

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 2131

By: Steele, Billy, Peterson,
Tibbs, McDaniel (Jeanie)
and Shelton of the House

and

Anderson of the Senate

9 An Act relating to corrections; amending 21 O.S.
2001, Sections 61.1, 61.2, 61.3, 61.4 and 61.5, which
10 relate to sentences served by defendants; providing
for more than one sentence to be served concurrently
11 under certain circumstances; providing for more than
one sentence to run consecutively when specified;
12 authorizing Governor to order certain sentencing
under certain circumstances; authorizing the court to
13 order certain sentencing under certain circumstances;
authorizing the court to determine if certain terms
14 of sentencing are satisfied; amending 22 O.S. 2001,
Section 976, which relates to concurrent sentences;
15 requiring certain sentences to be served
concurrently; amending 22 O.S. 2001, Sections 988.2,
16 as amended by Section 1, Chapter 251, O.S.L. 2004,
988.9, as amended by Section 3, Chapter 165, O.S.L.
17 2002 and 988.18, as amended by Section 6, Chapter
165, O.S.L. 2002 (22 O.S. Supp. 2010, Sections 988.2,
18 988.9 and 988.18), which relate to the Oklahoma
Community Sentencing Act; modifying definition of
19 eligible offender; modifying supervision fee
requirement; making certain offenders eligible for
20 state-funded community punishments; providing minimum
qualifications for pardon and parole board members;
21 amending 57 O.S. 2001, Section 332.16, which relates
to time limitations for acting on paroles; clarifying
22 time limitations; deeming parole recommendation
granted if action not taken within certain time
23 period; providing an exception; requiring review and
parole recommendation for certain crimes; amending 57
24 O.S. 2001, Section 510.9, as last amended by Section

1 2, Chapter 507, O.S.L. 2004 (57 O.S. Supp. 2010,
2 Section 510.9), which relates to the Oklahoma
3 Corrections Act of 1967; modifying eligibility
4 requirements for the Electronic Monitoring Program;
5 providing for codification; and providing an
6 effective date.

7 AUTHORS: Add the following House Coauthors: Hilliard, Ownbey,
8 Sullivan and Walker

9 AUTHORS: Add the following Senate Coauthors: Rice, Johnson
10 (Constance), Brecheen and Coates

11 AMENDMENT NO. 1. Page 2, line 7, through page 5, line 4, delete
12 Sections 1 through 6, and renumber subsequent
13 sections

14 AMENDMENT NO. 2. Page 16, line 17, delete the word "or"

15 AMENDMENT NO. 3. Page 16, line 19, delete the underlined period and
16 insert an underlined semicolon

17 AMENDMENT NO. 4. Page 16, line 19 1/2, insert new paragraphs 43
18 through 53 to read

19 "43. Racketeering as provided in Section 1403 of Title 22 of
20 the Oklahoma Statutes;

21 44. Offenses of public corruption such as bribery of public
22 officials as provided in Section 381 or 382 of Title 21 of the
23 Oklahoma Statutes;

24 45. Embezzlement of public money as provided in Section 1451 et
25 seq. of Title 21 or Section 641 of Title 19 of the Oklahoma
26 Statutes;

27 46. Failure to pay and collect tax as provided in Section 1361
28 or 2385.3 of Title 68 of the Oklahoma Statutes;

