

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 614

By: Rozell of the Senate

and

Culver of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to Truth In Sentencing; restoring certain crimes, punishments and criminal procedure to pre-House Bill No. 1213 status; deleting all reference to matrices, schedules or grids; amending 21 O.S. 1991, Section 3, as amended by Section 10, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 3), which relates to punishments for crimes; amending 21 O.S. 1991, Section 5, as amended by Section 11, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 5), which relates to designation of felony; amending 21 O.S. 1991, Section 7, as amended by Section 12, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 7), which relates to person capable of crimes; amending 21 O.S. 1991, Section 9, as last amended by Section 1, Chapter 2, of the 1st Extraordinary Session O.S.L. 1997 (21 O.S. Supp. 1998, Section 9), which relates to default penalty for felony offense; amending 21 O.S. 1991, Section 11, as amended by Section 14, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 11), which relates to specific controls over general provisions; amending 21 O.S. 1991, Section 42, as amended by Section 21, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 42), which relates to attempts; amending 21 O.S. 1991, Section 53, as amended by Section 53, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 53), which relates to concealing birth; amending 21 O.S. Supp. 1998, Section 54, as amended by Section 15, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 54), which relates to conviction in another state; amending 21 O.S. 1991, Section 61.1, which relates to sentences when convicted in another jurisdiction; amending 21 O.S. 1991, Section 64, as last amended by Section 16, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 64), which relates to fines in addition to imprisonment; amending 21 O.S. 1991, Section 175, as amended by Section 154, Chapter 133, O.S.L. 1998, Section 175), which relates to accessory; providing for jury sentencing; amending 22 O.S. 1991, Section 929, as amended by Section 18, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 929), which relates to jury trial; amending 22 O.S. 1991, Section 976, as amended by Section 68, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 976), which relates to concurrent sentences; requiring concurrent sentences

for Intermediate Punishment; amending 22 O.S. 1991, Section 982, as last amended by Section 19, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 982), which relates to presentence investigation; conforming duplicate sections; making presentence investigations optional for certain offenses; requiring certain assessment for intermediate punishment; amending 22 O.S. 1991, Section 982a, as amended by Section 69, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 982a), which relates to one hundred twenty day review; expanding review time; including intermediate punishment in review procedure; allowing review procedure as a disciplinary sanction for certain sentence; requiring return of inmate to community after disciplinary sanction; providing an exception; amending Section 39, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.1), which relates to short title; changing name of certain act; amending Section 40, Chapter 133, O.S.L. 1997, as amended by Section 6, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.2), which relates to definitions; modifying definitions; amending Section 41, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.3), which relates to purpose of certain act; changing purposes of certain act; declaring purpose to increase prison space for violent offenders and improve criminal justice system; amending Section 42, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.4) which relates to establishing planning councils; modifying date and procedure; amending Section 43, Chapter 133, O.S.L. 1997, as amended by Section 8, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.5), which relates to members of planning council; prohibiting a council to withdraw after creation; construing provisions for multicounty council; allowing officers of council to be elected annually; amending Section 44, Chapter 133, O.S.L., 1997, as amended by Section 9, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.6), which relates to duties of planning council; modifying duties; amending Section 45, Chapter 133, O.S.L. 1997, as amended by Section 10, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.7), which relates to local plans; modifying certain provisions; amending Section 46, Chapter 133, O.S.L. 1997, as amended by Section 11, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.8), which relates to mandatory services; deleting certain services; requiring certain assessment for eligibility requirement of services; requiring certain services be available in first two-year period; specifying required services; limiting state funds to certain offenders under certain condition; requiring payment from eligible offenders; amending Section 47, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.9), which relates to supervision; modifying language; requiring court assessment of certain fees; providing fee amount if failure of court to set amount; providing for certain financial obligations to continue beyond supervision period; amending Section 48, Chapter 133, O.S.L. 1997, as amended by Section 12, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.10),

which relates to responsibility for resources; including the prosecutor and defense attorney in certain responsibility; requiring certain balance of resources with protection and needs; prohibiting supplemental funding; limiting access to certain programs without funding; amending Section 49, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.11), which relates to performance evaluations; requiring evaluations of certain state agencies; amending Section 50, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.12), which relates to status of inmates under certain authority; deleting certain medical requirements of county; providing for medical related to confinement; deleting jail payment requirements; amending Section 51, Chapter 133, O.S.L. 1997, as amended by Section 131, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.13), which relates to local administrators; modifying duties; amending Section 52, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.14), which relates to the Community Sentencing Division; amending Section 53, Chapter 133, O.S.L. 1997, as amended by Section 141, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.15), which relates to duties of the Community Sentencing Division; amending Section 16, Chapter 133, O.S.L. 1997, as amended by Section 15, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.16), which relates to funding of certain act; requiring appropriation to establish number of offenders and average funding per person; amending Section 55, Chapter 133, O.S.L. 1997, as amended by Section 16, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.17), which relates to participation of other agencies on assessment; deleting provision relating to certain tests; requiring the Level of Services Inventory (LSI) to evaluate offenders for the Intermediate Punishment Act; prohibiting waiver of assessment; providing rules be formed in collaboration with certain Division; amending Section 56, Chapter 133, O.S.L. 1997, as amended by Section 14, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (22 O.S. Supp. 1998, Section 987.18), which relates to court ordered assessment; requiring certain assessment be presented to court before sentencing; providing for defendants not adequately evaluated; requiring a written treatment plan and recommendations be presented with certain assessment; setting eligibility requirements by assessment score; providing judicial discretion on sentencing to intermediate punishment; construing judicial authority regarding assessment score; requiring assessment score accompany judgment and sentence; providing for resentencing on ineligible offenders; amending Section 57, Chapter 133, O.S.L. 1997, as amended by Section 17, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.19), which relates to procedure for sentencing; providing intermediate punishment as an alternative sentence; deleting language relating to misdemeanor offenses; clarifying authority to modify certain sentence; deleting provision relating to the Department of Corrections revoking certain sentences; deleting provisions

relating to first expungement; amending Section 58, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.20), which relates to disciplinary sanctions and incentives; deleting provisions relating to funding; expanding sanction options; expanding period of disciplinary sanction; including state prison as disciplinary sanction; deleting provisions relating to disciplinary sanctions for probationer and parolees; amending Section 59, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.21), which relates to earned credits; modifying language; amending Section 60, Chapter 133, O.S.L. 1997, as amended by Section 18, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.22), which relates to advising offender of certain conditions; providing for revocation; providing for continuation of sentence for financial obligations; providing maximum term of intermediate punishment under supervision and programs; amending Section 61, Chapter 133, O.S.L. 1997, as amended by Section 19, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.23), which relates to immunity; amending Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 990), which relates to suspended sentences; including intermediate punishment definition; deleting prohibition of certain prior offenses to consideration of suspended sentence; deleting language; providing supervising agency determine level of supervision; providing a detailed listing of optional conditions of a suspended sentence derived from existing law; amending Section 1, Chapter 1913, O.S.L. 1998 (22 O.S. Supp. 1998, Section 990.1), which relates to uniform supervision form; amending Section 86, Chapter 133, O.S.L. 1997, as last amended by Section 151, Chapter 23, 1st Extraordinary Session O.S.L. 1998 (22 O.S. Supp. 1998, Section 990a-1), which relates to sentencing procedure; deleting all reference of matrices and mid-points; providing procedure for court review; amending 22 O.S. 1991, Section 991a, as last amended by Section 65, Chapter 133, O.S.L..1997 (22 O.S. Supp. 1998, Section 991a), which relates to the powers of the court; deleting language; amending 22 O.S. 1991, Section 991a-2, as last amended by Section 66, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a-2), which relates to night and weekend jail; allowing night and weekend jail as an alternative to incarceration in a state prison; requiring defendants to pay costs of incarceration; setting maximum amount by law; deleting language; amending 22 O.S. 1991, Section 991b, as amended by Section 71, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991b), which relates to revocation of suspended sentence; amending 22 O.S. 1991, Section 305.2, as last amended by Section 72, Chapter 133, O.S.L. 1997 *22 O.>S Supp. 1998, Section 305.2), which relates to deferred prosecution; removing services from certain Division; requiring services to be paid by the defendant; amending 22 O.S. 1991, Section 991c, as last amended by Section 70, Chapter 133, O.S.L. 1997 (22 o.>S Supp. 1998, Section 991c), which relates to deferred judgment; deleting certain options; changing cost of victim impact panel to conform with duplicate

section; removing certain prohibition; amending Section 20, Chapter 133, O.S.L. 1997 (22 O.S Supp. 1998, Section 991c-1), which relates to postimprisonment supervision; deleting reference to schedules and matrices; requiring period of postimprisonment supervision on certain offenses; providing maximum term of supervision; 22 O.S. 1991, Section 991d, as last amended by Section 3, Chapter 302, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991d), which relates to supervision fees; deleting provision of restitution fee; amending 22 O.S. 1991, Section 996, which relates to the Delayed Sentencing Program For Young Adults; changing name of act; amending 22 O.S. 1991, Section 996.1, as last amended by Section 1, Chapter 314, O.S.L. 1994 (22 O.S. Supp. 1994, Section 996.1), which relates to definition of eligibility; amending 22 o.S. 1991, Section 996.2, which relates to procedure for certain act; requiring the Department of Corrections to establish certain programs; amending 22 O.S. 1991, Section 996.3, which relates to court procedure for certain act; modifying procedure; providing for incarceration credits; limiting extension beyond one hundred twenty-day limitation; prohibiting waiver if Department of Corrections does not assign person in timely manner; prohibiting persons not meeting eligibility requirements; providing for aftercare services; amending Section 1, Chapter 355, O.S.L. 1994, as amended by Section 43, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1501), which relates to the Oklahoma Sentencing Commission; deleting reference to matrices and schedules; amending Section 7, Chapter 355, O.S.L. 1994 (22 O.S Supp. 1998, Section 1507), which relates to data model; amending Section 8, Chapter 355, O.S.L.1994, as last amended by Section 22, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1508), which relates to duties of the Commission; changing intent; deleting obsolete provisions; changing time to report impact statements for legislation; amending Section 9, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1509), which relates to secondary duties of Commission; amending Section 10, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1510), which relates to duty to classify offenses; amending Section 11, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1511), which relates to sentencing criteria for the court; requiring use of criteria by the court; amending Section 12, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1512), which relates to responsibility of Commission; amending Section 14, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1514), which relates to policies; providing for restitution obligation; amending Section 33, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1516), which relates to making reports; deleting language; amending 57 O.S. 1991, Section 38, as last amended by Section 76, Chapter 133 o.S.L. 1997 (57 O.S. Supp. 1998, Section 38), which relate to jail reimbursement; changing reference to act; amending 57 O.S. 1991, Section 138, as last amended by Section 17, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 138), which relates to

credits; exempting certain offense of certain credits; specifying credits for levels of security; amending Section 5, Chapter 276, O.S.L. 1997, as amended by Section 30, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510.9), which relates to electronic monitoring; removing certain prohibition; amending Section 15, Chapter 276, O.S.L. 1993, as amended by Section 31, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510.10), which relates to electronic monitoring devices; deleting obsolete provisions; amending Section 62, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 557.1), which relates to the Oklahoma Community Sentencing Revolving Fund; changing reference to certain act; amending 57 O.S. 1991, Section 570, as last amended by Section 15, Chapter 2, 1st extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 570), which relate to the Oklahoma Prison Overcrowding Emergency Powers Act; changing certain definition; amending 21 O.S. 1991, Section 701.9, as amended by Section 233, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 701.9), which relates to murder in the first degree; changing penalty provision; requiring certain percentage to be served before parole eligibility; defining term for purpose of calculating parole eligibility; amending 21 O.S. 1991, Section 1115, as amended by Section 292, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1115), which relates to rape in the first degree; changing penalty provision; requiring certain percentage to be served before parole eligibility; defining term for purpose of calculating parole eligibility; amending 21 O.S. 1991, Section 888, as last amended by Section 264, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 888), which relates to forcible sodomy; changing penalty provision; requiring certain percentage to be served before parole eligibility; defining term for purpose of calculating parole eligibility; amending 21 O.S. 1991, Section 798, as amended by Section 240, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 798), which relates to robbery in the first degree; changing penalty provision; requiring certain percentage to be served before parole eligibility; defining term for purpose of calculating parole eligibility; amending 21 O.S. 1991, Section 1401, as amended by Section 347, Chapter 133, O.S.L. 1998, Section 1401), which relate to arson in the first degree; changing penalty provisions; requiring certain percentage be served before parole eligibility; amending 21 O.S. 1991, Section 1436, as amended by Section 357, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1436), which relates to burglary in the first degree; changing penalty provisions; requiring certain percentage to be served before parole eligibility; amending 57 O.S. 1991, Section 332.7, as last amended by Section 2, Chapter 18, 1st extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 332.7), which relates to parole eligibility; deleting references to schedules and matrices; authorizing parole review after serving one-third of sentence; providing exception for certain offenses; providing for parole review of any offender having been eligible for a prior parole

review when such review has been abolished;
construing effect of a denial of parole; repealing
Section 2, Chapter 133, O.S.L. 1997, as amended by
Section 2, Chapter 2, 1st Extraordinary Session
O.S.L. 1998, Section 3, Chapter 133, O.S.L. 1997, as
amended by Section 3, Chapter 2, 1st Extraordinary
Session O.S.L. 1998, Section 4, Chapter 133, O.S.L.
1997, Section 5, Chapter 133, O.S.L. 1997, as amended
by Section 4, Chapter 2, 1st Extraordinary Session
O.S.L. 1998, Section 6, Chapter 133, O.S.L. 1997,
Section 7, Chapter 133, O.S.L. 1997, as amended by
Section 1, Chapter 333, O.S.L. 1997, Section 22,
Chapter 133, O.S.L. 1997, as amended by Section 5,
Chapter 2, 1st Extraordinary Session O.S.L. 1998,
Section 598, Chapter 133, O.S.L. 1997, Section 599,
Chapter 133, O.S.L. 1997, Section 600, Chapter 133,
O.S.L. 1997, Section 601, Chapter 133, O.S.L. 1997
(21 O.S. Supp. 1998, Sections 12, 13, 14, 15, 16, 17,
18, 20.1, 20.2, 20.3, and 20.4), which relate to
matrices, schedules and percentages, Section 2,
Chapter 343, O.S.L. 1995, as amended by Section 155,
Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section
187.1), which relates to contributions and is a
duplicate section, Section 3, Chapter 343, O.S.L.
1995, as amended by Section 156, Chapter 133, O.S.L.
1997 (21 O.S. Supp. 1998, Section 187.2), which
relates to corporate contributions and is a duplicate
section, 21 O.S. 1991, Section 265, as amended by
Section 157, Chapter 133, O.S.L. 1999 (21 O.S. Supp.
1998, Section 265), which relates to bribery and is a
duplicate section, 21 O.S. 1991, Section 266, as
amended by Section 158, Chapter 133, O.S.L. 1997 (21
O.S. Supp. 1998, Section 266), which relates to
bribes and is a duplicate section, 21 O.S. 1991,
Section 275, as amended by Section 159, Chapter 133,
O.S.L. 1997 (21 O.S. Supp. 1998, Section 275), which
relates to appointment and is a duplicate section, 22
O.S. 1991, Section 17, as last amended by Section
435, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998,
Section 17), which relates to distribution of certain
proceeds and is a duplicate section, 22 O.S. 1991,
Section 305.2, as amended by Section 72, Chapter 133,
O.S.L. 1997 (22 O.S. Supp. 1998, Section 305.2),
which relates to deferred prosecution and is a
duplicate section, 22 O.S. 1991, Section 857, as last
amended by Section 13, Chapter 2, 1st Extraordinary
Session O.S.L. 1998 (22 O.S. Supp. 1998, Section
857), which relates to jury and is a duplicate
section, 22 O.S. 1991, Section 982, as amended by
Section 1, Chapter 319, O.S.L. 1992 (22 O.S. Supp.
1998, Section 982), which relates to presentence and
is a duplicate section, Section 46, Chapter 133,
O.S.L. 1997, as last amended by Section 2, Chapter
420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.8),
which relates to mandatory services and is a
duplicate section, Section 75, Chapter 133, O.S.L.
1997 (22 O.S. Supp. 1998, Section 987.26), which
relates to postimprisonment services, 22 O.S. 1991,
Section 991b, as amended by Section 2, Chapter 320,
O.S.L. 1994 (22 O.S. Supp. 1998, Section 991b), which
relates to revocation of suspended sentence and is a
duplicate section, 22 O.S. 1991, Section 305.2, as
amended by Section 1, Chapter 304, O.S.L. 1996 (22

O.S. Supp. 1998, Section 305.2), which relates to deferred prosecution and is a duplicate section, 22 O.S. 1991, Section 991c, as last amended by Section 2, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991c), which relates to deferred judgement and is a duplicate section, 22 O.S. 1991, Section 1110, as amended by Section 437, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1110), which relates to jumping bail and is a duplicate section, 22 O.S. 1991, Section 1404, as amended by Section 440, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1404), which relates to the Oklahoma Corrupt Organization Prevention Act and is a duplicate section, 22 O.S. 1991, Section 991a, as last amended by Section 9, Chapter 260, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to powers of the court and is a triplicate section, 22 O.S. 1991, Section 991a, as last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to powers of the court and is a triplicate section, 57 O.S. 1991, Section 365, as last amended by Section 28, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 365), which relates to specialized parole; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Criminal Justice Reform Act of 1999".

