

**News Stories (10/21/2021)**  
For October 21, 2021**Author:** Shawn Ashley**Date:** 10/21/2021**Stitt: Decision recognizing Quapaw reservation tears Oklahoma apart**

(eCap) The Oklahoma Court of Criminal Appeals on Thursday adopted a district court's decision that the Quapaw Nation reservation in northeast Oklahoma was never disestablished and ordered the charges of lewd or indecent acts with a child under 16 against a Cherokee Nation citizen be dismissed, citing the McGirt decision and drawing criticism from Gov. Kevin Stitt.

The court agreed with an Ottawa County district judge's ruling that Jeremy Lawhorn was a member of the Cherokee Nation and that the alleged crime took place within the bounds of the Quapaw Nation reservation. Under 2020's US Supreme Court decision in the McGirt case, certain major crimes committed by Native Americans on Indian land must be prosecuted in federal or tribal courts, not in state courts. The decision also affirmed that only Congress could disestablish a tribal reservation.

"The ruling in McGirt governs this case and requires us to find the State of Oklahoma is without jurisdiction to prosecute Lawhorn," the Oklahoma Court of Criminal Appeals opinion states.

"The Supreme Court's McGirt ruling continues to tear Oklahoma apart," Stitt said in a statement. "Today, the Court of Criminals Appeals found that for purposes of federal criminal law, a portion of Ottawa County no longer falls under the jurisdiction of the State of Oklahoma. This is the sixth new jurisdiction in our state. Oklahoma is literally being torn into pieces."

The US Supreme Court's original decision dealt with only the Muscogee (Creek) Nation and its original reservation lands in eastern Oklahoma. The Oklahoma Court of Criminal Appeals subsequently has applied the ruling to the Cherokee, Chickasaw, Choctaw and Seminole nations.

"One of the most basic functions of a state in the United States of America is the ability to enforce the rule of law and keep the public safe. If we cannot do that, we do not have a state. Oklahoma has lost much of that ability in the eastern half of our state, and as of today, that now includes another portion of Ottawa County," Stitt said, adding, "As I have said from the beginning, McGirt not only creates a public safety nightmare, but threatens the sovereignty of our state to its core. Oklahoma is being cobbled up piece by piece. This cannot stand."

Attorney General John O'Conner is asking the US Supreme Court in filings in more than 30 cases to clarify or reverse the McGirt decision.

Stitt has called the McGirt decision the state's most pressing issue in his February state of the state address, at an August speech before the Tulsa Regional Chamber, in interviews and during press conferences.

**Tracked Bills Related To Story:** None

**Author:** Tyler Talley**Date:** 10/21/2021**Regents receive FY2023 OHLAP funding estimate**

eCap) The State Regents for Higher Education approved the fiscal year 2023 estimated funding levels for the Oklahoma's Promise scholarship program Thursday morning, totaling at \$64.8 million.

The Oklahoma Higher Learning Access Program (OHLAP), also known as Oklahoma's Promise, allows high school students with families earning less than a certain amount annually and also meet academic and conduct requirements, to earn a college tuition scholarship.

Associate Vice Chancellor for Scholarships and Grants Bryce Fair broke down how his staff calculated the estimated funding, of which \$58.8 million will be allocated from the General Revenue Fund (GRF) and the remaining \$6 million coming from the program's trust fund reserves.

Fair noted FY2023's funding levels represent a \$4.6 million decrease from FY2022's \$69.4 million.

Factors that go into projections for the cost of the program begin with high schooler enrollment therein and the rate of high school completion by said students, Fair said.

"Since the income limit was raised to \$55,000 beginning with the high school graduating class of 2020, we have seen about a 5 percent bump in the enrollment," he continued. "We will have another bump beginning in fiscal year 2024 (as) the graduating class of 2021 will be at a \$60,000 income limit so we're expecting another 5 percent bump at that point."

The legislative cap set on scholarship semester credit hours beginning with the graduating class of 2018 played an impact in the estimate, resulting in cost savings.

"Another trend that has a cost saving impact is over the last four years an increasing number of our institutions have not raised tuition," Fair said. "For our most current projections, each 1 percent increase in tuition is about a \$600,000 cost to the program so the more institutions that don't raise tuition that has cost savings impact. Obviously, we don't know if this trend will continue or how long it might continue or at what level but it has been a significant change in the past four years."

The ongoing coronavirus pandemic also factored into the estimate with a 5 percent decline in high school graduates with the scholarship attending college last year.

"That doesn't sound like a lot but that's about 300 students we would normally expect at a cost of about \$1.4 million," Fair said. "We don't know for sure if that will rebound. These students do have three years from the time they graduate high school to start utilizing the scholarship."

