

SB 514

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THE STATE SENATE
Wednesday, March 2, 2005

Senate Bill No. 514
As Amended

SENATE BILL NO. 514 - By: WILSON of the Senate and HARRISON of the House.

[criminal procedures - definitions - assessment and evaluation - effective date - 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, Chapter 251, O.S.L. 2004 (22 O.S. Supp. 2004, Section 988.2), 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,

1 punitive effect, and cost benefit which are available to the
2 sentencing judge as punishment for criminal conduct;

3 4. "Community sentencing system planning council" or "planning
4 council" means a group of citizens and elected officials specified
5 by law or appointed by the Chief Judge of the Judicial District
6 which plans the local community sentencing system and with the
7 assistance of the Community Sentencing Division of the Department of
8 Corrections locates treatment providers and resources to support the
9 local community sentencing system;

10 5. "Incentive" means a court-ordered reduction in the terms or
11 conditions of a community sentence which is given for exceptional
12 performance or progress by the offender;

13 6. "Disciplinary sanction" means a court-ordered punishment in
14 response to a technical or noncompliance violation of a community
15 sentence which increases in intensity or duration with each
16 successive violation;

17 7. "Division" means the Community Sentencing Division within
18 the Department of Corrections which is the state administration
19 agency for the Oklahoma Community Sentencing Act, the statewide
20 community sentencing system, and all local community sentencing
21 systems;

22 8. "Eligible offender" means a felony offender who has been
23 convicted of or who has entered a plea other than not guilty to a

1 felony offense and who upon completion of a Level of Services
2 Inventory or another assessment instrument has been found to be in
3 the moderate or higher range and who is not otherwise prohibited by
4 law from receiving a probationary sentence; ~~provided, however, that~~
5 ~~no person who has been convicted of or who has entered a plea other~~
6 ~~than not guilty to an offense enumerated in subsection 5 of Section~~
7 ~~571 of Title 57 of the Oklahoma Statutes, as an exception to the~~
8 ~~definition of "nonviolent offense" shall be eligible for a community~~
9 ~~sentence or community punishment unless the district attorney or an~~
10 ~~assistant district attorney for the district in which the offender's~~
11 ~~conviction was obtained consents thereto. The district attorney may~~
12 ~~consent to eligibility for an offender who has a mental illness or a~~
13 ~~developmental disability or a co-occurring mental illness and~~
14 ~~substance abuse disorder and who scores outside the moderate range~~
15 ~~on the LSI or another assessment instrument if the offender is not~~
16 ~~otherwise prohibited by law. Any consent by a district attorney~~
17 ~~shall be made a part of the record of the case. Provided, further,~~
18 ~~that no person who has been convicted of or who has entered a plea~~
19 ~~other than not guilty to a felony enumerated in Section 13.1 of~~
20 ~~Title 21 of the Oklahoma Statutes shall be eligible for a community~~
21 ~~sentence or community punishment; and~~

22 9. "Statewide community sentencing system" means a network of
23 all counties through their respective local community sentencing

1 systems serving the state judicial system and offering support
2 services to each other through reciprocal and interlocal agreements
3 and interagency cooperation.

4 B. For the purposes of the Oklahoma Community Sentencing Act,
5 if a judicial district does not have a Chief Judge or if a judicial
6 district has more than one Chief Judge, the duties of the Chief
7 Judge provided for in the Oklahoma Community Sentencing Act shall be
8 performed by the Presiding Judge of the Judicial Administrative
9 District.

10 SECTION 2. AMENDATORY 22 O.S. 2001, Section 988.18, as
11 amended by Section 6, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2004,
12 Section 988.18), is amended to read as follows:

13 Section 988.18 A. On and after March 1, 2000, for each felony
14 offender considered for any community punishment pursuant to the
15 Oklahoma Community Sentencing Act, the judge shall, prior to
16 sentencing, order an assessment and evaluation of the defendant as
17 required by law.

