns who test positive for a controlled dangerous substance, with the exception of those substances administered under the care of a physician.'

This bill also amends 10A O.S. § 1-2-102 to provide that DHS shall conduct an investigation of any 'drug endangered child', or a child diagnosed with fetal alcohol syndrome, and 'shall not limit the evaluation of the circumstances to an assessment'.

HB 3091 (effective November 1, 2012) amends 10A O.S. § 2-5-210 to allow access to expunged records of youthful offenders by 'judiciary, district attorneys, the youthful offender, employees of juvenile bureaus and the Office of Juvenile Affairs' and DOC in certain circumstances.

Also amends 22 O.S. § 18 to affect adult expungements:

- Changes the 'one year after arrest with no charges filed' basis for expungement to 'the statute of limitations has expired or the prosecuting agency has declined to file charges'.
- Adds the situation in which all charges have been dismissed, and the applicant has no felony convictions, and no pending charges, and the statute of limitations has expired or the prosecuting agency confirms that charges will not be re-filed.
- Adds the situation in which a misdemeanor was deferred and then dismissed, and the applicant has not been convicted of any other charges, and has no charges pending, and at least 2 years have passed since dismissal.
- Adds the situation in which a nonviolent felony has been deferred and dismissed, with no other convictions or charges pending, and at least 10 years have passed since dismissal.
- Provides that these expunged records are admissible in subsequent criminal prosecutions to 'prove the existence of a prior conviction or prior deferred judgment' without a court order to unseal the records.

SB 1582 (effective November 1, 2012) amends 10A O.S. § 2-7-201 to allow the executive director of OJA to appoint and commission campus police for 'secure juvenile facilities and their adjacent grounds'. These will have the same powers as campus police officers.

Title 6

Banking

HB 2787 (effective November 1, 2012) amends 6 O.S. § 906, concerning the contents of safe-deposit boxes. Upon the death of a person who is 'the sole renter' of the safe deposit box, the bank (or credit union) may open the box and release the contents when:

- there is an affidavit which establishes jurisdiction and 'relation to the deceased' and states that the renter left no will or that the contents are the only known assets of the box renter.
- every known heir is present in person or by a 'duly authorized agent' appointed in writing.

A bank or credit union which relies on the affidavit in good faith is discharged from any liability. Submission of a false affidavit is punishable by jail up to 6 months and/or a fine of up to \$3,000.

TITLE 68

REVENUE AND TAXATION

HB 2710 (effective July 1, 2012) enacts a new law to be codified at 68 O.S. § 380, limiting possession and use of 'cigarette rolling vending machines', defined as a 'machine or device into which loose tobacco and cigarette tubes are placed that is capable of producing cigarettes. It is now a crime for any person who 'owns, leases, rents or otherwise has available for use' such a machine in a 'commercial setting in order to produce a cigarette'. Selling, re-selling, distributing, dispensing, or giving away any cigarettes produced by one of these machines, or making one of these machines available for use by 'customers of a retail business to produce cigarettes is also a crime.

Exceptions are provided for properly licensed cigarette manufacturer and for a machine for personal use (and not located in a retail business). This crime is punishable up to 90 days in jail and/or a fine of up to \$5,000 along with 'forfeiture and destruction' of the machine.

Title 85

Workers Compensation

SB 1246 (effective November 1, 2012) amends 85 O.S. § 410. When a workers' compensation claimant is charged with workers' compensation fraud (under Title 21 O.S. § 1663) and is bound over at preliminary hearing, the workers' compensation case is to be stayed until the final disposition of the criminal case.

SB 1321 (effective November 1, 2012) also amends 85 O.S. § 410 to allow the Attorney General to contract with certified retired peace officers or 'CLEET certified private investigators' for investigations related to the Workers' Compensation Fraud Unit.

Title 2

Agriculture

HB 2189 (effective April 2, 2012) enacts a new law to be codified at 2 O.S. § 3-310, making it a crime to 'plant, nurture, or otherwise commercially produce castor beans containing the toxin ricin'. Violation is punishable by a fine of up to \$500.00.

HB 2188 (effective April 2, 2012) enacts a new law to be codified at 2 O.S. § 3-311. It is now a crime to transport more than 50 pounds of castor beans containing the toxin ricin within the state. Punishment is by a fine of up to \$500.00. Enforcement is assigned to the Department of Agriculture, Food, and Forestry.

HB 2925 (effective November 1, 2012) amends the Farmed Cervidae Act to allow for reciprocal agreements. Under § 6-507, it is illegal to 'transport live cervidae into or through Oklahoma' unless the cervidae originate in a reciprocating state.

