

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 8, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 613

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 613 - By:  
ANDERSON of the Senate and DUNCAN of the House.

( criminal procedure - judicial review - deferred sentence -  
effective date )

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 982a, as amended by  
2 Section 6, Chapter 358, O.S.L. 2007 (22 O.S. Supp. 2008, Section 982a), is amended to  
3 read as follows:  
4 Section 982a. A. Any time within twelve (12) months after a sentence is imposed or  
5 within twelve (12) months after probation has been revoked, the court imposing sentence  
6 or revocation of probation may modify such sentence or revocation by directing that  
7 another ~~penalty~~ sentence be imposed, if the court is satisfied that the best interests of  
8 the public will not be jeopardized; provided, however, the court shall not impose a  
9 deferred sentence. This section shall not apply to convicted felons who have been in  
10 confinement in any state prison system for any previous felony conviction during the ten-  
11 year period preceding the date that the sentence this section applies to was imposed.

1 Further, without the consent of the district attorney, this section shall not apply to  
2 sentences imposed pursuant to a plea agreement.

3 B. The Department of Corrections shall provide the court imposing sentence or  
4 revocation of probation with the report by the Lexington Assessment and Reception  
5 Center and any other information the Department can supply on the inmate. The court  
6 shall consider such reports when modifying the sentence or revocation of probation.

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

13 D. If an appeal is taken which results in a modification of the sentence or  
14 revocation of probation of the defendant, such sentence may be further modified in the  
15 manner hereinbefore described within twelve (12) months after the receipt by the clerk of  
16 the district court of the mandate from the Supreme Court or the Court of Criminal  
17 Appeals.

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

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

1 "Offender" means any adult eighteen (18) through twenty-one (21) years of age  
2 ~~charged with~~ as of the date of a verdict of guilty or a plea of guilty or nolo contendere for  
3 a nonviolent felony offense or a juvenile who has been certified to stand trial as an adult  
4 for a nonviolent felony offense, and who has not been convicted of assault and battery  
5 with a dangerous weapon, aggravated assault and battery on a law officer, poisoning  
6 with intent to kill, shooting or discharging a firearm with intent to kill, assault with  
7 intent to kill, using a vehicle to facilitate the intentional discharge of any kind of firearm  
8 in violation of Section 652 of Title 21 of the Oklahoma Statutes, assault with intent to  
9 commit a felony, murder in the first degree, murder in the second degree, manslaughter  
10 in the first degree, manslaughter in the second degree, kidnapping, burglary in the first  
11 degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment,  
12 vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by  
13 instrumentation, lewd or indecent proposition or lewd or indecent act with a child under  
14 sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to  
15 commit a felony, pointing firearms, rioting, or arson in the first degree, and who has no  
16 charges pending for a violent offense.

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

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

1 B. The judgment of execution shall take place under the authority of the Director of  
2 the Oklahoma Department of Corrections and the warden must be present along with  
3 other necessary prison and corrections officials to carry out the execution. The warden  
4 must invite the presence of a physician and the district attorney of the county in which  
5 the crime occurred or his or her designee, the judge who presided at the trial issuing the  
6 sentence of death, the chief of police of the municipality in which the crime occurred, if  
7 applicable, and lead law enforcement officials of any state, county or local law  
8 enforcement agency who investigated the crime or testified in any court or clemency  
9 proceeding related to the crime, including but not limited to the sheriff of the county  
10 wherein the conviction was had, to witness the execution; in addition, the Cabinet  
11 Secretary of Safety and Security must be invited and other correctional personnel  
12 deemed appropriate and approved by the Director. The warden shall, at the request of  
13 the defendant, permit the presence of such ministers of the defendant's choice, not  
14 exceeding two, and any persons, relatives or friends, not to exceed five, as the defendant  
15 may name; provided, reporters from recognized members of the news media will be  
16 admitted upon proper identification, application and approval of the warden.

17 C. In the event the defendant has been sentenced to death in one or more criminal  
18 proceedings in this state, or has been sentenced to death in this state and by one or more  
19 courts of competent jurisdiction in another state or pursuant to federal authority, or any  
20 combination thereof, and this state has priority to execute the defendant, the warden  
21 must invite the prosecuting attorney or his or her designee, the judge, and the chief law  
22 enforcement official from each jurisdiction where any death sentence has issued. The

1 above mentioned officials shall be allowed to witness the execution or view the execution  
2 by closed circuit television as determined by the Director of the Department of  
3 Corrections.

4 D. A place shall be provided at the Oklahoma State Penitentiary at McAlester so  
5 that individuals who are eighteen (18) years of age or older and who are members of the  
6 immediate family of any deceased victim of the defendant may witness the execution.  
7 The immediate family members shall be allowed to witness the execution from an area  
8 that is separate from the area to which other nonfamily member witnesses are admitted,  
9 provided, however, if there are multiple deceased victims, the Department shall not be  
10 required to provide separate areas for each family of each deceased victim. If facilities  
11 are not capable or sufficient to provide all immediate family members with a direct view  
12 of the execution, the Department of Corrections may broadcast the execution by means of  
13 a closed circuit television system to an area in which other immediate family members  
14 may be located.

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

21 As used in this section, "members of the immediate family" means the spouse, a  
22 child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of

1 a deceased victim, or the spouse of any immediate family member specified in this  
2 subsection.

3 E. Any surviving victim of the defendant who is eighteen (18) years of age or older  
4 may view the execution by closed circuit television with the approval of both the Director  
5 of the Department of Corrections and the warden. The Director and warden shall  
6 prioritize persons to view the execution, including immediate family members, surviving  
7 victims, and supporting persons, and may set a limit on the number of viewers within  
8 occupancy limits. Any surviving victim approved to view the execution of their  
9 perpetrator may have an accompanying support person as provided for members of the  
10 immediate family of a deceased victim. As used in this subsection, "surviving victim"  
11 means any person who suffered serious harm or injury due to the criminal acts of the  
12 defendant of which the defendant has been convicted in a court of competent jurisdiction.

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

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-07-09 - DO PASS,  
15 As Amended.