STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1420 By: Laughlin of the Senate

and

Blackwell of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and criminal procedure; requiring certain condition of bail for certain offenses; prohibiting certain conduct while on bail; setting penalty; authorizing the court to revoke certain bail for certain conduct; defining term; amending 22 O.S. 2001, Sections 996.1 and 996.3, as amended by Sections 2 and 4, Chapter 323, O.S.L. 2003 (22 O.S. Supp. 2003, Sections 996.1 and 996.3), which relate to Delayed Sentencing Program for Young Adults; increasing age of eligibility; increasing certain time period to file certain report; amending 22 O.S. 2001, Section 991d, as last amended by Section 4, Chater 474, O.S.L. 2003 (22 O.S. Supp. 2003, Section 991d), which relates to supervision; providing fee to district attorney for misdemeanor supervision; stating amount of certain fee; providing for codification; providing an effective date; and declaring an emergency.

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 1126 of Title 21, unless there is created a duplication in numbering, reads as follows:

When a person is arrested for the alleged crime of rape, forcible sodomy or lewd acts with a child where the alleged victim is a child under fifteen (15) years of age, and the person is subsequently released on bail pending adjudication of the crime, the court shall order as a condition of such bail that the person submit to electronic monitoring by a global positioning device or other supervision. Any person while on bail for any of the above-mentioned offenses is prohibited from communicating with any minor

child under fifteen (15) years of age other than a child living in such person's household who is not the alleged victim of the crime. Violation of this section is a misdemeanor punishable, upon conviction, by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00). The court may revoke the defendant's bail upon any violation of a condition of electronic monitoring or supervision or for communicating with a minor child in violation of this section.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 991d, as last amended by Section 4, Chapter 474, O.S.L. 2003 (22 O.S. Supp. 2003, Section 991d), is amended to read as follows:

Section 991d. A. 1. When the court orders supervision by the Department of Corrections, or the district attorney requires the Department to supervise any person pursuant to a deferred prosecution agreement, the person shall be required to pay a supervision fee of Forty Dollars ($40.00) per month during the supervision period, unless the fee would impose an unnecessary hardship on the person. In hardship cases, the Department shall expressly waive all or part of the fee. The court shall make payment of the fee a condition of the sentence which shall be imposed whether the supervision is incident to the suspending of execution of a sentence, incident to the suspending of imposition of a sentence, or incident to the deferral of proceedings after a verdict or plea of guilty. The Department shall determine methods for payment of the supervision fee, and may charge a reasonable user fee for collection of supervision fees electronically. The Department is required to report to the sentencing court any failure of the person to pay supervision fees and to report immediately if the person violates any condition of the sentence.

2. When the court imposes a suspended or deferred sentence <u>for felony cases</u> and does not order supervision by the Department of Corrections, the offender shall be required to pay to the district

~~attorney~~ attorney's office a supervision fee of Twenty Dollars ($20.00) per month. When the court imposes supervision for misdemeanor cases the district attorney's office shall provide the supervision by contract or otherwise, and the offender shall be required to pay to the district attorney's office a supervision fee of Twenty Dollars ($20.00) per month. In hardship cases, the district attorney shall expressly waive all or part of the fee.

3. If restitution is ordered by the court in conjunction with supervision, the supervision fee will be paid in addition to the restitution ordered. In addition to the restitution payment and supervision fee, a reasonable user fee may be charged by the Department of Corrections to cover the expenses of administration of the restitution, except no user fee shall be collected by the Department when restitution payment is collected and disbursed to the victim by the office of the district attorney as provided in Section 991f of this title or Section 991f-1.1 of this title.

B. The Pardon and Parole Board shall require a supervision fee to be paid by the parolee as a condition of parole which shall be paid to the Department of Corrections. The Department shall determine the amount of the fee as provided for other persons under supervision by the Department.

C. Upon acceptance of an offender by the Department of Corrections whose probation or parole supervision was transferred to Oklahoma through the Interstate Compact Agreement, or upon the assignment of an inmate to any community placement, a fee shall be required to be paid by the offender to the Department of Corrections as provided for other persons under supervision of the Department.

D. Except as provided in this subsection, all fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund created pursuant to Section 557 of Title 57 of the Oklahoma Statutes. For the fiscal year ending June 30, 1996, fifty percent (50%) of all collections received from offenders

placed on supervision after July 1, 1995, shall be transferred to the credit of the General Revenue Fund of the State Treasury until such time as total transfers equal Three Million Three Hundred Thousand Dollars ($3,300,000.00).

SECTION 3. AMENDATORY 22 O.S. 2001, Section 996.1, as amended by Section 2, Chapter 323, O.S.L. 2003 (22 O.S. Supp. 2003, 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 eighteen (18) through ~~twenty-one (21)~~ twenty-three (23) years of age charged with a felony offense or a juvenile who has been certified to stand trial as an adult for a felony offense, 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 4. AMENDATORY 22 O.S. 2001, Section 996.3, as amended by Section 4, Chapter 323, O.S.L. 2003 (22 O.S. Supp. 2003, 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 not less than one hundred eighty (180) days nor more than one (1) year after the plea of guilty or finding of guilt is entered and order the offender to 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 during the term of the Program. The court may initially commit the offender for either probation or confinement pending the completion of the Delayed Sentencing Program.

After the completion of the Program the court shall:

1. Defer judgment pursuant to the provisions of Section 991c of this title; or

2. Sentence the offender to any sentence provided by law in the custody of the Department of Corrections; or

3. Suspend the execution of sentence pursuant to Section 991a of 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. Sentence the offender to community sentencing; or

5. Dismiss the criminal charges and proceedings.

B. Within ~~thirty (30)~~ ninety (90) 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 the offender which shall comply with and be in lieu of the presentence investigation provided for in Section 982 of 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 the 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, including but not limited to boot camp, substance abuse treatment, and vocational or educational placement.

Upon filing the plan, copies shall be provided by the Department of Corrections to the district attorney, the offender, the offender's attorney, and the court. If the district attorney, the offender or the offender's attorney objects to the plan, the objecting party may file a written objection with the court within ten (10) days of the receipt of the plan. Upon the filing of any objection, the court shall conduct a hearing within ten (10) days of the filing of the objection and decide a plan of action for the offender under the Delayed Sentencing Program for Young Adults or sentence the offender as otherwise provided by law.

C. An order by the court placing an offender in the Delayed Sentencing Program for Young Adults shall be accepted by the Department of Corrections as a commitment to the custody of the Department pursuant to the provisions of Section 521 of Title 57 of the Oklahoma Statutes, for the sole purpose of committing an offender for assessment and evaluation and complying with the accountability plan.

D. If no objection has been made to the plan, the offender shall remain in the custody of the Department either under probation or confinement to comply with the terms and conditions of the plan. The offender may be housed either in a minimum or medium security facility, halfway house, community corrections facility, or any

combination as needed to comply with the plan and meet offender criminogenic needs.

SECTION 5. This act shall become effective July 1, 2004.

SECTION 6. 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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