Mr./Madame President:

I move to amend Senate Bill No. 616, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

_______________________
Senator Jech

Jech-BHG-FS-Req#2104
3/13/2019 1:52 PM
STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

FLOOR SUBSTITUTE
FOR
SENATE BILL NO. 616

By: Jech and Young of the Senate

and

West (Josh) of the House

FLOOR SUBSTITUTE

[ pardons and parole - consideration for parole - Pardon and Parole Board - probation violators - codification - 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 R T 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. If the Pardon and Parole Board denies parole, the Board
shall state on the record the reason for the denial.

G. 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.

H. 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.

I. 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. J. 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. K. 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. L. 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.

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.

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.

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.

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.

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.

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.T. of this section.

R.T. 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.U. Any person granted parole pursuant to subsection R.T 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. **V.** 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. **W.** 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. **X.** Any person who is not granted administrative parole shall be otherwise eligible for parole pursuant to this section.

W. **Y.** 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.

Z. 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 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. 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 4. This act shall become effective November 1, 2019.

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