1 ENGROSSED HOUSE
2 BILL NO. 2131

By: Steele, Billy, Peterson,
Tibbs, McDaniel (Jeanie)
and Shelton of the House

3
4 and

5 Anderson of the Senate
6
7

8 An Act relating to corrections; amending 21 O.S.
9 2001, Sections 61.1, 61.2, 61.3, 61.4 and 61.5, which
10 relate to sentences served by defendants; providing
11 for more than one sentence to be served concurrently
12 under certain circumstances; providing for more than
13 one sentence to run consecutively when specified;
14 authorizing Governor to order certain sentencing
15 under certain circumstances; authorizing the court to
16 order certain sentencing under certain circumstances;
17 authorizing the court to determine if certain terms
18 of sentencing are satisfied; amending 22 O.S. 2001,
19 Section 976, which relates to concurrent sentences;
20 requiring certain sentences to be served
21 concurrently; amending 22 O.S. 2001, Sections 988.2,
22 as amended by Section 1, Chapter 251, O.S.L. 2004,
23 988.9, as amended by Section 3, Chapter 165, O.S.L.
24 2002 and 988.18, as amended by Section 6, Chapter
165, O.S.L. 2002 (22 O.S. Supp. 2010, Sections 988.2,
988.9 and 988.18), which relate to the Oklahoma
Community Sentencing Act; modifying definition of
eligible offender; modifying supervision fee
requirement; making certain offenders eligible for
state-funded community punishments; providing minimum
qualifications for pardon and parole board members;
amending 57 O.S. 2001, Section 332.16, which relates
to time limitations for acting on paroles; clarifying
time limitations; deeming parole recommendation
granted if action not taken within certain time
period; providing an exception; requiring review and
parole recommendation for certain crimes; amending 57
O.S. 2001, Section 510.9, as last amended by Section
2, Chapter 507, O.S.L. 2004 (57 O.S. Supp. 2010,
Section 510.9), which relates to the Oklahoma

1 Corrections Act of 1967; modifying eligibility
2 requirements for the Electronic Monitoring Program;
3 providing for codification; and providing an
4 effective date.

5
6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

7 SECTION 1. AMENDATORY 21 O.S. 2001, Section 61.1, is
8 amended to read as follows:

9 Section 61.1 When any person is convicted of two (2) or more
10 crimes in the same proceeding or court or in different proceedings
11 or courts, and the judgment and sentence for each conviction arrives
12 at a state penal institution on different dates, the sentence which
13 is first received at the institution shall commence and ~~be followed~~
14 ~~by~~ those sentences which are subsequently received at the
15 institution, ~~in the order in which they are received by the~~
16 ~~institution,~~ shall be served concurrently regardless of the order in
17 which the judgments and sentences were rendered by the respective
18 courts, unless a judgment and sentence provides that it is to run
19 ~~concurrently~~ consecutively with another judgment and sentence. This
20 section shall not affect the credits allowed under Section 138 of
21 Title 57 of the Oklahoma Statutes.

22 SECTION 2. AMENDATORY 21 O.S. 2001, Section 61.2, is
23 amended to read as follows:
24

1 Section 61.2 When a defendant is sentenced in an Oklahoma state
2 court and is also under sentence from a federal court or another
3 state's court, the court may direct that custody of the defendant be
4 relinquished to the federal or another state's authorities and that
5 such Oklahoma state court sentences as are imposed ~~may~~ run
6 concurrently with the federal or another state's sentence imposed,
7 unless the court orders a judgment and sentence to run consecutively
8 with the other jurisdiction.

9 SECTION 3. AMENDATORY 21 O.S. 2001, Section 61.3, is
10 amended to read as follows:

11 Section 61.3 When a defendant is on parole from a sentence
12 rendered by an Oklahoma state court and is also under sentence from
13 a federal court or another state's court, the Governor may revoke
14 the defendant's parole and direct that custody of the defendant be
15 relinquished to the federal or another state's authorities and that
16 such parole revocation ~~may~~ shall run concurrently with the federal
17 or another state's sentence which has been imposed, unless the
18 Governor orders the parole revocation to be served consecutively
19 with the other jurisdiction. ~~The Governor may also order that a~~ A
20 parole revocation shall run concurrently with any other sentence
21 rendered by an Oklahoma state court, unless the Governor orders the
22 parole revocation to be served consecutively.

23 SECTION 4. AMENDATORY 21 O.S. 2001, Section 61.4, is
24 amended to read as follows:

1 Section 61.4 When a defendant has received a suspended sentence
2 from an Oklahoma state court and is also under sentence from a
3 federal court or another state's court, the court may revoke the
4 suspended sentence and direct that custody of the defendant be
5 relinquished to the federal or another state's authorities and ~~that~~
6 ~~the~~ such sentence ~~may~~ shall run concurrently with the federal or
7 other state's sentence which has been imposed, unless the court
8 orders a revocation to run consecutively with the other
9 jurisdiction.

