

1 **SENATE FLOOR VERSION**

2 February 20, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 28

5 By: Shaw

6 [parole - consideration for parole - inclusions -
7 effective date]
8

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

10 SECTION 1. AMENDATORY 57 O.S. 2011, Section 332.7, as
11 last amended by Section 2, Chapter 117, O.S.L. 2018 (57 O.S. Supp.
12 2018, Section 332.7), is amended to read as follows:

13 Section 332.7. A. For a crime committed prior to July 1, 1998,
14 any person in the custody of the Department of Corrections shall be
15 eligible for consideration for parole ~~at the earliest of the~~
16 ~~following dates:~~ who has

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

18 ~~2. Has reached at least sixty (60) years of age and also has~~
19 ~~served at least fifty percent (50%) of the time of imprisonment that~~
20 ~~would have been imposed for that offense pursuant to the applicable~~
21 ~~matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.~~
22 ~~1997; provided, however, no inmate serving a sentence for crimes~~
23 ~~listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,~~
24 ~~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, and before
17 November 1, 2018, any person in the custody of the Department of
18 Corrections shall be eligible for consideration for parole who has
19 completed serving one-third (1/3) of the sentence; provided,
20 however, ~~no inmate~~ this subsection shall not apply to any inmate
21 serving a sentence of life imprisonment without parole shall be
22 eligible to be considered for parole pursuant to this subsection.

23 C. For a crime committed on or after November 1, 2018, any
24 person in the custody of the Department of Corrections shall be

1 eligible for parole after serving one-fourth (1/4) of the sentence
2 or consecutive sentences imposed, according to the following
3 criteria:

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

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

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

24

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

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

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

16 ~~1. Within~~ within three (3) years of the denial or waiver, if
17 the person was convicted of a violent crime, as set forth in Section
18 571 of this title, and was eligible for consideration pursuant to
19 ~~paragraph 1 of~~ subsection A of this section, subsection B of this
20 section or paragraph 2 of subsection C of this section, unless the
21 person is within one (1) year of discharge; ~~or~~

22 ~~2. Until the person has served at least one-third (1/3) of the~~
23 ~~sentence imposed, if the person was eligible for consideration~~
24 ~~pursuant to paragraph 3 of subsection A of this section. Thereafter~~

1 ~~the person shall not be considered more frequently than once every~~
2 ~~three (3) years, unless the person is within one (1) year of~~
3 ~~discharge.~~

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

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

16 H. The Pardon and Parole Board shall not recommend to the
17 Governor any person who has been convicted of three or more felonies
18 arising out of separate and distinct transactions, with three or
19 more incarcerations for such felonies, unless such person shall have
20 served the lesser of at least one-third (1/3) of the sentence
21 imposed, or ten (10) years; provided, that whenever the population
22 of the prison system exceeds ninety-five percent (95%) of the
23 capacity as certified by the State Board of Corrections, the Pardon
24 and Parole Board may, at its discretion, recommend to the Governor

1 for parole any person who is incarcerated for a nonviolent offense
2 not involving injury to a person and who is within six (6) months of
3 his or her statutory parole eligibility date.

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

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

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

19 L. It shall be the duty of the Pardon and Parole Board to cause
20 an examination to be made at the penal institution where the person
21 is assigned, and to make inquiry into the conduct and the record of
22 the ~~said~~ person during his or her custody in the Department of
23 Corrections, which shall be considered as a basis for consideration
24 of ~~said~~ the person for recommendation to the Governor for parole.

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

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

23 N. Upon application of any person convicted and sentenced by a
24 court of this state and relinquished to the custody of another state

1 or federal authorities pursuant to Section 61.2 of Title 21 of the
2 Oklahoma Statutes, the Pardon and Parole Board may determine a
3 parole consideration date consistent with the provisions of this
4 section and criteria established by the Pardon and Parole Board.

5 ~~O. All references in this section to matrices or schedules~~
6 ~~shall be construed with reference to the provisions of Sections 6,~~
7 ~~598, 599, 600 and 601, Chapter 133, O.S.L. 1997.~~

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

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

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

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

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

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

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

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

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

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

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

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

24

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

6 SECTION 2. This act shall become effective November 1, 2019.

7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
8 February 20, 2019 - DO PASS AS AMENDED
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