

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 1225

By: Steidley, Hager, Eddins
and Roberts of the House

and

Stipe and Capps of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and criminal procedure;

amending Sections 7 and 8 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relate to sentencing pursuant to the Oklahoma Truth in Sentencing Act; modifying time for filing of notice by the state of certain information that will be used at sentencing for enhancement of sentence; providing that authorized deviations in sentence that are agreed to by both parties are not subject to appeal; amending 21 O.S. 1991, Section 650.2, as last amended by Section 35 of Enrolled House Bill No. 1632 of the 1st Session of the 46th Oklahoma Legislature and 21 O.S. 1991, Section 650.2, as last amended by Section 36 of Enrolled House Bill No. 1632 of the 1st Session of the 46th Oklahoma Legislature, which relate to aggravated assault and battery upon certain

employees, both before and on and after effective date of Truth in Sentencing Act; providing for crime of aggravated assault and battery upon employees of private prison contractors; amending 21 O.S. 1991, Section 886, as last amended by Section 263 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relates to crime against nature; removing reference to jury sentencing; amending Sections 40, 41, 43, 44, 45, 46, 48, 51, 53, 54, 55, 57 and 60 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relate to the Oklahoma Community Sentencing Act; modifying definitions; providing for assumption of duties of chief judge in certain circumstances; expanding purposes of the Oklahoma Community Sentencing Act; changing name of council; providing for defined jurisdiction; modifying duties of councils; modifying purpose of certain written declaration; providing that a plan conforming with statutory requirements shall not be modified, with budgetary exception; prohibiting the Community Sentencing Division of the Department of Corrections from restricting plans or determining certain facts if the plans, treatment and services conform with statutory requirements, with exception; providing for certain services for misdemeanor offenders; prohibiting expenditure of state funds for services to misdemeanor offenders; specifying sources for payment for services to misdemeanor offenders; modifying certain monitoring requirements; modifying duties of local administrator; modifying

provisions relating to preexisting community programs; prohibiting termination of certain programs without permission of Department of Corrections; modifying duties of the Community Sentencing Division of the Department of Corrections; limiting modification of local plans for budgetary purposes; including certain preexisting programs in prohibition against withdrawal of resources; modifying the duties of the Community Sentencing Division in relation to certain tests; specifying scope of assistance to be provided by certain state agencies; authorizing court to order treatment authorized by law; requiring offender who files meritless or frivolous motion to modify community sentence to pay cost; authorizing sanctions by the court; amending 22 O.S. 1991, Section 991a-4, as last amended by Section 67 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relates to the Community Service Sentencing Program; authorizing the Department of Corrections to make certain reimbursements; providing that decision not to provide for reimbursements is not grounds for termination of program; amending Sections 4 and 8, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1996, Sections 1504 and 1508), as amended by Sections 37 and 38 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relate to the Oklahoma Sentencing Commission; clarifying appointments; requiring the Commission to study certain issues and report to the Legislature; amending 57 O.S.

1991, Section 332.7, as last amended by Section 26 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature; prohibiting inmates serving sentence of life imprisonment without parole from parole consideration; amending Section 2 of Enrolled Senate Bill No. 507 of the 1st Session of the 46th Oklahoma Legislature; modifying appointment; providing for removal for nonattendance of members who are not ex officio; modifying method of selection of chair; modifying provisions on travel reimbursement; correcting statutory reference for travel reimbursement for legislative members; removing rule-making authority; creating the Oklahoma Criminal Justice Resource Center Revolving Fund; providing for codification; providing for recodification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 7 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 7. A. The sentencing ranges in the matrices shall be enhanced in accordance with the following provisions based on the circumstances of the commission of the offense, however the enhancement provision shall not apply to conduct which is an element of the offense. The following shall be offense enhancers:

1. If the offender committed the current offense with the use of a firearm within the immediate possession and control of the

offender then the sentencing range shall be enhanced by two levels on the sentencing matrices;

2. If the victim of the offense is over sixty-two (62) years, under twelve (12) years, or is disabled by reason of mental or physical illness to such extent that the victim lacks the ability to effectively protect the victim's property or person, then the sentencing range shall be enhanced by two levels on the sentencing matrices;

3. If the property involved in a theft, embezzlement or fraud crime is of great value, then the punishment for committing that crime shall be enhanced. If the commission of the crime involved the use of drug proceeds then the punishment for committing the crime shall be enhanced by the amount of drug proceeds involved. The "amount involved" is a calculation of the value of the property involved in the crime, the amount of money that was stolen, embezzled or obtained by fraud, or the amount of drug proceeds which is utilized.

a. If the amount involved is greater than Two Thousand Five Hundred Dollars (\$2,500.00) but less than Ten Thousand Dollars (\$10,000.00) then the sentencing range shall be enhanced two levels on the sentencing matrices.

b. If the amount involved is greater than Ten Thousand Dollars (\$10,000.00) but less than One Hundred Thousand Dollars (\$100,000.00) then the sentencing range shall be enhanced by five levels on the sentencing matrices.

c. If the amount involved is greater than One Hundred Thousand Dollars (\$100,000.00) but less than Five Hundred Thousand Dollars (\$500,000.00) then the sentencing range shall be enhanced by seven levels on the sentencing matrices.

d. If the amount involved is greater than Five Hundred Thousand Dollars (\$500,000.00) then the sentencing range shall be enhanced to the highest level on the sentencing matrices;

4. If in the commission of the crimes, the offender tortured or maimed the victim then the sentencing range shall be enhanced two levels on the sentencing matrices;

5. If the offender committed a Schedule N-2 or N-3 offense of trafficking, distributing, dispensing, purchasing, transporting with the intent to distribute, or possessing with the intent to distribute a controlled dangerous substance, or a synthetic of the controlled dangerous substance, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, or public housing project, or in the presence of any child under twelve (12) years of age, then the sentencing range shall be enhanced by one level on the sentencing matrices; and

6. If the offender committed a Schedule N-2 or N-3 offense of trafficking, distributing, dispensing, purchasing, transporting with the intent to distribute, or possessing with the intent to distribute a controlled dangerous substance, or a synthetic of the controlled dangerous substance, by using or soliciting the services of a person less than eighteen (18) years of age, the sentencing range shall be enhanced by one level on the sentencing matrices, if the offender was at least eighteen (18) years of age at the time of the offense.

B. Every person who, having been previously convicted of an offense, commits any crime after such conviction, shall be punishable, upon conviction of a subsequently committed crime, by the following prior record enhancers:

1. If the prior offense is murder in the first degree or any other offense which is a Schedule A, Schedule N-1, or Schedule S-1 crime then the sentencing range shall be enhanced by six levels on the sentencing matrices;

2. If the prior offense is a Schedule B, Schedule N-2, or Schedule S-2 crime, then the sentencing range shall be enhanced by four levels on the sentencing matrices;

3. If the prior offense is a Schedule C crime, then the sentencing range shall be enhanced by two levels on the sentencing matrices;

4. If the prior offense is a Schedule D, Schedule D-1, Schedule N-3, Schedule N-4, or Schedule S-3 crime, then the sentencing range shall be enhanced by one level on the sentencing matrices; and

5. If the prior offense is a Schedule D-2, Schedule E, Schedule F, Schedule G, Schedule H, Schedule I-1, Schedule I-2, Schedule I-3, Schedule N-5, or Schedule S-4 crime, then the sentencing range shall be enhanced by one level on the sentencing matrices.

