

STATE OF OKLAHOMA

1st Extraordinary Session of the 46th Legislature (1998)

HOUSE BILL NO. 1006

By: Askins

AS INTRODUCED

An Act relating to corrections; amending 57 O.S.

1991, Section 332.7, as last amended by Section 6 of Enrolled House Bill No. 2616 of the 2nd Session of the 46th Oklahoma Legislature, which relates to parole; modifying eligibility for parole consideration; providing that certain parole hearing shall be conducted in two stages; providing procedure; providing that certain inmates shall not be reconsidered for parole within a certain time, with exception; 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 last amended by Section 6 of Enrolled House Bill No. 2616 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 332.7 A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole ~~who has~~ at the earliest of the following dates:

1. ~~Completed~~ Has completed serving one-third (1/3) of the sentence;

2. ~~Reached~~ Has reached at least sixty (60) years of age and also has served at least fifty percent (50%) of the time of imprisonment that would have been imposed for that offense pursuant to the applicable Truth in Sentencing matrix; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S-1, S-2 or S-3 or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;

3. ~~Been sentenced for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 and has served~~ Has reached eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for ~~that~~ an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph; or

4. ~~Been sentenced for an offense that is listed in any other schedule, served~~ Has reached seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for ~~that~~ an offense that is listed in any other schedule, pursuant to the applicable matrix; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph.

B. The parole hearings conducted for persons pursuant to paragraph 3 of subsection A of this section or for any person eligible for parole consideration who was convicted of a violent crime as set forth in Section 571 of this title shall be conducted in two stages, as follows:

1. At the initial hearing, the Pardon and Parole Board shall review the completed report submitted by the staff of the Board and

shall conduct a vote regarding whether, based upon that report, the Board decides to consider the person for parole at a subsequent meeting of the Board; and

2. At the subsequent meeting, the Board shall hear from any victim or victim's representative that wants to contest the granting of parole to that person and shall conduct a vote regarding whether parole should be recommended for that person.

If the person is not recommended for parole or waives parole consideration and the person was considered pursuant to paragraph 3 of subsection A of this section and was convicted of a violent crime as set forth in Section 571 of this title, the person shall not be considered again by the Board until the person has reached one-third (1/3) of the sentence, and thereafter the person shall not be considered more frequently than once every three (3) years, unless the person is within one (1) year of discharge. Any person in the custody of the Department of Corrections for a crime committed prior to July 1, 1998, who has been considered for parole on a docket created for a type of parole consideration that has been abolished by the Legislature shall not be considered for parole except in accordance with this subsection.

C. Any inmate who has been considered for parole pursuant to paragraph 1, 2 or 4 of subsection A of this section and was denied shall not be reconsidered for parole within one (1) year, except by the direction of the Pardon and Parole Board.

D. 1. Any inmate who has parole consideration dates calculated pursuant to subsection A or B of this section shall be considered at the earliest such date. ~~Any~~ Except as otherwise provided, any inmate who has been considered for parole and was denied shall not be reconsidered for parole within one (1) year, except by the direction of the Pardon and Parole Board.

2. The Department of Corrections and the Pardon and Parole Board shall promulgate rules for the implementation of ~~subsection~~

subsections A and B of this section. The rules shall include, but not be limited to, procedures for reconsideration of persons denied parole under this section and procedure for determining what sentence the person would have received under the applicable matrix.

~~C.~~ E. For persons in the custody of the Department of Corrections for a felony committed prior to July 1, 1998, 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.

~~D.~~ F. For a crime committed on or after July 1, 1998:

1. Any person convicted of a crime in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 shall be eligible for parole consideration after serving eighty-five percent (85%) of the sentence of imprisonment imposed unless the sentence has been discharged by accumulated credits pursuant to Section 138 of this title;

2. Any person convicted of a crime in any other schedule shall be eligible for parole consideration after serving seventy-five percent (75%) of the sentence of imprisonment imposed subject to the accumulation of credits pursuant to Section 138 of this title; or

3. A person who is sixty (60) years of age or older, who has not been sentenced to life without parole or death and who has not been convicted of a crime listed in Schedule A, S-1, S-2 or S-3, shall be eligible for parole consideration after the person has

served at least fifty percent (50%) of any imposed sentence of incarceration.

The provisions of this subsection shall not apply to any person sentenced to life imprisonment without parole.

~~E.~~ G. 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 the time period provided for in this subsection 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.

~~F.~~ H. 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 reception and processing through the Department of Corrections.

~~G.~~ I. 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.

~~H.~~ J. 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.

~~I.~~ K. Any person convicted of a crime committed on or after July 1, 1998, who was sentenced to postimprisonment supervision and who is granted parole while incarcerated, shall be placed under parole supervision before beginning postimprisonment supervision.

~~J.~~ L. If a person is sentenced to consecutive sentences pursuant to the Oklahoma Community ~~Corrections~~ Sentencing Act of county jail incarceration that requires the person to be incarcerated more than eighteen (18) months, the person shall be eligible for parole consideration after serving at least eighteen (18) months of the confinement. The local administrator for community punishment shall notify the Pardon and Parole Board of any persons who qualify for parole pursuant to this subsection.

SECTION 2. This act shall become effective July 1, 1998.

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.

46-1EX-12011 SD