

# Council on Law Enforcement Education and Training

## 2017 Legal 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](http://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>. The 'enrolled' bill is the final version.*

**NOTE – as a reminder: From 2016 Legislative session, but **effective January 1, 2017**, SB 1202, amended 70 O.S.3311.4:**

**B. Beginning January 1, 2017, and annually thereafter, every active reserve peace officer, certified by CLEET pursuant to Section 3311 of this title, shall attend and complete a minimum of eight (8) hours of continuing law enforcement training accredited or provided by CLEET which shall include a mandatory one (1) hour on mental health issues.**

This is in addition to the **required firearms qualification**.

## **STATE QUESTION 780 STATUTE CHANGES- Initiative Petition 404**

**Adopted at election held November 8, 2016, effective July 1, 2017 –changed at least 19 statutes, summarized below.**

**63 O.S. 2-402 – Drug Possession** - Makes simple possession of drugs for personal use a misdemeanor and eliminates the provision making it a felony to possess or purchase drugs within 1000 feet of a school.

**21 O.S. 51.3 – Second and Subsequent Offense** - This statute which enhances punishment after a former conviction for petit larceny or a former conviction of an offense punishable by imprisonment in the penitentiary **is repealed**. The effect is that the previous conviction can no longer be used to enhance punishment for the current conviction.

**59 O.S. 1512 – False Declaration of Ownership** – Previously, using false identification or making a false declaration of ownership when selling or pledging property to a pawn broker, was a felony. With the passage of State Question 780, it's now a felony only if the value of the property is \$1000 or more **or** if the property was taken in a robbery or burglary (whatever the

value). It appears that if the property is of a value less than \$1000 and it was **not** taken in a burglary or robbery, it is not false declaration. Some prosecutors are exploring whether this might be prosecuted under Obtaining Money by False Pretenses.

**21 O.S. 1431 – Embezzlement** – Previously, if the value of the property was \$500 or more, it was a felony. Now, to constitute a felony, the value must be \$1000 or more.

**21 O.S. 1731 – Larceny of Merchandise from Retailer** – With the change, the value of the property must be \$1000 or more to be a felony.

**21 O.S. 1722 – Taking Oil, Gas, Gasoline – relates to oil and gas wells -** After State Question 780 it's a misdemeanor if the value of the product is less than \$1,000 and a felony if the value is \$1,000 or more.

**21 O.S. 1719.1 – Larceny of Domesticated Fish and Game** – If the current market value of the domesticated fish or game is less than \$1,000 then it's a misdemeanor. If it's \$1,000 or more, it's a felony.

**21 O.S.1713 – Receiving Stolen Property - Reasonable Inquiry Required-** The felony limit is raised to \$1000 or more.

**21 O.S. 1704 – Grand Larceny/Petit Larceny defined** – After State Question 780, it is grand larceny if the property taken is of value **exceeding \$1000** (or, as previously when taken from the person). It is petit larceny (misdemeanor) in all other cases.

**21 O.S. 1705 – Grand Larceny Penalty** – According to **this** statute, grand larceny is a **felony** punishable by imprisonment in the State Penitentiary not exceeding five (5) years **if the value of the property is One Thousand Dollars (\$1,000) or more** and **if the value of the property is less than One Thousand Dollars (\$1,000)** punishable by incarceration in the **county jail for not more than one (1) year**

- **NOTE THE CONFLICT: Under 21 O.S. 1704, Grand Larceny must exceed \$1000 while according to 21 O.S. 1705 Grand Larceny is property of a value of \$1000 or more.**

**21 O.S. 1541.1 – Obtaining Property by Trick or Deception – Attempt – False Representation or Pretense – Confidence Game – Penalty** – if a person obtains property by “use of any trick or deception, or false or

fraudulent representation or statement or pretense, or by any other means or instruments or device commonly called the ‘confidence game’, or by means or use of any false or bogus checks, or by any other written or printed or engraved instrument or spurious coin,” and the value of the property is less than \$1000, it’s a misdemeanor.

**21 O.S. 1541.2 – Penalty – Value of Property, Money, or Valuable Thing** – If a person commits one of the crimes listed in the preceding section (§ 1541.1) and the value is \$1000 or more, it’s a felony.

**21 O.S. 1541.3 – False or Bogus Checks, Drafts, or Orders – Penalty** – If a person makes, draws, utters or delivers two or more bogus checks, drafts or orders, the total sum of which is \$1,000 or more, even if each instrument is written for less than \$1,000, it’s a felony if it’s a common scheme or plan to cheat and defraud.

**21 O.S. 1577 – Sale, Delivery or Receipt of Forged Notes or Instruments – Aggregation of Offenses Due to Formulation of Plan** – In essence, takes some crimes (more than \$1000) that were previously forgery in the 2<sup>nd</sup> degree and makes them forgery in the 3<sup>rd</sup> degree.

**21 O.S. 1578 – Possession of Forged Notes or Instruments – Aggregation of Offenses Due to Formulation of Plan** – Possession of forged notes or instruments is now forgery in the 3<sup>rd</sup> degree.

**21 O.S. 1579 – Other Forged Instruments** – Possession of forged instruments other than those set forth in the preceding section is now also forgery in the 3<sup>rd</sup> degree.

**21 O.S. 1621 – Penalty for Forgery, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> degree** – After State Question 780, 1<sup>st</sup> and 2<sup>nd</sup> degree forgery are still felonies; 3<sup>rd</sup> degree forgery is a misdemeanor if the value is less than \$1,000; 3<sup>rd</sup> degree forgery is a felony if the value is \$1,000 or more; 3<sup>rd</sup> degree forgery is a felony if the total or aggregate value of the forgery is \$2,000 or more

**21 O.S. 1521 – Motor Vehicle Lease or Rental - Payment by False or Bogus Check** – The felony limit for using a bogus check to lease/rent a vehicle is raised to \$1000 or more.

**21 O.S. 1503 – Defrauding Hotels, Inns, Restaurants** – If the value for these crimes is less than \$1000, it’s a misdemeanor. If it’s \$1000 or more, it’s a felony.

