

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3903

By: Pfeiffer and **Martinez**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to prisons and reformatories;
10 amending 57 O.S. 2021, Section 332.7, which relates
11 to parole eligibility; removing references to
12 sentencing matrix; clarifying parole eligibility
13 dates for inmates sentenced before certain date;
14 deleting eligibility category; making inmates
15 sentenced after certain date eligible for parole
16 consideration; making certain parole considerations
17 subject to rules and procedures of the Oklahoma
18 Administrative Code; prohibiting the Pardon and
19 Parole Board from recommending certain inmates for
20 parole; deleting reference to certain sentencing
21 matrix; requiring notice to district attorneys and
22 victims when granting administrative parole;
23 providing for clemency under certain circumstances;
24 providing restrictions for inmates requesting
 commutation of their sentences; allowing clemency
 considerations for inmates sentenced to death;
 empowering the Board to consider recommending
 clemency for capital sentences; providing
 restrictions; providing limitations on granting
 clemency recommendations; prohibiting the commutation
 of sentence if the inmate has received clemency or
 favorable recommendation for clemency; providing for
 codification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 57 O.S. 2021, Section 332.7, is
2 amended to read as follows:

3 Section 332.7 A. For a crime committed prior to July 1, 1998,
4 any person in the custody of the Department of Corrections shall be
5 eligible for consideration for parole at the earliest of the
6 following dates:

7 1. Has completed serving one-third (1/3) of the sentence;

8 2. Has reached at least sixty (60) years of age and also has
9 served at least fifty percent (50%) of the time of imprisonment ~~that~~
10 ~~would have been imposed for that offense pursuant to the applicable~~
11 ~~matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.~~
12 ~~1997; provided, however, no inmate serving a sentence for crimes~~
13 ~~listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,~~
14 ~~O.S.L. 1997, or serving a sentence of; provided, however, no inmate~~
15 sentenced to life imprisonment without parole shall be eligible to
16 be considered for parole pursuant to this paragraph; or

17 3. Has reached eighty-five percent (85%) of the ~~midpoint of the~~
18 ~~time of imprisonment that would have been imposed~~ time of
19 imprisonment imposed for an offense that is listed in ~~Schedule A, B,~~
20 ~~C, D, D-1, S-1, S-2 or S-3 of Section 6, Chapter 133, O.S.L. 1997,~~
21 ~~pursuant to the applicable matrix~~ Section 13.1 of Title 21 of the
22 Oklahoma Statutes; provided, however, no inmate ~~serving a sentence~~
23 ~~of~~ sentenced to life imprisonment without parole shall be eligible
24 to be considered for parole pursuant to this paragraph; ~~or~~

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

7 B. For a crime committed on or after July 1, 1998, and before
8 November 1, 2018, any person in the custody of the Department of
9 Corrections shall be eligible for consideration for parole who has
10 completed serving one-third (1/3) of the sentence or eighty-five
11 percent (85%) for an offense listed in Section 13.1 of Title 21 of
12 the Oklahoma Statutes; provided, however, no inmate ~~serving a~~
13 ~~sentence of~~ sentenced to life imprisonment without parole shall be
14 eligible to be considered for parole pursuant to this subsection.

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

20 1. A person eligible for parole under this subsection shall be
21 eligible for administrative parole under subsection R of this
22 section once the person serves one-fourth (1/4) of the sentence or
23 consecutive sentences imposed; provided, however, no inmate ~~serving~~
24 ~~a sentence of~~ sentenced to life imprisonment without parole, a

1 sentence for a violent crime as set forth in Section 571 of this
2 title or any crime enumerated in Section 13.1 of Title 21 of the
3 Oklahoma Statutes shall be eligible for administrative parole.

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

9 D. The parole hearings conducted for persons pursuant to
10 paragraph 3 of subsection A of this section or for any person who
11 was convicted of a violent crime as set forth in Section 571 of this
12 title and who is eligible for parole consideration pursuant to
13 paragraph 1 of subsection A of this section, subsection B or
14 paragraph 2 of subsection C of this section shall be conducted in
15 two stages, as follows:

16 1. At the initial hearing, the Pardon and Parole Board shall
17 review the completed report submitted by the staff of the Board and
18 shall conduct a vote regarding whether, based upon that report, the
19 Board decides to consider the person for parole at a subsequent
20 meeting of the Board; and

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

1 E. Any inmate who has parole consideration dates calculated
2 pursuant to subsection A, B or C of this section may be considered
3 up to two (2) months prior to the parole eligibility date. ~~Except~~
4 ~~as otherwise directed by the Pardon and Parole Board~~ Subject to the
5 rules and procedures within the Oklahoma Administrative Code, any
6 person who has been considered for parole and was denied parole or
7 who has waived consideration shall not be reconsidered for parole:

8 1. Within three (3) years of the denial or waiver, if the
9 person was convicted of a violent crime, as set forth in Section 571
10 of this title, and was eligible for consideration pursuant to
11 paragraph 1 of subsection A of this section, subsection B of this
12 section or paragraph 2 of subsection C of this section, unless the
13 person is within one (1) year of discharge; or

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

20 F. Any person in the custody of the Department of Corrections
21 for a crime committed prior to July 1, 1998, who has been considered
22 for parole on a docket created for a type of parole consideration
23 that has been abolished by the Legislature shall not be considered
24 for parole except in accordance with this section.