SECTION 2. AMENDATORY 21 O.S. 1991, Section 3, as amended by Section 10, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, 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 3. AMENDATORY 21 O.S. 1991, Section 5, as amended by Section 11, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 5), is amended to read as follows:

Section 5. A felony is a crime which is specifically designated a felony or 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, or by imprisonment in the penitentiary and a fine.~~

SECTION 4. AMENDATORY 21 O.S. 1991, Section 7, as amended by Section 12, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 7), is amended to read as follows:

Section 7. This title specifies the classes of persons who are deemed capable of crimes, and liable to punishment therefor. This title defines the nature of various crimes, and prescribes the kind of punishment to be ~~inflicted~~ imposed for each, ~~prescribes the measure of punishment for misdemeanors, and prescribes how the measure of punishment for felony offenses is to be determined~~ offense. The manner of prosecuting and convicting criminals is regulated by the code of criminal procedure, Title 22 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 9, as last amended by Section 1, Chapter 2, of the 1st Extraordinary Session O.S.L. 1997 (21 O.S. Supp. 1998, Section 9), is amended to read as follows:

Section 9. ~~A. For offenses committed on or after July 1, 1999, every offense declared to be a felony shall be punished according to the applicable sentencing level. If a specific fine is provided for~~

~~by law, the fine may be imposed as provided in subsection C of Section 64 of this title.~~

~~B. For offenses committed before July 1, 1999, except~~ Except in cases where a different punishment is prescribed by this title, or by some existing provision of law, every offense declared to be a felony is punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the State Penitentiary not exceeding two (2) years, or by both such fine and imprisonment.

SECTION 6. AMENDATORY 21 O.S. 1991, Section 11, as amended by Section 14, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 11), is amended to read as follows:

Section 11. A. If there be in any other provision of the laws of this state a provision making any specific act or omission criminal and providing for the punishment therefor, and there be in this title any provision or section making the same act or omission a criminal offense or prescribing or providing for the punishment therefor, that offense and the punishment thereof, shall be governed by the special provisions made in relation thereto, and not by the provisions of this title. But an act or omission which is made punishable in different ways by different provisions of this title may be punished under any of such provisions, ~~except that in cases specified in Section 7 of this act or Section 54 of this title, the punishments therein prescribed are substituted for those prescribed for a first offense,~~ but in no case ~~can~~ shall a criminal act or omission be punished under more than one section of law; and an acquittal or conviction and sentence under one section of law, bars the prosecution for the same act or omission under any other section of law.

B. Provided, however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of the laws of this state which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of

imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 42, as amended by Section 21, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 42), is amended to read as follows:

Section 42. Every person who attempts to commit any crime, and in such attempt does any act toward the commission of such crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempt, as follows:

1. If the offense so attempted be punishable by imprisonment in ~~a facility of the Department of Corrections~~ the penitentiary for four (4) years or more, or by imprisonment in a county jail, the person guilty of such attempt is punishable by ~~the range of punishment for the completed crime as provided by the Oklahoma Truth in Sentencing Act, unless specifically stated otherwise~~ imprisonment in the penitentiary, or the county jail, as the case may be, for a term not exceeding one-half the longest term of imprisonment prescribed upon conviction of the offense so committed.

2. If the offense so attempted be punishable by imprisonment in the penitentiary for any term less than four (4) years, the person guilty of such attempt is punishable by imprisonment in the county jail for not more than one (1) year.

3. If the offense so attempted be punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half (1/2) the largest fine which may be imposed upon a conviction of the offense so attempted.

~~3.~~ 4. If the offense so attempted be punishable by imprisonment and by a fine, the offender convicted of such attempt may be punished by both imprisonment and fine, not exceeding one-half (1/2) the longest term of imprisonment and the fine not exceeding one-half

(1/2) the largest fine which may be imposed upon a conviction for the offense so attempted.

SECTION 8. AMENDATORY 21 O.S. 1991, Section 53, as amended by Section 53, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 53), is amended to read as follows:

Section 53. Every woman who, having been convicted of endeavoring to conceal the birth of an issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two (2) years, subsequently to such conviction endeavors to conceal any such birth or death of issue of her body, ~~shall be guilty of a felony~~ is punishable by imprisonment in the penitentiary not exceeding five (5) years and not less than two (2) years.

SECTION 9. AMENDATORY 21 O.S. 1991, Section 54, as amended by Section 15, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 54), is amended to read as follows:

Section 54. Every person who has been convicted in any other state, government or country of an offense which, if committed within this state, would be punishable by the laws of this state by imprisonment in the penitentiary, is punishable for any subsequent crime committed within this state, in the manner ~~prescribed in Section 7 of this act,~~ and to the same extent as if such first conviction had taken place in a court of this state.

SECTION 10. AMENDATORY 21 O.S. 1991, Section 61.1, is amended to read as follows:

Section 61.1 When any person is convicted of two (2) or more crimes in the same proceeding or court or in different proceedings or courts, and the judgment and sentence for each conviction arrives at a state penal institution on different dates, the sentence which is first received at the institution shall commence and be followed by those sentences which are subsequently received at the institution, in the order in which they are received by the institution, regardless of the order in which the judgments and

sentences were rendered by the respective courts, unless a judgment and sentence provides that it is to run concurrently with another judgment and sentence. This section shall not affect ~~the~~ any credits allowed ~~under Section 138 of Title 57~~ by law.

SECTION 11. AMENDATORY 21 O.S. 1991, Section 64, as last amended by Section 16, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, 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 or in lieu of 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 or jury may impose a fine on the offender not exceeding Ten Thousand Dollars (\$10,000.00) in addition to or in lieu of 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 12. AMENDATORY 21 O.S. 1991, Section 175, as amended by Section 154, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 175), is amended to read as follows:

Section 175. Except in cases where a different punishment is prescribed by law, an accessory to a felony is punishable as follows:

1. If the underlying offense is a felony punishable by imprisonment in the penitentiary ~~or community corrections~~ for four

(4) years or more, the person guilty of being an accessory shall be subject to ~~a sentence~~ imprisonment in the penitentiary for a term not exceeding one-half (1/2) of the longest term prescribed upon a conviction for the underlying offense;

2. If the underlying offense is a felony punishable by imprisonment in the penitentiary ~~or community corrections~~ for any time less than four (4) years, the person guilty of being an accessory shall be subject to imprisonment in a county jail or community corrections for not more than one (1) year;

3. If the underlying offense be punishable by a fine only, the person guilty of being an accessory shall be subject to a fine not exceeding one-half (1/2) of the largest amount of money which may be imposed as a fine upon a conviction of the underlying offense;

4. If the underlying offense be punishable by both imprisonment ~~or community corrections~~ and a fine, the offender convicted of being an accessory shall be subject to both imprisonment and fine shall not to exceed one-half (1/2) of the longest term of imprisonment and not to exceed one-half (1/2) of the largest fine which may be imposed upon a conviction of the underlying offense; and

5. If the underlying offense be murder in the first degree, the accessory thereto shall be punished ~~for a felony~~ by imprisonment for not less than five (5) years nor more than forty-five (45) years.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 926.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

In all cases of a verdict of conviction for any offense against any of the laws of this state, the jury may, and shall upon the request of the defendant assess and declare the punishment in their verdict within the limitations fixed by law, and the court shall render a judgment according to such verdict, except as hereinafter provided.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 927.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

Where the jury find a verdict of guilty, and fail to agree on the punishment to be imposed, or do not declare such punishment by the verdict, the court shall assess and declare the punishment and render the judgment accordingly.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 928.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

If the jury assess a punishment, whether of imprisonment or fine, greater than the highest limit declared by law for the offense of which the defendant is convicted, the court shall disregard the excess and pronounce sentence and render judgment according to the highest limit prescribed by law in the particular case.

SECTION 16. AMENDATORY 22 O.S. 1991, Section 929, as amended by Section 18, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 929), is amended to read as follows:

Section 929. A. Upon any appeal of a conviction by the defendant in a noncapital criminal case, the appellate court, if it finds prejudicial error in the sentencing proceeding only, may set aside the sentence rendered and remand the case to the trial court in the jurisdiction in which the defendant was originally sentenced for resentencing. No error in the sentencing proceeding shall result in the reversal of the conviction in a criminal case unless the error directly affected the determination of guilt.

B. When a criminal case is remanded for vacation of a sentence, the court ~~shall~~ may:

1. ~~set~~ Set the case for a nonjury sentencing proceeding; or
2. If the defendant or the prosecutor so requests in writing, impanel a new sentencing jury.

C. If a written request for a jury trial is filed within twenty (20) days of the date of the appellate court order, the trial court shall impanel a new jury for the purpose of conducting a new sentencing proceeding.

1. All exhibits and a transcript of all testimony and other evidence properly admitted in the prior trial and sentencing shall be admissible in the new sentencing proceeding. Additional relevant evidence may be admitted including testimony of witnesses who testified at the previous trial.

2. The provisions of this section are procedural and shall apply retroactively to any defendant sentenced in this state.

D. This section shall not be construed to amend or be in conflict with the provisions of Section 701.10 or 701.10a of Title 21 of the Oklahoma Statutes relating to sentencing and resentencing in death penalty cases; or the provisions of Section 926.1 and 927.1 of this title relating to assessment of punishment in the original trial proceedings.

SECTION 17. AMENDATORY 22 O.S. 1991, Section 976, as amended by Section 68, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, 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~~ intermediate punishment
authorized by the Oklahoma Intermediate Punishments Act, the
sentences must be ordered to be served concurrently.

SECTION 18. AMENDATORY 22 O.S. 1991, Section 982, as
last amended by Section 19, Chapter 133, O.S.L. 1997 (22 O.S. Supp.
1998, Section 982), is amended to read as follows:

Section 982. A. Whenever a person is convicted of a violent
felony offense ~~or has entered a plea other than not guilty~~ whether
the conviction is for a single offense or part of any combination of
offenses, except when the death sentence ~~or sentence to life without~~
~~the possibility of parole is imposed~~ is available as punishment for
the offense, the court ~~may~~ shall, before imposing sentence ~~to commit~~
~~any felon to the custody or supervision of the Department of~~
~~Corrections, order~~ require a presentence investigation to be made of
the offender by the Department of Corrections. The court may order
a presentence investigation to be conducted by the Department of
Corrections on any convicted felony offender prior to the court
imposing a term of incarceration in the custody of the Department of
Corrections. The court ~~may~~ shall order the defendant to pay a fee
to the Department of Corrections not ~~to exceed~~ less than Five
Dollars (\$5.00) nor more than Two Hundred Fifty Dollars (\$250.00)
for the presentence investigation, ~~if in the opinion of the court~~
~~the defendant has the ability to pay such fee.~~ In hardship cases,
the court shall set the amount of the fee and establish a payment
schedule.

B. The Department shall, when conducting a presentence
investigation ~~report shall include a summary of~~ inquire into the
circumstances of the offense and the characteristics of the
offender. ~~This~~ The information obtained from the investigation
shall include ~~the,~~ but shall not be limited to, a voluntary
statement ~~of the~~ from each victim of the offense concerning the
nature of the offense and the impact of the offense on the victim

and the victim's family, the amount of any loss suffered or incurred
of by the victim. The presentence investigation reports shall
include the criminal history of the offender. The criminal history
shall list the schedule, if applicable, for: each prior adult
felony conviction, each prior adult misdemeanor conviction, each
prior juvenile adjudication, each prior sentence to probation, and
each prior deferred or suspended sentence. The presentence
investigation report shall also include the social history and
present condition of the convicted person. Such reports must as a
result of the criminal conduct of the offender, and the offender's
age, marital status, living arrangements, financial obligations,
income, family history, education, prior juvenile and criminal
records, associations with other persons convicted of a felony
offense, social history, indications of a predisposition to violence
or substance abuse, remorse or guilt about the offense or the
victim's harm, job skills, and employment history. The Department
shall make a report of information from such investigation to the
court, including a recommendation detailing the punishment which is
deemed appropriate for both the offense and the offender, and
specifically a recommendation for or against probation, suspended or
split sentence, or intermediate punishment. The report of the
investigation shall be presented to the judge so requesting, within
a reasonable time, and upon the failure to so present the same
report, the judge may proceed with sentencing. Whenever, in the
opinion of the court or the Department, it is desirable, the
investigation shall include a physical and mental examination or
either a physical or mental examination of the convicted person.

C. The district attorney shall have a presentence investigation
made by the Department of Corrections on each person charged with a
violent felony offense and entering a plea of guilty or a plea of
nolo contendere as part of or in exchange for a plea agreement for a
felony offense. The presentence investigation shall be completed

before the terms of the plea agreement are finalized. The court shall not approve the terms of any plea agreement without reviewing the presentence investigation report to determine whether or not the terms of the sentence are appropriate for both the offender and the offense. The fee provided in subsection A of this section shall apply to persons subject to this subsection and shall be a condition of the plea agreement and sentence.

D. The presentence investigation reports specified in this section shall not be referred to, or be considered, in any appeal proceedings. Before imposing sentence, the court shall advise the defendant ~~or his,~~ the defendant's counsel, and the district attorney of the factual contents and ~~the conclusions and proposed findings~~ of ~~any~~ the presentence investigation report. ~~The court shall or psychiatric examination and afford a fair opportunity, if the defendant or the prosecution so requests, to controvert them~~ the findings and conclusions of the reports at the time of sentencing. If either the defendant or the district attorney desires, ~~such a~~ a hearing shall be ~~ordered~~ set by the court ~~within a reasonable time providing either party to allow both parties~~ an opportunity to offer evidence proving or disproving any ~~proposed~~ finding contained in ~~such~~ the report. ~~The party objecting to the findings contained in the presentence investigation report shall have the burden of producing additional evidence with regard to the existence or nonexistence of the offense enhancers or prior record enhancers. The state must establish and the court must determine by clear and convincing evidence the existence of any offense enhancers or prior record enhancers,~~ which shall be a hearing in mitigation or aggravation of punishment.

~~D.~~ E. The order of the court directing a presentence investigation as provided in this section shall be in accordance with forms promulgated by the Oklahoma Sentencing Commission.

F. Neither the court, the district attorney, nor the defendant shall be allowed to waive the required presentence investigation and report for violent felony offenses. Nothing in this section shall preclude any additional evaluation or assessment of the offender by using the Level of Services Inventory (LSI) or another comparable criminal offender risk/need assessment prior to sentencing and at the offender's own expense.

G. For nonviolent felony offenses, the presentence investigation is optional prior to sentencing, and shall not be conducted when a Level of Services Inventory (LSI) or other criminal offender risk/need assessment is required by law as provided in Section 987.17 of this title pursuant to the Oklahoma Intermediate Punishments Act.

H. As used in this section, "violent offense" means only the following offenses:

1. Arson in the first degree;
2. Assault with a dangerous weapon, battery with a dangerous weapon or assault and battery with a dangerous weapon;
3. Aggravated assault and battery on a police officer, sheriff, highway patrol officer, or any other officer of the law;
4. Assault with intent to kill, or shooting with intent to kill;
5. Assault with intent to commit a felony, or use of a firearm to commit a felony;
6. Assault while masked or disguised;
7. Burglary in the first degree or burglary with explosives;
8. Child beating or maiming;
9. Forcible sodomy;
10. Kidnapping or kidnapping for extortion;
11. Lewd or indecent proposition or lewd or indecent acts with a child;
12. Murder in the first degree or second degree;

13. Rape in the first or second degree, or rape by instrumentation;

14. Robbery in the first or second degree, or robbery by two or more persons, or robbery with a dangerous weapon; or

15. Any attempt, solicitation or conspiracy to commit any of the above enumerated offenses.

I. Any offense not enumerated in subsection H of this section shall constitute a nonviolent offense for purposes of conducting an optional presentence investigation and report.

