

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2623

By: Matlock

AS INTRODUCED

An Act relating to community sentencing; amending 21 O.S. 1991, Sections 3 and 5, as amended by Sections 10 and 11, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Sections 3 and 5), which relate to definitions; amending Sections 4 and 5, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Sections 14 and 15), which relate to the Oklahoma Truth in Sentencing Act; amending 21 O.S. 1991, Section 64, as last amended by Section 16, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 64), which relates to fines; amending 22 O.S. 1991, Section 305.2, as last amended by Section 72, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 305.2), which relates to deferred prosecutions; amending 22 O.S. 1991, Section 976, as amended by Section 68, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 976), which relates to concurrent sentences; amending Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 990), which relates to suspended sentences; amending Section 8, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1997, Section 990a-1), which relates to the Oklahoma Truth in Sentencing Act; amending 22 O.S. 991a, as

last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a), which relates to sentencing powers of the court; amending 22 O.S. 1991, Section 991a-2, as amended by Section 66, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a-2), which relates to sentencing and incarceration of felony offenders; amending 22 O.S. Supp. 1991, Section 991a-4, as last amended by Section 20, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a-4), which relates to the Community Service Sentencing Program; amending 22 O.S. 1991, Section 991c, as last amended by Section 70, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991c), which relates to deferred judgments; amending 51 O.S. 1991, Section 155, as last amended by Section 74, Chapter 133, O.S.L. 1997 (51 O.S. Supp. 1997, Section 155), which relates to the Governmental Tort Claims Act; amending 57 O.S. 1991, Section 38, as last amended by Section 76, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1997, Section 38), which relates to certain reimbursements to counties; amending 57 O.S. 1991, Section 332.7, as last amended by Section 23, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1997, Section 332.7), which relates to eligibility for parole consideration; amending Sections 598, 599, 600 and 601, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Sections 20.1, 20.2, 20.3 and 20.4), which relate to the sentencing grids; removing references to the Oklahoma Community Sentencing Act; eliminating procedures, requirements, and reimbursement pertaining to the Oklahoma Community

Sentencing Act; reinstating provisions of law existing prior to enactment of the Oklahoma Community Sentencing Act; incorporating language from duplicate section of law; repealing Section 39, Chapter 133, O.S.L. 1997, Sections 40 and 41, Chapter 133, O.S.L. 1997, as amended by Sections 6 and 7, Chapter 333, O.S.L. 1997, Section 42, Chapter 133, O.S.L. 1997, Sections 43, 44, and 45, O.S.L. 1997, as amended by Sections 8, 9 and 10, Chapter 333, O.S.L. 1997, Section 46, Chapter 133, O.S.L. 1997, as amended by Section 11, Chapter 333, O.S.L. 1997, and as amended by Section 2, Chapter 420, O.S.L. 1997, Section 47, Chapter 133, O.S.L. 1997, Section 48, Chapter 133, O.S.L. 1997, as amended by Section 12, Chapter 333, O.S.L. 1997, Sections 49 and 50, Chapter 133, O.S.L. 1997, Section 51, Chapter 133, O.S.L. 1997, as amended by Section 13, Chapter 333, O.S.L. 1997, Section 52, Chapter 133, O.S.L. 1997, Sections 53, 54 and 55, Chapter 133, O.S.L. 1997, as amended by Sections 14, 15 and 16, Chapter 333, O.S.L. 1997, Section 56, Chapter 133, O.S.L. 1997, Section 57, Chapter 133, O.S.L. 1997, as amended by Section 17, Chapter 333, O.S.L. 1997, Sections 58 and 59, Chapter 133, O.S.L. 1997, Sections 60 and 61, Chapter 133, O.S.L. 1997, as amended by Sections 18 and 19, Chapter 333, O.S.L. 1997 and Section 75, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Sections 987.1, 987.2, 987.3, 987.4, 987.5, 987.6, 987.7, 987.8, 987.9, 987.10, 987.11, 987.12, 987.13, 987.14, 987.15, 987.16, 987.17, 987.18, 987.19, 987.20, 987.21, 987.22, 987.23 and 987.26), which

relate to the Oklahoma Community Sentencing Act;
repealing Section 62, Chapter 133, O.S.L. 1997, as
renumbered by Section 26, Chapter 333, O.S.L. 1997
(57 O.S. Supp. 1997, Section 557.1), which relates
to the Oklahoma Community Sentencing Revolving
Fund; repealing Section 63, Chapter 133, O.S.L.
1997 (74 O.S. Supp. 1997, Section 450.2), which
relates to a joint legislative oversight committee
for the Oklahoma Community Sentencing Act;
repealing 22 O.S. 1991, Section 991a, as last
amended by Section 65, Chapter 133, O.S.L. 1997 and
22 O.S. 1991, Section 991a, as last amended by
Section 9, Chapter 260, O.S.L. 1997 (22 O.S. Supp.
1997, Section 991a), which are duplicate sections
of law which relate to sentencing; and declaring an
emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 3, as
amended by Section 10, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997,
Section 3), is amended to read as follows:

Section 3. A crime or public offense is an act or omission
forbidden by law, and to which is annexed, upon conviction, one or
more of the following punishments:

1. Death;
2. Imprisonment with or without postimprisonment supervision;
3. ~~Community punishment, as defined by Section 4 of this act;~~
4. Fine;
5. 4. Removal from office; or

~~6.~~ 5. Disqualification to hold and enjoy any office of honor, trust, or profit, under this state.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 5, as amended by Section 11, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 5), is amended to read as follows:

Section 5. A felony is a crime which is, or may be, punishable with death, by imprisonment in the penitentiary with or without postimprisonment supervision, ~~by a sentence to community punishment,~~ or by a fine.

