Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2273

By: West (Josh) of the House and Jech of the Senate

Title: Prisons and reformatories; providing statement of legislative intent; modifying manner in which parole eligibility is calculated for persons convicted of crimes before and after certain date; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,
HB2273 CCR (B)

HOUSE CONFEREES

Baker, Rhonda

Frix, Avery

Kannady, Chris

Loring, Ben

Lowe, Jason

Manger, Robert

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Worthen, Rande
Add as coauthor Senator Ikley-Freeman
STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2273

By: West (Josh) and Dunnington of the House

and

Jech of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to prisons and reformatories;
amending 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), which relates to parole
considerations for eligible persons; updating
internal citations; modifying parole consideration
categories; authorizing Pardon and Parole Board to
establish accelerated parole process for certain
inmates; directing Pardon and Parole Board to state
parole denials on the record and suggest remediation
options; removing majority vote requirement for
granting administrative parole; directing parolees to
proceed immediately to consecutive sentence under
certain circumstances; prohibiting inmates from
waiving parole consideration or recommendation;
amending 57 O.S. 2011, Section 350, which relates to
sentence deductions for parolees; providing gender-
neutral language; authorizing paroling authority to
revoke all or portion of parole under certain
circumstances; making supervised parolees eligible to
earn discharge credits under certain circumstances;
defining term; prohibiting persons convicted of
certain offenses from earning discharge credits;
directing Department of Corrections to develop
written policies and procedures for earned discharge
credits; requiring maintenance of records and
notification to offenders of parole termination date;
directing the Department to notify Pardon and Parole Board of impending parole terminations; directing the Department to order final termination of parole supervision under certain circumstances; requiring conversion of outstanding fines, fees or costs into a civil action; amending 57 O.S. 2011, Section 516, which relates to parole violators; directing the Department of Corrections to issue arrest warrants for possible revocation under certain circumstances; providing for codification; and providing an 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 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 A 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; and

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. The Pardon and Parole Board may establish a distinct accelerated parole process, or an alternative, for inmates who are within six (6) months of discharge.

G. If the Pardon and Parole Board denies parole, the Board shall state on the record the reason for the denial.

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

I. 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.

J. 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.
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.

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.

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

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. O. 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. P. 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. Q. 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. R. 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. S. 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. T. 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 U of this section.

R U. 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 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 person has not received a primary class X infraction
within two (2) years of the parole eligibility date;
4. The person has not received a secondary class X infraction
within one (1) year of the parole eligibility date; or
5. The person has not received a class A infraction within six
(6) months of the parole eligibility date.

S V. Any person granted parole pursuant to subsection R U 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 or proceed immediately to any
applicable consecutive sentence.
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.

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

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

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.

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

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

Section 350. A. Every person, hereinafter referred to as "convict", who has been or who in the future may be sentenced to imprisonment in any state penal institution shall, in addition to any other deductions provided for by law, be entitled to a deduction from his or her sentence for all time during which he or she has
been or may be on parole. The provisions of this section are hereby
declared to be both retroactive and prospective, and to apply to
convicts who are on parole on the effective date of this act, October 1, 1981, as well as to convicts who may be paroled thereafter; and
shall at the discretion of the paroling authority apply to time on a
parole which has been or shall be revoked.

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

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

SECTION 3. 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 pursuant to
Section 512 of Title 57 of the Oklahoma Statutes shall be eligible
to earn discharge credits for compliance with the terms and
conditions of parole supervision that reduce the term of supervision
of the offender. For every calendar month of compliance with the
terms and conditions of parole supervision, the Department of
Corrections shall award the offender earned discharge 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" shall 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 discharge credits under this section.

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

C. The Department shall 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, the Department shall notify the offender of the current parole termination date.

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

E. Once a combination of time served in custody, if applicable, time served on any form of probation, parole or post-release supervision and earned discharge credits satisfy the total sentence, the Department shall order the final termination of parole supervision of the offender unless it is determined that termination would interrupt the completion of a necessary treatment program. If the Department finds that termination of the sentence would interrupt the completion of a necessary treatment program, the offender shall complete the treatment program and then have his or her parole supervision terminated. Upon termination of an offender from parole supervision, all outstanding fines, fees or costs, excluding restitution, shall be converted into a civil action.

SECTION 4. AMENDATORY 57 O.S. 2011, Section 516, is amended to read as follows:

Section 516. A. Except as provided in subsection B of this section, the probation and parole officer shall, upon information sufficient to give the officer reasonable grounds to believe that the parolee has violated the terms of and conditions of parole, notify the Department of Corrections. If it is determined that the facts justify revocation action parolee has:
1. Committed a new criminal offense for which felony or misdemeanor charges are filed, including violations of a protective order pursuant to Section 60.6 of Title 22 of the Oklahoma Statutes;

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

3. Committed any violation of the specialized sex offender rules,

the Department shall issue a warrant for the arrest of the parolee and the warrant shall have the force and effect of any warrant of arrest issued by a district court in this state. The parolee shall, after arrest, be immediately incarcerated in the nearest county jail, intermediate sanctions facility, or a Department of Corrections facility to await action by the Governor as to whether the parole will be revoked. Parole time shall cease to run after the issuance of a warrant for arrest by the Department of Corrections, and earned credits shall not be accrued during any period of time when the parolee is incarcerated pending revocation action by the Governor.

B. Any parolee determined to have violated any terms or conditions of parole by the supervising parole officer, other than those listed in subsection A of this section, may be given the option, at the discretion of the Department of Corrections, to be placed in an intermediate sanctions facility for disciplinary
sanction and programmatic services in lieu of revocation or when revocation action by the Governor is deemed unnecessary for the nature of the violation. Any parolee for whom a warrant for arrest issues as provided in subsection A of this section may, at the discretion of the Department or the Governor, be placed in an intermediate sanctions facility pending or following any action by the Governor as to revocation of parole or required additional conditions to remain on parole. A parolee may be received and processed into the custody of the Department on an expedited basis through any facility serving such purpose or may be processed directly by the intermediate sanctions facility.

SECTION 5. This act shall become effective November 1, 2019.