**SB 1257 from 2016 session of the Legislature but overlooked.** This law was effective November 1, 2016 and criminalized the “nonconsensual dissemination of private sexual images” at 21 O.S. 1040.13b. A person commits this crime if he/she intentionally disseminates an image of someone over 18, who is identifiable, and who is engaged in a sexual act or whose “intimate parts” are exposed. This would appear to address “boudoir” photos disseminated after the breakup even if the photos were originally taken with permission of the victim! A violation of this section is a misdemeanor.

## **FROM THE 2017 LEGISLATIVE SESSION**

### **Title 21 – Crimes and Punishments**

**Three different bills were enacted during the 2017 Legislative Session amending 21 O.S. 1277, relating to weapons. These bills, SB 833, HB 1104, and HB 1550 are summarized below.**

**SB 833 (effective November 1, 2017, signed April 13, 2017) amends 21 O.S. 1277** and is titled as: An Act relating to multiple versions of statutes; amending, merging, consolidating and repealing multiple versions of statutes. This is the first version set forth in the statutes and appears to be a “clean up” of the language in the statute.

**HB 1104 (effective November 1, 2017, signed May 2, 2017) amends 21 O.S. 1277,** the Self Defense Act (21 O.S. 1277) to permit elected county officials who have an SDA license to carry a concealed handgun within the courthouse of the county in which he or she was elected when acting in the performance of their duties. They may not carry the handgun into a courtroom.

**HB 1550 (effective November 1, 2017, signed May 1, 2017) amends 21 O.S. 1277** to modify the definition of a motor vehicle to include a motorcycle with a locked accessory container within or affixed to it. This change in the definition permits a person with a Self Defense Act carry permit to have the firearm in the locked compartment under the circumstances and locations set forth in this section, e.g., parking lots on public property, school property, etc...

**HB 1005 (Effective November 1, 2017) amends 21 O.S. 1114** to provide that rape by instrumentation is 1<sup>st</sup> Degree Rape. Previously, to be 1<sup>st</sup> Degree Rape, Rape by Instrumentation had to be committed on a person under 14 years of age or result in bodily harm; otherwise it was 2<sup>nd</sup> Degree Rape.

**HB 1127 (effective November 1, 2017) amends 21 O.S. 112** by requiring the court, in any jury trial of a crime involving any type of sexual contact or behavior where “consent” is an issue, to give an instruction to the jury on the definition of consent as defined in 21 O.S. 113. Consent, in that section, means “affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter which can be revoked at any time.” Consent cannot be given by someone who’s asleep or is mentally or physically incapacitated by drugs or alcohol, or who is being coerced. It cannot be inferred under circumstances where consent is not clear including the absence of the person saying ‘no’ or ‘stop,’ or the existence of a prior or current relationship or sexual activity.

**SB 273 (effective July 1, 2017) amends 21 O.S. 888, 21 O.S. 1111, and 21 O.S. 1123** by adding to the definitions of forcible sodomy, rape, and sexual battery when the acts (even if consensual) are committed by a person who is “...the subcontractor, or employee of a subcontractor of the contractor of the state or federal government, a county, a municipality or a political subdivision of the state.

**HB 1468 (effective November 1, 2017) creates the “Hidden Predator Act” by amending 22 O.S. 152.** The change extends the statute of limitations for sex crimes against children (specifically rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography, child trafficking, and child sexual abuse) to up until the victim’s 45<sup>th</sup> birthday. Previously the statute of limitations was 12 years from discovery of the crime.

Related to **HB 1468** above, **HB 1470 (also effective November 1, 2017) amends 12 O.S. 95** to extend the statute of limitations for filing a civil suit for childhood sexual abuse to allow the victim to sue for damages until their 45<sup>th</sup> birthday. The measure also removes a requirement that the victim had psychologically repressed the memory and that there was corroborating evidence that the sexual abuse, exploitation, or incest actually occurred.

**HB 1680 (effective November 1, 2017) amends 21 O.S. 142A-2** to require that the District Attorney’s Office inform crime victims of the right to utilize the automated notification system provided by the victim notification service provider for purposes of receiving information on the location of the defendant following an

arrest, during prosecution, and during a sentence to probation or confinement, and when there a release or escape of the defendant.

The bill **also amends 21 O.S. 142A-13 and creates new law at 57 O.S. 360.1** to require that the Department of Corrections notify the designated victim notification service of the projected date of release of an inmate within 60 days but not less than 7 days prior to the release date.

The bill **also amends 57 O.S. 510.9 relating to the Electronic Monitoring Program** requiring DOC to make the above notification if the defendant is to be released. This section continues to require that DOC notify the Sheriff and District Attorney prior to an inmate in the Electronic Monitoring Program being placed in a community setting.

**HB 1811 (effective November 1, 2017) amends 21 O.S. 1024.4** to clarify the procedures relating to the destruction of obscene material or child pornography. The agency/entity in possession of the material must receive consent from the District Attorney prior to destruction.

**HB 1123 (EMERGENCY - Effective when signed on May 3, 2017) creates new law at 21 O.S. 1792** regarding trespassing on “critical infrastructure facilities” which include, among other areas, petroleum refineries, electrical power generating facilities, telecommunications central switching offices, wireless communications infrastructures (including cell towers, telephone poles and lines, and fiber optic lines), railroad lines and switching yards, dams that are regulated by the state or federal government, and crude oil or refined products storage and distribution facilities. Trespassing is a misdemeanor but if it can be shown the intent of the trespasser was to damage, destroy, vandalize, deface, tamper with equipment or impede or inhibit the operation of the facility, it is a felony (although punishable by a fine of up to \$10,000 and only 1 year in the custody of the Department of Corrections).

A person who willfully damages, destroys, vandalizes, defaces, or tampers with the equipment in a critical infrastructure facility is guilty of a felony punishable by up to a \$100,000 fine and/or up to 10 years in the custody of DOC.

If an organization is a conspirator with the violator, the organization is punished by a fine 10 times the fine of the individual.

**HB 2128 (effective November 1, 2017)** relates to the above (or apparently any trespasser), and **creates new law at 76 O.S. 80.1** providing that a person arrested or convicted of trespassing (including a person or entity that compensates the individual for trespassing) may be held liable for any damages to personal or real property while trespassing.