10 SECTION 5. AMENDATORY 21 O.S. 2001, Section 61.5, is
11 amended to read as follows:

12 Section 61.5 Provided, that, after a defendant has been
13 transferred to another jurisdiction pursuant to the provisions of
14 this act, if any sentence remains to be served in the State of
15 Oklahoma, such defendant shall be returned by the sentencing court
16 to the State of Oklahoma to complete ~~his~~ the sentence, unless the
17 court at the time of sentencing determines that the service of the
18 Oklahoma state court sentence is to be satisfied by service of the
19 sentence in another jurisdiction.

20 SECTION 6. AMENDATORY 22 O.S. 2001, Section 976, is
21 amended to read as follows:

22 Section 976. If the defendant has been convicted of two or more
23 offenses, before judgment on either, the judgment ~~may~~ shall be that
24 the imprisonment ~~upon any one may commence at the expiration of the~~

1 ~~imprisonment upon any other~~ of the offenses shall run concurrently.

2 Provided, that the sentencing judge shall, at all times, have the
3 discretion to enter a sentence ~~concurrent~~ consecutive with any other
4 sentence.

5 SECTION 7. AMENDATORY 22 O.S. 2001, Section 988.2, as
6 amended by Section 1, Chapter 251, O.S.L. 2004 (22 O.S. Supp. 2010,
7 Section 988.2), is amended to read as follows:

8 Section 988.2 A. For purposes of the Oklahoma Community
9 Sentencing Act:

10 1. "Local community sentencing system" means a partnership
11 between the state and one or more county governments which uses
12 public and private entities to deliver services to the sentencing
13 court for punishment of eligible felony offenders under the
14 authority of a community sentence;

15 2. "Community sentence" or "community punishment" means a
16 punishment imposed by the court as a condition of a deferred or
17 suspended sentence for an eligible offender;

18 3. "Continuum of sanctions" means a variety of coercive
19 measures and treatment options ranked by degrees of public safety,
20 punitive effect, and cost benefit which are available to the
21 sentencing judge as punishment for criminal conduct;

22 4. "Community sentencing system planning council" or "planning
23 council" means a group of citizens and elected officials specified
24 by law or appointed by the Chief Judge of the Judicial District

1 which plans the local community sentencing system and with the
2 assistance of the Community Sentencing Division of the Department of
3 Corrections locates treatment providers and resources to support the
4 local community sentencing system;

5 5. "Incentive" means a court-ordered reduction in the terms or
6 conditions of a community sentence which is given for exceptional
7 performance or progress by the offender;

8 6. "Disciplinary sanction" means a court-ordered punishment in
9 response to a technical or noncompliance violation of a community
10 sentence which increases in intensity or duration with each
11 successive violation;

12 7. "Division" means the Community Sentencing Division within
13 the Department of Corrections which is the state administration
14 agency for the Oklahoma Community Sentencing Act, the statewide
15 community sentencing system, and all local community sentencing
16 systems;

17 8. "Eligible offender" means a felony offender who has been
18 convicted of or who has entered a plea other than not guilty to a
19 felony offense and who upon completion of a Level of Services
20 Inventory or another assessment instrument has been found to be in
21 the moderate a range other than the low range, who has been
22 convicted of at least one prior felony, and who is not otherwise
23 prohibited by law; provided, however, that no person who has been
24 convicted of or who has entered a plea other than not guilty to an

