

1 ENGROSSED SENATE
2 BILL NO. 1305

By: Thompson of the Senate

3 and

4 Ownbey of the House
5

6 An Act relating to correctional facilities; amending
7 57 O.S. 2011, Section 37, as last amended by Section
8 1, Chapter 260, O.S.L. 2017 (57 O.S. Supp. 2017,
9 Section 37), which relates to facilities reaching
10 maximum capacity; making certain capacity
11 requirements; amending 57 O.S. 2011, Section 332.7,
as amended by Section 2, Chapter 124, O.S.L. 2013 (57
O.S. Supp. 2017, Section 332.7), which relates to
consideration for parole; directing certain
consideration; updating statutory language; and
providing an effective date.

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

15 SECTION 1. AMENDATORY 57 O.S. 2011, Section 37, as last
16 amended by Section 1, Chapter 260, O.S.L. 2017 (57 O.S. Supp. 2017,
17 Section 37), is amended to read as follows:

18 Section 37. A. If all state correctional facilities reach
19 ~~maximum~~ ninety-five percent (95%) capacity as certified by the State
20 Board of Corrections and the Department of Corrections is required
21 to contract for bed space to house state inmates:

22 1. The Pardon and Parole Board shall consider all nonviolent
23 offenders for parole who are within six (6) months of their
24 scheduled release from a penal facility; and

1 2. Prior to contracting with a private prison operator to
2 provide housing for state inmates, the Department shall send
3 notification to all county jails in this state that bed space is
4 required to house the overflow population of state inmates. Upon
5 receiving notification, the sheriff of a county jail is authorized
6 to enter into agreements with the Department to provide housing for
7 the inmates. Reimbursement for the cost of housing the inmates
8 shall be a negotiated per diem rate for each inmate as contracted
9 but shall in no event be less than the per diem rate provided for in
10 Section 38 of this title.

11 B. No inmate may be received by a penal facility from a county
12 jail without first scheduling a transfer with the Department.
13 Within five (5) business days after the court orders the judgment
14 and sentence, the county shall transmit to the Department by
15 facsimile, electronic mail, or actual delivery a certified copy of:

16 1. The judgment and sentence certifying that the inmate is
17 sentenced to the Department of Corrections;

18 2. A notice of judgment and sentence signed by the sentencing
19 judge or court clerk. The notice shall include the name of the
20 defendant, date of birth, case number, county of conviction, name of
21 the sentencing judge, the crime for which the defendant was
22 convicted, the sentence imposed, if multiple sentences whether the
23 sentences run concurrently or consecutively, and whether the
24 defendant is to receive credit for any time served. The notice of

1 judgment and sentence shall be substantially in the form provided
2 for in subsection F of this section; or

3 3. Plea paperwork, Summary of Facts and Sentence on Plea or
4 Sentencing After Jury Trial Summary of Facts may be used as
5 sentencing documents.

6 C. The receipt of the certified copy of the judgment and
7 sentence shall be certification that the sentencing court has
8 entered a judgment and sentence and all other necessary commitment
9 documents. The Department of Corrections is authorized to determine
10 the appropriate method of delivery from each county based on
11 electronic or other capabilities, and establish a method for issuing
12 receipts certifying that the Department has received the judgment
13 and sentence document. Once an appropriate judgment and sentence
14 document, as listed in subsection B of this section, is received by
15 the Department of Corrections, the Department shall contact the
16 sheriff when bed space is available to schedule the transfer and
17 reception of the inmate into the Department. The Department shall
18 assume custody of an inmate from a county prior to receiving the
19 certified copy of the judgment and sentence upon receipt by the
20 Department of any of the appropriate judgment and sentence documents
21 as listed in subsection B of this section.

22 D. If the Department receives a judgment and sentence document
23 from a county that includes inaccurate information from the
24 sentencing court the Department shall notify the county within a

1 timely manner. If a corrected judgment and sentence document is not
2 received by the Department within five (5) business days from the
3 date of notification, the Department will not be responsible for the
4 cost of housing the inmate in the county jail until such time that
5 an accurate judgment and sentence documents is received by the
6 Department.

7 E. When a county jail has reached its capacity of inmates as
8 provided in the standards set forth in Section 192 of Title 74 of
9 the Oklahoma Statutes, then the county sheriff shall notify the
10 Director of the Oklahoma Department of Corrections, or the
11 Director's designated representative, by facsimile, electronic mail,
12 or actual delivery, that the county jail has reached or exceeded its
13 capacity to hold inmates. The notification shall include copies of
14 any judgment and sentences not previously delivered as required by
15 subsection B of this section. Then within seventy-two (72) hours
16 following such notification, the county sheriff shall transport the
17 designated excess inmate or inmates to a penal facility designated
18 by the Department. The sheriff shall notify the Department of the
19 transport of the inmate prior to the reception of the inmate. The
20 Department shall schedule the reception date and receive the inmate
21 within seventy-two (72) hours of notification that the county jail
22 is at capacity, unless other arrangements can be made with the
23 sheriff.