**HB 1306 (effective November 1, 2017) amends 21 O.S. 701.9** known as the **“Blue Lives Matter in Oklahoma Act of 2017.”** A person convicted of 1st Degree Murder of a law enforcement officer, correctional officer, or corrections employee while the officer or employee is in the performance of official duties shall be punished by death or life without parole and unless there is “an overwhelming amount of mitigating evidence shall not be entitled to or afforded the benefit of receiving imprisonment for life or deferment of the sentence.

This bill also provides that one who is convicted of 2<sup>nd</sup> Degree Murder is punished by imprisonment in “the custody of the Department of Corrections for not less than 10 years” (previously said “...imprisonment in a state penal institution.”)

**HB 1428 (effective November 1, 2017) creates the “Handgun Carry Military Age Exemption Act” and amends 21 O.S. 1290.9.** The Self Defense Act is modified so that a person, age 18-21, who is a member or veteran of, or was discharged under honorable conditions from, the United States Armed Forces, the Reserves, or National Guard is eligible for an Self Defense Act license to carry a handgun.

**SB 34 (effective November 1, 2017) amends 21 O.S. 748** to provide that lack of knowledge of the age of a victim does not constitute a defense to human trafficking of a minor.

**SB 35 (all effective November 1, 2017) amends 21 O.S.1290.8** to permit an active military member or member of the Reserve or National Guard (to include Drill Status Guard and Reserve, Active Guard Reserves or Military Technicians) who is 21 or over to carry a handgun without a license. The amendment states that the presentation of a valid military identification card will be considered a valid handgun license issued pursuant to the Oklahoma Self-Defense Act.

This bill **also amends 21 O.S. 1290.12** to remove the requirement that a person exempt from the training requirements (e.g., firearms instructors registered with OSBI, police officers, etc....) present required proof of the exemption to the firearms instructor to receive an exemption certificate.



**Title 21 O.S. 1290.15 is also amended** by this bill by adding reserve duty officers to those exempted from the required SDA training. This bill removes the requirement that a person applying for an exemption may be required to complete the classroom portion of the training and also removes the section that requires CLEET to establish criteria for providing proof of an exemption.

This bill **also amends 21 O.S. 1290.26** relating to reciprocal agreements. Oklahoma now recognizes a valid military identification card even if issued in another state. In addition, a person who enters Oklahoma in possession of a firearm authorized for concealed carry who is from a “nonpermitted carry state” is now authorized to carry either concealed or unconcealed (previously that person could only carry concealed). The person must still disclose that they are in possession of a handgun when coming into contact with a peace officer.

**SB 36 (effective November 1, 2017) amends 21 O.S. 1289.3** to include “handguns” (in addition to pistols) in the definitions for the Firearms Act. The change also adds to the definition of pistols and handguns that they are capable of discharging “single or multiple projectiles from a single round of ammunition and using a combustible propellant charge (instead of “either gunpowder, gas or any means of rocket propulsion).

**Section 2 of this bill amends 21 O.S. 1290.2** by changing the definition of (c)oncealed handgun” to include “handgun” and changes “not openly discernible” to “not openly visible.” The term “open carry” is added to the definition of “(u)nconcealed handgun” and eliminates “belt holster or shoulder” holster and just uses the term “holster.” The statute also addresses using a “sling” for carrying firearms. The “pistol” or “handgun” definition is changed from an overall length of less than 16 inches to “an overall barrel or barrels length of less than sixteen (16) inches.” This change seems to make it consistent with previous language in 21 O.S. 1289.3 and addresses inconsistent definitions. Previously the pistol/handgun had to be designed to be held by the use of a single hand. Now, it “can be held and fired by the use of one or both hands.” Finally, the exclusion from the definition of pistol or handgun no longer includes “homemade” pistol, i.e., where previously the statute said the definition of a pistol or handgun did not apply to “homemade or imitation pistols, flare guns, underwater fishing guns or blank pistols,” it now states it doesn’t apply to “imitation pistols, flare guns, underwater fishing guns or blank pistols.”

**SB 40 (effective November 1, 2017) amends 21 O.S. 1289.16** to amend felony pointing a firearm to permit doing so as an act of self defense. The statute previously permitted the pointing of shotguns, rifles, or pistols “by law enforcement authorities in the performance of their duties. That has now been expanded to include “armed security guards licensed by the Council on Law Enforcement Education and Training pursuant to the Oklahoma Security Guard and Private Investigator Act in the performance of their duties.”

The bill **also adds at 21 O.S. 1289.25 (J), Physical or Deadly Force Against Intruder:**

J. A person pointing a weapon at a perpetrator in self-defense or in order to thwart, stop or deter a forcible felony or attempted forcible felony shall not be deemed guilty of committing a criminal act.

The bill also **adds at 21 O.S. 1289.25 (K)(1):**

K. As used in this section:

1. "Defensive force" includes, but shall not be limited to, pointing a weapon at a perpetrator in self-defense or in order to thwart, stop or deter a forcible felony or attempted forcible felony

**SB 286 (effective November 1, 2017) repeals several obsolete statutes relating to women.**

**21 O.S. 779 - Imputation of Unchastity as Slander – Penalty – REPEALED**

If any person shall orally or otherwise, falsely and maliciously or falsely and wantonly impute to any female, married or unmarried, a want of chastity, he shall be deemed guilty of slander, and upon conviction shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment.

**21 O.S. 780 - Imputation of Unchastity - Proof – Defense – REPEALED**

In any prosecution under the preceding section it shall not be necessary for the state to show that such imputation was false, but the defendant may, in justification, show the truth of the imputation, and the general reputation for chastity of the female alleged.

**21 O.S. 1120 - Penalty for Seducing Unmarried Female Under Promise of Marriage – REPEALED**

Any person who, under promise of marriage, seduces and has illicit connection with any unmarried female of previous chaste character shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in a county jail not exceeding one (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

**21 O.S. 1121 - Subsequent Marriage a Defense – REPEALED**

The subsequent marriage of the parties is a defense to a prosecution for a violation of the last section.

