

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3212 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Lisa Billy _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3212

By: Hickman

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to prisons and reformatories;
10 amending 57 O.S. 2011, Section 37, which relates to
11 maximum capacity of correctional facilities;
12 modifying certain parole consideration requirements;
13 amending 57 O.S. 2011, as amended by Section 2,
14 Chapter 124, O.S.L. 2013 (57 O.S. Supp. 2013, Section
15 332.7), which relates to parole consideration;
16 authorizing certain parole docket requests; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2011, Section 37, is
20 amended to read as follows:

21 Section 37. A. ~~If all~~ When the total system correctional
22 ~~facilities~~ facility limits reach ~~maximum~~ ninety-five percent (95%)
23 capacity and the Department of Corrections is required to contract
24 for bed space to house state inmates, ~~then~~ the Department of
Corrections shall notify the Pardon and Parole Board of all eligible
offenders. The Pardon and Parole Board shall then consider all

1 ~~nonviolent~~ offenders who are not incarcerated for a crime provided
2 for in Section 13.1 of Title 21 of the Oklahoma Statutes or Section
3 571 of this title for parole and who are within ~~six (6)~~ twelve (12)
4 months of ~~their scheduled~~ his or her projected release from a penal
5 facility.

6 B. No inmate may be received by a penal facility from a county
7 jail without first scheduling a transfer with the Department. The
8 sheriff or court clerk shall transmit by facsimile, electronic mail,
9 or actual delivery a certified copy of the judgment and sentence
10 certifying that the inmate is sentenced to the Department of
11 Corrections. The receipt of the certified copy of the judgment and
12 sentence shall be certification that the sentencing court has
13 entered a judgment and sentence and all other necessary commitment
14 documents. The Department of Corrections is authorized to determine
15 the appropriate method of delivery from each county based on
16 electronic or other capabilities. Once the judgment and sentence is
17 received by the Department of Corrections, the Department shall
18 contact the sheriff when bed space is available to schedule the
19 transfer and reception of the inmate into the Department.

20 C. When a county jail has reached its capacity of inmates ~~as~~
21 ~~defined in Section 192 of Title 74 of the Oklahoma Statutes, then,~~
22 the county sheriff shall notify the Director of the Oklahoma
23 Department of Corrections, or the Director's designated
24 representative, by facsimile, electronic mail, or actual delivery,

1 that the county jail has reached or exceeded its capacity to hold
2 inmates. The notification shall include copies of any judgment and
3 sentences not previously delivered as required by subsection B of
4 this section. Then within seventy-two (72) hours following such
5 notification, the county sheriff shall transport the designated
6 excess inmate or inmates to a penal facility designated by the
7 Department. The sheriff shall notify the Department of the
8 transport of the inmate prior to the reception of the inmate. The
9 Department shall schedule the reception date and receive the inmate
10 within seventy-two (72) hours of notification that the county jail
11 is at capacity, unless other arrangements can be made with the
12 sheriff.

13 D. Once the judgment and sentence is transmitted to the
14 Department of Corrections, the Department will be responsible for
15 the cost of housing the inmate in the county jail from the date the
16 sentence was ordered by the court until the date of transfer of the
17 inmate from the county jail. The cost of housing shall be the per
18 diem rate specified in Section 38 of this title. In the event the
19 inmate has other criminal charges pending in another Oklahoma
20 jurisdiction the Department shall be responsible for the housing
21 costs while the inmate remains in the county jail awaiting transfer
22 to another jurisdiction. Once the inmate is transferred to another
23 jurisdiction, the Department is not responsible for the housing cost
24 of the inmate until such time that another judgment and sentence is

1 received from another Oklahoma jurisdiction. The sheriff shall be
2 reimbursed by the Department for the cost of housing the inmate in
3 one of two ways:

4 1. The sheriff may submit invoices for the cost of housing the
5 inmate on a monthly basis; or

6 2. The sheriff may submit one invoice for the total amount due
7 for the inmate after the Department has received the inmate.

