

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2549

By: Morgan

AS INTRODUCED

An Act relating to the Oklahoma Community Sentencing Act; amending Section 30, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 13.1), which relates to required service of minimum percentage of sentence; adding crimes to list requiring minimum sentence; amending Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.16), which relates to community sentencing system budgeting; authorizing Department of Corrections to implement community sentencing programs on statewide basis; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 30, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 13.1), is amended to read as follows:

Section 13.1 Persons convicted of first degree murder as ~~defined in~~ punished by Section 701.9 of ~~Title 21 of the Oklahoma Statutes~~ this title, robbery with a dangerous weapon as defined in Section 801 of ~~Title 21 of the Oklahoma Statutes~~ this title, first degree rape as ~~defined in~~ punished by Section 1115 of ~~Title 21 of the Oklahoma Statutes~~ this title, first degree arson as defined in Section 1401 of ~~Title 21 of the Oklahoma Statutes~~ this title, first degree burglary as ~~defined in~~ punished by Section 1436 of ~~Title 21 of the Oklahoma Statutes~~ this title, bombing as defined in Section 1767.1 of ~~Title 21 of the Oklahoma Statutes~~ this title, child abuse as defined in Section 7115 of Title 10 of the Oklahoma Statutes, forcible sodomy as defined in Section 888 of ~~Title 21 of the Oklahoma Statutes~~ this title, child pornography as defined in

Section 1021.2 or 1021.3 of ~~Title 21 of the Oklahoma Statutes~~ this title, child prostitution as defined in Section 1030 of ~~Title 21 of the Oklahoma Statutes~~ this title, lewd molestation of a child as defined in Section 1123 of ~~the Oklahoma Statutes~~ this title, assault, battery or assault and battery with a dangerous weapon as defined in Section 645 of this title, aggravated assault and battery on a police officer, sheriff, or other law enforcement officer as defined by Section 650 of this title, poisoning with intent to kill as defined by Section 651 of this title, shooting with intent to kill and assault with intent to kill as defined by Sections 652 and 653 of this title, assault with intent to commit a felony as defined by Section 681 of this title, assault while masked or disguised as defined by Sections 1302 and 1303 of this title, second degree murder as defined by Section 701.8 of this title, first degree manslaughter as defined by Sections 711 and 713 of this title, second degree manslaughter as defined by Section 716 of this title, kidnapping as defined by Section 741 of this title, burglary with explosives as defined by Section 1441 of this title, kidnapping for extortion as defined by Section 745 of this title, maiming as defined by Section 751 of this title, robbery and first degree robbery as defined by Section 797 of this title, second degree robbery as defined by Section 797 of this title, robbery by two or more persons as defined by Section 800 of this title, second degree rape as defined by Sections 1111 and 1114 of this title, second degree rape by instrumentation as defined by Sections 1111.1 and 1114, use of a firearm to commit a felony as defined by Section 1287 of this title, pointing a firearm as defined by Section 1289.16 of this title, rioting as defined by Sections 1311 and 1312 of this title, inciting to riot as defined by Section 1320.2 of this title, injuring or burning public buildings as defined by Section 349 of this title, second degree arson as defined by Section 1402 of this title, advocate overthrow of government by force as defined by

Section 1266 of this title, criminal syndicalism and sabotage as defined by Section 1263 of this title, extortion as defined by Section 1481 of this title, obtaining signature by extortion as defined by Section 1485 of this title, seizure of a bus as defined by Section 1903 of this title, mistreatment of a mental patient as defined by Section 2-219 of Title 43A of the Oklahoma Statutes, persons who have been previously convicted of one of the crimes enumerated in this section, or persons who have been previously convicted of two or more felonies shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 2. AMENDATORY Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 1999, Section 988.16), is amended to read as follows:

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

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

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

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

Each fiscal year the Division, in collaboration with the local planning councils, shall provide goals and funding priorities for community punishments as provided by law. The statewide community

sentencing system shall be composed of local community sentencing system plans as approved by the Division. The Division shall promulgate rules for local community sentencing systems based upon objective criteria for allocation of state appropriated funds to local systems for day-to-day operation during a fiscal year which may include identification of:

1. Fiscally responsible allocations of services and funds;
2. Innovative or effective programs of the local system; and
3. Appropriate targeting of offenders for services.

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

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

1. Demonstrate fiscal responsibility by operating the local system within the plan and budget allocation;
2. Require performance-based selection of service providers participating in the annual system plan;
3. Submit a plan which offers a continuum of sanctions for eligible offenders sentenced to the local community sentencing system and appropriately assign offenders for services; and
4. Comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of the Oklahoma Community Sentencing Act.

C. The Community Sentencing Division within the Department of Corrections shall review and evaluate all community sentencing system plans and budget requests when plans are submitted for

approval and funding. The Division is directed to automatically approve all plans complying with the provisions of the Oklahoma Community Sentencing Act which require no state funding.

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

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

F. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 557.1 of Title 57 of the Oklahoma Statutes, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections and every local planning council are authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens to support or expand the community sentencing system.

G. Requests for capital expenditures in support of the local community sentencing system shall be made as provided by the rules

promulgated by the Community Sentencing Division within the Department of Corrections.

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

SECTION 3. This act shall become effective July 1, 2000.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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