

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 976

By: Hobson of the Senate

and

Maddox (Jim) of the House

COMMITTEE SUBSTITUTE

An Act relating to Community Service Sentencing Program; amending 22 O.S. 1991, Section 991a-4, as last amended by Section 1, Chapter 187, O.S.L. 1993 (22 O.S. Supp. 1993, Section 991a-4), which relates to Community Service Sentencing Program; deleting provision relating to certain previous felony convictions; making violent felons ineligible for program; authorizing contract for administration of Program; removing requirement of Department of Corrections to reimburse counties in certain amount; authorizing contract for reimbursement for specified amount; providing for maximum amount of payment to a county; requiring county to provide for certain additional persons; requiring participation of local resources; deleting option for incarceration by Department; providing liability for incarceration costs; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 991a-4, as last amended by Section 1, Chapter 187, O.S.L. 1993 (22 O.S. Supp. 1993, Section 991a-4), is amended to read as follows:

Section 991a-4. A. There is hereby created the "Community Service Sentencing Program". The purpose of the program shall be to provide an alternative to incarceration for nonviolent felony offenders who would normally be sentenced to incarceration in a state institution.

B. Any eligible offender may be sentenced, at the discretion of the judge and subject to funds available in the Program, to a Community Service Sentencing Program pursuant to the provisions of this section. For purposes of this section, "eligible offender" shall mean any person who:

1. Is not participating in the Delayed Sentencing Program for Young Adults pursuant to the provisions of Section 996 through 996.3 of this title;

~~2. Has not previously been convicted of two or more felonies;~~

~~3.~~ Has been convicted of a nonviolent felony offense which shall be defined as any felony offense except assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a felony, pointing firearms, rioting or arson in the first degree;

~~4.~~ 3. Has properly completed and executed all necessary documents; and

~~5.~~ 4. Is not otherwise ineligible by law or court rule.

5. Has never been convicted of a violent felony. A violent felony is a felony excepted from paragraph 2 above.

C. The Department of Corrections shall administer the Program or shall contract with local providers to administer the Program, except in counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program. The participation of local resources shall be a requirement for the receipt by counties of contract funds. The Department shall conduct a presentence investigation pursuant to the provisions of Section 982 of this title if the court determines the offender is to be assigned to the Program. As part of such presentence investigation, the Department shall interview the offender and advise him of the requirements and conditions of

the Program. The Department shall recommend an assignment of the offender to any one or combination of the following areas:

1. Community service, with or without compensation;
2. Education, vocational-technical education or literacy programs;
3. Substance abuse treatment programs;
4. Periodic testing for the presence of controlled substances;
5. Psychological counseling or psychiatric treatment;
6. Medical treatment;
7. Restitution, to be paid either to the victim of the offense or to the Crime Victims Compensation Revolving Fund created pursuant to the provisions of Section 142.17 of Title 21 of the Oklahoma Statutes;
8. Probation or conditional probation;
9. Confinement in a county jail for a period not to exceed one (1) year, ~~night;~~ or
10. Night or weekend incarceration pursuant to the provisions of Section 991a-2 of this title ~~or incarceration by the Department of Corrections; provided, the.~~

D. The Department of Corrections shall ~~reimburse a,~~ subject to appropriation by the Legislature, contract to assist each county which does not receive payments from any other source participating in the Program for the cost of the necessary expenses of ~~such~~ persons sentenced to the Program during any periods of ~~such~~ incarceration in an amount ~~not to exceed~~ of Twenty Dollars (\$20.00) per day ~~and any~~ per person up to a specified maximum amount per county. After the maximum amount has been paid to the county, the Department of Corrections shall not be obligated to pay any additional amounts for persons sentenced to the Program, and any person sentenced thereafter may only be incarcerated in the county jail pursuant to the provisions of this Program by agreement with the sheriff of the county ~~receiving such payments in an amount not to exceed Ten Dollars (\$10.00) per day.~~ The participation of local resources shall be a requirement for receipt by counties of contract funds. The Department shall

reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of such persons if the county is required by law to provide such care for inmates in the jail. The reimbursements provided by this section shall not exceed the cost that would have accrued to the state for the feeding, care or medical care of the persons had they been incarcerated with the Department. Except as otherwise provided by law, all provisions of the Oklahoma Corrections Act of 1967, Section 501 et seq. of Title 57 of the Oklahoma Statutes, shall apply to such persons, including but not limited to any provisions requiring payment by such persons of the costs of incarceration ~~or~~.

~~9. Probation or conditional probation.~~

~~D. E.~~ In counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program, the Department of Corrections is hereby authorized to ~~reimburse contract with~~ the county sheriff, pursuant to ~~paragraph 8 of~~ subsection ~~C~~ D of this section, for the cost of necessary expenses for confinement in the county jail for any eligible offender as defined in subsection B of this section. ~~Such reimbursement shall be subject to appropriation by the Legislature.~~ The Department may promulgate rules and procedures for submitting claims for medical reimbursements.

~~E. F.~~ The judge shall consider the criminal history of the offender, the nature of the offender's criminal conduct, the employment and family history of the offender and any other factors ~~he deems~~ deemed relevant when sentencing ~~persons~~ a person to the Program, including the availability of funds in the Program. Following the presentence investigations and recommendation, the judge shall impose sentence; provided, however, incarceration in the county jail shall be subject to funds available in the Program. The judge may accept the recommendation, with or without modifications thereto, or may reject the recommendation and impose any sentence allowed by law.

~~F. G.~~ The provisions of Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69

of the Oklahoma Statutes and any other provisions of law relating to earned credits for certain acts or service shall not apply to persons participating in the Program. The judge may establish a schedule of earned credits as part of the sentence.

~~G.~~ H. The ~~Division~~ Department shall establish a list of federal, state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs willing to participate in the program to which offenders may be referred. The ~~Division~~ Department shall periodically contact agencies, organizations and programs to which offenders are assigned to determine if offenders have reported and performed satisfactorily. Any such agency or program shall immediately notify the ~~Division~~ Department if an offender fails to fulfill any requirement of the Program. The ~~Division~~ Department or the sentencing judge may require additional documentation of the offender's work performance.

~~H.~~ I. The ~~Division~~ Department shall ensure that the sentencing judge and prosecuting attorney are notified in writing when an offender has successfully completed the assigned community service hours or other requirements of the Program or has failed to complete the requirements and provide any other relevant information required by the sentencing judge or prosecuting attorney.

~~I.~~ J. All state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs participating in the Program are hereby immune from liability for any offender participating in the Program under the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in the Program to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes.

~~J.~~ K. Any person sentenced to the Community Service Sentencing Program under the provisions of this section shall be liable for the costs of his incarceration, including cost of medical care and treatment while incarcerated. The inability to

pay all or part of any cost of incarceration shall not prohibit any person from participating in said Program.

L. Any offender participating in the Program shall be advised of the provisions of this section and shall, in writing, acknowledge that he has been advised of and understands the provisions of the Program.

SECTION 2. This act shall become effective July 1, 1994.

SECTION 3. 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.

44-2-9841

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