SECTION 19. AMENDATORY 22 O.S. 1991, Section 982a, as amended by Section 69, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 982a), is amended to read as follows:

Section 982a. A. ~~Any~~ On or after the effective date of this act, any time within twelve (12) months after a sentence is imposed for incarceration in a state ~~correctional institution~~ penitentiary pursuant to ~~the applicable state sentencing matrix law~~ or any time within twelve (12) months after a sentence to probation, a suspended sentence ~~or~~, a split sentence, or an intermediate punishment has been revoked to a term of incarceration in a state ~~correctional institution~~ penitentiary, the court imposing the sentence or revocation may modify any unserved portion of the sentence by directing that another lesser penalty be imposed, if the court is satisfied that the best interests of the public will not be jeopardized.

B. Upon the court's own motion, the court may review any unserved portion of any sentence specified in subsection A of this section. The Department of Corrections shall provide the court imposing a the sentence ~~to state incarceration~~ or revocation ~~of a sentence to probation, a suspended sentence or a split sentence to a term of state incarceration~~ with the report by the Lexington Assessment and Reception Center and any other information the

Department can supply on the inmate. The court shall consider such reports when modifying the sentence.

C. If the court considers modification of the sentence pursuant to the provisions of this section, a hearing shall be made in open court after notice is given. The clerk of the court imposing sentence or revocation shall give notice of the hearing and provide a copy of the report by the Lexington Assessment and Reception Center to the inmate, the inmate's legal counsel, and the district attorney of the county in which the inmate was convicted. The notice shall be mailed not less than twenty-one (21) days prior to the hearing.

D. If an appeal is taken ~~which results in a modification of the sentence for the defendant~~ from a sentence to imprisonment or any revocation of a sentence from probation, suspended or split sentence, or intermediate punishment, such sentence may be ~~further~~ modified in the manner hereinbefore described while the appeal is pending or within twelve (12) months after the receipt by the clerk of the district court of the mandate from the Supreme Court or the Court of Criminal Appeals.

E. The authority for sentence modification provided in this section may be used as a disciplinary sanction for any offender sentenced to an intermediate punishment pursuant to the Oklahoma Intermediate Punishments Act, who has repeatedly failed to comply with the terms and conditions of such intermediate punishment or who has committed another felony offense while on community custody status. The court may impose as a disciplinary sanction a term of incarceration in any boot camp, regimental discipline program, substance abuse treatment program, or other intensive treatment program operated within a state penitentiary; provided, that upon completion of the disciplinary sanction the offender must be returned to community custody, unless subsequently revoked from community custody for conviction of another felony offense. If the

offender intentionally refuses to complete the disciplinary sanction, the court may revoke the intermediate punishment to imprisonment as provided by law.

SECTION 20. AMENDATORY Section 39, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.1), is amended to read as follows:

Section 987.1 Sections ~~39~~ 987.1 through ~~63~~ 987.23 of this ~~act~~ title shall be known and may be cited as the "Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act".

SECTION 21. AMENDATORY Section 40, Chapter 133, O.S.L. 1997, as amended by Section 6, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.2), is amended to read as follows:

Section 987.2 A. For purposes of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act:

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

2. "~~Community sentence~~" or "~~community~~ Intermediate punishment" means a punishment authorized by law for a ~~criminal~~ felony offense which is specifically designed and imposed by the sentencing judge to hold the offender accountable for his or her criminal conduct ~~and,~~ address his or her primary treatment or rehabilitation need and to provide protection to the public from repeat criminal behavior. ~~A community sentence~~ An intermediate punishment is an alternative to traditional probation, suspended sentence or incarceration and is to be completed by the offender in a local community sentencing system. ~~and An intermediate punishment may include, but shall not be limited~~

~~to, any combination of~~ punishment allowable by law for the particular offense or any intervention ordered by the court;

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

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

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

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

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

7. "Division" means the Community Sentencing Division within the Department of Corrections which is the state administration agency for the Oklahoma ~~Community Sentencing~~ Intermediate

Punishments Act, the statewide community sentencing system, and all local community sentencing systems; and

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

B. For the purposes of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act, if a judicial district does not have a Chief Judge or if a judicial district has more than one Chief Judge, the duties of the Chief Judge provided for in the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act shall be performed by the Presiding Judge of the Judicial Administrative District.

SECTION 22. AMENDATORY Section 41, Chapter 133, O.S.L. 1997, as amended by Section 7, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.3), is amended to read as follows:

Section 987.3 ~~A.~~ The purposes of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act are to:

1. Protect the public by reducing felony offender recidivism for those offenders ordered to intermediate punishments and interventions pursuant to this act;

2. Establish a statewide community sentencing system with every county participating;

3. ~~Improve public safety while~~ Adequately supervise felony offenders ~~are punished under a court-ordered community sentence~~ intermediate punishment;

4. Provide a continuum of sanctions to the court for eligible felony offenders sentenced to an intermediate punishment within the community sentencing system;

5. Increase the availability of ~~punishment and treatment options~~ prison space for violent offenders and offenders with very high risks to recidivate by providing appropriate cost effective

intermediate punishments and interventions to eligible felony offenders sentenced to intermediate punishments;

6. Improve the criminal justice system within this state through public/private partnerships, reciprocal and interlocal governmental agreements, and interagency cooperation and collaboration; and

~~6.~~ 7. Operate effectively within the allocation of state and local resources for the criminal justice system.

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

SECTION 23. AMENDATORY Section 42, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.4), is amended to read as follows:

Section 987.4 On or before September 1, 1997, the Chief Judge of the Judicial District shall establish the geographic boundaries of a community sentencing system which shall be the boundaries of each county, unless the Chief Judge establishes one or more multicounty community sentencing systems consisting of two or more contiguous counties within ~~said~~ the judicial district; provided, however, the sheriff of each affected county and each district attorney operating within each of the subject counties shall consent to such county's membership in any proposed multicounty community sentencing system. After September 1, ~~1997~~ 1999, multicounty community sentencing systems may be established by the Chief Judge of a Judicial District ~~with the consent of the sheriff of each affected county, each district attorney operating within the subject counties, and~~ in such manner as provided by the rules promulgated by the Community Sentencing Division within the Department of Corrections.

SECTION 24. AMENDATORY Section 43, Chapter 133, O.S.L. 1997, as amended by Section 8, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.5), is amended to read as follows:

Section 987.5 A. On or before September 30, 1997, a community sentencing system planning council shall be established for each jurisdiction defined by the judge as provided in Section 42 987.4 of ~~the Truth in Sentencing Act~~ this title. Once a planning council has been established, the council may not withdraw participation in the statewide community sentencing system.

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

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

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

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

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

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

C. Multicounty planning councils shall have membership ~~as follows~~ consisting of at least the following:

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

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

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

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

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

Nothing in this subsection shall preclude a multicounty system from selecting a representative from each of the participating offices of the sheriff, district attorney, and board of county commissioners, provided the number of citizen members equals or is greater than the number of sheriffs, district attorneys, and county commissioners serving on the multicounty planning council.

D. In the event the required planning council has not been established as provided by subsection A of this section for any county or as provided in Section ~~42~~ 987.4 of ~~the Oklahoma Truth in Sentencing Act~~ this title or should a council cease to actively function as determined by the Community Sentencing Division of the Department of Corrections, the Chief Judge of the Judicial District upon notification by the Department of Corrections shall appoint five or more persons to serve as the planning council in addition to a designated judge. All membership appointments required by this subsection shall be made on or before the first day of October 17, 1997 of each year. Every planning council shall have a judge who shall be either the Chief Judge of the Judicial District or a judge having duties within the jurisdiction appointed by the Chief Judge. The Chief Judge making the appointments of a planning council pursuant to the provisions of this subsection shall decide whether the planning council shall be a single county planning council or a multicounty planning council. If a Chief Judge of a Judicial District will not serve as a member of a planning council or make any of the required appointments, the Chief Justice of the Supreme

Court shall direct another judge of the jurisdiction to make the appointments or serve as the designated judge.

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

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

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

H. The designated judge shall convene the initial meeting of the planning council within fifteen (15) days following the establishment of the council. At the initial meeting of the planning council, the membership shall elect a chair from its members who shall preside at all meetings of the council and perform such other duties as may be required by law. The planning council

may elect another member as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act, a secretary who shall keep minutes of all meetings, and other officers as necessary. After the initial officers have been elected, officers may be elected annually thereafter.

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

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

SECTION 25. AMENDATORY Section 44, Chapter 133, O.S.L. 1997, as amended by Section 9, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.6), is amended to read as follows:

Section 987.6 Each community sentencing planning council created pursuant to the provisions of ~~Sections 42 of the Oklahoma Truth in Sentencing Act and~~ Section 987.4 of this ~~act~~ title shall:

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

according to the provisions of the law and any rules promulgated by the Community Sentencing Division of the Department of Corrections;

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

3. Prepare a detailed plan within the provisions of law and rule each fiscal year with an accompanying budget for the local community sentencing system;

4. Identify local resources by type, cost and location which are available to serve the court for eligible felony offenders sentenced to ~~the community~~ an intermediate punishment or intervention;

5. Recommend and identify qualified service providers to deliver services to the court for eligible felony offenders sentenced to ~~the community~~ an intermediate punishment or intervention;

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

7. Assist in preparing information necessary for qualified services to support the local community sentencing system plan as provided in Section ~~10~~ 987.7 of this ~~act~~ title;

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

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

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

11. Identify various sources of funding and resources for the local community sentencing system including a variety of free services available to the court;

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

13. Assist in promoting local involvement and support for the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act.

SECTION 26. AMENDATORY Section 45, Chapter 133, O.S.L. 1997, as amended by Section 10, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.7), is amended to read as follows:

Section 987.7 A. A detailed plan for each local community sentencing system shall be submitted each fiscal year to the Community Sentencing Division within the Department of Corrections pursuant to the rules promulgated for such purpose. ~~The initial plan shall be submitted on or before February 1, 1998.~~ The designated judge of the planning council shall review the range of services proposed in the plan and declare in writing that the proposed services meet the needs of the court for purposes of sentencing pursuant to the authority of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act ~~and the local jurisdiction.~~ The judge shall forward the plan to the Division for state approval and appropriate funding. A plan that conforms with the ~~requirements~~ mandated services required by the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act shall not be modified or disapproved except when the plan requires more funding than is allocated to the local system. Each local community sentencing system plan shall include, but not be limited to:

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

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

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

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

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

6. Identification of local policy statements;

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

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

9. Identification of program evaluation methods and results, and criteria or minimal program standards;

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

11. Identification of any special administrative structure of the local system and list of specific service providers participating in the system, including detailed qualifications of staff and program administrators; and

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

B. A local community sentencing system plan may be modified or expanded as provided by the rules promulgated for that purpose by

the Community Sentencing Division within the Department of Corrections.

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

D. A local administrator as provided in Section ~~14~~ 987.13 of this ~~act~~ title shall assist the local planning council in gathering and keeping accurate information about the jurisdiction to support the planning process. For the previous two (2) years, the information pertaining to the jurisdiction shall include, but not be limited to:

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

Corrections, and average length of sentence served in the custody of the Department of Corrections;

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

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

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

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

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

7. Approved local system plans and budgets.

SECTION 27. AMENDATORY Section 46, Chapter 133, O.S.L. 1997, as amended by Section 11, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.8), is amended to read as follows:

Section 987.8 A. A community sentencing system established pursuant to the provisions of the Oklahoma ~~Community Sentencing Intermediate Punishments~~ Act shall include those ~~services and~~ intermediate punishments and interventions enumerated and funded in the annual plan submitted to the Community Sentencing Division within the Department of Corrections and any other services or

punishments subsequently added and funded during a plan year. ~~Each~~
After an initial two-year operational period, each community
sentencing system shall be required to provide an appropriate range
of services ~~and~~ for intermediate punishments and interventions
making a continuum of sanctions available to the court for
intermediate sentencing. Said Intermediate punishment options may
not be utilized for offenders ~~sentenced pursuant to the applicable~~
~~state sentencing matrix or otherwise as provided by law for criminal~~
~~sentences~~ not meeting the eligibility criteria of programs and score
requirements for the Level of Services Inventory (LSI) or other
approved assessment. Each local system shall be required to have
available to the court all of the following ~~services intermediate~~
punishments for ~~both eligible felony and misdemeanor offenses~~
offenders sentenced during the first two years of implementation:

1. Community service with or without compensation to the
offender;
2. Substance abuse treatment and availability for periodic drug
testing on offenders following treatment;
3. Varying levels of supervision by the Department of
Corrections probation officers or another qualified supervision
source;
4. Education and literacy provided by the State Department of
Education, the county library system, the local school board, or
another qualified source;
5. Employment opportunities and job skills training provided by
the State Department of Vocational Technical Education or another
qualified source; and
6. Enforced collections provided by the local court clerk, or
another state agency; and
7. The availability of county jail or another restrictive
housing facility for limited disciplinary sanctions.

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

~~1. Full or partial restitution to the victim according to a schedule of payments established by the sentencing court, with or without interest at the rate of twelve percent (12%) per annum;~~

~~2. Reimbursement to any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims as a result of the criminal act for which the defendant is convicted, with or without interest accruing thereon at the rate of twelve percent (12%) per annum;~~

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

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

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

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

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

~~8. Repayment of the reward or part of the reward paid by a certified local crime stoppers program, the State Crime Stoppers Program, or the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crime stoppers program" means a crime stoppers program certified by the Office of the Attorney General pursuant to Section 991g of Title 22 of the Oklahoma Statutes. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;~~

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

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

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

~~12. Placement in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the~~

~~program of not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program to offset the cost of participation by the defendant;~~

~~13. Installation of an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater;~~

~~14. Confinement by electronic monitoring administered and supervised by the Department of Corrections or a community corrections provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars (\$75.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph,~~

~~"electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person;~~

~~15. One or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization;~~

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

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

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

~~19. Positive behavior modeling by a trained mentor;~~

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

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

~~22. Employment or employment-related activities;~~

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

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

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

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

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

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

~~29. Any other provision specifically ordered by the court;~~

~~30. In the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited~~

~~to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems; and~~

~~31. In the case of a sex offender, require the person to participate in a treatment program, if available. The treatment program must be approved by the person who has supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay. For purposes of this provision, "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes that is otherwise available for a suspended sentence; provided, however, the state shall pay for the intermediate punishment or intervention when the offender does not have the financial ability to pay for the court-ordered sanction. Provided, however, in all cases when an offender is sentenced to an intermediate punishment, the offender shall be ordered as part of the terms and conditions of the sentence to pay for the intervention, based upon ability to pay. Payments may be as provided by court order or pursuant to periodic payment schedules established by the service provider.~~

SECTION 28. AMENDATORY Section 47, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.9), is amended to read as follows:

Section 987.9 A. Any offender sentenced to ~~a community sentence~~ an intermediate punishment or intervention pursuant to the ~~applicable state sentencing matrix~~ Oklahoma Intermediate Punishments Act which requires supervision, ~~or otherwise as authorized by law for a suspended or deferred sentence with supervision,~~ shall be required to pay a supervision fee. The supervising agency shall establish the fee amount, not to exceed Forty Dollars (\$40.00) per month, based upon the offender's ability to pay. In hardship cases the supervising agency may expressly waive all or part of the fee. No supervising agency participating in a local community sentencing

system shall deny any offender supervision services for the sole reason that the offender is indigent. Fees collected for supervision services performed by the Department of Corrections shall be paid directly to the Department to be deposited in the Department of Corrections Revolving Fund.

B. In addition to any supervision fee ~~required~~, offenders participating in a local community sentencing system under a court-ordered intermediate punishment shall be required to pay ~~a user fee for an administrative services from~~ fee to support the local system which shall not exceed Twenty Dollars (\$20.00) per month to be set by the ~~local administrator~~ court. ~~User~~ Administrative fees when collected shall be deposited with the Community Sentencing Division within the Department of Corrections and credited to the local community sentencing system for support and expansion of the local community corrections system. In the event the court fails to order the amount of the administrative fee, the fee shall be Twenty Dollars (\$20.00) per month. Supervision services performed by agencies other than the Department shall be paid directly to that agency.

C. In addition to any supervision fee ~~or user~~ and administrative fee authorized by this section, the court shall assess court costs, and may assess program reimbursement costs, restitution, and fines to be paid by the offender ~~as the punishment imposed, subject to the person's ability to pay.~~ With the exception of supervision fees, other fees, costs, fines, restitution, or monetary obligations ordered to be paid by the offender shall not cease with the termination of active supervision and such obligations shall continue until fully paid. No offender shall be released from an intermediate punishment until all financial obligations have been paid.