SB 1518 (effective November 1, 2012) amends 2 O.S. § 6-608 to provide that feral swine may be imported into the state only if 'going directly to a slaughter facility in a sealed trailer' and has a permit from USDA.

SB 1751 (effective November 1, 2012) amends 2 O.S. § 2-603 and enacts two new sections related to the 'Judas Pig Tagging System'. This is a population control technique in which a radio-collared feral swine is released into a 'control

area' and the collar is used to track down and remove all associated feral swine. The tagging and release must be done within 24 hours of the capture, and onto the same private land on which the swine was captured. The person who does the tagging is not considered to be the 'owner' of the swine.

Title 12

Civil Procedure

HB 2289 (effective January 1, 2013) amends 12 O.S. § 158.1 to make changes related to private process servers. These changes include:

- a requirement that the provide process server be a resident of Oklahoma for at least six months, and a resident of the judicial administrative district for at least 30 days.
- technical changes in the application form and notices and hearings
- allowing private process servers to serve process in 'any county in this state'.
- a provision that applicants who are denied a license by the judge may not re-apply for at least one year.
- allows the Attorney General to file a petition to revoke the license, in addition to the District Attorney.
- establishes a statewide registry of private process servers to be administered by the Administrative Office of the Courts.

SB 1313 (effective November 1, 2012) amends 12 O.S. § 2004.3 requirements for service of process by certified mail. A return receipt signed at 'a dwelling house or usual place of abode shall be presumed to have been signed by a person who is 15 years of age or older who resides' at the dwelling. Similarly, a return receipt signed at the 'registered office or principal place of business' of a corporation is presumed to have been signed by an 'employee authorized to receive certified mail'.

Title 51

Officers

SB 1316 (effective November 1, 2012) amends 51 O.S. § 155 (The Governmental Tort Claims Act) to add a new exemption from liability. The state or a political subdivision shall not be liable for 'use of a public facility opened to the general

public during an emergency’.

SB 1882 (effective November 1, 2012) amends 51 O.S. § 155 to add another exception to the Governmental Tort Claims Act. The state or a political subdivision shall not be liable for ‘use of indoor or outdoor school property and facilities made available for public recreation before or after normal school hours’ or weekends or school vacations, unless the claim results from ‘willful and wanton acts of negligence’.

SB 1544 (effective November 1, 2012) amends 51 O.S. § 6 (‘dual commissions’) to provide a new exception to allow a ‘reserve special agent’ with OBN to also serve as a reserve municipal police officer.

TITLE 74

STATE GOVERNMENT

HB 2446 (effective November 1, 2012) amends 74 O.S. § 150.8 and other sections to allow OSBI agents assigned to specific job tasks to also assist with other investigations.

HB 2564 (effective April 19, 2012) amends 74 O.S. § 1221, which requires approval of certain agreements between the State and Indian tribes by the Governor and by the Joint Committee on State-Tribal relations. The effect of this amendment is that agreements between DOT or OTA and an Indian tribe ‘for the maintenance and construction of transportation facilities, roads or bridges’ are not subject to the approval process requirement.

SB 259 (effective May 24, 2012) enacts a new law to be codified at 74 O.S. § 2301 requiring posting of certain information about Oklahoma lakes:

- The Tourism and Recreation Department is to develop a website by December 31, 2012, which will include information on ‘water quality, as it adversely affects human and mammalian animal health’.
- Any state or municipal agency which manages a lake or reservoir is to post signs directing the public to the website for information on water quality. They are also to advise the public whenever certain levels of blue-green algae are detected.
- The Department of Health is to make available to physicians and local

health departments information on the 'effects and symptoms' of exposure to blue-green algae.

SB 284 (effective November 1, 2012) makes several changes related to various police departments.

- **Amends 3 O.S. § 65.8** to allow an airport trust police officer to hold 'full police powers', in addition to municipally appointed airport guards or police. The officer may be called a 'campus public safety officer' or an 'airport officer' or an 'airport police officer' or an 'airport security officer'.
- **Amends 74 O.S. § 360.16** to include an 'airport public trust' in the definition of 'campus' for purposes of the Oklahoma Campus Security Act. An 'Airport public trust' is defined as a public trust which operates an airport and whose beneficiary is an Oklahoma municipality or county.
- **Amends 74 O.S. § 360.20** to allow municipalities and county sheriff's having concurrent or overlapping jurisdiction with an airport public trust to enter into agreements recognizing jurisdictional boundaries and providing for mutual assistance.