SECTION 3. AMENDATORY Section 4, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 14), is amended to read as follows:

Section 14. The following definitions apply to the Oklahoma Truth in Sentencing Act:

1. "Commission" means the Oklahoma Sentencing Commission;

2. ~~"Community punishment" or "community sentence" means a sentence pursuant to the Oklahoma Community Corrections Act;~~

~~3.~~ "Confinement" means an offender is sentenced to a placement where the offender is controlled, restrained, or confined to a certain location, for a definite period of time as may be authorized by law for the commission of the criminal offense;

~~4.~~ 3. "Drug crime matrix" means the sentencing matrix for all felony drug offenses as provided by the Oklahoma Statutes;

~~5.~~ 4. "Intoxicant crimes involving a vehicle matrix" means the sentencing matrix for all felony offenses relating to operating or being in actual physical control of a motor vehicle while under the influence of intoxicants or with impaired ability as provided by the Oklahoma Statutes;

~~6.~~ 5. "Life imprisonment" means imprisonment for a period of not less than eighteen (18) years nor more than sixty (60) years;

~~7.~~ 6. "Main matrix" means the sentencing matrix for all felonies except the drug crimes, sex crimes, and intoxicant crimes involving a vehicle, as provided by the Oklahoma Statutes;

~~8.~~ 7. "Offense enhancer" means the sentence enhancers based on the circumstances of the commission of the current offense of conviction provided for in Section ~~7~~ 17 of this ~~act~~ title;

~~9.~~ 8. "Prior record enhancer" means the sentence enhancers based on the prior criminal convictions of an offender provided for in Section ~~7~~ 17 of this ~~act~~ title;

~~10.~~ 9. "Prison" means a correctional facility contracted for, operated, or leased by the Oklahoma Department of Corrections;

~~11.~~ 10. "Range of confinement" means the range within which a sentencing court may impose a term of confinement as provided for by the applicable matrix;

~~12.~~ 11. "Range of punishment" means the possible punishment for the commission of a criminal offense. The range of punishment may include a term of confinement, a fine, a term of postimprisonment supervision, removal from office, and other conditions authorized by the Oklahoma Statutes;

~~13.~~ 12. "Schedule" means the classification of a criminal offense as provided in Section ~~6~~ 16 of this ~~act~~ title;

~~14.~~ 13. "Sentence" means the total obligation of the offender for the commission of a criminal offense as determined by the sentencing court, including any term of confinement in a prison or jail, ~~any term of community punishment,~~ any term of supervision, any fine, and any terms or conditions as authorized by Section 991a of Title 22 of the Oklahoma Statutes;

~~15.~~ 14. "Sentencing level" or "level" means the level of sentencing pursuant to the applicable matrix;

~~16.~~ 15. "Sentencing matrix" means one of the sentencing matrices established as provided in Section ~~3~~ 13 of this ~~act~~ title;

~~17.~~ 16. "Sex crimes matrix" means the sentencing matrix for all felony sex offenses provided for by the Oklahoma Statutes; and

~~18.~~ 17. "Postimprisonment supervision" means the period of supervision imposed by the court to follow the period of incarceration within the Department of Corrections.

SECTION 4. AMENDATORY Section 5, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 15), is amended to read as follows:

Section 15. A. On and after July 1, 1998, criminal offenses shall be punished as provided by the sentencing matrices and in accordance with the application of any sentencing enhancers authorized by the Oklahoma Truth in Sentencing Act.

B. For purposes of sentencing:

1. The main matrix shall be applied in felony cases for crimes that are classified pursuant to Section ~~6~~ 16 of this ~~act~~ title as a Schedule A, Schedule B, Schedule C, Schedule D, Schedule D-1, Schedule D-2, Schedule E, Schedule F, Schedule G, or Schedule H crime committed on or after July 1, 1998;

2. The sentencing matrix entitled "Intoxicant Crimes Involving a Vehicle Matrix" shall be applied in cases which are intoxicant crimes involving a vehicle that are classified as Schedule I-1, I-2, or Schedule I-3 crimes committed on or after July 1, 1998;

3. The sentencing matrix entitled "Drug Crimes Matrix" shall be applied in cases involving controlled dangerous substance offenses that are classified as Schedule N-1, Schedule N-2, Schedule N-3, Schedule N-4, or Schedule N-5 crimes committed on or after July 1, 1998; and

4. The sentencing matrix entitled "Sex Crimes Matrix" shall be applied in cases involving sexual offenses that are classified as Schedule S-1, Schedule S-2, Schedule S-3, or Schedule S-4 crimes.