C. 1. If the person has been previously convicted of two or more felonies which do not arise out of the same transaction, occurrence, or series of events closely related in time and location, the sentencing range shall be enhanced based on each prior conviction, unless the prior convictions were concurrent sentences.

2. If the person has been previously convicted of two or more felonies which the defendant proved arose out of the same transaction, occurrence, or series of events closely related in time and location, the enhanced range of sentence for the current offense shall be determined on the schedule of punishment for the highest scheduled prior offense arising from that transaction.

3. If the person has been previously convicted of two or more felonies which did not arise out of the same transaction, occurrence, or series of events closely related in time and location

but were concurrent sentences, the sentencing range shall be enhanced based on the maximum prior conviction plus one level.

D. No person shall be sentenced with a prior record enhancer when a period of ten (10) years has elapsed between the date of full completion of the sentence for the prior conviction and the date of the commission of the offense sought to be enhanced. For the purpose of this subsection, the date of full completion of the prior sentence shall be computed as though said sentence had been served in full, and no methods of sentence reduction shall apply towards calculating this time period. Provided however, that the ten-year limitation on a prior conviction shall be tolled by an intervening conviction.

E. Unless otherwise provided by law, the enhancements provided by the Oklahoma Truth in Sentencing Act are cumulative, in that all applicable level increases are added together to produce the applicable sentencing range.

F. The state is required to provide notice of specific acts or prior convictions upon which the state will rely at sentencing for enhancement. Unless otherwise ordered by the court, the notice shall be filed by the state not less than thirty (30) days prior to the ~~entry of a plea of guilty or nolo contendere or a trial on the~~ merits.

SECTION 2. AMENDATORY Section 8 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 8. A. When sentencing an offender for a crime committed on or after July 1, 1998, a court shall utilize the sentencing procedures provided for in this section.

B. When considering any presentence investigation conducted, the court shall consider the findings of any alleged offense enhancers provided for by subsection A of Section 7 of ~~this act~~ the Oklahoma Truth in Sentencing Act or any alleged prior record

enhancers provided for by subsection B of Section 7 of ~~this act~~ the Oklahoma Truth in Sentencing Act, if the findings have been established by clear and convincing evidence.

C. The court shall determine the sentence based on the utilization of the following procedures on the applicable sentencing matrix:

1. First, the court shall determine the schedule of the current offense of conviction on the applicable matrix;

2. Second, the court shall determine the midpoint within the range for the first level of the schedule. The court shall use the midpoint value plus or minus an amount not to exceed twenty percent (20%) of the midpoint value to determine the amount of time to be assessed at level 1;

3. Third, the court shall proceed to the appropriate level of punishment based on the finding of any offense enhancers or prior record enhancers determined by subsection A of this section; and

4. Fourth, the court may deviate from the sentence arrived at pursuant to paragraphs 2 and 3 of this subsection if the sentence pronounced is within the range allowed for the applicable level. The court must articulate a reason for the deviation in the record. A deviation in sentencing shall be subject to appeal by either the state or the defendant, unless the deviation is agreed to by both the defendant and the state.

D. 1. For Field 2, 3 or 4, when the offender is sentenced to community punishment, the sentencing court shall pronounce at the sentencing hearing the terms and conditions of the sentence.

2. For Field 1 or 2, when the offender is sentenced to a term of imprisonment within the Department of Corrections, the sentencing court shall pronounce at the sentencing hearing the terms and conditions of the sentence.

E. The court in determining the appropriate terms and conditions of a sentence shall consider those terms and conditions

authorized in subsection B of Section ~~46~~ 11 of this act and punishments authorized for a community sentence. The terms and conditions of a deferred sentence, suspended sentence, split sentence, or postimprisonment supervision shall be provided for in the Uniform Judgment and Sentence form or shall comply with Section 991b of Title 22 of the Oklahoma Statutes.

F. Prior to entering the sentence, the court shall consider, but shall not be required to state for the record, the following factors:

1. The prior criminal record of the offender with more weight given to convictions for crimes of violence, crimes against persons, and to those of the same nature as the current offense;

2. Whether the victim in the present case was physically harmed;

3. The restitution for bodily injury or property damage to the victim in the present case;

4. The culpability of the offender as indicated by factors such as the role of the offender in the offense, motive, and profit received;

5. Whether a suspended or deferred sentence will provide appropriate punishment of the offense;

6. The educational background and literacy, or any condition of chemical dependency, of the person being sentenced, together with sentencing options which would correct any deficiencies;

7. The demeanor of the offender; and

8. Any other evidence relevant to sentencing the offender.

G. The court shall impose the sentence. When a court enters a sentence in any criminal case in this state, the sentence shall be imposed pursuant to the Uniform Judgment and Sentence form, as promulgated by the Oklahoma Court of Criminal Appeals pursuant to its rulemaking authority, which shall include the findings of the sentencing court at the time of sentencing. An offender profile and

offense profile form shall be developed by the Oklahoma Sentencing Commission to ensure uniform data collection of offenders and offenses throughout the State of Oklahoma. District attorneys shall be required to submit additional profile data about the offender on a form promulgated by the Oklahoma Sentencing Commission to the Oklahoma Sentencing Commission and the Department of Corrections within twenty (20) days of judgment and sentence.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 650.2, as last amended by Section 35 of Enrolled House Bill No. 1632 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 650.2 A. Every person in the custody of the Oklahoma Department of Corrections who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Corrections employee while said employee is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

B. Every person incarcerated in an institution operated by a private prison contractor, either pursuant to Section 561 or 563.1 of Title 57 of the Oklahoma Statutes, who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an employee of the contractor while said employee is in the performance of duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Department of Human Services who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Human Services employee while said employee is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

~~C.~~ D. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly

commits any aggravated assault and battery upon the person of an Office of Juvenile Affairs employee while said employee is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

~~D.~~ E. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any battery or assault and battery resulting in serious bodily injury to any employee of the Office of Juvenile Affairs or employee of any residential facility while said employee is in the performance of duties of employment shall, upon conviction thereof, be guilty of a felony. In addition to imprisonment authorized by law, a fine may be imposed. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), which may be imposed whether or not a period of incarceration is imposed.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 650.2, as last amended by Section 36 of Enrolled House Bill No. 1632 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 650.2 A. Every person in the custody of the Oklahoma Department of Corrections who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Corrections employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

B. Every person incarcerated in an institution operated by a private prison contractor, either pursuant to Section 561 or 563.1 of Title 57 of the Oklahoma Statutes, who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an employee of the contractor while said employee is in the performance of duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Department of Human Services who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Human Services employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

~~C.~~ D. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an Office of Juvenile Affairs employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

~~D.~~ E. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any battery or assault and battery resulting in serious bodily injury to any employee of the Office of Juvenile Affairs or employee of any residential facility while said employee is in the performance of duties of employment shall, upon conviction thereof, be guilty of a felony. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), which may be imposed whether or not a period of incarceration is imposed.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 886, as last amended by Section 263 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 886. Any person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, shall be guilty of a felony. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person

convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, ~~in the discretion of the jury, or in case the jury fail or refuse to fix punishment then the same shall be pronounced by the court.~~

SECTION 6. AMENDATORY Section 40 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 40. A. For purposes of the Oklahoma Community Sentencing Act:

1. "Local community sentencing system" means a partnership between the state and one or more county governments which uses public and private entities to deliver a continuum of sanctions to the sentencing court for punishment under the authority of a community sentence or pursuant to any other provisions of law;