8 SECTION 2. AMENDATORY 57 O.S. 2011, Section 332.7, as
9 amended by Section 2, Chapter 124, O.S.L. 2013 (57 O.S. Supp. 2013,
10 Section 332.7), is amended to read as follows:

11 Section 332.7 A. For a crime committed prior to July 1, 1998,
12 any person in the custody of the Department of Corrections shall be
13 eligible for consideration for parole at the earliest of the
14 following dates:

15 1. Has completed serving one-third (1/3) of the sentence;

16 2. Has reached at least sixty (60) years of age and also has
17 served at least fifty percent (50%) of the time of imprisonment that
18 would have been imposed for that offense pursuant to the applicable
19 matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.
20 1997; provided, however, no inmate serving a sentence for crimes
21 listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,
22 O.S.L. 1997, or serving a sentence of life imprisonment without
23 parole shall be eligible to be considered for parole pursuant to
24 this paragraph;

1 3. Has reached eighty-five percent (85%) of the midpoint of the
2 time of imprisonment that would have been imposed for an offense
3 that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of
4 Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable
5 matrix; provided, however, no inmate serving a sentence of life
6 imprisonment without parole shall be eligible to be considered for
7 parole pursuant to this paragraph; or

8 4. Has reached seventy-five percent (75%) of the midpoint of
9 the time of imprisonment that would have been imposed for an offense
10 that is listed in any other schedule, pursuant to the applicable
11 matrix; provided, however, no inmate serving a sentence of life
12 imprisonment without parole shall be eligible to be considered for
13 parole pursuant to this paragraph.

14 B. For a crime committed on or after July 1, 1998, any person
15 in the custody of the Department of Corrections shall be eligible
16 for consideration for parole who has completed serving one-third
17 (1/3) of the sentence; provided, however, no inmate serving a
18 sentence of life imprisonment without parole shall be eligible to be
19 considered for parole pursuant to this subsection.

20 C. The parole hearings conducted for persons pursuant to
21 paragraph 3 of subsection A of this section or for any person who
22 was convicted of a violent crime as set forth in Section 571 of this
23 title and who is eligible for parole consideration pursuant to
24

1 either paragraph 1 of subsection A of this section or subsection B
2 of this section shall be conducted in two stages, as follows:

3 1. At the initial hearing, the Pardon and Parole Board shall
4 review the completed report submitted by the staff of the Board and
5 shall conduct a vote regarding whether, based upon that report, the
6 Board decides to consider the person for parole at a subsequent
7 meeting of the Board; and

8 2. At the subsequent meeting, the Board shall hear from any
9 victim or representatives of the victim that want to contest the
10 granting of parole to that person and shall conduct a vote regarding
11 whether parole should be recommended for that person.

12 D. Any inmate who has parole consideration dates calculated
13 pursuant to subsection A, B or C of this section shall be considered
14 at the earliest such date. Except as otherwise directed by the
15 Pardon and Parole Board, any person who has been considered for
16 parole and was denied parole or who has waived consideration shall
17 not be reconsidered for parole:

18 1. Within three (3) years of the denial or waiver, if the
19 person was convicted of a violent crime, as set forth in Section 571
20 of this title, and was eligible for consideration pursuant to
21 paragraph 1 of subsection A of this section or subsection B of this
22 section, unless the person is within one (1) year of discharge; or

23 2. Until the person has served at least one-third (1/3) of the
24 sentence imposed, if the person was eligible for consideration

1 pursuant to paragraph 3 of subsection A of this section. Thereafter
2 the person shall not be considered more frequently than once every
3 three (3) years, unless the person is within one (1) year of
4 discharge.

5 E. Any person in the custody of the Department of Corrections
6 for a crime committed prior to July 1, 1998, who has been considered
7 for parole on a docket created for a type of parole consideration
8 that has been abolished by the Legislature shall not be considered
9 for parole except in accordance with this section.

10 F. The Pardon and Parole Board shall promulgate rules for the
11 implementation of subsections A, B and C of this section. The rules
12 shall include, but not be limited to, procedures for reconsideration
13 of persons denied parole under this section and procedure for
14 determining what sentence a person eligible for parole consideration
15 pursuant to subsection A of this section would have received under
16 the applicable matrix.

