

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 292

BY: FAIR

AS INTRODUCED

AN ACT RELATING TO PRISONS AND REFORMATORIES;

AMENDING 57 O.S. 1981, SECTION 138, AS LAST AMENDED BY SECTION 6, CHAPTER 237, O.S.L. 1989, AND SECTION 2, CHAPTER 97, O.S.L. 1984, AS AMENDED BY SECTION 1, CHAPTER 275, O.S.L. 1984 (57 O.S. SUPP. 1990, SECTIONS 138 AND 571), WHICH RELATE TO EARNED CREDITS, CLASS LEVELS AND THE OKLAHOMA PRISON OVERCROWDING EMERGENCY POWERS ACT; MODIFYING DEFINITIONS; MODIFYING LANGUAGE; PROVIDING FOR MANDATORY SUPERVISION UPON RELEASE; CALCULATING TERM OF MANDATORY SUPERVISION AND PROVIDING EXCEPTION; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 57 O.S. 1981, Section 138, as last amended by Section 6, Chapter 237, O.S.L. 1989 (57 O.S. Supp. 1990, Section 138), is amended to read as follows:

Section 138. A. As used in this act:

"Credit" means a specified period of time, calculated in calendar days, accrued against the total number of days in the sentence of incarceration, subject to the conditions, rules, supervision and revocation procedures established by the Department of Corrections, Division of Probation and Parole, including but not limited to earned credits, achievement earned credits, total credits, lost credits and emergency time credits.

B. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which they are assigned. Credits may be awarded pursuant to the Oklahoma Prison Overcrowding Emergency Powers Act, Section 570 et seq. of this title. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No ~~deductions~~ credits shall be ~~credited~~ awarded to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority.

~~B.~~ C. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one (1) of four (4) class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding credits for rehabilitation, obtaining job skills and educational

enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department, including but not limited to, the criteria for awarding credits required by this subsection.

~~C.~~ D. 1. Class levels shall be as follows:

- a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall include, but not be limited to, new prisoners being processed through the Lexington Assessment and Reception Center, inmates on escape status, inmates removed from job or program assignments due to misconduct or nonperformance, or inmates subject to disciplinary action.
- b. Class level 2 shall include an inmate who has been given a work or program assignment, has received a good evaluation for participation in the work or program assignment, and has received a good evaluation for personal hygiene and maintenance of living area.
- c. Class level 3 shall include an inmate who has been incarcerated at least four (4) months, has received an excellent work or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.
- d. Class level 4 shall include an inmate who has been incarcerated at least ten (10) months, has received an outstanding work or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.

2. Class level corresponding credits are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

Each inmate shall receive the above specified monthly credits for the class to which he is assigned.

3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

- a. satisfactory participation in the work or program assignment at the standard required for the particular class level;
- b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;
- c. cooperative behavior toward facility staff and other inmates; and
- d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

- a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits.
- b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.
- c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.

- d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.
- e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

~~D.~~ E. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three (3) members for each such committee. Each committee shall consist of a classification team supervisor who shall act as chairman, the case manager for the inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

~~E.~~ F. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate classified by the Department of Corrections as being physically or mentally disabled for work or placed into administrative segregation for nondisciplinary reasons by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution

pursuant to a judgment and sentence of incarceration shall be deducted from his term of imprisonment at the state correctional institution.

~~F.~~ G. Additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

High School Diploma or Equivalent

General Education Diploma 90 credits;

Certification of Completion of

Vocational Training 80 credits;

Successful completion of

Alcohol/Chemical Abuse

Treatment Program of not less than

four (4) months continuous participation ... 70 credits;

Successful completion of other

Educational Accomplishments

or other programs not

specified in this subsection 10 - 30 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits. No inmate shall receive more than ninety (90) achievement credits per calendar year.

~~G.~~ H. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

1. sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. provided to the inmate.