C. The ranges of punishment for each level in the schedules shall be established as provided in Section ~~6~~ 16 of this ~~act~~ title.

Provided, however, Schedule A shall be subject to the criminal provisions of Sections 701.7 through 701.16 of Title 21 of the Oklahoma Statutes.

D. A sentencing matrix is a crime severity and criminal history classification tool. The sentencing matrix determines crime severity of the current offense of conviction according to sentencing level. The sentencing level classifies the severity of the circumstances of the offense and the criminal history of the offender.

E. A sentencing matrix, except for Schedule A, defines the possible terms of confinement ~~or community punishment.~~

F. A sentencing matrix does not establish fines or other conditions of a sentence. Fines for the commission of a criminal offense shall be as provided by law and conditions of sentence dispositions are provided for by Section 991a of Title 22 of the Oklahoma Statutes.

~~G. The sentences provided for in the matrices shall be:~~

~~1. Field 1 - Sentencing to the Department of Corrections;~~

~~2. Field 2 - Sentencing to either the Department of Corrections or community punishment, at the option of the court. If the sentence is to community punishment, sentencing shall be pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or subsection B of Section 46 of this act;~~

~~3. Field 3 - Sentencing to community punishment pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or subsection B of Section 46 of this act; or~~

~~4. Field 4 - Sentencing to community punishment pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or subsection B of Section 46 of this act.~~

SECTION 5. AMENDATORY 21 O.S. 1991, Section 64, as last amended by Section 16, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 64), is amended to read as follows:

Section 64. A. Upon a conviction for any misdemeanor punishable by imprisonment in any jail, in relation to which no fine is prescribed by law, the court may impose a fine on the offender not exceeding One Thousand Dollars (\$1,000.00) in addition to the imprisonment prescribed.

B. Upon a conviction for any felony punishable by imprisonment in any jail or prison ~~or by a sentence of community punishment~~, in relation to which no fine is prescribed by law, the court may impose a fine on the offender not exceeding Ten Thousand Dollars (\$10,000.00) in addition to the imprisonment ~~or community punishment~~ prescribed.

C. Except as otherwise provided by law, upon a conviction for any felony punishable by imprisonment in any jail or prison ~~or by a sentence of community punishment~~, in relation to which a fine is specifically provided by law, the court may impose the imprisonment ~~or community punishment~~, the fine, or both the imprisonment ~~or community punishment~~ and the fine.

SECTION 6. AMENDATORY 22 O.S. 1991, Section 305.2, as last amended by Section 72, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 305.2), is amended to read as follows:

Section 305.2 If an accused qualifies for the deferred prosecution program, the accused and the State of Oklahoma, through its district attorney, may execute an agreement whereby the accused agrees to waive any rights to a speedy accusation, a speedy trial, and any statute of limitations, and agrees to fulfill such conditions as the accused and the State of Oklahoma may agree including, but not limited to, restitution and community services. ~~The services provided in a deferred prosecution agreement shall be contracted by the district attorney with the local community sentencing system and paid by the offender. The Department of Corrections may provide supervision for a deferred prosecution agreement by contract with the local community sentencing system.~~

The accused person, as consideration for entering a deferred prosecution agreement, consents and agrees to a full and complete photographic record of property which was to be used as evidence. Such photographic record shall be competent evidence of such property and admissible in any criminal action or proceeding as the best evidence.

Return of property after the photographic record is made shall be as follows:

1. Property, except that which is prohibited by law, shall be returned to its owner after proper verification of title;

2. The return to the owner shall be without prejudice to the state or to any person who may have a claim against the property; and

3. When a return is made to the owner, the owner shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the person in charge of the property at the police department or sheriff's office.

As additional consideration for the agreement, the State of Oklahoma shall agree not to file an information if the accused satisfactorily completes the conditions of the agreement.

The agreement between the accused and the State of Oklahoma may include provisions whereby the accused agrees to be supervised in the community. If the accused is required to be supervised pursuant to the terms of the agreement, the person shall be required to pay a supervision fee to be established by the supervisory agency. The supervision fee shall be paid to the supervisory agency as required by the rules of the supervisory agency. The supervisory agency shall monitor the person for compliance with the conditions of the agreement of the parties. The supervisory agency shall report to the district attorney on the progress of the accused, and shall report immediately if the accused fails to report or participate as required by the agreement.

The agreement between the parties may require the accused to participate or consult with local service providers, including the Department of Human Services, the Department of Mental Health and Substance Abuse Services, the Employment Security Commission, federal services agencies, other state or local agencies, colleges, universities, vocational-technical schools, and private or charitable service organizations. When the accused is required to participate or consult with any service provider, a program fee may be required, unless the fee would impose an unnecessary hardship on the person. The program fee shall be established by the service provider based upon a sliding scale. Any state agency called upon for assistance in a deferred prosecution program by any district attorney shall render such services and assistance subject to funds available. Any supervision fee or program fee authorized by this section may be waived in whole or part when the accused is indigent. No person who is otherwise qualified for a deferred prosecution program shall be denied services or supervision based solely on the person's inability to pay a fee or fees.