2. "Community sentence" or "community punishment" means a punishment authorized by law for a criminal offense which is specifically designed and imposed by the sentencing judge to hold the offender accountable for his or her criminal conduct and address his or her primary treatment or rehabilitation need and to provide protection to the public. A community sentence is completed by the offender in a local community sentencing system and may include, but shall not be limited to, any combination of:

- a. fines, restitution, reimbursements, or other monetary sanctions,
- b. medical, mental health or substance abuse treatment,
- c. employment, training or work, with or without compensation,
- d. education,
- e. supervision, surveillance, curfew, house arrest, electronic monitoring, or

f. confinement in the county jail;

3. "Continuum of sanctions" means a variety of coercive measures and treatment options ranked by degrees of public safety, punitive effect, and cost benefit which are available to the sentencing judge as punishment for criminal conduct;

4. "Community sentencing ~~advisory~~ system planning council" or "~~advisory~~ planning council" means a group of citizens and elected officials specified by law or appointed by the Chief Judge of the Judicial District which ~~monitors~~ plans the local community sentencing system and assists the state in ~~the administration of a~~ locating treatment providers and resources to support the local community sentencing system;

5. "Incentive" means a court-ordered reduction in the terms or conditions of a community sentence which is given for exceptional performance or progress by the offender;

6. "Disciplinary sanction" means a court-ordered punishment in response to a violation of a community sentence which increases in intensity or duration with each successive violation;

7. "Division" means the Community Sentencing Division within the Department of Corrections which is the state administration agency for the Oklahoma Community Sentencing Act, the statewide community sentencing system, and all local community sentencing systems; and

8. "Statewide community sentencing system" means a network of local community sentencing systems serving the state judicial system and offering support services to each other through reciprocal and interlocal agreements and interagency cooperation.

B. For the purposes of the Oklahoma Community Sentencing Act, if a judicial district does not have a Chief Judge or if a judicial district has more than one Chief Judge, the duties of the Chief Judge provided for in the Oklahoma Community Sentencing Act shall be

performed by the Presiding Judge of the Judicial Administrative District.

SECTION 7. AMENDATORY Section 41 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 41. A. The purposes of the Oklahoma Community Sentencing Act are to:

1. Protect the public;
2. Establish a statewide community sentencing system;
- ~~2.~~ 3. Improve public safety while felony offenders are punished under a court-ordered community sentence;
- ~~3.~~ 4. Provide a continuum of sanctions to the court for felony offenders sentenced within the community;
- ~~4.~~ 5. Increase the availability of punishment and treatment options to eligible felony offenders through public/private partnerships, reciprocal and interlocal governmental agreements, and interagency cooperation; and
- ~~5.~~ 6. Operate effectively within the allocation of state and local resources for the criminal justice system.

B. The statewide community sentencing system shall punish felony offenders as provided by the applicable state sentencing matrix and as otherwise allowed by law.

SECTION 8. AMENDATORY Section 43 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 43. A. On or before September 30, 1997, a community sentencing ~~advisory~~ system planning council shall be established for each ~~community sentencing system~~ jurisdiction defined by the judge as provided in Section 42 of the Truth in Sentencing Act.

B. Single county ~~advisory~~ planning councils shall have membership as follows:

1. The Chief Judge of the Judicial District or a judge having duties within the county appointed by the Chief Judge of the Judicial District;

2. The district attorney for the county or an assistant district attorney appointed by the district attorney;

3. The county sheriff or a deputy sheriff appointed by the sheriff;

4. A county commissioner appointed by the board of county commissioners for the county; and

5. Three or more citizens elected by the other designated members.

C. Multicounty ~~advisory~~ planning councils shall have membership as follows:

1. The Chief Judge of the Judicial District, or a judge having duties within the jurisdiction appointed by the Chief Judge of the Judicial District;

2. A district attorney or an assistant district attorney appointed by a majority vote of all district attorneys participating in the multicounty system;

3. A county sheriff or a deputy sheriff appointed by a majority vote of all sheriffs participating in the multicounty system;

4. A county commissioner appointed by a majority vote of all county commissioners of the counties participating in the multicounty system; and

5. Three or more citizens from each of the counties participating in the multicounty system elected by the other designated members.

D. In the event the required ~~advisory~~ planning council has not been established as provided by subsection A of this section for any county or as provided in Section 42 of ~~this act~~ the Oklahoma Truth in Sentencing Act, the Chief Judge of the Judicial District shall appoint five or more persons to serve as the ~~advisory~~ planning

council in addition to a designated judge. All membership appointments required by this subsection shall be made on or before October 1, 1997. Every ~~advisory~~ planning council shall have a judge who shall be either the Chief Judge of the Judicial District or a judge having duties within the jurisdiction appointed by the Chief Judge. The Chief Judge making the appointments of ~~an advisory a~~ planning council pursuant to the provisions of this subsection shall decide whether the ~~advisory~~ planning council shall be a single county ~~advisory~~ planning council or a multicounty ~~advisory~~ planning council. If a Chief Judge of a Judicial District will not serve as a member of ~~an advisory a~~ planning council or make any of the required appointments, the Chief Justice of the Supreme Court shall direct another judge of the jurisdiction to make the appointments or serve as the designated judge.

E. Once ~~an advisory a~~ planning council has been established, it shall notify the Community Sentencing Division within the Department of Corrections of its membership, and thereafter the jurisdiction shall be eligible to receive technical assistance from the state in establishing the required local community sentencing system.

F. Each member of ~~an advisory a~~ planning council shall reside in or have employment duties in the jurisdiction to be served by the council. Members serving on ~~an advisory a~~ planning council who are elected officials shall have a term of office on the ~~advisory~~ planning council concurrent with the term of the elected office, except when the person resigns or is otherwise removed as provided by the rules promulgated for the council or as authorized by law. All other members of the ~~advisory~~ planning council shall have staggered terms of office not exceeding a three-year term. ~~Advisory~~ Planning council members may be reappointed upon the expiration of their terms. The Chief Judge of the Judicial District shall have the authority to remove any ~~advisory~~ planning council member within

the jurisdiction of the court district at any time for violation of the rules governing the local ~~advisory~~ planning council.

G. Each ~~advisory~~ planning council member shall have one vote, and a majority of voting members shall constitute a quorum. No vacancy shall impair the right of the remaining members to exercise all the duties of the ~~advisory~~ planning council. Any vacancy occurring in the membership of ~~an advisory~~ a planning council shall be filled for the unexpired term of office in the same manner as the original selection.

H. The designated judge shall convene the initial meeting of the ~~advisory~~ planning council within fifteen (15) days following the establishment of the council. At the initial meeting of the ~~advisory~~ planning council, the membership shall elect a chair from its members who shall preside at all meetings of the council and perform such other duties as may be required by law. ~~An advisory~~ The planning council may elect another member as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act, a secretary who shall keep minutes of all meetings, and other officers as necessary.

I. Each ~~advisory~~ planning council shall adopt written rules concerning meeting times, places, dates, conduct for disclosing and handling conflicts of interest, procedures for ~~soliciting bids for services and~~ recommending service providers, procedures for removal and replacement of members for failure to attend a required number of meetings, and any other provision necessary to implement the planning of a local system pursuant to the provisions of the Oklahoma Community Sentencing Act. The written rules promulgated by ~~an advisory~~ a planning council shall not be subject to the Administrative Procedures Act; provided, however, the rules shall be filed with the clerk of the district court or courts of the jurisdiction to be served by the community sentencing system. The rules may be amended by a majority vote of the ~~advisory~~ planning

council members after a thirty-day written notice detailing the change or addition has been filed with the court clerk where the original rules are filed.

