

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 251

By: Pittman

AS INTRODUCED

An Act relating to sentencing; creating the Oklahoma Sentencing Guidelines Act; providing short title; stating certain guidelines be followed by certain date; specifying sentencing guidelines grid for nondrug and drug crimes; providing for noncodification; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Sentencing Guidelines Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 161 of Title 21, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law and for convictions occurring on or after the effective date of this act, sentencing guidelines and prosecuting standards pursuant to the Oklahoma Sentencing Guidelines Act shall be followed.

1       SECTION 3.       NEW LAW       A new section of law to be codified

2 in the Oklahoma Statutes as Section 162 of Title 21, unless there is  
3 created a duplication in numbering, reads as follows:

4       A. For purposes of sentencing, the following sentencing  
5 guidelines grid for nondrug crimes shall be applied in felony cases  
6 for crimes committed on or after July 1, 1993.

7       B. The provisions of this section shall be applicable to the  
8 sentencing guidelines grid for nondrug crimes. Sentences expressed  
9 in such grid represent months of imprisonment.

10      C. The sentencing guidelines grid is a two-dimensional crime  
11 severity and criminal history classification tool. The grid's  
12 vertical axis is the crime severity scale which classifies current  
13 crimes of conviction. The grid's horizontal axis is the criminal  
14 history scale which classifies criminal histories.

15      D. The sentencing guidelines grid for nondrug crimes as  
16 provided in this section defines presumptive punishments for felony  
17 convictions, subject to judicial discretion to deviate for  
18 substantial and compelling reasons and impose a different sentence  
19 in recognition of aggravating and mitigating factors as provided in  
20 the Oklahoma Sentencing Guidelines Act. The appropriate punishment  
21 for a felony conviction should depend on the severity of the crime  
22 of conviction when compared to all other crimes and the offender's  
23 criminal history.

1       E. 1. The sentencing court has discretion to sentence at any  
2 place within the sentencing range. The sentencing judge shall  
3 select the center of the range in the usual case and reserve the  
4 upper and lower limits for aggravating and mitigating factors  
5 insufficient to warrant a departure.

6       2. In presumptive imprisonment cases, the sentencing court  
7 shall pronounce the complete sentence which shall include the prison  
8 sentence, the maximum potential reduction to such sentence as a  
9 result of good time, and the period of post-release supervision at  
10 the sentencing hearing. Failure to pronounce the period of post-  
11 release supervision shall not negate the existence of such period of  
12 post-release supervision.

13       3. In presumptive non-prison cases, the sentencing court shall  
14 pronounce the prison sentence as well as the duration of the non-  
15 prison sanction at the sentencing hearing.

16       F. Each grid block states the presumptive sentencing range for  
17 an offender whose crime of conviction and criminal history place  
18 such offender in that grid block. If an offense is classified in a  
19 grid block below the dispositional line, the presumptive disposition  
20 shall be non-imprisonment. If an offense is classified in a grid  
21 block above the dispositional line, the presumptive disposition  
22 shall be imprisonment. If an offense is classified in grid blocks  
23 5-H, 5-I or 6-G, the court may impose an optional non-prison  
24 sentence upon making the following findings on the record:

1        1. An appropriate treatment program exists which is likely to  
2 be more effective than the presumptive prison term in reducing the  
3 risk of offender recidivism; and

4        2. The recommended treatment program is available and the  
5 offender can be admitted to such program within a reasonable period  
6 of time; or

7        3. The non-prison sanction will serve community safety  
8 interests by promoting offender reformation.

9        Any decision made by the court regarding the imposition of an  
10 optional non-prison sentence if the offense is classified in grid  
11 blocks 5-H, 5-I or 6-G shall not be considered a departure and shall  
12 not be subject to appeal.

13        G. The sentence for the violation of aggravated assault against  
14 a law enforcement officer or aggravated battery against a law  
15 enforcement officer which places the defendant's sentence in grid  
16 block 6-H or 6-I shall be presumed imprisonment. The court may  
17 impose an optional non-prison sentence upon making a finding on the  
18 record that the non-prison sanction will serve community safety  
19 interests by promoting offender reformation. Any decision made by  
20 the court regarding the imposition of the optional non-prison  
21 sentence, if the offense is classified in grid block 6-H or 6-I,  
22 shall not be considered departure and shall not be subject to  
23 appeal.

1       H. When a firearm is used to commit any felony, the offender's  
2 sentence shall be presumed imprisonment. The court may impose an  
3 optional non-prison sentence upon making a finding on the record  
4 that the non-prison sanction will serve community safety interests  
5 by promoting offender reformation. Any decision made by the court  
6 regarding the imposition of the optional non-prison sentence shall  
7 not be considered a departure and shall not be subject to appeal.

8       I. The sentence for any sex offender whose current convicted  
9 crime carries a presumptive term of imprisonment shall be double the  
10 maximum duration of the presumptive imprisonment term. The sentence  
11 for any sex offender whose current conviction carries a presumptive  
12 non-prison term shall be presumed imprisonment and shall be double  
13 the maximum duration of the presumptive imprisonment term.

