

CS for SB 625

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THE STATE SENATE
Wednesday, March 2, 2005

Committee Substitute for
Senate Bill No. 625

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 625 - By: LERBLANCE of the Senate and HARRISON of the House.

[criminal procedure - revocation of suspended sentences -
intermediate sanctions - effective date -
emergency]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 991b, as amended by Section 19, Chapter 460, O.S.L. 2002 (22 O.S. Supp. 2004, Section 991b), is amended to read as follows:

Section 991b. A. Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of said person may not be revoked, in whole or part, for any cause unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the revocation of the suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. The State of Oklahoma may dismiss the petition without prejudice one time upon good cause shown to the court,

1 provided that any successor petition must be filed within forty-five
2 (45) days of the date of the dismissal of the petition.

3 B. The Department of Corrections is authorized to develop and
4 use intermediate sanctions where appropriate prior to revocation for
5 technical infractions for programs that are proven to modify
6 behavior and improve compliance, such as substance abuse treatment,
7 electronic monitoring, and short-term jail terms when funds are made
8 available.

9 C. 1. Where one of the grounds for revocation is the failure
10 of the defendant to make restitution as ordered, the Department of
11 Corrections shall forward to the district attorney all information
12 pertaining to the defendant's failure to make timely restitution as
13 ordered by the court, and said district attorney shall file a
14 petition setting forth the grounds for revocation.

15 2. The defendant ordered to make restitution can petition the
16 court at any time for remission or a change in the terms of the
17 order of restitution if the defendant undergoes a change of
18 condition which materially affects the ability of the defendant to
19 comply with the court's order.

20 3. At the hearing, if one of the grounds for the petition for
21 revocation is the defendant's failure to make timely restitution as
22 ordered by the court, the court will hear evidence and if it appears
23 to the satisfaction of the court from such evidence that the terms

1 of the order of restitution create a manifest hardship on the
2 defendant or the immediate family of the defendant, the court may
3 cancel all or any part of the amount still due, or modify the terms
4 or method of payment.

5 ~~C.~~ D. The court may revoke a portion of the sentence and leave
6 the remaining part not revoked, but suspended for the remainder of
7 the term of the sentence, and under the provisions applying to it.
8 The person whose suspended sentence is being considered for
9 revocation at said hearing shall have the right to be represented by
10 counsel, to present competent evidence in his or her own behalf and
11 to be confronted by the witnesses against the defendant. Any order
12 of the court revoking such suspended sentence, in whole or in part,
13 shall be subject to review on appeal, as in other appeals of
14 criminal cases. Provided, however, that if the crime for which the
15 suspended sentence is given was a felony, the defendant may be
16 allowed bail pending appeal. If the reason for revocation be that
17 the defendant committed a felony, the defendant shall not be allowed
18 bail pending appeal.

19 SECTION 2. This act shall become effective July 1, 2005.

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO
6 PASS, As Amended and Coauthored.