The agreement between the parties may require the accused to pay a victim compensation assessment pursuant to the provisions of Section 142.18 of Title 21 of the Oklahoma Statutes. The amount of such assessment shall be agreed to by the parties and shall be within the amounts specified in Section 142.18 of Title 21 of the Oklahoma Statutes for the offense charged.

SECTION 7. AMENDATORY 22 O.S. 1991, Section 976, as amended by Section 68, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 976), is amended to read as follows:

Section 976. If the defendant has been convicted of two or more offenses, before judgment on either, the judgment may be that the imprisonment upon any one may commence at the expiration of the imprisonment upon any other of the offenses. Provided, that the

sentencing judge shall, at all times, have the discretion to enter a sentence concurrent with any other sentence.

~~When imposing any consecutive community sentence pursuant to the provisions of this section, or when imposing a consecutive suspended or split sentence against a defendant convicted of two or more felony offenses or a combination of felony offenses and misdemeanor offenses with conditions to be served in the local community sentencing system, no state funds shall be expended beyond the limitations of the provisions of this act.~~

SECTION 8. AMENDATORY Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 990), is amended to read as follows:

Section 990. A. For purposes of this act:

1. "Probation" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is released by the court with a fully suspended sentence and no conditional requirements, except periodic supervision which may be waived by the court or is subject to a deferred sentence;

2. "Suspended sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is released by the court subject to conditional requirements and supervision;

3. "Split sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is sentenced to a term of imprisonment for which the court orders only a portion of the imprisonment term to be actually served with the balance suspended and subject to conditional requirements and supervision;

4. "Delayed sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is sentenced to a term of

imprisonment for which the date to begin serving the imprisonment term is suspended up to twelve (12) months, and the defendant is released by the court subject to conditional requirements which must be completed by the date set to begin serving the term of imprisonment; and

5. "Supervision" means a court-ordered conditional requirement of a sentence which provides active monitoring through varying types and numbers of contacts by an agency, a person designated by the court, or by an electronic device as specified in the court order for a convicted offender receiving a sentence of probation, a suspended sentence, a split sentence, or a delayed sentence.

B. At the time of sentencing, when a defendant is convicted of a crime and no death penalty or sentence of life without parole is imposed, the court shall have authority to suspend the punishment, in whole or in part, except where the law specifically prohibits probation or a suspended sentence. The court may, after imposing the punishment for the offense, suspend that punishment by ordering a sentence to probation, a suspended sentence with conditional requirements, a split sentence, or a delayed sentence. The courts' authority to suspend the punishment for an offense shall include any prescribed provisions, fines, term of imprisonment, or any combination of prescribed punishments. The court, in addition, may order the convicted defendant at the time of sentencing, or at any time during the term of the suspended sentence, to complete any one or more conditional requirements ~~available in the local community sentencing system~~ provided for in Section 991a of this title.

Provided, however, no corporal punishment shall be allowed. The authority for a suspended sentence shall not apply to defendants who have been convicted of two or more prior offenses listed in Schedule A, B, C, D, S-1, S-2 or S-3.

C. 1. The requirement for supervision shall be initiated upon an order from the court. Supervision shall not exceed two (2)

years, except as otherwise provided in this section. Supervision services may be provided by:

- a. the Department of Corrections, or
- b. ~~a qualified provider for the local community sentencing system, or~~
- e. a qualified person designated by the court.

When the court does not specify the supervising agency or person, supervision shall be provided by the Department of Corrections. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years but shall not extend beyond the length of the sentence imposed. Provided further, any supervision authorized by this section may be extended for a period not to exceed the expiration of the maximum term of the sentence upon a finding by the court after notice and hearing that the best interests of the public and the defendant will be served by an extended period of supervision; provided, however, the county may be required to reimburse the supervising agency for the extended supervision for any periods beyond the provisions of this section.

2. The type of supervision shall be initially specified by the court and may later be modified as provided in this section as the offender demonstrates compliance with the court-ordered conditions. Types of supervision may include low-level supervision, standard supervision, high-level supervision, intensive supervision, or electronic monitoring. For purposes of this paragraph:

- a. "low-level supervision" means occasional contacts with the offender by the monitoring agency or person,
- b. "standard supervision" means scheduled and unscheduled personal or other contacts by the monitoring person with the offender,
- c. "high-level supervision" means a predetermined schedule of personal or other contacts by the monitoring person with the offender,

- d. "intensive supervision" means multiple weekly personal contacts by the monitoring person with the offender and unscheduled contacts by the monitoring person with the offender at varying times and places, and
- e. "electronic monitoring" means supervision or surveillance of the offender by means of an electronic device approved by the Department of Corrections or the community sentencing system, which is designed to detect if the offender is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person.

3. When the court orders supervision as a conditional requirement of a sentence, the court shall make payment of a supervision fee a required condition of the sentence. The supervising agency shall establish the fee in an amount not to exceed Forty Dollars (\$40.00) per month based upon the offender's ability to pay. In hardship cases, the supervising agency shall expressly waive all or part of the fee. No supervisory agency shall deny any offender services for the sole reason that the offender is indigent.

4. During any period of supervision, the agency or person designated to monitor a defendant shall be responsible for seeing that the defendant pays the restitution, repayments, reimbursements, fees, fines, and costs ordered by the court and that the defendant performs the conditions and completes the programs required by the terms of the sentence. The designated monitoring agency or person shall ensure that all payments made by the defendant are forwarded to the appropriate person or entity in a timely manner.

D. 1. During any period of a suspended sentence or a split sentence, when the defendant is not benefiting from the prescribed conditions as ordered by the court, or when the defendant has

violated any condition of the sentence not constituting a criminal offense, or when the defendant has successfully completed any condition of a sentence, the following persons may file a motion with the court for a modification of the conditions of the sentence:

- a. the defendant or defense attorney,
- b. the district attorney, or
- c. the supervisory agency or person with the consent of the defendant and the district attorney.

2. The person requesting the motion shall provide the court with any reports and other information relating to the defendant available from the sheriff, the supervisory agency or person, or the treatment provider. The court shall consider any reports and information when modifying any conditions of a suspended or split sentence.

3. If the court considers a modification of any conditions of the sentence, a hearing shall be made in open court. The clerk of the court having jurisdiction shall give notice of the hearing and provide a copy of any reports and information to the defendant, the defense attorney, the district attorney, and to any other parties to the motion. The notice shall be given not less than three (3) days prior to the hearing of the motion.

4. Following the hearing, the court shall enter the appropriate modification to the conditions of the sentence, if any. The court may modify and impose any condition which is appropriate for the circumstances; provided, no corporal punishment shall be imposed and no condition shall be imposed which when taken in its entirety is greater than the original prescribed sentence which is subject to the suspension. The defendant may be ordered to serve a temporary period of incarceration in the county jail not to exceed five (5) days as a disciplinary sanction for failure to comply with the conditions of the sentence after proper notice and hearing. The defendant shall be given day-for-day credit on the sentence for any

period of incarceration served in the county jail as a disciplinary sanction. The cost of any county jail incarceration as a disciplinary sanction shall be not more than ~~the maximum amount provided in subsection B of Section 38 of Title 57 of the Oklahoma Statutes~~ Twenty Dollars (\$20.00) per day and shall be paid by:

- a. the defendant, or
- b. the county, if ~~the offense is not eligible for state payment for disciplinary sanctions and~~ the defendant is unable to pay, ~~or~~
- ~~c. the local community sentencing system established pursuant to the Oklahoma Community Sentencing Act when a contract with the county sheriff has been entered into for disciplinary sanctions and the defendant is unable to pay the cost.~~

5. The court shall not be limited in the number of modifications a suspended or split sentence may have; provided, the authority to modify the conditions of a suspended or split sentence pursuant to the provisions of this subsection shall not be construed to alter the authority of the district attorney to file for revocation of a suspended sentence either in whole or part as provided by Section 991b of Title 22 of the Oklahoma Statutes.

~~E. Any community punishment available to the court through the local community sentencing system may be imposed as a conditional requirement for a felony suspended or split sentence or for a delayed sentence.~~

~~F.~~ 1. When the court determines the defendant to be eligible and appropriate for a delayed sentence as defined by this section, the court shall proceed to state on the record the term of incarceration appropriate for the offense pursuant to the applicable state sentencing matrix and the date the term of imprisonment shall begin to be served. The district attorney shall have the right to state any objections to a delayed sentence on the record but the

decision of the judge shall be final. After the term of incarceration has been pronounced and the date to begin serving the incarceration has been ordered, the court may offer to the defendant the opportunity to complete certain specific conditions before the date to begin serving that sentence. The delayed sentence shall provide that in exchange for completing the court-ordered conditions before the date set to begin serving the term of imprisonment, the court shall either modify the sentence or withdraw the order imposing the term of incarceration. The maximum term a sentence may be delayed is twelve (12) months.

2. The court shall not have authority to commit the defendant to the custody of the Department of Corrections as a condition of the delayed sentence pursuant to the provisions of this section; provided, however, the court may commit the person to the county jail subject to available funding to pay the sheriff.

3. The court shall have no authority to order a delayed sentence pursuant to the provisions of this section without the defendant voluntarily agreeing to complete the required conditions.

4. On the date set for the execution of the sentence, the court shall either require the term of incarceration to begin to be served if the defendant has failed to complete the conditions required by the court, or the court shall either modify the sentence or withdraw the order imposing the term of incarceration if the offender has successfully completed the conditions required by the court.

SECTION 9. AMENDATORY Section 8, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1997, Section 990a-1), is amended to read as follows:

Section 990a-1 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 17 of ~~the Oklahoma Truth in Sentencing Act~~ Title 21 of the Oklahoma Statutes or any alleged prior record enhancers provided for by subsection B of Section 7 17 of ~~the Oklahoma Truth in Sentencing Act~~ Title 21 of the Oklahoma Statutes, 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 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 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 10. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a), is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, Section 991a-5 et seq. of this title, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- a. to provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,

- b. to reimburse 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 such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay 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, and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,
- e. to confinement in the county jail for a period not to exceed six (6) months,
- f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he or she is being sentenced,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and 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 certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma General Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes, or

- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty.

