

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1192

By: Wilkerson of the Senate

and

Askins of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to community sentencing; amending 22 O.S. 2001, Section 988.2, as amended by Section 1 of Enrolled Senate Bill No. 1174 of the 2nd Session of the 49th Oklahoma Legislature, which relates to definitions; requiring certain conditions for certain eligibility; requiring district attorney consent; providing certain agencies to continue certain services for certain persons; removing certain responsibility of the Department of Corrections to pay or provide certain services for certain persons; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 988.2, as amended by Section 1 of Enrolled Senate Bill No. 1174 of the 2nd Session of the 49th Oklahoma Legislature, 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 offender;

3. "Continuum of sanctions" means a variety of coercive measures and treatment options ranked by degrees of 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 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 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 ~~or another~~ (LSI) 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~~ paragraph 2 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. The district attorney may consent to eligibility for an offender who has a previously determined or diagnosed mental illness ~~or a~~, developmental disability or a co-occurring mental illness and substance abuse disorder ~~and~~ who scores outside the moderate range on the LSI ~~or another~~ assessment instrument ~~if and~~ who without participation in community sentencing will be incarcerated, provided the offender is not otherwise prohibited by law. Any consent by a district attorney for eligibility to participate in community sentencing shall be made a part of the record of the case. All services previously provided by the Department of Mental Health and Substances Abuse Services or any other state agency to persons accepted to community sentencing by consent shall continue while the person is participating in community sentencing. The Department of Corrections shall not be required to pay or provide any services available to such person from other state agencies, including but not limited to inpatient treatment, if the person was receiving such service or is otherwise eligible for such service while participating in community sentencing. 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 13.1 of 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 2. This act shall become effective July 1, 2004.

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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