SB 808

THE STATE SENATE
Tuesday, February 27, 2001

Senate Bill No. 808

As Amended

SENATE BILL NO. 808 - By: WILKERSON of the Senate and ASKINS of the House.

[criminal procedure - Reintegration Support Act - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472 of Title 22, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Reintegration Support Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that persons who have been incarcerated for long periods of time require assistance and support upon their return to society, and that persons who have received treatment for criminal conduct while incarcerated often require a structured environment for some period of time upon their return to society. The ability to provide structured support, monitoring, and when necessary judicial intervention, is naturally within the authority

(Bold face denotes Committee Amendments)

of the district court. That provisions should be made to allow the courts to provide these services in a nonadversarial manner to encourage reintegration of convicted persons following a period of incarceration. It is the intent of the Legislature to allow the courts to provide nonadversarial therapeutic jurisprudence to persons returning from incarceration and to enhancing public safety through this process.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The Administrative Office of the Courts shall implement a pilot re-entry court program as provided by the provisions of this act for persons released from incarceration in this state by parole or released as may otherwise be provided by law, subject to the eligibility and procedural requirements set by rule.

B. The Director of the Administrative Office of the Courts shall appoint an Executive Director to administer the implementation of re-entry courts in this state. The compensation for the Executive Director shall be set by the Legislature.

C. The Executive Director shall administer the implementation of re-entry courts within this state, and may appoint staff and fix salaries subject to funds appropriated for such purpose. The Executive Director shall report directly to the Director of the

Administrative Office of the Courts, and shall consult with judges, the Commissioner of Public Safety, the Department of Corrections, the Department of Mental Health and Substance Abuse Services, the district attorneys, and others as necessary to promote and implement re-entry courts.

D. The Executive Director shall select one district court to establish a pilot re-entry court, and other courts may be selected subject to funding. The Executive Director shall promulgate rules, forms, and procedures for implementation of re-entry courts within one (1) year of the effective date of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. "Re-entry court" means nonadversarial judicial monitoring, structured support, and intervention for:

1. Persons convicted of a violent felony offense who are released on parole from incarceration in this state;

2. Persons convicted of any nonviolent felony offense or any combination of violent or nonviolent felony offenses who are released on parole from incarceration in this state; or

3. Persons convicted of any substance abuse or alcohol-related felony offense and sentenced to incarceration in this state, who have completed a substance abuse treatment course while

incarcerated, and who are released to structured supervision or aftercare pending completion of the sentence pursuant to Section 612 of Title 57 of the Oklahoma Statutes; or

4. Persons convicted of a felony offense and who are released from incarceration by commutation of the sentence, or as otherwise authorized by law, and who are released from incarceration subject to participation in a structured support environment.

Re-entry court is in addition to, and not in substitution for, any parole supervision provided by the Department of Corrections.

B. Nothing in this act shall require the admission of every person deemed eligible for participation in any re-entry court program. The rules for eligibility screening shall provide for refusal of admission to re-entry court at the discretion of the court.

C. The total number of persons assigned to a pilot re-entry court program shall not exceed fifteen percent (15%) of the total population of persons committed to the custody of the Department of Corrections, excluding those on probation and parole; provided, if the total population of persons committed to the custody of the Department decreases so that the percentage of persons participating in the re-entry court program exceeds fifteen percent (15%) of that population, the participants shall not be removed from the program.

D. Persons participating in the re-entry court program shall remain active in the program for twelve (12) months, but may be required to remain in the program until the completion of the sentence as provided by rule. All persons participating in the re-entry court program shall pay the costs of supervision or other costs or fees associated with the program. All persons participating in the re-entry court program shall be or become employed. The judge may suspend payment of costs and fees during periods of unemployment or in the event of a person being totally disabled and unable to be employed, but costs and fees shall not be waived and shall constitute an obligation to the court until paid. The obligation for costs and fees shall not be limited by the term of the sentence nor by the length of active participation in the re-entry court; provided, however, costs and fees shall only accrue during the active portion of re-entry court. Costs and fees shall be collected as provided for court costs and failure to pay may result in contempt of court proceedings. The court clerk may retain a percentage as provided by rule.

E. The court shall notify the sheriff, district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which a person admitted to re-entry court is to be residing. Unscheduled visits to the person admitted to re-entry court are allowed by these agencies within the guidelines

established by rule. The court shall allow victims to file a victim impact statement, attend open court sessions, and have an opportunity to consult with a certified victim offender mediator.