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

5. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program created pursuant to Section 991a-4 of this title;

6. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

- a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if

in the opinion of the court the defendant has the ability to pay such fee,

- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the 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 such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or
- e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars (\$75.00) a month, to the Department of Corrections, if in the opinion of the court the

defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

7. In addition to the other sentencing powers of the court, 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;

8. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

9. In addition to the other sentencing powers of the court, the court, in the case of a sex offender, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program must be approved by the probation officer who has supervisory authority over the defendant if the defendant is placed on probation, or the court if the court retains supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay.

Provided, for the purposes of this section, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes; or

10. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required to pay all or part of the cost of the treatment or counseling services.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance

Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from the effective date of this act.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 5 of subsection A of this section.

D. When sentencing a person convicted of a crime, the judge shall consider any victim impact statements if submitted to the jury, or the judge in the event a jury is waived.

E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years. Provided further any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division

of Probation and Parole of the Department of Corrections that the best interests of the public and the releasee will be served by an extended period of supervision.

F. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

G. 1. The Division of Probation and Parole of the Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections.

3. The Division shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Division for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Division.

4. The Division is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate

staffing, development of community resources, sponsorship, supervision and any other requirements.

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House 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 costs of each Program.

H. As used in this section:

1. "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; and

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

I. A person convicted of an offense as provided in Section 7115 of Title 10 of the Oklahoma Statutes, 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes or a person convicted of any felony who has a prior conviction for an offense listed in this subsection shall submit to deoxyribonucleic acid testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for those defendants who do not become subject to the custody of the Department of Corrections, and submission to testing shall be done in accordance with Section

530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections as a result of sentencing. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of their sentencing shall not be required to submit to additional testing.

Any person convicted of an offense as provided in this section who is in custody after July 1, 1996, shall provide a blood sample prior to release. Every person who is convicted of an offense as provided in this subsection whose sentence does not include a term of confinement shall provide a blood sample as a condition of the sentence.

J. Samples of blood for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections revolving account.

SECTION 11. AMENDATORY 22 O.S. 1991, Section 991a-2, as amended by Section 66, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a-2), is amended to read as follows:

Section 991a-2. A. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be:

1. Prescribed by law for the particular felony offense pursuant to the state's sentencing matrix;
2. Authorized by Section 991a-4 of this title; or
3. A condition of a split sentence, a delayed sentence, or a deferred judgment.

~~B. Any person who has been convicted of a felony offense may be sentenced, at the discretion of the judge, to incarceration in the county jail for a term not to exceed one (1) year as the prescribed community punishment according to the state's sentencing matrix. In addition to incarceration, the court may impose any fine, cost, or other punishment provision allowed by law; provided, however, the punishment when taken in its entirety with the jail term shall not impose a greater punishment than allowed by law for the offense.~~

~~C.~~ Any person incarcerated in the county jail pursuant to the provisions of subsection A ~~or B~~ of this section may be assigned work duties as ordered or approved by the judge. The sentencing court may require a person incarcerated pursuant to the provisions of this section to pay the county for food and maintenance for each day of incarceration. The cost of incarceration shall ~~be as provided in subsection B of Section 38 of Title 57 of the Oklahoma Statutes and shall be paid to the state~~ not exceed Twenty Dollars (\$20.00) per day. If the judge does not order the person to pay the county for food and maintenance, the Department of Corrections shall reimburse the county for the cost of feeding and care of the person during such periods of incarceration.

~~D. C.~~ The State of Oklahoma, ~~through the Community Sentencing Division within the Department of Corrections,~~ shall reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of a person incarcerated for a felony offense pursuant to the provisions of subsection A ~~or B~~ of this section; provided the injury or illness is directly related to the incarceration and the county is required by law to provide such care for county inmates in the jail.

~~E. D.~~ Any person incarcerated pursuant to the provisions of this section shall not be considered to be in the custody of the Department of Corrections nor an inmate of the Department, and the person shall not be processed through the Lexington Reception and Assessment Center. The person shall be deemed to be in the custody of the county.

~~F.~~ ~~When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a community sentence, split sentence, or delayed sentence, the court shall have the authority to modify the sentence as provided in Sections 58 and 65 of this act.~~

~~G. E.~~ For the purposes of subsection A of this section, weekend incarceration shall commence at 6 p.m. on Friday and continue until 7 a.m. on the following Monday, and incarceration overnight shall commence at 6 p.m. on one day and continue until 7 a.m. of the next day. Provided, that the sentencing judge may modify the incarceration times if the circumstances of the particular case require such action.

~~H.~~ ~~The daily costs for incarceration of felony offenders pursuant to the provisions of this section shall be paid as authorized by Section 991a-4 of this title or from the local community sentencing system budget to the sheriff, except when the court orders costs to be paid by the defendant. The state shall provide funds to the local community sentencing system as follows:~~

~~1. For persons in the Field 2 and Field 3 punishment levels of the state's sentencing matrix, up to one (1) year in the county jail for incarceration and disciplinary sanctions combined at the daily rate specified in subsection B of Section 38 of Title 57 of the Oklahoma Statutes; and~~

~~2. For persons sentenced under the authority of Field 4 punishment level of the state's sentencing matrix, up to thirty (30) days for disciplinary sanctions only. The county shall pay for jail services for offenders sentenced by the court in Field 4 punishment level.~~

