

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 507

By: Rabon

AS INTRODUCED

An Act relating to criminal procedure; amending Section 20, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991c-1), which relates to postimprisonment supervision; clarifying language; providing an effective date; and declaring an emergency.

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

SECTION 1. 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~~ A term of postimprisonment supervision may be imposed at the time of sentencing for ~~an~~ any offender who is ~~not~~ sentenced to a ~~deferred sentence or a suspended sentence~~ term of imprisonment. The term of postimprisonment supervision may be with or without any of the conditions authorized by subsection B of Section ~~46~~ 987.8 of this ~~act~~ title. 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 term of 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~~ the offender undergoes a change of condition which materially affects his or her 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 or her 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 or her 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 2. This act shall become effective July 1, 1999.

SECTION 3. 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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