

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 616, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Jech

Jech-BHG-FS-Req#2104
3/13/2019 1:52 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 616

By: Jech and Young of the
Senate

and

West (Josh) of the House

FLOOR SUBSTITUTE

[pardons and parole - consideration for parole -
Pardon and Parole Board - probation violators -
codification - effective date]

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 332.7, as
last amended by Section 2, Chapter 117, O.S.L. 2018 (57 O.S. Supp.
2018, 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

1 would have been imposed for that offense pursuant to the applicable
2 matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.
3 1997; provided, however, no inmate serving a sentence for crimes
4 listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,
5 O.S.L. 1997, or serving a sentence of life imprisonment without
6 parole shall be eligible to be considered for parole pursuant to
7 this paragraph;

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

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

21 B. For a crime committed on or after July 1, 1998, and before
22 November 1, 2018, any person in the custody of the Department of
23 Corrections shall be eligible for consideration for parole who has
24 completed serving one-third (1/3) of the sentence; provided,

1 however, no inmate serving a sentence of life imprisonment without
2 parole shall be eligible to be considered for parole pursuant to
3 this subsection.

4 C. For a crime committed on or after November 1, 2018, any
5 person in the custody of the Department of Corrections shall be
6 eligible for parole after serving one-fourth (1/4) of the sentence
7 or consecutive sentences imposed, according to the following
8 criteria:

9 1. A person eligible for parole under this subsection shall be
10 eligible for administrative parole under subsection ~~R~~ T of this
11 section once the person serves one-fourth (1/4) of the sentence or
12 consecutive sentences imposed; provided, however, no inmate serving
13 a sentence of life imprisonment without parole, a sentence for a
14 violent crime as set forth in Section 571 of this title or any crime
15 enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes
16 shall be eligible for administrative parole.

17 2. A person eligible for parole under this subsection shall be
18 eligible for parole once the person serves one-fourth (1/4) of the
19 sentence or consecutive sentences imposed; provided, however no
20 inmate serving a sentence of life imprisonment without parole is
21 eligible for parole.

22 D. 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 paragraph 1 of subsection A of this section, subsection B or
3 paragraph 2 of subsection C of this section shall be conducted in
4 two stages, as follows:

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

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

14 E. Any inmate who has parole consideration dates calculated
15 pursuant to subsection A, B or C of this section may be considered
16 up to two (2) months prior to the parole eligibility date. Except
17 as otherwise directed by the Pardon and Parole Board, any person who
18 has been considered for parole and was denied parole ~~or who has~~
19 ~~waived consideration~~ shall not be reconsidered for parole:

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

1 section or paragraph 2 of subsection C of this section, unless the
2 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 F. If the Pardon and Parole Board denies parole, the Board
10 shall state on the record the reason for the denial.

11 G. If the Board denies parole for any person convicted of a
12 crime other than those set forth in Section 13.1 of Title 21 of the
13 Oklahoma Statutes, the Board shall suggest a course of remediation
14 for the inmate in preparation for the next parole consideration.

15 H. Any person in the custody of the Department of Corrections
16 for a crime committed prior to July 1, 1998, who has been considered
17 for parole on a docket created for a type of parole consideration
18 that has been abolished by the Legislature, shall not be considered
19 for parole except in accordance with this section.

20 ~~G.~~ I. The Pardon and Parole Board shall promulgate rules for
21 the implementation of subsections A, B and C of this section. The
22 rules shall include, but not be limited to, procedures for
23 reconsideration of persons denied parole under this section and
24 procedure for determining what sentence a person eligible for parole

1 consideration pursuant to subsection A of this section would have
2 received under the applicable matrix.

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

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

22 ~~J.~~ L. The Pardon and Parole Board shall consider the prior
23 criminal record of inmates under consideration for parole
24 recommendation or granting of parole.

1 ~~K.~~ M. In the event the Board grants parole for a nonviolent
2 offender who has previously been convicted of an offense enumerated
3 in Section 13.1 of Title 21 of the Oklahoma Statutes or Section 571
4 of this title, such offender shall be subject to nine (9) months
5 postimprisonment supervision upon release.

6 ~~L.~~ N. It shall be the duty of the Pardon and Parole Board to
7 cause an examination to be made at the penal institution where the
8 person is assigned, and to make inquiry into the conduct and the
9 record of the ~~said~~ the person during his custody in the Department
10 of Corrections, which shall be considered as a basis for
11 consideration of ~~said~~ the person for recommendation to the Governor
12 for parole. However, the Pardon and Parole Board shall not be
13 required to consider for parole any person who has completed the
14 time period provided for in this subsection if the person has
15 participated in a riot or in the taking of hostages, or has been
16 placed on escape status, while in the custody of the Department of
17 Corrections. The Pardon and Parole Board shall adopt policies and
18 procedures governing parole consideration for such persons.

19 ~~M.~~ O. Any person in the custody of the Department of
20 Corrections who is convicted of an offense not designated as a
21 violent offense by Section 571 of this title, is not a citizen of
22 the United States and is subject to or becomes subject to a final
23 order of deportation issued by the United States Department of
24 Justice shall be considered for parole to the custody of the United

1 States Immigration and Naturalization Service for continuation of
2 deportation proceedings at any time subsequent to reception and
3 processing through the Department of Corrections. No person shall
4 be considered for parole under this subsection without the
5 concurrence of at least three members of the Pardon and Parole
6 Board. The vote on whether or not to consider such person for
7 parole and the names of the concurring Board members shall be set
8 forth in the written minutes of the meeting of the Board at which
9 the issue is considered.

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

16 ~~Q.~~ Q. All references in this section to matrices or schedules
17 shall be construed with reference to the provisions of Sections 6,
18 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

19 ~~P.~~ R. Any person in the custody of the Department of
20 Corrections who is convicted of a felony sex offense pursuant to
21 Section 582 of this title who is paroled shall immediately be placed
22 on intensive supervision.

23 ~~Q.~~ S. A person in the custody of the Department of Corrections
24 whose parole consideration date is calculated pursuant to subsection

1 B or C of this section, and is not serving a sentence of life
2 imprisonment without parole or who is not convicted of an offense
3 designated as a violent offense by Section 571 of this title or any
4 crime enumerated in Section 13.1 of Title 21 of the Oklahoma
5 Statutes shall be eligible for administrative parole under
6 subsection ~~R~~ T of this section.

7 ~~R~~ T. The Pardon and Parole Board shall, by majority vote,
8 grant administrative parole to any person in the custody of the
9 Department of Corrections if:

10 1. The person has substantially complied with the requirements
11 of the case plan established pursuant to Section 512 of this title;

12 2. A victim, as defined in Section 332.2 of this title, or the
13 district attorney speaking on behalf of a victim, has not submitted
14 an objection;

15 3. The person has not received a primary class X infraction
16 within two (2) years of the parole eligibility date;

17 4. The person has not received a secondary class X infraction
18 within one (1) year of the parole eligibility date; or

19 5. The person has not received a class A infraction within six
20 (6) months of the parole eligibility date.

21 ~~S~~ U. Any person granted parole pursuant to subsection ~~R~~ T of
22 this section shall be released from the institution at the time of
23 the parole eligibility date of the person as calculated under
24 subsection B or C of this section.

1 ~~T.~~ V. No less than ninety (90) days prior to the parole
2 eligibility date of the person, the Department shall notify the
3 Pardon and Parole Board in writing of the compliance or
4 noncompliance of the person with the case plan and any infractions
5 committed by the person.

6 ~~U.~~ W. The Pardon and Parole Board shall not be required to
7 conduct a hearing before granting administrative parole pursuant to
8 subsection ~~R~~ T of this section.