SECTION 29. AMENDATORY Section 48, Chapter 133, O.S.L. 1997, as amended by Section 12, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.10), is amended to read as follows:

Section 987.10 A. It is the responsibility of the planning council, the sentencing judge, and the local administrator to ensure that the expenditure of funds within the local community sentencing system is appropriately made only for eligible offenders within the range of services offered to the court ~~and for the risk/needs of individual offenders sentenced to community~~. It is further the responsibility of the local system, the prosecutor, the defense attorney, and sentencing court to keep an awareness of the local correctional resources and to utilize those resources in the most efficient manner when punishing eligible offenders with intermediate punishments or interventions.

B. The sentencing judge when ~~administering~~ imposing any punishment pursuant to the provisions of the Oklahoma ~~Community Sentencing Intermediate Punishments~~ Act shall, ~~whenever possible,~~ balance the needs for public safety and costs by providing the most appropriate intermediate punishment and or the most cost-effective ~~treatment~~ intervention specifically targeted for the offender's needs as determined by the Level of Services Inventory (LSI) report.

C. The state and local community sentencing systems are resource limited and no supplemental funding will be available during the fiscal year should the availability of state and local funding be exhausted. The statewide system and each local system is required to continually monitor sentencing practices, and eligibility requirements, prioritize expenditures, and ~~to~~ operate within available resources for eligible felony offenders.

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

exhausted, intermediate punishments shall not be available to the court at state expense.

SECTION 30. AMENDATORY Section 49, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.11), is amended to read as follows:

Section 987.11 Each service provider contracting with the state pursuant to the Oklahoma Intermediate Punishments Act shall be required to have a performance-based evaluation within two (2) years of participating in a local community sentencing system. The initial performance-based evaluation of a program or service shall be made two (2) years from the date a program or service is first designated in the local system plan and funded, provided the program or service continues to be included in the local system plan during a second or subsequent plan year. After an initial evaluation, the program or service shall be reviewed annually when the program or service continues to be designated as part of the local system plan. The Community Sentencing Division within the Department of Corrections may establish other criteria for evaluating programs and services, and shall establish procedures by rule for review of the evaluations prior to any renewal of service provider agreements or selection of new service providers. Evaluations shall apply to state agencies offering services pursuant to the provisions of the Oklahoma Intermediate Punishments Act.

SECTION 31. AMENDATORY Section 50, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.12), is amended to read as follows:

Section 987.12 A. Any person sentenced to ~~a community~~ an intermediate punishment pursuant to the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act shall not be deemed an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment

Center. Persons sentenced to ~~community~~ an intermediate punishment or intervention pursuant to ~~the applicable state sentencing matrix~~ or otherwise as authorized by law the Oklahoma Intermediate Punishments Act, shall be in community custody within the county and under state jurisdiction.

B. Except as otherwise specifically provided by law, persons sentenced to ~~a community~~ an intermediate punishment or intervention shall not have medical or dental expenses paid by the Department of Corrections or reimbursed by the Community Sentencing Division. ~~Each local community sentencing system shall be required to budget for minor required medical or dental expenses for persons participating in the local system. The local system shall request a medical or dental co-payment for any medical or dental services delivered to offenders sentenced to a community punishment.~~

C. The local administrator may request the Community Sentencing Division within the Department of Corrections to provide emergency medical assistance ~~to a local community sentencing system or to an individual offender when the~~ medical emergency is ~~beyond the budget of the local system~~ related to a period of court-ordered confinement. When a request for emergency medical services is made, the Division shall ~~negotiate the~~ consider necessary emergency medical assistance ~~through an appropriate state agency~~ on a case-by-case basis.

D. Any felony offender requiring extensive medical treatment or services relating to confinement, which is a court-ordered part of a ~~community sentence pursuant to the authority of the applicable state sentencing matrix~~ an intermediate punishment, may be transferred to the Department of Corrections for appropriate medical treatment upon order of the court. The offender shall be returned to the local system following the necessary medical treatment or upon completion of the sentence whichever occurs first.

E. ~~1.~~ The state will pay all required medical expenses while a person is incarcerated in the county jail under a disciplinary sanction for an intermediate punishment, provided the state has the obligation to pay for the term of incarceration pursuant to the provisions of ~~this act~~ the Oklahoma Intermediate Punishments Act. ~~For persons sentenced under the authority of Field 2 or Field 3 punishment levels of the matrices, the state will pay required medical expenses for a maximum of one (1) year while incarcerated in the county jail. If the sentencing judge under the authority of Field 2 or Field 3 punishment levels orders any term of imprisonment less than one (1) year, the state will pay required medical expenses for up to a total of one (1) year for incarceration and disciplinary jail sanctions combined.~~

~~2. The state will pay up to a maximum of thirty (30) days on required medical expenses while a person is incarcerated in the county jail pursuant to Field 4 punishment levels of the state's sentencing matrix, and this shall be only for required medical expenses occurring during periods of disciplinary sanction in the county jail.~~

SECTION 32. AMENDATORY Section 51, Chapter 133, O.S.L. 1997, as amended by Section 13, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.13), is amended to read as follows:

Section 987.13 A. Each local community sentencing system shall operate under the supervision of a local administrator who shall be employed by the Community Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

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

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

3. Provide the court with a listing of available services within the local community sentencing system for purposes of imposing ~~a community sentence~~ an intermediate punishment against an eligible felony offender;

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

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

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

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

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

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

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

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

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

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

B. The local administrator shall ~~supervise~~ collaborate with and assist all existing county employees when a county has a preexisting community program operated at county expense by county employees and that program and preexisting staff are qualified to carry out the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act. The Division shall promulgate rules for continuing an existing program. An existing community service program that was in existence prior to January 1, 1997, shall not be terminated without the approval of the Department of Corrections.

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

SECTION 33. AMENDATORY Section 52, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.14), is amended to read as follows:

Section 987.14 A. There is hereby created within the Department of Corrections the "Community Sentencing Division". The purpose of the ~~agency~~ Division shall be to implement and administer the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act and any provisions of law relating to the operation and management of a statewide community sentencing system.

B. The Community Sentencing Division shall employ an executive management staff consisting of a deputy director and such other employees as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees. In addition to the executive management staff, there shall be an

appropriate number of local community sentencing system administrators as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees of the Division. The deputy director of the Division shall report directly to the Director of the Department of Corrections. The Legislature shall provide the Department of Corrections sufficient funds for administrative support to the Division, and the Division shall have a separate legislative appropriation for the implementation and operation of the statewide community sentencing system pursuant to the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act. The Director of the Department of Corrections shall hire and set the salary of the executive management staff. The deputy director of the Division shall hire the local administrators.

SECTION 34. AMENDATORY Section 53, Chapter 133, O.S.L. 1997, as amended by Section 14, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.15), is amended to read as follows:

Section 987.15 The Community Sentencing Division within the Department of Corrections shall have the duty to:

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

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

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

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

a. corrections system design,

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

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

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

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

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

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

10. Request post audits of state funds;

11. Monitor and coordinate local systems;

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

13. Report annually by January 15 to the Legislature and Governor on the statewide system. The report shall provide an evaluation of the effectiveness of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act in terms of public safety, appropriate range of ~~community~~ intermediate punishments, cost-effectiveness,

performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource allocation, and reduced state and local institutional receptions, if any; and

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

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

SECTION 35. AMENDATORY Section 16, Chapter 133, O.S.L. 1997, as amended by Section 15, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.16), is amended to read as follows:

Section 987.16 A. Each fiscal year the Community Sentencing Division within the Department of Corrections shall establish a statewide community sentencing system budget to meet legislative appropriations for that purpose. The statewide community sentencing budget shall provide goals and funding priorities for ~~community intermediate punishment and treatment within the applicable state sentencing matrices and~~ interventions as otherwise provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. In the annual appropriation for the Oklahoma Intermediate Punishments Act, the Legislature shall establish the estimated number of

offenders to be served and the average funding per person. A funding formula shall be developed for allocation of state appropriated funds to each local system for day-to-day operation during a fiscal year. The Division and each of the local community sentencing systems are required to operate within the appropriated funds. The state shall require each local community sentencing system to identify resources other than state funds as part of the funding formula. The Division shall establish procedures for disbursement of state funds to service providers, and shall disburse state funds in a timely manner.

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

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

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

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

C. The Community Sentencing Division within the Department of Corrections shall review and evaluate all community sentencing system plans and budget requests when plans are submitted for approval and funding. The Division is directed to automatically approve all plans complying with the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments 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 and that the plan meets all required services. Modification to a local plan shall be for budgetary purposes, as provided in Section ~~10~~ 987.7 of this ~~act~~ title, and for compliance with law and rule.

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

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

G. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section ~~62~~ 557.1 of ~~the Oklahoma Truth in Sentencing Act~~ 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 ~~is~~ 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.

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

I. For purposes of calculating state funding for local community sentencing systems ~~budgets for various punishment levels of the state's sentencing matrices,~~ supervision, treatment, and education shall be the first funding priorities and all mandatory services must be funded by every participating community sentencing system before innovation or optional services are funded.

SECTION 36. AMENDATORY Section 55, Chapter 133, O.S.L. 1997, as amended by Section 16, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.17), is amended to read as follows:

Section 987.17 A. ~~On or before January 1, 1998, the following state agencies shall each develop and report to the Community Sentencing Division within the Department of Corrections their respective assessment and evaluation test for areas under their authority and expertise and the appropriate scoring method for such test:~~

~~1. The Department of Corrections;~~

~~2. The Office of Juvenile Affairs;~~

~~3. The Department of Mental Health and Substance Abuse Services;~~

~~4. The State Department of Health;~~

~~5. The State Department of Education; and~~

~~6. The Oklahoma Department of Vocational and Technical Education.~~ The Community Sentencing Division of the Department of Corrections shall utilize the Level of Services Inventory (LSI) assessment instrument, or another assessment that evaluates criminal risk to recidivate with criminogenic needs, to evaluate all eligible felony offenders sentenced to intermediate punishments under the Oklahoma Intermediate Punishments Act. This assessment shall not be waived and is required for eligibility determination.

B. ~~The Community Sentencing Division within the Department of Corrections shall assemble the various tests into one standardized test for use by all local community sentencing systems in making the required assessment and evaluation for a community sentence. The Administration Office of the Courts shall assist in promulgating instructions and forms necessary for the courts' use of the required assessment. The~~ In collaboration with the Community Sentencing Division of the Department of Corrections, all state agencies enumerated in subsection A of this section shall provide technical assistance necessary to implement and monitor the Oklahoma Community Sentencing Intermediate Punishments Act in the areas of their expertise and experience, and shall offer services to local community corrections sentencing systems, subject to availability of funding.

C. All participating state agencies and local planning councils are directed to promulgate rules necessary to implement the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act. When promulgating the rules, participating state agencies and local planning councils shall ~~coordinate their rules to~~

~~the extent possible to~~ collaborate with the Community Sentencing Division so their rules enhance the effectiveness of the statewide community sentencing system and statewide goals established for the criminal justice system.

SECTION 37. AMENDATORY Section 56, Chapter 133, O.S.L. 1997, as amended by Section 14, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (22 O.S. Supp. 1998, Section 987.18), is amended to read as follows:

Section 987.18 A. On and after July 1, 1999, ~~in lieu of a presentence investigation provided in Section 982 of this title,~~ for each ~~community sentence case~~ felony offender considered for any intermediate punishment pursuant to the Oklahoma Intermediate Punishments Act, the judge shall, ~~prior to making a determination of punishment and imposing any community punishment or service authorized by law, or imposing any other sentence authorized by law which would receive services from the local system~~ sentencing, order an assessment and evaluation of the defendant ~~to assist the court in determining the offender's primary treatment need, appropriate community punishment, and potential risk to public safety if the offender is sentenced in the community~~ as required by law.

B. The Level of Services Inventory (LSI), or another assessment and evaluation instrument designed to predict risk to recidivate and criminogenic needs and approved by the Community Sentencing Division of the Department of Corrections, shall be ~~utilized~~ required to determine eligibility for any offender sentenced pursuant to the Oklahoma Intermediate Punishments Act. The completed assessment accompanied by a written intervention and supervision plan shall be presented to and reviewed by the court prior to determining any punishment for the offense. The purpose of the assessment shall be to identify the extent of the defendant's deficiencies and pro-social needs, the potential risk to commit additional offenses that

threaten public safety, and the appropriateness of various community intermediate punishments.

C. ~~The~~ Upon order of the court, the defendant shall be required to ~~complete a standardized~~ submit to the LSI or other approved assessment ~~and evaluation test~~ which shall be administered and scored by an appropriately trained person designated by the court or pursuant to a service agreement with the local community sentencing system. Any defendant lacking sufficient skills to ~~read,~~ comprehend or otherwise ~~complete~~ participate in the assessment and evaluation ~~test~~ shall have appropriate assistance ~~or may have an oral~~ assessment and evaluation ~~based upon the standardized test form.~~ If it is determined that the offender cannot be adequately evaluated using the LSI or another approved assessment, the offender shall be deemed ineligible for any intermediate punishment pursuant to the Oklahoma Intermediate Punishments Act, and shall be sentenced as prescribed by law for the offense.

D. The willful failure or refusal of the defendant to be assessed and evaluated by using the LSI or another approved assessment shall not prohibit the court from sentencing the defendant according to law, but shall preclude the defendant from eligibility for any intermediate punishment or intervention.

E. The completed LSI, or other approved assessment, shall include a written intervention and supervision plan. The recommendation shall include a statement for or against probation, suspended or split sentence, and must identify an appropriate intermediate punishment, if any, when the offender is considered eligible for intermediate punishments based upon the offenders completed risk/need score from the LSI assessment. Any offender scoring below or above the moderate to medium-high risk/need levels on the LSI assessment shall not be eligible for any state funded intermediate punishments or interventions.

F. The court is not required to sentence any offender to an intermediate punishment regardless of an eligible score on the LSI. Any felony offender scoring in the low risk/need levels on the LSI may be sentenced to probation or suspended sentence with minimal, if any, conditions of the sentence to be paid by the offender. Any felony offender scoring in the high risk/need levels may be sentenced to a structured environment, jail, or prison with or without intervention programs. Nothing in this section shall preclude the court, in its discretion, from ordering any sentence allowable by law for any offender; provided, however, if the LSI or another assessment has been conducted, the evaluation report shall accompany the judgment and sentence.

G. Any offender sentenced to any intermediate punishment or intervention without a properly completed LSI, or other approved assessment, indicating the required target eligibility score and accompanied by a written intervention plan shall be returned to the court for resentencing.

SECTION 38. AMENDATORY Section 57, Chapter 133, O.S.L. 1997, as amended by Section 17, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.19), is amended to read as follows:

Section 987.19 A. ~~When ordering a community sentence or community~~ any intermediate punishment ~~pursuant to the applicable state sentencing matrix or as otherwise provided by law,~~ the court shall first impose the punishment ~~appropriate for the~~ offense as ~~authorized~~ prescribed by law, and ~~may~~ shall then order the ~~appropriate treatment as authorized by law~~ intermediate punishment or intervention as an alternative sentence to traditional probation or incarceration. The design of the intermediate punishment shall be based upon the supervision and intervention report from the Level of Services Inventory (LSI), or other approved assessment. The local community sentencing system administrator shall have authority

for all offender placements within the local community sentencing system pursuant to court-ordered intermediate punishments.

B. Persons convicted of or pleading guilty or nolo contendere to a ~~misdemeanor offense or a~~ combination of misdemeanor and felony offenses may receive ~~services from a local community sentencing system~~ an intermediate punishment when the county agrees in writing to pay the Community Sentencing Division within the Department of Corrections for the actual costs of services used for misdemeanor cases; provided, however, this provision shall not preclude any felony offender from receiving services as required by law. The community sentencing planning council as provided in Sections 8 and 9 of this act shall recommend to the local administrator whether or not any programs or services will be offered for misdemeanor cases. The Community Sentencing Division shall have the responsibility for entering into the written agreement with the county for the required payments since ~~no~~ sentences are to be served consecutively and the offender is otherwise eligible for an intermediate punishment. No state funds shall be used to pay for misdemeanor offenses.

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

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

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

E. If the court considers a motion to modify a ~~community sentence~~ an intermediate punishment, a hearing shall be held in open court. The notice of the hearing shall be given to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was convicted not less than ten (10) days prior to the hearing. A copy of any reports to be presented to the court shall accompany the notice of hearing.

F. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any ~~community sentence~~ intermediate punishment by imposing any other punishment allowed by law for the offense and appropriate for the circumstances as determined by the discretion of the judge; provided, however, no punishment shall be imposed which is greater than the maximum punishment allowed by law for the original offense. The court shall give the offender day-for-day credit on any modified sentence for any ~~community time served, whether or not any term of incarceration was imposed.~~ The court may ~~decline to modify a community sentence and~~ impose either a disciplinary sanction or an incentive as provided in Section ~~58 of the Oklahoma Truth in Sentencing Act~~ 987.20 of this title in lieu of or together with any modification authorized by this section.

