STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2209 By: Askins of the House

and

Smith of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Community Sentencing Act; amending Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.16), which relates to community sentencing budget system; removing specific characteristics for pilot projects; amending Section 20, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.20), which relates to disciplinary sanctions or incentives; removing reference to imprisonment in the state penitentiary for certain purposes; amending 22 O.S. 1991, Section 991a, as last amended by Section 31, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 991a), which relates to sentencing powers of the court; modifying provisions regarding county Community Service Sentencing Programs; repealing Section 46, Chapter 133, O.S.L. 1997, as last amended by Section 44, Chapter 1, O.S.L. 1999 and Section 50, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 51, O.S.L. 1999 (22 O.S. Supp. 1999, Sections 987.8 and 987.12), which relate to mandatory services and medical expenditures for community sentencing; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.16), is amended to read as follows:

Section 988.16 A. The Department of Corrections shall implement pilot projects for establishment and continued operation of local community sentencing systems ~~in the following local community sentencing systems:~~

~~1. One system for a county possessing a population of over two hundred thousand (200,000) according to the latest federal Decennial Census;~~

~~2. Two systems which have three or more counties participating; and~~

~~3. Not fewer than two systems which have single county participation in a rural area~~.

Each fiscal year the Division, in collaboration with the local planning councils, shall provide goals and funding priorities for community punishments as provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. The Division shall promulgate rules for local community sentencing systems based upon objective criteria for allocation of state-appropriated funds to local systems for day-to-day operation during a fiscal year which may include identification of:

1. Fiscally responsible allocations of services and funds;

2. Innovative or effective programs of the local system; and

3. Appropriate targeting of offenders for services.

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

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

1. Demonstrate fiscal responsibility by operating the local system within the plan and budget allocation;

2. Require performance-based selection of service providers participating in the annual system plan;

3. Submit a plan which offers a continuum of sanctions for eligible offenders sentenced to the local community sentencing system and appropriately assign offenders for services; and

4. Comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of the Oklahoma Community Sentencing Act.

C. The Community Sentencing Division within the Department of Corrections shall review and evaluate all community sentencing system plans and budget requests when plans are submitted for approval and funding. The Division is directed to automatically approve all plans complying with the provisions of the Oklahoma Community Sentencing Act which require no state funding.

D. When state funding is required to implement a local community sentencing system plan, the Community Sentencing Division shall approve the plan only to the extent that the jurisdiction's share of the total state appropriations will support the implementation of the local system plan. Modification to a local plan shall be for budgetary purposes, as provided in Section ~~7~~ 988.7 of this ~~act~~ title, and for compliance with law and rule.

E. State funds from the Community Sentencing Division disbursed to community sentencing systems shall be used for operation and administrative expenses and shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure, nor shall these funds be used to replace funding or other resources from the federal, state, county or city government committed in support of the detailed system plan during the plan year.

F. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 557.1 of Title 57 of

the Oklahoma Statutes, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections and every local planning council are authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens to support or expand the community sentencing system.

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

~~H.~~ For purposes of calculating state funding for local community sentencing systems, supervision, treatment, and education shall be the first funding priorities.

SECTION 2. AMENDATORY Section 20, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.20), is amended to read as follows:

Section 988.20 A. Upon proper motion to the court to modify a community sentence as provided in Section ~~19~~ 988.19 of this ~~act~~ title, the judge shall have authority to impose disciplinary sanctions or incentives. An order for a disciplinary sanction shall not modify the terms of the original sentence and shall be imposed only to gain compliance with the terms of the court-ordered community punishment. The court may order any community punishment available and funded in the jurisdiction that is deemed appropriate by the judge for the circumstance including, but not limited to, a term of imprisonment not to exceed thirty (30) days per disciplinary order in either:

1. The county jail;

2. A residential treatment facility;

3. A restrictive housing facility; or

4. A halfway house.

When the offender is to be confined, the sheriff shall, upon order of the court, deliver the offender to the designated place of confinement, provided the place of confinement has an agreement for confinement services with the local community sentencing system or is the county jail. The sheriff shall be reimbursed by the local community sentencing system for transporting offenders pursuant to this subsection. The offender shall be given day-for-day credit for any terms of incarceration served in the county jail or other restrictive facility when the sentence is modified.

B. The court may, through a standing court order, provide for specific disciplinary sanctions and incentives which may be utilized by the local administrator upon notification to the court.

C. When a motion for modification has been filed pursuant to Section ~~19~~ 988.19 of this ~~act~~ title, the court shall have authority to offer incentives to offenders to encourage proper conduct in the community and for compliance with the community punishments. The court shall use its discretion in ordering appropriate incentives. Incentives shall be considered a reduction and modification to the community punishment and may be ordered after the motion to modify has been heard.

D. When any offender is disciplined by the court as authorized by this section and is to be imprisoned in ~~a state penitentiary,~~ the county jail or other restrictive facility, the sheriff or facility administrator shall receive compensation as provided by their agreement with the local community sentencing system, or the sheriff or facility administrator shall be paid directly for the services by the offender when ordered to pay for the confinement as part of the disciplinary sanction. In no event shall any compensation for disciplinary confinement exceed the maximum amount provided for county jail confinement in Section ~~28~~ 38.1 of ~~this act~~ Title 57 of the Oklahoma Statutes.

E. The Department of Corrections is prohibited from accepting offenders into any state penitentiary for disciplinary sanctions.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 31, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 991a), is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, 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,

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,

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

j. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,

k. to participate in substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,

l. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars ($5.00) nor more than Twenty-five Dollars ($25.00) as set by the governing authority of the program to offset the cost of participation by the defendant,

m. to install an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater,

n. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars ($75.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority.

Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

o. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,

p. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,

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

r. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,

s. to obtain positive behavior modeling by a trained mentor,

t. to serve a term of confinement in a restrictive housing facility available in the community,

u. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,

v. to obtain employment or participate in employment-related activities,

w. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,

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

y. to submit to blood testing as required by Section 588 of Title 57 of the Oklahoma Statutes,

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

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

bb. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,

cc. 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,

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

ee. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program if available~~;~~, and

ff. any other provision specifically ordered by the court.

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;

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. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

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 release 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~~ 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~~ Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the ~~Division~~ Department 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~~ Department.

4. The ~~Division~~ Department 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 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~~ subsection shall be deposited in the Department of Corrections revolving account.

SECTION 4. REPEALER Section 46, Chapter 133, O.S.L. 1997, as last amended by Section 44, Chapter 1, O.S.L. 1999 and Section 50, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 51, O.S.L. 1999 (22 O.S. Supp. 1999, Sections 987.8 and 987.12), are hereby repealed.

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.

47-2-8998 LAC 6/11/15