1 offense enumerated in subsection 5 of Section 571 of Title 57 of the
2 Oklahoma Statutes, as an exception to the definition of "nonviolent
3 offense" shall be eligible for a community sentence or community
4 punishment unless the district attorney or an assistant district
5 attorney for the district in which the offender's conviction was
6 obtained consents thereto. The district attorney may consent to
7 eligibility for an offender who has a mental illness or a
8 developmental disability or a co-occurring mental illness and
9 substance abuse disorder and who scores ~~outside~~ in the ~~moderate~~ low
10 range on the LSI or another assessment instrument if the offender is
11 not otherwise prohibited by law. Any consent by a district attorney
12 shall be made a part of the record of the case. ~~Provided, further,~~
13 ~~that no person who has been convicted of or who has entered a plea~~
14 ~~other than not guilty to a felony enumerated in Section 13.1 of~~
15 ~~Title 21 of the Oklahoma Statutes shall be eligible for a community~~
16 ~~sentence or community punishment; and~~

17 9. "Statewide community sentencing system" means a network of
18 all counties through their respective local community sentencing
19 systems serving the state judicial system and offering support
20 services to each other through reciprocal and interlocal agreements
21 and interagency cooperation.

22 B. For the purposes of the Oklahoma Community Sentencing Act,
23 if a judicial district does not have a Chief Judge or if a judicial
24 district has more than one Chief Judge, the duties of the Chief

1 Judge provided for in the Oklahoma Community Sentencing Act shall be
2 performed by the Presiding Judge of the Judicial Administrative
3 District.

4 SECTION 8. AMENDATORY 22 O.S. 2001, Section 988.9, as
5 amended by Section 3, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2010,
6 Section 988.9), is amended to read as follows:

7 Section 988.9 A. Any offender sentenced to a community
8 sentence pursuant to the Oklahoma Community Sentencing Act which
9 requires supervision shall be required to pay a supervision fee.
10 The supervising agency shall establish the fee amount, not to exceed
11 Forty Dollars (\$40.00) per month, based upon the offender's ability
12 to pay. In hardship cases the supervising agency may expressly
13 waive all or part of the fee. No supervising agency participating
14 in a local community sentencing system shall deny any offender
15 supervision services for the sole reason that the offender is
16 indigent. Fees collected for supervision services performed by the
17 Department of Corrections shall be paid directly to the Department
18 to be deposited in the Department of Corrections Revolving Fund.
19 Supervision services performed by agencies other than the Department
20 shall be paid directly to that agency.

21 B. In addition to any supervision fee, offenders scoring in ~~the~~
22 ~~moderate~~ a range other than the low range of the Level of Services
23 Inventory (LSI) and participating in a local community sentencing
24 system under a court-ordered community punishment shall be required

1 to pay an administrative fee to support the local system which shall
2 not exceed Twenty Dollars (\$20.00) per month to be set by the court.
3 Administrative fees when collected shall be deposited with the
4 Community Sentencing Division within the Department of Corrections
5 and credited to the local community sentencing system for support
6 and expansion of the local community corrections system. In the
7 event the court fails to order the amount of the administrative fee,
8 the fee shall be Twenty Dollars (\$20.00) per month.

9 C. In addition to any supervision fee and administrative fee
10 authorized by this section, the court shall assess court costs, and
11 may assess program reimbursement costs, restitution, and fines to be
12 paid by the offender. With the exception of supervision fees, other
13 fees, costs, fines, restitution, or monetary obligations ordered to
14 be paid by the offender shall not cease with the termination of
15 active supervision and such obligations shall continue until fully
16 paid and may be collected in the same manner as court costs.

17 SECTION 9. AMENDATORY 22 O.S. 2001, Section 988.18, as
18 amended by Section 6, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2010,
19 Section 988.18), is amended to read as follows:

20 Section 988.18 A. On and after March 1, 2000, for each felony
21 offender considered for any community punishment pursuant to the
22 Oklahoma Community Sentencing Act, the judge shall, prior to
23 sentencing, order an assessment and evaluation of the defendant as
24 required by law.

