

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1418

By: Kirt

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2021, Section 1031, as amended by Section 2, Chapter 265, O.S.L. 2023 (21 O.S. Supp. 2023, Section 1031), which relates to criminal offenses; modifying penalty provisions related to HIV; providing for certain petition under certain circumstances; amending 57 O.S. 2021, Section 138, which relates to earned credits; conforming language; updating statutory references; repealing 21 O.S. 2021, Sections 1192 and 1192.1, which relate to the decriminalization of certain infectious diseases; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1031, as amended by Section 2, Chapter 265, O.S.L. 2023 (21 O.S. Supp. 2023, Section 1031), is amended to read as follows:

Section 1031. A. Except as provided in subsection B, C, or ~~D~~ ~~or E~~ of this section, any person violating any of the provisions of Section 1028~~7~~ or paragraph 1, 2, 3, or 5 of subsection A of Section 1029~~7~~ ~~or Section 1030~~ of this title shall, upon conviction, be guilty of a misdemeanor and shall be punished by imprisonment in the

1 county jail for not less than thirty (30) days nor more than one (1)
2 year or by fines as follows: a fine not more than Two Thousand Five
3 Hundred Dollars (\$2,500.00) upon the first conviction for violation
4 of any of such provisions, a fine not more than Five Thousand
5 Dollars (\$5,000.00) upon the second conviction for violation of any
6 of such provisions, and a fine not more than Seven Thousand Five
7 Hundred Dollars (\$7,500.00) upon the third or subsequent convictions
8 for violation of any of such provisions, or by both such
9 imprisonment and fine. In addition, the court may require a term of
10 community service not less than forty (40) nor more than eighty (80)
11 hours. The court in which any such conviction is had shall notify
12 the ~~county superintendent of public health~~ local health department
13 of such conviction.

14 B. ~~Any person who engages in an act of prostitution with~~
15 ~~knowledge that he or she is infected with the human immunodeficiency~~
16 ~~virus shall, upon conviction, be guilty of a felony punishable by~~
17 ~~imprisonment in the custody of the Department of Corrections for not~~
18 ~~more than five (5) years.~~

19 C. Any person who engages in an act of child prostitution as
20 defined in Section 1030 of this title shall, upon conviction, be
21 guilty of a felony punishable by imprisonment in the custody of the
22 Department of Corrections for not more than ten (10) years and by
23 fines as follows: a fine not more than Five Thousand Dollars
24 (\$5,000.00) upon the first conviction, a fine not more than Ten

1 Thousand Dollars (\$10,000.00) upon the second conviction, and a fine
2 not more than Fifteen Thousand Dollars (\$15,000.00) upon the third
3 or subsequent convictions.

4 ~~D.~~ C. Any person violating any of the provisions of Section
5 1028, or 1029 ~~or 1030~~ of this title within one thousand (1,000) feet
6 of a school or church shall, upon conviction, be guilty of a felony
7 and shall be punished by imprisonment in the custody of the
8 Department of Corrections for not more than five (5) years or by
9 fines as follows: a fine not more than Two Thousand Five Hundred
10 Dollars (\$2,500.00) upon the first conviction for violation of any
11 of such provisions, a fine not more than Five Thousand Dollars
12 (\$5,000.00) upon the second conviction for violation of any of such
13 provisions, and a fine not more than Seven Thousand Five Hundred
14 Dollars (\$7,500.00) upon the third or subsequent convictions for
15 violation of any of such provisions, or by both such imprisonment
16 and fine. In addition, the court may require a term of community
17 service not less than forty (40) nor more than eighty (80) hours.
18 ~~The court in which any~~ Upon such conviction ~~is had,~~ the court shall
19 notify the ~~county superintendent of public health~~ local health
20 department of such conviction.