J. Each ~~advisory~~ planning council shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

SECTION 9. AMENDATORY Section 44 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 44. Each community sentencing ~~advisory~~ planning council created pursuant to the provisions of Sections 42 of the Oklahoma Truth in Sentencing Act and ~~43~~ 8 of this act shall ~~have the duty to:~~

1. Assist the state in planning ~~and budgeting correctional~~ the local community sentencing system within allocated state funds and other available resources;

2. Promulgate rules for functioning of the advisory planning council which are consistent with the provisions of this act;

3. Prepare a detailed plan each fiscal year with an accompanying budget for the local community sentencing system;

4. Identify local resources by type, cost and location which are available to serve the court for felony offenders sentenced to the community;

5. Recommend ~~selection of~~ qualified service providers to deliver services to the court for felony offenders sentenced to the community;

6. Assist in monitoring the ~~local community sentencing system~~ sentencing practices of the court to ensure the local community sentencing system functions within the ~~approved budget and plan~~ allocation of resources and according to the provisions of this act;

7. ~~Request bids~~ Assist in preparing information necessary for qualified services to support the local community sentencing system plan as provided in Section ~~45~~ 10 of this act;

8. Recommend the use of interlocal governmental agreements for qualified services where services are not available within the jurisdiction or where services may be delivered in a more cost-effective manner by another jurisdiction;

9. Form multicounty systems as may be necessary to conserve state or local resources or to implement an appropriate range of services to the court;

10. Review and ~~select~~ recommend services for cost-effectiveness and performance-based evaluation;

11. ~~Solicit~~ Identify various sources of funding and resources for the local community sentencing system;

12. Assist in developing public/private partnerships in the local jurisdiction, reciprocal agreements, and interagency cooperation to provide appropriate services and support to the system; and

13. ~~Perform other functions necessary to promote~~ Assist in promoting local involvement and ~~implement~~ support for the provisions of ~~this act~~ the Oklahoma Community Sentencing Act.

SECTION 10. AMENDATORY Section 45 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 45. A. A detailed plan for each local community sentencing system shall be submitted each fiscal year to the Community Sentencing Division within the Department of Corrections pursuant to the rules promulgated for such purpose. The initial plan shall be submitted on or before February 1, 1998. The designated judge of the ~~advisory~~ planning council shall review the range of services proposed in the plan and declare in writing that the proposed services meet the needs of the court for purposes of sentencing pursuant to the authority of the Oklahoma Community Sentencing Act and the local jurisdiction. The judge shall forward the plan to the Division for state approval and appropriate funding.

A plan that conforms with the requirements mandated by the Oklahoma Community Sentencing Act shall not be modified or disapproved except when the plan requires more funding than is allocated to the local system. Each local community sentencing system plan shall include, but not be limited to:

1. Identification of existing resources, including cash, professional services, in-kind resources, property, or other sources of resources;

2. ~~Additional~~ Identification of additional resources needed, identified by type and amount;

3. Projected number of offenders to be served by each provider and the projected total number of offenders to be served by the local system;

4. Types and priority groups of offenders to be served for purposes of budgeting and targeting specific use of selected service providers;

5. ~~Established~~ Identification of sentencing practices used for disciplinary sanctions for noncriminal conduct against participating offenders and applicable costs;

6. ~~Local~~ Identification of local policy statements;

7. Methods for allocating resources to support the services included in the plan;

8. ~~Reciprocal~~ Identification and evaluation of reciprocal agreements for out-of-jurisdiction services or methods for complying with requests for reciprocal agreements;

9. ~~Performance-based~~ Identification of program evaluation methods and results, and criteria or minimal program standards;

10. ~~Record~~ Identification and evaluation of local record keeping and ~~provisions~~ needs for audits or reviews;

11. ~~Administrative~~ Identification of any special administrative structure of the local system and list of specific service providers

participating in the system, including detailed qualifications of staff and program administrators; and

12. ~~Extent~~ Description and evaluation of the extent of community participation and support for the local system.

B. A local community sentencing system plan may be modified or expanded as provided by the rules promulgated for that purpose by the Community Sentencing Division within the Department of Corrections.

C. A community sentencing system shall be operational when the plan is approved by the Community Sentencing Division ~~and~~ or is receiving funding. The Division, upon receipt of a proposed local system plan, shall have not more than forty-five (45) days to evaluate the plan and to notify the ~~advisory~~ planning council of any modification necessary to comply with budget contracts. All modifications for budgeting purposes shall be completed by May 1 each year. Failure of the Division to request or finalize a budgetary modification within the times specified in this subsection shall constitute final approval of the plan for purposes of state funding and provider service agreements. The service agreements shall be finalized by June 30 of each year for each local community sentencing system. The Division shall not restrict by rule or practice the plan of any local system or determine what constitutes treatment or necessary services if the treatment or services comply with the requirements of the Oklahoma Community Sentencing Act, unless there is a demonstrated deficiency or poor program evaluation.

D. A local administrator as provided in Section ~~54~~ 14 of this act shall assist the local ~~advisory~~ planning council in gathering and keeping accurate information about the jurisdiction to support the planning process. For the previous two (2) years, the information pertaining to the jurisdiction shall include, but not be limited to:

1. The number and rate of arrests, number of felony convictions, admissions to probation, number of offenders sentenced to post-imprisonment supervision, number of offenders sentenced to county jail, average length of sentence served in county jail, number of offenders sentenced to the custody of the Department of Corrections, and average length of sentence served in the custody of the Department of Corrections;

2. Current jail conditions, staff, capacity, and jail population data by offender-type including, but not limited to, misdemeanor, felony, trusty, post-trial detainee, pretrial detainee, disciplinary sanction or juvenile;

3. A listing of services and programs available in the community, including costs, space availability, the number of offenders participating, the average length of participation and performance-based data;

4. Range of community punishments previously used by the courts for offenders within the jurisdiction, including methods and use of disciplinary sanctions for noncriminal behavior of offenders participating in the program and opportunities for incentives;

5. A listing of educational, vocational-technical, health, mental health, substance abuse treatment, medical, and social services available to offenders or to be made available within a twelve-month period;

6. Restrictive residential facilities or other restrictive housing options available or to be made available within a twelve-month period; and

7. Approved local system plans and budgets.

SECTION 11. AMENDATORY Section 46 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 46. A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act

shall include those services and punishments enumerated and funded in the annual plan submitted ~~and approved by~~ to the Community Sentencing Division within the Department of Corrections and any other services or punishments subsequently added and ~~approved by the Division~~ funded during a plan year. Each community sentencing system shall be required to provide an appropriate range of services and punishments making a continuum of sanctions ~~for~~ available to the court for sentencing. Said options may be utilized for offenders sentenced pursuant to the applicable state sentencing matrix or otherwise as provided by law for criminal sentences. Each local system shall be required to have available to the court all of the following services for both felony and misdemeanor offenses:

1. Community service with or without compensation;
2. Substance abuse treatment and drug testing;
3. Varying levels of supervision;
4. Education and literacy;
5. Employment opportunities and job skills training; and
6. Enforced collections.