1 B. The Level of Services Inventory (LSI), or another assessment
2 and evaluation instrument designed to predict risk to recidivate
3 approved by the Department of Corrections, shall be required to
4 determine eligibility for any offender sentenced pursuant to the
5 Oklahoma Community Sentencing Act. The completed assessment
6 accompanied by a written supervision plan shall be presented to and
7 reviewed by the court prior to determining any punishment for the
8 offense. The purpose of the assessment shall be to identify the
9 extent of the ~~defendant's~~ deficiencies and pro-social needs of the
10 defendant, the potential risk to commit additional offenses that
11 threaten public safety, and the appropriateness of various community
12 punishments.

13 C. Upon order of the court, the defendant shall be required to
14 submit to the LSI or other approved assessment which shall be
15 administered and scored by an appropriately trained person pursuant
16 to a service agreement with the local community sentencing system.
17 Any defendant lacking sufficient skills to comprehend or otherwise
18 participate in the assessment and evaluation shall have appropriate
19 assistance. If it is determined that the offender cannot be
20 adequately evaluated using the LSI or another approved assessment,
21 the offender shall be deemed ineligible for any community services
22 pursuant to the Oklahoma Community Sentencing Act, and shall be
23 sentenced as prescribed by law for the offense.

24

1 D. The willful failure or refusal of the defendant to be
2 assessed and evaluated by using the LSI or another approved
3 assessment shall preclude the defendant from eligibility for any
4 community punishment.

5 E. The completed LSI, or other approved assessment, shall
6 include a written supervision plan and identify an appropriate
7 community punishment, if any, when the offender is considered
8 eligible for community punishments based upon the ~~offender's~~
9 completed risk/need score from the LSI assessment of the offender.
10 ~~Any offender~~ Unless otherwise prohibited by law, only offenders
11 scoring outside the moderate in a range other than the low range on
12 the LSI assessment and having at least one prior felony conviction
13 shall ~~not~~ be eligible for any state-funded community punishments.

14 F. The court is not required to sentence any offender to a
15 community punishment regardless of an eligible score on the LSI.
16 Any felony offender scoring in the low risk/need levels on the LSI
17 may be sentenced to a suspended sentence with minimal, if any,
18 conditions of the sentence to be paid by the offender. If the LSI
19 or another assessment has been conducted, the evaluation report
20 shall accompany the judgment and sentence.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 332.1B of Title 57, unless there
23 is created a duplication in numbering, reads as follows:

24

1 To be eligible for appointment as a Pardon and Parole Board
2 member, a person shall possess at least one of the following minimum
3 qualifications:

4 1. A bachelor's degree in the social sciences from an
5 accredited college or university and five (5) years of experience in
6 the criminal justice field;

7 2. A master's degree and four (4) years of experience in the
8 criminal justice field; or

9 3. A juris doctorate and three (3) years of experience in the
10 criminal justice field.

11 SECTION 11. AMENDATORY 57 O.S. 2001, Section 332.16, is
12 amended to read as follows:

13 Section 332.16 A. No recommendation to the Governor for parole
14 shall remain under consideration and in the possession of that
15 office for a time longer than thirty (30) consecutive calendar days.
16 Except as provided for in subsection B of this section, if upon
17 expiration of the thirty-day time period no action is taken by the
18 Governor to grant or deny parole, the recommendation for parole
19 shall be deemed granted.

20 B. The Governor shall be required to review each parole
21 recommendation and shall grant or deny parole for persons convicted
22 of the following crimes:
23
24

- 1 1. Assault, battery, or assault and battery with a dangerous or
2 deadly weapon as provided in Sections 645 and 652 of Title 21 of the
3 Oklahoma Statutes;
- 4 2. Aggravated assault and battery on a police officer, sheriff,
5 highway patrolman, or any other officer of the law as provided in
6 Sections 650, 650.2, 650.5, 650.6 and 650.7 of Title 21 of the
7 Oklahoma Statutes;
- 8 3. Poisoning with intent to kill as provided in Section 651 of
9 Title 21 of the Oklahoma Statutes;
- 10 4. Shooting with intent to kill as provided in Section 652 of
11 Title 21 of the Oklahoma Statutes;
- 12 5. Assault with intent to kill as provided in Section 653 of
13 Title 21 of the Oklahoma Statutes;
- 14 6. Assault with intent to commit a felony as provided in
15 Section 681 of Title 21 of the Oklahoma Statutes;
- 16 7. Assaults while masked or disguised as provided in Section
17 1303 of Title 21 of the Oklahoma Statutes;
- 18 8. Murder in the first degree as provided in Section 701.7 of
19 Title 21 of the Oklahoma Statutes;
- 20 9. Murder in the second degree as provided in Section 701.8 of
21 Title 21 of the Oklahoma Statutes;
- 22 10. Manslaughter in the first degree as provided in Sections
23 711, 712 and 714 of Title 21 of the Oklahoma Statutes;
- 24