21 ~~E.~~ D. Any person violating paragraph 4 of subsection A of
22 Section 1029 of this title shall, upon conviction, be guilty of a
23 felony and shall be punished in accordance with the provisions of
24 subsection B of Section ~~3~~ 1040.57 of this ~~act~~ title.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1192.2 of Title 21, unless there
3 is created a duplication in numbering, reads as follows:

4 A person currently serving a sentence for a conviction, whether
5 by trial or plea of guilty or nolo contendere, prior to the
6 effective date of this act, for the following:

- 7 1. Knowingly engaging in prostitution while infected with HIV;
- 8 2. Spreading infectious diseases; or
- 9 3. Knowingly engaging in conduct reasonably likely to transfer
10 HIV,

11 may file a petition for resentencing, reversal of conviction and
12 dismissal of case, or modification of judgment and sentence before
13 the trial court that entered the judgment of conviction in the
14 person's case to request resentencing, modification, or reversal of
15 the conviction and sentence.

16 SECTION 3. AMENDATORY 57 O.S. 2021, Section 138, is
17 amended to read as follows:

18 Section 138. A. Except as otherwise provided by law, every
19 inmate of a state correctional institution shall have their term of
20 imprisonment reduced monthly, based upon the class level to which
21 they are assigned. Earned credits may be subtracted from the total
22 credits accumulated by an inmate, upon recommendation of the
23 institution's disciplinary committee, following due process, and
24 upon approval of the warden or superintendent. Each earned credit

1 is equivalent to one (1) day of incarceration. Lost credits may be
2 restored by the warden or superintendent upon approval of the
3 classification committee. If a maximum and minimum term of
4 imprisonment is imposed, the provisions of this subsection shall
5 apply only to the maximum term. No deductions shall be credited to
6 any inmate serving a sentence of life imprisonment; however, a
7 complete record of the inmate's participation in work, school,
8 vocational training, or other approved program shall be maintained
9 by the Department of Corrections for consideration by the paroling
10 authority. No earned credit deductions shall be credited or
11 recorded for any inmate serving any sentence for a criminal act
12 which resulted in the death of a police officer, a law enforcement
13 officer, an employee of the Department of Corrections, or an
14 employee of a private prison contractor and the death occurred while
15 the police officer, law enforcement officer, employee of the
16 Department of Corrections, or employee of a private prison
17 contractor was acting within the scope of their employment. No
18 earned credit deductions shall be credited or recorded for any
19 person who is referred to an intermediate revocation facility for
20 violating any of the terms and conditions of probation.

21 B. The Department of Corrections is directed to develop a
22 written policy and procedure whereby inmates shall be assigned to
23 one of four class levels determined by an adjustment review
24 committee of the facility to which the inmate is assigned. The

1 policies and procedures developed by the Department shall include,
2 but not be limited to, written guidelines pertaining to awarding
3 credits for rehabilitation, obtaining job skills and educational
4 enhancement, participation in and completion of alcohol/chemical
5 abuse programs, incentives for inmates to accept work assignments
6 and jobs, work attendance and productivity, conduct record,
7 participation in programs, cooperative general behavior, and
8 appearance. When assigning inmates to a class level the adjustment
9 review committee shall consider all aspects of the policy and
10 procedure developed by the Department including but not limited to
11 the criteria for awarding credits required by this subsection.

12 C. If an inmate is subject to misconduct, nonperformance or
13 disciplinary action, earned credits may be removed according to the
14 policies and procedures developed by the Department. Earned credits
15 removed for misconduct, nonperformance or disciplinary action may be
16 restored as provided by Department policy, if any.

17 D. 1. Class levels shall be as follows:

18 a. Class level 1 shall include inmates not eligible to
19 participate in class levels 2 through 4, and shall
20 include, but not be limited to, inmates on escape
21 status.

22 b. Class level 2 shall include an inmate who has been
23 given a work, education, or program assignment, has
24 received a good evaluation for participation in the

1 work, education, or program assignment, and has
2 received a good evaluation for personal hygiene and
3 maintenance of living area.

