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February 28, 2018

**AS ADMENDED**

SENATE BILL NO. 1305

By: Thompson

[ correctional facilities - maximum capacity -  
capacity requirements - parole - 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:

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

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

2. Prior to contracting with a private prison operator to provide housing for state inmates, the Department shall send notification to all county jails in this state that bed space is required to house the overflow population of state inmates. Upon receiving notification, the sheriff of a county jail is authorized

1 to enter into agreements with the Department to provide housing for  
2 the inmates. Reimbursement for the cost of housing the inmates  
3 shall be a negotiated per diem rate for each inmate as contracted  
4 but shall in no event be less than the per diem rate provided for in  
5 Section 38 of this title.

6 B. No inmate may be received by a penal facility from a county  
7 jail without first scheduling a transfer with the Department.

8 Within five (5) business days after the court orders the judgment  
9 and sentence, the county shall transmit to the Department by  
10 facsimile, electronic mail, or actual delivery a certified copy of:

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

13 2. A notice of judgment and sentence signed by the sentencing  
14 judge or court clerk. The notice shall include the name of the  
15 defendant, date of birth, case number, county of conviction, name of  
16 the sentencing judge, the crime for which the defendant was  
17 convicted, the sentence imposed, if multiple sentences whether the  
18 sentences run concurrently or consecutively, and whether the  
19 defendant is to receive credit for any time served. The notice of  
20 judgment and sentence shall be substantially in the form provided  
21 for in subsection F of this section; or

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

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

17 D. If the Department receives a judgment and sentence document  
18 from a county that includes inaccurate information from the  
19 sentencing court the Department shall notify the county within a  
20 timely manner. If a corrected judgment and sentence document is not  
21 received by the Department within five (5) business days from the  
22 date of notification, the Department will not be responsible for the  
23 cost of housing the inmate in the county jail until such time that  
24

1 an accurate judgment and sentence documents is received by the  
2 Department.

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

20 F. The Department will be responsible for the cost of housing  
21 the inmate in the county jail including costs of medical care  
22 provided from the date the judgment and sentence was ordered by the  
23 court until the date of transfer of the inmate from the county jail.  
24 The Department shall implement a policy for determination of

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

1 final order was received by the Department. In the event the inmate  
2 has other criminal charges pending in another Oklahoma jurisdiction,  
3 the Department shall be responsible for the housing costs while the  
4 inmate remains in the county jail awaiting transfer to another  
5 jurisdiction or until the date the inmate is scheduled to be  
6 transferred to the Department, whichever is earlier. Once the  
7 inmate is transferred to another jurisdiction, the Department is not  
8 responsible for the housing cost of the inmate until such time that  
9 another judgment and sentence is received by the Department from  
10 another Oklahoma jurisdiction.

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

15 G. Form for Notice of Judgment and Sentencing.

16 In the District Court of \_\_\_\_\_ County

17 The State of Oklahoma

18 State of Oklahoma, )

19 \_\_\_\_\_ )

20 Plaintiff )

21 )

22 vs. ) Case No. \_\_\_\_\_

23 \_\_\_\_\_, ) The Honorable Judge \_\_\_\_\_

24 Defendant )

1 D.O.B. \_\_\_\_\_ )

2 NOTICE OF JUDGMENT AND SENTENCE

3 On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to the best  
4 knowledge and belief of the undersigned, the conviction(s) and  
5 sentence(s) of the above-captioned defendant was/were announced and  
6 ordered as follow:

7 Count 1: \_\_\_\_\_ O.S. \_\_\_\_\_

8 Count 1 Sentence: \_\_\_\_\_

9 Count 2: \_\_\_\_\_ O.S. \_\_\_\_\_

10 Count 2 Sentence: \_\_\_\_\_

11 Running Concurrently \_\_\_\_\_ or Running Consecutively \_\_\_\_\_

12 With Count \_\_\_\_\_

13 Count 3: \_\_\_\_\_ O.S. \_\_\_\_\_

14 Count 3 Sentence: \_\_\_\_\_

15 Running Concurrently \_\_\_\_\_ or Running Consecutively \_\_\_\_\_

16 With Count \_\_\_\_\_

17 Count 4: \_\_\_\_\_ O.S. \_\_\_\_\_

18 Count 4 Sentence: \_\_\_\_\_

19 Running Concurrently \_\_\_\_\_ or Running Consecutively \_\_\_\_\_

20 With Count \_\_\_\_\_

21 Credit for time served: \_\_\_\_\_

22 \_\_\_\_\_

23 Judge of the District Court

24 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;

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



1 imprisonment without parole shall be eligible to be considered for  
2 parole pursuant to this paragraph; or

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

9 B. For a crime committed on or after July 1, 1998, any person  
10 in the custody of the Department of Corrections shall be eligible  
11 for consideration for parole who has completed serving one-third  
12 (1/3) of the sentence; provided, however, no inmate serving a  
13 sentence of life imprisonment without parole shall be eligible to be  
14 considered for parole pursuant to this subsection.

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

21 1. At the initial hearing, the Pardon and Parole Board shall  
22 review the completed report submitted by the staff of the Board and  
23 shall conduct a vote regarding whether, based upon that report, the  
24

1 Board decides to consider the person for parole at a subsequent  
2 meeting of the Board; and

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

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

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

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

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

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

13 G. The Pardon and Parole Board shall not recommend to the  
14 Governor any person who has been convicted of three or more felonies  
15 arising out of separate and distinct transactions, with three or  
16 more incarcerations for such felonies, unless such person shall have  
17 served the lesser of at least one-third (1/3) of the sentence  
18 imposed, or ten (10) years; provided that whenever the population of  
19 the prison system exceeds ninety-five percent (95%) of the capacity  
20 as certified by the State Board of Corrections, the Pardon and  
21 Parole Board ~~may~~ shall, at its discretion, recommend to the Governor  
22 for parole any person who is incarcerated for a nonviolent offense  
23 not involving injury to a person and who is within six (6) months of  
24 his or her statutory parole eligibility date.

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

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

16 J. It shall be the duty of the Pardon and Parole Board to cause  
17 an examination to be made at the penal institution where the person  
18 is assigned, and to make inquiry into the conduct and the record of  
19 the ~~said~~ the person during his custody in the Department of  
20 Corrections, which shall be considered as a basis for consideration  
21 of ~~said~~ the person for recommendation to the Governor for parole.  
22 However, the Pardon and Parole Board shall not be required to  
23 consider for parole any person who has completed the time period  
24 provided for in this subsection if the person has participated in a

1 riot or in the taking of hostages, or has been placed on escape  
2 status, while in the custody of the Department of Corrections. The  
3 Pardon and Parole Board shall adopt policies and procedures  
4 governing parole consideration for such persons.

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

20 L. Upon application of any person convicted and sentenced by a  
21 court of this state and relinquished to the custody of another state  
22 or federal authorities pursuant to Section 61.2 of Title 21 of the  
23 Oklahoma Statutes, the Pardon and Parole Board may determine a  
24

1 parole consideration date consistent with the provisions of this  
2 section and criteria established by the Pardon and Parole Board.

3 M. All references in this section to matrices or schedules  
4 shall be construed with reference to the provisions of Sections 6,  
5 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
12 February 28, 2018 - DO PASS AS AMENDED  
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