**21 O.S. 1122 - Marriage After Seduction - Penalty for Abandonment – REPEALED**

Any person charged by information or indictment with the offense of seduction who shall, before the trial of such charge, marry the female whom he was accused of seducing, thereby procuring the dismissal of such charge, and who shall within two (2) years after said marriage, without the fault of his said wife, such fault amounting to acts committed by her after said marriage as would entitle him to a divorce under the laws of this state, shall abandon her or refuse to live with her, or shall be so cruel to her as to compel her to leave him, or shall be guilty of such outrages or cruelties towards her as to make their living together impossible, thereby leaving her or forcing her to leave him, and live apart from each other, shall be guilty of the offense of abandonment after seduction and marriage; and any person convicted of said offense shall be guilty of a felony and shall be confined in the State Penitentiary for a term of not less than two (2) years nor more than ten (10) years; and said marriage shall be no bar to the qualifications of said female to testify against the defendant; and the female so seduced and subsequently married and abandoned as herein provided, shall be a competent witness against said defendant.

**SB 288 (effective November 1, 2017) amends 21 O.S. 1290.22** relating to business owners rights. The relevant portion of the statute now reads, (new sections underlined):

F. A person, property owner, tenant, employer, holder of an event permit, place of worship or business entity that does or does not prohibit any

individual except a convicted felon from carrying a loaded or unloaded, concealed or unconcealed weapon on property that the person, property owner, tenant, employer, holder of an event permit, place of worship or business entity owns, or has legal control of, is immune from any liability arising from that decision. Except for acts of gross negligence or willful or wanton misconduct, an employer who does or does not prohibit their employees from carrying a concealed or unconcealed weapon is immune from any liability arising from that decision. A person, property owner, tenant, employer, holder of an event permit, place of worship or business entity that does not prohibit persons from carrying a concealed or unconcealed weapon pursuant to subsection D of this section shall be immune from any liability arising from the carrying of a concealed or unconcealed weapon, while in the scope of employment, on the property or in or about a business entity vehicle. The provisions of this subsection shall not apply to claims pursuant to the Administrative Workers' Compensation Act.

**SB 342 (effective July 1, 2017), new law (NOTE: not to be codified in statutes!) which creates the Task Force on Criminal Justice Process.** This task force is to oversee an assessment and analysis of existing law, policies, and practices relating to fines, fees, and costs assessed on persons in the criminal justice system. The task force's **findings and recommendations are to be provided by November 30, 2019** to the Governor, the President Pro Tem of the Senate, and the Speaker of the House. **The report is to include what percentage of fines, fees, and costs are actually paid, how fines, fees, and costs support local and state government budgets, and how these fines, fees, and costs contribute to jail and prison populations.**

**SB 397 (effective November 1, 2017) amends the Bus Passenger Safety Act, 21 O.S. 1901 – 1904.** The intent of the change is to allow a Self Defense Act licensee to carry a firearm on a bus. To do so, the legislation changed the definition of deadly or dangerous weapon to include all the weapons listed in 21 O.S. 1287 and any other weapon capable of inflicting serious bodily injury, “except for a weapon carried for lawful self-defense in compliance under the Oklahoma Self Defense Act.” For whatever reason, they then deleted 21 O.S. 1903 (D) which said no person except a law enforcement officer was permitted to board a bus with a dangerous or deadly weapon (which was a felony). It looks like there's going to have to be some interpretation of this statute.

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## **Title 22 – Criminal Procedure**

**HB 1121 (effective November 1, 2017) creates new law at 22 O.S. 61** permitting District Courts or Municipal Courts of Record to establish “domestic violence court programs” under the “Oklahoma Domestic Violence Court Act of 2017.” The term “domestic violence court” means a specialized judicial process for both civil and criminal domestic matters “that arise out of the same family or domestic circumstance.”

**HB 1466 (effective November 1, 2017) amends 22 O.S. 60.4** to allow a victim of domestic violence to transfer wireless telephone accounts or household utility accounts to his or her name when the account was previously in the name of another person. The statute details the process to get the court order transferring the account and the information required.

**HB 1324 (effective November 1, 2017) amends 22 O.S. 982** to remove the requirement that a court order a presentence investigation (PSI) before imposing **sentence on a violent offender. With the change, the may order the PSI and shall** order the offender to pay, to the Department of Corrections, a fee of not less than \$5 and not more than \$500.

**HB 1478 (effective November 1, 2017) amends 22 O.S. 34.5** to require that the complainant name on a racial profiling complaint be redacted and not be included on the annual report that the Attorney General is required to make **and 25 O.S. 1502** to permit a person who’s been aggrieved by a discriminatory practice to file a complaint electronically, to require that the Attorney General make a good faith effort to contact the complainant if the complaint form is insufficient or incomplete, and to provide access numbers to the Office of Civil Rights for persons who need assistance to file a complaint.

**SB 252 (effective November 1, 2017) amends 22 O.S. 991a** to provide that victim impact panel programs can be conducted by corporations and provides that the topics discussed can include “the operation of a motor vehicle while using an electronic communication device.” These attending can include these who drove while impaired or who operated a vehicle while using an electronic communication device.

**HB 1679 (effective November 1, 2017) amends 22 O.S. 1014** relating to the death penalty. The change states that for purpose of carrying out the death penalty

by lethal injection, the Uniform Controlled Dangerous Substances Act does not apply. **NOTE: at the time this is written, the moratorium on executions continues. There have been a number of reports regarding imposition of the death penalty in Oklahoma (e.g., a 2016 Grand Jury report describing the problems with execution protocols and the Report of the Oklahoma Death Penalty Review Commission, a voluntary group that made recommendations regarding investigations through the appeals process). It is anticipated that there will be changes in the future legislative sessions addressing some of these issues.**

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## **Title 19 – Counties and County Officers**

**HB 1259 (effective November 1, 2017) amends 19 O.S. 510** by adding a requirement that to be eligible for the office of county sheriff, the candidate must have “served as a duly certified peace officer, in a full time capacity, for a period of four (4) years or more prior to the date of filing for the office.”

