

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 792

By: Wilkerson

AS INTRODUCED

An Act relating to corrections; creating the Capacity Activated Powers Act (CAP); providing short title; providing for declaration of emergency overcrowding; setting procedure to notify and declare certain emergency; providing for emergency time credits to certain eligible persons; setting criteria for eligibility; providing for continued emergency time credits when overcrowding continues to exist; providing for Governor to rescind certain declaration; authorizing a continued state of emergency; making provision for notice of rescinding certain declaration; construing effect of deliberate destruction of property; directing the Pardon and Parole Board to review certain persons during declaration of certain state of emergency; 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 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 such emergency does not exist, a state of emergency overcrowding in the prisons shall be automatically in effect until such time the prison population is reduced to ninety-five percent (95%) or less of the total number of state-owned prison bed space.

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

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

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

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

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

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

If the action by the Governor to declare a state of emergency overcrowding in the prisons and the subsequent action of the Director of the Department of Corrections to grant emergency time credits pursuant to Section 3 of this act do not reduce the prison population to below the standard set for activating the provisions of this act, the Director shall, after sixty (60) days, grant an

additional sixty (60) days of emergency time credits to be applied in the same manner provided in Section 3 of this act. Thereafter, at the end of each sixty-day period if a state of emergency overcrowding continues to exist, the Director of the Department shall continue to grant an additional sixty (60) days of emergency time credits as provided in Section 3 of this act until the state of emergency overcrowding is rescinded as provided in Section 5 of this act.

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

If at any time during a declared state of emergency overcrowding in the prisons the prison population is reduced to less than the standard required to activate the provisions of this act, the Director of the Department of Corrections shall certify in writing such fact to the Governor and request the Governor to rescind the state of emergency previously declared.

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

If a state of emergency overcrowding has been declared by the Governor pursuant to Section 2 of this act, the Governor shall not declare another state of emergency until the existing state of emergency has been rescinded as provided in this section. Thereafter, if the prison population subsequently exceeds the standard to activate the provisions of this act, a subsequent state of emergency shall be declared as provided in Section 2 of this act.

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

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

Notwithstanding any other provision of law, the Pardon and Parole Board, with or without application being made, shall begin assessing the conduct and records of a person who qualifies for emergency time credits, as follows:

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

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

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

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

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

SECTION 8. 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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