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

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

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

J. For purposes of the Oklahoma ~~Community Sentencing Intermediate Punishments Act and the state's sentencing matrices for Fields 2, 3 and 4 punishment levels~~, any offender convicted and sentenced ~~for~~ as a first time ~~community sentence shall~~ offender may have the criminal record expunged for that offense upon a successful completion of the ~~community sentence~~ intermediate punishment. When the local administrator of the community corrections system where the offender has served ~~the sentence~~ an intermediate punishment has filed the final documentation of completion of the ~~community sentence~~ and all court-ordered financial obligations have been fully paid, the court ~~shall~~ may order the verdict or plea of guilty or plea of nolo contendere to be expunged for that offense from the record and the charge dismissed of record. ~~For subsequent offenses for which the person is convicted, the effect of this provision~~

~~shall be to treat the first expungement as a prior conviction when applying any applicable enhancements.~~

SECTION 39. AMENDATORY Section 58, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.20), is amended to read as follows:

Section 987.20 A. Upon proper motion to the court to modify a ~~community sentence~~ an intermediate punishment as provided in Section ~~57~~ 987.19 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 ~~used~~ imposed only to gain compliance with the ~~original court order. The Community Sentencing Division within the Department of Corrections shall establish maximum funding of disciplinary sanctions for targeted offenses within the state's sentencing matrices. Disciplinary sanctions ordered in excess of the established funding priorities shall not be reimbursed by the state~~ terms of the court-ordered intermediate punishment. The court may order any ~~community punishment~~ disciplinary sanction available and funded in the jurisdiction that is deemed appropriate by the judge for the circumstance including, but not limited to, electronic monitoring, intensive supervision, house arrest, drug testing, additional educational or treatment interventions, confinement pursuant to Section 982a of this title, or a term of imprisonment not to exceed ~~five (5)~~ 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.

~~The~~ When the offender is to be confined, the sheriff shall 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 offender shall be given day-for-day credit for any terms of incarceration served in a state penitentiary, the county jail or other restrictive facility when the sentence ~~must be~~ is modified ~~or~~ ~~revoked~~ pursuant to the provisions of this section.

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. ~~The~~ When a motion for modification has been filed pursuant to Section 987.19 of this title, the court shall have authority to offer incentives to offenders to encourage proper conduct in the community and for compliance with the ~~court orders~~ intermediate punishments. The court shall use its discretion in ordering appropriate incentives. Incentives shall be considered a reduction and modification to the ~~original sentence~~ intermediate 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 subsection B of Section 38 of Title 57 of the Oklahoma Statutes, ~~or the amount provided by a service agreement with a private provider included in the local system plan~~.

E. The Department of Corrections is prohibited from accepting offenders into any state ~~correctional facilities~~ penitentiary for disciplinary sanctions ~~and is prohibited from contracting to pay for any offender imprisoned in the county jail for disciplinary~~

~~sanctions or when sentenced to another restrictive facility as a disciplinary sanction; provided, however, the Department shall pay for any parolee or inmate serving a community assignment pursuant to law when that person must be imprisoned in the county jail for a disciplinary sanction authorized by the Department of Corrections except as provided by Section 982a of this title.~~

SECTION 40. AMENDATORY Section 59, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.21), is amended to read as follows:

Section 987.21 Any law directing earned credits during periods of imprisonment or otherwise, including 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, shall not be applicable to persons sentenced to ~~a community sentence~~ alternative sentences or intermediate punishments pursuant to the provisions of ~~this act~~ the Oklahoma Intermediate Punishments Act. Day-for-day credits shall be given to offenders who have ~~community~~ alternative sentences revoked to county jail or state prison and also shall be given when ~~a community sentence~~ an intermediate punishment is modified.

SECTION 41. AMENDATORY Section 60, Chapter 133, O.S.L. 1997, as amended by Section 18, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.22), is amended to read as follows:

Section 987.22 A. Any offender sentenced to an intermediate punishment and ordered to participate in the local community sentencing system shall be advised of the conditions of the specific program or service to which he or she is assigned.

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

the offender, except by written consent of the offender. Provided, however, when an offender willfully refuses to participate in any intermediate punishment, the court may modify or revoke the sentence.

C. Prior to completing ~~a community~~ an intermediate punishment pursuant to the requirements of the state's sentencing matrix or any other provisions of law, the offender may, in special circumstances, request a reciprocal assignment in another jurisdiction to complete the terms and conditions of the ~~community~~ intermediate punishment. Each ~~approved~~ community sentencing system shall have entered into a reciprocal agreement for services with the other jurisdiction, and shall have the approval of the receiving jurisdiction and a court order from the court having jurisdiction of the offender before any transfer of the person, case, and services shall be made.

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

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

F. ~~A community sentence pursuant to the state's sentencing matrix or any other provisions of law~~ An intermediate punishment pursuant to the Oklahoma Intermediate Punishments Act shall not require active supervision, programs or services for more than three

(3) years, but may continue beyond the three-year limitation for purpose of completing court-ordered monetary obligations.

SECTION 42. AMENDATORY Section 61, Chapter 133, O.S.L. 1997, as amended by Section 19, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.23), is amended to read as follows:

Section 987.23 All state and local government agencies, community service agencies, nonprofit organizations, ~~education~~ educational or vocational-technical entities, and other providers participating in a community sentencing system or contracting to provide services to the system pursuant to the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in ~~an approved~~ a community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

SECTION 43. AMENDATORY Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 990), is amended to read as follows:

Section 990. A. For purposes of this ~~act~~ title:

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; and

6. "Intermediate Punishment" means an alternative to incarceration, traditional probation, suspended sentence, split-sentence, or delayed sentence that is authorized by the provisions of the Oklahoma Intermediate Punishments Act.

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, 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~~ and sentenced to an intermediate punishment pursuant to the Oklahoma Intermediate Punishment Act.

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,
- b. a qualified provider for the local community sentencing system, or
- c. 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~~ determined by the supervising agency and may ~~later~~ be modified as ~~provided in this section as~~ the offender demonstrates compliance or noncompliance 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 to the designated person 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)~~ five (5) 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 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~~

b. the Department of Corrections.

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.

F. The following conditions are authorized for suspended, split and delayed sentences, subject to availability in the jurisdiction:

1. Full or partial restitution to the victim according to a schedule of payments established by the sentencing court, with or without interest at the rate of twelve percent (12%) per annum;

2. Reimbursement to any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims as a result of the criminal act for which the defendant is convicted, with or without interest accruing thereon at the rate of twelve percent (12%) per annum;

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

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

5. Payment of a reasonable sum to the Crime Victims

Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims;

6. Confinement in the county jail for a period not to exceed

one (1) year as authorized in Section 991a-2 of Title 22 of the Oklahoma Statutes;

7. Reimbursement to the court fund for amounts paid to court-

appointed attorneys for representing the defendant in the case in which the person is being sentenced;

8. Repayment of the reward or part of the reward paid by a

certified local crime stoppers program, the State Crime Stoppers Program, or the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crime stoppers program" means a crime stoppers program certified by the Office of the Attorney General pursuant to Section 991g of Title 22 of the Oklahoma Statutes. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;

9. Reimbursement to the Oklahoma State Bureau of Investigation

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

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

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

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

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

14. Confinement by electronic monitoring administered and supervised by the Department of Corrections or a community

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

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

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

17. Payment of a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof

as determined by the court, based upon the defendant's ability to pay the fees or costs;

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

19. Positive behavior modeling by a trained mentor;

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

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

22. Employment or employment-related activities;

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

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

25. Blood testing as required by Section 588 of Title 57 of the Oklahoma Statutes;

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

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

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

29. 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;

30. 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; and

31. Any other provision specifically ordered by the court.

SECTION 44. AMENDATORY Section 1, Chapter 191, O.S.L. 1998 (22 O.S. Supp. 1998, Section 990.1), is amended to read as follows:

Section 990.1 A. The Administrative Office of the Courts in collaboration with the Department of Corrections through both the Community Corrections/Probation and Parole Division and the Community Sentencing Division shall establish a uniform supervision form to be distributed to and used by the district courts of this state for felony offenders sentenced to supervision under a sentence of probation, a suspended sentence, a split sentence, a delayed sentence, ~~and a community sentence~~ or an intermediate punishment. The form shall comply with the provisions of Section 990 of Title 22 of the Oklahoma Statutes and any other statutory authority for

supervision of court orders. The form shall provide sufficient space for the sentencing judge to write orders for specific conditions of the sentence as provided in ~~paragraph B of Section 987.8 990 of Title 22 of the Oklahoma Statutes~~ this title and for orders enumerating amounts, schedules, and designation of payments for restitution, reimbursements, repayments, costs, fees, court costs, and statutory fines. The form shall be completed and implemented by July 1, 1998.

B. The Administrative Office of the Courts shall promulgate rules necessary to carry out the implementation of the provisions of this section by the judiciary. The Department of Corrections through both the Community Corrections/Probation and Parole Division and the Community Sentencing Division shall promulgate rules necessary to carry out the implementation of the provisions of this section by persons under their authority.

SECTION 45. AMENDATORY Section 8, Chapter 133, O.S.L. 1997, as last amended by Section 15, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (22 O.S. Supp. 1998, 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, 1999, a court shall utilize the sentencing procedures provided for in this section.

B. ~~When considering~~ The court shall order any required presentence investigation or Level of Services Inventory (LSI) assessment be conducted, and the court shall consider the findings of any alleged offense enhancers provided for by subsection A of Section 17 of Title 21 of the Oklahoma Statutes or any alleged prior record enhancers provided for by subsection B of Section 17 of Title 21 of the Oklahoma Statutes, if the findings have been established by clear and convincing evidence such reports prior to sentencing.

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; range prescribed by law for incarceration, fine or both such fine and incarceration.~~

~~3. Third, the~~ D. The court shall proceed to the appropriate level of punishment based on ~~the finding of any offense enhancers~~ mandatory minimum terms of incarceration or prior record enhancers ~~determined by subsection A of this section;~~ and shall make written findings on the record if the mandatory minimum term of incarceration is to be waived.

~~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~~ E. When the offender is sentenced to community deemed eligible and appropriate for an intermediate punishment, the sentencing court shall pronounce the sentence prescribed by law for the offense and then proceed to determine at the sentencing hearing the terms and conditions of the sentence intermediate punishment which shall be ordered as an alternative sentence.

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

~~E.~~ F. When the offender is deemed appropriate for probation, deferred, suspended, split or delayed sentence, the court ~~in determining~~ shall determine the appropriate terms and conditions of a sentence ~~shall consider~~, if any, by considering those terms and conditions authorized in ~~subsection B of Section 987.8~~ 990 of this title ~~and punishments authorized for a community sentence~~. The terms and conditions of a deferred sentence, suspended sentence, split sentence, or ~~postimprisonment supervision~~ delayed sentence shall be provided for in the Uniform Judgment and Sentence form or shall comply with Section 991b of this title.

~~F.~~ G. 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. H.~~ H. The court shall impose the sentence deemed appropriate and allowed by law. 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 46. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 65, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), is amended to read as follows:

Section 991a. A. When a defendant is convicted of a crime and no death sentence is imposed, the court shall, ~~pursuant to any applicable state sentencing matrix, any requirement for a presentence investigation, or any requirement for an assessment and evaluation,~~ either:

1. Impose the fine prescribed by law for the offense;
2. Commit such person for a term of imprisonment in the custody of the Department of Corrections with or without a period of postimprisonment supervision as defined by Section 4 991c-1 of this ~~act~~ title, or commit such person for a term of imprisonment in the county jail as authorized by law for the offense;
3. Impose the fine and commit the person for imprisonment as prescribed by law for the offense; or

4. Impose a ~~community~~ an alternative sentence or intermediate punishment as authorized by law.

B. In addition to ~~paragraph 1, 2 or 3 of~~ subsection A of this section, the court may impose:

1. Restitution, reimbursement, repayment, or a combination of restitution, reimbursement, or repayment to be paid to the victims or other entities as reparations to the community and state; and

2. Other prescribed provisions for the offense.

C. In addition to the provisions of this section, the court may impose a suspended, split or delayed sentence as provided in Section ~~64~~ 990 of this ~~act~~ title, a deferred judgment as provided in Section 991c of ~~Title 22 of the Oklahoma Statutes~~ this title, night or weekend jail as provided by Section 991a-2 of ~~Title 22 of the Oklahoma Statutes~~, ~~postimprisonment supervision as defined by Section 4 of this act~~ this title or make any other disposition of a criminal case as authorized by law ~~or required by the state's sentencing matrix~~.

D. In all criminal cases, the judge shall impose court costs and consider any victim's impact statements presented to the court.

SECTION 47. AMENDATORY 22 O.S. 1991, Section 991a-2, as last amended by Section 66, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, 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 who is not sentenced to a deferred, suspended or intermediate punishment may be sentenced, at the discretion of the judge, to incarceration in the county jail as an alternative sentence to state prison for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision or a continuous term of confinement not exceeding one (1) year. 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; or~~

2. ~~Authorized by Section 991a-4 of this title; or~~

3. A condition of a split sentence, or 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 and 65 of this act~~ Section 990 of this 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~~ as a condition of the sentence. The cost of incarceration shall be as provided in Section 38 of Title 57 of the Oklahoma Statutes. ~~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 48. AMENDATORY 22 O.S. 1991, Section 991b, as last amended by Section 71, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991b), is amended to read as follows:

Section 991b. A. Any sentence which has been suspended by the court after conviction of a person for any crime may be revoked, in whole or part, for any cause as authorized by the provisions of this section.

B. A petition setting forth the grounds for revocation shall be filed by the district attorney with the clerk of the sentencing court. Competent evidence justifying the revocation of the suspended sentence shall be presented to the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant.

C. At the hearing for revocation of a suspended sentence, the court shall take testimony and review evidence presented, and if it appears to the satisfaction of the court that grounds for a revocation exist, the court shall revoke the suspended sentence.

D. 1. Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, ~~the Department of Corrections shall forward to the district attorney~~ all information pertaining to the defendant's failure to make timely restitution as ordered by the court shall be forwarded to the district attorney by the custodian of such information, and ~~said~~ the district attorney shall file a petition setting forth the grounds for revocation.

2. The defendant ordered to make restitution can petition the court at any time for remission or a change in the terms of the order of restitution if he or she undergoes a change of condition which materially affects the ability of the defendant to comply with the court's order.

3. At the hearing, if one of the grounds for the petition for revocation is the defendant's failure to make timely restitution as ordered by the court, the court will hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or the immediate family of the defendant, the court may ~~cancel all or any part of the amount still due, or~~ modify the terms or method of payment.

E. The court may revoke a portion of the sentence and leave the remaining part not revoked, but suspended for the remainder of the term of the sentence, and under the provisions applying to it. The person whose suspended sentence is being considered for revocation at said hearing shall have the right to be represented by counsel, to present competent evidence in his or her own behalf and to be confronted by the witnesses against the defendant. Any order of the court revoking such suspended sentence, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases. Provided, however, that if the crime for which the suspended sentence is given was a felony, the defendant may be allowed bail pending appeal. If the reason for revocation be that the defendant committed a felony, the defendant shall not be allowed bail pending appeal.

SECTION 49. AMENDATORY 22 O.S. 1991, Section 305.2, as last amended by Section 72, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, 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 and paid by the defendant.~~ 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 50. AMENDATORY 22 O.S. 1991, Section 991c, as last amended by Section 70, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, 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 of this act;~~

~~8. Pay court costs; or~~

~~9.~~ 8. 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)~~ Twenty Five Dollars (\$25.00) 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.~~ G. 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~~ the financial responsibility of the defendant.

SECTION 51. AMENDATORY Section 20, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991c-1), is amended to read as follows:

Section 991c-1. A. For persons sentenced to ~~the custody of the Department of Corrections~~ a state penitentiary for any term longer than five years, a term of postimprisonment supervision may be imposed ~~for an offender who is not sentenced to a deferred sentence or a suspended sentence~~ as part of the original sentence. The term of postimprisonment supervision may be with or without any ~~of the conditions authorized by subsection B of Section 46 of this act.~~ ~~For a Schedule A, Schedule B, Schedule C, Schedule D, Schedule I-1,~~

~~Schedule N-1, Schedule N-2, Schedule N-3, Group A and Group B, Schedule S-1, or Schedule S-2 crime, the conditional requirements. The term of postimprisonment supervision shall not exceed ~~five (5)~~ years. For a Schedule D-1, Schedule D-2, Schedule E, Schedule F, Schedule G, Schedule I-2, Schedule N-3 - Group C, Schedule N-4, Schedule S-3, or Schedule S-4 crime, the term of supervision shall not exceed four (4) years. For a Schedule H, Schedule I-3, or Schedule N-5 crime, the term of supervision shall not exceed three (3) years.~~

B. 1. Whenever a sentence of postimprisonment supervision has been imposed, the supervision of said person may not be revoked, in whole or in part, for any cause unless a motion setting forth the grounds for such revocation and establishing violation of the conditions of supervision is filed by the district attorney with the clerk of the sentencing court. The motion establishing a violation shall be considered by the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the motion, unless waived by both the state and the defendant. The state shall prove a violation of the conditions of postimprisonment supervision by a preponderance of the evidence.