B. The court may order ~~an~~ any felony or misdemeanor offender to any one or more of the following for a community sentence, suspended sentence, or deferred sentence; provided, no state funds shall be expended for services provided to misdemeanor offenders and the local community sentencing system shall collect payment for any services provided to misdemeanor offenders from the offenders or as otherwise provided in the Oklahoma Community Sentencing Act:

1. Full or partial restitution to the victim according to a schedule of payments established by the sentencing court, with or without interest at the rate of twelve percent (12%) per annum;
2. Reimbursement to any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims as a result of the criminal act for which the

defendant is convicted, with or without interest accruing thereon at the rate of twelve percent (12%) per annum;

3. A term of community work or service without compensation, with a specified date for completion and according to a schedule consistent with the employment and family responsibilities of the person convicted;

4. Payment of a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss;

5. Payment of a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims;

6. Confinement in the county jail for a period not to exceed one (1) year as authorized in Section 991a-2 of Title 22 of the Oklahoma Statutes;

7. Reimbursement to the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced;

8. Repayment of the reward or part of the reward paid by a certified local crime stoppers program, the State Crime Stoppers Program, or the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crime stoppers program" means a crime stoppers program certified by the Office of the Attorney General pursuant to Section 991g of Title 22 of the

Oklahoma Statutes. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;

9. Reimbursement to the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleads guilty, nolo contendere or is convicted, including compensation for laboratory, technical, or investigative services performed by the Bureau if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

10. Payment of court costs incurred in the case for which the defendant is convicted;

11. Substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes or as ordered by the court;

12. Placement in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program to offset the cost of participation by the defendant;

13. Installation of an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an

ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater;

14. Confinement by electronic monitoring administered and supervised by the Department of Corrections or a community corrections provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars (\$75.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person;

15. One or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the

community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization;

16. Periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory;

17. Payment of a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs;

18. Supervision by a Department of Corrections employee, a private supervision provider, or other person designated by the court;

19. Positive behavior modeling by a trained mentor;

20. Confinement in a restrictive housing facility available in the community;

21. Confinement in the county jail at night or during weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or for work release;

22. Employment or employment-related activities;

23. Mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court;

24. Day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system;

25. Blood testing as required by Section 73 of ~~this act~~ the Oklahoma Truth in Sentencing Act;

26. Repair or restoration of property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property;

27. Restoration of damaged property in-kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim;

28. Attendance in a victim-offender mediation program if the victim agrees to participate and the offender is deemed appropriate for participation;

29. Any other provision specifically ordered by the court;

30. In the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems; and

31. In the case of a sex offender, require the person to participate in a treatment program, if available. The treatment program must be approved by the person who has supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay. For purposes of this provision, "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.

SECTION 12. AMENDATORY Section 48 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 48. A. It is the responsibility of the ~~advisory~~ planning council, the sentencing judge, and the local administrator to ensure that the expenditure of funds within the local community

sentencing system is appropriately made within the range of services offered to the court and for the risk/needs of individual offenders sentenced to community punishment. It is further the responsibility of the local system and sentencing court to keep an awareness of the local correctional resources and to utilize those resources in the most efficient manner when punishing offenders.

B. The sentencing judge when administering the provisions of the Oklahoma Community Sentencing Act shall, whenever possible, balance the needs for public safety and costs by providing appropriate punishment and the most cost-effective treatment specifically targeted for the offender's needs.

C. The state and local systems are resource limited. The statewide system and each local system is required to monitor ~~and~~ sentencing practices, prioritize expenditures, and to operate within available resources.

D. The Community Sentencing Division within the Department of Corrections shall not fund any community corrections system beyond the approved budget amounts in any fiscal year, except as otherwise specifically provided by law.

SECTION 13. AMENDATORY Section 51 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 51. A. Each local community sentencing system shall operate under the supervision of a local administrator who shall be employed by the Community Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

1. Administer the day-to-day operation of the local community sentencing system within the approved budget and plan and according to the provisions of the Oklahoma Community Sentencing Act and any rules promulgated by the Division;

2. Assist the ~~advisory~~ planning council in the jurisdiction in identifying resources, collecting data on sentencing practices, and preparing the annual plan and supporting budget;

3. Provide the court with a listing of available services within the ~~approved~~ local community sentencing system for purposes of imposing a community sentence;

4. Carry out court orders pursuant to the provisions of this act as provided in the offender's judgment and sentence;

5. Assign offenders to specific service providers who are participating in the local system according to the conditions of the community sentence;

6. Report to the judge all completions and violations of court orders for community sentences or community punishments;

7. Keep accurate records for the local system and coordinate those records for monitoring by the Community Sentencing Division;

8. Monitor the local service providers to assure appropriate delivery of services to both the offender and the local system;

9. Coordinate and assist staff to support the ~~advisory~~ planning council and the sentencing court;

10. Ensure that restitution, reimbursements, fines, costs, and other payments and fees are deposited with the appropriate entity;

11. Report to the Community Sentencing Division within the Department of Corrections any complaints or service delivery problems;

12. Ensure criminal disposition reports on community sentences are made to appropriate state and federal agencies; and

13. Perform other functions as specified by the Community Sentencing Division within the Department of Corrections for purposes of implementing the provisions of ~~this act~~ the Oklahoma Community Sentencing Act.

B. The local administrator shall supervise all existing county employees when a county has a preexisting community program operated

by county employees and that program and preexisting staff are qualified to carry out the provisions of ~~this act, and the local board of county commissioners agrees to continue to fund the county employees and significant portions of the preexisting program~~ the Oklahoma Community Sentencing Act. The Division shall promulgate rules for continuing an existing program. An existing community service program that was in existence prior to January 1, 1997, shall not be terminated without the approval of the Department of Corrections.

C. When a service provider is selected to be part of the local community sentencing system, the employees of that service provider shall not become employees of the county, the local community sentencing system, or the state by virtue of any contractual agreement or payments from the state.

SECTION 14. AMENDATORY Section 53 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 53. The Community Sentencing Division within the Department of Corrections shall have the duty to:

1. Administer a statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act and other provisions of law;

2. Establish statewide goals and standards for the statewide community sentencing system and the local community sentencing systems;

3. Promulgate rules pursuant to the Administrative Procedures Act for the implementation and operation of the Oklahoma Community Sentencing Act;

4. Provide technical assistance and administrative support to each local community sentencing system. The technical assistance shall include, but not be limited to, information on:

a. corrections system design,

- b. administration,
- c. development, monitoring, and evaluating of programs and services,
- d. program identification and specifications,
- e. offender risk management,
- f. supervision of offenders,
- g. planning and budgeting,
- h. grant applications, and
- i. preparation and submission of documents, data, budgets, and system plans;

5. Coordinate with other state agencies for services and technical assistance to each local community sentencing system;

6. Apply for and accept money and other assets to be utilized for support of a statewide community sentencing system and to allocate and disburse agency funds to local community sentencing systems through an ~~approved plan by an~~ appropriate funding method;

7. Review, analyze and fund local system plans within budgetary limitations;

8. Contract with local service providers and state agencies for services to the local system;

9. Identify and solicit other funding sources and resources to support the statewide community sentencing system;

10. Request post audits of state funds;

11. Monitor and coordinate ~~approved~~ local systems;

12. Provide performance-based evaluations for all service providers of the statewide system;

13. Report annually by January 15 to the Legislature and Governor on the statewide system. The report shall provide an evaluation of the effectiveness of the Oklahoma Community Sentencing Act in terms of public safety, appropriate range of community punishments, cost-effectiveness, performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource

allocation, and reduced state and local institutional receptions, if any; and

14. Disseminate information to local administrators and ~~approved~~ community sentencing systems concerning corrections issues including, but not limited to:

- a. punishment options,
- b. disciplinary sanctions,
- c. resource allocation,
- d. administration,
- e. legal issues,
- f. supervision and risk management,
- g. treatment methodology and services,
- h. education and vocational services,
- i. service and program monitoring and evaluation methods,
- j. grants and funding assistance,
- k. data and record keeping, and
- l. offender characteristics.