SB 1083 (effective November 1, 2012) enacts a new law to be codified at 74 O.S. § 840-2.10a allowing certain state agencies to provide non-mandatory 'debriefing and counseling services' for employees affected by 'violent or traumatic events' in the workplace. The Director of the Office State Finance is to promulgate rules to 'specify the types of events' which qualify. The agencies are:

- Office of Juvenile Affairs
- Department of Human Services
- Department of Transportation
- Department of Corrections

SB 1505 (effective November 1, 2012) enacts a new law to be codified at 74 O.S. § 18p-10. This creates the Oklahoma Witness Protection Program, to be established by the Attorney General, using money from the AG evidence fund or from federal grants. It is intended to protect witnesses who are 'actively aiding in the prosecution of dangerous perpetrators and who are in danger of bodily harm or death' as a result. Funds may be used to provide 'temporary living costs, moving expenses, rent, security deposits' and similar expenses.

Also amends 21 O.S. § 582 to provide for sealing of indictments and clarifies that a person who willfully discloses, before the arrest of the defendant, the 'content of a sealed indictment' is guilty of a misdemeanor, whatever the

crime charged.

SB 1546 (effective November 1, 2012) amends 74 O.S. § 150.13A which allows OSBI to appoint 'special investigators'. The jurisdiction of these 'special investigators' is expanded from investigating 'larceny of oil field equipment' to investigation 'oil and gas industry crimes, which shall include the larceny of property, supplies, or products'.

TITLE 57

PRISONS AND REFORMATORIES

HB 2364 (effective November 1, 2012) amends 57 O.S. § 21 to allow prison officials to sell or dispose of 'any electronic communication device' which has no identifiable owner and is seized as contraband in the jail or prison.

HB 3049 (effective November 1, 2012) amends 57 O.S. § 590 to place further restrictions on registered sex offenders. A registered sex offender is not allowed to 'intentionally' move into, or 'reside' where a minor child resides. An exception is made for a 'parent, stepparent, or grandparent' if the minor child was not the victim of the offense for which registration is required.

SB 1069 (effective November 1, 2012) amends 57 O.S. § 530.2, which concerns money and property held by inmates in DOC. If the inmate dies and no-one is willing to accept the inmate's remains, DOC may deduct the cost of cremation from any balance due to the inmate's designated beneficiary.

TITLE 59

PROFESSIONS AND OCCUPATIONS

SB 1127 (effective November 1, 2012) amends 59 O.S. § 1305, which concerns qualifications of bail bondsmen. The former requirement of 'good character and reputation' is changed to 'competent, trustworthy, financially responsible, and is of good personal and business reputation and character'. The Insurance Commissioner may require the applicant to produce documents needed to verify information in the application.

Unclassifiable

HB 2835 (effective November 1, 2012) enacts a new law to be codified at 27A O.S. § 2-6-108 allowing the use of 'gray water' in certain circumstances. Gray Water is 'deferred' (*sic*, 'defined') as 'untreated household wastewater that has not come in contact with toilet waste' and includes wastewater from 'bathtubs, showers, washbasins, clothes washing machines (unless used for washing diapers) and laundry tubs' and water used 'by fire departments for cleaning equipment and vehicles. Gray Water does not include wastewater from kitchen sinks or kitchen dishwashers.

Under this new law, up to 250 gallons per day of gray water may be used for gardening, composting, or landscape irrigation' if these conditions are met:

- a constructed gray water system provides for overflow into sewage systems
- the storage tank is covered
- the system is not in a floodway
- gray water is vertically separated by at least 5 feet from the groundwater table
- gray water pressure piping is clearly identified as 'nonpotable water'
- gray water is used on the site where it is generated and does not run off the property
- is applied in a manner that 'minimizes the potential for contact with people' or pets
- ponding is prohibited and application is managed to minimize standing water
- gray water is not sprayed, and is not discharged to a waterway
- if within a municipality the system must comply with all applicable ordinances.

HJR 1070 (effective November 1, 2012) enacts a new law to be codified at 53 O.S. § 86 designates the Colman Theatre Beautiful in Miami, Oklahoma as 'The Premier Vaudeville Theatre of the State of Oklahoma'. The reasons:

1. It was built by George Coleman, a 'local mining magnate'.
2. It opened April 18, 1929, with a full house of 1,600, admission \$1.00 per seat.
3. It is an opulent structure with a Louis XV interior considered 'dazzling'.
4. It was donated to the City of Miami in 1989.
5. The citizens of Miami have put a lot of work into maintaining and

restoring the theater, including the 'Mighty Wurlitzer' pipe organ.

SB 1152 (effective November 1, 2012) amends 36 O.S. § 1204 to increase the allowable value of inducements (to buy insurance) in the form of any 'prizes, goods, wares, merchandise, or tangible property' from \$25 to \$100.

HJR 1093 (effective May 1, 2012) expressly disapproves the recommendation of the Board on Judicial Compensation for a 6% cost of living pay increase for judges.