

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 3039

By: Jordan and Sherrer of the
House

4 and

5 Shaw of the Senate

6
7
8 [work release programs - creating the Debt to
9 Society Act of 2016 - authorizing county sheriffs
10 to establish and maintain certain program -
11 effective date]

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AUTHOR: Add the following Senate Coauthor: Matthews

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

"An Act relating to work release programs; creating
the Debt to Society Act of 2016; authorizing county
sheriffs to establish and maintain certain program;
providing requirements when establishing program;
providing for the reduction of prison sentence
through earned credits; providing limitations for
earning early release credits; requiring suspension
from work release program under certain
circumstances; amending 51 O.S. 2011, Section 155, as
last amended by Section 34, Chapter 15, O.S.L. 2013
(51 O.S. Supp. 2015, Section 155), which relates to
the Governmental Tort Claims Act; expanding scope of
certain exemption; providing for codification; and
providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 532 of Title 19, unless there is
4 created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Debt to Society
6 Act of 2016".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 533 of Title 19, unless there is
9 created a duplication in numbering, reads as follows:

10 A. Each county is hereby authorized to establish and maintain
11 for the benefit of nonviolent misdemeanor offenders a "debt to
12 society" work release or community service program. When a county
13 establishes such program, the following requirements shall apply:

14 1. In conjunction with the office of the district attorney, the
15 county sheriff shall establish guidelines for the monitoring and
16 enforcement of persons the program would be available to;

17 2. The program guidelines shall provide the details for a work
18 release program or a community service program;

19 3. The program guidelines shall be approved by the district
20 judge prior to implementation;

21 4. Only defendants who enter a plea or are convicted of a
22 nonviolent misdemeanor offense may be eligible for the program;

23 5. An eight-hour work day shall translate into one (1) full day
24 of imprisonment in a county jail. A four-hour work day shall

1 translate into one-half (1/2) day of imprisonment in a county jail;
2 and

3 6. Counties may use the program in lieu of incarceration and/or
4 housing a defendant.

5 B. 1. The sentence of the person may be reduced by earned
6 early release time in accordance with procedures developed and
7 promulgated by the county sheriff and approved by the district
8 attorney.

9 2. The earned early release time shall be for good behavior and
10 good performance in the work release or community service program as
11 determined by the county sheriff.

12 3. The county sheriff shall not credit the person with earned
13 early release time in advance of the person actually earning the
14 credits.

15 4. Under no circumstances shall the aggregate sum of earned
16 early release time exceed one-third (1/3) of the total sentence.

17 C. 1. The earnings of a person participating in a work release
18 program may be collected by the county.

19 2. The county may deduct from the earnings of the work release
20 or community service program participant amounts necessary for the
21 payment of the following:

- 22 a. incarceration costs,
- 23 b. administrative expenses relating to participation in
- 24 the work release or community service program,

- 1 c. court-ordered victim restitution, and
2 d. court costs and fees associated with the criminal case
3 of the person.

4 Child support obligations for dependents of the person, if any,
5 shall be made as directed by the court.

6 Any remaining balance shall be returned to the person.

7 D. If the person violates any of the conditions of the work
8 release or community service program, custody or employment, the
9 person shall be suspended from further participation in the work
10 release or community service program. The sentencing court may
11 require the person to spend the remainder of the sentence in actual
12 confinement and may revoke any earned early release credits.

13 SECTION 3. AMENDATORY 51 O.S. 2011, Section 155, as last
14 amended by Section 34, Chapter 15, O.S.L. 2013 (51 O.S. Supp. 2015,
15 Section 155), is amended to read as follows:

16 Section 155. The state or a political subdivision shall not be
17 liable if a loss or claim results from:

- 18 1. Legislative functions;
19 2. Judicial, quasi-judicial, or prosecutorial functions, other
20 than claims for wrongful criminal felony conviction resulting in
21 imprisonment provided for in Section 154 of this title;
22 3. Execution or enforcement of the lawful orders of any court;
23 4. Adoption or enforcement of or failure to adopt or enforce a
24 law, whether valid or invalid, including, but not limited to, any

1 statute, charter provision, ordinance, resolution, rule, regulation
2 or written policy;

3 5. Performance of or the failure to exercise or perform any act
4 or service which is in the discretion of the state or political
5 subdivision or its employees;

6 6. Civil disobedience, riot, insurrection or rebellion or the
7 failure to provide, or the method of providing, police, law
8 enforcement or fire protection;

9 7. Any claim based on the theory of attractive nuisance;

10 8. Snow or ice conditions or temporary or natural conditions on
11 any public way or other public place due to weather conditions,
12 unless the condition is affirmatively caused by the negligent act of
13 the state or a political subdivision;

14 9. Entry upon any property where that entry is expressly or
15 implied authorized by law;

16 10. Natural conditions of property of the state or political
17 subdivision;

18 11. Assessment or collection of taxes or special assessments,
19 license or registration fees, or other fees or charges imposed by
20 law;

21 12. Licensing powers or functions including, but not limited
22 to, the issuance, denial, suspension or revocation of or failure or
23 refusal to issue, deny, suspend or revoke any permit, license,
24 certificate, approval, order or similar authority;