**Tracked Bills Related To Story:** None

**Author:** Shawn Ashley**Date:** 10/21/2021**Legal settlement allow nonbinary designation on birth certificates draws fire, bill**

(eCap) A legal settlement entered into by the Oklahoma State Department of Health (OSDH) that permits residents to identify as nonbinary on their birth certificates drew sharp criticism Thursday from Gov. Kevin Stitt and four legislative leaders.

"I believe that people are created by God to be male or female. Period," Stitt said in a press release Thursday. "There is no such thing as nonbinary sex and I wholeheartedly condemn the purported OSDH court settlement that was entered into by rogue activists who acted without receiving proper approval or oversight. I will be taking whatever action necessary to protect Oklahoma values and our way of life."

At issue is the department's settlement of a federal lawsuit brought by Kit Lorelied, an Oregon resident who was born in Oklahoma. According to the suit, Lorelied identifies as nonbinary and sought to have the gender identification on their birth certificate changed in December 2019. That request originally was denied by OSDH. Lorelied filed the suit in August 2020. The suit was settled in May, according to Commissioner of Health Dr. Lance Frye.

"A legal settlement regarding birth certificate designations was reached in May by the prior attorney general's office," Frye said in a statement Thursday. "The Oklahoma State Department of Health will work with the Governor and Attorney General's office for input and counsel on next steps. Our responsibility is to maintain vital statistics, and we will continue to do so in accordance with the laws of Oklahoma. Should a challenge to the previous agreement be made, we will proceed accordingly."

The settlement agreement has not been filed with the court, online records show.

The response to lawsuits against state agencies often are decided by their governing boards in consultation with their legal counsel. Discussions typically take place in executive session and any action regarding the suits must take place in open session. Legislation passed and signed into law in 2018 transformed the State Board of Health from a decision-making body to an advisory panel. The board has met three times since Lorelied filed their federal lawsuit. The suit, nor any other suits against the department, was not listed as an item of discussion on any of those agendas.

The same legislation also gave the governor, rather than the State Board of Health, the authority to appoint the commissioner of health, who was granted all the powers and duties that once belonged to the board, subject to Senate confirmation. Frye was appointed commissioner of health in May 2020. His appointment was confirmed by the Senate on April 14.

House Speaker Pro Tempore Terry O'Donnell, R-Catoosa, and an attorney, said the settlement failed to follow a legal process outlined in state law.

"Failure by the executive branch agency to follow the proper legal process means this is not a valid agreement," O'Donnell said.

State law requires a "settlement involving injunctive relief which substantially impacts the operation or programs of a state agency...shall be reviewed prior to its finalization by the President Pro Tempore of the Senate or his designee, the Speaker of the House or his designee, and the Governor or his designee." It also requires the governor, speaker and pro tempore "...shall be given a reasonable time in which to make recommendations regarding the proposed settlement" for the executive branch agency and attorney general to consider before finalizing a settlement agreement.

"My office was never approached about this matter," said House Speaker Charles McCall, R-Atoka. "The agreement is invalid and unenforceable. Slowing this down so the complete process can be followed is the proper course of action by the governor. This executive branch agency acted outside its scope of authority, and now the governor, as the leader of that branch of government, must correct it immediately through executive order."

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"Since the legally required review never occurred in this case, the executive branch should not accept the settlement until it does. A settlement like this cannot be made solely by unelected executive branch agency employees because of the clearly substantial impact on the agency," O'Donnell said.

Senate President Pro Tempore Greg Treat, R-Oklahoma City, said, "The authority to institute policy changes of this magnitude rightly belongs within the legislative branch, the branch of government closest to the people. Executive branch agencies should not attempt to legislate or make substantive policy changes like this through rulemaking or court settlement. This is an egregious example of executive overreach that should be corrected as soon as possible."

Neither state law nor the OSDH's administrative rules require a child's sex at birth to be recorded on their birth certificate. State law requires someone to "...certify to the facts of birth and provide the medical information required by the certificate within..." specific periods of time after a child's birth.

OSDH's website also outlines the process for amending a birth certificate, including the sex of the individual. Such actions require a court order.

Lorelied obtained their court order in Oregon. In June, Lorelied filed a petition to register a foreign judgement, the Oregon order, in Oklahoma County District Court. The petition references the federal lawsuit's settlement. It also notes, "Upon information and belief, the (OSDH) stands unopposed to this request; however out of an abundance of caution, petitioner would request that this honorable court allow the requisite amount of time need, prior to registering the judgement, to allow the department to voice its position, should it see fit."

