

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE  
BILL NO. 1623

By: Wilt of the House

and

Coffee of the Senate

An Act relating to inmates and prisoners \* \* \* \*  
modifying scope of certain limitation; amending 12  
O.S. 2001, Section 397, as last amended by Section 2,  
Chapter 168, O.S.L. 2004 (12 O.S. Supp. 2004, Section  
397), which relates to procedure in actions in which  
a prisoner is a witness or complaining or defending  
party; \* \* \* \* powers and duties of the State Board  
of Corrections; modifying investment power; amending  
57 O.S. 2001, Section 564, which relates to actions  
initiated by inmates; \* \* \* \* clarifying requirement  
that inmates exhaust administrative remedies prior to  
initiating actions; \* \* \* \* expanding scope of  
requirement that inmate exhaust administrative  
remedies prior to the filing of any pleadings; and  
declaring an emergency.

AMENDMENT NO. 1. Page 9, line, 3 1/2 insert a new Section 5  
to read as follows

"SECTION 5. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 564.1 of Title 57, unless there  
is created a duplication in numbering, reads as follows:

A. In those instances of prison disciplinary proceedings that  
result in the revocation of earned credits, the prisoner, after  
exhausting administrative remedies, may seek judicial review in the  
district court of the official residence of the Department of  
Corrections. To be considered by the court, the inmate shall meet  
the following requirements:

1. The petition shall be filed within ninety (90) days of the  
date the petitioner is notified of the final Department of  
Corrections decision in the Department disciplinary appeal process.

2. The petition shall only name the Department of Corrections as the respondent and service shall be in accordance with the rules for service under the laws of this state.

3. The petition shall be limited to the review of only one disciplinary report and no other pleading is allowed other than the petition and the answer.

4. The court shall not consider any pleadings from any intervening parties and shall not stay the Department disciplinary process during the review of the misconduct hearing.

B. The answer of the Department shall be filed within thirty (30) days of receipt of the petition unless the court orders a special report upon motion by one party or upon its own motion.

C. The petition shall assert that due process was not provided and prove which element of due process, relevant only to a prison administrative disciplinary proceeding, was not provided by the prison staff.

D. The court shall only determine whether due process was provided by the revoking authority. In determining whether due process was provided, the court shall determine:

1. Whether written notice of the charge was provided to the inmate;

2. Whether the inmate had a minimum of twenty-four (24) hours to prepare after notice of the charge;

3. Whether the inmate was provided an opportunity for a hearing by a prison employee not involved in bringing the charge;

4. Whether the inmate had the opportunity to present relevant documentary evidence;

5. Whether the inmate had the opportunity to call witnesses when doing so would not be hazardous to institutional safety or burden correctional goals;

6. Whether the inmate was provided a written statement as to the evidence relied on and the reasons for the discipline imposed; and

7. Whether any evidence existed in the record upon which the hearing officer could base a finding of guilt.

E. The judicial review as provided in this section shall not be an independent assessment of the credibility of any witness or a weighing of the evidence, and there shall be no right to an error free proceeding or to confront accusers. The only remedy to be provided, if the court finds due process was not provided, is an order to the Department to provide due process.

F. There shall be no recovery allowed for costs and fees, providing that frivolous petitions are subject to the sanctions provided by the laws of this state.

G. Either party aggrieved by the final order of the district court on a petition for judicial review may only appeal the order to the Oklahoma Court of Criminal Appeals as set forth in the rules of such Court."

and renumber subsequent sections

and amend title to conform

Passed the Senate the 26th day of April, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2005.

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Presiding Officer of the House  
of Representatives