ENGROSSED HOUSE
BILL NO. 2836 By: Echols of the House

and

Jolley of the Senate

[prisons and reformatories - modifying eligibility requirements for Electronic Monitoring Program - ~~emergency~~]

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 510.9, as last amended by Section 5, Chapter 397, O.S.L. 2015 (57 O.S. Supp. 2015, Section 510.9), is amended to read as follows:

Section 510.9 A. There is hereby created the Electronic Monitoring Program for inmates in the custody of the Department of Corrections who are sentenced for a nonviolent offense not included as a violent offense defined in Section 571 of this title. The Department is authorized to use an electronic monitoring global positioning device to satisfy its custody duties and responsibilities.

B. After an inmate has been processed and received through a Department Assessment and Reception Center, ~~has been incarcerated~~

~~for a minimum of ninety (90) days~~ has a home offer, and has met the criteria established in subsection C of Section 521 of this title, the Director of the Department of Corrections may assign the inmate, if eligible, to the Electronic Monitoring Program. Nothing shall prohibit the Director from assigning an inmate to the Electronic Monitoring Program while assigned to the accredited halfway house or transitional living facility. The following inmates, youthful offenders, and juveniles shall not be eligible for assignment to the program:

1. Any inmate serving a sentence of more than ~~five (5)~~ ten (10) years who has ~~eleven (11)~~ twenty-four (24) months or more left on the sentence or any inmate serving a sentence of five (5) years or less whose initial custody assessment requires placement above the minimum security level;

2. Inmates convicted of a violent offense within the previous ten (10) years or convicted of any violation enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes;

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

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

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

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

~~7.~~ 4. Inmates deemed by the Department to be a security risk or threat to the public;

~~8.~~ 5. Inmates requiring educational, medical or other services or programs not available in a community setting as determined by the Department;

~~9.~~ 6. Inmates convicted of ~~any~~ a felony violation of subsection C of Section 644 of Title 21 of the Oklahoma Statutes within the previous ten (10) years or who have an active protection order that was issued under the Protection from Domestic Abuse Act~~, Sections 60 through 60.16 of Title 22 of the Oklahoma Statutes~~;

~~10.~~ 7. Inmates who have outstanding felony warrants or detainers from another jurisdiction;

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

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

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

~~14.~~ 10. Inmates convicted pursuant to Section 650 of Title 21 of the Oklahoma Statutes;

~~15.~~ 11. Inmates who have escaped from a penal or correctional institution within the previous ten (10) years; or

~~16.~~ 12. Inmates who currently have active misconduct actions on file with the Department of Corrections.

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

1. The inmate discharges the term of the sentence;

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

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

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

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

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

G. Prior to placement of any eligible inmate assigned to the Electronic Monitoring Program being placed in a community setting, the Department of Corrections shall deliver a written notification

to the sheriff and district attorney of the county, and the chief law enforcement officer of any incorporated city or town in which the inmate is to be monitored and supervised under the program. The district attorney shall disseminate such information to victims of the crime for which the inmate is serving sentence, if any, when the victims are known to live in the same city, town or county.

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

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

J. An inmate assigned to the Electronic Monitoring Program shall, within thirty (30) days of being placed in a community setting, report to the court clerk and the district attorney of the county from which the judgment and sentence resulting in

incarceration arose to address payment of any fines, costs, restitution and assessments owed by the inmate, if any.

~~SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.~~

Passed the House of Representatives the 10th day of March, 2016.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate