

**SENATE CHAMBER**

STATE OF OKLAHOMA

DISPOSITION BY SENATE

**FLOOR AMENDMENT**

No. 2

\_\_\_\_\_

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend \_Senate\_\_\_\_\_ Bill No. 1064\_\_\_\_\_, Page 3\_\_\_\_, Line 23\_\_\_\_,

as follows:

By inserting new SECTIONS 2 to read as per attached, by renumbering subsequent sections, and by amending the title to conform.

Submitted by:

\_\_\_\_\_  
Senator Jim Wilson

Wilson-CD-FA-SB704  
3/12/2009 1:14 PM

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2 SECTION \_\_\_\_\_. NEW LAW A new section of law to be codified in the Oklahoma

3 Statutes as Section 570A of Title 57, unless there is created a duplication in numbering, reads as

4 follows:

5 This act shall be known and may be cited as the “Emergency Credit Activation Plan” (CAP).

1 SECTION \_\_\_\_ AMENDATORY 57 O.S. 2001, Section 571, as last amended by  
2 Section 29, Chapter 3, O.S.L. 2008 (57 O.S. Supp. 2008, Section 571), is amended to read as  
3 follows:

4 Section 571. As used in the Emergency Credit Activation Plan and the Oklahoma Statutes,  
5 unless another definition is specified:

6 1. "Capacity" means the actual available bedspace in state owned prison facilities as certified  
7 by the State Board of Corrections subject to applicable federal and state laws and the rules and  
8 regulations promulgated under such laws;

9 2. "Department" means the Department of Corrections;

10 3. "Director" means the Director of the Department of Corrections";

11 4. "Emergency time credit" means time reduction of sentence allowed when ninety-five  
12 percent (95%) of capacity is exceeded pursuant to this act; and

13 5. "Nonviolent offense" means any felony offense except the following, or any attempts to  
14 commit or conspiracy or solicitation to commit the following crimes:

- 15 a. assault, battery, or assault and battery with a dangerous or deadly weapon;
- 16 b. aggravated assault and battery on a police officer, sheriff, highway patrolman,  
17 or any other officer of the law;
- 18 c. poisoning with intent to kill;
- 19 d. shooting with intent to kill;
- 20 e. assault with intent to kill;
- 21 f. assault with intent to commit a felony;
- 22 g. assaults while masked or disguised;
- 23 h. murder in the first degree;
- 24 i. murder in the second degree;
- 25 j. manslaughter in the first degree;

- 1 k. manslaughter in the second degree;
- 2 l. kidnapping;
- 3 m. burglary in the first degree;
- 4 n. burglary with explosives;
- 5 o. kidnapping for extortion;
- 6 p. maiming;
- 7 q. robbery;
- 8 r. robbery in the first degree;
- 9 s. robbery in the second degree;
- 10 t. armed robbery;
- 11 u. robbery by two (2) or more persons;
- 12 v. robbery with dangerous weapon or imitation firearm;
- 13 w. child abuse;
- 14 x. wiring any equipment, vehicle or structure with explosives;
- 15 y. forcible sodomy;
- 16 z. rape in the first degree;
- 17 aa. rape in the second degree;
- 18 bb. rape by instrumentation;
- 19 cc. lewd or indecent proposition or lewd or indecent act with a child;
- 20 dd. use of a firearm or offensive weapon to commit or attempt to commit a felony;
- 21 ee. pointing firearms;
- 22 ff. rioting;
- 23 gg. inciting to riot;
- 24 hh. arson in the first degree;
- 25 ii. injuring or burning public buildings;

- 1           jj.       sabotage;
- 2           kk.       criminal syndicalism;
- 3           ll.       extortion;
- 4           mm.      obtaining signature by extortion;
- 5           nn.      seizure of a bus, discharging firearm or hurling missile at bus;
- 6           oo.      mistreatment of a mental patient; or
- 7           pp.      using a vehicle to facilitate the discharge of a weapon pursuant to Section 652
- 8                      of Title 21 of the Oklahoma Statutes.

9           SECTION \_\_\_\_\_.   NEW LAW   A new section of law to be codified in the Oklahoma  
10 Statutes as Section 572A of Title 57, unless there is created a duplication in numbering, reads as  
11 follows:

12           A. The Department of Corrections shall request the Governor to declare a state of emergency  
13 in the prisons owned by this state whenever the population of the state prison system exceeds  
14 ninety-five percent (95%) of the state-owned bed capacity for thirty (30) consecutive days.

15           B. Unless the Governor finds within fifteen (15) calendar days of the Department of  
16 Corrections' request to declare a state of emergency that such an emergency does not exist, a prison  
17 overcrowding state of emergency shall be in effect.

