STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3212 By: Hickman

COMMITTEE SUBSTITUTE

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

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

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

Section 37. A. ~~If all~~ When the total system correctional ~~facilities~~ facility limits reach ~~maximum~~ ninety-five percent (95%) capacity and the Department of Corrections is required to contract 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 ~~nonviolent~~ offenders who are not incarcerated for a crime provided

for in Section 13.1 of Title 21 of the Oklahoma Statutes or Section 571 of this title for parole and who are within ~~six (6)~~ twelve (12) months of ~~their scheduled~~ his or her projected release from a penal facility.

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

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

inmates. The notification shall include copies of any judgment and sentences not previously delivered as required by subsection B of this section. Then within seventy-two (72) hours following such notification, the county sheriff shall transport the designated excess inmate or inmates to a penal facility designated by the Department. The sheriff shall notify the Department of the transport of the inmate prior to the reception of the inmate. The Department shall schedule the reception date and receive the inmate within seventy-two (72) hours of notification that the county jail is at capacity, unless other arrangements can be made with the sheriff.

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

reimbursed by the Department for the cost of housing the inmate in one of two ways:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54-2-10422 GRS 02/26/14