4 c. Class level 3 shall include an inmate who has been
5 incarcerated at least three (3) months, has received
6 an excellent work, education, or program evaluation,
7 and has received an excellent evaluation for personal
8 hygiene and maintenance of living area.

9 d. Class level 4 shall include an inmate who has been
10 incarcerated at least eight (8) months, has received
11 an outstanding work, education, or program evaluation,
12 and has received an outstanding evaluation for
13 personal hygiene and maintenance of living area.

14 2. a. Until November 1, 2001, class level corresponding
15 credits are as follows:

16 Class 1 - 0 Credits per month;

17 Class 2 - 22 Credits per month;

18 Class 3 - 33 Credits per month;

19 Class 4 - 44 Credits per month.

20 b. Class level corresponding credits beginning November
21 1, 2001, for inmates who have ever been convicted as
22 an adult or a youthful offender or adjudicated
23 delinquent as a juvenile for a felony offense
24

1 enumerated in subsection E of this section are as
2 follows:

3 Class 1 - 0 Credits per month;

4 Class 2 - 22 Credits per month;

5 Class 3 - 33 Credits per month;

6 Class 4 - 44 Credits per month.

7 c. Class level corresponding credits beginning November
8 1, 2001, for inmates who have never been convicted as
9 an adult or a youthful offender or adjudicated
10 delinquent as a juvenile for a felony offense
11 enumerated in subsection E of this section are as
12 follows:

13 Class 1 - 0 Credits per month;

14 Class 2 - 22 Credits per month;

15 Class 3 - 45 Credits per month;

16 Class 4 - 60 Credits per month.

17 Each inmate shall receive the above specified monthly credits
18 for the class to which he or she is assigned. In determining the
19 prior criminal history of the inmate, the Department of Corrections
20 shall review criminal history records available through the Oklahoma
21 State Bureau of Investigation, Federal Bureau of Investigation, and
22 National Crime Information Center to determine the reported felony
23 convictions of all inmates. The Department of Corrections shall
24 also review the Office of Juvenile Affairs Juvenile ~~On-line~~ Online

1 Tracking System for inmates who were adjudicated delinquent or
2 convicted as a youthful offender for a crime that would be an
3 offense enumerated in subsection E of this section.

4 3. In addition to the criteria established for each class in
5 paragraph 1 of this subsection, the following requirements shall
6 apply to each of levels 2 through 4:

- 7 a. satisfactory participation in the work, education, or
8 program assignment at the standard required for the
9 particular class level,
- 10 b. maintenance of a clean and orderly living area and
11 personal hygiene at the standard required for the
12 particular class level,
- 13 c. cooperative behavior toward facility staff and other
14 inmates, and
- 15 d. satisfactory participation in the requirements of the
16 previous class level.

17 4. The evaluation scale for assessing performance shall be as
18 follows:

- 19 a. Outstanding - For inmates who display consistently
20 exceptional initiative, motivation, and work habits.
- 21 b. Excellent - For inmates who display above-average work
22 habits with only minor errors and rarely perform below
23 expectations.

24

1 c. Good - For inmates who perform in a satisfactory
2 manner and complete tasks as required, doing what is
3 expected, with only occasional performance above or
4 below expectations.

5 d. Fair - For inmates who may perform satisfactorily for
6 some periods of time, but whose performance is marked
7 by obviously deficient and weak areas and could be
8 improved.

9 e. Poor - For inmates whose performance is unsatisfactory
10 and falls below expected and acceptable standards.

