

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 593

By: Smith

AS INTRODUCED

An Act relating to criminal procedure; 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; modifying language; removing authority to sentence to certain punishment for misdemeanors; updating certain statutory references; increasing certain fee; repealing Section 46, Chapter 133, O.S.L. 1997, as 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; providing an effective date; and declaring an emergency.

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

SECTION 1. 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 Act shall include those ~~services and~~ punishments 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 community sentencing system shall be required to provide an appropriate range of ~~services and~~ punishments making a continuum of sanctions available to the court for sentencing. Said options may be utilized for offenders sentenced pursuant to the applicable state sentencing matrix or otherwise as provided by law for criminal sentences. Each local system shall be required to have available to

the court all of the following ~~services~~ punishments for ~~both~~ felony and ~~misdemeanor~~ offenses:

1. Community service with or without compensation;
2. Substance abuse treatment and drug testing;
3. Varying levels of supervision;
4. Education and literacy;
5. Employment opportunities and job skills training; and
6. Enforced collections.

B. The court may order any 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~~ by the sentencing matrix in 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~~ this title. 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)~~ Fifteen Dollars (\$15.00) nor more than ~~Fifteen Dollars (\$15.00)~~ 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~~ this title 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.

SECTION 2. REPEALER Section 46, Chapter 133, O.S.L. 1997, as amended by Section 2, Chapter 420, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.8), is hereby repealed.

SECTION 3. This act shall become effective July 1, 1999.

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.

47-1-808 NP 6/12/2015 1:51:37 AM