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

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

20 I. The Pardon and Parole Board shall not recommend to the
21 Governor parole for any person who was sentenced to life without the
22 possibility of parole or death.

23 J. Inmates sentenced to consecutive sentences shall not be
24 eligible for parole consideration on any such consecutive sentence

1 until one-third (1/3) of the consecutive sentence has been served or
2 where parole has been otherwise limited by law, until the minimum
3 term of incarceration has been served as required by law. Unless
4 otherwise ordered by the sentencing court, any credit for jail time
5 served shall be credited to only one offense.

6 ~~J.~~ K. The Pardon and Parole Board shall consider the prior
7 criminal record of inmates under consideration for parole
8 recommendation or granting of parole.

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

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

1 Pardon and Parole Board shall adopt policies and procedures
2 governing parole consideration for such persons.

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

18 ~~N.~~ O. Upon application of any person convicted and sentenced by
19 a court of this state and relinquished to the custody of another
20 state or federal authorities pursuant to Section 61.2 of Title 21 of
21 the Oklahoma Statutes, the Pardon and Parole Board may determine a
22 parole consideration date consistent with the provisions of this
23 section and criteria established by the Pardon and Parole Board.

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

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

8 Q. A person in the custody of the Department of Corrections
9 whose parole consideration date is calculated pursuant to subsection
10 B or C of this section, and ~~is not serving~~ did not receive a
11 sentence of life imprisonment without parole or who is not convicted
12 of an offense designated as a violent offense by Section 571 of this
13 title or any crime enumerated in Section 13.1 of Title 21 of the
14 Oklahoma Statutes shall be eligible for administrative parole under
15 subsection R of this section.

16 R. The Pardon and Parole Board ~~shall~~ may, by majority vote,
17 grant administrative parole to any person in the custody of the
18 Department of Corrections if:

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

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

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

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

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

7 S. Any person granted parole pursuant to subsection R of this
8 section shall be released from the institution at the time of the
9 parole eligibility date of the person as calculated under subsection
10 B or C of this section.

11 T. No less than ninety (90) days prior to the parole
12 eligibility date of the person, the Department shall notify the
13 Pardon and Parole Board in writing of the compliance or
14 noncompliance of the person with the case plan and any infractions
15 committed by the person.

16 U. The Pardon and Parole Board shall not be required to conduct
17 a hearing before granting administrative parole pursuant to
18 subsection R of this section; provided, however, that at least
19 fourteen (14) days of notice must be provided to a victim and the
20 district attorney who prosecuted the case.

21 V. Any person who is not granted administrative parole shall be
22 otherwise eligible for parole pursuant to this section.

23 W. Any person who is granted administrative parole under
24 subsection R of this section shall be supervised and managed by the

1 Department of Corrections in the same manner as a parolee who has
2 been granted parole pursuant to this section. The person shall be
3 subject to all of the rules and regulations of parole.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 332.22 of Title 57, unless there
6 is created a duplication in numbering, reads as follows:

7 A. An inmate sentenced to death may only be subject to clemency
8 pursuant to Section 3 of this act.

9 B. If an inmate commits a misconduct after requesting
10 commutation, the commutation request shall be denied.

11 C. If an inmate receives or has received a favorable
12 recommendation for commutation, the inmate may not receive or apply
13 for any additional commutation on the same sentence.

14 D. If an inmate receives an unfavorable recommendation for
15 commutation, the inmate may not request commutation again for a
16 period of three (3) years.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 332.23 of Title 57, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Clemency for an inmate sentenced to death may only be
21 considered when execution is imminent, meaning an execution date is
22 pending.

23 B. The Pardon and Parole Board is empowered to consider
24 recommendation of clemency for an inmate sentenced to death for the

1 sole reason of mercy or lenience. The Board may not hear a claim of
2 actual innocence as that is the role of the Oklahoma Court of
3 Criminal Appeals.

4 C. The Board may only recommend to the Governor the grant of
5 clemency to a sentence of life without the possibility of parole.

6 D. If an inmate receives or has received a favorable
7 recommendation for clemency, the inmate may not receive or apply for
8 any additional commutation on the same sentence.

9 SECTION 4. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
15 03/02/2022 - DO PASS, As Amended and Coauthored.

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