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2008 Legislative Session Overview

The Second Session of the 51st Legislature tackled numerous issues related to public safety. Several bills that impact law enforcement and protect Oklahomans from exploitation were enacted. Portions of the following information were obtained through the publication "Session Overview - Second Regular Session of the 51st Legislature" as prepared by the Oklahoma House of Representatives Staff. Additional information regarding the 2008 Oklahoma Legislative Session, and the above referenced report, can be found at www.okhouse.gov.

HEALTH & HUMAN SERVICES

CHILDREN

Tragic events that occurred at two child care facilities last year prompted legislative reactions. **HB 2643** was passed in response to the death of a child due to abuse by the owner of a child care home. The measure requires the Department of Human Services (DHS) to establish an online database to assist parents in selecting a facility for their child that contains the name and location of all child care facilities in the state and a summary of substantiated complaint records and inspection reports completed by the department. The bill also directs DHS to establish a child care worker registry, accessible to the public through an online database. The registry will include the names of persons who have had a confirmed finding of abuse or neglect of a child when it occurred in a child care facility and will contain information on the revocation or denial of a child care facility license.

Some other provisions of the measure include:

· Requiring a search of the criminal history records, the child care worker registry, and the Oklahoma State Courts Network (OSCN) be conducted *prior to* issuing a permit or license to an individual to operate a child care facility;

· Requiring that a child care facility submit a criminal history records search and a records search of the child care worker registry of an applicant for employment to the department's licensing division and that the department conduct a records search of the OSCN prior to the employment of an individual in a child care facility;

· Requiring the department to notify the child care resource and referral organization within one business day of revoking or denying a license to operate a child care facility; and

· Authorizing the department to issue an emergency order to cease operations to a facility providing unlicensed care and authorizing CLEET-certified officers to issue citations to facilities that continue operations after an emergency order has been issued or an application for a license has been denied.

The Legislature also took further action to protect children from abuse by enacting **HB 1601**, which designates the crime of child abuse as a violent offense. The bill requires persons or businesses that provide services to children to conduct an annual name search of employees pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. The bill also requires persons who work with or provide services to children to sign a statement declaring that the person is not required to register as a sex offender or violent crime offender. Finally, the bill provides that, under the provisions of the Mary Rippy Violent Crime Offenders Registration Act, the requirement to register for a crime of abuse will be determined by the judge at the time of sentencing or upon granting the defendant a deferred judgment.

HEALTH & HUMAN SERVICES

ELDERLY

In response to alarming reports of convicted sex offenders living in nursing homes around the state, the Legislature enacted **HB 2704**. The measure directs the State Department of Health to initiate a request for proposal for the operation of a stand-alone long-term care facility for sex offenders that would provide heightened security of the residents of the facility in order to protect the public and other residents.

JUDICIARY & PUBLIC SAFETY

Several measures were enacted this session to protect the citizens of Oklahoma from criminal exploitation. A new criminal penalty is created by **HB 1021** which makes it a felony to engage in human trafficking for forced labor or forced sexual exploitation. Persons convicted of human trafficking are subject to a sentence of five years imprisonment, a fine of $10,000, or both fine and imprisonment. The punishment is increased to a sentence of up to ten years in prison, a fine of up to $20,000, or both fine and imprisonment, if the victim is under the age of 14. The bill also authorizes the seizure of any property that was used in the crime of human trafficking.

HB 2606 modifies the "Peeping Tom" statute to protect individuals from lewd or lascivious clandestine activities that occur in a public place. The measure adopts language from the Federal Voyeurism Act which states that it is illegal to capture images of a person's private areas even though the person is in a public place. Persons convicted for violations of this Act face up to one year in the county jail, a fine of up to $5,000, or both fine and imprisonment.

Several measures designed to protect persons from domestic violence were enacted this session. Courts are authorized by **SB 2163** to order a defendant to use an active, real-time, 24-hour Global Positioning Monitoring system (GPS) device as a condition of a sentence when a protective order has been issued in a domestic abuse case. The measure also authorizes the court to order a person not otherwise eligible for pretrial release to use a GPS device as a condition of pretrial release. Additionally, the court may order defendants to pay costs and expenses related to the GPS device and monitoring.