2. If one of the grounds for revocation is the failure of the defendant to make restitution as ordered, the Department of Corrections shall forward to the district attorney all information pertaining to the defendant's failure to make timely restitution as ordered by the court, and said district attorney shall file a petition setting forth the grounds for revocation.

3. The defendant ordered to make restitution can petition the court at any time for remission or a change in the terms of the order of restitution if he undergoes a change of condition which materially affects his ability to comply with the court's order.

4. At the hearing, if one of the grounds for the motion for revocation is the defendant's failure to make timely restitution as

ordered by the court, the court will hear evidence and, if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or his immediate family, the court may ~~cancel all or any part of the amount still due,~~ or modify the terms or method of payment.

C. The court may revoke all of the postimprisonment supervision or a portion of the postimprisonment supervision and leave the remaining part not revoked for the remainder of the term of the sentence. The person whose supervision is being considered for revocation at said hearing shall have the right to be represented by counsel, to present competent evidence in his own behalf and to be confronted by the witnesses against him. Any order of the court revoking postimprisonment supervision, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases. Provided, however, that if the crime for which the postimprisonment supervision is given was a felony, the defendant may be allowed bail pending appeal. If the reason for revocation is that the defendant committed a felony, the defendant shall not be allowed bail pending appeal.

D. The term of confinement for violation of a sentence of postimprisonment supervision shall not exceed the maximum amount of the term of supervision to which the person was sentenced.

E. For purposes of calculating the amount of time which may be revoked for an offender on a term of postimprisonment supervision, the offender shall be given credit for each day of the sentence completed prior to the filing of an application to revoke postimprisonment supervision.

SECTION 52. AMENDATORY 22 O.S. 1991, Section 991d, as last amended by Section 3, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991d), is amended to read as follows:

Section 991d. A. ~~1.~~ When the court orders supervision by the Department of Corrections, or the district attorney requires the Department to supervise any person pursuant to a deferred prosecution agreement, the person shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month during the supervision period, unless the fee would impose an unnecessary hardship on the person. In hardship cases, the Department shall expressly waive all or part of the fee. The court shall make payment of the fee a condition of the sentence which shall be imposed whether the supervision is incident to the suspending of execution of a sentence, incident to the suspending of imposition of a sentence, or incident to the deferral of proceedings after a verdict or plea of guilty. The Department shall determine methods for payment of the supervision fee, and may charge a reasonable user fee for collection of supervision fees electronically. The Department is required to report to the sentencing court any failure of the person to pay supervision fees and to report immediately if the person violates any condition of the sentence.

~~2. If restitution is ordered by the court in conjunction with supervision, the supervision fee will be paid in addition to the restitution ordered. In addition to the restitution payment and supervision fee, a reasonable user fee may be charged by the Department of Corrections to cover the expenses of administration of the restitution.~~

B. The Pardon and Parole Board shall require a supervision fee to be paid by the parolee as a condition of parole which shall be paid to the Department of Corrections. The Department shall determine the amount of the fee as provided for other persons under supervision by the Department.

C. Upon acceptance of an offender by the Department of Corrections whose probation or parole supervision was transferred to Oklahoma through the Interstate Compact Agreement, ~~or upon the~~

~~assignment of an inmate to any community placement,~~ a fee shall be required to be paid by the offender to the Department of Corrections as provided for other persons under supervision of the Department.

D. Except as provided in this subsection, all fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund created pursuant to Section 557 of Title 57 of the Oklahoma Statutes. For the fiscal year ending June 30, 1996, fifty percent (50%) of all collections received from offenders placed on supervision after July 1, 1995, shall be transferred to the credit of the General Revenue Fund of the State Treasury until such time as total transfers equal Three Million Three Hundred Thousand Dollars (\$3,300,000.00).

SECTION 53. AMENDATORY 22 O.S. 1991, Section 996, is amended to read as follows:

Section 996. Sections ~~± 996~~ through 4 996.3 of this ~~act~~ title shall be known and may be cited as the "~~Delayed Sentencing Shock Incarceration~~ Shock Incarceration Program for Young Adults".

SECTION 54. AMENDATORY 22 O.S. 1991, Section 996.1, as last amended by Section 1, Chapter 314, O.S.L. 1994 (22 O.S. Supp. 1998, Section 996.1), is amended to read as follows:

Section 996.1 As used in the ~~Delayed Sentencing Shock~~ Shock Incarceration Program for Young Adults:

"Offender" means any adult eighteen (18) through twenty-one (21) years of age or a juvenile who has been certified to stand trial as an adult, who has committed a felony offense, who has not previously been convicted of two or more felonies, and who has not been convicted of 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, using a vehicle to facilitate the intentional discharge of any kind of firearm in violation of Section 652 of Title 21 of the Oklahoma Statutes, 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.

SECTION 55. AMENDATORY 22 O.S. 1991, Section 996.2, is amended to read as follows:

Section 996.2 The Department of Corrections shall establish ~~procedures to carry out~~ appropriate programs to implement the provisions of the ~~Delayed Sentencing~~ Shock Incarceration Program for Young Adults.

SECTION 56. AMENDATORY 22 O.S. 1991, Section 996.3, is amended to read as follows:

Section 996.3 A. Upon a verdict of guilty or a plea of guilty or nolo contendere of an eligible offender, the court shall delay sentencing for a period of up to one hundred twenty (120) days after the plea of guilty or finding of guilt is entered and order the offender to participate in the ~~Delayed Sentencing~~ Shock Incarceration Program for Young Adults under the custody of the Department of Corrections. ~~For purposes of the Delayed Sentencing Program for Young Adults, the term "custody" shall include probation or confinement.~~ The court may initially commit the offender for ~~either probation or~~ confinement pending the completion of the ~~Delayed Sentencing~~ Shock Incarceration Program For Young Adults.

After the completion of ~~said~~ the program, the court shall either:

1. Defer judgment pursuant to the provisions of Section 991c of ~~Title 22 of the Oklahoma Statutes~~ this title; or

2. Sentence ~~said~~ the offender to any sentence provided by law in the custody of the Department of Corrections; provided credit is given for any term of the Shock Incarceration Program For Young Adults; or

3. Suspend the execution of sentence pursuant to Section ~~991a~~ 990 of ~~Title 22 of the Oklahoma Statutes~~ this title. In addition to ~~other~~ any conditions of ~~probation~~ a suspended sentence allowed by statute, the court may include special conditions ~~of probation~~ as set forth in the plan provided to the court ~~if sentencing is deferred or if all or part of the sentence is suspended.~~

B. Within one hundred twenty (120) days after the offender is committed to the ~~Delayed Sentencing~~ custody of the Department of Corrections pursuant to the authority of the Shock Incarceration Program for Young Adults, the Department of Corrections shall prepare and file with the court clerk a specialized offender accountability plan for said offender which shall comply with and be in lieu of the presentence investigation provided for in Section 982 of ~~Title 22 of the Oklahoma Statutes~~ this title. The plan shall include information, evaluations, and data directed by the sentencing court, and may include but not be limited to, the ~~investigation report of probation officers~~ based upon a presentence investigation, an assessment of security risks and offender needs and a recommended specific course of action, including, where applicable, psychological counseling, psychiatric treatment, medical treatment, education or vocational training, work, restitution, and such other programs, which will offer the best opportunity for rehabilitation of said offender. If the plan recommends continued confinement beyond the shock incarceration term, the plan shall state specifically the type of confinement that the Department of Corrections proposes to utilize and the amount of time the offender will spend in that confinement.

Upon filing the plan with the court, copies shall be provided by the Department of Corrections to the district attorney, the offender, and the offender's attorney. These copies shall be provided at least twenty (20) days prior to the sentencing date set by the court. If the district attorney, the offender or the offender's attorney objects to said plan, ~~he~~ the objecting party may file ~~his~~ a written objections objection with the court within ten (10) days of the sentencing date. In no event shall the sentencing date be set later than the one-hundred-twenty-day limitation.

C. An order by the court placing an offender in the ~~Delayed Sentencing Shock Incarceration~~ Program for Young Adults shall be accepted by the Department of Corrections as a commitment to the custody of the Department pursuant to the provisions of Section 521 of Title 57 of the Oklahoma Statutes, for the purpose of committing an offender for assessment and placement into appropriate programs.

D. The period of ~~delayed sentencing shock incarceration~~ may be extended upon execution of a waiver of the one-hundred-twenty-day period by the offender for the purpose of completing the ~~Delayed Sentencing Shock Incarceration~~ Program for Young Adults prior to sentencing. Provided however, in no event shall the extension exceed a period of ~~sixty (60)~~ thirty (30) days and said extension shall be approved by the court at which time the court shall set a new sentencing date in accordance with the programmed completion date. A waiver shall not be allowed if the Department is unable to place the defendant into the program in a timely manner.

E. No person other than the defendants defined in Section 996.1 of this title shall be authorized to participate in the Shock Incarceration Program For Young Adults.

F. The court may order the Department to provide aftercare services upon completion of the program not to exceed six (6) months.

SECTION 57. AMENDATORY Section 1, Chapter 355, O.S.L. 1994, as amended by Section 34, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, 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 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 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 58. AMENDATORY Section 7, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1507), is amended to read as follows:

Section 1507. The Commission shall have full and complete access to the use of the simulation model developed by and for the use of the Department of Corrections, and to any data resulting from the use of such model, and shall have first priority and authority to require the model be applied to a given fact situation, or theoretical change in the sentencing laws, when requested to do so

by the ~~Chairman~~ Chair, the Executive Director or the Commission as a whole.

The simulation model shall be available for use in responding to inquiries by any state legislator, or the Secretary of the Executive Branch Department of Safety and Security, in second priority to the work of the Commission.

SECTION 59. AMENDATORY Section 8, Chapter 355, O.S.L. 1994, as last amended by Section 22, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1508), is amended to read as follows:

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

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

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

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

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

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

~~E. D.~~ After the adoption of the Oklahoma ~~Truth in Sentencing~~ Criminal Justice Reform Act of 1999, the Commission shall review all proposed legislation which creates a new criminal offense, ~~changes the classification of an offense, or changes the range of punishment for a particular classification,~~ and shall make recommendations to the Legislature.

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

~~2. In the case of proposed changes in the classification of an offense or changes in the range of punishment for a classification, the Commission shall determine whether such a proposed change is consistent with the considerations and principles set out in Section 1510 of this title.~~

~~F. E.~~ The Commission shall meet ~~within ten (10) days after the last day for filing bills in the Legislature for the purpose of reviewing bills as described in this subsection~~ and shall report to the Legislature on the impact of any bills passed from committee or as otherwise requested by the author of a bill. The Commission shall include in its report on a bill an analysis based on an application of the correctional population simulation model to the provisions of the bill.

SECTION 60. AMENDATORY Section 9, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1509), is amended to read as follows:

Section 1509. A. The Commission shall have the ~~secondary~~ duty of collecting, developing, and maintaining statistical data relating to sentencing and corrections so that the primary duties of the Commission will be formulated using data that is valid, accurate,

and relevant to the state. All state agencies shall provide data as it is requested by the Commission. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any state agency or member of the Legislature.

B. The Commission shall have the authority to apply for, accept, and use any gifts, grants, or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the state or from any other source including private associations, foundations, or corporations to accomplish any of the duties set out in Sections 1501 et seq of this act title.

SECTION 61. AMENDATORY Section 10, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1510), is amended to read as follows:

Section 1510. A. The Commission shall classify criminal offenses into felony and misdemeanor categories on the basis of their severity. The Commission may utilize either the criminal laws enacted as of the effective date of this act or a recommended modification or recodification of such criminal laws in performing its duties under the provisions of this act. ~~Such classifications, if approved by the Legislature, shall become effective July 1, 1996.~~ In determining the proper category for each felony and misdemeanor, the Commission shall consider, to the extent that it has relevance, the following:

1. The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust;

2. The deterrent effect a particular classification may have on the commission of the offense by others;

3. The current incidence of the offense in the state as a whole; and

4. The rights of the victim.

B. For each classification of felonies and misdemeanors formulated pursuant to this section, the Commission shall assign a suggested range of punishment. ~~Such ranges, if approved by the Legislature, shall become effective July 1, 1996.~~

SECTION 62. AMENDATORY Section 11, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1511), is amended to read as follows:

Section 1511. A. The Commission shall establish criteria for use by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including but not limited to:

1. Imposition of an active term of imprisonment;
2. Imposition of a term of probation;
3. Suspension of a sentence to imprisonment and imposition of ~~probation with conditions~~ conditional requirements, including house arrest, electronic monitoring, ~~regular probation, intensive probation supervision~~, restitution, and community service;
4. Imposition of a fine;
5. Imposition of other sentencing alternatives and intermediate punishments;
6. Based upon the combination of offense and defendant characteristics in each case, the presumptively appropriate length of a term of probation, or a term of imprisonment;
7. Ordering multiple sentences to terms of imprisonment to run concurrently or consecutively; and
8. For a sentence to probation without a suspended sentence to imprisonment, the maximum term of confinement to be imposed if the defendant violates the conditions of probation.

B. The sentencing criteria shall take into consideration the goals, policies and purposes of the criminal justice and corrections systems, as set forth in Section ~~14~~ 1514 of this ~~act~~ title.

C. In formulating criteria, the Commission also shall consider:

1. The nature and characteristics of the offense;

2. The severity of the offense in relation to other offenses;

3. The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved therefor;

4. The defendant's number of prior convictions;

5. The available resources and constitutional capacity of the Department of Corrections, other confinement facilities, and community-based sanctions;

6. The rights of the victims;

7. ~~That~~ Whether felony offenders sentenced to an active term of imprisonment, or whose suspended sentence to imprisonment is activated, should serve a designated minimum percentage of their sentences before they are eligible for parole; and

8. ~~That~~ Whether misdemeanor offenders sentenced to an active term of imprisonment, or whose suspended sentence to imprisonment is activated, should serve a designated minimum percentage of their sentence.

D. The Commission shall also consider the policy issues set forth in Section ~~14~~ 1514 of this ~~act~~ title in developing its sentencing criteria. The Commission shall include with each set of sentencing criteria a statement of its estimate of the effect of the sentencing criteria on the Department of Corrections and local facilities, both in terms of fiscal impact and on inmate population. If the Commission finds that the proposed sentencing criteria will result in inmate populations in the Department of Corrections or local confinement facilities that exceed the authorized capacity, then the Commission shall present an additional set of criteria that are consistent with that capacity.

E. Beginning ~~July 1, 1996~~ on the effective date of this act, when imposing a criminal sentence, the court shall ~~impose the~~

~~sentence under use~~ the sentencing criteria formulated ~~and adopted~~
~~pursuant to this section if such criteria have been approved by the~~
Legislature as a guide when imposing a criminal sentence.

SECTION 63. AMENDATORY Section 12, Chapter 355, O.S.L.
1994 (22 O.S. Supp. 1998, Section 1512), is amended to read as
follows:

Section 1512. Using the studies of the Sentencing
Release/Policy Committee, the Recodification Committee, and other
current analyses, including testimony from representatives of the
bodies that conducted the analysis, the Commission shall:

1. Determine the long-range needs of the criminal justice and
corrections systems and recommend policy priorities for those
systems;

2. Determine the long-range information needs of the criminal
justice and corrections systems and acquire that information as it
becomes available;

3. Identify critical problems in the criminal justice and
corrections systems and recommend strategies to solve those
problems;

4. Assess the cost-effectiveness of the use of state and local
funds in the criminal justice and corrections systems;

5. Recommend ~~the~~ appropriate goals, priorities and standards
for the allocation of criminal justice and corrections funds;

6. Recommend means to improve the deterrent and rehabilitative
capabilities of the criminal justice and corrections systems;

7. Propose plans, programs and legislation for improving the
effectiveness of the criminal justice and corrections systems;

8. Determine the sentencing structures for parole decisions;

9. Examine the impact of mandatory sentence lengths as opposed
to the deterrent effect of minimum mandatory terms of imprisonment;

10. Examine good time and earned credit practices;

11. Study the value of presentence investigations and reports;

12. Consider the rehabilitative potential of the offender and the appropriate rehabilitative placement;

13. Examine the impact of imprisonment on the families of offenders;

14. Examine the impact of imprisonment on the ability of offenders to make restitution; and

15. Study the costs and consequences of criminal behavior in Oklahoma and consider the value of preventing crimes by using incarceration or other methods to deter criminals from future crimes.

