

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 784

By: Campbell of the Senate

and

Worthen of the House

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Community Sentencing Act; amending Section 1, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.1), which relates to short title; modifying reference; amending Section 2, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.2), which relates to definitions; clarifying language; amending Section 3, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.3), which relates to purpose of the Community Sentencing Act; modifying purposes; amending Section 4, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.4), which relates to mandatory local system; authorizing establishment of local system by certain time; deleting requirement to participate in the statewide community sentencing system; authorizing Chief Judge to set certain boundaries by certain date to form a local system; amending Section 5, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.5), which relates to local planning councils; making formation of local planning council permissive rather than mandatory; modifying language; amending Section 8, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.8), which relates to community services and sentencing options; deleting pilot projects; authorizing community sentencing statewide; amending Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999, as amended by Section 1, Chapter 39, O.S.L. 2000 (22 O.S. Supp. 2000, Section 988.16), which relates to community sentencing budgets; requiring implementation of statewide community sentencing system for local systems desiring to participate; modifying language; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.1), is amended to read as follows:

Section 988.1 Sections ~~1~~ 988.1 through ~~25~~ 988.23 and 990a-1.1 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Community Sentencing Act".

SECTION 2. AMENDATORY Section 2, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.2), is amended to read as follows:

Section 988.2 A. For purposes of the Oklahoma Community Sentencing 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 services to the sentencing court for punishment of eligible felony offenders under the authority of a community sentence;

2. "Community sentence" or "community punishment" means a punishment imposed by the court as a condition of a deferred or suspended sentence for an eligible felony offender;

3. "Continuum of sanctions" means a variety of coercive measures and treatment options ranked by degrees of intervention, public safety, punitive effect, and cost benefit which are available to the sentencing judge as 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 with the assistance of the Community Sentencing Division ~~of~~ within the Department of Corrections locates 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 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 ~~which~~ that 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 Act, the statewide community sentencing system, and all local community sentencing systems;

8. "Eligible offender" means a felony offender who has been convicted of or who has entered a plea other than not guilty to a felony offense and who upon completion of a Level of Services Inventory (LSI) or another assessment instrument has been found to be in the moderate range and who is not otherwise prohibited by law; provided, however, that no person who has been convicted of or who has entered a plea other than not guilty to an offense enumerated in subsection 5 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception to the definition of "nonviolent offense" shall be eligible for a community sentence or community punishment unless the district attorney or an assistant district attorney for the district in which the offender's conviction was obtained consents thereto. This consent shall be made a part of the record of the case. Provided, further, that no person who has been convicted of or who has entered a plea other than not guilty to a felony enumerated in Section ~~30~~ 13.1 of ~~this act~~ Title 21 of the Oklahoma Statutes shall be eligible for a community sentence or community punishment; and

9. "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 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 Act shall be performed by the Presiding Judge of the Judicial Administrative District.

SECTION 3. AMENDATORY Section 3, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.3), is amended to read as follows:

Section 988.3 The purposes of the Oklahoma Community Sentencing Act are to:

1. Protect the public;
2. Establish a statewide community sentencing system;
3. Adequately supervise and provide treatment to felony offenders punished under a court-ordered community sentence;
4. Provide a continuum of sanctions to the court for eligible felony offenders sentenced to a community sentence within the community sentencing system;
5. Increase the availability of punishment and treatment options to eligible felony offenders;
6. Improve the criminal justice system within this state through public/private partnerships, reciprocal and interlocal governmental agreements, and interagency cooperation and collaboration; and
7. Operate effectively within the allocation of state and local resources for the criminal justice system.

SECTION 4. AMENDATORY Section 4, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.4), is amended to read as follows:

Section 988.4 In jurisdictions where a local community sentencing system has not been established prior to ~~the effective date of this act~~ July 1, 2001, the Chief Judge of the Judicial District shall establish the geographic boundaries of a community sentencing system by October 1 of any fiscal year, 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 the judicial district; provided, however, the consent of the sheriff of each affected county and each district attorney operating within each of the subject counties must be obtained before a county may join a proposed multicounty community sentencing system. Multicounty community sentencing systems may be established by the Chief Judge of a Judicial District with the consent of each local council affected in such manner as provided by rules promulgated by the Community Sentencing Division within the Department of Corrections.

SECTION 5. AMENDATORY Section 5, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.5), is amended to read as follows:

Section 988.5 A. A community sentencing system planning council shall be established for each jurisdiction defined by the judge as provided in Section 4 988.4 of this ~~act~~ title.

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 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 adding members 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 4 988.4 of this ~~act~~ title or should a council cease to actively function as determined by the Community Sentencing Division ~~of~~ within the Department of Corrections, the Chief Judge of the Judicial District upon notification ~~by~~ from the

Division 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 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.

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, procedures and timing for election of officers 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 6. AMENDATORY Section 8, Chapter 4, 1st Extraordinary Session, O.S.L. 1999 (22 O.S. Supp. 2000, Section 988.8), is amended to read as follows:

Section 988.8 A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act shall include those community punishments, ~~and~~ and programs, and services enumerated and funded ~~as a pilot project~~ 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. The options may not be utilized for offenders 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 strive to have available to the court all of the following services for eligible offenders:

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~~ Oklahoma

Department of Career and Technology Education or another qualified source;

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 as a community punishment for an eligible offender any condition listed as a condition available for a suspended sentence.

C. In all cases in which an offender is sentenced to a community punishment, the offender shall be ordered as part of the terms and conditions of the sentence to pay for the court ordered sanction, based upon ability to pay. Payments may be as provided by court order or pursuant to periodic payment schedules established by the service provider. If the offender does not have the financial ability to pay for the court ordered sanction, payment shall be made from funds budgeted for the local community sentencing system.

SECTION 7. AMENDATORY Section 16, Chapter 4, 1st Extraordinary Session, O.S.L. 1999, as amended by Section 1, Chapter 39, O.S.L. 2000 (22 O.S. Supp. 2000, Section 988.16), is amended to read as follows:

Section 988.16 A. The Community Sentencing Division within the Department of Corrections shall implement ~~pilot projects~~ a statewide community sentencing system for establishment, support, and continued operation of local community sentencing systems desiring to participate.

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 988.7 of this title, and for compliance with law and rule.

E. State funds from the Community Sentencing Division disbursed to local 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 local 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. For purposes of calculating state funding for local community sentencing systems, supervision, treatment, and education shall be the first funding priorities.

SECTION 8. 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.

48-1-15172 JB 6/12/15