A second measure, **SB 2003**, authorizes the district attorney to accelerate or revoke probation for a person convicted of domestic abuse who fails to participate in court ordered domestic abuse counseling. Acceleration or revocation can occur when the person has three unexcused absences in succession or seven unexcused absences in a period of 52 weeks from any court-ordered domestic abuse counseling or treatment program.

Lastly, **HB 1897** makes a first offense of domestic abuse committed against a pregnant woman with knowledge of the pregnancy a misdemeanor, punishable by up to one year in the county jail. A second or subsequent offense of domestic abuse committed against a pregnant woman with knowledge of the pregnancy is to be a felony, punishable by a minimum of ten years imprisonment. If the abuse causes a miscarriage or injury to the unborn child, the punishment increases to a minimum of 20 years imprisonment.

The Legislature continued efforts to seek treatment for nonviolent drug users with the passage of **HB 2522** which authorizes counties to establish a misdemeanor drug court program. The measure provides that the misdemeanor drug courts should follow the rules and regulations of felony drug courts except that the penalty for revocation must not exceed one year in the county jail or the maximum penalty for the misdemeanor allowed by statute, whichever is less. The Department of Mental Health and Substance Abuse Services is to provide assistance to counties deciding to operate these misdemeanor drug courts.

View the full version of the Session Overview as prepared by the House of Representatives at: www.okhouse.gov/Information/Info_Publications.aspx

Two measures were enacted to alleviate the financial burden faced by state and county officials due to inmate medical costs. **SB 811** further clarifies that inmates in pretrial detention are responsible for medical costs concerning preexisting conditions and contains methods by which these costs can be recovered from inmates. The bill also modifies the method used by OSEEGIB to reimburse counties for valid medical expense liabilities from the Medical Expense Liability Revolving Fund. Previously, claims were paid on a first come first served basis; SB 811 changes the method to a quarterly based pro rata share distributed to all valid claims received in the preceding quarter.

Another measure, **HB 3336**, requires the Department of Corrections (DOC) to reimburse health care providers for medical care provided to inmates in the county jail after a judgment and sentence has been entered by the court. The bill allows health care providers to be reimbursed at network rates, if the providers are in the DOC provider network, or at Medicaid rates if the provider is not in the network. HB 3336 also requires DOC to pay pharmacy providers for medications on the DOC formulary at Medicaid rates and to provide dental and mental health care through designated DOC host facilities. The measure also requires counties to receive authoriza-

tion from DOC prior to obtaining non-emergency care for inmates outside of the jail.

Legislation concerning the rights of landowners was enacted in **SB 2111.** The bill increases the penalty for trespass upon private land to include restitution for actual damages incurred. In addition, trespassing defendants who are convicted of a second or subsequent offense will be assessed a fine of not less than $500 nor more than $1,000, and/or thirty days to six months in the county jail.

Oklahoma became one of the first states in the nation to outlaw a recreational drug that has grown in popularity over the last several years. Salvia Divinorum also known as "Salvia" is now a Schedule I banned substance after the passage of **HB 3148.** The Oklahoma Bureau of Narcotics & Dangerous Drugs and the Drug Enforcement Administration are alerting wholesalers, distributors and the public that possession of Salvia Divinorum in Oklahoma is now a felony punishable by up to 10 years in prison, and distribution carries a penalty of 5 years to life in prison.

SB 1950 adds child trafficking to the list of criminal offenses which may be commenced within twelve years after the discovery of the crime.

SB 1992 creates new laws against aggravated possession of child pornography and desecration of human bodies, while redefining Rape in the First Degree.

The crime of aggravated child pornography is defined as the possession of 100 or more images of child pornography and is punishable by a term of incarceration of up to 20 years and a fine not to exceed $10,000.

The bill also defines Rape in the First Degree as including rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by the accused as a means of forcing the victims to submit or where the victims is unconscious at the time of the act and that fact is known by the accused. Before this change in the law was passed, a rape occurring under these circumstances was considered to be Rape in the Second Degree and carried a less severe punishment.

The third component of the bill is known as “Jenny’s law” which, for the first time in Oklahoma, makes it a crime to desecrate a human body. A person convicted under this new statute faces up to seven years in prison and a fine of up to $8000. The law was named for Jennifer Snipes, who was murdered and then her body burned beyond recognition by her killer who had hoped to prevent her positive identification.

NOTICE

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