SECTION 64. AMENDATORY Section 14, Chapter 355, O.S.L. 1994 (22 O.S. Supp. 1998, Section 1514), is amended to read as follows:

Section 1514. The following purposes and policies of the criminal justice and corrections systems are hereby established:

1. Protection of the public. Incarceration should be viewed by the court both as punishment and as a means of protecting the public. Limitations on the freedom of the offender and the appropriate level of custody should be dictated in the first instance by the nature of the offense, the violent character of the offender, the proclivity of the offender to engage in criminal conduct as demonstrated by ~~his~~ a prior criminal record, and the sound judgment of the sentencing court after taking into account all of the relevant aggravating and mitigating factors involved in the offender's record of criminal conduct.

2. Punishment of the offender. After the interests of public protection have been addressed, consideration should be given to restriction of the liberty of the offender in such manner and to such extent as is necessary to demonstrate clearly that the offender's conduct is unacceptable to society and to discourage a repetition of such conduct. In determining the appropriate punishment, the court should consider a range of sanctions at the

state or community level which may include incarceration, various degrees of restrictions on the offender's liberty including house arrest, electronic monitoring, various degrees of supervision, community penalties, community service, restitution, reparation, or fines.

3. Rehabilitation of the offender. Every sentencing plan should consider treatment and rehabilitative needs of the offender to the extent that it addresses the cause of the criminal behavior and, therefore, might assist in correcting such behavior. The offender should be enrolled in a program of rehabilitation over a definite minimal period of time. The program of rehabilitation should involve work and recreation and may involve education, psychological or psychiatric counseling, treatment for alcohol or drug abuse and sexual aggression either within or without the prison walls as the individual case may indicate. The court may recommend remedies for alcoholism, substance abuse, mental illness, education and employment deficiencies, and may order community-based offenders to pay for such treatment to the extent the offender is able. Public institutions should respond to the court order at no cost to the indigent offender. Where treatment is not available from public institutions, the state should purchase appropriate treatment from the private sector.

4. Restitution and reparation. When appropriate, the sentencing plan should provide for restitution or reparation to the victim or victims, whether they be individual citizens, corporations, or society as a whole, to be paid as soon as practicable without unnecessary delay. Such restitution or reparation should include repayment for any property stolen or damaged, medical costs and lost wages of the victims, court costs and reasonable costs to cover pretrial detention, and restitution to the community through community service. In those cases where the offender can be punished and rehabilitated outside of prison without

jeopardizing the security of the society at large in their persons or property, it is appropriate and encouraged that the offender pay his or her debt to society through a range of punishments which are alternative to incarceration. The court should order such supervision or restrictions as deemed necessary for the offender to comply with the restitution orders. Failure to comply should result in stricter measures but should not remove the obligation of the offender to repay the victim.

5. Work policy for offenders. It is the policy of this state that offenders should work when reasonably possible, either at jobs in the private sector to pay restitution and support their dependents, or at community service jobs that benefit the public, or at useful work while in prison or jail, or at educational or treatment endeavors as a part of a rehabilitation program. Offenders should be offered the opportunity to reduce the duration of their sentences by earning "time" credit for work endeavors in achieving vocational or educational skill levels. Prisoners who are able and do not work or who refuse to participate in treatment programs should be prohibited from enjoying privileges which may be provided to inmates beyond those required by law.

6. Responsibility of Department of Corrections. It is the goal of the Department of Corrections to provide adequate prison space to ensure that those sentenced to prison will remain incarcerated until such time as ~~they~~ the offender can be safely released, or until ~~their~~ the active sentences are completed, and to provide community-based supervision for those offenders selected for supervised probation and parole by the courts and the Pardon and Parole Board.

It is the mission of the Department to provide housing, clothing, food and medical care to its inmates, to maintain a safe and secure prison system, to keep accurate records, to offer job training, education, counseling, work and treatment programs deemed appropriate to monitor and advance the rehabilitative progress of

its inmates, to provide a fair and orderly progression through custody levels, and to make data and recommendations regarding parole available to the Pardon and Parole Board. As an inmate demonstrates that he or she is no longer a threat to society, that the punishment has been effective and that a program of rehabilitation is showing progress, the inmate's level of custody may be commensurately reduced in an orderly progression through custody levels to parole and release from supervision.

It is the mission of the Department of Corrections to receive convicted offenders selected by the courts and the Pardon and Parole Board and to protect society through a coordinated program of community supervision which provides realistic opportunities for probationers and parolees to develop skills necessary to adjust to free society. As a probationer or parolee demonstrates that the supervision has been effective and that a community treatment program is showing progress, the level of supervision may be commensurately reduced in an orderly progression to prepare for release from supervision.

SECTION 65. AMENDATORY Section 33, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1516), is amended to read as follows:

Section 1516. A. The Oklahoma Sentencing Commission⁷ ~~established by Section 1501 of Title 22 of the Oklahoma Statutes~~ shall monitor, review, and analyze the implementation of the Oklahoma ~~Truth in Sentencing~~ Criminal Justice Reform Act of 1999, and provide fiscal impact statements and reports to the Legislature concerning the ~~continued implementation of the Oklahoma Truth in Sentencing Act~~ act. The Commission is vested with authority to collect data and reports from governmental entities within the State of Oklahoma relating to all matters concerning the charging, pleading, sentencing, and release of persons charged, convicted, or placed on probation for criminal offenses within this state.

Governmental entities shall respond promptly to all reasonable requests of the Commission for data required to meet this directive. The Commission shall publish an annual report reflecting ~~the implementation of the Oklahoma Truth in Sentencing Act~~ sentencing practices and other relevant data. ~~The Oklahoma Sentencing Commission shall prepare a fiscal impact statement on any changes to schedules or penalties of criminal sentencing proposed in legislation.~~

B. The Oklahoma Sentencing Commission shall review each bill or joint resolution which impacts the Oklahoma criminal justice system introduced in the Oklahoma Legislature. The Commission shall prepare a fiscal impact statement, as established by joint legislative rules. The Commission shall direct other state entities including, but not limited to, the Department of Corrections, the Oklahoma District Attorneys Council, the Office of the Oklahoma Attorney General, the Oklahoma State Bureau of Investigation, the Administrative Office of the Oklahoma Courts, the Oklahoma Court of Criminal Appeals, the Oklahoma Indigent Defense System, and county indigent defenders, to provide assistance and information in the preparation of ~~the~~ any fiscal impact statement. The entities directed by the Commission shall provide the information described in this subsection within the time set by the requesting agency. The fiscal impact statement shall include, but is not limited to:

1. A report on the fiscal impact the proposal will have on facility, maintenance, personnel, and other relevant costs;
2. Information obtained from the Department of Corrections, including but not limited to:
 - a. a projection of offender population and costs related to the population, and
 - b. a projection of staffing for the Department of Corrections and costs related to the staff; and

3. Any other information relevant to the fiscal impact the proposed legislation will have on the Oklahoma criminal justice system.

C. A copy of the fiscal impact statement shall be attached to ~~each copy of a~~ the bill or joint resolution reviewed ~~by any committee of either house of the Legislature and to each copy of a bill or joint resolution that impacts the criminal justice system that is reviewed~~ by the entire membership of either house of the Oklahoma Legislature.

SECTION 66. AMENDATORY 57 O.S. 1991, Section 38, as last amended by Section 76, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, 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 disciplinary sanctions for eligible felony offenders pursuant to the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act or for disciplinary sanctions for suspended sentences at a rate of Twenty Dollars

(\$20.00) per day per person imprisoned for a maximum term as ~~specified in this act~~ provided by law.

SECTION 67. AMENDATORY 57 O.S. 1991, Section 138, as last amended by Section 17, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 138), is amended to read as follows:

Section 138. A. All persons convicted of ~~crimes~~ the crime of murder in the first degree, rape in the first degree, arson in the first degree, robbery in the first degree, forcible sodomy, burglary in the first degree, or sexual abuse of a child, including rape by instrumentation, committed on or after July 1, 1999, whether their sentences are for incarceration, in whole or in part, or are for a suspended sentence which is subsequently revoked, shall receive only those earned credits pursuant to and limited by subparagraph b of paragraph 2 of subsection E of this section and paragraph 2 of subsection H of this section.

B. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which they are assigned. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No deductions shall be credited to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority.

C. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one (1) of four (4) class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding credits for rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department, including but not limited to, the criteria for awarding credits required by this subsection.

D. If an inmate who has been assessed to be capable of benefiting from education programs refuses assignment to an education program, the inmate shall remain in class level 1 until such time as the inmate accepts an educational assignment.

E. 1. Class levels shall be as follows:

- a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall include, but not be limited to, inmates on escape status, inmates refusing job, education, or program assignments, inmates removed from job, education, or program assignments due to misconduct or nonperformance, or inmates subject to disciplinary action.
- b. Class level 2 shall include an inmate who has been given a work, education, or program assignment, has received a good evaluation for participation in the work, education, or program assignment, and has

received a good evaluation for personal hygiene and maintenance of living area.

- c. Class level 3 shall include an inmate who has been incarcerated at least four (4) months, has received an excellent work, education, or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.
- d. Class level 4 shall include an inmate who has been incarcerated at least ten (10) months, has received an outstanding work, education, or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.

2. a. ~~Class~~ Except for inmates defined by subsection A of this section, class level corresponding credits for inmates who were sentenced for crimes committed prior to July 1, 1999, are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month; and

b. Class level corresponding credits for inmates defined in subsection A of this section who are sentenced for crimes committed on or after July 1, 1999, are as follows:

Class 1 - 0 Credits per month;

Class 2 - 3 Credits per month;

Class 3 - 5 Credits per month;

Class 4 - 10 Credits per month.

Provided, however, for inmates who are sentenced for crimes committed on or after July 1, 1999, the combined credits for all purposes cannot exceed fifteen percent (15%) of the sentence.

Each inmate shall receive the above specified monthly credits for the class to which he or she is assigned.

3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

- a. satisfactory participation in the work, education, or program assignment at the standard required for the particular class level;
- b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;
- c. cooperative behavior toward facility staff and other inmates;
- d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

- a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits.
- b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.
- c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.
- d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.
- e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

F. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three (3) members for each such committee. Each committee shall consist of a classification team supervisor who shall act as ~~chairman~~ chair, the case manager for the inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

G. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate classified by the Department of Corrections as being physically or mentally disabled for work or placed into administrative segregation for nondisciplinary reasons by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution pursuant to a judgment and sentence of incarceration shall be deducted from his term of imprisonment at the state correctional institution. Inmates sentenced to the Department of Corrections and detained in a county jail as a result of the Department's reception scheduling procedure shall be awarded earned credits as provided for in subparagraph b of paragraph 1 of subsection E of this section,

beginning on the date of the judgment and sentence, unless the inmate is convicted of a misdemeanor or felony committed in the jail while the inmate is awaiting transport to the Lexington Assessment and Reception Center or other assessment and reception location determined by the Director of the Department of Corrections.

H. 1. ~~For inmates who were sentenced for crimes committed prior to July 1, 1999~~ Except for inmates defined in subsection A of this section, additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

- High School Diploma or Equivalent General Education Diploma
..... 90 credits;
- Certification of Completion of Vocational Training
80 credits;
- Successful completion of Alcohol/Chemical Abuse Treatment
Program of not less than four (4) months continuous
participation 70 credits;
- Successful completion of other Educational Accomplishments
or other programs not specified in this subsection 10 -
30 credits;

2. For inmates defined in subsection A of this section who are sentenced for crimes committed on or after July 1, 1999, additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

- High School Diploma or Equivalent General Education Diploma
... 45 credits;
- Certification of Completion of Vocational Training ... 40
credits;

Successful completion of Alcohol/Chemical Abuse Treatment Program of not less than four (4) months continuous participation 35 credits;

Successful completion of other Educational Accomplishments or other programs not specified in this subsection 5 - 15 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits. No inmate shall receive more than ninety (90) achievement credits per calendar year. The combined awarded credits for both earned credits and achievement credits for all purposes for inmates defined in subsection A of this section and sentenced for crimes committed on or after July 1, 1999, shall not reduce a sentence more than fifteen percent (15%).

I. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

1. Sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. Provided to the inmate.

J. As of November 1, 1988, all inmates currently under the custody of the Department of Corrections shall receive their assignments and all credits from that date forward shall be calculated as provided in this section.

SECTION 68. AMENDATORY Section 5, Chapter 276, O.S.L. 1997, as amended by Section 30, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510.9), is amended to read as follows:

Section 510.9 A. There is hereby created the Electronic Monitoring Program for inmates in the custody of the Department of Corrections who are sentenced for a nonviolent offense as defined by Section 571 of this title. ~~No inmate shall be placed on this program after the effective date of this act.~~

B. All eligible inmates assigned to the Electronic Monitoring Program shall first be processed and received through the Lexington Assessment and Reception Center. The Director of the Department of Corrections shall exercise ~~his~~ discretion in selecting eligible inmates for assignment to the Electronic Monitoring Program; provided, however, the following inmates shall not be eligible for assignment to the program:

1. Inmates convicted of a violent offense within the previous ten (10) years;

2. Inmates convicted of any violation of the provisions of the Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes;

3. Inmates denied parole within the previous twelve (12) months pursuant to Section 332.7 of this title;

4. Inmates convicted pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes who are not receptive to substance abuse treatment and follow-up treatment;

5. Inmates removed from the Electronic Monitoring Program or any other alternative to incarceration authorized by law for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility;

6. Inmates deemed by the Department to be a security risk or threat to the public; or

7. Inmates requiring educational, medical or other services or programs not available in a community setting as determined by the Department.

In addition, any inmate removed from the Electronic Monitoring Program for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility shall not be eligible for consideration for the Specialized Parole Program until after the expiration of at least twelve (12) consecutive months of imprisonment at a correctional facility.

C. Every eligible inmate assigned to the Electronic Monitoring Program shall remain in such program until one of the following conditions has been met:

1. The inmate discharges the term of the sentence;

2. The inmate is removed from the Electronic Monitoring Program for violation of any rule, regulation or condition of the program and reassigned to imprisonment in a correctional facility;

3. The inmate is assigned by the Department to another alternative to incarceration authorized by law, except inmates assigned to the Electronic Monitoring Program shall not be considered for the Specialized Parole Program, except as provided in subsection B of this section; or

4. The inmate is paroled by the Governor pursuant to Section 332.7 of this title.

D. After an inmate has been assigned to the Electronic Monitoring Program, failure to be granted parole pursuant to Section 332.7 of this title, shall not be cause for removal from the program, provided the inmate has not violated the rules, regulations or conditions of the program. The inmate may remain assigned to the program, if otherwise eligible, until the completion of the sentence.

E. The Electronic Monitoring Program shall require active supervision of the inmate in a community setting by a correctional officer or other employee of the Department of Corrections with monitoring by an electronic bracelet or other device approved by the Department under such rules, regulations and conditions as may be established by the Department. If an inmate violates any rule, regulation or condition of the program, the Department may take necessary disciplinary action consistent with the rules established pursuant to this act, including reassignment to a higher level of security or removing the inmate from the program with reassignment to imprisonment in a correctional facility. Any inmate who escapes

from the Electronic Monitoring Program shall be subject to the provisions of Section 443 of Title 21 of the Oklahoma Statutes.

F. Upon an inmate assigned to the Electronic Monitoring Program becoming eligible for parole consideration, pursuant to Section 332.7 of this title, the Department of Corrections shall deliver the inmate, in person, to a correctional facility for interview, together with any Department records necessary for the Pardon and Parole Board's investigation. Inmates assigned to the Electronic Monitoring Program shall not be allowed to waive consideration or recommendation for parole.

G. Prior to any eligible inmate assigned to the Electronic Monitoring Program being placed in a community setting, the Department of Corrections shall deliver a written notification to the sheriff and district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be monitored and supervised under the program. The district attorney shall disseminate such information to victims of the crime for which the inmate is serving sentence, if any, when the victims are known to live in the same city, town or county.

H. An inmate assigned to the Electronic Monitoring Program may be required to pay the Department of Corrections for all or part of any monitoring equipment or fee, substance abuse treatment program or follow-up treatment expense, supervision cost, or other costs while assigned to the program. The Department shall determine whether the inmate has the ability to pay all or part of such fee or costs.

I. The Department of Corrections shall promulgate and adopt rules, regulation and procedures necessary to implement the Electronic Monitoring Program, including but not limited to methods of monitoring and supervision, disciplinary action, reassignment to higher and lower security levels, removal from the program, and

costs of monitoring and supervision to be paid by the inmate, if any.

