

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 1177

By: Shurden

COMMITTEE SUBSTITUTE

[ prisons - creating the Relief Credits Act - stating  
circumstances for relief credits - requiring a  
standard percentage rate to reduce sentence length by  
class or type of offense - directing the Pardon and  
Parole Board to set certain standard rate for relief  
credits - codification - effective date -  
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 510.12 of Title 57, unless there  
is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Relief  
Credits Act (RCA)".

B. The purpose of this act is to prevent the state from  
becoming a party defendant to any class action or individual inmate  
lawsuit or any federal mandate or litigation concerning improper  
prison conditions or overcrowding, including, but not limited to:  
any complaints on bed space or cell conditions, inhumane treatment,  
cruel and unusual punishment, failure to provide medical or other  
necessary services, fire dangers, inadequate health conditions, or  
any other condition deemed detrimental to the housing, feeding, care  
or services to inmates during incarceration. The second purpose of  
this act is to provide immediate relief to the state during periods  
of inappropriate prison conditions or overcrowding when there are  
insufficient funds available within the Department of Corrections to  
immediately relieve the situation.

C. Every decision and action taken pursuant to the provisions of this act shall provide an appropriate degree of safety to the public, prison inmates and correctional employees, and reasonably preserve the intent of the court-ordered punishment against each offender. Any action taken pursuant to this act shall be fair, impartial and uniform within each class or type of offense by utilizing a standard measure applicable to said class or type of offense. There shall be no preferential treatment or intentional omission of any individual inmate in a class or type of offense. Any application of the provisions of this act to one member of a class or type of offense shall apply to all persons in said class or type of offense.

D. The Pardon and Parole Board is hereby authorized to determine the best interests of justice, the public, and the state by determining what class of offenders and what standard percentage rate of sentence reduction credits hereinafter known as "Relief Credits" shall be used to reduce sentences for those offenders sentenced to incarceration in the state penal system and deemed eligible for relief credits during temporary periods of inappropriate prison conditions or overcrowding pursuant to the provisions of this act.

E. Whenever the state prison population is affected by an emergency as specified in Subsection M of this act, or when the state prison population in a security classification level reaches ninety-five percent (95%) of capacity as determined by the total prison beds available and fully funded that fiscal year for said security level for thirty (30) consecutive days, the Department of Corrections shall immediately restore to every nonviolent offender in all security classification levels all lost earned credits taken for technical infractions; provided said earned credits have been removed for a period of thirty (30) days or more. When the restoration of earned credits does not result in a reclassification,

reassignment or release of inmates sufficient to reduce the prison population in that security level to less than ninety-five percent (95%), the Department shall within ten (10) days of the restoration of earned credits notify the Pardon and Parole Board that an inappropriate prison condition or overcrowding situation exists, unless the Department has funding available to contract for private prison beds or other relief without any supplemental appropriation request in that fiscal year and does immediately contract and relieve the situation.

F. Upon receiving notice from the Department, the Pardon and Parole Board shall within three (3) days notify the Administrative Office of the Courts, the Director of the Oklahoma Indigent Defense System, the Executive Director of the District Attorneys Council, the Chair of the Oklahoma Sentencing Commission, and the Director of the Oklahoma Criminal Justice Resource Center that relief credits for incarcerated state inmates are necessary due to an inappropriate prison condition or overcrowding and lack of immediately available funding. These officials, and their respective agencies, shall assist the Pardon and Parole Board in any manner requested by the Pardon and Parole Board, but shall have no other authority pursuant to this act. The Pardon and Parole Board shall proceed to fully implement the provisions of this act within thirty (30) days of the notification from the Department.

G. When the Pardon and Parole Board must reduce sentence lengths by application of relief credits pursuant to the provisions of this act, a standard percentage rate shall be used for the relief credits applied to each eligible offender within a security classification level or for each type of offense, or both, at the discretion of the Board. The percentage rate standard shall be determined by the Pardon and Parole Board and applied to the eligible offenders by the Department so the sentence lengths of said offenders are officially reduced. The Oklahoma Criminal Justice

Resource Center shall provide statistical data as necessary, including, but not limited to: prison population by classification and type of offense; range of sentence length imposed by type of offense; incarceration cost; minimum sentence length allowed by law by type of offense; population projections; fiscal impact for reduction of classification levels or types of offense; bed space available in classification levels; and any other data deemed appropriate to determine a standard percentage rate for relief credits to reduce eligible offender sentences and bring the population to between ninety-two percent and ninety-five percent (92%-95%) of capacity or otherwise relieve the situation as required in subsection M of this act. The purpose of the standard percentage rate is to achieve uniformity and fairness in application of relief credits and to preserve the intent of the individually imposed punishments.