18           SECTION \_\_\_\_\_.   NEW LAW   A new section of law to be codified in the Oklahoma  
19 Statutes as Section 573A of Title 57, unless there is created a duplication in numbering, reads as  
20 follows:

21           On the effective date of such an emergency, the Director of the Department of Corrections  
22 shall grant sixty (60) days of emergency time credit to any person confined in the prison system who  
23 is:

- 24           1. Classified as medium security or any lower security level;
- 25           2. Incarcerated for a nonviolent offense; and

1           3. Not incarcerated for a second or subsequent offense under the provisions of Section 51.1,  
2 51.1a or 51.3 of Title 21 of the Oklahoma Statutes.

3           SECTION \_\_\_\_\_. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 574A of Title 57, unless there is created a duplication in numbering, reads as  
5 follows:

6           If the actions by the Governor to declare a state of emergency and the subsequent actions by  
7 the Director of the Department of Corrections to grant emergency time credit to the persons  
8 specified in Section 4 of this act do not reduce the population of the prison system to ninety-five  
9 percent (95%) or less of the capacity within sixty (60) days of the date of the declaration of the  
10 emergency, at the end of the sixty-day period the Director shall grant an additional sixty (60) days of  
11 emergency time credit to all persons specified in Section 4 of this act on that date, with such credit to  
12 be applied as designated in Section 4 of this act. If at the end of the second sixty-day period, the  
13 population of the prison system still exceeds ninety-five percent (95%) of the capacity, the Director  
14 shall grant an additional sixty (60) days of emergency time credit to all persons specified in Section  
15 4 of this act. Thereafter, while the state of emergency exists, at the end of each sixty (60) days that  
16 the population exceeds ninety-five percent (95%) of capacity, the Director shall grant an additional  
17 sixty (60) days of emergency time credits to all persons specified in Section 4 of this act; provided,  
18 no person eligible for emergency time credit shall receive more than three hundred sixty (360) days  
19 of emergency time credit during a year.

20           SECTION \_\_\_\_\_. NEW LAW A new section of law to be codified in the Oklahoma  
21 Statutes as Section 574.1A of Title 57, unless there is created a duplication in numbering, reads as  
22 follows:

23           The Pardon and Parole Board with or without application being made shall begin assessing the  
24 conduct and record of an inmate during confinement, who qualifies for emergency time credits, as  
25 follows:

- 1           1. If the inmate has been sentenced to a maximum term of confinement of five (5) years or  
2 more, within twenty-one (21) months of his or her projected release date;
- 3           2. If the inmate has been sentenced to a maximum term of confinement of three (3) years or  
4 more, but less than five (5) years, within eighteen (18) months of his or her projected release date;  
5 and
- 6           3. If the inmate has been sentenced to a maximum term of confinement of one (1) year or  
7 more, but less than three (3) years, within fifteen (15) months of his or her projected release date.

8           The Board shall determine whether or not the inmate shall qualify for parole. The assessment  
9 and determination by the Board shall be completed within three (3) months. Any inmate who, upon  
10 consideration by the Board, is not recommended for parole or who refuses consideration for parole,  
11 shall not be eligible for further emergency time credits provided for in this act.

12           SECTION \_\_\_\_\_. NEW LAW A new section of law to be codified in the Oklahoma  
13 Statutes as Section 575A of Title 57, unless there is created a duplication in numbering, reads as  
14 follows:

15           If at any time during the state of emergency the population of the prison system is reduced to  
16 ninety-five percent (95%) or less of the capacity, the Department of Corrections shall certify that  
17 fact to the Governor and request the Governor to rescind the state of emergency.

18           If the Governor finds that within fifteen (15) calendar days of the Department's request that the  
19 emergency no longer exists, he shall declare the prison overcrowding state of emergency ended  
20 within that fifteen-day period.

21           If a state of emergency has been declared by the Governor, pursuant to Section 3 of this act,  
22 the Governor shall not declare another state of emergency until the existing state of emergency has  
23 been rescinded pursuant to this section. Thereafter, if the prison population exceeds ninety-five  
24 percent (95%) of capacity, a subsequent state of emergency shall be declared if the conditions  
25 required by Section 3 of this act exist.

1           SECTION \_\_\_\_\_.   NEW LAW   A new section of law to be codified in the Oklahoma  
2 Statutes as Section 576A of Title 57, unless there is created a duplication in numbering, reads as  
3 follows:

4           The provisions of this act shall not take effect if the state prison population exceeds the state-  
5 owned bedspace capacity as the direct result of loss of bedspace due to a natural disaster or  
6 deliberate destruction of property.

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