According to court records, the Attorney General's Office was served with a notice of the filing and did not respond. Oklahoma County District Judge Aletia Haynes Timmons issued an order recognizing Oregon's order that Lorelied's sex be changed to nonbinary. Timmons' order directs OSDH's Vital Records Division to "...amend the sex on Kit Lorelied's birth certificate to a nonbinary designation." According to published reports, the department reissued the Lorelied's amended birth certificate October 7.

Sen. Micheal Bergstrom filed a bill Wednesday that would require a child's sex to be identified on birth certificates as either male or female and it would prohibit the use of a nonbinary designation.

"I was assured by the State Department of Health a couple months ago that they had no intention of adding another sex option to birth certificates, but they recently approved a nonbinary option," Bergstrom, R-Adair, said in a press release Wednesday announcing the filing of SB1100. "We're at an odd time in history where people are seemingly forgetting science and biology and casting common sense out the window. When babies are born, they are either born male or female based on their chromosomes and genitals. Allowing anything else to be listed on a birth certificate is ludicrous, and it's time we clarify this in our statutes."

SB1100 requires the sex or gender designation on a certificate of birth issued by the State of Oklahoma State Department of Health be either male or female. It prohibits it from being nonbinary or any symbol representing a nonbinary designation including but not limited to the letter "X." It updates references to the Commissioner of Health.

House Minority Leader Emily Virgin, D-Norman, called Stitt's comments an attack on Oklahomans. "This morning, the Governor used his pulpit to attack Oklahomans. Period," Virgin said in a press release. "A national study estimated that 52 percent of transgender and nonbinary young people in the United States seriously contemplated suicide last year. The Governor's suggestion that nonbinary people don't qualify as Oklahomans is abhorrent and completely unbecoming of a governor. Moreover, it is dangerous. We are elected to help people not make their lives harder."

Rep. Mauree Turner, D-Oklahoma City, said on social media of Stitt's comments, "This statement is real rich in more ways than one. If you are paying attention, please notice every time our governor makes a statement it's about a community he hasn't been in communication with and while using his power to further oppress us all."

They added, "Stitt lacks the critical thinking skills to be able to care for Oklahomans and while pushing this idea that he will achieve a better life by letting communities he isn't part of suffer or vanish."

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Turner is the first Oklahoma lawmaker publicly to identify as nonbinary and was reported in 2020 to have been the first nonbinary lawmaker elected to a state legislature in the US.

**Tracked Bills Related To Story:** None

**Author:** Jennie Melendez

**Date:** 10/21/2021

### **House County, Municipal Government Committee tackles rural 911, ambulance access**

(eCap) Rep. Jim Grego addressed the House County and Municipal Government Committee Thursday morning after receiving constituent calls regarding a lack of efficient 911 and ambulance services in rural Latimer County.

For his interim study H21-006, Grego, R-Wilburton, gathered rural county residents, fire chiefs and 911 coordinators to discuss their experiences and brainstorm possible solutions.

Pittsburg County resident Michael Phillips went before the committee to describe the issues he encountered when his wheelchair-bound son had an accident at their rural home and fell.

"We called 911. It went to Pittsburgh County, I immediately told them, 'Now, we live in Latimer County.' They connected us to Latimer County. Both dispatchers stayed on the line with us trying to figure out where we live and they sent the ambulance out to Hartshorne, which is only two and a half miles. And from our house, you can see the highway off down south, about half a mile. Now, we (are) still on the phone with Pittsburgh and Latimer County dispatch, and we see the ambulance go by...they missed our turn. We gave them the 911 address. They go back. No, they are back in town, so turn them around. This time, we give them 1940s directions: 'Hey, on the highway they've got an airport with an old hangar, slow down.' Nope he went by again.

"We finally had to send Hunter, a friend of my son, down to the highway and turn his flashing lights on to lead the ambulance in. You know, the ambulance was two and a half miles from our house, three miles at most, and it took roughly an hour to get in there. Me and Miss Sue live there by ourselves. If something happened to me, there's no way she can drag me by the hind leg out to the truck to get me down to the county line to get to the ambulance. No GPS will find us; it might get you within a mile."

After hearing from several other stakeholders, including letters from residents who couldn't make the meeting in person, a county commissioner and 911 operators, Dale Anderson an administrative program manager for the Oklahoma State Department of Health EMS (Emergency Medical Services), who was not on the agenda, and had not planned on speaking, went before lawmakers to help explain some conflicting messages that had been shared by previous speakers.

He began by addressing a clarification on response time rules, stating the regulation is not so much a response rule, but rather a staffing rule.

