

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 613

By: Anderson of the Senate

and

Duncan of the House

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9 COMMITTEE SUBSTITUTE

10 (criminal procedure - judicial review - deferred

11 sentence -

12 effective date)

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16 SECTION 1. AMENDATORY 22 O.S. 2001, Section 982a, as
17 amended by Section 6, Chapter 358, O.S.L. 2007 (22 O.S. Supp. 2008,
18 Section 982a), is amended to read as follows:

19 Section 982a. A. Any time within twelve (12) months after a
20 sentence is imposed or within twelve (12) months after probation has
21 been revoked, the court imposing sentence or revocation of probation
22 may modify such sentence or revocation by directing that another
23 ~~penalty~~ sentence be imposed, if the court is satisfied that the best
24 interests of the public will not be jeopardized; provided, however,

1 the court shall not impose a deferred sentence. This section shall
2 not apply to convicted felons who have been in confinement in any
3 state prison system for any previous felony conviction during the
4 ten-year period preceding the date that the sentence this section
5 applies to was imposed. Further, without the consent of the
6 district attorney, this section shall not apply to sentences imposed
7 pursuant to a plea agreement.

8 B. The Department of Corrections shall provide the court
9 imposing sentence or revocation of probation with the report by the
10 Lexington Assessment and Reception Center and any other information
11 the Department can supply on the inmate. The court shall consider
12 such reports when modifying the sentence or revocation of probation.

13 C. If the court considers modification of the sentence or
14 revocation of probation, a hearing shall be made in open court. The
15 clerk of the court imposing sentence or revocation of probation
16 shall give notice of the hearing and provide a copy of the report by
17 the Lexington Assessment and Reception Center to the inmate, the
18 inmate's legal counsel and the district attorney of the county in
19 which the inmate was convicted not less than twenty-one (21) days
20 prior to the hearing.

21 D. If an appeal is taken which results in a modification of the
22 sentence or revocation of probation of the defendant, such sentence
23 may be further modified in the manner hereinbefore described within
24 twelve (12) months after the receipt by the clerk of the district

1 court of the mandate from the Supreme Court or the Court of Criminal
2 Appeals.

3 SECTION 2. AMENDATORY 22 O.S. 2001, Section 996.1, as
4 last amended by Section 1, Chapter 426, O.S.L. 2005 (22 O.S. Supp.
5 2008, Section 996.1), is amended to read as follows:

6 Section 996.1 As used in the Delayed Sentencing Program for
7 Young Adults:

8 "Offender" means any adult eighteen (18) through twenty-one (21)
9 years of age ~~charged with~~ as of the date of a verdict of guilty or a
10 plea of guilty or nolo contendere for a nonviolent felony offense or
11 a juvenile who has been certified to stand trial as an adult for a
12 nonviolent felony offense, and who has not been convicted of assault
13 and battery with a dangerous weapon, aggravated assault and battery
14 on a law officer, poisoning with intent to kill, shooting or
15 discharging a firearm with intent to kill, assault with intent to
16 kill, using a vehicle to facilitate the intentional discharge of any
17 kind of firearm in violation of Section 652 of Title 21 of the
18 Oklahoma Statutes, assault with intent to commit a felony, murder in
19 the first degree, murder in the second degree, manslaughter in the
20 first degree, manslaughter in the second degree, kidnapping,
21 burglary in the first degree, kidnapping for extortion, maiming,
22 robbery, child beating, wiring any equipment, vehicle, or structure
23 with explosives, forcible sodomy, rape in the first degree or rape
24 by instrumentation, lewd or indecent proposition or lewd or indecent

1 act with a child under sixteen (16) years of age, use of a firearm
2 or offensive weapon to commit or attempt to commit a felony,
3 pointing firearms, rioting, or arson in the first degree, and who
4 has no charges pending for a violent offense.

5 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1015, as
6 last amended by Section 7, Chapter 358, O.S.L. 2007 (22 O.S. Supp.
7 2008, Section 1015), is amended to read as follows:

8 Section 1015. A. A judgment of death must be executed at the
9 Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to
10 be designated by the court by which judgment is to be rendered.

