

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1811

By: Brooks

AS INTRODUCED

An Act relating to sentence modification; amending 22 O.S. 2011, Section 982a, as last amended by Section 1, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2019, Section 982a), which relates to judicial review; removing prohibition for imposition of deferred sentence under certain circumstances; authorizing court to modify certain sentences without district attorney approval; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as last amended by Section 1, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2019, Section 982a), is amended to read as follows:

Section 982a. A. 1. Any time within sixty (60) months after the initial sentence is imposed or within sixty (60) months after probation has been revoked, the court imposing sentence or revocation of probation may modify such sentence or revocation by directing that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; ~~provided, however, the court shall not impose a deferred sentence. Any application for sentence modification that~~

1 ~~is filed and ruled upon beyond twelve (12) months of the initial~~
2 ~~sentence being imposed must be approved by the district attorney who~~
3 ~~shall provide written notice to any victims in the case which is~~
4 ~~being considered for modification.~~

5 2. The court imposing sentence may modify the sentence of any
6 offender who was originally sentenced for a drug charge and ordered
7 to complete the Drug Offender Work Camp at the Bill Johnson
8 Correctional Facility and direct that another sentence be imposed,
9 if the court is satisfied that the best interests of the public will
10 not be jeopardized; provided, however, the court shall not impose a
11 deferred sentence. An application for sentence modification
12 pursuant to this paragraph may be filed and ruled upon beyond the
13 initial sixty-month time period provided for in paragraph 1 of this
14 subsection.

15 3. This section shall not apply to convicted felons who have
16 been in confinement in any state or federal prison system for any
17 previous felony conviction during the ten-year period preceding the
18 date that the sentence this section applies to was imposed.
19 ~~Further, without the consent of the district attorney, this section~~
20 ~~shall not apply to sentences imposed pursuant to a plea agreement or~~
21 ~~jury verdict.~~

22 B. The court imposing the sentence may modify the sentence of
23 any offender sentenced to life without parole for an offense other
24 than a violent crime, as enumerated in Section 571 of Title 57 of

1 the Oklahoma Statutes, who has served at least ten (10) years of the
2 sentence in the custody of the Department of Corrections upon a
3 finding that the best interests of the public will not be
4 jeopardized. Provided; however, prior to granting a sentence
5 modification under the provisions of this subsection, the court
6 shall provide notice of the hearing to determine sentence
7 modification to the victim or representative of the victim and shall
8 allow the victim or representative of the victim the opportunity to
9 provide testimony at the hearing. The court shall consider the
10 testimony of the victim or representative of the victim when
11 rendering a decision to modify the sentence of an offender.

12 C. For purposes of judicial review, upon court order or written
13 request from the sentencing judge, the Department of Corrections
14 shall provide the court imposing sentence or revocation of probation
15 with a report to include a summary of the assessed needs of the
16 offender, any progress made by the offender in addressing his or her
17 assessed needs, and any other information the Department can supply
18 on the offender. The court shall consider such reports when
19 modifying the sentence or revocation of probation. The court shall
20 allow the Department of Corrections at least twenty (20) days after
21 receipt of a request or order from the court to prepare the required
22 reports.

23 D. If the court considers modification of the sentence or
24 revocation of probation, a hearing shall be made in open court after
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1 receipt of the reports required in subsection C of this section.

2 The clerk of the court imposing sentence or revocation of probation
3 shall give notice of the judicial review hearing to the Department
4 of Corrections, the offender, the legal counsel of the offender, and
5 the district attorney of the county in which the offender was
6 convicted upon receipt of the reports. Such notice shall be mailed
7 at least twenty-one (21) days prior to the hearing date and shall
8 include a copy of the report and any other written information to be
9 considered at the judicial review hearing.

10 E. If an appeal is taken from the original sentence or from a
11 revocation of probation which results in a modification of the
12 sentence or modification to the revocation of probation of the
13 offender, such sentence may be further modified in the manner
14 described in paragraph 1 of subsection A of this section within
15 sixty (60) months after the receipt by the clerk of the district
16 court of the mandate from the Supreme Court or the Court of Criminal
17 Appeals.

18 SECTION 2. This act shall become effective November 1, 2020.

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