

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend House Bill No. 1623, Page 12, Line 3 1/2, by inserting a new SECTION 5 to read as follows, by renumbering subsequent sections, and by amending the title to conform.

“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.”

Submitted by:

Senator Coffee