

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 1621

6 By: Derby and McCullough

7 COMMITTEE SUBSTITUTE

8 ( inmate medical care - medical expense payment  
9 requirements - health care costs - codification -  
10 emergency )

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

16 SECTION 1. AMENDATORY 22 O.S. 2001, Section 988.12, as  
17 amended by Section 4, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2006,  
18 Section 988.12), is amended to read as follows:

19 Section 988.12 A. Any person sentenced to a community  
20 punishment pursuant to the provisions of the Oklahoma Community  
21 Sentencing Act shall not be deemed an inmate, nor shall the person  
22 be considered to be in the custody of the Department of Corrections,  
23 nor shall the person require processing through the Lexington  
24 Reception and Assessment Center. Persons sentenced to community

1 punishment pursuant to the Oklahoma Community Sentencing Act shall  
2 be in community custody within the county.

3 B. Except as otherwise specifically provided by law, persons  
4 sentenced to a community punishment which does not include  
5 incarceration shall not have medical or dental expenses paid by the  
6 Department of Corrections or reimbursed by the Community Sentencing  
7 Division.

8 ~~C. In jurisdictions where the local community sentencing system  
9 is receiving state funds, the state will pay all required medical  
10 expenses while a person is incarcerated in the county jail pursuant  
11 to a disciplinary sanction for a community punishment, provided the  
12 state has the obligation to pay for the term of incarceration  
13 pursuant to the provisions of the Oklahoma Community Sentencing Act.  
14 Any community sentenced offender confined pursuant to a disciplinary  
15 sanction who requires extensive medical treatment may be transferred  
16 to the Department of Corrections for appropriate medical treatment  
17 upon order of the court. The community sentenced offender shall be  
18 returned to the local system following the necessary medical  
19 treatment or upon completion of the term of the disciplinary  
20 sanction whichever occurs first.~~

21 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991a-2, is  
22 amended to read as follows:

23 Section 991a-2. A. Any person who has been convicted of a  
24 nonviolent felony offense in this state may be sentenced, at the

1 discretion of the judge, to incarceration in the county jail for a  
2 period of one or more nights or weekends with the remaining portion  
3 of each week being spent under supervision. County jail  
4 imprisonment pursuant to the provisions of this section for felony  
5 offenders shall be:

6 1. Prescribed by law for the particular felony; or

7 2. A condition of a suspended sentence.

8 B. In addition to incarceration, the court may impose any fine,  
9 cost assessment, or other punishment provision allowed by law;  
10 provided, however, the punishment when taken in its entirety with  
11 the jail term shall not impose a greater punishment than allowed by  
12 law for the offense.

13 C. Any person incarcerated in the county jail pursuant to the  
14 provisions of this section may be assigned work duties as ordered or  
15 approved by the judge. The sentencing court may require a person  
16 incarcerated pursuant to the provisions of this section to pay the  
17 county, for food and maintenance for each day of incarceration, an  
18 amount equal to the maximum amount prescribed by law to be paid by  
19 the county to the sheriff for such expenses. If the judge does not  
20 so order, the Department of Corrections shall reimburse the county  
21 for the cost of feeding and care of the person during such periods  
22 of incarceration.

23 ~~D. The Department of Corrections shall reimburse the county for~~  
24 ~~the actual cost paid for any emergency medical care for physical~~

1 ~~injury or illness of a person incarcerated hereunder, provided the~~  
2 ~~injury or illness is directly related to the incarceration and the~~  
3 ~~county is required by law to provide such care for inmates in the~~  
4 ~~jail.~~

5 E. Any person incarcerated pursuant to the provisions of this  
6 section shall not be considered to be in the custody of the  
7 Department of Corrections or an inmate of the Department. The  
8 person shall be deemed to be in the custody of the county.

9 ~~F.~~ E. When the court sentences a person to incarceration  
10 pursuant to the provisions of this section in conjunction with a  
11 suspended sentence, the court shall have the authority to revoke any  
12 unserved portion of the suspended sentence as provided by law.

13 ~~G.~~ F. For the purposes of subsection A of this section, weekend  
14 incarceration shall commence at 6 p.m. on Friday and continue until  
15 8 a.m. on the following Monday, and incarceration overnight shall  
16 commence at 6 p.m. on one day and continue until 8 a.m. of the next  
17 day. Provided, that the sentencing judge may modify the  
18 incarceration times if the circumstances of the particular case  
19 require such action. Persons who have been sentenced to  
20 incarceration in the county jail under the provisions of this  
21 section will not have to be processed through the Lexington  
22 Assessment and Reception Center prior to incarceration.

