

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1305

By: Thompson of the Senate

and

Ownbey of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to correctional facilities; amending
12 57 O.S. 2011, Section 37, as last amended by Section
13 1, Chapter 260, O.S.L. 2017 (57 O.S. Supp. 2017,
14 Section 37), which relates to facilities reaching
15 maximum capacity; deleting certain procedure used by
16 the Department of Corrections when facilities lack
17 bed space; amending 57 O.S. 2011, Section 332.7, as
18 amended by Section 2, Chapter 124, O.S.L. 2013 (57
19 O.S. Supp. 2017, Section 332.7), which relates to
20 parole considerations; directing Pardon and Parole
21 Board to immediately consider certain persons for
22 parole; authorizing the Department of Corrections to
23 supply list of eligible inmates to the Board for
24 parole consideration; updating statutory language;
 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, as last
amended by Section 1, Chapter 260, O.S.L. 2017 (57 O.S. Supp. 2017,
Section 37), is amended to read as follows:

1 Section 37. A. If all correctional facilities reach maximum
2 capacity and the Department of Corrections is required to contract
3 for bed space to house state inmates;

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

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

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

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

1 2. A notice of judgment and sentence signed by the sentencing
2 judge or court clerk. The notice shall include the name of the
3 defendant, date of birth, case number, county of conviction, name of
4 the sentencing judge, the crime for which the defendant was
5 convicted, the sentence imposed, if multiple sentences whether the
6 sentences run concurrently or consecutively, and whether the
7 defendant is to receive credit for any time served. The notice of
8 judgment and sentence shall be substantially in the form provided
9 for in subsection ~~F~~ G of this section; or

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

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

1 assume custody of an inmate from a county prior to receiving the
2 certified copy of the judgment and sentence upon receipt by the
3 Department of any of the appropriate judgment and sentence documents
4 as listed in subsection B of this section.

5 D. If the Department receives a judgment and sentence document
6 from a county that includes inaccurate information from the
7 sentencing court the Department shall notify the county within a
8 timely manner. If a corrected judgment and sentence document is not
9 received by the Department within five (5) business days from the
10 date of notification, the Department will not be responsible for the
11 cost of housing the inmate in the county jail until such time that
12 an accurate judgment and sentence documents is received by the
13 Department.

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

1 by the Department. The sheriff shall notify the Department of the
2 transport of the inmate prior to the reception of the inmate. The
3 Department shall schedule the reception date and receive the inmate
4 within seventy-two (72) hours of notification that the county jail
5 is at capacity, unless other arrangements can be made with the
6 sheriff.

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

1 responsible for any costs incurred beyond the date scheduled by the
2 Department. The cost of housing shall be the per diem rate
3 specified in Section 38 of this title. In the event the inmate has
4 one or more criminal charges pending in the same Oklahoma
5 jurisdiction and the county jail refuses to transfer the inmate to
6 the Department because of the pending charges, the Department shall
7 not be responsible for the housing costs of the inmate while the
8 inmate remains in the county jail with pending charges. Once the
9 inmate no longer has pending charges in the jurisdiction, the
10 Department shall be responsible for the housing costs of the inmate
11 for the period beginning on the date the judgment and sentence or
12 final order was received by the Department. In the event the inmate
13 has other criminal charges pending in another Oklahoma jurisdiction,
14 the Department shall be responsible for the housing costs while the
15 inmate remains in the county jail awaiting transfer to another
16 jurisdiction or until the date the inmate is scheduled to be
17 transferred to the Department, whichever is earlier. Once the
18 inmate is transferred to another jurisdiction, the Department is not
19 responsible for the housing cost of the inmate until such time that
20 another judgment and sentence is received by the Department from
21 another Oklahoma jurisdiction. The sheriff may submit invoices for
22 the cost of housing the inmate on a monthly basis. Final payment
23 for housing an offender will be made only after the official
24 judgment and sentence is received by the Department of Corrections.

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

Running Concurrently _____ or Running Consecutively _____
With Count _____

Count 4: _____ O.S. _____

Count 4 Sentence: _____

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.