**SB 90 (effective November 1, 2017) amends 19 O.S. 547** to increase the number of hours of training required to become a reserve force deputy. The hours are increased to 240 hours to be consistent with the requirement in other statutes. The bill also **amends 63 O.S. 2-103** to increase the number of hours to 240 for Oklahoma State Bureau of Narcotics and Dangerous Drugs reserve special agents.

**HB 2230 (no emergency clause, no effective date set forth, effective 90 days after the close of the legislature – in this case, on or about August 24, 2017) amends 7 O.S. 73 and 19 O.S. 180.43** to exempt commissaries for the benefit of persons lawfully confined in the county jail under the custody of the county sheriff from the requirements of being operated by persons licensed by the State Department of Rehabilitation Services.

**HB 2231 (effective November 1, 2017) amends 19 O.S. 527** to permit a sheriff to employ outside legal counsel to provide legal representation to a deputy for a deputy-involved shooting incident. The sheriff is not permitted to continue payment if the involved deputy is charged with a crime arising from the incident.

**HB 2232 (effective November 1, 2017) amends 19 O.S. 517.1** relating to maintaining county records. This statute provides an exception to the current general rule that if the sheriff is the sole source of records, the records shall be kept a minimum of 7 years. The amendment states that audio or video recordings from

body cameras “of a law enforcement officer that depict anything other than an officer-involved shooting, use of lethal force, incidents involving medical treatment, incidents where a written application is received for the preservation of a specific event, or upon request of the district attorney may be kept a minimum of one (1) year to be determined by the county sheriff.”

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## **Title 37/Title 37A – Intoxicating Liquors, Alcoholic Beverages**

**NOTE: On October 1, 2018, these statutes and all other laws relating to alcoholic beverages will be transferred to the new Title 37A created in response to State Question 792, approved by voters on November 8, 2016. The Oklahoma Alcoholic Beverage Control Act will be in Title 37A.**

**HB 1302 (various effective dates) creates new law at 37 O.S. 537.4, effective July 1, 2017, prohibiting the “use, offer for use, purchase, offer to purchase, sell, offer to sell or possess” powered alcohol. First and second offenses are misdemeanors. A third offense is punishable by imprisonment for no more than 2 years and/or up to a \$3,000 fine.**

Also effective July 1, 2017, **37 O.S. 595 is amended** to provide that a special event license from ABLE will not be required for an economic development and business growth organizations or nonprofits whose purpose is to promote the common interest of economic development and business growth of the community and if the event is not conducted primarily for fundraising purposes and providing that a licensed caterer is used to provide and serve the alcoholic beverages at the event.

**SB 211 (effective OCTOBER 1, 2018) amends sections 3-124 and 6-103 in what will be Title 37A, to permit sales of alcoholic beverages on Sundays between noon and midnight by retail liquor stores if approved by voters of the county.**

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## **Title 47 – Motor Vehicles**

**HB 1845 (EMERGENCY - Signed and effective March 2, 2017) and HB 1465 (EMERGENCY - Signed and effective May 28, 2017) both amend various**

**statutes to address federal requirements of “Real ID.” HB 1845 (amends 47 O.S. 6-101, 47 O.S. 6-105.3, 47 O.S. 6-106, 47 O.S. 6-110.3, 47 O.S. 6-111, 47 O.S. 6-114, 47 O.S. 1113.2, and 47 O.S. 6-110.5)**

- Provides an option for residents to either obtain a REAL ID compliant driver license or identification card or maintain a REAL ID noncompliant license or ID card.
- Procedures are provided in the bill for obtaining both types of license or ID card. An original or renewal REAL ID noncompliant license or identification card costs an additional \$5.
- The amended law requires the Department of Public Safety to provide training to motor license agents regarding REAL ID compliance.

**HB 1465 (amends 47 O.S. 6-110.3 and 47 O.S. 11-1112)**

- Requires that personally identifiable information obtained during the application process for a REAL ID Noncompliant Driver License or Identification Card to be stored in a separate and “siloes” database from REAL ID Compliant information.
- DPS is required to offer a biometric data waiver to Noncompliant applicants. Applicants with felony convictions are not permitted to get a waiver.
- DPS is required to issue a REAL ID Noncompliant License or ID Card without a photo to an applicant who requests an exemption from the photo for religious reasons if the applicant is otherwise qualified.
- Personal information may not be shared except as authorized by state or federal law and authorized agreements or contracts.
- Also, new law is added to provide that a child passenger being transported by a driver of a vehicle who has been issued a detachable placard indicating physical disability or a physically disabled license plate and valid letter of forward-facing exemption issued from the Department of Public Safety is permitted to transport a child under four (4) years of age in a forward-facing child passenger restraint system. To be in compliance, the placard and forward-facing exemption letter must be present in the vehicle.

**HB 2312 (effective November 1, 2017) amends 47 O.S. 11-309** to clarify that on a roadway divided into 4 or more lanes a vehicle shall not be driven in the left lane **except** when overtaking or passing another vehicle. **But**, this does not apply if “traffic conditions, flow, or road configuration, such as the potential of merging traffic, require the use of the left lane to maintain safe traffic conditions.”

**SB 21 and SB 22 (both effective November 1, 2017) create new law at 47 O.S. 1-108.1 and 47 O.S. 1-108.2 respectively.** In § 1-108.1, the term “**tillerman**” is



defined as “every person who is physically located on a Class A, B or C commercial motor vehicle in which they are steering or assisting in steering by remote control or other means, any axle, including a vehicle being towed by a motor vehicle, and shall possess the appropriate class of license for the vehicle being operated as required by Section 6-101 of Title 47 of the Oklahoma Statutes.”

In § 1-108.2 the term “**steerman**” is defined as “every person who is not physically located on a Class A, B or C commercial motor vehicle in which they are steering or assisting in steering by remote control or other means, any axle, including a vehicle being towed by a motor vehicle, and shall be exempt from the requirement to possess a Class A, B or C commercial driver license and shall only be required to possess a valid driver license.”