SECTION 15. AMENDATORY Section 54 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 54. A. Each fiscal year the Community Sentencing Division within the Department of Corrections shall establish a statewide community sentencing system budget to meet legislative appropriations for that purpose. The statewide community sentencing budget shall provide goals and funding priorities for community punishment and treatment within the applicable state sentencing matrices and as otherwise provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. A funding formula shall be developed for allocation of state funds to each local system for day-to-day operation during a fiscal year. The Division and each of the local community sentencing systems are required to operate

within the appropriated funds. The state shall require each local community sentencing system to identify resources other than state funds as part of the funding formula. The Division shall establish procedures for disbursement of state funds to service providers, and shall disburse state funds in a timely manner.

B. 1. For a local community sentencing system to remain eligible for maximum state funding, a local community sentencing system shall:

- a. demonstrate fiscal responsibility by operating the local system within the ~~approved~~ plan and budget allocation,
- b. require performance-based selection of service providers participating in the annual system plan,
- c. offer a continuum of sanctions for felony offenders sentenced to the local community sentencing system and appropriately assign offenders for services, and
- d. comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of ~~this act~~ the Oklahoma Community Sentencing Act.

2. State funding may be reduced to any jurisdiction in a subsequent plan year where there is a:

- a. demonstrated misuse of services or funds,
- b. significant lack of innovation or performance-based effectiveness of the system, or
- c. demonstrated failure to appropriately target offenders for services.

C. The Community Sentencing Division within the Department of Corrections shall review and evaluate all community sentencing system plans and budget requests when plans are submitted for approval and funding. The Division is directed to automatically

approve all plans complying with the provisions of the Oklahoma Community Sentencing Act which require no state funding.

D. When state funding is required to implement a local community sentencing system plan, the Community Sentencing Division shall approve the plan only to the extent that the jurisdiction's share of the total state appropriations will support the implementation of the local system plan. Modification to a local plan shall be for budgetary purposes, as provided in Section 10 of this act.

E. All state funding shall be subject to appropriations by the Legislature. When any county resources have been committed in support of ~~an approved~~ a community service program in existence prior to January 1, 1997 or a community sentencing system plan, those resources shall not be withdrawn by any county official during a plan year without penalty as provided by the rules promulgated for this act.

F. Except as provided in subsection H of Section 991a-2 of Title 22 of the Oklahoma Statutes, state funds from the Community Sentencing Division disbursed for ~~approved~~ community sentencing systems shall be used for operation and administrative expenses and shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure, nor shall these funds be used to replace funding or other resources from the federal, state, county or city government committed in support of the detailed system plan during the plan year.

G. Any funds accruing to the benefit of ~~an approved~~ a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 62 of ~~this act~~ the Oklahoma Truth in Sentencing Act, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections is

authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens.

H. Requests for capital expenditures in support of the local community sentencing system shall be made as provided by the rules promulgated by the Community Sentencing Division within the Department of Corrections.

I. For purposes of calculating state funding for local community sentencing systems budgets for various punishment levels of the state's sentencing matrices, supervision, treatment, and education shall be the first funding ~~priority~~ priorities.

SECTION 16. AMENDATORY Section 55 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 55. A. On or before January 1, 1998, the following state agencies shall each develop and report to the Community Sentencing Division within the Department of Corrections their respective assessment and evaluation test for areas under their authority and expertise and the appropriate scoring method for such test:

1. The Department of Corrections;
2. The Office of Juvenile Affairs;
3. The Department of Mental Health and Substance Abuse Services;
4. The State Department of Health;
5. The State Department of Education; and
6. The Oklahoma Department of Vocational and Technical Education.

B. The Community Sentencing Division within the Department of Corrections shall ~~develop and~~ assemble the various tests into one standardized test for use by all local community sentencing systems

in making the required assessment and evaluation for a community sentence. The Administration Office of the Courts shall assist in promulgating instructions and forms necessary for the courts' use of the required assessment. The state agencies enumerated in subsection A of this section shall provide technical assistance necessary to implement and monitor the Oklahoma Community Sentencing Act in the areas of their expertise and experience, and shall offer services to local community corrections systems, subject to availability of funding.

C. All participating state agencies and local ~~advisory~~ planning councils are directed to promulgate rules necessary to implement the provisions of ~~this act~~ the Oklahoma Community Sentencing Act. When promulgating the rules, participating state agencies and local ~~advisory~~ planning councils shall coordinate their rules to the extent possible to enhance the statewide community sentencing system and statewide goals established for the criminal justice system.

SECTION 17. AMENDATORY Section 57 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 57. A. When ordering a community sentence or community punishment pursuant to the applicable state sentencing matrix or as otherwise provided by law, the court shall impose the punishment appropriate for the offense as authorized by law, and may order ~~a community service to address an identified offender~~ appropriate treatment need as authorized by law. The local community sentencing system administrator shall have authority for all offender placements within the local community sentencing system.

B. Persons convicted of or pleading guilty or nolo contendere to a misdemeanor offense or a combination of misdemeanor and felony offenses may receive services from a local community sentencing system when the county agrees in writing to pay the Community Sentencing Division within the Department of Corrections for the

actual costs of services used for misdemeanor cases; provided, however, this provision shall not preclude any felony offender from receiving services as required by law. The community sentencing ~~advisory~~ planning council as provided in Sections 43 8 and 44 9 of this act shall recommend to the local administrator whether or not any programs or services will be offered for misdemeanor cases. The Community Sentencing Division shall have the responsibility for entering into the written agreement with the county for the required payments since no state funds shall be used to pay for misdemeanor offenses.

C. Any time during the term of a community sentence, the court imposing the sentence may modify any previous provision as provided in this section upon motion of the district attorney, the defense attorney, or the offender. The authority to modify a community sentence shall not apply to any person who:

1. Is incarcerated in any state correctional facility;
2. Is subject to a suspended sentence or portion thereof;
3. Is subject to a delayed sentence; or
4. Is subject to the provisions of Section 996 et seq. of Title 22 of the Oklahoma Statutes.

D. Upon consideration of a properly filed motion to modify a community sentence pursuant to the provisions of this section, the staff of the ~~approved~~ community sentencing system in which the offender is ordered to participate, the sheriff, the district attorney, the service provider, or any agency or person providing supervision of the offender shall provide the court with any reports and other information available and relating to the offender, and to the reason for the motion to modify the sentence. The court shall consider any reports and information submitted prior to modifying the sentence.

E. If the court considers a motion to modify a community sentence, a hearing shall be held in open court. The notice of the

hearing shall be given to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was convicted not less than ten (10) days prior to the hearing. A copy of any reports to be presented to the court shall accompany the notice of hearing.

F. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any community sentence by imposing any other punishment allowed by law for the offense and appropriate for the circumstances as determined by the discretion of the judge; provided, however, no punishment shall be imposed which is greater than the maximum punishment allowed by law for the original offense. The court shall give the offender day-for-day credit on any modified sentence for any community time served, whether or not any term of incarceration was imposed. The court may decline to modify a community sentence and impose either a disciplinary sanction or an incentive as provided in Section 58 of ~~this act~~ the Oklahoma Truth in Sentencing Act.

G. The court shall not be limited on the number of modifications a sentence may have within the term of the community sentence.

H. Any offender who files a meritless or frivolous motion to modify a community sentence shall pay the costs of the proceeding and may be sanctioned as deemed appropriate by the court.