18 B. The Level of Services Inventory (LSI), or another assessment
19 and evaluation instrument designed to predict risk to recidivate
20 approved by the Department of Corrections, shall be required to
21 determine eligibility for any offender sentenced pursuant to the
22 Oklahoma Community Sentencing Act. The completed assessment
23 accompanied by a written supervision plan shall be presented to and

1 reviewed by the court prior to determining any punishment for the
2 offense. The purpose of the assessment shall be to identify the
3 extent of the defendant's deficiencies and pro-social needs, the
4 potential risk to commit additional offenses that threaten public
5 safety, and the appropriateness of various community punishments.

6 C. Upon order of the court, the defendant shall be required to
7 submit to the LSI or other approved assessment which shall be
8 administered and scored by an appropriately trained person pursuant
9 to a service agreement with the local community sentencing system.
10 Any defendant lacking sufficient skills to comprehend or otherwise
11 participate in the assessment and evaluation shall have appropriate
12 assistance. If it is determined that the offender cannot be
13 adequately evaluated using the LSI or another approved assessment,
14 the offender shall be deemed ineligible for any community services
15 pursuant to the Oklahoma Community Sentencing Act, and shall be
16 sentenced as prescribed by law for the offense.

17 D. The willful failure or refusal of the defendant to be
18 assessed and evaluated by using the LSI or another approved
19 assessment shall preclude the defendant from eligibility for any
20 community punishment.

21 E. The completed LSI, or other approved assessment, shall
22 include a written supervision plan and identify an appropriate
23 community punishment, if any, when the offender is considered

1 eligible for community punishments based upon the offender's
2 completed risk/need score from the LSI assessment. Any offender
3 scoring outside the high or moderate range on the LSI assessment
4 shall not be eligible for any state-funded community punishments.

5 F. The court is not required to sentence any offender to a
6 community punishment regardless of an eligible score on the LSI.
7 Any felony offender scoring in the low risk/need levels on the LSI
8 may be sentenced to a suspended sentence with minimal, if any,
9 conditions of the sentence to be paid by the offender. If the LSI
10 or another assessment has been conducted, the evaluation report
11 shall accompany the judgment and sentence.

12 SECTION 3. AMENDATORY 22 O.S. 2001, Section 988.22, as
13 amended by Section 7, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2004,
14 Section 988.22), is amended to read as follows:

15 Section 988.22 A. Any offender ordered to participate in the
16 local community sentencing system shall be advised of the conditions
17 of the specific program or service to which he or she is assigned.

18 B. Upon completion of any court-ordered provision, pursuant to
19 the Oklahoma Community Sentencing Act, the administrator of the
20 local system shall file a statement with the court defining the
21 provision which has been successfully completed. When all court-
22 ordered provisions have been successfully completed the defendant
23 shall be deemed to have completed the community punishment.

1 C. The provisions of the Oklahoma Community Sentencing Act
2 shall not confer any rights upon the defendant to avoid a term of
3 imprisonment prescribed by law for the offense, nor grant any
4 additional rights to appeal for failure to be offered any specific
5 punishment or treatment option available to the court.

6 D. A community sentence pursuant to the Oklahoma Community
7 Sentencing Act as a condition of a deferred sentence shall not
8 require active supervision, programs or services for more than ~~three~~
9 ~~(3) years, but may continue~~ two (2) years. A community sentence
10 pursuant to the Oklahoma Community Sentencing Act as a condition of
11 a suspended sentence shall normally not require active supervision,
12 programs or services for more than two (2) years; however, upon
13 determination by the Community Sentencing Division that the best
14 interests of the public would be served, supervision and services
15 for a suspended sentence may be extended for a period not to exceed
16 one (1) year. The community sentencing cases may remain open beyond
17 the ~~three-year~~ limitation for active supervision and services, but
18 not to exceed the expiration of the maximum term, for purpose of
19 completing court-ordered monetary obligations.

20 SECTION 4. This act shall become effective July 1, 2005.

21 SECTION 5. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-16-05 - DO
4 PASS, As Amended and Coauthored.