11 E. No person ever convicted as an adult or a youthful offender
12 or adjudicated delinquent as a juvenile in this state for any felony
13 offense enumerated in this subsection or a similar felony offense
14 pursuant to the provisions of another state, the United States, or a
15 military court shall be eligible for the credits provided by the
16 provisions of subparagraph c of paragraph 2 of subsection D of this
17 section. Such enumerated offenses include:

18 1. Assault, battery, or assault and battery with a dangerous
19 weapon as defined by Section 645, or subsection C of Section 652 of
20 Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

21 2. Aggravated assault and battery on a police officer, sheriff,
22 highway patrolman, or any other officer of the law as defined by
23 Section 650, subsection C of Section 650.2, Section 650.5,
24

1 subsection B of Section 650.6, or subsection C of Section 650.7 of
2 Title 21 of the Oklahoma Statutes;

3 3. Poisoning with intent to kill as defined by Section 651 of
4 Title 21 of the Oklahoma Statutes;

5 4. Shooting with intent to kill as defined by Section 652 of
6 Title 21 of the Oklahoma Statutes;

7 5. Assault with intent to kill as defined by Section 653 of
8 Title 21 of the Oklahoma Statutes;

9 6. Assault with intent to commit a felony as defined by Section
10 681 of Title 21 of the Oklahoma Statutes;

11 7. Assaults while masked or disguised as defined by Section
12 1303 of Title 21 of the Oklahoma Statutes;

13 8. Entering premises of another while masked as defined by
14 Section 1302 of Title 21 of the Oklahoma Statutes;

15 9. Murder in the first degree as defined by Section 701.7 of
16 Title 21 of the Oklahoma Statutes;

17 10. Solicitation for ~~Murder~~ murder in the first degree as
18 defined by Section 701.16 of Title 21 of the Oklahoma Statutes;

19 11. Murder in the second degree as defined by Section 701.8 of
20 Title 21 of the Oklahoma Statutes;

21 12. Manslaughter in the first degree as defined by Section 711,
22 or 712 ~~or 714~~ of Title 21 of the Oklahoma Statutes;

23 13. Manslaughter in the second degree as defined by Section 716
24 or 717 of Title 21 of the Oklahoma Statutes;

1 14. Kidnapping as defined by Section 741 of Title 21 of the
2 Oklahoma Statutes;

3 15. Burglary in the first degree as defined by Section 1431 of
4 Title 21 of the Oklahoma Statutes;

5 16. Burglary with explosives as defined by Section 1441 of
6 Title 21 of the Oklahoma Statutes;

7 17. Kidnapping for extortion as defined by Section 745 of Title
8 21 of the Oklahoma Statutes;

9 18. Maiming as defined by Section 751 of Title 21 of the
10 Oklahoma Statutes;

11 19. Robbery as defined by Section 791 of Title 21 of the
12 Oklahoma Statutes;

13 20. Robbery in the first degree as defined by Section 797 of
14 Title 21 of the Oklahoma Statutes;

15 21. Robbery in the second degree as defined by Section 797 of
16 Title 21 of the Oklahoma Statutes;

17 22. Armed robbery as defined by Section 801 of Title 21 of the
18 Oklahoma Statutes;

19 23. Robbery by two or more persons as defined by Section 800 of
20 Title 21 of the Oklahoma Statutes;

21 24. Robbery with dangerous weapon or imitation firearm as
22 defined by Section 801 of Title 21 of the Oklahoma Statutes;

23 25. Any crime against a child provided for in Section 843.5 of
24 Title 21 of the Oklahoma Statutes;

- 1 26. Wiring ~~any equipment,~~ or equipping any vehicle or structure
2 with explosives as defined by Section 849 of Title 21 of the
3 Oklahoma Statutes;
- 4 27. Forcible sodomy as defined by Section 888 of Title 21 of
5 the Oklahoma Statutes;
- 6 28. Rape in the first degree as defined by Sections 1111 and
7 1114 of Title 21 of the Oklahoma Statutes;
- 8 29. Rape in the second degree as defined by Sections 1111 and
9 1114 of Title 21 of the Oklahoma Statutes;
- 10 30. Rape by instrumentation as defined by Section 1111.1 of
11 Title 21 of the Oklahoma Statutes;
- 12 31. Lewd or indecent proposition or lewd or indecent act with a
13 child as defined by Section 1123 of Title 21 of the Oklahoma
14 Statutes;
- 15 32. Sexual battery of a person over 16 as defined by Section
16 1123 of Title 21 of the Oklahoma Statutes;
- 17 33. Use of a firearm or offensive weapon to commit or attempt
18 to commit a felony as defined by Section 1287 of Title 21 of the
19 Oklahoma Statutes;
- 20 34. Pointing firearms as defined by Section 1289.16 of Title 21
21 of the Oklahoma Statutes;
- 22 35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of
23 the Oklahoma Statutes;
- 24

1 36. Inciting to riot as defined by Section 1320.2 of Title 21
2 of the Oklahoma Statutes;

3 37. Arson in the first degree as defined by Section 1401 of
4 Title 21 of the Oklahoma Statutes;

5 38. Endangering human life during arson as defined by Section
6 1405 of Title 21 of the Oklahoma Statutes;

7 39. Injuring or burning public buildings as defined by Section
8 349 of Title 21 of the Oklahoma Statutes;

9 40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of
10 Title 21 of the Oklahoma Statutes;

11 41. Extortion as defined by Section 1481 or 1486 of Title 21 of
12 the Oklahoma Statutes;

13 42. Obtaining signature by extortion as defined by Section 1485
14 of Title 21 of the Oklahoma Statutes;

15 43. Seizure of a bus, discharging firearm or hurling missile at
16 bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

17 44. Mistreatment of a vulnerable adult as defined by Section
18 843.1 of Title 21 of the Oklahoma Statutes;

19 45. Sex offender providing services to a child as defined by
20 Section 404.1 of Title 10 of the Oklahoma Statutes;

21 46. A felony offense of domestic abuse as defined by subsection
22 C of Section 644 of Title 21 of the Oklahoma Statutes;

23 47. Prisoner placing body fluid on government employee as
24 defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

- 1 48. Poisoning food or water supply as defined by Section 832 of
2 Title 21 of the Oklahoma Statutes;
- 3 49. Trafficking in children as defined by Section 866 of Title
4 21 of the Oklahoma Statutes;
- 5 50. Incest as defined by Section 885 of Title 21 of the
6 Oklahoma Statutes;
- 7 51. Procure, produce, distribute, or possess juvenile
8 pornography as defined by Section 1021.2 of Title 21 of the Oklahoma
9 Statutes;
- 10 52. Parental consent to juvenile pornography as defined by
11 Section 1021.3 of Title 21 of the Oklahoma Statutes;
- 12 53. Soliciting minor for indecent exposure as defined by
13 Section 1021 of Title 21 of the Oklahoma Statutes;
- 14 54. Distributing obscene material or child pornography as
15 defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;
- 16 55. Child prostitution as defined by Section 1030 of Title 21
17 of the Oklahoma Statutes;
- 18 56. Procuring a minor for prostitution or other lewd acts as
19 defined by Section 1087 of Title 21 of the Oklahoma Statutes;
- 20 57. Transporting a child under 18 for purposes of prostitution
21 as defined by Section 1087 of Title 21 of the Oklahoma Statutes;
- 22 58. Inducing a minor to engage in prostitution as defined by
23 Section 1088 of Title 21 of the Oklahoma Statutes;
- 24

1 59. A felony offense of stalking as defined by subsection D of
2 Section 1173 of Title 21 of the Oklahoma Statutes;

3 ~~60. Spread of infectious diseases as defined by Section 1192 of~~
4 ~~Title 21 of the Oklahoma Statutes;~~

5 ~~61.~~ Advocate overthrow of government by force, commit or
6 attempt to commit acts to overthrow the government, organize or
7 provide assistance to groups to overthrow the government as defined
8 by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma
9 Statutes;

