

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1056

By: McDaniel (Jeannie)

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5  
6 AS INTRODUCED

7 An Act relating to prisons and reformatories;  
8 providing short title; creating the Conditional  
9 Release of Aging Prisoners Act; stating legislative  
10 purpose; defining terms; stating authority of the  
11 Pardon and Parole Board; directing the Pardon and  
12 Parole Board to adopt certain policies, procedures  
13 and assessment instruments; authorizing certain  
14 prisoners to request conditional release; providing  
15 hearing procedures; providing procedures for granting  
16 and denying conditional release requests; providing  
17 for the appointment of guardians for certain  
18 prisoners who request conditional release; providing  
19 guidelines for discharge plans of certain prisoners;  
20 providing for codification; and providing an  
21 effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 332.21 of Title 57, unless there  
is created a duplication in numbering, reads as follows:

A. Sections 1 through 5 of this act shall be known and may be  
cited as the "Conditional Release of Aging Prisoners Act".

B. The purpose of the Conditional Release of Aging Prisoners  
Act is to reduce unnecessary costs to state taxpayers by empowering

1 the Pardon and Parole Board to grant conditional release to  
2 prisoners who are fifty (50) years of age or older, have served at  
3 least ten (10) years in prison and pose minimal public safety risks  
4 warranting continued incarceration.

5 SECTION 2. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 332.22 of Title 57, unless there  
7 is created a duplication in numbering, reads as follows:

8 For the purposes of this act:

9 1. "Aging prisoner" means any person incarcerated by the  
10 Department of Corrections who is fifty (50) years of age or older;

11 2. "Conditional release" means the release of a prisoner from  
12 prison prior to the completion of his or her sentence subject to  
13 conditions set by the Pardon and Parole Board;

14 3. "Evidence-based" means policies, procedures, programs, and  
15 practices that scientific research demonstrates is an accurate  
16 assessment of the risks a prisoner poses to public safety when  
17 placed on conditional release;

18 4. "Mentally disabled" for the purpose of this act means a  
19 person who has a condition that is a mental impairment that  
20 substantially limits one or more major life activities of an  
21 individual;

22 5. "Mentally ill" for the purpose of this act means a person  
23 who has a substantial disorder of thought, mood, perception,  
24 psychological orientation or memory that significantly impairs

1 judgment, behavior, capacity to recognize reality or ability to meet  
2 the ordinary demands of life; and

3 6. "Risk assessment instrument" means a peer-reviewed,  
4 actuarial mechanism for determining the likelihood of a prisoner  
5 posing a substantial public safety risk that is tested on the local  
6 population of the state and tested for the purpose of granting  
7 release from prison.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 332.23 of Title 57, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. The authority to grant conditional release under Section 4  
12 of this act shall rest with the Pardon and Parole Board.

13 B. The Pardon and Parole Board shall select an evidence-based  
14 risk assessment instrument to assess the public safety risk posed by  
15 aging prisoners upon release.

16 C. The Pardon and Parole Board shall adopt the necessary  
17 policies, procedures and evidence-based risk assessment instrument  
18 to effectuate this act within six (6) months from the effective date  
19 of this act.

20 SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 332.24 of Title 57, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. Unless eligible for release at an earlier date, an aging  
24 prisoner who has been committed to the Department of Corrections for

1 a term or terms of imprisonment shall have the ability to request a  
2 conditional release hearing before the Pardon and Parole Board if  
3 the prisoner has served, in actual custody, the shorter of:

- 4 1. Ten (10) years of the term or terms of imprisonment; or
- 5 2. One-third (1/3) of the total term or terms of imprisonment.

6 B. Once a prisoner requests a conditional release hearing under  
7 subsection A of this section, the Pardon and Parole Board shall hold  
8 a conditional release hearing. At any conditional release hearing:

9 1. The Pardon and Parole Board shall grant conditional release  
10 to a prisoner if the Board finds by a preponderance of the evidence  
11 that:

- 12 a. the prisoner, if released, can live and remain at  
13 liberty without posing a substantial risk to public  
14 safety, or
- 15 b. the prisoner, if released, will pose a substantial  
16 risk to public safety but release conditions can be  
17 imposed that will reduce this risk so that it is no  
18 longer substantial.

19 2. The Pardon and Parole Board shall use the selected evidence-  
20 based risk assessment instrument to make the determination provided  
21 for in paragraph 1 of this subsection. This determination must not  
22 be based solely on the offense or offenses for which the prisoner  
23 was incarcerated.

24 3. The Pardon and Parole Board shall provide to the prisoner:

- a. the opportunity to speak on his or her own behalf and the option of having counsel present at the hearing, and
- b. the ability to challenge a risk assessment determination.

C. If the Pardon and Parole Board denies the prisoner conditional release:

1. The Board shall, within thirty (30) days of its decision, issue a written statement explaining the reason it has determined by a preponderance of the evidence that:

- a. the prisoner poses a substantial public safety risk sufficient to justify his or her continued incarceration, and
- b. there are no conditions that can be imposed upon the prisoner at release that can adequately reduce the substantial public safety risk.

2. The prisoner may reapply for conditional release after twenty-four (24) months from the date of the decision made by the Board.

D. If the Pardon and Parole Board grants the prisoner conditional release the Board shall, within thirty (30) days of the decision and prior to the release of the prisoner, prepare an individualized discharge plan that:

1           1. Sets conditions of supervision and treatment if necessary  
2 for the release of a prisoner based on his or her individual risk  
3 assessment profile, as determined by the evidence-based risk  
4 assessment instrument used to grant release;

5           2. Includes a brief statement of state and federal public  
6 benefits available to the prisoner and contact information for  
7 relevant government agencies;

8           3. Provides at release a thirty-day supply of all essential  
9 medications to the prisoner if the prisoner was receiving these  
10 essential medications or supplies while incarcerated; and

11           4. Assigns a social worker to assist in the reintegration of  
12 the prisoner into society, find employment and housing, procure  
13 medical care, procure any appropriate public benefits, and design  
14 and implement additional details of an individualized discharge  
15 plan.

16           E. If a prisoner, who the Board determines is mentally ill or  
17 mentally disabled, applies for conditional release the Board shall  
18 appoint a guardian to represent the best interests of the prisoner  
19 at the conditional release hearing. If the Board decides to grant  
20 release to the prisoner, the Board shall include in any discharge  
21 plan the following:

22           1. An individualized assessment for clinically appropriate  
23 forms of continuing mental health treatment and support services for  
24 the prisoner, and

1           2. A confirmed residential placement consistent with the  
2 assessment in paragraph 1 of this subsection.

3           SECTION 5. This act shall become effective November 1, 2013.

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