

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 1725

By: Caldwell

COMMITTEE SUBSTITUTE

An Act relating to roads, bridges and ferries; amending 69 O.S. 1991, Sections 4008 and 4009, which relate to certain abolished entities; modifying certain references; transferring the powers, duties, functions, records, employees, property, matters pending and funds of the Highway Safety Office and the former Oklahoma Highway Safety Coordinating Committee to the Department of Public Safety or other designated entity; amending 22 O.S. 1991, Section 991c, as last amended by Section 5, Chapter 357, O.S.L. 1992 (22 O.S. Supp. 1992, Section 991c), which relates to sentencing powers of courts; deleting reference; repealing 47 O.S. 1991, Sections 40-108, 40-109, 40-110, 40-111 and 40-112, which relate to the Oklahoma Highway Safety Coordinating Committee; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 69 O.S. 1991, Section 4008, is amended to read as follows:

Section 4008. The Department of Highways, the Highway Safety Coordinating Committee and the Railroad Maintenance Authority are hereby abolished. The powers, duties and responsibilities exercised by the above-listed entities pursuant to law are hereby transferred to the Department. Effective July 1, 1993, the powers, duties and responsibilities of the Highway Safety Coordinating Committee that were transferred to the Department shall be transferred to the Department of Public Safety or such other entity as the Governor may direct. Any statutory references to the ~~above-listed entities abolished herein~~ Department of Highways or the Railroad Maintenance Authority shall mean the Department of Transportation. Any statutory references to the Highway Safety Coordinating Committee shall mean the Department of

Public Safety or such other entity as the Governor may direct,
pursuant to Section 3 of this act.

SECTION 2. AMENDATORY 69 O.S. 1991, Section 4009, is amended to read as follows:

Section 4009. All the powers, duties, functions, records, employees, property, matters pending and funds of the Department of Highways, the Highway Safety Coordinating Committee and the Railroad Maintenance Authority are hereby transferred to the Department of Transportation. Effective July 1, 1993, all powers, duties, functions, records, employees, matters pending and funds of the Department of Transportation that were transferred to the Department because of the abolishment of the Highway Safety Coordinating Committee shall be transferred to the Department of Public Safety or such other entity as the Governor may direct, pursuant to Section 3 of this act. Except as specifically directed by the Legislature the State Department of Transportation shall not fund, directly or indirectly, any railroad, mass transit, public transportation, marine, waterways or aeronautics construction, operations or maintenance with dedicated gasoline taxes, appropriated highway construction or maintenance funds or other highway funds; provided, however, that nothing herein contained shall be construed to prevent the Department of Transportation from applying for, accepting, receiving, administering or expending monies appropriated for the specific purpose of matching federal grants now or hereafter made available for transportation planning or improvements in nonhighway transportation modes. The Department of Transportation shall not issue bonds which constitute an obligation or debt of the state or a pledge of the faith and credit of the state, except as specifically authorized by the Legislature. Any change of agency name/names on signs, equipment, vehicles or other property shall be accomplished as said signs, equipment, vehicles or other property are replaced in inventory or as required through normal wear and tear. An accurate, current inventory of all properties shall be maintained by the Department of Transportation.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4009.1 of Title 69, unless there is created a duplication in numbering, reads as follows:

All powers, duties, functions, records, employees, property, matters pending and funds of the Oklahoma Highway Safety Office of the Oklahoma Department of Transportation and the former Oklahoma Highway Safety Coordinating Committee are hereby transferred to the Oklahoma Department of Public Safety or to such other entity as the Governor may direct.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 991c, as last amended by Section 5, Chapter 357, O.S.L. 1992 (22 O.S. Supp. 1992, Section 991c), is amended to read as follows:

Section 991c. A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation under the supervision of the State Department of Corrections upon the conditions of probation prescribed by the court. The court shall first consider restitution, administered in accordance with the provisions pertaining thereto, among the various conditions of probation it may prescribe. The court may also consider ordering the defendant to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant. Further, the court may order the defendant confined to the county jail for a period not to exceed ninety (90) days to be served in conjunction with probation. Further, the court may order the defendant to pay a sum into the court fund not to exceed the amount of fine authorized for the offense alleged against the defendant or authorized under Section 9 of Title 21 of the Oklahoma Statutes and an amount for reasonable attorney fee, to be paid into the court fund, if a court-appointed attorney has been provided to defendant. Further, the court may, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a

combination of alcohol and another intoxicating substance, before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections ~~11-902.2~~ 3-452 and ~~11-902.3~~ 3-453 of Title 47 43A of the Oklahoma Statutes; and

2. A victims impact panel program ~~sponsored by the Highway Safety Division of the Oklahoma Department of Transportation~~, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not to exceed Five Dollars (\$5.00), to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

B. Upon completion of the probation term, which probation term under this procedure shall not exceed five (5) years, the defendant shall be discharged without a court judgment of guilt, and the verdict or plea of guilty or plea of nolo contendere shall be expunged from the record and said charge shall be dismissed with prejudice to any further action. The procedure to expunge the defendant's record shall be as follows:

1. All references to the defendant's name shall be deleted from the docket sheet;

2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court; and

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This

section shall not be mutually exclusive of Section 18 of this title.

C. Upon order of the court, the provisions of subsection B of this section shall be retroactive to September 1, 1987.

D. Upon violation of the conditions of probation, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title. Further, if the probation is for a felony offense, and the defendant violates the conditions of probation by committing another felony offense, the defendant shall not be allowed bail pending appeal. The deferred judgment procedure described in this section shall only apply to defendants not having been previously convicted of a felony.

SECTION 5. REPEALER 47 O.S. 1991, Sections 40-108, 40-109, 40-110, 40-111 and 40-112, are hereby repealed.

SECTION 6. This act shall become effective July 1, 1993.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-6292

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