1 13. Inspection powers or functions, including failure to make
2 an inspection, review or approval, or making an inadequate or
3 negligent inspection, review or approval of any property, real or
4 personal, to determine whether the property complies with or
5 violates any law or contains a hazard to health or safety, or fails
6 to conform to a recognized standard;

7 14. Any loss to any person covered by any workers' compensation
8 act or any employer's liability act;

9 15. Absence, condition, location or malfunction of any traffic
10 or road sign, signal or warning device unless the absence,
11 condition, location or malfunction is not corrected by the state or
12 political subdivision responsible within a reasonable time after
13 actual or constructive notice or the removal or destruction of such
14 signs, signals or warning devices by third parties, action of
15 weather elements or as a result of traffic collision except on
16 failure of the state or political subdivision to correct the same
17 within a reasonable time after actual or constructive notice.
18 Nothing herein shall give rise to liability arising from the failure
19 of the state or any political subdivision to initially place any of
20 the above signs, signals or warning devices. The signs, signals and
21 warning devices referred to herein are those used in connection with
22 hazards normally connected with the use of roadways or public ways
23 and do not apply to the duty to warn of special defects such as
24 excavations or roadway obstructions;

1 16. Any claim which is limited or barred by any other law;

2 17. Misrepresentation, if unintentional;

3 18. An act or omission of an independent contractor or
4 consultant or his or her employees, agents, subcontractors or
5 suppliers or of a person other than an employee of the state or
6 political subdivision at the time the act or omission occurred;

7 19. Theft by a third person of money in the custody of an
8 employee unless the loss was sustained because of the negligence or
9 wrongful act or omission of the employee;

10 20. Participation in or practice for any interscholastic or
11 other athletic contest sponsored or conducted by or on the property
12 of the state or a political subdivision;

13 21. Participation in any activity approved by a local board of
14 education and held within a building or on the grounds of the school
15 district served by that local board of education before or after
16 normal school hours or on weekends;

17 22. Use of indoor or outdoor school property and facilities
18 made available for public recreation before or after normal school
19 hours or on weekends or school vacations, except those claims
20 resulting from willful and wanton acts of negligence. For purposes
21 of this paragraph:

- 22 a. "public" includes, but is not limited to, students
23 during nonschool hours and school staff when not
24 working as employees of the school, and

1 b. "recreation" means any indoor or outdoor physical
2 activity, either organized or unorganized, undertaken
3 for exercise, relaxation, diversion, sport or
4 pleasure, and that is not otherwise covered by
5 paragraph 20 or 21 of this section;

6 23. Any court-ordered ~~or~~ Department of Corrections or county
7 approved work release program; provided, however, this provision
8 shall not apply to claims from individuals not in the custody of the
9 Department of Corrections based on accidents involving motor
10 vehicles owned or operated by the Department of Corrections;

11 24. The activities of the National Guard, the militia or other
12 military organization administered by the Military Department of the
13 state when on duty pursuant to the lawful orders of competent
14 authority:

- 15 a. in an effort to quell a riot,
- 16 b. in response to a natural disaster or military attack,
- 17 or
- 18 c. if participating in a military mentor program ordered
19 by the court;

20 25. Provision, equipping, operation or maintenance of any
21 prison, jail or correctional facility, or injuries resulting from
22 the parole or escape of a prisoner or injuries by a prisoner to any
23 other prisoner; provided, however, this provision shall not apply to
24 claims from individuals not in the custody of the Department of

1 Corrections based on accidents involving motor vehicles owned or
2 operated by the Department of Corrections;

3 26. Provision, equipping, operation or maintenance of any
4 juvenile detention facility, or injuries resulting from the escape
5 of a juvenile detainee, or injuries by a juvenile detainee to any
6 other juvenile detainee;

7 27. Any claim or action based on the theory of manufacturer's
8 products liability or breach of warranty, either expressed or
9 implied;

10 28. Any claim or action based on the theory of indemnification
11 or subrogation;

12 29. Any claim based upon an act or omission of an employee in
13 the placement of children;

14 30. Acts or omissions done in conformance with then current
15 recognized standards;

16 31. Maintenance of the state highway system or any portion
17 thereof unless the claimant presents evidence which establishes
18 either that the state failed to warn of the unsafe condition or that
19 the loss would not have occurred but for a negligent affirmative act
20 of the state;

21 32. Any confirmation of the existence or nonexistence of any
22 effective financing statement on file in the office of the Secretary
23 of State made in good faith by an employee of the office of the
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1 Secretary of State as required by the provisions of Section 1-9-
2 320.6 of Title 12A of the Oklahoma Statutes;

3 33. Any court-ordered community sentence;

4 34. Remedial action and any subsequent related maintenance of
5 property pursuant to and in compliance with an authorized
6 environmental remediation program, order, or requirement of a
7 federal or state environmental agency;

8 35. The use of necessary and reasonable force by a school
9 district employee to control and discipline a student during the
10 time the student is in attendance or in transit to and from the
11 school, or any other function authorized by the school district;

12 36. Actions taken in good faith by a school district employee
13 for the out-of-school suspension of a student pursuant to applicable
14 Oklahoma Statutes; or

15 37. Use of a public facility opened to the general public
16 during an emergency.

17 SECTION 4. This act shall become effective November 1, 2016."
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1 Passed the Senate the 20th day of April, 2016.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2016.

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8 _____
9 Presiding Officer of the House
10 of Representatives