

SB 613

1 THE STATE SENATE
2 Tuesday, February 17, 2009

3 Senate Bill No. 613
4 As Amended

5 SENATE BILL NO. 613 - By: Anderson of the Senate and Duncan of the
6 House.

7 [criminal procedure - judicial review - deferred sentence -
8 effective date]

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

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

13 Section 982a. A. Any time within twelve (12) months after a
14 sentence is imposed or within twelve (12) months after probation has
15 been revoked, the court imposing sentence or revocation of probation
16 may modify such sentence or revocation by directing that another
17 ~~penalty~~ sentence be imposed, if the court is satisfied that the best
18 interests of the public will not be jeopardized; provided, however,
19 the court shall not impose a deferred sentence. This section shall
20 not apply to convicted felons who have been in confinement in any
21 state prison system for any previous felony conviction during the
22 ten-year period preceding the date that the sentence this section
23 applies to was imposed. Further, without the consent of the

1 district attorney, this section shall not apply to sentences imposed
2 pursuant to a plea agreement.

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

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

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

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

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

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

1 or offensive weapon to commit or attempt to commit a felony,
2 pointing firearms, rioting, or arson in the first degree, and who
3 has no charges pending for a violent offense.

4 SECTION 3. This act shall become effective November 1, 2009.

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-10-09 - DO
6 PASS, As Amended and Coauthored.