9 ~~V.~~ X. Any person who is not granted administrative parole shall
10 be otherwise eligible for parole pursuant to this section.

11 ~~W.~~ Y. Any person who is granted administrative parole under
12 subsection ~~R~~ T of this section shall be supervised and managed by
13 the Department of Corrections in the same manner as a parolee who
14 has been granted parole pursuant to this section. The person shall
15 be subject to all of the rules and regulations of parole.

16 Z. An inmate shall not be allowed to waive consideration for
17 parole or a recommendation for parole.

18 SECTION 2. AMENDATORY 57 O.S. 2011, Section 350, is
19 amended to read as follows:

20 Section 350. A. Every person, hereinafter referred to as
21 "convict", who has been or who in the future may be sentenced to
22 imprisonment in any state penal institution shall, in addition to
23 any other deductions provided for by law, be entitled to a deduction
24 from his or her sentence for all time during which he or she has

1 been or may be on parole. The provisions of this section are hereby
2 declared to be both retroactive and prospective, and to apply to
3 convicts who are on parole on ~~the effective date of this act~~ October
4 1, 1981, as well as to convicts who may be paroled thereafter; and
5 shall at the discretion of the paroling authority apply to time on a
6 parole which has been or shall be revoked.

7 B. Beginning November 1, 1987, the paroling authority ~~also~~
8 ~~shall have the discretion to~~ may revoke all or any portion of the
9 parole, except as provided pursuant to subsection C of this section.

10 C. Beginning November 1, 2019, the paroling authority may
11 revoke all or any portion of the parole in accordance with Section
12 516 of this title.

13 SECTION 3. AMENDATORY 57 O.S. 2011, Section 516, is
14 amended to read as follows:

15 Section 516. A. Except as provided in subsection B of this
16 section, the probation and parole officer shall, upon information
17 sufficient to give the officer reasonable grounds to believe that
18 the parolee has violated the terms ~~of~~ and conditions of parole,
19 notify the Department of Corrections. If it is determined that the
20 ~~facts justify revocation action~~ parolee has:

21 1. Committed a new criminal offense for which felony or
22 misdemeanor charges are filed, including violations of a protective
23 order pursuant to Section 60.6 of Title 22 of the Oklahoma Statutes;
24

1 2. Absconded, which is defined as failing to initially report
2 or missing assigned reporting requirements for more than sixty (60)
3 days; or

4 3. Committed any violation of the specialized sex offender
5 rules, the Department shall issue a warrant for the arrest of the
6 parolee and the warrant shall have the force and effect of any
7 warrant of arrest issued by a district court in this state. The
8 parolee shall, after arrest, be immediately incarcerated in the
9 nearest county jail, intermediate sanctions facility, or a
10 Department of Corrections facility to await action by the Governor
11 as to whether the parole will be revoked. Parole time shall cease
12 to run after the issuance of a warrant for arrest by the Department
13 of Corrections, and earned credits shall not be accrued during any
14 period of time when the parolee is incarcerated pending revocation
15 action by the Governor.

16 B. Any parolee determined to have violated any terms or
17 conditions of parole by the supervising parole officer, other than
18 those listed in subsection A of this section, may be given the
19 option, at the discretion of the Department of Corrections, to be
20 placed in an intermediate sanctions facility for disciplinary
21 sanction and programmatic services in lieu of revocation or when
22 revocation action by the Governor is deemed unnecessary for the
23 nature of the violation. Any parolee for whom a warrant for arrest
24 issues as provided in subsection A of this section may, at the

1 discretion of the Department or the Governor, be placed in an
2 intermediate sanctions facility pending or following any action by
3 the Governor as to revocation of parole or required additional
4 conditions to remain on parole. A parolee may be received and
5 processed into the custody of the Department on an expedited basis
6 through any facility serving such purpose or may be processed
7 directly by the intermediate sanctions facility.

8 SECTION 4. This act shall become effective November 1, 2019.

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