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1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 38.3 of Title 57, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section:

5 1. "Emergency care" means the medical or surgical care  
6 necessary to treat the sudden onset of a potentially life- or limb-  
7 threatening condition or symptom;

8 2. "Dental emergency" means acute problems in the mouth  
9 exhibiting symptoms of pain, swelling, bleeding or elevation of  
10 temperature; and

11 3. "Mental health emergency" means a person exhibiting behavior  
12 due to mental illness that may be an immediate threat to others or  
13 himself or herself that renders the person incapable of caring for  
14 himself or herself.

15 B. The Department of Corrections shall reimburse health care  
16 providers for medical care and treatment for inmates retained in  
17 county jails after a certified copy of a judgment and sentence has  
18 been entered pursuant to the provisions of Section 980 of Title 22  
19 of the Oklahoma Statutes or pursuant to the provisions of Section  
20 988.12 or 991a-2 of Title 22 of the Oklahoma Statutes. Health care  
21 providers that are in the network established by the Department of  
22 Corrections in conjunction with the State and Education Employees  
23 Group Insurance Board shall be reimbursed according to the fee  
24 schedule established for that network; provided, that reimbursement

1 will be no less than the fee structure that was in effect January 1,  
2 2007, or the current fee schedule, whichever is greater. Health  
3 care providers that are out-of-network shall be reimbursed according  
4 to the Oklahoma Medicaid Fee Schedule; provided, that reimbursement  
5 shall be no less than the fee structure that was in effect January  
6 1, 2007, or the current fee schedule, whichever is greater. Prior  
7 to obtaining nonemergency care outside the county jail facility,  
8 authorization must be received from the Department of Corrections.  
9 For any emergency care, dental emergency or mental health emergency  
10 care obtained outside the county jail facility, the Department of  
11 Corrections must be notified within twenty-four (24) hours. The  
12 Department of Corrections is hereby authorized to reject claims if  
13 proper notification has not been provided.

14 C. The sheriff shall be responsible for providing and paying  
15 for medical, dental and mental health care screening when an inmate  
16 is admitted, routine sick calls within the county jail and access to  
17 on-site physician services as is routinely provided for all inmates  
18 in the custody of the sheriff and as provided by Section 52 of Title  
19 57 of the Oklahoma Statutes.

20 D. The Department of Corrections shall pay the pharmacy  
21 provider for medications provided to inmates retained in county  
22 jails after a certified copy of a judgment and sentence has been  
23 entered pursuant to the provisions of Section 980 of Title 22 of the  
24 Oklahoma Statutes or pursuant to the provisions of Section 988.12 or

1 991a-2 of Title 22 of the Oklahoma Statutes. If the pharmacy  
2 provider is a Medicaid provider, the pharmacy provider must bill the  
3 Department at Medicaid rates. The county jail shall be responsible  
4 for paying for any medications that are not listed on the Department  
5 of Corrections formulary, unless the county jail receives a written  
6 exception from the Department.

7 E. Dental and mental health care shall be provided through the  
8 designated host facility of the Department of Corrections for  
9 inmates retained in county jails after a certified copy of a  
10 judgment and sentence has been entered pursuant to the provisions of  
11 Section 980 of Title 22 of the Oklahoma Statutes or pursuant to the  
12 provisions of Section 988.12 or 991a-2 of Title 22 of the Oklahoma  
13 Statutes. Each county jail is encouraged to work with local  
14 community mental health centers to provide necessary medications and  
15 emergency services that would be reimbursed pursuant to the  
16 provisions of this subsection.

17 F. The sheriff shall be responsible for transportation and  
18 security of inmates to all outside health care appointments  
19 including host facilities of the Department of Corrections.

20 G. Neither the Department of Corrections nor the sheriff shall  
21 be responsible for the cost of health care while an inmate is on  
22 escape status or for any injury incurred while on escape status.

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1 H. The Department of Corrections shall not be responsible for  
2 payment of health care of inmates housed in the county jail under  
3 the following circumstances:

4 1. Prior to entry of a certified judgment and sentence pursuant  
5 to the provisions of Section 980 of Title 22 of the Oklahoma  
6 Statutes;

7 2. When an inmate is detained in the county jail pursuant to a  
8 writ of habeas corpus;

9 3. When an inmate is detained in the county jail for additional  
10 cases pending after a certified copy of the judgment and sentence  
11 has been entered;

12 4. When an inmate is detained in the county jail and his or her  
13 status is on hold for another jurisdiction; or

14 5. When an inmate is detained in the county jail and the inmate  
15 is sentenced to county jail time only.

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

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21 51-1-7448 SD 03/01/07

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