**SB 23 (effective November 1, 2017) amends 47 O.S. 1-174** to define ‘taxicabs’ to mean a vehicle carrying 8 or fewer persons (previously 10). The amendment also provides that vehicles being operated pursuant to the Oklahoma Transportation Network Company Act are to be considered taxicabs. The referenced act is at 47 O.S. 1011 and defines a Transportation Network Company as a business that uses a digital network or software application to connect passengers to transportation network company services (i.e., such as Uber, Lyft, and similar companies).

**SB 26 (effective November 1, 2017) amends 47 O.S. 1-105** to redefine “bus” as a motor vehicle designed to carry more than 8 passengers (previously 10) and excludes a vehicle authorized for use pursuant to the Oklahoma Transportation Network Company Services Act.

**SB 643 (effective November 1, 2017) creates a number of new statutes, amends a variety of statutes, and creates the Impaired Driving Elimination Act 2 (IDEA2).** This bill makes a number of changes to laws regulating driving under the influence. A deferred prosecution for DUI in any court, which would result in mandatory revocation of a driver license, must be reported by the prosecutor to the Department of Public Safety. Other changes include:

- Language relating to automatic revocation of a DL due to a test result or refusal to take a test is removed.
- A person is allowed to retain driving privileges by participating in a program called Impaired Driver Accountability Program (IDAP), which is to be established by DPS by June 30, 2018.
- DPS may revoke driving privileges upon notice of violation of ignition interlock requirements.

- DPS may issue a restricted DL upon payment of a fee and an IDAP fee.
- If the owner or person in control of a vehicle allows a party to drive his/her vehicle which does not have an interlock device and that party is required to drive only with an interlock device, the owner is subject to a fine of up to \$500.
- The court must require, as a condition of bond, that a person charged with 2<sup>nd</sup> or subsequent DUI have an ignition interlock device placed on his/her car.
- The legislation establishes that it's a **misdemeanor** offense with a fine of up to \$1,000 and/or up to 10 days in jail **to refuse to submit to a breathalyzer test.**
- Upon arrest for DUI, the driver license of the defendant must be seized and delivered to the Department of Public Safety where it will be destroyed.
- Language providing for administrative hearings is deleted.

By **Executive Order 17-19** on June 8, 2017, the **Governor has ordered that hearings for revocations of driver licenses be continued.** In addition, law firms who represent DUI drivers have filed a lawsuit alleging that SB 643 violates due process and is unconstitutional. There will likely be developments in this area in the near future. Stay tuned.

**SB 52 (effective November 1, 2017) amends 47 O.S. 6-112** to provide that in addition to having their driver license in possession when operating a motor vehicle, the licensee, upon demand of a peace officer, **“shall produce and provide physical possession of the driver license to the peace officer.”** Previously the statute only required the driver to **“display”** the DL. The statute retains paragraph B which states that if a person charged with a violation produces either in court or on or before the court date, his or her driver license which was valid at the time of arrest, the person **“shall be entitled to dismissal of such charge without payment of court costs and fine.”**

**SB 53 (effective November 1, 2017) amends 47 O.S. 12-602** to permit auxiliary lighting on motorcycles. This lighting must be standard bulb running lights or light-emitting diode pods and strips and must be non-blinking, non-flashing, non-oscillating and directed toward the engine or drivetrain of the motorcycle so as to not interfere with the driver's operation of the vehicle.

**SB 60 (no effective date so 90 days after Legislature recesses – on or about August 24, 2017) amends 47 O.S. 1113** by removing the requirement that license plate decals contain an identification of county. The measure also removes antiquated language regarding license plate design.

**SB 115 (effective November 1, 2017) amends 47 O.S. 7-600.2 and 47 O.S. 7-606.1** to transfer the online verification system for vehicle insurance and the Uninsured Vehicle Enforcement Program to the Oklahoma Insurance Department (OID) from the Department of Public Safety. The Insurance Commission is authorized to take administrative actions against an insurance company that is found to not be providing vehicle insurance information to the verification system.

The bill also provides that if the online verification system is not online or the information is otherwise unavailable, a motor license agent may accept security verification form a licensed insurance producer or customer service representative.

**SB 324 (effective November 1, 2017) creates new law at 47 O.S. 2-108.5.** This new law creates the Oklahoma State Award Program Committee (OSAP). This committee is to create, establish eligibility requirements, and make recommendations for awarding the Medal of Valor and Purple Heart for law enforcement and public safety members in Oklahoma.

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## **Title 63 – Public Health**

**HB 1559 (effective November 1, 2017) amends 63 O.S. 2-101** to exempt any Federal Food and Drug Administration-approved cannabidiol oil-based drug or substance from the meaning of “marijuana” as used in the Controlled Dangerous Substances Act. Presumably this means that cannabidiol could be used in treatment of disease and/or medical studies.

**HB 1606 (effective November 1, 2017) amends 63 O.S.2-505** to change the specific herbicide and method of application used by the Oklahoma State Bureau of Narcotics and Dangerous Drug Control to eradicate plants from which drugs are derived. OBNDD is now permitted to use any herbicide approved and registered for use in Oklahoma.

**SB 77 (effective November 1, 2017) amends 63 O.S. 1-2506.1** expands the definition of first responders who have the authority to administer opiate antagonists without prescriptions to an individual suffering an opiate overdose. The list now includes OSBI forensic lab personnel designated by the Executive Director.

**SB 207 (effective November 1, 2017) amends 63 O.S. 945** relating to the release of autopsy reports and findings. The report and finding are to be released “in the most expedient manner available” or as requested by the records requester. The information shall be furnished to district attorneys and law enforcement agencies with authority to make a criminal investigation into the death **but “shall not be shared with any other entity unless otherwise provided by law.”**

The information shall be furnished to the spouse of the decedent or “any person related within two (2) degrees of consanguinity....unless the district attorney or the investigating law enforcement agency objects to the release to any family member. The district attorney or law enforcement agency are prohibited from objecting to “the release of the full and complete autopsy report to the family if the decedent was in state custody, in custody of law enforcement or is deceased due to lethal action of a law enforcement officer.”

Any insurance company conducting an insurer’s investigation will be furnished a copy.

The complete report of the facts developed by the autopsy, along with the findings, will be withheld from public inspection and copying for 10 business days from the date the report is made, except as noted above.

The Chief Medical Examiner will complete a summary report which is to be released at the same time as the full and complete report is released to those discussed above (i.e., the DA, law enforcement, and the insurance company). The summary report will be released to anyone requesting it in the most expedient way possible or as requested by the requester.

The summary report will include name and identifiers, address, name of the examiner, where the deceased was injured/became ill, date/time, and where the examine took place. If the death was from a motor vehicle accident, the report will note the location of the decedent in the vehicle. The report must include a description of the body and the probable cause and manner of death.

After the 10 business-day-period, the full and complete report will be made available unless the DA or law enforcement states that release would compromise an ongoing criminal investigation. In that event, a hearing will be held in district court. If the court finds the release should not occur, an extension of 6 months will be granted after which the district court will again consider the issue. In any event, the full and complete report cannot be withheld for more than 4 years and 6 months.

**SB 765 (effective November 1, 2017) creates new law at 63 O.S. 7302** which prohibits the use of tanning facilities by persons under 18 and requires that appropriate signage be posted within the facility. The new law states that “an individual may report a violation of one or more provisions of this act to the local law enforcement agency” however another provision notes that the tanning facility or operator who violates the provisions “shall be subject to a civil penalty.” There’s nothing in the law providing for a criminal penalty. The State Board of Health is to promulgate rules to implement the law’s provisions so there may be more direction when that occurs.

**SB 770 (EMERGENCY - Effective when signed on June 6, 2017) amends various statutes relative to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Title 63 O.S. 2-103 is revised** to reflect that an classified employee who is appointed Director, Deputy Director, Acting Director, or Acting Deputy Director has a right to return to the highest, previously held classified position without loss of rights, privileges, or benefits upon completion of the duties of the employee assuming the person is not otherwise disqualified.

Several drugs are added or removed from the different schedules (see **63 O.S. 2-204 and 63 O.S. 2-210** for specifics).

Pursuant to the change in **63 O.S. 2-502**, the Director of OBNDD can designate noncommissioned personnel as “compliance inspectors” to conduct inspections relative to prescriptions, orders, and records of controlled dangerous substances.

## **Title 70 - Schools**

**HB 1263 (effective November 1, 2017 but “beginning date” is January 1, 2018) amends 70 O.S. 3311** to permit a reserve officer (again, beginning January 1, 2018) who has completed the 240 hour reserve certification program and who has been in active service for 6 months to be eligible to attend the 360 hour basic full-

time training academy (i.e., the “bridge academy”). Prior to the change, the reserve officer was required to be in active service for the past 2 consecutive years.

**HB 1671 (effective November 1, 2017) amends 70 O.S. 3311** to require a CLEET certified peace officer or reserve peace officer to notify CLEET immediately after arrest or discovering that criminal charges have been filed against him/her. The officer is also required to report when a Victim Protective Order has been filed against him/her. This includes emergency orders and all final orders. Failure to do so may be cause for disciplinary action.

**SB 88 (effective November 1, 2017) amends 70 O.S. 3311.4** to provide that a reserve officer who has been “employed, commissioned or appointed for a period of ninety (90) days in a calendar year, who becomes inactive prior to the end of a calendar year, is responsible for meeting mandatory continuing education requirements.....within sixty (60) days of the date of return to employment, commission, or appointment.” This is the same requirement for full-time officers.

As noted at the beginning of this document, the annual training required for a reserve, since January 1, 2017, is 8 hours (which must include 1 hour on mental health). Full-time officers must annually complete 25 hours of which 2 hours must be mental health. Whether full-time or reserve, all officers must also complete firearm qualification annually.

**Note: if an officer, either full-time or reserve is active on the last day of the year, he or she is required to have completed the required training in that year or certification will be suspended. Once training is completed, the officer can be reinstated but there’s a \$150 reinstatement fee. LIFE LESSON HERE IS GET YOUR TRAINING IN THE YEAR IT’S REQUIRED TO AVOID SUSPENSION AND THE \$150 REINSTATEMENT FEE----whether you’re reserve or full time.**

**SB 89 (effective November 1, 2017) amends 70 O.S. 3311.15** to permit CLEET to assess a registration fee of not more than \$30 per day to a law enforcement agency to cover the costs of breakfast, lunch, and dinner provided to peace officers being trained.

**SB 604 (effective November 1, 2017) amends 70 O.S. 3311.5** to require that CLEET provide, in the evidence-based domestic violence and stalking portion of basic training, personal safety planning necessary at the pretrial stages of a potential criminal case.

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## **Title 51 – Officers**

**SB 148 (effective November 1, 2017) amends 51 O.S. 6 relating to Officers and Deputies Not to Hold Other Offices (perhaps more commonly known as “dual office holding”)** to provide an exemption from the prohibition against dual office holding to OSBI employees who are elected to a local board of education.

**HB 1759 (EMERGENCY - Signed and effective April 26, 2017) amends 51 O.S. 6 relating to Officers and Deputies Not to Hold Other Offices** to provide an exemption from the prohibition against dual office holding to any person holding “...a county office or position who is a reserve force deputy sheriff, or a reserve special agent with the Oklahoma State Bureau of Narcotics and Dangerous Drug Control or a reserve municipal police officer.”

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## **Title 59 – Professions and Occupations**

**SB 525 (effective November 1, 2017) amends statutes relating to the Bail Bond Code in title 59.** The change prohibits operation of a bail bonds office or business where a persons disqualified by statute (59 O.S. 1305 (A)(1)) from serving as a bail bondsmen is present, except as necessary for the person to obtain a bail bond. Of note to law enforcement, the legislation, at **59 O.S. 1320**, requires that law enforcement post a list of all bondsmen permitted to write bonds within the county conspicuously near all telephones used by prisoners. The must be updated at least monthly by the court clerk and distributed to law enforcement.

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## **Some other changes of interest**

**HB 1003 (Effective November 1, 2017) repeals 13 O.S. 171, 172, 173, 174, 175, and 176.** The repealed statutes relate to “carriers of messages,” generally telegraph companies. Before the repeal, the failure to promptly deliver messages was a crime, along with failing to use great care and diligence in delivering the messages! There were provisions for damages. Presumably, the Legislature

determined there was no longer a need for these statutes. Kudos to the Legislature for cleaning up the statutes.