17 G. The Pardon and Parole Board shall not recommend to the
18 Governor any person who has been convicted of three or more felonies
19 arising out of separate and distinct transactions, with three or
20 more incarcerations for such felonies, unless such person shall have
21 served the lesser of at least one-third (1/3) of the sentence
22 imposed, or ten (10) years; provided that whenever the population of
23 the prison system exceeds ninety-five percent (95%) of the capacity
24 as certified by the State Board of Corrections, the Pardon and

1 Parole Board may, at its discretion, recommend to the Governor for
2 parole any person who is incarcerated for a nonviolent offense not
3 involving injury to a person and who is within six (6) months of his
4 or her statutory parole eligibility date.

5 H. Inmates sentenced to consecutive sentences shall not be
6 eligible for parole consideration on any such consecutive sentence
7 until one-third (1/3) of the consecutive sentence has been served or
8 where parole has been otherwise limited by law, until the minimum
9 term of incarceration has been served as required by law. Unless
10 otherwise ordered by the sentencing court, any credit for jail time
11 served shall be credited to only one offense.

12 I. The Pardon and Parole Board shall consider the prior
13 criminal record of inmates under consideration for parole
14 recommendation or granting of parole. In the event the Board grants
15 parole for a nonviolent offender who has previously been convicted
16 of an offense enumerated in Section 13.1 of Title 21 of the Oklahoma
17 Statutes or Section 571 of this title, such offender shall be
18 subject to nine (9) months postimprisonment supervision upon
19 release.

20 J. It shall be the duty of the Pardon and Parole Board to cause
21 an examination to be made at the penal institution where the person
22 is assigned, and to make inquiry into the conduct and the record of
23 the said person during his custody in the Department of Corrections,
24 which shall be considered as a basis for consideration of said

1 person for recommendation to the Governor for parole. However, the
2 Pardon and Parole Board shall not be required to consider for parole
3 any person who has completed the time period provided for in this
4 subsection if the person has participated in a riot or in the taking
5 of hostages, or has been placed on escape status, while in the
6 custody of the Department of Corrections. The Pardon and Parole
7 Board shall adopt policies and procedures governing parole
8 consideration for such persons.

9 K. Any person in the custody of the Department of Corrections
10 who is convicted of an offense not designated as a violent offense
11 by Section 571 of this title, is not a citizen of the United States
12 and is subject to or becomes subject to a final order of deportation
13 issued by the United States Department of Justice shall be
14 considered for parole to the custody of the United States
15 Immigration and Naturalization Service for continuation of
16 deportation proceedings at any time subsequent to reception and
17 processing through the Department of Corrections. No person shall
18 be considered for parole under this subsection without the
19 concurrence of at least three members of the Pardon and Parole
20 Board. The vote on whether or not to consider such person for
21 parole and the names of the concurring Board members shall be set
22 forth in the written minutes of the meeting of the Board at which
23 the issue is considered.

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1 L. Upon application of any person convicted and sentenced by a
2 court of this state and relinquished to the custody of another state
3 or federal authorities pursuant to Section 61.2 of Title 21 of the
4 Oklahoma Statutes, the Pardon and Parole Board may determine a
5 parole consideration date consistent with the provisions of this
6 section and criteria established by the Pardon and Parole Board.

7 M. All references in this section to matrices or schedules
8 shall be construed with reference to the provisions of Sections 6,
9 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

10 N. Any person in the custody of the Department of Corrections
11 who is convicted of a felony sex offense pursuant to Section 582 of
12 this title who is paroled shall immediately be placed on intensive
13 supervision.

14 O. In accordance with the provisions of subsection A of Section
15 37 of this title, upon receiving notification from the Department of
16 Corrections of offenders who are eligible for parole, the Pardon and
17 Parole Board shall have the authority to place such offenders on the
18 parole review docket for purposes of parole consideration.

19 SECTION 3. This act shall become effective November 1, 2014.
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