

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 812

By: Hobson

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 996, which relates to the Delayed Sentencing Program For Young Adults; modifying references; amending 22 O.S. 1991, Section 996.1, as amended by Section 1, Chapter 314, O.S.L. 1994 (22 O.S. Supp. 2000, Section 996.1), which relates to definitions; expanding age requirements for admission; clarifying language; amending 22 O.S. 1991, Section 996.2, which relates to Department of Corrections procedures; requiring the Department of Corrections to establish a Regimented Inmate Discipline (RID) Program as part of the Delayed Sentencing Program for Young Adults; requiring promulgation of rules; directing filing of rules by certain time with certain entity; setting components of certain program; specifying maximum term of program; prohibiting incarceration beyond certain term; requiring judicial review; directing rules be distributed to courts; directing coordination for uniform implementation; authorizing incarceration without certain program; setting maximum term of program; prohibiting certain assignment until certain courses are completed; amending 22 O.S. 1991, Section 996.3, which relates to accountability plan; expanding term of certain program; deleting definitions and language; allowing probation as part of certain program; clarifying language; allowing dismissal of charges; requiring a presentence investigation report; providing for copies to be delivered; allowing for objections to be filed within certain time; providing for reception into custody; removing authority for extension of certain program; limiting program to certain terms; prohibiting admission of non-eligible person into certain program; amending 57 O.S. 1991, Section 530, as last amended by Section 7, Chapter 89, O.S.L. 1998 (57 O.S. Supp. 2000, Section 530), which relates to receiving new prisoners; directing reception directly into custody of the Department of Corrections for certain programs; requiring compliance with judicial review; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 996, is amended to read as follows:

Section 996. Sections ~~1~~ 996 through ~~4~~ 996.3 of this ~~act~~ title shall be known and may be cited as the "Delayed Sentencing Program for Young Adults".

SECTION 2. AMENDATORY 22 O.S. 1991, Section 996.1, as amended by Section 1, Chapter 314, O.S.L. 1994 (22 O.S. Supp. 2000, Section 996.1), is amended to read as follows:

Section 996.1 As used in the Delayed Sentencing Program for Young Adults:

"Offender" means any ~~adult~~ person eighteen (18) through ~~twenty-one~~ ~~(21)~~ twenty-five (25) years of age or a juvenile who has been certified to stand trial as an adult, who has committed a felony offense, who has not previously been convicted of two or more ~~felonies~~ felony offenses, and who has not been convicted of assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, using a vehicle to facilitate the intentional discharge of any kind of firearm in violation of Section 652 of Title 21 of the Oklahoma Statutes, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a felony, pointing firearms, rioting, or arson in the first degree.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 996.2, is amended to read as follows:

Section 996.2 A. The Department of Corrections shall ~~establish procedures to carry out the provisions of~~ establish a Regimented

Inmate Discipline (RID) Program for persons sentenced pursuant to the Delayed Sentencing Program for Young Adults and shall promulgate rules, procedures, and forms necessary to implement the RID Program. The rules shall be filed with the Director of the Administrative Office of the Courts by November 1, 2001. The RID Program shall combine a rigorous physical component with drug awareness or treatment, anger management, cognitive behavior therapy, education, discipline, work ethics, and life skills; provided, however, the physical component may be waived for any person having physical limitations or disabilities. The incarceration portion of the RID Program shall not exceed ninety (90) days in custody. Any person sentenced to the RID Program shall be received directly into the Program, and the court is authorized to delay the reporting date until reception availability is approved by the Department. Upon completion of the incarceration portion of the RID Program, the person shall be released to structured supervision in the community for an additional ninety (90) days. The court may not modify the term of the RID Program. No person sentenced to the RID Program shall remain incarcerated in the custody of the Department beyond the term specified by this section. Every person sentenced to the RID Program shall have a judicial review as provided by Section 982a of this title within one hundred eighty (180) days of the reception date.

B. The Director of the Administrative Office of the Courts shall distribute the RID Program rules, procedures, and forms to all district courts and shall coordinate with the judges for the uniform use and implementation of the RID Program.

C. The court may sentence a person pursuant to the Delayed Sentencing Program for Young Adults to a term of incarceration without the RID Program. The sentence shall not exceed two hundred sixty (260) days followed by supervision in the community for not more than ninety (90) days, and shall require a judicial review as

provided in Section 982a of this title within three hundred sixty (360) days of the reception date. The Department is prohibited from assigning any person sentenced pursuant to the Delayed Sentencing Program for Young Adults to any work crew until the offender has been assigned to drug awareness or treatment, anger management, cognitive behavior therapy, education, discipline, and life skills courses and each has been completed.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 996.3, is amended to read as follows:

Section 996.3 A. Upon a verdict of guilty or a plea of guilty or nolo contendere of an offender, the court shall delay sentencing for a period ~~of up to one hundred twenty (120)~~ not exceeding one hundred eighty (180) days for the RID Program or three hundred sixty (360) days for a sentence to confinement after the plea of guilty or finding of guilt is entered and ~~order~~ the offender ~~to~~ is received by the Department into the Delayed Sentencing Program for Young Adults under the custody of the Department of Corrections. For purposes of the Delayed Sentencing Program for Young Adults, the term "custody" shall include probation or confinement. The court may initially commit the offender for either probation or confinement pending the completion of the Delayed Sentencing Program The court may order the offender into the Regimented Inmate Discipline (RID) Program in the custody of the Department of Corrections as part of the Delayed Sentencing Program For Young Adults or order the offender to a term of confinement as specified by Section 996.2 of this title or to supervised probation at the discretion of the court.