SECTION 12. AMENDATORY 22 O.S. 1991, Section 991a-4, as last amended by Section 20, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a-4), is amended to read as follows:

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

B. Any eligible offender may be sentenced, at the discretion of the judge, 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 13. AMENDATORY 22 O.S. 1991, Section 991c, as last amended by Section 70, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991c), is amended to read as follows:

Section 991c. A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a five-year period. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;

2. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days; provided however, the state shall not pay for any confinement ordered pursuant to the provisions of this section;

3. Pay an amount as reimbursement for reasonable attorney fee, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;

4. Be supervised in the community for a period not to exceed two (2) years. As a condition of any supervision, the defendant

shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the person's inability to pay a fee;

5. Pay into the court fund a monthly amount not exceeding Forty Dollars (\$40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

6. Make other reparations to the community or victim as required and deemed appropriate by the court;

7. Order any remedies for which provision is made in ~~subsection B~~ of Section 46 991a of this ~~act~~ title;

8. Pay court costs; or

9. Any combination of the above provisions.

B. In addition to any conditions provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health

and Substance Abuse Services shall establish a fee schedule, based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any

person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and
2. A victims impact panel program, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee, not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

C. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the defendant's record shall be as follows:

1. All references to the defendant's name shall be deleted from the docket sheet;
2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

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

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

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

D. Upon order of the court, the provisions of subsection C of this section shall be retroactive.

E. Upon violation of any condition of the deferred judgment, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.

F. The deferred judgment procedure described in this section shall only apply to defendants not having been previously convicted of a felony offense.

G. The deferred judgment procedure described in this section shall not apply to defendants who plead guilty or nolo contendere to a sex offense. The term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.

~~H. The Department of Corrections may provide supervision for deferred judgments by contract with the local community sentencing system, and any conditional requirements imposed shall be subject to availability of funding in the local community sentencing system.~~

SECTION 14. AMENDATORY 51 O.S. 1991, Section 155, as last amended by Section 74, Chapter 133, O.S.L. 1997 (51 O.S. Supp. 1997, Section 155), is amended to read as follows:

Section 155. The state or a political subdivision shall not be liable if a loss or claim results from:

1. Legislative functions;
2. Judicial, quasi-judicial, or prosecutorial functions;
3. Execution or enforcement of the lawful orders of any court;
4. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, any statute, charter provision, ordinance, resolution, rule, regulation or written policy;
5. Performance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees;
6. Civil disobedience, riot, insurrection or rebellion or the failure to provide, or the method of providing, police, law enforcement or fire protection;
7. Any claim based on the theory of attractive nuisance;
8. Snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the state or a political subdivision;
9. Entry upon any property where that entry is expressly or implied authorized by law;
10. Natural conditions of property of the state or political subdivision;
11. Assessment or collection of taxes or special assessments, license or registration fees, or other fees or charges imposed by law;
12. Licensing powers or functions including, but not limited to, the issuance, denial, suspension or revocation of or failure or

refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authority;

13. Inspection powers or functions, including failure to make an inspection, review or approval, or making an inadequate or negligent inspection, review or approval of any property, real or personal, to determine whether the property complies with or violates any law or contains a hazard to health or safety, or fails to conform to a recognized standard;

14. Any loss to any person covered by any workers' compensation act or any employer's liability act;

15. Absence, condition, location or malfunction of any traffic or road sign, signal or warning device unless the absence, condition, location or malfunction is not corrected by the state or political subdivision responsible within a reasonable time after actual or constructive notice or the removal or destruction of such signs, signals or warning devices by third parties, action of weather elements or as a result of traffic collision except on failure of the state or political subdivision to correct the same within a reasonable time after actual or constructive notice.

Nothing herein shall give rise to liability arising from the failure of the state or any political subdivision to initially place any of the above signs, signals or warning devices. The signs, signals and warning devices referred to herein are those used in connection with hazards normally connected with the use of roadways or public ways and do not apply to the duty to warn of special defects such as excavations or roadway obstructions;

16. Any claim which is limited or barred by any other law;

17. Misrepresentation, if unintentional;

18. An act or omission of an independent contractor or consultant or his employees, agents, subcontractors or suppliers or of a person other than an employee of the state or political subdivision at the time the act or omission occurred;

19. Theft by a third person of money in the custody of an employee unless the loss was sustained because of the negligence or wrongful act or omission of the employee;

20. Participation in or practice for any interscholastic or other athletic contest sponsored or conducted by or on the property of the state or a political subdivision;

21. Participation in any activity approved by a local board of education and held within a building or on the grounds of the school district served by that local board of education before or after normal school hours or on weekends;

22. Any court-ordered or Department of Corrections approved work release program; provided, however, this provision shall not apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

23. The activities of the National Guard, the militia or other military organization administered by the Military Department of the state when on duty pursuant to the lawful orders of competent authority:

- a. in an effort to quell a riot,
- b. in response to a natural disaster or military attack,
or
- c. if participating in a military mentor program ordered
by the court;

24. Provision, equipping, operation or maintenance of any prison, jail or correctional facility, or injuries resulting from the parole or escape of a prisoner or injuries by a prisoner to any other prisoner; provided, however, this provision shall not apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

