

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 764 By: Sykes of the Senate
3 and
4 Grau of the House
5
6

7 An Act relating to the Oklahoma Community Sentencing
8 Act; amending 22 O.S. 2011, Sections 988.2, 988.6 and
9 988.23, which relate to definitions, planning council
10 duties, and liability; modifying definition;
11 authorizing employment of certain personnel;
12 authorizing certain contracting; providing immunity
13 from liability for certain persons; and providing an
14 effective date.

15
16 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
17 and insert

18
19 "An Act relating to the Oklahoma Community Sentencing
20 Act; amending 22 O.S. 2011, Sections 988.2, 988.6
21 and 988.23, which relate to definitions, planning
22 council duties, and liability; modifying definition;
23 authorizing employment of certain personnel;
24 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

19 Section 988.6 A. Each community sentencing planning council
20 shall:

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

1 pursuant to the provisions of the Oklahoma Community Sentencing Act
2 are hereby granted immunity from liability for acts of any offender
3 participating in a community sentencing system pursuant to the
4 provisions of the Administrative Workers' Compensation Act, ~~Section~~
5 ~~1 et seq. of Title 85 of the Oklahoma Statutes~~, and for torts
6 committed by or against any offender participating in a community
7 sentencing system to the extent specified in Sections 227 and 228 of
8 Title 57 of the Oklahoma Statutes or as provided in the Governmental
9 Tort Claims Act, ~~Section 151 et seq. of Title 51 of the Oklahoma~~
10 ~~Statutes~~.

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

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

13

14

15

Presiding Officer of the House of
Representatives

16

17 Passed the Senate the ____ day of _____, 2015.

18

19

20

Presiding Officer of the Senate

21

22

23

24

1 ENGROSSED SENATE
2 BILL NO. 764

By: Sykes of the Senate

3 and

4 Grau of the House

5
6 An Act relating to the Oklahoma Community Sentencing
7 Act; amending 22 O.S. 2011, Sections 988.2, 988.6 and
8 988.23, which relate to definitions, planning council
9 duties, and liability; modifying definition;
10 authorizing employment of certain personnel;
11 authorizing certain contracting; providing immunity
12 from liability for certain persons; and providing an
13 effective date.

10

11

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

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

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

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

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

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

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

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

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

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

1 8. "Eligible offender" means a felony offender who has been
2 convicted of or who has entered a plea other than not guilty to a
3 felony offense and who upon completion of a Level of Services
4 Inventory or another assessment instrument has been found to be in a
5 range other than the low range, who has been convicted of at least
6 one prior felony, and who is not otherwise prohibited by law;
7 provided, however, that no person who has been convicted of or who
8 has entered a plea other than not guilty to an offense enumerated in
9 ~~subsection 5~~ paragraph 2 of Section 571 of Title 57 of the Oklahoma
10 Statutes, as an exception to the definition of "nonviolent offense"
11 shall be eligible for a community sentence or community punishment
12 unless the district attorney or an assistant district attorney for
13 the district in which the offender's conviction was obtained
14 consents thereto. The district attorney may consent to eligibility
15 for an offender who has a mental illness or a developmental
16 disability or a co-occurring mental illness and substance abuse
17 disorder and who scores in the low range on the LSI or another
18 assessment instrument if the offender is not otherwise prohibited by
19 law. Any consent by a district attorney shall be made a part of the
20 record of the case; and

21 9. "Statewide community sentencing system" means a network of
22 all counties through their respective local community sentencing
23 systems serving the state judicial system and offering support
24

1 services to each other through reciprocal and interlocal agreements
2 and interagency cooperation.

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

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

11 Section 988.6. A. Each community sentencing planning council
12 shall:

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

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

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

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

- 1 5. Identify qualified service providers to deliver services to
2 the court for eligible felony offenders sentenced to the community;
- 3 6. Assist in monitoring the sentencing practices of the court
4 to ensure the local community sentencing system functions within the
5 allocation of resources and according to the provisions of this act;
- 6 7. Assist in preparing information necessary for qualified
7 services to support the local community sentencing system plan as
8 provided in Section ~~7~~ 988.7 of this ~~act~~ title;
- 9 8. Identify and advocate the use of interlocal governmental
10 agreements for qualified services where services are not available
11 within the jurisdiction or where services may be delivered in a more
12 cost-effective manner by another jurisdiction;
- 13 9. Form multicounty systems as may be necessary to conserve
14 state or local resources or to implement an appropriate range of
15 services to the court;
- 16 10. Review and recommend services for cost-effectiveness and
17 performance-based evaluation;
- 18 11. Identify various sources of funding and resources for the
19 local community sentencing system including a variety of free
20 services available to the court;
- 21 12. Assist in developing public/private partnerships in the
22 local jurisdiction, reciprocal agreements, and interagency
23 cooperation and collaboration to provide appropriate services and
24 support to the system; and

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

3 B. Each community sentencing planning council may employ a
4 local director and other personnel to perform the duties of the
5 local community sentencing system, subject to the availability of
6 funds. Such council may contract with a county to provide benefits
7 and payroll services to such personnel; provided, however, such
8 personnel shall be considered state employees.

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

11 Section 988.23. All state and local government agencies and
12 their officers and employees, citizens serving as members of a
13 community sentencing planning council, community service agencies,
14 nonprofit organizations, educational or vocational-technical
15 entities, and other providers participating in a community
16 sentencing system or contracting to provide services to the system
17 pursuant to the provisions of the Oklahoma Community Sentencing Act
18 are hereby granted immunity from liability for acts of any offender
19 participating in a community sentencing system pursuant to the
20 provisions of the Workers' Compensation Act, Section 1 et seq. of
21 Title 85 of the Oklahoma Statutes, and for torts committed by or
22 against any offender participating in a community sentencing system
23 to the extent specified in Sections 227 and 228 of Title 57 of the
24

1 Oklahoma Statutes or as provided in the Governmental Tort Claims
2 Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

3 SECTION 4. This act shall become effective November 1, 2015.
4 Passed the Senate the 10th day of March, 2015.

5

6

Presiding Officer of the Senate

7

8 Passed the House of Representatives the ____ day of _____,
9 2015.

10

11

Presiding Officer of the House
of Representatives

12

13

14

15

16

17

18

19

20

21

22

23

24