14       J. If it is shown at sentencing that the offender committed any  
15 felony violation for the benefit of, at the direction of or in  
16 association with any criminal street gang, with the specific intent  
17 to promote, further or assist in any criminal conduct by gang  
18 members, the offender's sentence shall be presumed imprisonment.  
19 Any decision made by the court regarding the imposition of the  
20 optional non-prison sentence shall not be considered a departure and  
21 shall not be subject to appeal. As used in this subsection,  
22 "criminal street gang" means any organization, association or group  
23 of three or more persons, whether formal or informal, having as one  
24 of its primary activities the commission of one or more person

1 felonies or felony violations of the Uniform Controlled Dangerous  
2 Substances Act, which has a common name or common identifying sign  
3 or symbol, whose members, individually or collectively engage in or  
4 have engaged in the commission, attempted commission, conspiracy to  
5 commit or solicitation of two or more person felonies or felony  
6 violations of the Uniform Controlled Dangerous Substances Act, or  
7 any substantially similar offense from another jurisdiction.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 163 of Title 21, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. For the purpose of sentencing, the following sentencing  
12 guidelines grid for drug crimes shall be applied in felony cases  
13 under the Uniform Controlled Dangerous Substances Act for crimes  
14 committed on or after July 1, 1993.

15 B. The provisions of subsection A of this section will apply  
16 for the purpose of sentencing violations of the Uniform Controlled  
17 Dangerous Substances Act except as otherwise provided by law.  
18 Sentences expressed in the sentencing guidelines grid for drug  
19 crimes in subsection A of this section represent months of  
20 imprisonment.

21 C. 1. The sentencing court has discretion to sentence at any  
22 place within the sentencing range. The sentencing judge shall  
23 select the center of the range in the usual case and reserve the  
24 upper and lower limits for aggravating and mitigating factors

1 insufficient to warrant a departure. The sentencing court shall not  
2 distinguish between the controlled substances cocaine base  
3 (9041L000) and cocaine hydrochloride (9041L005) when sentencing  
4 within the sentencing range of the grid block.

5 2. In presumptive imprisonment cases, the sentencing court  
6 shall pronounce the complete sentence which shall include the prison  
7 sentence, the maximum potential reduction to such sentence as a  
8 result of good time, and the period of post-release supervision at  
9 the sentencing hearing. Failure to pronounce the period of post-  
10 release supervision shall not negate the existence of such period of  
11 post-release supervision.

12 3. In presumptive non-prison cases, the sentencing court shall  
13 pronounce the prison sentence as well as the duration of the non-  
14 prison sanction at the sentencing hearing.

15 D. Each grid block states the presumptive sentencing range for  
16 an offender whose crime of conviction and criminal history place  
17 such offender in that grid block. If an offense is classified in a  
18 grid block below the dispositional line, the presumptive disposition  
19 shall be non-imprisonment. If an offense is classified in a grid  
20 block above the dispositional line, the presumptive disposition  
21 shall be imprisonment. If an offense is classified in grid blocks  
22 3-E, 3-F, 3-G, 3-H or 3-I, the court may impose an optional non-  
23 prison sentence upon making the following findings on the record:  
24

1        1. An appropriate treatment program exists which is likely to  
2 be more effective than the presumptive prison term in reducing the  
3 risk of offender recidivism; and

4        2. The recommended treatment program is available, and the  
5 offender can be admitted to such program within a reasonable period  
6 of time; or

7        3. The non-prison sanction will serve community safety  
8 interests by promoting offender reformation.

9        Any decision made by the court regarding the imposition of an  
10 optional non-prison sentence if the offense is classified in grid  
11 blocks 3-E, 3-F, 3-G, 3-H or 3-I shall not be considered a departure  
12 and shall not be subject to appeal.

13        E. The sentence for a second or subsequent conviction for the  
14 manufacture of any controlled substance or controlled substance  
15 analog shall be a presumptive term of imprisonment of two (2) times  
16 the maximum duration of the presumptive term of imprisonment. The  
17 court may impose an optional reduction in such sentence of not to  
18 exceed fifty percent (50%) of the mandatory increase provided by  
19 this subsection upon making a finding on the record of one or more  
20 of the mitigating factors to justify such a reduction in sentence.  
21 Any decision made by the court regarding the reduction in such  
22 sentence shall not be considered a departure and shall not be  
23 subject to appeal.



1 F. The sentence for a third or subsequent felony conviction  
2 shall be a presumptive term of imprisonment, and the defendant shall  
3 be sentenced to prison as provided by this section, if the defendant  
4 has previously completed a certified drug abuse treatment program or  
5 has been discharged or refused to participate in a certified drug  
6 abuse treatment program. Such sentence shall not be considered a  
7 departure and shall not be subject to appeal.

8 SECTION 5. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 164 of Title 21, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. For crimes committed on or after July 1, 1993, the sentences  
12 of imprisonment shall represent the time a person shall actually  
13 serve, subject to a reduction of up to fifteen percent (15%) of the  
14 primary sentence for good time as authorized by law.

15 B. The sentencing court shall pronounce sentences in all felony  
16 cases.

17 SECTION 6. This act shall become effective November 1, 2017.  
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