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1 F. The Department will be responsible for the cost of housing
2 the inmate in the county jail including costs of medical care
3 provided from the date the judgment and sentence was ordered by the
4 court until the date of transfer of the inmate from the county jail.
5 The Department shall implement a policy for determination of
6 scheduled dates on which an inmate or multiple inmates are to be
7 transferred from county jails. The policy shall allow for no less
8 than three alternative dates from which the sheriff of a county jail
9 may select and shall provide for weather-related occurrences or
10 other emergencies that may prevent or delay transfers on the
11 scheduled date. The policy shall be available for review upon
12 request by any sheriff of a county jail. If an appropriate judgment
13 and sentence document, as listed in subsection B of this section, is
14 not received by the Department within five (5) business days, the
15 Department will not be responsible for the cost of housing the
16 inmate in the county jail until the date the Department receives the
17 necessary documentation. Should the inmate not be transferred on
18 the date scheduled by the Department, the Department shall not be
19 responsible for any costs incurred beyond the date scheduled by the
20 Department. The cost of housing shall be the per diem rate
21 specified in Section 38 of this title. In the event the inmate has
22 one or more criminal charges pending in the same Oklahoma
23 jurisdiction and the county jail refuses to transfer the inmate to
24 the Department because of the pending charges, the Department shall

1 not be responsible for the housing costs of the inmate while the
2 inmate remains in the county jail with pending charges. Once the
3 inmate no longer has pending charges in the jurisdiction, the
4 Department shall be responsible for the housing costs of the inmate
5 for the period beginning on the date the judgment and sentence or
6 final order was received by the Department. In the event the inmate
7 has other criminal charges pending in another Oklahoma jurisdiction,
8 the Department shall be responsible for the housing costs while the
9 inmate remains in the county jail awaiting transfer to another
10 jurisdiction or until the date the inmate is scheduled to be
11 transferred to the Department, whichever is earlier. Once the
12 inmate is transferred to another jurisdiction, the Department is not
13 responsible for the housing cost of the inmate until such time that
14 another judgment and sentence is received by the Department from
15 another Oklahoma jurisdiction.

16 The sheriff may submit invoices for the cost of housing the
17 inmate on a monthly basis. Final payment for housing an offender
18 will be made only after the official judgment and sentence is
19 received by the Department of Corrections.

20 G. Form for Notice of Judgment and Sentencing.

21 In the District Court of _____ County

22 The State of Oklahoma

23 State of Oklahoma,)

24 _____)

1 Plaintiff)
 2)
 3 vs.) Case No. _____
 4 _____,) The Honorable Judge _____
 5 Defendant)
 6 D.O.B. _____)
 7 NOTICE OF JUDGMENT AND SENTENCE
 8 On this ____ day of _____, _____, to the best
 9 knowledge and belief of the undersigned, the conviction(s) and
 10 sentence(s) of the above-captioned defendant was/were announced and
 11 ordered as follow:
 12 Count 1: _____ O.S. _____
 13 Count 1 Sentence: _____
 14 Count 2: _____ O.S. _____
 15 Count 2 Sentence: _____
 16 Running Concurrently _____ or Running Consecutively _____
 17 With Count _____
 18 Count 3: _____ O.S. _____
 19 Count 3 Sentence: _____
 20 Running Concurrently _____ or Running Consecutively _____
 21 With Count _____
 22 Count 4: _____ O.S. _____
 23 Count 4 Sentence: _____
 24 Running Concurrently _____ or Running Consecutively _____

With Count _____

Credit for time served:

Judge of the District Court

or

Clerk of the District Court

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. 2017, 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;

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~~ shall, at its discretion, recommend to the Governor
2 for parole any person who is incarcerated for a nonviolent offense
3 not involving injury to a person and who is within six (6) months of
4 his 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~~ the person during his custody in the Department of
24 Corrections, which shall be considered as a basis for consideration

1 of ~~said~~ the person for recommendation to the Governor for parole.
2 However, the Pardon and Parole Board shall not be required to
3 consider for parole any person who has completed the time period
4 provided for in this subsection if the person has participated in a
5 riot or in the taking of hostages, or has been placed on escape
6 status, while in the custody of the Department of Corrections. The
7 Pardon and Parole Board shall adopt policies and procedures
8 governing parole 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 SECTION 3. This act shall become effective November 1, 2018.

15 Passed the Senate the 8th day of March, 2018.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,
20 2018.

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Presiding Officer of the House
of Representatives

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