**HB 1337 (EMERGENCY - Signed and effective May 2, 2017) creates the Freedom to Display the American Flag Act at 60 O.S. 858.** This law prohibits a homeowners association or similar association from adopting or enforcing a policy that would restrict a member of the association from displaying an American flag at a reasonable height (no more than 20 feet) on the member's property. **NOTE: this doesn't appear to define a 'crime' so it would seem to be enforceable only by a civil action.**

**HB 1483 (effective November 1, 2017) amends 57 O.S. 27 and 38** by increasing from 3 to 5 business days by which a county must submit judgment and sentences to the Department of Correction, requires DOC to establish a method of issuing receipts to counties certifying that the J&S has been received, and requiring that if DOC receives a J&S with inaccurate information they shall notify the county in a timely manner. **If a corrected J&S is not received within 5 business days, DOC will not be responsible for the cost of housing the inmate in the county jail until an accurate J&S is received.** The bill also provides in the amended § 38 that the reimbursement rate from DOC to counties for keeping convicted inmates is \$27 per day unless the daily costs as determined by DOC exceeds that amount. **NOTE:** there may be a mistake in that section since it refers to §§E and should apparently refer to §§F.

**HB 1601 (effective November 1, 2017) amends 2 O.S. 12-1** to add feral swine to a list of wildlife included in the wildlife damage management agreement between the Oklahoma Department of Agriculture, Food, and Forestry and the United States Department of Agriculture Wildlife Services and **amends 2 O.S. 12-2** to permit state and federal wildlife management agencies to carry firearms in the course of their duties.

**HB 2324 (EMERGENCY - Signed and effective May 5, 2017) amends 29 O.S. 2324** to permit a person holding a license to shoot "depredating animals" from an aircraft to authorize other unlicensed, unidentified persons to shoot from the aircraft as well. The amendment provides that the Department of Agriculture, Food, and Forestry may not require the pilot to hold a specific type of pilot's license, may not require the permit holder or pilot to carry liability insurance, and may not require that the names of the persons authorized by or contracting with the permit holder be provided.



The amendment requires that a permit holder who contracts with or authorizes another person to shoot from the aircraft shall have the person sign a disclosure stating the person is aware of the dangers of aiming and shooting over the horizon.

According to the statute, depredate animals are “feral hogs, coyotes, and crossbreeds between coyotes and dogs.”

**HB 1609 (effective November 1, 2017) amends 20 O.S. 1313.2** relating to taking DNA from persons convicted of certain misdemeanors. In the 2016 session, legislation was passed requiring DNA samples be taken from any person arrested for a felony and persons convicted of certain misdemeanors. Because the rules and training haven't been implemented, the process has not yet begun. However, this change removes those convicted of specific misdemeanors from having DNA taken when it **does** start. Specifically, those who are convicted of the misdemeanors of unlawful carrying of a firearm, illegal transportation of a firearm, and discharging of a firearm will not be required to provide a DNA sample.

**SB 12 (effective November 1, 2017) amends 74 O.S. 360.16, the Campus Security Act**, to define private schools as a school not operated by a governmental entity that offers instruction from prekindergarten through grade 12. **The bill also amends 74 O.S. 360.18** to permit private schools to establish police departments.

**SB 59 (EMERGENCY - Signed and effective April 24, 2017) creates new law at 44 O.S. 231a** authorizing the Adjutant General to enter into reciprocal agreements with local governments or state agencies for mutual aid in fire protection.

**SB 217 (effective November 1, 2017) amends 57 O.S. 582.2** to require the court to order anyone who is subject to the Sex Offenders Registration Act who receives a suspended sentence, probation, or a deferred sentence to report to the local or county law enforcement agency and to the Department of Corrections probation and parole office in the district. The court clerk, within 3 days is required to transmit the judgment and sentence and plea paperwork to the Sex and Violent Offenders Registration Unit of DOC by fax, email, or certified mail. **Title 57 O.S. 584 is also amended** to require DOC to conduct address verification every 90 days for habitual or aggravated offenders and for those who've been a level assignment of 3.

A person subject to registration under the Sex Offenders Registration Act who resides with a minor child as the parent, stepparent, or grandparent (provided the

minor was not the victim of the convicted offense) must report to the statewide centralized hotline the name and date of birth of the child and the offense for which the offender was required to register. The report must be made within 3 days.

**SB 233 (effective November 1, 2017) amends 44 O.S. 209 and 72 O.S. 645** to clarify the limit on leaves of absence provided by state or political subdivisions to employees who are also members of the National Guard or a reserve component of the military. These employees previously were allowed to take a leave and receive their full pay for the first 30 calendar days or first 30 regularly scheduled days without loss of status or seniority. With the change, the limit is set at 240 hours.

**SB 303 (effective November 1, 2017) amends 74 O.S. 150.9** to permit the OSBI to submit fingerprints to the FBI Rap Back System to be retained so that they can be searched by future submissions to the FBI Rap Back System, including latent print searches.

**SB 426 (effective November 1, 2017) modifies the Used Tire Recycling Act at 27A O.S. 2-11-401.1 et seq.** The portion of this bill of interest is the amendment to **27A O.S. 2-22-401.7** which permits “any peace officer of this state or any political subdivision of this state” to issue a citation for violations of §2-22-401.7(A). That subsection generally deals with improper storage, disposal, or transportation of tires or selling tires without collecting the appropriate fees or remitting the fees to the Oklahoma Tax Commission. The citations range from \$100 (first offense) to \$500 (third offense) with half being paid into a reward fund and half going to the Sheriff’s Service Fee Account to be used for environmental enforcement and cleanup programs.

**SB 532 (effective November 1, 2017) amends 74 O.S. 840-2.10a** to mandate that **all** state agencies must provide or contract to provide debriefing and counseling services for their employees who are involved in, witness, or are otherwise exposed to a violent or traumatic event in the workplace. The debriefing and counseling is to be provided through the State Employee Assistance Program.