B. ~~After the completion~~ At the conclusion of said program the ~~delayed period~~ the court shall hold a judicial review hearing and sentence the offender by imposing either:

1. ~~Defer~~ Deferred judgment pursuant to the provisions of Section 991c of ~~Title 22 of the Oklahoma Statutes~~ this title; ~~or~~

2. ~~Sentence said offender to any sentence~~ Term of incarceration provided by law in the custody of the Department of Corrections less a day for day credit for any time served under the RID Program; ~~or~~

3. ~~Suspend the execution of~~ Suspended sentence pursuant to Section 991a of ~~Title 22 of the Oklahoma Statutes~~ this title. ~~In addition to other conditions of probation allowed by statute, the court may include special conditions of probation as set forth in the plan provided to the court if sentencing is deferred or if all or part of the sentence is suspended;~~ or

4. Dismissal of the charges.

B. ~~Within one hundred twenty (120) days after the offender is committed to the Delayed Sentencing Program for Young Adults, the Department of Corrections shall prepare and file with the court clerk a specialized offender accountability plan for said offender which shall comply with and be in lieu of the~~

C. The Department shall prepare a presentence investigation provided for in Section 982 of ~~Title 22 of the Oklahoma Statutes~~ this title. ~~The plan shall include information, evaluations, and data directed by the sentencing court, and may include but not be limited to, the investigation report of probation officers, an assessment of security risks and offender needs and a recommended specific course of action, including, where applicable, psychological counseling, psychiatric treatment, medical treatment, education or vocational training, work, restitution, and such other programs, which will offer the best opportunity for rehabilitation of said offender. If the plan recommends confinement, the plan shall state specifically the type of confinement that the Department of Corrections proposes to utilize and the amount of time the offender will spend in that confinement.~~

~~Upon filing the plan, copies~~ Copies of the presentence report shall be provided by the Department of Corrections to the district attorney, the offender, and the offender's attorney. These copies

shall be provided at least twenty (20) days prior to the ~~sentencing~~ judicial review hearing date set by the court. If the district attorney, the offender or the offender's attorney objects to ~~said plan, he may file his written objections~~ the presentence report, an objection may be filed with the court within ten (10) days of the ~~sentencing~~ date set for the judicial review hearing.

~~C.~~ D. An order by the court placing an offender in the Delayed Sentencing Program for Young Adults or the RID Program shall be accepted by the Department ~~of Corrections~~ as a commitment to the custody of the Department pursuant to the provisions of Section ~~521~~ 530 of Title 57 of the Oklahoma Statutes, ~~for the purpose of committing an offender for assessment.~~

~~D.~~ E. The period of delayed sentencing ~~may be extended upon execution of a waiver of the one hundred twenty day period by the offender for the purpose of completing the Delayed Sentencing Program for Young Adults prior to sentencing. Provided however, in no event shall the extension exceed a period of sixty (60) days and said extension shall be approved by the court at which time the court shall set a new sentencing date in accordance with the programmed completion date~~ authorized by this act shall not exceed the maximum term authorized by Section 996.2 of this title and shall comply with the provisions for judicial review provided by Section 982a of this title. No person shall be admitted to the Delayed Sentencing Program For Young Adults or the RID Program whose age or offense deems the person not eligible by law for the Program.

SECTION 5. AMENDATORY 57 O.S. 1991, Section 530, as last amended by Section 7, Chapter 89, O.S.L. 1998 (57 O.S. Supp. 2000, Section 530), is amended to read as follows:

Section 530. It is the intent of the State Legislature that all new prisoners sentenced to the custody of the Department of Corrections will be processed through the Lexington Assessment and Reception Center or at a place determined by the Director of the

Department of Corrections. The Department ~~of Corrections~~ shall administer physical and psychological examinations, inventory vocational skills, and assess educational and training needs. The Department ~~of Corrections~~ shall determine initial security and custody classifications, plan for immediate or possible future assignment to an institution, community treatment center or other alternative to incarceration authorized by law, provide orientation and instruction with respect to rules and procedures for prisoners, and perform other such activities deemed necessary by the Department ~~of Corrections~~. For persons sentenced pursuant to the authority of the Delayed Sentencing Program for Young Adults or the Regimented Inmate Discipline (RID) Program, the Department shall provide for reception into custody directly into the Program and shall ensure compliance with the provisions of law for judicial review.

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

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