

SB 792

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THE STATE SENATE
Tuesday, February 25, 2003

Senate Bill No. 792
As Amended

SENATE BILL NO. 792 - By: WILKERSON of the Senate and BRADDOCK of the House.

[corrections - Capacity Activated Powers Act (CAP) - emergency overcrowding - 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 570-1.1 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 "Capacity Activated Powers Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 570-1.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall request the Governor to declare a state of emergency overcrowding in the prisons of this state whenever the prison population of this state exceeds ninety-five percent (95%) of the total number of state-owned prison bed space for thirty (30) consecutive days.

B. Unless the Governor finds within fifteen (15) calendar days from the Department's request to declare a state of emergency that

1 such emergency does not exist, a state of emergency overcrowding in
2 the prisons shall be automatically in effect until such time the
3 prison population is reduced to ninety-five percent (95%) or less of
4 the total number of state-owned prison bed space.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 570-1.3 of Title 57, unless
7 there is created a duplication in numbering, reads as follows:

8 A. On the effective date of a declaration of emergency pursuant
9 to Section 2 of this act, the Director of the Department of
10 Corrections shall immediately grant sixty (60) days of emergency
11 time credit to any person committed to the custody of the
12 Department, including any inmates in private prison facilities and
13 inmates held in any county jail pursuant to contract with the
14 Department or pending reception at Lexington Reception and
15 Assessment Center, provided such person is:

16 1. Incarcerated for a nonviolent felony offense as defined in
17 Section 571 of Title 57 of the Oklahoma Statutes;

18 2. Incarcerated for a first, second or third felony conviction
19 with no conviction for a violent offense within the previous five
20 (5) years; and

21 3. Classified to a medium or lower security level placement.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 570-1.4 of Title 57, unless
3 there is created a duplication in numbering, reads as follows:

4 If the action by the Governor to declare a state of emergency
5 overcrowding in the prisons and the subsequent action of the
6 Director of the Department of Corrections to grant emergency time
7 credits pursuant to Section 3 of this act do not reduce the prison
8 population to below the standard set for activating the provisions
9 of this act, the Director shall, after sixty (60) days, grant an
10 additional sixty (60) days of emergency time credits to be applied
11 in the same manner provided in Section 3 of this act. Thereafter,
12 at the end of each sixty-day period if a state of emergency
13 overcrowding continues to exist, the Director of the Department
14 shall continue to grant an additional sixty (60) days of emergency
15 time credits as provided in Section 3 of this act until the state of
16 emergency overcrowding is rescinded as provided in Section 5 of this
17 act.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 570-1.5 of Title 57, unless
20 there is created a duplication in numbering, reads as follows:

21 If at any time during a declared state of emergency overcrowding
22 in the prisons the prison population is reduced to less than the
23 standard required to activate the provisions of this act, the

1 Director of the Department of Corrections shall certify in writing
2 such fact to the Governor and request the Governor to rescind the
3 state of emergency previously declared.

4 If the Governor finds that within fifteen (15) calendar days of
5 the Department's certification that the state of emergency
6 overcrowding no longer exists, the Governor shall rescind the state
7 of emergency overcrowding within that fifteen-day period.

8 If a state of emergency overcrowding has been declared by the
9 Governor pursuant to Section 2 of this act, the Governor shall not
10 declare another state of emergency until the existing state of
11 emergency has been rescinded as provided in this section.

12 Thereafter, if the prison population subsequently exceeds the
13 standard to activate the provisions of this act, a subsequent state
14 of emergency shall be declared as provided in Section 2 of this act.

15 The provisions of this act shall not take effect if the prison
16 population becomes overcrowded due to deliberate destruction of
17 property by inmates, and, therefore the prison population exceeds
18 the standard to activate the provisions of this act.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 570-1.6 of Title 57, unless
21 there is created a duplication in numbering, reads as follows:

22 Notwithstanding any other provision of law, the Pardon and
23 Parole Board, with or without application being made, shall begin

1 assessing the conduct and records of a person who qualifies for
2 emergency time credits, as follows:

3 1. Within fifteen (15) months of projected release date, if the
4 person has been sentenced to imprisonment for a term of one (1) year
5 or more, but less than three (3) years;

6 2. Within eighteen (18) months of projected release date, if
7 the person has been sentenced to imprisonment for a term of three
8 (3) years or more, but less than five (5) years; and

9 3. Within twenty-one (21) months of projected release date, if
10 the person has been sentenced to imprisonment for a term of five (5)
11 years or more.

12 The Pardon and parole Board shall complete its assessment and
13 review within three (3) months. Any person, who upon consideration
14 by the Board, refuses parole shall not be eligible for further
15 emergency time credits pursuant to the provisions of this act.

16 SECTION 7. This act shall become effective July 1, 2003.

17 SECTION 8. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-19-03 - DO
22 PASS, As Amended and Coauthored.