1 11. Manslaughter in the second degree as provided in Sections
2 716 and 717 of Title 21 of the Oklahoma Statutes;

3 12. Kidnapping as provided in Section 741 of Title 21 of the
4 Oklahoma Statutes;

5 13. Burglary in the first degree as provided in Section 1431 of
6 Title 21 of the Oklahoma Statutes;

7 14. Burglary with explosives as provided in Section 1441 of
8 Title 21 of the Oklahoma Statutes;

9 15. Kidnapping for extortion as provided in Section 745 of
10 Title 21 of the Oklahoma Statutes;

11 16. Maiming as provided in Section 751 of Title 21 of the
12 Oklahoma Statutes;

13 17. Robbery as provided in Section 791 of Title 21 of the
14 Oklahoma Statutes;

15 18. Robbery in the first degree as provided in Section 797 of
16 Title 21 of the Oklahoma Statutes;

17 19. Robbery in the second degree as provided in Section 797 of
18 Title 21 of the Oklahoma Statutes;

19 20. Robbery by two or more persons as provided in Section 800
20 of Title 21 of the Oklahoma Statutes;

21 21. Robbery with dangerous weapon or imitation firearm as
22 provided in Section 801 of Title 21 of the Oklahoma Statutes;

23 22. Child abuse as provided in Section 843.5 of Title 21 of the
24 Oklahoma Statutes;

1 23. Wiring any equipment, vehicle or structure with explosives
2 as provided in Section 849 of Title 21 of the Oklahoma Statutes;

3 24. Forcible sodomy as provided in Section 888 of Title 21 of
4 the Oklahoma Statutes;

5 25. Rape in the first degree as provided in Sections 1111 and
6 1114 of Title 21 of the Oklahoma Statutes;

7 26. Rape in the second degree as provided in Sections 1111 and
8 1114 of Title 21 of the Oklahoma Statutes;

9 27. Rape by instrumentation as provided in Section 1111.1 of
10 Title 21 of the Oklahoma Statutes;

11 28. Lewd or indecent proposition or lewd or indecent act with a
12 child as provided in Section 1123 of Title 21 of the Oklahoma
13 Statutes;

14 29. Use of a firearm or offensive weapon to commit or attempt
15 to commit a felony as provided in Section 1287 of Title 21 of the
16 Oklahoma Statutes;

17 30. Pointing firearms as provided in Section 1289.16 of Title
18 21 of the Oklahoma Statutes;

19 31. Rioting as provided in Sections 1311 and 1321.8 of Title 21
20 of the Oklahoma Statutes;

21 32. Inciting to riot as provided in Section 1320.2 of Title 21
22 of the Oklahoma Statutes;

23 33. Arson in the first degree as provided in Section 1401 of
24 Title 21 of the Oklahoma Statutes;

1 34. Injuring or burning public buildings as provided in Section
2 349 of Title 21 of the Oklahoma Statutes;

3 35. Sabotage as provided in Sections 1262, 1265.4 and 1265.5 of
4 Title 21 of the Oklahoma Statutes;

5 36. Criminal syndicalism as provided in Section 1261 of Title
6 21 of the Oklahoma Statutes;

7 37. Extortion as provided in Sections 1481 and 1486 of Title 21
8 of the Oklahoma Statutes;

