

SHORT TITLE: Criminal sentencing; authorizing sentencing to the Department of Corrections for certain offenders. Effective date. Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1329

By: Laughlin

AS INTRODUCED

An Act relating to criminal sentencing; amending Section 5, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1997, Section 15), which relates to sentencing range, level and field; amending Section 8, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 333, O.S.L. 1997 and 22 O.S. 1991, Section 991a-2, as amended by Section 66, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1997, Sections 990a-1 and 991a-2), which relate to sentencing procedures and county jail imprisonment; authorizing sentencing to the Department of Corrections for certain offenders; providing an effective date; and declaring an emergency.

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

SECTION 1. 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~~ this title.

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~~ 987.8 of ~~this act~~ Title 22 of the Oklahoma Statutes;

3. Field 3 - Sentencing to either the Department of Corrections or community punishment, at the option of the court. If the sentence is to community placement, sentencing shall be pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or subsection B of Section ~~46~~ 987.8 of ~~this act~~ Title 22 of the Oklahoma Statutes;

or

4. Field 4 - Sentencing to either the Department of Corrections or community punishment, at the option of the court. If the sentence is to community placement, sentencing shall be pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or subsection B of Section ~~46~~ 987.8 of ~~this act~~ Title 22 of the Oklahoma Statutes.

SECTION 2. 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, 3, or 4 when the offender is sentenced to a term of imprisonment within the Department of Corrections, the sentencing court shall pronounce at the sentencing hearing the terms and conditions of the sentence.

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

authorized in subsection B of Section ~~11~~ 987.8 of this ~~act~~ title 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~~ this title.

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

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

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

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

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

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

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

7. The demeanor of the offender; and

8. Any other evidence relevant to sentencing the offender.

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

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

SECTION 3. AMENDATORY 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 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.

D. 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. 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~~ 987.20 and ~~65~~ 991a of this ~~act~~ title.

G. 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 4. This act shall become effective July 1, 1998.

SECTION 5. 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.

46-2-1855

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