STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2625 By: Fallin

AS INTRODUCED

An Act relating to prisons and reformatories; amending Section 5, Chapter 187, O.S.L. 1993 (57 O.S. Supp. 1993, Section 611), which relates to the Specialized Supervision Program; prohibiting certain offenders from being eligible; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 5, Chapter 187, O.S.L. 1993 (57 O.S. Supp. 1993, Section 611), is amended to read as follows:

Section 611. A. There is hereby created the "Specialized Supervision Program". The Director of the Department of Corrections shall deliver written notification to the Governor and the Attorney General within ten (10) days from the time the population of the prison system exceeds ninety-seven and one-half percent (97.5%) of the Department's authorized capacity as defined by subsection K of this section. Within fifteen (15) days from the date of such notification, unless the Attorney General finds the population of the prison system does not exceed such authorized capacity and delivers a written objection to the Governor, the Governor shall

declare a population state of emergency which shall authorize the assignment of certain eligible inmates to the Specialized Supervision Program pursuant to the provisions of this act. Upon an objection properly made to the Governor, the Governor shall have an additional fifteen (15) days for investigation of the objection, and unless the Governor finds a population state of emergency does not exist, the population state of emergency shall be in effect.

B. Upon declaration of the population state of emergency pursuant to this act, the Department of Corrections shall compile a list consisting of the names of those inmates serving sentences for nonviolent offenses as defined by Section 571 of ~~Title 57 of the Oklahoma Statutes~~ this title, who are within twenty-four (24) months of consideration for the Preparole Conditional Supervision Program pursuant to Section 365 of ~~Title 57 of the Oklahoma Statutes~~ this title, who have not been previously removed from the Specialized Supervision Program as specified in this section, and who have completed at least one of the following requirements:

1. General Education Diploma (GED);

2. Adult literacy program;

3. Residential substance abuse program;

4. Participation for at least one hundred eighty (180) days on a prisoner public works project;

5. Maintained a class level four, as defined in Section 138 of ~~Title 57 of the Oklahoma Statutes~~ this title, for two (2) consecutive years;

6. Vocational-technical education; or

7. Other education or rehabilitation as may be determined appropriate by the Department.

Any inmate who has ever been convicted of a violent felony crime or any inmate who has been convicted of three or more nonviolent felony crimes shall not be eligible for the Specialized Supervision Program.

The list shall be completed within three (3) days of the declaration of a population state of emergency and no other inmate shall be eligible for assignment to the Specialized Supervision Program after the list is completed.

C. The Director shall exercise his discretion in assigning eligible inmates to the Specialized Supervision Program from the list created pursuant to subsection B of this section, provided however, inmates who have been removed from the Specialized Supervision Program and reassigned to imprisonment in a correctional facility for violation of any rule, regulation or condition of the program shall not be eligible for any future assignment to the Specialized Supervision Program and, in addition, shall not be eligible to be considered for the Preparole Conditional Supervision Program, pursuant to Section 365 of ~~Title 57 of the Oklahoma Statutes~~ this title, until after the expiration of at least twelve (12) consecutive months of imprisonment at a correctional facility.

D. Any eligible inmate assigned to the Specialized Supervision Program shall remain in such program until one of the following conditions has been met:

1. The inmate discharges the term of the sentence;

2. The inmate is removed from the Specialized Supervision Program and reassigned to imprisonment in a correctional facility; or

3. The inmate is paroled by the Governor pursuant to Section 332.7 of ~~Title 57 of the Oklahoma Statutes~~ this title.

E. The Specialized Supervision Program shall require active supervision of the inmate in a community setting by a correctional officer or other employee of the Department of Corrections under such rules, regulations and procedures as may be established pursuant to this act.

F. The following shall apply when an inmate is alleged to have violated any rule, regulation or condition of the Specialized Supervision Program:

1. Written notice shall be given to the inmate specifying the alleged violation of any term or condition of the Specialized Supervision Program;

2. The inmate may request and shall be afforded a hearing concerning the alleged violation; and

3. The inmate may admit, deny or present mitigating evidence concerning the allegations.

The Department shall consider the evidence and determine by a preponderance of the evidence whether a violation has occurred. The Department may take necessary disciplinary action consistent with the rules established pursuant to this act, including reassignment to a higher level of security or removing the inmate from the program with reassignment to imprisonment in a correctional facility.

G. Inmates assigned to the Specialized Supervision Program shall not be eligible for supervision pursuant to any interstate compact agreement until paroled by the Governor as required by law. Upon an inmate assigned to the Specialized Supervision Program becoming eligible for parole consideration pursuant to Section 332.7 of ~~Title 57 of the Oklahoma Statutes~~ this title, the Department of Corrections shall deliver the inmate, in person, to the correctional facility for interview, together with any Department records necessary for the Pardon and Parole Board's investigation. Inmates assigned to the Specialized Supervision Program shall not be allowed to waive consideration for parole or parole recommendation.

H. Prior to any eligible inmate assigned to the Specialized Supervision Program being placed in a community setting pursuant to the provisions of this act, the Department of Corrections shall deliver written notification to the sheriff and district attorney of

the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be supervised under the Specialized Supervision Program. The district attorney shall disseminate such information to victims of the crime for which the inmate is serving sentence, if the victims are known to live in the same city, town or county.

I. Within ten (10) days from the time the population of the prison system is decreased to ninety-five percent (95%) of the Department's authorized capacity, the Director shall deliver written notification to the Governor stating the population state of emergency is over. Additional inmates may not be assigned to the Specialized Supervision Program from the list created pursuant to subsection B of this section after the notice has been delivered to the Governor. Conclusion of a population state of emergency shall not be construed to alter the assignment of any inmate supervised under the Specialized Supervision Program.

J. The Department shall promulgate and adopt rules, regulations and procedures necessary to implement the provisions of this act including but not limited to methods of supervision, disciplinary action, reassignment to higher or lower security levels, removal from the program, and costs of supervision to be paid by the inmate, if any.

K. As used in this act, "authorized capacity" means that space available at correctional facilities and occupied by or ready for occupancy by inmates in the custody of the Department of Corrections as determined by the Director of the Department.

SECTION 2. This act shall become effective July 1, 1994.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.