9 38. Obtaining signature by extortion as provided in Section
10 1485 of Title 21 of the Oklahoma Statutes;

11 39. Seizure of a bus, discharging firearm or hurling missile at
12 bus as provided in Section 1903 of Title 21 of the Oklahoma
13 Statutes;

14 40. Mistreatment of a mental patient as provided in Section
15 843.1 of Title 21 of the Oklahoma Statutes;

16 41. Using a vehicle to facilitate the discharge of a weapon as
17 provided in Section 652 of Title 21 of the Oklahoma Statutes; or

18 42. Aggravated drug trafficking as provided in Section 2-415 of
19 Title 63 of the Oklahoma Statutes.

20 C. When the Pardon and Parole Board makes a recommendation for
21 a compassionate parole pursuant to subsection B of Section 332.18 of
22 this title, the Board shall forward all relevant documentation to
23 the Governor within four (4) business days of the parole review of
24

1 the inmate. Upon receipt, the Governor shall have four (4) business
2 days to grant or deny the compassionate parole.

3 SECTION 12. AMENDATORY 57 O.S. 2001, Section 510.9, as
4 last amended by Section 2, Chapter 507, O.S.L. 2004 (57 O.S. Supp.
5 2010, Section 510.9), is amended to read as follows:

6 Section 510.9 A. There is hereby created the Electronic
7 Monitoring Program for inmates in the custody of the Department of
8 Corrections who are sentenced for a nonviolent offense as defined by
9 Section 571 of this title. The Department is authorized to use an
10 electronic monitoring global positioning device to satisfy its
11 custody duties and responsibilities.

12 B. After an inmate has been processed and received through ~~the~~
13 ~~Lexington~~ a Department Assessment and Reception Center, has been
14 incarcerated ~~in a secure facility~~ for a minimum of ~~one hundred~~
15 ~~eighty (180)~~ ninety (90) days, and has met the criteria established
16 in subsection C of Section 521 of this title, the Director of the
17 Department of Corrections may assign the inmate, if eligible, to the
18 Electronic Monitoring Program. Nothing shall prohibit the Director
19 from assigning an inmate to the Electronic Monitoring Program while
20 assigned to the accredited halfway house or transitional living
21 facility. The following inmates, youthful offenders, and juveniles
22 shall not be eligible for assignment to the program:

23 1. Any inmate ~~who has eleven (11) months or more left on their~~
24 servng a sentence of more than five (5) years who has eleven (11)

1 months or more left on the sentence or any inmate serving a sentence
2 of five (5) years or less whose initial custody assessment requires
3 placement above the minimum security level;

4 2. Inmates convicted of a violent offense within the previous
5 ten (10) years;

6 3. Inmates convicted of any violation of the provisions of the
7 Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63
8 of the Oklahoma Statutes;

9 4. Inmates denied parole within the previous twelve (12) months
10 pursuant to Section 332.7 of this title;

11 5. Inmates convicted pursuant to Section 11-902 of Title 47 of
12 the Oklahoma Statutes who are not receptive to substance abuse
13 treatment and follow-up treatment;

14 6. Inmates removed from the Electronic Monitoring Program or
15 any other alternative to incarceration authorized by law for
16 violation of any rule or condition of the program and reassigned to
17 imprisonment in a correctional facility;

18 7. Inmates deemed by the Department to be a security risk or
19 threat to the public;

20 8. Inmates requiring educational, medical or other services or
21 programs not available in a community setting as determined by the
22 Department;

23 9. Inmates convicted of any violation of subsection C of
24 Section 644 of Title 21 of the Oklahoma Statutes or who have an

1 active protection order that was issued under the Protection from
2 Domestic Abuse Act, Sections 60 through 60.16 of Title 22 of the
3 Oklahoma Statutes;

4 10. Inmates who have outstanding felony warrants or detainers
5 from another jurisdiction;

6 11. Inmates convicted of a sex offense who, upon release from
7 incarceration, would be required by law to register pursuant to the
8 Sex Offender Registration Act;

9 12. Inmates convicted of racketeering activity as defined in
10 Section 1402 of Title 22 of the Oklahoma Statutes;

11 13. Inmates convicted pursuant to subsection F of Section 2-401
12 of Title 63 of the Oklahoma Statutes;

13 14. Inmates convicted pursuant to Section 650 of Title 21 of
14 the Oklahoma Statutes;

15 15. Inmates who have escaped from a penal or correctional
16 institution within the previous ten (10) years; or

17 16. Inmates who currently have active misconduct actions on
18 file with the Department of Corrections.

