

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1305

By: Thompson

AS INTRODUCED

An Act relating to correctional facilities; amending 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), which relates to facilities reaching maximum capacity; making certain capacity 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.

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

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

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

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

21        2. A notice of judgment and sentence signed by the sentencing  
22 judge or court clerk. The notice shall include the name of the  
23 defendant, date of birth, case number, county of conviction, name of  
24 the sentencing judge, the crime for which the defendant was

1 convicted, the sentence imposed, if multiple sentences whether the  
2 sentences run concurrently or consecutively, and whether the  
3 defendant is to receive credit for any time served. The notice of  
4 judgment and sentence shall be substantially in the form provided  
5 for in subsection F of this section; or

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

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

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

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

1 is at capacity, unless other arrangements can be made with the  
2 sheriff.

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

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

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

22 G. Form for Notice of Judgment and Sentencing.

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

24 The State of Oklahoma

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



1 parole shall be eligible to be considered for parole pursuant to  
2 this paragraph;

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

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

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

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

1 title and who is eligible for parole consideration pursuant to  
2 either paragraph 1 of subsection A of this section or subsection B  
3 of this section shall be conducted in two stages, as follows:

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

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

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

19 1. Within three (3) years of the denial or waiver, if the  
20 person was convicted of a violent crime, as set forth in Section 571  
21 of this title, and was eligible for consideration pursuant to  
22 paragraph 1 of subsection A of this section or subsection B of this  
23 section, unless the person is within one (1) year of discharge; or  
24

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

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

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

19        G. The Pardon and Parole Board shall not recommend to the  
20 Governor any person who has been convicted of three or more felonies  
21 arising out of separate and distinct transactions, with three or  
22 more incarcerations for such felonies, unless such person shall have  
23 served the lesser of at least one-third (1/3) of the sentence  
24 imposed, or ten (10) years; provided that whenever the population of

1 the prison system exceeds ninety-five percent (95%) of the capacity  
2 as certified by the State Board of Corrections, the Pardon and  
3 Parole Board ~~may~~ shall, at its discretion, recommend to the Governor  
4 for parole any person who is incarcerated for a nonviolent offense  
5 not involving injury to a person and who is within six (6) months of  
6 his or her statutory parole eligibility date.

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

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

22 J. It shall be the duty of the Pardon and Parole Board to cause  
23 an examination to be made at the penal institution where the person  
24 is assigned, and to make inquiry into the conduct and the record of

1 the ~~said~~ the person during his custody in the Department of  
2 Corrections, which shall be considered as a basis for consideration  
3 of ~~said~~ the person for recommendation to the Governor for parole.  
4 However, the Pardon and Parole Board shall not be required to  
5 consider for parole any person who has completed the time period  
6 provided for in this subsection if the person has participated in a  
7 riot or in the taking of hostages, or has been placed on escape  
8 status, while in the custody of the Department of Corrections. The  
9 Pardon and Parole Board shall adopt policies and procedures  
10 governing parole consideration for such persons.

11 K. Any person in the custody of the Department of Corrections  
12 who is convicted of an offense not designated as a violent offense  
13 by Section 571 of this title, is not a citizen of the United States  
14 and is subject to or becomes subject to a final order of deportation  
15 issued by the United States Department of Justice shall be  
16 considered for parole to the custody of the United States  
17 Immigration and Naturalization Service for continuation of  
18 deportation proceedings at any time subsequent to reception and  
19 processing through the Department of Corrections. No person shall  
20 be considered for parole under this subsection without the  
21 concurrence of at least three members of the Pardon and Parole  
22 Board. The vote on whether or not to consider such person for  
23 parole and the names of the concurring Board members shall be set  
24

1 forth in the written minutes of the meeting of the Board at which  
2 the issue is considered.

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

9 M. All references in this section to matrices or schedules  
10 shall be construed with reference to the provisions of Sections 6,  
11 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

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

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

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