10 ~~62.~~ 61. Feloniously discharging a firearm as defined by Section
11 1289.17A of Title 21 of the Oklahoma Statutes;

12 ~~63.~~ 62. Possession, use, manufacture, or threat of incendiary
13 device as defined by Section 1767.1 of Title 21 of the Oklahoma
14 Statutes;

15 ~~64.~~ 63. Causing a personal injury accident while driving under
16 the influence as defined by Section 11-904 of Title 47 of the
17 Oklahoma Statutes; or

18 ~~65.~~ 64. Using a motor vehicle to facilitate the discharge of a
19 firearm as defined by Section 652 of Title 21 of the Oklahoma
20 Statutes.

21 F. The policy and procedure developed by the Department of
22 Corrections shall include provisions for adjustment review
23 committees of not less than three members for each such committee.
24 Each committee shall consist of a classification team supervisor who

1 shall act as chairman, the case manager for the inmate being
2 reviewed or classified, a correctional officer or inmate counselor,
3 and not more than two other members, if deemed necessary, determined
4 pursuant to policy and procedure to be appropriate for the specific
5 adjustment review committee or committees to which they are
6 assigned. At least once every four (4) months the adjustment review
7 committee for each inmate shall evaluate the class level status and
8 performance of the inmate and determine whether ~~or not~~ the class
9 level for the inmate should be changed.

10 Any inmate who feels aggrieved by a decision made by an
11 adjustment review committee may utilize normal grievance procedures
12 in effect with the Department of Corrections and in effect at the
13 facility in which the inmate is incarcerated.

14 G. Inmates granted medical leaves for treatment that cannot be
15 furnished at the penal institution where incarcerated shall be
16 allowed the time spent on medical leave as time served. Any inmate
17 placed into administrative segregation for nondisciplinary reasons
18 by the institution's administration may be placed in Class level 2.
19 The length of any jail term served by an inmate before being
20 transported to a state correctional institution pursuant to a
21 judgment and sentence of incarceration shall be deducted from the
22 term of imprisonment at the state correctional institution. Inmates
23 sentenced to the Department of Corrections and detained in a county
24 jail as a result of the Department's reception scheduling procedure

1 shall be awarded earned credits as provided for in subparagraph b of
2 paragraph 1 of subsection D of this section, beginning on the date
3 of the judgment and sentence, unless the inmate is convicted of a
4 misdemeanor or felony committed in the jail while the inmate is
5 awaiting transport to the Lexington Assessment and Reception Center
6 or other assessment and reception location determined by the
7 Director of the Department of Corrections.

8 H. Additional achievement earned credits for successful
9 completion of departmentally approved programs or for attaining
10 goals or standards set by the Department shall be awarded as
11 follows:

- 12 Bachelor's degree.....200 credits;
- 13 Associate's degree.....100 credits;
- 14 High School Diploma or High School
15 Equivalency Diploma.....90 credits;
- 16 Certification of Completion of
17 Vocational Training.....80 credits;
- 18 Successful completion of
19 Alcohol/Chemical Abuse Treatment
20 Program of not less than four (4)
21 months continuous participation.....70 credits;
- 22 Successful completion of other
23 Educational Accomplishments or

1 other programs not specified in
2 this subsection.....10-30 credits;
3 Achievement earned credits are subject to loss and restoration in
4 the same manner as earned credits.

5 I. The accumulated time of every inmate shall be tallied
6 monthly and maintained by the institution where the term of
7 imprisonment is being served. A record of ~~said~~ such accumulated
8 time shall be:

9 1. Sent to the administrative office of the Department of
10 Corrections on a quarterly basis; and

11 2. Provided to the inmate.

12 SECTION 4. REPEALER 21 O.S. 2021, Sections 1192 and
13 1192.1, are hereby repealed.

14 SECTION 5. This act shall become effective November 1, 2024.

15
16 59-2-2615 CN 12/15/2023 3:49:48 PM

17
18
19
20
21
22
23
24