19 C. Every eligible inmate assigned to the Electronic Monitoring
20 Program shall remain in such program until one of the following
21 conditions has been met:

22 1. The inmate discharges the term of the sentence;

23

24

1 2. The inmate is removed from the Electronic Monitoring Program
2 for violation of any rule or condition of the program and reassigned
3 to imprisonment in a correctional facility; or

4 3. The inmate is paroled by the Governor pursuant to Section
5 332.7 of this title.

6 D. After an inmate has been assigned to the Electronic
7 Monitoring Program, denial of parole pursuant to Section 332.7 of
8 this title, shall not be cause for removal from the program,
9 provided the inmate has not violated the rules or conditions of the
10 program. The inmate may remain assigned to the program, if
11 otherwise eligible, until the completion of the sentence.

12 E. The Electronic Monitoring Program shall require active
13 supervision of the inmate in a community setting by a correctional
14 officer or other employee of the Department of Corrections with
15 monitoring by a global positioning device approved by the Department
16 under such rules and conditions as may be established by the
17 Department. If an inmate violates any rule or condition of the
18 program, the Department may take necessary disciplinary action
19 consistent with the rules established pursuant to this section,
20 including reassignment to a higher level of security or removing the
21 inmate from the program with reassignment to imprisonment in a
22 correctional facility. Any inmate who escapes from the Electronic
23 Monitoring Program shall be subject to the provisions of Section 443
24 of Title 21 of the Oklahoma Statutes.

1 F. Upon an inmate assigned to the Electronic Monitoring Program
2 becoming eligible for parole consideration, pursuant to Section
3 332.7 of this title, the Department of Corrections shall deliver the
4 inmate, in person, to a correctional facility for interview,
5 together with any Department records necessary for the Pardon and
6 Parole Board's investigation. Inmates assigned to the Electronic
7 Monitoring Program shall not be allowed to waive consideration or
8 recommendation for parole.

9 G. Prior to placement of any eligible inmate assigned to the
10 Electronic Monitoring Program being placed in a community setting,
11 the Department of Corrections shall deliver a written notification
12 to the sheriff and district attorney of the county, and the chief
13 law enforcement officer of any incorporated city or town in which
14 the inmate is to be monitored and supervised under the program. The
15 district attorney shall disseminate such information to victims of
16 the crime for which the inmate is serving sentence, if any, when the
17 victims are known to live in the same city, town or county.

18 H. An inmate assigned to the Electronic Monitoring Program may
19 be required to pay the Department of Corrections for all or part of
20 any monitoring equipment or fee, substance abuse treatment program
21 or follow-up treatment expense, supervision cost, or other costs
22 while assigned to the program. The Department shall determine
23 whether the inmate has the ability to pay all or part of such fee or
24 costs.

1 I. The Department of Corrections shall promulgate and adopt
2 rules and procedures necessary to implement the Electronic
3 Monitoring Program, including but not limited to methods of
4 monitoring and supervision, disciplinary action, reassignment to
5 higher and lower security levels, removal from the program, and
6 costs of monitoring and supervision to be paid by the inmate, if
7 any.

8 SECTION 13. This act shall become effective November 1, 2011.

9 Passed the House of Representatives the 15th day of March, 2011.

10

11

12

Presiding Officer of the House of
Representatives

13

14

Passed the Senate the ____ day of _____, 2011.

15

16

17

Presiding Officer of the Senate

18

19

20

21

22

23

24