

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3107

By: Case

AS INTRODUCED

An Act relating to truth in sentencing; amending Section 3, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 13), which relates to sentencing policy and sentencing matrices; providing for establishment of amended or new matrices by the Legislature; eliminating authority and procedure for promulgation of adjusted matrices by the Oklahoma Sentencing Commission; amending Section 1, Chapter 355, O.S.L. 1994, as amended by Section 34, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 1501), which relates to the Oklahoma Sentencing Commission; eliminating requirement that the Commission promulgate adjusted matrices; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 13), is amended to read as follows:

Section 13. A. The policy of this state is to sentence persons convicted of felonies pursuant to sentencing matrices. The ~~initial~~

matrices shall be as provided in Sections ~~598~~ 20.1 through ~~601~~ 20.2 of this ~~act~~ title. These matrices shall remain in effect until such time as new or amended matrices are established ~~pursuant to subsection B of this section~~ by the Legislature.

B. Beginning July 1, 1998, felonies shall be classified pursuant to Section ~~6~~ 16 of this ~~act~~ title, except for Schedule A, and shall be punished as provided by the sentencing matrices in accordance with the application of any sentencing enhancers established by the Oklahoma Truth in Sentencing Act.

1. Beginning 1999 and each year thereafter, by December 1 the Department of Corrections shall submit to the Oklahoma Sentencing Commission or successor agency a report of projected financial and bed space impact that will include an assessment of any need for additional resources for bed space under current sentencing ranges.

2. By January 15 of the year following receipt of the assessment of need by the Department of Corrections, the Commission or successor agency shall certify to the Governor and the Legislature whether or not changes are needed in either the matrices or in correctional facility capacity to ensure that offenders serve the minimum percentage amount of incarceration required by the Truth in Sentencing Act. This report shall include fiscal impact statements of the cost of any proposed change in correctional capacity, and an alternative matrix and fiscal impact therefor.

~~3. The Commission or successor agency, by rule, shall promulgate one or more adjusted matrices to take effect July 1 of the year that certification is made to the Legislature pursuant to paragraph 2 of this subsection, in the event the Legislature does not provide the resources appropriate for the additional capacity needed by the Department of Corrections or other sources of revenue do not become available.~~

~~4. A new matrix, if necessary, shall be promulgated in accordance with the Administrative Procedures Act, except as~~

~~provided in this section. The Commission or successor agency shall not adopt a new matrix by emergency rule except as provided in paragraph 5 of this subsection. Any permanent rule adopting a new matrix shall be submitted to the Governor within a sufficient time so that, if approved by the Governor, the rule shall be submitted to the Legislature by April 1 of the year in which the Commission or successor agency wishes to implement the matrix. If the Legislature does not either disapprove the matrix before the sine die adjournment of the legislative session in which the rule was submitted or provide total funding for needed resources, the matrix shall become effective on July 1 of the same year. If the Governor disapproves the rule or the Legislature provides partial funding for needed resources, the Commission or successor agency, by rule, shall promulgate a revised adjusted matrix.~~

~~5. If the revised adjusted matrix cannot be promulgated and submitted to the Legislature by April 1, the Commission or successor agency may promulgate the revised adjusted matrix by emergency rule.~~

~~6. Any matrix adopted by the Commission or successor agency, which is not disapproved, shall be published as an appendix to Title 21 of the Oklahoma Statutes.~~

SECTION 2. AMENDATORY Section 1, Chapter 355, O.S.L. 1994, as amended by Section 34, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Section 1501), is amended to read as follows:

Section 1501. A. There is hereby created the "Oklahoma Sentencing Commission". As used in Section 1501 through ~~1515~~ 1514 of this title, the term "Commission" means the Oklahoma Sentencing Commission.

B. The Commission may make recommendations to the Legislature for the modification of crimes, recodifications of crimes, modification of sentencing laws and policies, and for the addition, deletion or expansion of sentencing options. ~~The Commission shall~~

~~promulgate adjusted matrices as necessary pursuant to Section 3 of this act.~~

C. As used in Sections 1501 through ~~1515~~ 1514 of this title "criminal justice and corrections system" includes all activities and agencies, whether state or local, public or private, pertaining to the prevention, prosecution and defense of offenses, or to the disposition of offenders under the criminal laws of this state. The "criminal justice and corrections systems" includes police, public prosecutors, defense counsel, courts, correction agencies, mental health agencies, and all public and private agencies providing services in connection with those elements, whether voluntarily, contractually or by order of a court.

SECTION 3. This act shall become effective July 1, 1998.

SECTION 4. 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.

46-2-8566

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