~~H. As of the effective date of this act, all inmates currently under the custody of the Department of Corrections shall receive~~

~~their assignments and all credits from that date forward shall be calculated pursuant to this act.~~

I. Any credits awarded to an inmate prior to the effective date of this act shall not be subject to mandatory supervision. However, lost credits restored after the effective date of this act shall be subject to mandatory supervision pursuant to the provisions of this act.

SECTION 2. AMENDATORY Section 2, Chapter 97, O.S.L. 1984, as amended by Section 1, Chapter 275, O.S.L 1984 (57 O.S. Supp. 1990, Section 571), is amended to read as follows:

Section 571. As used in this act:

1. "Capacity" means the actual available bedspace as certified by the State Board of Corrections subject to applicable federal and state laws and the rules and regulations promulgated under such laws;

2. "Department" means the Department of Corrections of the State of Oklahoma;

3. "Director" means the Director of the Department of Corrections;

4. "Emergency time credit" means a specified period of time reduction of calculated in calendar days, accrued against the total number of days in the sentence allowed of incarceration subject to the conditions, rules, supervision and revocation procedures established by the Department of Corrections, Division of Probation and Parole, awarded when ninety-five percent (95%) of capacity is exceeded pursuant to ~~this act~~ the Oklahoma Prison Overcrowding Emergency Powers Act, Section 570 et seq. of this title; and

5. "Nonviolent offense" means any felony offense except the following, or any attempts to commit or conspiracy or solicitation to commit the following crimes:

- a. assault, battery, or assault and battery with a dangerous weapon;

- b. aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law;
- c. poisoning with intent to kill;
- d. shooting with intent to kill;
- e. assault with intent to kill;
- f. assault with intent to commit a felony;
- g. assaults while masked or disguised;
- h. murder in the first degree;
- i. murder in the second degree;
- j. manslaughter in the first degree;
- k. manslaughter in the second degree;
- l. kidnapping;
- m. burglary in the first degree;
- n. burglary with explosives;
- o. kidnapping for extortion;
- p. maiming;
- q. robbery;
- r. robbery in the first degree;
- s. robbery in the second degree;
- t. armed robbery;
- u. robbery by two (2) or more persons;
- v. robbery with dangerous weapon or imitation firearm;
- w. child beating;
- x. wiring any equipment, vehicle or structure with explosives;
- y. forcible sodomy;
- z. rape in the first degree;
- aa. rape in the second degree;
- bb. rape by instrumentation;
- cc. lewd or indecent proposition or lewd or indecent act with a child;

- dd. use of a firearm or offensive weapon to commit or attempt to commit a felony;
- ee. pointing firearms;
- ff. rioting;
- gg. inciting to riot;
- hh. arson in the first degree;
- ii. injuring or burning public buildings;
- jj. sabotage;
- kk. criminal syndicalism;
- ll. extortion;
- mm. obtaining signature by extortion;
- nn. seizure of a bus, discharging firearm or hurling missile at bus; or
- oo. mistreatment of a mental patient, or any other offense specified in Section 995.1 of Title 22 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 138.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any inmate whose sentence of incarceration is reduced by any application of credits pursuant to Section 138, 573 or 574 of Title 57 of the Oklahoma Statutes, shall be subject to mandatory supervision by the Department of Corrections, Division of Probation and Parole upon completion of his sentence of incarceration. An inmate placed on mandatory supervision shall be subject to the conditions, rules, supervision and revocation procedures established by the Department of Corrections.

B. The period of mandatory supervision shall be for a period equivalent to the maximum term of incarceration for which the inmate was sentenced less actual calendar days served on the sentence. Time served on mandatory supervision shall be calculated in calendar days.

C. This section shall not apply to inmates released from a term of incarceration prior to the effective date of this act, where the total number of days served on the sentence of incarceration was less than the total number of days sentenced.

D. Every inmate placed on mandatory supervision shall remain in the legal custody of this state until he has completed the term to which he was sentenced, unless otherwise provided by law.

SECTION 4. This act shall become effective September 1, 1991.

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