

An Act

ENROLLED HOUSE
BILL NO. 4369

By: Hill and Waldron of the
House

and

Rader of the Senate

An Act relating to prisons and reformatories; amending 57 O.S. 2021, Section 332.7, which relates to persons eligible for parole consideration; modifying requirements for granting administrative parole; prohibiting eligible persons from waiving parole consideration; allowing parolees the ability to earn discharge credits under certain circumstances; defining term; prohibiting persons convicted of certain offenses from eligibility; authorizing the Department of Corrections to develop written policies and procedures; allowing for the maintenance of records; authorizing the Department to provide certain notification; confirming early parole termination requests; authorizing the Department to order final termination of parole supervision under certain circumstances; providing for codification; and providing an effective date.

SUBJECT: Prisons and reformatories

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

SECTION 1. AMENDATORY 57 O.S. 2021, 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 imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph; or

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

B. For a crime committed on or after July 1, 1998, and before November 1, 2018, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has completed serving one-third (1/3) of the sentence; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this subsection.

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

1. A person eligible for parole under this subsection shall be eligible for administrative parole under subsection R of this section once the person serves one-fourth (1/4) of the sentence or

consecutive sentences imposed; provided, however, no inmate serving a sentence of life imprisonment without parole, a sentence for a violent crime as set forth in Section 571 of this title or any crime enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes shall be eligible for administrative parole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~2. A~~ and:

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

~~3. The,~~

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

~~4. The,~~

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

~~5. The, and~~

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

2. The person is within six (6) calendar months of his or her discharge date and a victim, as defined in Section 332.2 of this title, or the district attorney speaking on behalf of the victim, has not submitted an objection.

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

T. Any person eligible for parole pursuant to subsection R of this section shall not waive his or her consideration.

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

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

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 512.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Every offender released to parole supervision may be eligible to earn credits for compliance with the terms and conditions of parole supervision that reduce the term of supervision. For every calendar month of compliance with the terms and conditions of parole supervision, the Department of Corrections

may award the offender earned credits equal to thirty (30) calendar days to be applied toward a reduction of the parole supervision period. For the purposes of this section, "compliance" may be defined as the absence of a violation report submitted by a probation and parole officer during a calendar month. No person convicted of an offense under Section 13.1 or subsection C, D, E, F, G, or J of Section 644 of Title 21 of the Oklahoma Statutes shall be eligible for earned credits pursuant to this section.

B. The Department of Corrections may develop written policies and procedures necessary for the implementation of earned credits as authorized pursuant to this section. The policies and procedures developed by the Department of Corrections may include, but are not limited to, written guidelines regarding the process to earn credits and the application of the credits toward the reduction of the term of supervision, the collection of data related to who earns credit, how much is applied and how much of the supervision period is reduced.

C. The Department may maintain a record of credits earned by an offender under this section. At least every six (6) months from the date the offender is placed on parole supervision, the Department may notify the offender of the current parole supervision termination date.

D. The Department may notify the Pardon and Parole Board of the impending parole supervision termination date not less than thirty (30) days prior to the expected date. However, nothing in this section may prohibit the Department from requesting an earlier parole supervision termination date.

SECTION 3. This act shall become effective November 1, 2022.

Passed the House of Representatives the 10th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____