HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature

ENGROSSED SENATE
BILL NO. 137

By: Ford and Ivester of the Senate

and

Denney of the House

An Act relating to penal institutions; amending 57 O.S. 2001, Section 138, as last amended by Section 145, Chapter 234, O.S.L. 2009 (57 O.S. Supp. 2010, Section 138), which relates to conduct credits; adding certain credit amounts for completion of certain programs; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 57 O.S. 2001, Section 138, as last amended by Section 145, Chapter 234, O.S.L. 2009 (57 O.S. Supp. 2010, Section 138), is amended to read as follows:

Section 138. A. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which they are assigned. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and

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upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No deductions shall be credited to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority. No earned credit deductions shall be credited or recorded for any inmate serving any sentence for a criminal act which resulted in the death of a police officer, a law enforcement officer, an employee of the Department of Corrections, or an employee of a private prison contractor and the death occurred while the police officer, law enforcement officer, employee of the Department of Corrections, or employee of a private prison contractor was acting within the scope of their employment.

B. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one of four class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding

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credits for rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department including but not limited to, the criteria for awarding credits required by this subsection.

C. If an inmate is subject to misconduct, nonperformance or disciplinary action, earned credits may be removed according to the policies and procedures developed by the Department. Earned credits removed for misconduct, nonperformance or disciplinary action may be restored as provided by Department policy, if any.

D. 1. Class levels shall be as follows:

a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall include, but not be limited to, inmates on escape status.

b. Class level 2 shall include an inmate who has been given a work, education, or program assignment, has received a good evaluation for participation in the work, education, or program assignment, and has

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received a good evaluation for personal hygiene and maintenance of living area.

c. Class level 3 shall include an inmate who has been incarcerated at least three (3) months, has received an excellent work, education, or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.

d. Class level 4 shall include an inmate who has been incarcerated at least eight (8) months, has received an outstanding work, education, or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.

2. a. Until November 1, 2001, class level corresponding credits are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

b. Class level corresponding credits beginning November 1, 2001, for inmates who have ever been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

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Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

c. Class level corresponding credits beginning November 1, 2001, for inmates who have never been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

Class 1 – 0 Credits per month;

Class 2 – 22 Credits per month;

Class 3 – 45 Credits per month;

Class 4 – 60 Credits per month.

Each inmate shall receive the above specified monthly credits for the class to which he or she is assigned. In determining the prior criminal history of the inmate, the Department of Corrections shall review criminal history records available through the Oklahoma State Bureau of Investigation, Federal Bureau of Investigation, and National Crime Information Center to determine the reported felony convictions of all inmates. The Department of Corrections shall also review the Office of Juvenile Affairs Juvenile On-line Tracking System for inmates who were adjudicated delinquent or convicted as a youthful offender for a crime that would be an offense enumerated in subsection E of this section.

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3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

a. satisfactory participation in the work, education, or program assignment at the standard required for the particular class level;

b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;

c. cooperative behavior toward facility staff and other inmates;

d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits.

b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.

c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.

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d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.

e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

E. No person ever convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile in this state for any felony offense enumerated in this subsection or a similar felony offense pursuant to the provisions of another state, the United States, or a military court shall be eligible for the credits provided by the provisions of subparagraph c of paragraph 2 of subsection D of this section.

1. Assault, battery, or assault and battery with a dangerous weapon as defined by Section 645, or subsection C of Section 652 of Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

2. Aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law as defined by Section 650, subsection C of Section 650.2, 650.5, subsection B of Section 650.6, or subsection C of Section 650.7 of Title 21 of the Oklahoma Statutes;

3. Poisoning with intent to kill as defined by Section 651 of Title 21 of the Oklahoma Statutes;

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4. Shooting with intent to kill as defined by Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as defined by Section 653 of Title 21 of the Oklahoma Statutes;

6. Assault with intent to commit a felony as defined by Section 681 of Title 21 of the Oklahoma Statutes;

7. Assaults while masked or disguised as defined by Section 1303 of Title 21 of the Oklahoma Statutes;

8. Entering premises of another while masked as defined by Section 1302 of Title 21 of the Oklahoma Statutes;

9. Murder in the first degree as defined by Section 701.7 of Title 21 of the Oklahoma Statutes;

10. Solicitation for Murder in the first degree as defined by Section 701.16 of Title 21 of the Oklahoma Statutes;

11. Murder in the second degree as defined by Section 701.8 of Title 21 of the Oklahoma Statutes;

12. Manslaughter in the first degree as defined by Section 711, 712 or 714 of Title 21 of the Oklahoma Statutes;

13. Manslaughter in the second degree as defined by Section 716 or 717 of Title 21 of the Oklahoma Statutes;

14. Kidnapping as defined by Section 741 of Title 21 of the Oklahoma Statutes;

15. Burglary in the first degree as defined by Section 1431 of Title 21 of the Oklahoma Statutes;

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16. Burglary with explosives as defined by Section 1441 of Title 21 of the Oklahoma Statutes;

17. Kidnapping for extortion as defined by Section 745 of Title 21 of the Oklahoma Statutes;

18. Maiming as defined by Section 751 of Title 21 of the Oklahoma Statutes;

19. Robbery as defined by Section 791 of Title 21 of the Oklahoma Statutes;

20. Robbery in the first degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

21. Robbery in the second degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

22. Armed robbery as defined by Section 801 of Title 21 of the Oklahoma Statutes;

23. Robbery by two (2) or more persons as defined by Section 800 of Title 21 of the Oklahoma Statutes;

24. Robbery with dangerous weapon or imitation firearm as defined by Section 801 of Title 21 of the Oklahoma Statutes;

25. Any crime against a child provided for in Section 843.5 of Title 21 of the Oklahoma Statutes;

26. Wiring any equipment, vehicle or structure with explosives as defined by Section 849 of Title 21 of the Oklahoma Statutes;

