

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2623

By: Askins

AS INTRODUCED

An Act relating to prisons and reformatories; amending 57 O.S. 1991, Sections 571, as amended by Section 10, Chapter 276, O.S.L. 1993, 572, 574 and 575 (57 O.S. Supp. 1999, Section 571), which relate to the Oklahoma Prison Overcrowding Emergency Powers Act; modifying definition; providing exceptions to what constitutes capacity; modifying percentage of capacity for which emergency is declared; 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 571, as amended by Section 10, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1999, Section 571), is amended to read as follows:

Section 571. As used in ~~this act~~ the Oklahoma Prison Overcrowding Emergency Powers 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, except space for:

- a. inmates placed in segregation from other inmates due to behavior, investigations, or need for protection;
- b. inmates placed in administrative segregation housing who present a continuing threat to the security of the facility or to any person in the facility;
- c. inmates housed for medical treatment;
- d. inmates housed for psychological or psychiatric treatment; and
- e. inmates sentenced to death;

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 time reduction of sentence allowed when ~~ninety-five percent (95%)~~ one hundred percent (100%) of capacity is exceeded pursuant to ~~this act~~ the Oklahoma Prison Overcrowding Emergency Powers Act; ~~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.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 572, is amended to read as follows:

Section 572. A. The Department of Corrections shall request the Governor to declare a state of emergency in the prisons of this state whenever the ~~population of~~ total number of inmates in the

prison system exceeds ~~ninety-five percent (95%)~~ one hundred percent (100%) of the capacity for thirty (30) consecutive days.

B. Unless the Governor finds within fifteen (15) calendar days of the Department of Corrections' request to declare a state of emergency that such an emergency does not exist, a prison overcrowding state of emergency shall be in effect.

SECTION 3. AMENDATORY 57 O.S. 1991, Section 574, is amended to read as follows:

Section 574. If the actions by the Governor to declare a state of emergency and the subsequent actions by the Director of the Department of Corrections to grant emergency time credit to the persons specified in Section 573 of this title do not reduce the population of the prison system to ~~ninety-five percent (95%)~~ one hundred percent (100%) or less of the capacity within sixty (60) days of the date of the declaration of the emergency, at the end of the sixty-day period the Director shall grant an additional sixty (60) days of emergency time credit to all persons specified in Section 573 of this title on that date, with such credit to be applied as designated in Section 573 of this title. If at the end of the second sixty-day period, the population of the prison system still exceeds ~~ninety-five percent (95%)~~ one hundred percent (100%) of the capacity, the Director shall grant an additional sixty (60) days of emergency time credit to all persons specified in Section 573 of this title. Thereafter, while the state of emergency exists, at the end of each sixty (60) days that the population exceeds ~~ninety-five percent (95%)~~ one hundred percent (100%) of capacity, the Director shall grant an additional sixty (60) days of emergency time credits to all persons specified in Section 573 of this title; provided, no person eligible for emergency time credit shall receive more than three hundred sixty (360) days of emergency time credit during a year.

SECTION 4. AMENDATORY 57 O.S. 1991, Section 575, is amended to read as follows:

Section 575. If at any time during the state of emergency the population of the prison system is reduced to ~~ninety-five percent (95%)~~ one hundred percent (100%) or less of the capacity, the Department of Corrections shall certify that fact to the Governor and request the Governor to rescind the state of emergency.

If the Governor finds that within fifteen (15) calendar days of the Department's request that the emergency no longer exists, he shall declare the prison overcrowding state of emergency ended within that fifteen-day period.

If a state of emergency has been declared by the Governor, pursuant to Section 572 of this title, the Governor shall not declare another state of emergency until the existing state of emergency has been rescinded pursuant to this section. Thereafter, if the prison population exceeds ~~ninety-five percent (95%)~~ one hundred percent (100%) of capacity, a subsequent state of emergency shall be declared if the conditions required by Section 572 of this title exist.

SECTION 5. This act shall become effective July 1, 2000.

SECTION 6. 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.

47-2-7606 SD 6/12/15