H. Within the time specified in this act, when the Pardon and Parole Board determines the applicable percentage rate for relief credits in any designated class or type of offense, the Board shall immediately notify the Department who shall immediately apply said relief credits to the designated offenders by class, type of offense, or both class and type as determined by the Board. Application of said credits shall be completed no later than twenty-one (21) days from the date notice is received from the Pardon and Parole Board.

I. The eligibility priority for sentence reduction by relief credits may be as follows:

1. First or second time nonviolent offenders;
2. Offenders serving split sentences or partial suspended sentences for nonviolent offenses;
3. Nonviolent offenders without concurrent or consecutive nonviolent sentences;

4. Nonviolent offenders with concurrent sentences for nonviolent offenses;

5. Nonviolent offenders with consecutive nonviolent offenses; and

6. All other offenders, except those offenders serving a mandatory sentence pursuant to Section 13.1 of Title 21 of the Oklahoma Statutes, or those offenders serving a sentence of life without parole, or those offenders serving a death sentence.

The eligibility priority in this subsection shall not be construed to limit or restrict the decision of the Pardon and Parole Board, if another class level or type of offense is deemed appropriate for relief credits and the application of said credits will remedy the situation. Nothing shall be construed to limit or restrict offender eligibility based on prior offenses which have been served and completed. This act does not authorize or require the Pardon and Parole Board to review any individual criminal history records prior to setting the standard percentage rate for a class level or type of offense and specifically prohibits the exclusion of any individual person within a class level or type of offense for the purpose of receiving relief credits pursuant to this act. The controlling offense at the time of the notice to the Pardon and Parole Board shall be utilized to determine whether or not any offender is within any given class level or type of offense, unless the Board determines and specifies that the standard percentage rate for reduction of sentences by relief credits shall apply to all offenders convicted and sentenced to incarceration for a specific type of offense, whether the offense is the then controlling offense or any secondary offense or count to be served in state incarceration.

J. The incarcerated offender shall not be entitled to attend any proceeding or meeting on application of relief credits pursuant to this act, nor shall any offender be allowed any court relief,

except when an offender has been clearly omitted from a classification level or type of offense that did receive the relief credits. In those cases of omission, the offender must first request an administrative determination from the Department of Corrections of whether or not an omission has occurred and is correctable by the Department. Proceedings, meetings and subsequent actions pursuant to this act may be conducted by document review alone. Meetings may be open to the public, but shall not be subject to the Open Meeting Act.

K. The Department may provide the Pardon and Parole Board and the Criminal Justice Resource Center, if requested by the Board, a list of offenders by name, classification level and type of offense that the Department believes are eligible for relief credits pursuant to the provision of this act. The Department may provide other information as specifically requested by the Board.

L. The Department shall not unduly retain any offender when the application of said credits sufficiently reduces the sentence length for security reclassification purposes, parole eligibility, reassignment or placement, or release from custody.

M. In addition to the provision of this act for overcrowding, the Pardon and Parole Board is authorized to implement this act for the following purposes:

1. Responding to catastrophic damage to any prison facility by weather, riot, fire, water, structural integrity, or explosion;

2. Negotiating, resolving or mitigating any federal mandate, litigation or imminent judicial proceeding regarding inappropriate prison conditions;

3. Negotiating, resolving or mitigating any class action litigation or imminent judicial proceeding regarding inappropriate prison conditions; and

4. Addressing failure to meet health and safety standards or conditions affecting all or part of a prison facility, or condemnation of all or part of a prison facility.

All provisions of this act are in full force and effect for this subsection.

N. Nothing shall be construed to limit or restrict the number of times the Department gives notice to the Pardon and Parole Board for inappropriate prison conditions or overcrowding in any fiscal year or the number of relief credits granted to any class level or type of offense during the term of any sentence. The Pardon and Parole Board may at any time inform and request the district attorneys and district judges to modify their punishment and sentencing practices to aid the state in managing its prison population and resources.

SECTION 2. This act shall become effective July 1, 2004.

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.

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