27. Forcible sodomy as defined by Section 888 of Title 21 of the Oklahoma Statutes;

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28. Rape in the first degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;

29. Rape in the second degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;

30. Rape by instrumentation as defined by Section 1111.1 of Title 21 of the Oklahoma Statutes;

31. Lewd or indecent proposition or lewd or indecent act with a child as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

32. Sexual battery of a person over 16 as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

33. Use of a firearm or offensive weapon to commit or attempt to commit a felony as defined by Section 1287 of Title 21 of the Oklahoma Statutes;

34. Pointing firearms as defined by Section 1289.16 of Title 21 of the Oklahoma Statutes;

35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of the Oklahoma Statutes;

36. Inciting to riot as defined by Section 1320.2 of Title 21 of the Oklahoma Statutes;

37. Arson in the first degree as defined by Section 1401 of Title 21 of the Oklahoma Statutes;

38. Endangering human life during arson as defined by Section 1405 of Title 21 of the Oklahoma Statutes;

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39. Injuring or burning public buildings as defined by Section 349 of Title 21 of the Oklahoma Statutes;

40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of Title 21 of the Oklahoma Statutes;

41. Extortion as defined by Section 1481 or 1486 of Title 21 of the Oklahoma Statutes;

42. Obtaining signature by extortion as defined by Section 1485 of Title 21 of the Oklahoma Statutes;

43. Seizure of a bus, discharging firearm or hurling missile at bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

44. Mistreatment of a vulnerable adult as defined by Section 843.1 of Title 21 of the Oklahoma Statutes;

45. Sex offender providing services to a child as defined by Section 404.1 of Title 10 of the Oklahoma Statutes;

46. A felony offense of domestic abuse as defined by subsection C of Section 644 of Title 21 of the Oklahoma Statutes;

47. Prisoner placing body fluid on government employee as defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

48. Poisoning food or water supply as defined by Section 832 of Title 21 of the Oklahoma Statutes;

49. Trafficking in children as defined by Section 866 of Title 21 of the Oklahoma Statutes;

50. Incest as defined by Section 885 of Title 21 of the Oklahoma Statutes;

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51. Procure, produce, distribute, or possess juvenile pornography as defined by Section 1021.2 of Title 21 of the Oklahoma Statutes;

52. Parental consent to juvenile pornography as defined by Section 1021.3 of Title 21 of the Oklahoma Statutes;

53. Soliciting minor for indecent exposure as defined by Section 1021 of Title 21 of the Oklahoma Statutes;

54. Distributing obscene material or child pornography as defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

55. Child prostitution as defined by Section 1030 of Title 21 of the Oklahoma Statutes;

56. Procuring a minor for prostitution or other lewd acts as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

57. Transporting a child under 18 for purposes of prostitution as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

58. Inducing a minor to engage in prostitution as defined by Section 1088 of Title 21 of the Oklahoma Statutes;

59. A felony offense of stalking as defined by subsection D of Section 1173 of Title 21 of the Oklahoma Statutes;

60. Spread of infectious diseases as defined by Section 1192 of Title 21 of the Oklahoma Statutes;

61. Advocate overthrow of government by force, commit or attempt to commit acts to overthrow the government, organize or provide assistance to groups to overthrow the government as defined

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by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma Statutes;

62. Feloniously discharging a firearm as defined by Section 1289.17A of Title 21 of the Oklahoma Statutes;

63. Possession, use, manufacture, or threat of incendiary device as defined by Section 1767.1 of Title 21 of the Oklahoma Statutes;

64. Causing a personal injury accident while driving under the influence as defined by Section 11-904 of Title 47 of the Oklahoma Statutes; or

65. Using a motor vehicle to facilitate the discharge of a firearm as defined by Section 652 of Title 21 of the Oklahoma Statutes.

F. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three members for each such committee. Each committee shall consist of a classification team supervisor who shall act as chairman, the case manager for the inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and

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performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

G. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate placed into administrative segregation for nondisciplinary reasons by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution pursuant to a judgment and sentence of incarceration shall be deducted from the term of imprisonment at the state correctional institution. Inmates sentenced to the Department of Corrections and detained in a county jail as a result of the Department's reception scheduling procedure shall be awarded earned credits as provided for in subparagraph b of paragraph 1 of subsection D of this section, beginning on the date of the judgment and sentence, unless the inmate is convicted of a misdemeanor or felony committed in the jail while the inmate is awaiting transport to the Lexington Assessment and Reception Center or other assessment and reception location determined by the Director of the Department of Corrections.

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H. Additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

Bachelors Degree.....200 credits;

Associates Degree.....100 credits;

High School Diploma or Equivalent
General Education Diploma.....90 credits;

Certification of Completion of
Vocational Training.....80 credits;

Successful completion of
Alcohol/Chemical Abuse Treatment
Program of not less than four (4)
months continuous participation.....70 credits;

Successful completion of other
Educational Accomplishments or
other programs not specified in
this subsection.....10-30 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits.

I. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

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1. Sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. Provided to the inmate.

SECTION 2. This act shall become effective November 1, 2011.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03-23-2011 - DO PASS.

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