

SHORT TITLE: Post-conviction release; authorizing early release of certain prisoners; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 566

By: Smith

AS INTRODUCED

An Act relating to post-conviction release; creating the Conditional Post-Conviction Release Act; providing short title; defining terms; authorizing early release of certain prisoners; requiring certain bond; authorizing conditional release; allowing releasing authority to set conditions for release; specifying duties for surety; requiring certain report of breach; providing penalties; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 614 of Title 57, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Conditional Post-Conviction Release Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 615 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Releasing authority" means any entity having legal authority to release a prisoner onto probation, supervision, furlough or parole;

2. "Participant" means any person to be released under this act;

3. "Surety" means any person or entity licensed under the laws of the state to execute bonds filed in criminal cases;

4. "Bond" means the written undertaking delivered by the surety to the releasing authority and describing the terms and conditions of surety's duties;

5. "Conditions" mean any conditions the releasing authority may impose as a prerequisite to being on release from custody;

6. "Breach" means any condition of release violated by the participant;

7. "Breach penalty" means the amount of money to be paid to the state by the surety upon revocation of the bond. The breach penalty shall be in the amount of one-half of the annual charge collected by the surety;

8. "Major penalty" means the amount of money to be paid by the surety to the state upon the surety's failure to meet the requirements under this act, which failures call for a major penalty. The major penalty shall be Fifteen Thousand Dollars (\$15,000.00);

9. "Charge" means the amount of money the surety charges to write the bond. In no case shall the charges be less than fifteen percent (15%) of the major penalty amount which charge shall be fully earned when the bond is written;

10. "Revocation of bond" means the use and effectiveness of the bond has ceased. The releasing authority may revoke the bond upon a breach or continue the bond by nullifying the breach, or the bond may be revoked at any time the releasing authority determines that the participant is not attempting to abide by the conditions of the bond; and

11. "Mandatory conditions" mean those conditions the releasing authority must place upon the participant as a condition to early release.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 616 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act shall apply to any person convicted of a felony offense wherein the criminal act did not attempt to cause or cause any physical injury or death to any victim and for which the person received a sentence of incarceration for a term of more than two (2) years in the custody of the Department of Corrections.

B. Upon the decision of the releasing authority to return an inmate to society, the releasing authority may release a participant by requiring the posting of an early release bond by a surety. The releasing authority may set conditions of release, which conditions shall be appended to and made a part of the bond. The conditions may, unless otherwise specified, be any of the following, but are not limited to these conditions and are to include any conditions imposed by the releasing authority:

1. The participant shall be drug/alcohol tested as specified;
2. The participant shall take part in specified recovery program;
3. The participant shall not contact, go about or communicate directly with any witness involved in participant's conviction;
4. The participant shall not contact, go about or communicate directly or indirectly with any victim involved in participant's conviction;
5. The participant shall obtain and keep employment;
6. The participant shall be on home arrest via electronic monitoring devices approved by the Department of Corrections;

7. The participant shall abide by specified travel restrictions;

8. The participant shall make all specified periodic restitution payments;

9. The participant shall pay specified fines and court costs;

10. The participant shall perform specified community services;

11. The participant shall pursue specified education courses;

12. The participant shall obtain such education as specified;

13. The participant will participate in such family or third part involvement as specified;

14. The participant shall have, as a mandatory condition, that he or she pay the surety's charge; and

15. The participant shall have, as a mandatory condition, that he or she personally report to the surety at such time and in such manner as directed by the releasing authority and surety.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 617 of Title 57, unless there is created a duplication in numbering, reads as follows:

The early release bond put up by the surety shall:

1. Be for a term of one (1) year, and may be renewed annually;
2. Be in favor of and payable to the state; and
3. Be conditioned that the surety shall:

a. have available those facilities necessary for meeting the conditions of:

- (1) home arrest, in accord with Section 3 of this act,
- (2) drug/alcohol testing, in accord with Section 3 of this act,
- (3) regular check-ins, in accord with Section 3 of this act,

- b. report to the releasing authority any breach within twelve (12) hours after the surety has actual knowledge of the breach.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 618 of Title 57, unless there is created a duplication in numbering, reads as follows:

The surety shall pay penalties as follows:

1. A breach penalty shall be paid upon breach of a condition by the participant;
2. A major penalty shall be paid upon failure of the surety to meet the requirements of subparagraph a of paragraph 3 of Section 4 of this act;
3. A major penalty shall be paid upon failure of the surety to meet the requirement of subparagraph b of paragraph 3 of Section 4 of this act; and
4. There can be only one penalty per bond.

SECTION 6. This act shall become effective July 1, 1995.

SECTION 7. 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.

45-1-0164

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