

1 STATE OF OKLAHOMA

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

3 SENATE BILL 613

By: Anderson

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2001, Sections 982a, as amended by Section 6,  
9 Chapter 358, O.S.L. 2007, and 996.1, as last amended  
10 by Section 1, Chapter 426, O.S.L. 2005 (22 O.S. Supp.  
11 2008, Sections 982a and 996.1), which relate to  
12 judicial review and definitions; prohibiting  
13 imposition of deferred sentence under certain  
14 circumstances; modifying definition; and providing an  
15 effective date.

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

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

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22 been revoked, the court imposing sentence or revocation of probation  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

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

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

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

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

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. This act shall become effective November 1, 2009.

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