I. The Department of Corrections shall establish rules for revoking a community sentence to a Department of Corrections penal institution. The maximum term of any imprisonment given on a revocation of a community sentence to the custody of the Department of Corrections shall not exceed the prescribed term of incarceration for the offense as provided in the state's sentencing matrices. When a community sentence is revoked to state imprisonment, the court shall give a day-for-day credit for all time served in the community.

~~I.~~ J. For purposes of the Oklahoma Community Sentencing Act and the state's sentencing matrices for Fields 2, 3 and 4 punishment levels, any offender convicted and sentenced for a first time community sentence shall have ~~their~~ the criminal record expunged for that offense upon a successful completion of the community sentence. When the local administrator of the community corrections system where the offender has served the sentence has filed the final documentation of completion of the community sentence, the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged for that offense from the record and the charge dismissed of record. For subsequent offenses for which the person is convicted, the effect of this provision shall be to treat the first expungement as a prior conviction when applying any applicable enhancements.

SECTION 18. AMENDATORY Section 60 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 60. A. Any offender ordered to participate in ~~an~~ approved the local community sentencing system shall be advised of the conditions of the specific program or service to which he or she is assigned.

B. Offenders shall not be ordered to participate in any service or program within any community sentencing system established pursuant to the Oklahoma Community Sentencing Act which requires the offender to use private transportation to reach the service location when the one-way-trip driving distance is more than sixty (60) miles from the residence of the offender, except by written consent of the offender.

C. Prior to completing a community punishment pursuant to the requirements of the state's sentencing matrix or any other provisions of law, the offender may, in special circumstances, request a reciprocal assignment in another jurisdiction to complete

the terms and conditions of the community punishment. Each approved community sentencing system shall have entered into a reciprocal agreement for services with the other jurisdiction, and shall have the approval of the receiving jurisdiction and a court order from the court having jurisdiction of the offender before any transfer of the person, case, and services shall be made.

D. Upon completion of any court-ordered provision, pursuant to a community sentence or any provision of law, the administrator of the local system shall file a statement with the court defining the provision which has been successfully completed. When all court-ordered provisions have been successfully completed the defendant shall be deemed to have completed the community punishment and shall be released.

E. The provisions of the Oklahoma Community Sentencing Act shall not confer any rights upon the defendant to avoid a term of imprisonment prescribed by law for the offense, nor grant any additional rights to appeal for failure to be offered any specific punishment or treatment option in any community sentence.

F. A community sentence pursuant to the state's sentencing matrix or any other provisions of law shall not require programs or services for more than three (3) years.

SECTION 19. AMENDATORY Section 61 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 61. All state and local government agencies, community service agencies, nonprofit organizations, education or vocational-technical entities, and other providers participating in ~~an approved~~ a community sentencing system or contracting to provide services to the system pursuant to the provisions of ~~this act~~ the Oklahoma Community Sentencing Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of 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 an approved community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 22 O.S. 1991, Section 991a-4, as last amended by Section 67 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, 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, 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. Has properly completed and executed all necessary documents;
and

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

C. The Department of Corrections is authorized, subject to funds available through appropriation by the Legislature, to contract with counties for administration of county Community Service Sentencing Programs. County-funded programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department. The Department shall establish criteria and specifications for contracts with counties for such program. A county may apply to the Department for a contract for a county-funded program for a specified period of time. The Department shall be responsible for ensuring that any contracting county complies in full with the specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Department. The Department is authorized to provide technical assistance to any county in establishing a program, regardless of whether the county enters into a contract pursuant to this section. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirement set forth in this section. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on the number of such programs, the number of participating offenders, the success rates of each program according to criteria established by the Department and the cost of each program.

D. The Department of Corrections shall 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 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. Confinement in a county jail for a period not to exceed one (1) year, night or weekend incarceration pursuant to the provisions of Section 991a-2 of this title or incarceration by the Department of Corrections; provided, the Department of Corrections shall reimburse a county which does not receive payments from any other source for the cost of the necessary expenses of such persons during periods of such incarceration in an amount not to exceed Twenty Dollars (\$20.00) per day and any county receiving such payments in an amount not to exceed Ten Dollars (\$10.00) per day. 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.

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 the county sheriff, pursuant to paragraph 8 of subsection D of this section, the cost of necessary expenses for confinement in the county jail for any eligible offender as defined in subsection B of this section and may reimburse the county for the cost of expenses for any of the items listed in paragraphs 1 through 7 and 9 of subsection D of this section; provided, however, a decision by the Department of Corrections not to reimburse any of these items shall not be grounds for termination of the existing program. Such reimbursement shall be subject to appropriation by the Legislature. The Department may promulgate rules and procedures for submitting claims for reimbursements pursuant to this subsection.

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 relevant when sentencing persons to the Program. Following the presentence investigations and recommendation, the judge shall impose sentence. The judge may accept the recommendation, with or without modifications thereto, or may reject the recommendation and impose any sentence allowed by law.

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.

H. The 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 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 Department if an offender fails to fulfill any requirement of the Program. The Department or the sentencing judge may require additional documentation of the offender's work performance.

I. The 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.

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.

K. 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.

L. The court shall not be authorized to sentence any offender to this program after June 30, 1998.

SECTION 21. AMENDATORY Section 4, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1996, Section 1504), as amended by Section 37 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1504. ~~The Commission shall have its initial meeting no later than September 1, 1994, at the call of the Chairman.~~ The Chairman of the Oklahoma Sentencing Commission shall serve a term of one (1) year ~~and~~. Beginning September 1, 1997, the Chairman shall be appointed by the ~~President Pro Tempore of the Senate for the initial term~~ Speaker of the House of Representatives and thereafter the appointing authority shall alternate between ~~the Speaker of the House of Representatives and~~ the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Commission may hold meetings at the call of the Chairman, upon such notice and in such manner as may be fixed by the rules of the Commission. A majority of the members serving on the Commission shall constitute a quorum.

SECTION 22. AMENDATORY Section 8, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1996, Section 1508), as amended by Section 38 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 1508. A. The Oklahoma Sentencing Commission may establish subcommittees or advisory committees composed of Commission members to accomplish duties imposed by this section.

B. It is the legislative intent that the Commission attach priority to accomplish the following primary duties:

1. The promulgation of adjusted matrices, as necessary, pursuant to Section ~~3 of this act~~ 13 of Title 21 of the Oklahoma Statutes; and

2. The formulation of proposals and recommendations as described in Section 1512 of this title.

C. In addition, the Commission may make recommendations to the Legislature for the recodification of the Penal Code of the State of Oklahoma. In furtherance of this objective, the Commission shall study the issue of recodification of the Penal Code and shall issue a report of recommendations to the Legislature by February 1, 1998. The report shall include recommendations on recodification and changes in placement of crimes within sentencing schedules.

D. The Commission shall have the continuing duty to monitor and review the criminal justice and corrections systems in this state to ensure that sentencing remains uniform and consistent, and that the goals and policies established by the state are being implemented by sentencing practices, and it shall recommend methods by which this ongoing work may be accomplished and by which the correctional population simulation model shall continue to be used by the state.

E. After the adoption of the Oklahoma Truth in Sentencing Act, the Commission shall review all proposed legislation which creates a new criminal offense, changes the classification of an offense, or changes the range of punishment for a particular classification, and shall make recommendations to the Legislature.

1. In the case of a new criminal offense, the Commission shall review the proposed classification for the crime, based upon the considerations and principles set out in Section 1510 of this title. If the proposal does not assign the offense to a classification, it shall be the duty of the Commission to recommend the proper classification placement.