"The requirement is an ambulance service has to make 90 percent of their emergency runs within a response time of less than five minutes. The idea is that two crew members in the ambulance will be in route to an emergency call within five minutes, 90 percent of the time. So, simplification, if you're an agency that does, you know 1,000, calls a year, you can miss that five minute out-of-sheet time 100 times. If you're a small 100 calls a year agency, it's 10 times."

Anderson then explained how the calls that go over on time are reprimanded. "Now, we often will treat them more as a complaint driven process, rather than a check mark on the inspection. But if we do get complaints about the ambulance service not responding, we certainly have to investigate as part of that regulatory process and licensure compliance."

"The other thing I kind of want to talk about, that was mentioned earlier, about a law that says ambulance services cannot cross boundaries, that does not exist," Anderson added. "Now, here's what does exist. Ten years ago, there was a law that went into effect that basically said an ambulance service is only required to respond in their licensed service area. It is the agency, through the application process and licensure process, that designates what that licensed service area is. Our office does not assign those. That is what the county commissioners or the city government in the ambulance service say, 'This is where we want you to respond in and develop policies around that.' There is no prohibition that an agency would not cross a boundary line, especially when there's an opportunity to provide mutual aid. So, that needs to be some communication between agencies and 911 center improvements."

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Anderson's remarks helped fill in the gaps on earlier reports suggesting different information. Rep. Brad Boles, R-Marlow, thanked Anderson for his willingness to be an impromptu speaker and the learning opportunity it was for the committee and asked, "So when you mentioned enroute within five minutes, does that just mean they have to actually respond to the call within five minutes, or do they actually have to be inside of the scene?"

Anderson responded, "It is enroute to the responding call."

Rep. Randy Randleman, R- Eufaula, also had a question from Anderson, telling him that the year before last he had an issue where he called EMS and was told they could not cross county lines. He explained he represents District 15, consisting of Leflore and Haskell County, and that is what the EMS workers in the area believed to be true.

"And I had an individual that was living, probably within five minutes of an EMS service, more toward McCurtain. And then these people had to call, because I lived in the Poteau area, this was 34 minutes away. This one was five minutes away. They were not allowed to have the EMS person come from the five minutes, so they had to call and have someone come from Poteau, which is 35 minutes, which somebody could die in that time period. What I was told, and let's see if this is true, is that you have the two county commissioners meet, and they determine if this person is out of their county but put it within their service period they could be served. Is that true?"

Anderson informed the representative that he is not familiar with that protocol whatsoever but told him what he imagined it to be a likely scenario. "I have no doubt that county commissioners across county lines work together to resolve the border issues. And, like I said, that then comes back into that licensed service area regulation, but that doesn't mean that they are prohibited from leaving their licensed service area under, again, mutual aid requests for service. Those are issues that have to be worked out at the local level, but there's not a state law that prohibits it or regulation."

Randleman also wanted to go back and address the first issue brought up on Thursday morning regarding rural addresses not being located in a timely manner. He asked Josh Cantrell, Marshall County commissioner, "So, like, these people back here, not being able to find their house, and you said there's multiple entities that you could give an address to. So, is it the cell phone people that has the address and it goes to all these other entities, or is it the sheriff's department that you want to have that true address, who does that need to go, to make sure that they find it?"

Cantrell replied, "The sheriff's office. It needs to be inside of their database system...they're given an address. Hopefully, they know their own address, and they don't transpose numbers, which happens in emergencies if somebody has a heart attack or they're panicky. And then we have systems within our area, where we can track where the ambulance is routed in comparison to them."

Daniel Nixon, emergency manager for Marshall County, shared his insight with the changes he has seen over the 27 years he has worked in emergency services in rural Oklahoma. "I've been the guy that had the partner that couldn't find the house. Someone asked is technology an issue. It's absolutely an issue when it comes to this situation. When I started, we didn't have GPS in the fire trucks, in the ambulances. We had maps tests. We had to learn our district. We had to actually know how to get from the station to this address out in the county. We were tested on that, and if you didn't pass the test, you didn't get to go on to the next step in your career."

Nixon wrapped his statement with his mixed feelings on technology in the field, "For the last 15 years, everybody's got a cell phone in their pocket. We started putting Tom Toms in the ambulances. Those map tests went away. The knowledge of our districts went away. Because what are the guys doing? They walk up to the fancy computer screen hanging on the wall that has our dispatch information, and they type the address in their phone. Now, they're driving to get to this emergency, with a cell phone or Siri talking to him, telling him how to get there. So, to the person that asked the question, if technology is a problem, it is in some degree."

**Tracked Bills Related To Story:** None