F. Any person admitted to re-entry court who violates any rule or condition of the program shall be subject to disciplinary sanctions designed to redirect the behavior in a more prosocial manner. Any person admitted to re-entry court who absconds from supervision shall be considered to have escaped and shall be subject to the provisions of Section 443 of Title 21 of the Oklahoma Statutes. Provided, nothing shall require the court to recognize an escape when a more appropriate disciplinary sanction exists under the factual situation.

G. Re-entry courts recognize that upon return from incarceration there may be evidence of unacceptable behavior or thinking patterns, difficulty adjusting to the demands of family and financial obligations, and substance use relapse while the person readjusts to societal standards. The court shall encourage pro-social behavior through consistent application of disciplinary sanctions and incentives in a nonadversarial therapeutic jurisprudence environment. Any inmate removed from the re-entry court program for repeated infractions or violation of any rule or condition or for commission of any additional criminal offense shall

be revoked to the remainder of the original sentence plus two (2) years.

SECTION 5. AMENDATORY Section 14, Chapter 276, O.S.L. 1993, as last amended by Section 3, Chapter 170, O.S.L. 1999 (57 O.S. Supp. 2000, Section 612), is amended to read as follows:

Section 612. A. Any person convicted of violating the provisions of Section 11-902 of Title 47 of the Oklahoma Statutes <u>or any offense prohibited by the Uniform Controlled Dangerous Substances Act</u> and sentenced to the custody of the Department of Corrections shall be processed through the Lexington Assessment and Reception Center or other location determined by the Director of the Department of Corrections, classified and assigned as follows:

1. To the Department of Mental Health and Substance Abuse Services for substance abuse treatment, if the person is evaluated to be <u>addicted and</u> receptive to treatment and not deemed by the Department of Corrections to be a security risk. The inmate may be required to reimburse the Department of Mental Health and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate is assigned to the Department of Mental Health and Substance Abuse Services. The Department of Corrections shall determine whether the inmate has the ability to pay for all or part of the cost of treatment. While assigned to a Department of Mental Health and Substance Abuse

Services treatment program the inmate shall comply with the rules ~~and regulations as~~ agreed upon by the Department of Mental Health and Substance Abuse Services and the Department of Corrections. Any infraction of ~~said~~ the rules may result in the inmate's reassignment to a correctional facility ~~of the Department of Corrections~~. Upon successful completion of the treatment program the inmate shall be properly reassigned by the Department of Corrections for structured supervision or aftercare for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the treatment facility shall forward to the Department of Corrections a report and discharge summary including arrangements and recommendations for further disposition and follow-up treatment, including recommendation for re-entry court participation when applicable;

2. To an inpatient substance abuse treatment program operated by a public or private treatment provider or hospital with the offender paying for the treatment. Upon successful completion of the inpatient treatment program, the offender may be assigned to a halfway house, structured ~~community placement~~ supervision, aftercare, or home placement with the advice of the treatment provider. The Department of Corrections shall require as a condition of any assignment that the offender have electronic monitoring or ignition interlock device requirements, or both, as a

condition of placement. The offender shall be responsible for all costs and fees associated with electronic monitoring, ignition interlock device, and supervision; ~~or~~

3. To a correctional facility when:

a. the person is evaluated not to be addicted or not to be receptive to treatment,

b. the person is evaluated to be a high security risk, or

c. the person requires educational, medical or other services or programs not available in the community ~~setting as determined by the Department~~; or

4. To re-entry court following completion of a treatment program in a correctional setting. Upon completion of the treatment program the Department shall notify the Executive Director of the re-entry court program that the offender is a candidate for re-entry court. The Executive Director shall notify the district attorney in the county where the conviction was imposed and the judge of the nearest re-entry court. Upon acceptance of the offender the Department shall transfer the person to the jurisdiction of the court as provided by rule. The offender shall continue to serve the sentence under the jurisdiction of the re-entry court until released or until the entire sentence has been served.

B. As used in this section:

1. "Substance abuse treatment program" means a residential or outpatient program certified by the Department of Mental Health and Substance Abuse Services and selected by the Department of Corrections to provide substance abuse treatment for the inmate;

2. "Electronic monitoring" means monitoring of the inmate within a specified location or locations in a community setting by means of an electronic bracelet or other device; and

3. “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.

SECTION 6. This act shall become effective November 1, 2001.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-01 - DO PASS, As Amended and Coauthored.