25. Provision, equipping, operation or maintenance of any juvenile detention facility, or injuries resulting from the escape of a juvenile detainee, or injuries by a juvenile detainee to any other juvenile detainee;

26. Any claim or action based on the theory of manufacturer's products liability or breach of warranty, either expressed or implied;

27. Any claim or action based on the theory of indemnification or subrogation;

28. Any claim based upon an act or omission of an employee in the placement of children;

29. Acts or omissions done in conformance with then current recognized standards;

30. Maintenance of the state highway system or any portion thereof unless the claimant presents evidence which establishes either that the state failed to warn of the unsafe condition or that the loss would not have occurred but for a negligent affirmative act of the state;

31. Any confirmation of the existence or nonexistence of any effective financing statement on file in the office of the Secretary of State made in good faith by an employee of the office of the Secretary of State as required by the provisions of Section 9-307.6 of Title 12A of the Oklahoma Statutes; or

32. Any court-ordered ~~community sentence~~ condition of a suspended or deferred sentence or any participation in a program pursuant to Section 991a-4 of Title 22 of the Oklahoma Statutes.

SECTION 15. AMENDATORY 57 O.S. 1991, Section 38, as last amended by Section 76, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1997, Section 38), is amended to read as follows:

Section 38. ~~A.~~ The Department of Corrections shall reimburse any county, which is required to retain an inmate pursuant to paragraph 2 of Section 37 of this title, in an amount not to exceed

Twenty-four Dollars (\$24.00) per day for each inmate during such period of retention. The proceeds of this reimbursement shall be used to defray expenses of equipping and maintaining the jail and payment of personnel. The Department of Corrections shall reimburse the county for the actual costs paid for any emergency medical care for physical injury or illness of the inmate retained under this resolution if the injury or illness is directly related to the incarceration and the county is required by law to provide such care for inmates in the jail. The Director may accept any inmate required to have extended medical care upon application of the county.

~~B. The state shall provide funding for county jail incarceration for eligible felony offenders pursuant to the provisions of the Oklahoma Community Sentencing Act at a rate of Twenty Dollars (\$20.00) per day per person imprisoned for a maximum term as specified in this act.~~

SECTION 16. AMENDATORY 57 O.S. 1991, Section 332.7, as last amended by Section 23, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1997, Section 332.7), is amended to read as follows:

Section 332.7 A. For a crime committed prior to July 1, 1998, any person in the custody of the Department of Corrections shall be eligible for consideration for parole 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. 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. 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 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 22. REPEALER Section 39, Chapter 133, O.S.L. 1997, Sections 40 and 41, Chapter 133, O.S.L. 1997, as amended by Sections 6 and 7, Chapter 333, O.S.L. 1997, Section 42, Chapter 133, O.S.L. 1997, Sections 43, 44, and 45, O.S.L. 1997, as amended by Sections 8, 9 and 10, Chapter 333, O.S.L. 1997, Section 46, Chapter 133, O.S.L. 1997, as amended by Section 11, Chapter 333, O.S.L. 1997 and as amended by Section 2, Chapter 420, O.S.L. 1997, Section 47, Chapter 133, O.S.L. 1997, Section 48, Chapter 133, O.S.L. 1997, as amended by Section 12, Chapter 333, O.S.L. 1997, Sections 49 and 50, Chapter 133, O.S.L. 1997, Section 51, Chapter 133, O.S.L. 1997, as amended by Section 13, Chapter 333, O.S.L. 1997, Section 52, Chapter 133, O.S.L. 1997, Sections 53, 54 and 55, Chapter 133, O.S.L. 1997, as amended by Sections 14, 15 and 16, Chapter 333, O.S.L. 1997, Section 56, Chapter 133, O.S.L. 1997, Section 57, Chapter 133, O.S.L. 1997, as amended by Section 17, Chapter 333, O.S.L. 1997, Sections 58 and 59, Chapter 133, O.S.L. 1997, Sections 60 and 61, Chapter 133, O.S.L. 1997, as amended by Sections 18 and 19, Chapter 333, O.S.L. 1997 and Section 75, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Sections 987.1, 987.2, 987.3, 987.4, 987.5, 987.6, 987.7, 987.8, 987.9, 987.10, 987.11, 987.12, 987.13, 987.14, 987.15, 987.16, 987.17, 987.18, 987.19, 987.20, 987.21, 987.22, 987.23 and 987.26), are hereby repealed.

SECTION 23. REPEALER Section 62, Chapter 133, O.S.L. 1997, as renumbered by Section 26, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1997, Section 557.1), is hereby repealed.

SECTION 24. REPEALER Section 63, Chapter 133, O.S.L. 1997 (74 O.S. Supp. 1997, Section 450.2), is hereby repealed.

SECTION 25. REPEALER 22 O.S. 1991, Section 991a, as last amended by Section 65, Chapter 133, O.S.L. 1997 and 22 O.S. 1991, Section 991a, as last amended by Section 9, Chapter 260, O.S.L. 1997 (22 O.S. Supp. 1997, Section 991a), are hereby repealed.

SECTION 26. 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.

46-2-8068

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