11 B. The judgment of execution shall take place under the
12 authority of the Director of the Oklahoma Department of Corrections
13 and the warden must be present along with other necessary prison and
14 corrections officials to carry out the execution. The warden must
15 invite the presence of a physician and the district attorney of the
16 county in which the crime occurred or his or her designee, the judge
17 who presided at the trial issuing the sentence of death, the chief
18 of police of the municipality in which the crime occurred, if
19 applicable, and lead law enforcement officials of any state, county
20 or local law enforcement agency who investigated the crime or
21 testified in any court or clemency proceeding related to the crime,
22 including but not limited to the sheriff of the county wherein the
23 conviction was had, to witness the execution; in addition, the
24 Cabinet Secretary of Safety and Security must be invited and other

1 correctional personnel deemed appropriate and approved by the
2 Director. The warden shall, at the request of the defendant, permit
3 the presence of such ministers of the defendant's choice, not
4 exceeding two, and any persons, relatives or friends, not to exceed
5 five, as the defendant may name; provided, reporters from recognized
6 members of the news media will be admitted upon proper
7 identification, application and approval of the warden.

8 C. In the event the defendant has been sentenced to death in
9 one or more criminal proceedings in this state, or has been
10 sentenced to death in this state and by one or more courts of
11 competent jurisdiction in another state or pursuant to federal
12 authority, or any combination thereof, and this state has priority
13 to execute the defendant, the warden must invite the prosecuting
14 attorney or his or her designee, the judge, and the chief law
15 enforcement official from each jurisdiction where any death sentence
16 has issued. The above mentioned officials shall be allowed to
17 witness the execution or view the execution by closed circuit
18 television as determined by the Director of the Department of
19 Corrections.

20 D. A place shall be provided at the Oklahoma State Penitentiary
21 at McAlester so that individuals who are eighteen (18) years of age
22 or older and who are members of the immediate family of any deceased
23 victim of the defendant may witness the execution. The immediate
24 family members shall be allowed to witness the execution from an

1 area that is separate from the area to which other nonfamily member
2 witnesses are admitted, provided, however, if there are multiple
3 deceased victims, the Department shall not be required to provide
4 separate areas for each family of each deceased victim. If
5 facilities are not capable or sufficient to provide all immediate
6 family members with a direct view of the execution, the Department
7 of Corrections may broadcast the execution by means of a closed
8 circuit television system to an area in which other immediate family
9 members may be located.

10 Immediate family members may request individuals not directly
11 related to the deceased victim but who serve a close supporting role
12 or professional role to the deceased victim or an immediate family
13 member, including, but not limited to, a minister or licensed
14 counselor. The warden in consultation with the Director shall
15 approve or disapprove such requests. Provided further, the
16 Department may set a limit on the number of witnesses or viewers
17 within occupancy limits.

18 As used in this section, "members of the immediate family" means
19 the spouse, a child by birth or adoption, a stepchild, a parent, a
20 grandparent, a grandchild, a sibling of a deceased victim, or the
21 spouse of any immediate family member specified in this subsection.

22 E. Any surviving victim of the defendant who is eighteen (18)
23 years of age or older may view the execution by closed circuit
24 television with the approval of both the Director of the Department

1 of Corrections and the warden. The Director and warden shall
2 prioritize persons to view the execution, including immediate family
3 members, surviving victims, and supporting persons, and may set a
4 limit on the number of viewers within occupancy limits. Any
5 surviving victim approved to view the execution of their perpetrator
6 may have an accompanying support person as provided for members of
7 the immediate family of a deceased victim. As used in this
8 subsection, "surviving victim" means any person who suffered serious
9 harm or injury due to the criminal acts of the defendant of which
10 the defendant has been convicted in a court of competent
11 jurisdiction.

12 SECTION 4. This act shall become effective November 1, 2009.

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14 52-1-7689 GRS 04/07/09

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