SECTION 69. AMENDATORY Section 15, Chapter 276, O.S.L. 1993, as amended by Section 31, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 510.10), is amended to read as follows:

Section 510.10 The Department of Corrections is hereby authorized to use electronic monitoring devices, ~~as defined by Section 46 of this act,~~ for ~~any inmate approved for placement under the provisions of the Specialized Parole Program or for~~ any person granted parole, or as disciplinary sanction as authorized by law.

The Department shall promulgate and adopt rules, regulations and procedures necessary to implement the provisions of this section.

SECTION 70. AMENDATORY Section 62, Chapter 133, O.S.L. 1997, as renumbered by Section 26, Chapter 333, O.S.L. 1997 (57 O.S. Supp. 1998, Section 557.1), is amended to read as follows:

Section 557.1 There is hereby created in the State Treasury a revolving fund for the Community Sentencing Division within the Department of Corrections to be designated the "Oklahoma Community Sentencing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated to it by the Legislature, grants, gifts, bequests and any other lawful money received for the benefit of the statewide community sentencing system. All funds received shall be deposited to the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Division for state funding to approved community sentencing systems established pursuant to the provisions of the Oklahoma ~~Community Sentencing~~ Intermediate Punishments Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 71. AMENDATORY 57 O.S. 1991, Section 570, as last amended by Section 15, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 570), is amended to read as follows:

Section 570. Sections 570 through 576 of this title shall be known and may be cited as the "Oklahoma Prison Overcrowding Emergency Powers Act". The provisions of the Oklahoma Prison Overcrowding Emergency Powers Act shall apply only to eligible persons sentenced for crimes committed before July 1, 1999 defined in this act.

SECTION 72. AMENDATORY 57 O.S. 1991, Section 571, as amended by Section 10, Chapter 276, O.S.L. 1993 (57 O.S. Supp. 1998, Section 571), is amended to read as follows:

Section 571. As used in ~~this act~~ the Oklahoma Prison Overcrowding Emergency Powers Act:

1. "Capacity" means the actual available bedspace ~~as certified by the State Board of Corrections subject to applicable federal and state laws and the rules and regulations promulgated under such laws existing in state owned and operated prison facilities in compliance with any applicable federal rule or law concerning prison overcrowding in this state;~~

2. "Department" means the Department of Corrections of the State of Oklahoma;

3. "Director" means the Director of the Department of Corrections;

4. "Emergency time credit" means time reduction of sentence allowed when ninety-five percent (95%) of capacity as defined in paragraph 1 of this section is exceeded pursuant to the provisions of this act; and

5. "Nonviolent offense" means any felony offense except the following, or any attempts to commit or conspiracy or solicitation to commit the following crimes:

- a. assault, battery, or assault and battery with a dangerous weapon;
- b. aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law;
- c. poisoning with intent to kill;
- d. shooting with intent to kill;
- e. assault with intent to kill;
- f. assault with intent to commit a felony;
- g. assaults while masked or disguised;
- h. murder in the first degree;
- i. murder in the second degree;
- j. manslaughter in the first degree;
- k. manslaughter in the second degree;
- l. kidnapping;
- m. burglary in the first degree;
- n. burglary with explosives;
- o. kidnapping for extortion;
- p. maiming;
- q. robbery;
- r. robbery in the first degree;
- s. robbery in the second degree;
- t. armed robbery;
- u. robbery by two (2) or more persons;
- v. robbery with dangerous weapon or imitation firearm;
- w. child beating;
- x. wiring any equipment, vehicle or structure with explosives;
- y. forcible sodomy;
- z. rape in the first degree;
- aa. rape in the second degree;
- bb. rape by instrumentation;

- cc. lewd or indecent proposition or lewd or indecent act with a child;
- dd. use of a firearm or offensive weapon to commit or attempt to commit a felony;
- ee. pointing firearms;
- ff. rioting;
- gg. inciting to riot;
- hh. arson in the first degree;
- ii. injuring or burning public buildings;
- jj. sabotage;
- kk. criminal syndicalism;
- ll. extortion;
- mm. obtaining signature by extortion;
- nn. seizure of a bus, discharging firearm or hurling missile at bus; or
- oo. mistreatment of a mental patient.

SECTION 73. AMENDATORY 21 O.S. 1991, Section 701.9, as amended by Section 233, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 701.9), is amended to read as follows:

Section 701.9 A. A person who is convicted of or pleads guilty or nolo contendere to murder in the first degree shall be punished by death, by imprisonment for life without parole or by imprisonment for life.

B. A person who is convicted of or pleads guilty or nolo contendere to murder in the second degree shall be ~~guilty of a felony~~ punished by imprisonment in a state penitentiary for not less than ten (10) years nor more than life.

C. For purposes of calculating potential parole eligibility for conviction of murder in the first degree, a sentence to life shall mean a term of forty-five (45) years. Every offender sentenced to life shall serve eighty-five percent 85% of forty-five years before being considered eligible for parole review. Every offender

sentenced for murder in the first degree to any term of imprisonment less than life shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 74. AMENDATORY 21 O.S. 1991, Section 1115, as amended by Section 292, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1115), is amended to read as follows:

Section 1115. Rape in the first degree is ~~a felony~~ punishable by death or imprisonment in the state penitentiary for a term not less than five (5) years nor more than life, in the discretion of or the jury, or in the case the jury fail or refuse to fix the punishment then the same shall be pronounced by the court.

For purposes of calculating potential parole eligibility, a sentence to life shall mean a term of forty-five (45) years. Every offender sentenced to life shall serve eighty-five percent 85% of forty-five years before being considered eligible for parole review. Every offender sentenced to any term of imprisonment less than life shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 75. AMENDATORY 21 O.S. 1991, Section 888, as last amended by Section 264, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 888), is amended to read as follows:

Section 888. A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not more than twenty (20) years. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the State Penitentiary

for a term of life or life without parole, in the discretion of the jury, or in case the jury fail or refuse to fix the punishment then the same shall be pronounced by the court.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime.

C. For purposes of calculating potential parole eligibility, a sentence to life shall mean a term of forty-five (45) years. Every offender sentenced to life shall serve eighty-five percent 85% of forty-five years before being considered eligible for parole review. Every offender sentenced to any term of imprisonment less than life shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 76. AMENDATORY 21 O.S. 1991, Section 798, as amended by Section 240, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 798), is amended to read as follows:

Section 798. Any person guilty of robbery in the first degree shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not less than ten (10) years nor more than life.

For purposes of calculating potential parole eligibility, a sentence to life shall mean a term of forty-five (45) years. Every offender sentenced to life shall serve eighty-five percent 85% of forty-five years before being considered eligible for parole review. Every offender sentenced to any term of imprisonment less than life

shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 77. AMENDATORY 21 O.S. 1991, Section 1401, as amended by Section 347, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1401), is amended to read as follows:

Section 1401. Any person who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance, destroys in whole or in part, or causes to be burned or destroyed, or aids, counsels or procures the burning or destruction of any building or structure or contents thereof, inhabited or occupied by one or more persons, whether the property of that person or another, or who willfully and maliciously sets fire to or burns, or by the use of any explosive device, accelerant, ignition device, heat-producing device or substance, causes a person to be burned, or aids, counsels or procures the burning of a person, shall be guilty of arson in the first degree, and upon conviction thereof. ~~Arson in the first degree is~~ shall be guilty of a felony punishable by a. ~~The fine for a violation of this section shall not~~ to exceed Twenty-five Thousand Dollars (\$25,000.00) or by imprisonment, or both such fine and imprisonment.

Every offender sentenced to any term of imprisonment for arson in the first degree shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 78. AMENDATORY 21 O.S. 1991, Section 1436, as amended by Section 357, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1436), is amended to read as follows:

Section 1436. A. Burglary in the first degree is a felony punishable by imprisonment in the State Penitentiary for any term not less than seven (7) years nor more than twenty (20) years.

B. Burglary in the second degree is a felony punishable by imprisonment in the State Penitentiary for any term not less than two (2) years nor more than seven (7) years.

For purposes of calculating potential parole eligibility for burglary in the first degree, every offender sentenced to any term of imprisonment shall serve eighty-five percent 85% of such term before being considered for parole eligibility.

SECTION 79. AMENDATORY 57 O.S. 1991, Section 332.7, as last amended by Section 2, Chapter 18, 1st Extraordinary Session O.S.L. 1998 (57 O.S. Supp. 1998, Section 332.7), is amended to read as follows:

Section 332.7 A. ~~For a crime committed prior to July 1, 1998~~
Except when a person has received a sentence to life imprisonment without parole or a sentencing specifying a mandatory minimum percentage to be served prior to parole eligibility, any person in the custody of the Department of Corrections shall be eligible for consideration for parole ~~at the earliest of the following dates:~~

~~1. Has completed serving upon completion of one-third (1/3) of the sentence;~~

~~2. Has 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. Has reached eighty-five percent (85%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3, 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. Has reached seventy-five percent (75%) of the midpoint of the time of imprisonment that would have been imposed for an offense that is listed in any other schedule, 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. For a crime committed on or after July 1, 1998, but prior to July 1, 1999, any person in the custody of the Department of Corrections shall be eligible for consideration for parole who has completed serving one-third (1/3) of the sentence; provided, however, no inmate serving a sentence of life imprisonment without parole shall be eligible to be considered for parole pursuant to this subsection.~~

~~C. The parole hearings conducted for persons pursuant to paragraph 3 of subsection A of this section or for any person who was convicted of a violent crime as set forth in Section 571 of this title and who is eligible for parole consideration pursuant to either paragraph 1 of subsection A of this section or subsection B of this section shall be conducted in two stages, as follows:~~

1. At the initial hearing, the Pardon and Parole Board shall review the completed report submitted by the staff of the Board and shall conduct a vote regarding whether, based upon that report, the Board decides to consider the person for parole at a subsequent meeting of the Board; and

2. At the subsequent meeting, the Board shall hear from any victim or victim's representative that wants to contest the granting of parole to that person and shall conduct a vote regarding whether parole should be recommended for that person.

~~D. C. Any inmate who has parole consideration dates calculated pursuant to subsection A, B or C of this section shall be considered at the earliest such date. Except as otherwise directed by the Pardon and Parole Board, any person who has been considered for~~

parole and was denied parole or who has waived consideration shall not be reconsidered for parole:

1. Within three (3) years, if the person was convicted of a violent crime, as set forth in Section 571 of this title, ~~and was eligible for consideration pursuant to paragraph 1 of subsection A of this section or subsection B of this section,~~ unless the person is within one (1) year of discharge;

~~2. Until the person has served at least one-third (1/3) of the sentence imposed, if the person was eligible for consideration pursuant to paragraph 3 of subsection A of this section. Thereafter the person shall not be considered more frequently than once every three (3) years, unless the person is within one (1) year of discharge; or~~

~~3. 2.~~ Within one (1) year, if the person was convicted of a nonviolent crime ~~and was eligible for consideration pursuant to paragraph 1 of subsection A of this section or subsection B of this section;~~ and

~~4. Within one (1) year, if the person was eligible for consideration pursuant to paragraph 2 or 4 of subsection A of this section.~~

~~E. D.~~ Any person in the custody of the Department of Corrections for a crime committed prior to July 1, ~~1998~~ 1999, who has been or would have been considered for parole on a docket created for a type of parole consideration that has been abolished by the Legislature shall not be considered for parole except in accordance with the provisions of this section subsection. The Pardon and Parole Board shall establish rules for a special parole docket for review of the records of such inmates, and if it is determined by the Parole Board that the inmate should have been reviewed under another parole provision that has subsequently been abolished, such person shall have a parole hearing and may be recommended to the Governor for parole. If the inmate is denied

parole or recommendation for parole, the inmate shall have parole reviews thereafter as provided in this section.

~~F. The Department of Corrections and the Pardon and Parole Board shall promulgate rules for the implementation of subsections A, B and C 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 a person eligible for parole consideration pursuant to subsection A of this section would have received under the applicable matrix.~~

~~G. E. For persons in the custody of the Department of Corrections for a felony committed prior to July 1, 1999, the 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.~~

~~H. For a crime committed on or after July 1, 1999:~~

~~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.~~

~~I. F.~~ 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~~ section 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.

~~J. G.~~ 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 reception and processing through the Department of Corrections.

~~K. H.~~ 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.

~~L. I.~~ 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.

~~M. Any person convicted of a crime committed on or after July 1, 1999, who was sentenced to postimprisonment supervision and who is granted parole while incarcerated, shall be placed under parole supervision before beginning postimprisonment supervision.~~

~~N. If a person is sentenced to consecutive sentences pursuant to the Oklahoma Community Sentencing 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 80. REPEALER Section 2, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 2, 1st Extraordinary Session O.S.L. 1998, Section 3, Chapter 133, O.S.L. 1997, as amended by Section 3, Chapter 2, 1st Extraordinary Session O.S.L. 1998, Section 4, Chapter 133, O.S.L. 1997, Section 5, Chapter 133, O.S.L. 1997, as amended by Section 4, Chapter 2, 1st Extraordinary Session O.S.L. 1998, Section 6, Chapter 133, O.S.L. 1997, Section 7, Chapter 133, O.S.L. 1997, as amended by Section 1, Chapter 333, O.S.L. 1997, Section 22, Chapter 133, O.S.L. 1997, as amended by Section 5, Chapter 2, 1st Extraordinary Session O.S.L. 1998, Section 598,

Chapter 133, O.S.L. 1997, Section 599, Chapter 133, O.S.L. 1997, Section 600, Chapter 133, O.S.L. 1997, Section 601, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Sections 12, 13, 14, 15, 16, 17, 18, 20.1, 20.2, 20.3, and 20.4), which relate to matrices, schedules and percentages, Section 2, Chapter 343, O.S.L. 1995, as amended by Section 155, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 187.1), which relates to contributions and is a duplicate section, Section 3, Chapter 343, O.S.L. 1995, as amended by Section 156, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 187.2), which relates to corporate contributions and is a duplicate section, 21 O.S. 1991, Section 265, as amended by Section 157, Chapter 133, O.S.L. 1999 (21 O.S. Supp. 1998, Section 265), which relates to bribery and is a duplicate section, 21 O.S. 1991, Section 266, as amended by Section 158, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 266), which relates to bribes and is a duplicate section, 21 O.S. 1991, Section 275, as amended by Section 159, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 275), which relates to appointment and is a duplicate section, are hereby repealed.

SECTION 81. REPEALER 22 O.S. 1991, Section 17, as last amended by Section 435, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 17), which relates to distribution of certain proceeds and is a duplicate section, 22 O.S. 1991, Section 305.2, as amended by Section 72, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 305.2), which relates to deferred prosecution and is a duplicate section, 22 O.S. 1991, Section 857, as last amended by Section 13, Chapter 2, 1st Extraordinary Session O.S.L. 1998 (22 O.S. Supp. 1998, Section 857), which relates to jury and is a duplicate section, 22 O.S. 1991, Section 982, as amended by Section 1, Chapter 319, O.S.L. 1992 (22 O.S. Supp. 1998, Section 982), which relates to presentence and is a duplicate section, Section 46, Chapter 133, O.S.L. 1997, as last amended by Section 2, Chapter 420, O.S.L. 1997

(22 O.S. Supp. 1998, Section 987.8), which relates to mandatory services and is a duplicate section, Section 75, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.26), which relates to postimprisonment services, 22 O.S. 1991, Section 991b, as amended by Section 2, Chapter 320, O.S.L. 1994 (22 O.S. Supp. 1998, Section 991b), which relates to revocation of suspended sentence and is a duplicate section, 22 O.S. 1991, Section 305.2, as amended by Section 1, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 305.2), which relates to deferred prosecution and is a duplicate section, 22 O.S. 1991, Section 991c, as last amended by Section 2, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991c), which relates to deferred judgement and is a duplicate section, 22 O.S. 1991, Section 1110, as amended by Section 437, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1110), which relates to jumping bail and is a duplicate section, 22 O.S. 1991, Section 1404, as amended by Section 440, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 1404), which relates to the Oklahoma Corrupt Organization Prevention Act and is a duplicate section, 22 O.S. 1991, Section 991a, as last amended by Section 9, Chapter 260, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to powers of the court and is a triplicate section, 22 O.S. 1991, Section 991a, as last amended by Section 1, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to powers of the court and is a triplicate section, are hereby repealed.

SECTION 82. REPEALER 57 O.S. 1991, Section 365, as last amended by Section 28, Chapter 133, O.S.L. 1997 (57 O.S. Supp. 1998, Section 365), which relates to specialized parole, is hereby repealed.

SECTION 83. 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.

47-1-1692

NP

6/11/2015 8:25:58 PM