2. In the case of proposed changes in the classification of an offense or changes in the range of punishment for a classification,

the Commission shall determine whether such a proposed change is consistent with the considerations and principles set out in Section 1510 of this title.

F. The Commission shall meet within ten (10) days after the last day for filing bills in the Legislature for the purpose of reviewing bills as described in this subsection. The Commission shall include in its report on a bill an analysis based on an application of the correctional population simulation model to the provisions of the bill.

SECTION 23. AMENDATORY 57 O.S. 1991, Section 332.7, as last amended by Section 26 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, 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 who has:

1. Completed serving one-third (1/3) of the sentence;

2. 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 Truth in Sentencing matrix; provided, however, no inmate serving a sentence for crimes listed in Schedules A, S-1, S-2 or S-3 or serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this paragraph;

3. ~~For~~ Been sentenced for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3, and has served eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for that offense 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. ~~For~~ Been sentenced for an offense that is listed in any other schedule, served seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for that offense 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. 1. Any inmate who has parole consideration dates calculated pursuant to ~~Section~~ subsection A of this section shall be considered at the earliest such date. Any inmate who has been considered for parole and was denied shall not be reconsidered for parole within one (1) year, except by the direction of the Pardon and Parole Board.

2. The Department of Corrections and the Pardon and Parole Board shall promulgate rules for the implementation of subsection A 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 the person would have received under the applicable matrix.

C. For persons in the custody of the Department of Corrections for a felony committed prior to July 1, 1998, 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.

D. For a crime committed on or after July 1, 1998:

1. Any person convicted of a crime in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 shall be eligible for parole consideration after serving eighty-five percent (85%) of the sentence of imprisonment imposed unless the sentence has been discharged by accumulated credits pursuant to Section 138 of this title;

2. Any person convicted of a crime in any other schedule shall be eligible for parole consideration after serving seventy-five percent (75%) of the sentence of imprisonment imposed subject to the accumulation of credits pursuant to Section 138 of this title; or

3. A person who is sixty (60) years of age or older, who has not been sentenced to life without parole or death and who has not been convicted of a crime listed in Schedule A, S-1, S-2 or S-3, shall be eligible for parole consideration after the person has served at least fifty percent (50%) of any imposed sentence of incarceration.

The provisions of this subsection shall not apply to any person sentenced to life imprisonment without parole.

E. 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.

F. 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 Title 57 of the Oklahoma Statutes and who is not a citizen of the United States and is or becomes subject of 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 processing through the Lexington Assessment and Reception Center.

G. 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.

H. No person who is appearing out of the normal processing procedure shall be eligible for consideration for parole without the concurrence of at least three (3) members of the Pardon and Parole Board.

I. Any person convicted of a crime committed on or after July 1, 1998, who was sentenced to postimprisonment supervision and who is granted parole while incarcerated, shall be placed under parole supervision before beginning postimprisonment supervision.

J. If a person is sentenced to consecutive sentences pursuant to the Oklahoma Community Corrections Act of county jail incarceration that requires the person to be incarcerated more than eighteen (18) months, the person shall be eligible for parole consideration after serving at least eighteen (18) months of the confinement. The local administrator for community punishment shall notify the Pardon and Parole Board of any persons who qualify for parole pursuant to this subsection.

SECTION 24. AMENDATORY Section 2 of Enrolled Senate Bill No. 507 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 2. A. There is hereby created the Oklahoma Criminal Justice System Task Force Committee which shall serve as an advisory board to the Oklahoma Criminal Justice Resource Center.

B. The Committee shall be composed of the following members, except as otherwise provided by this ~~act~~ section:

1. Two senators appointed by the President Pro Tempore of the Senate;

2. Two representatives appointed by the Speaker of the House of Representatives;

3. The Director of the Department of Corrections or a designee;

4. The Secretary of State or a designee;

5. The Executive Director of the Pardon and Parole Board or a designee;

6. The Commissioner of Public Safety or a designee;

7. The Executive Director of the District Attorneys Council or a designee;

8. The Director of the Oklahoma Commission on Children and Youth or a designee;

9. The Attorney General or a designee;

10. The Commissioner of the Department of Mental Health and Substance Abuse Services or a designee;

11. The Executive Director of the Office of Juvenile Affairs or a designee;

12. The Director of the Oklahoma State Bureau of Investigation or a designee;

13. A judge appointed by the Chief Justice of the Oklahoma Supreme Court or a designee; and

14. Five members to be appointed by the Governor as follows:

a. a chief of police or a designee,

- b. a sheriff or a designee,
- c. a person representing the business community,
- d. a person representing a private nonprofit community service organization, and
- e. a ~~citizen at large~~ person who is a victim's rights advocate.

C. Each Committee member shall be required to attend the meetings of the Committee. Failure to attend ~~or to send a representative to~~ at least two quarterly meetings each year shall automatically result in the removal of the member from the Committee if the member is not an ex officio member. If the member failing to attend the required number of meetings is a designee, the individual making the designation shall select a new designee.

D. The Committee shall be chaired by one of the appointed members from the Senate, selected by the President Pro Tempore of the Senate, in the odd-numbered years and one of the appointed members of the House of Representatives, selected by the Speaker of the House of Representatives, in the even-numbered years ~~to be selected by the majority vote of the Committee members~~. A majority of the members shall constitute a quorum for purposes of transacting business. Committee members shall not be compensated but shall be reimbursed their actual and necessary travel expenses as provided in the State Travel Reimbursement Act, for members who are not members of the Legislature, and as provided in Section 456 of Title 74 of the Oklahoma Statutes, for legislative members.

E. The duties of the Committee shall be to:

1. Review and discuss issues pertaining to criminal justice;
2. Make recommendations of issues relating to criminal justice to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor; and
3. Establish policy for the Oklahoma Criminal Justice Resource Center.

~~F. The Committee shall have the authority to adopt rules and procedures necessary to conduct the work of the Oklahoma Criminal Justice Resource Center.~~

G. The Committee is hereby authorized to enlist the aid of any agency of state government for assistance or for information to enable the Committee to perform the duties charged in this ~~act~~ section.

~~H.~~ G. The Committee shall make a written report each year to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, and the Commissioner of Public Safety on any findings or recommendations concerning needed legislation, the potential impact, including fiscal estimates, of existing or proposed legislation, and the impact of agency policies which affect the criminal justice system.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 508.2b of Title 57, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Criminal Justice Resource Center within the Department of Public Safety to be designated the "Oklahoma Criminal Justice Resource Center Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated to the Department of Public Safety for the Oklahoma Criminal Justice Resource Center by the Legislature, grants, gifts, bequest and any other lawful money received for the benefit of the Oklahoma Criminal Justice Resource Center. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Director of the Oklahoma Criminal Justice Resource Center for the operation of the Oklahoma Criminal Justice Resource Center or other purposes authorized by law. Expenditures from said fund shall be for the

general operating expenses of the Oklahoma Criminal Justice Resource Center or other purposes authorized by law.

SECTION 26. RECODIFICATION Section 62 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature shall be recodified as Section 557.1 of Title 57 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 27. Sections 3, 6, 7, 8, 9, 10, 13, 14, 16, 20, 23 and 25 of this act shall become effective July 1, 1997.

SECTION 28. Sections 1, 2, 4, 5, 11, 12, 15, 17, 18 and 19 of this act shall become effective July 1, 1998.

SECTION 29. 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.

46-1-7918

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