ENGROSSED SENATE
BILL NO. 759

By: Laughlin of the Senate

and

Blackwell of the House

[criminal procedure - Delayed Sentencing Program for Young Adults - effective date - emergency]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 996.1, as amended by Section 2, Chapter 323, O.S.L. 2003 (22 O.S. Supp. 2004, 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) years of age charged with a felony offense or a juvenile who has been certified to stand trial as an adult for a <u>nonviolent</u> 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 2. AMENDATORY 22 O.S. 2001, Section 996.3, as amended by Section 4, Chapter 323, O.S.L. 2003 (22 O.S. Supp. 2004, 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)~~ <u>ninety (90)</u> 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 3. This act shall become effective July 1, 2005.

SECTION 4. 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.

Passed the Senate the 9th day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

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Presiding Officer of the House
of Representatives