1 1997; provided, however, no inmate serving a sentence for crimes
2 listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,
3 O.S.L. 1997, or serving a sentence of life imprisonment without
4 parole shall be eligible to be considered for parole pursuant to
5 this paragraph;

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

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

19 B. For a crime committed on or after July 1, 1998, any person
20 in the custody of the Department of Corrections shall be eligible
21 for consideration for parole who has completed serving one-third
22 (1/3) of the sentence; provided, however, no inmate serving a
23 sentence of life imprisonment without parole shall be eligible to be
24 considered for parole pursuant to this subsection.

1 C. The parole hearings conducted for persons pursuant to
2 paragraph 3 of subsection A of this section or for any person who
3 was convicted of a violent crime as set forth in Section 571 of this
4 title and who is eligible for parole consideration pursuant to
5 either paragraph 1 of subsection A of this section or subsection B
6 of this section shall be conducted in two stages, as follows:

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

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

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

22 1. Within three (3) years of the denial or waiver, if the
23 person was convicted of a violent crime, as set forth in Section 571
24 of this title, and was eligible for consideration pursuant to

1 paragraph 1 of subsection A of this section or subsection B of this
2 section, unless the person is within one (1) year of discharge; or

3 2. Until the person has served at least one-third (1/3) of the
4 sentence imposed, if the person was eligible for consideration
5 pursuant to paragraph 3 of subsection A of this section. Thereafter
6 the person shall not be considered more frequently than once every
7 three (3) years, unless the person is within one (1) year of
8 discharge.

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

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

21 G. The Pardon and Parole Board shall not recommend to the
22 Governor any person who has been convicted of three or more felonies
23 arising out of separate and distinct transactions, with three or
24 more incarcerations for such felonies, unless such person shall have

1 served the lesser of at least one-third (1/3) of the sentence
2 imposed, or ten (10) years; provided, that whenever the population
3 of the prison system exceeds ninety-five percent (95%) of the
4 capacity as certified by the State Board of Corrections, the Pardon
5 and Parole Board ~~may, at its discretion, recommend to the Governor~~
6 shall immediately consider for parole any person who is incarcerated
7 for a nonviolent offense ~~not involving injury to a person~~ and who is
8 within six (6) months of his or her statutory parole eligibility
9 date. In addition to eligible inmates applying for parole under
10 this subsection, the Department of Corrections may supply the Pardon
11 and Parole Board with a list of eligible inmates.

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

19 I. The Pardon and Parole Board shall consider the prior
20 criminal record of inmates under consideration for parole
21 recommendation or granting of parole. In the event the Board grants
22 parole for a nonviolent offender who has previously been convicted
23 of an offense enumerated in Section 13.1 of Title 21 of the Oklahoma
24 Statutes or Section 571 of this title, such offender shall be

1 subject to nine (9) months postimprisonment supervision upon
2 release.

3 J. It shall be the duty of the Pardon and Parole Board to cause
4 an examination to be made at the penal institution where the person
5 is assigned, and to make inquiry into the conduct and the record of
6 the ~~said~~ person during his or her custody in the Department of
7 Corrections, which shall be considered as a basis for consideration
8 of ~~said~~ the person for recommendation to the Governor for parole.

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

16 K. Any person in the custody of the Department of Corrections
17 who is convicted of an offense not designated as a violent offense
18 by Section 571 of this title, is not a citizen of the United States
19 and is subject to or becomes subject to a final order of deportation
20 issued by the United States Department of Justice shall be
21 considered for parole to the custody of the United States
22 Immigration and Naturalization Service for continuation of
23 deportation proceedings at any time subsequent to reception and
24 processing through the Department of Corrections. No person shall

1 be considered for parole under this subsection without the
2 concurrence of at least three members of the Pardon and Parole
3 Board. The vote on whether or not to consider such person for
4 parole and the names of the concurring Board members shall be set
5 forth in the written minutes of the meeting of the Board at which
6 the issue is considered.

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

13 M. All references in this section to matrices or schedules
14 shall be construed with reference to the provisions of Sections 6,
15 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

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

20 SECTION 3. This act shall become effective November 1, 2018.

21
22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/29/2018 -
23 DO PASS, As Amended.
24