

ENROLLED HOUSE
BILL NO. 2735

By: Pope (Tim) and Ferguson
of the House

and

Fair of the Senate

An Act relating to prisons and reformatories; amending 57 O.S. 1991, Section 332.7, as amended by Section 1, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1995, Section 332.7), which relates to persons eligible for consideration for parole; providing for parole to Immigration and Naturalization Service at any time subsequent to reception by Department of Corrections of certain individuals; amending 57 O.S. 1991, Section 530.1, as amended by Section 9, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1995, Section 530.1), which relates to the assessment and reception of inmates; requiring determination of place of birth of inmates at time of reception by Department of Corrections; stating intent of Legislature; providing for identification of foreign-born nationals in custody of Department of Corrections; requiring Department of Corrections to assist in providing certain records; providing for certain reports; providing for notification; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 332.7, as amended by Section 1, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1995, Section 332.7), is amended to read as follows:

Section 332.7 A. Upon completion of one-third (1/3) of the sentence of any person in the custody of the Department of Corrections, such person shall be eligible for consideration for a parole, and it shall be the duty of the Pardon and Parole Board to cause an examination to be made at the penal institution where the person is assigned, and to make inquiry into the conduct and the record of the said person during his custody in the Department of Corrections, which shall be considered as a basis for consideration of said person for recommendation to the Governor for parole. However, the Pardon and Parole Board shall not be required to consider for parole any person who has completed one-third (1/3) of his sentence if the person has participated in a riot or in the taking of hostages, or has been placed on escape status, while in the custody of the Department of Corrections. The Pardon and Parole Board shall adopt policies and procedures governing parole consideration for such persons.

B. The Pardon and Parole Board shall not recommend to the Governor any person who has been convicted of three or more felonies

arising out of separate and distinct transactions, with three or more incarcerations for such felonies, unless such person shall have served the lesser of at least one-third (1/3) of the sentence imposed, or ten (10) years; provided that whenever the population of the prison system exceeds ninety-five percent (95%) of the capacity as certified by the State Board of Corrections, the Pardon and Parole Board may, at its discretion, recommend to the Governor for parole any person who is incarcerated for a nonviolent offense not involving injury to a person and who is within six (6) months of his or her statutory parole eligibility date.

C. Any person in the custody of the Department of Corrections who is convicted of an offense not designated as a violent offense by Section 571 of Title 57 of the Oklahoma Statutes and who is not a citizen of the United States and is or becomes subject of a final order of deportation issued by the United States Department of Justice shall be considered for parole to the custody of the United States Immigration and Naturalization Service for continuation of deportation proceedings at any time subsequent to processing through the Lexington Assessment and Reception Center.

D. Upon application of any person convicted and sentenced by a court of this state and relinquished to the custody of another state or federal authorities pursuant to Section 61.2 of Title 21 of the Oklahoma Statutes, the Pardon and Parole Board may determine a parole consideration date consistent with the provisions of this section and criteria established by the Pardon and Parole Board.

~~D.~~ E. No person who is appearing out of the normal processing procedure shall be eligible for consideration for parole without the concurrence of at least three (3) members of the Pardon and Parole Board.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 530.1, as amended by Section 9, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1995, Section 530.1), is amended to read as follows:

Section 530.1 A. The Department of Corrections, by the rules ~~and regulations~~ of that Department, shall have the following duties which shall be performed as part of the assessment and reception process of the Department of Corrections, upon reception of each inmate:

1. To administer, or cause to be administered, physical and psychological examination of all inmates;
2. To inventory the vocational skills of all inmates;
3. To assess the educational and training needs of all inmates;
4. To determine from available records and interviews, the place of birth of new inmates. The Department of Corrections shall furnish a list of foreign-born nationals and suspected foreign-born nationals to the Immigration and Naturalization Service on a weekly basis;
5. To determine initial security and custody classifications;
- ~~5.~~ 6. To determine and recommend for placement in an alcohol or substance abuse treatment facility or program, as ~~hereinafter~~ provided for in this section, any inmate convicted of alcohol related offenses or otherwise in need of alcohol or substance abuse treatment;
- ~~6.~~ 7. To determine and recommend for placement in the Department of Corrections Special Care Unit at the State Penitentiary at McAlester any inmate who is in need of acute psychiatric care;
- ~~7.~~ 8. To plan for immediate assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by

law, or other facilities, public or private, designated by the Department;

~~8.~~ 9. To recommend possible future assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities designated by the Department; and

~~9.~~ 10. To provide orientation and instruction with respect to rules and procedures for prisoners.

B. An alcohol or substance abuse treatment center in which an inmate is placed shall provide services and standards of treatment as provided by the Department of Mental Health and Substance Abuse Services under its rules ~~and regulations~~ for alcoholism or substance abuse treatment. Upon placement of a prisoner in a center for alcoholism or substance abuse treatment, the Department of Corrections shall enter into a third party contract with such center for the custodial and professional services rendered to any prisoner. Such contract may include requirements imposed by law on the Department of Corrections or reimbursement for such services, if necessary. The Department of Corrections is further authorized to enter into third party contracts for substance abuse treatment programs which are certified by the Department of Mental Health and Substance Abuse Services to provide professional services on an outpatient basis to prisoners in need of substance abuse treatment and follow-up treatment while assigned to alternatives to incarceration.

C. The Department of Corrections shall adopt rules ~~and regulations~~ governing the implementation of this ~~act~~ section within sixty (60) days from the effective date of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 530.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that the Department of Corrections vigorously provide assistance to the United States Department of Justice:

1. For the identification of foreign-born nationals who are in the custody of the Department of Corrections;
2. In conducting interviews of and processing foreign-born nationals or suspected foreign-born nationals who are in the custody of the Department of Corrections; and
3. In conducting and completing the deportation process of inmates whom the United States Department of Justice determines to be aliens deportable from the United States. The Department of Corrections shall assist the Immigration and Naturalization Service in obtaining court certified copies of any records requested for use in official criminal or administrative proceedings.

The Department of Corrections shall implement rules for the determination of the place of birth of all inmates in the custody of the Department. This determination shall be completed by January 1, 1997. Upon completion of this determination, the Department of Corrections shall report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives how many inmates in the custody of the Department are not citizens of the United States. The Department of Corrections shall submit updated reports to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on a quarterly basis.

The Department of Corrections shall also implement rules for the notification of the Immigration and Naturalization Service of the identity of all inmates in the custody of the Department of Corrections who are foreign-born nationals or that the Department of

Corrections suspects are foreign-born nationals. The Department of Corrections shall convene a working group and include the Immigration and Naturalization Service in the formulation of rules for implementation of this section.

SECTION 4. This act shall become effective July 1, 1996.

SECTION 5. 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.

Passed the House of Representatives the 7th day of May, 1996.

Speaker of the House of
Representatives

Passed the Senate the 8th day of May, 1996.

President of the Senate