ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 764 By: Sykes of the Senate

and

Grau of the House

An Act relating to the Oklahoma Community Sentencing Act; amending 22 O.S. 2011, Sections 988.2, 988.6 and 988.23, which relate to definitions, planning council duties, and liability; modifying definition; authorizing employment of certain personnel; authorizing certain contracting; providing immunity from liability for certain persons; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to the Oklahoma Community Sentencing Act; amending 22 O.S. 2011, Sections 988.2, 988.6 and 988.23, which relate to definitions, planning council duties, and liability; modifying definition; authorizing employment of certain personnel; authorizing certain contracting; providing immunity from liability for certain persons; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 988.2, is amended to read as follows:

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

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

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

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

4. "Community sentencing system planning council" or "planning council" means a group of citizens and elected officials specified by law or appointed by the Chief Judge of the Judicial District which plans the local community sentencing system and with the assistance of the Community Sentencing Division of the Department of Corrections locates treatment providers and resources to support the local community sentencing system;

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

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

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

8. "Eligible offender" means a felony offender who has been convicted of or who has entered a plea other than not guilty to a felony offense and who upon completion of a Level of Services Inventory or another assessment instrument has been found to be in a range other than the low range, who has been convicted of at least one prior felony, and who is not otherwise prohibited by law; provided, however, that no person who has been convicted of or who has entered a plea other than not guilty to an offense enumerated in ~~subsection 5~~ paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception to the definition of "nonviolent offense" shall be eligible for a community sentence or community punishment unless the district attorney or an assistant district attorney for the district in which the offender's conviction was obtained consents thereto. The district attorney may consent to eligibility for an offender who has a mental illness or a developmental

disability or a co-occurring mental illness and substance abuse disorder and who scores in the low range on the LSI or another assessment instrument if the offender is not otherwise prohibited by law. Any consent by a district attorney shall be made a part of the record of the case; and

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

B. For the purposes of the Oklahoma Community Sentencing Act, if a judicial district does not have a Chief Judge or if a judicial district has more than one Chief Judge, the duties of the Chief Judge provided for in the Oklahoma Community Sentencing Act shall be performed by the Presiding Judge of the Judicial Administrative District.

SECTION 2. AMENDATORY 22 O.S. 2011, Section 988.6, is amended to read as follows:

Section 988.6 A. Each community sentencing planning council shall:

1. Plan the local community sentencing system within allocated funds and other available resources according to the provisions of the law and with the assistance of the Community Sentencing Division of the Department of Corrections;

2. Promulgate rules for functioning of the planning council which are consistent with the provisions of this act;

3. Prepare a detailed plan within the provisions of law and rule each fiscal year with an accompanying budget for the local community sentencing system;

4. Identify local resources by type, cost and location which are available to serve the court for eligible felony offenders sentenced to the community;

5. Identify qualified service providers to deliver services to the court for eligible felony offenders sentenced to the community;

6. Assist in monitoring the sentencing practices of the court to ensure the local community sentencing system functions within the allocation of resources and according to the provisions of this act;

7. Assist in preparing information necessary for qualified services to support the local community sentencing system plan as provided in Section ~~7~~ 988.7 of this ~~act~~ title;

8. ~~Identity~~ Identify and advocate the use of interlocal governmental agreements for qualified services where services are not available within the jurisdiction or where services may be delivered in a more cost-effective manner by another jurisdiction;

9. Form multicounty systems as may be necessary to conserve state or local resources or to implement an appropriate range of services to the court;

10. Review and recommend services for cost-effectiveness and performance-based evaluation;

11. Identify various sources of funding and resources for the local community sentencing system including a variety of free services available to the court;

12. Assist in developing public/private partnerships in the local jurisdiction, reciprocal agreements, and interagency cooperation and collaboration to provide appropriate services and support to the system; and

13. Assist in promoting local involvement and support for the provisions of the Oklahoma Community Sentencing Act.

B. Each community sentencing planning council may employ a local director and other personnel to perform the duties of the local community sentencing system, subject to the availability of funds. Such council may contract with a county to provide benefits and payroll services to such personnel.

SECTION 3. AMENDATORY 22 O.S. 2011, Section 988.23, is amended to read as follows:

Section 988.23 All state and local government agencies and their officers and employees, citizens serving as members of a community sentencing planning council, community service agencies, nonprofit organizations, educational or vocational-technical entities, and other providers participating in a community sentencing system or contracting to provide services to the system

pursuant to the provisions of the Oklahoma Community Sentencing Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of the Administrative Workers' Compensation Act~~, Section 1 et seq. of Title 85 of the Oklahoma Statutes,~~ and for torts committed by or against any offender participating in a community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act~~, Section 151 et seq. of Title 51 of the Oklahoma Statutes~~.

SECTION 4. This act shall become effective November 1, 2015."

Passed the House of Representatives the 13th day of April, 2015.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate