

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2649

By: Steagall of the House

and

Gollihare of the Senate

8 An Act relating to community sentencing; amending 22
9 O.S. 2021, Sections 988.2, as amended by Section 1,
10 Chapter 55, O.S.L. 2022, 988.3, 988.6, 988.7 and
11 988.18 (22 O.S. Supp. 2022, Section 988.2), which
12 relate to the Oklahoma Community Sentencing Act;
13 changing scope of certain definition; expanding
14 purpose of the Oklahoma Community Sentencing Act;
15 clarifying duties of the community sentencing
16 planning council; changing type of information to be
17 collected in each jurisdiction; expanding pool of
18 offenders that may be eligible for community
19 punishment; clarifying funding requirement for
20 certain disciplinary sanctions; amending 57 O.S.
21 2021, Section 38.1, which relates to community
22 sentencing; modifying reference to eligible
23 offenders; and providing an effective date.

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

19 SECTION 1. AMENDATORY 22 O.S. 2021, Section 988.2, as
20 amended by Section 1, Chapter 55, O.S.L. 2022 (22 O.S. Supp. 2022,
21 Section 988.2), is amended to read as follows:

22 Section 988.2 A. For purposes of the Oklahoma Community
23 Sentencing Act:

1 1. "Local community sentencing system" means the use of public
2 and private entities to deliver services to the sentencing court for
3 punishment of eligible ~~felony~~ offenders under the authority of a
4 community sentence;

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

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

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

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

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

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

8 8. "Eligible offender" means an offender who has been convicted
9 of or who has entered a plea other than not guilty to a crime and
10 who upon completion of a risk and needs assessment has been found to
11 be in a range other than the low range and who is not otherwise
12 prohibited by law, or is a person who has had an assessment
13 authorized by Section 3-704 of Title 43A of the Oklahoma Statutes
14 and the assessment recommends community sentencing. Provided,
15 however, that no person who has been convicted of or who has entered
16 a plea other than not guilty to an offense enumerated in paragraph 2
17 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception
18 to the definition of "nonviolent offense", shall be eligible for a
19 community sentence or community punishment unless the district
20 attorney or an assistant district attorney for the district in which
21 the offender's conviction was obtained consents thereto. The
22 district attorney may consent to eligibility for an offender who has
23 a mental illness or a developmental disability or a co-occurring
24 mental illness and substance abuse disorder and who scores in the

1 low range on the risk and needs assessment authorized by Section 3-
2 704 of Title 43A of the Oklahoma Statutes or another assessment
3 instrument if the offender is not otherwise prohibited by law. Any
4 consent by a district attorney shall be made a part of the record of
5 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. 2021, Section 988.3, is
18 amended to read as follows:

19 Section 988.3 The purposes of the Oklahoma Community Sentencing
20 Act are to:

- 21 1. Protect the public;
- 22 2. Establish a statewide community sentencing system;
- 23 3. Adequately supervise ~~felony~~ offenders punished under a
24 court-ordered community sentence;

1 4. Provide a series of sanctions to the court for eligible
2 ~~felony~~ offenders sentenced to a community sentence within the
3 community sentencing system;

4 5. Increase the availability of punishment and treatment
5 programs to eligible ~~felony~~ offenders;

6 6. Improve the criminal justice system within this state
7 through public/private partnerships, reciprocal and interlocal
8 governmental agreements, and interagency cooperation and
9 collaboration; and

10 7. Operate effectively within the allocation of state and local
11 resources for the criminal justice system.

12 SECTION 3. AMENDATORY 22 O.S. 2021, Section 988.6, is
13 amended to read as follows:

14 Section 988.6 A. Each community sentencing planning council
15 shall:

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

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

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

1 4. Identify local resources by type, cost and location which
2 are available to serve the court for eligible ~~felony~~ offenders
3 sentenced to the community;

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

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

9 7. Assist in preparing information necessary for qualified
10 services to support the local community sentencing system plan as
11 provided in Section 988.7 of this title;

12 8. Identify and advocate the use of interlocal governmental
13 agreements for qualified services where services are not available
14 within the jurisdiction or where services may be delivered in a more
15 cost-effective manner by another jurisdiction;

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

19 10. Review and recommend services for cost-effectiveness and
20 performance-based evaluation;

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

24

1 12. Assist in developing public/private partnerships in the
2 local jurisdiction, reciprocal agreements, and interagency
3 cooperation and collaboration to provide appropriate services and
4 support to the system; and

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

7 B. Each community sentencing planning council may employ a
8 local director and other personnel to perform the duties of the
9 local community sentencing system, subject to the availability of
10 funds. Such council may contract with a county to provide benefits
11 and payroll services to such personnel.

12 SECTION 4. AMENDATORY 22 O.S. 2021, Section 988.7, is
13 amended to read as follows:

14 Section 988.7 A. A detailed plan for each local community
15 sentencing system seeking state funds shall be submitted each fiscal
16 year to the Community Sentencing Division within the Department of
17 Corrections pursuant to the rules promulgated for such purpose. The
18 designated judge of the planning council shall review the range of
19 services proposed in the plan and declare in writing whether the
20 proposed services meet the needs of the court for purposes of
21 sentencing pursuant to the authority of the Oklahoma Community
22 Sentencing Act. The judge shall forward the plan to the Division
23 for state review and appropriate funding. A plan that conforms with
24 the purposes and goals of the Oklahoma Community Sentencing Act

1 shall not be modified or disapproved except when the plan requires
2 more funding than is available to the local system. Each local
3 community sentencing system plan shall include, but not be limited
4 to, the following goals:

5 1. Identification of existing resources, including cash,
6 professional services, in-kind resources, property, or other sources
7 of resources;

8 2. Identification of additional resources needed, identified by
9 type and amount;

10 3. Projected number of offenders to be served by each provider
11 and the projected total number of offenders to be served by the
12 local system;

13 4. Types and priority groups of offenders to be served for
14 purposes of budgeting and targeting specific use of selected service
15 providers;

16 5. Identification of sentencing practices used for disciplinary
17 sanctions for noncriminal conduct against participating offenders
18 and applicable costs;

19 6. Identification of local policy statements;

20 7. Methods for allocating resources to support the services
21 included in the plan;

22 8. Identification and evaluation of local record keeping and
23 needs for audits or reviews;

24

1 9. Identification of any special administrative structure of
2 the local system and list of specific service providers
3 participating in the system, including detailed qualifications of
4 staff and program administrators; and

5 10. Description and evaluation of the extent of community
6 participation and support for the local system.

7 B. A community sentencing system shall be operational when the
8 plan is accepted by the Community Sentencing Division or is
9 receiving funding. The Division, upon receipt of a proposed local
10 system plan for conformance with the purpose and goals of the
11 Oklahoma Community Sentencing Act, shall have not more than forty-
12 five (45) days to evaluate the plan and to notify the planning
13 council of any recommended modification. The Division shall notify
14 the chair of each local community sentencing system of its allocated
15 budget by June 15. Based on the funding allocation, the local
16 community sentencing system shall submit its budget to the Division
17 prior to finalizing provider service agreements for the fiscal year.
18 The Division shall not restrict by rule or practice the plan of any
19 local system or determine what constitutes treatment or necessary
20 services if the treatment or services comply with the purposes and
21 goals of the Oklahoma Community Sentencing Act, unless there is a
22 demonstrated deficiency or poor program evaluation.

23 C. A local administrator as provided in Section 988.13 of this
24 title shall assist the local planning council in gathering and

1 keeping accurate information about the jurisdiction to support the
2 planning process. For the previous two (2) years, the information
3 pertaining to the jurisdiction may include, but not be limited to:

4 1. The number and rate of arrests, number of ~~felony~~
5 convictions, admissions to probation, number of offenders sentenced
6 to post-imprisonment supervision, number of offenders sentenced to
7 county jail, average length of sentence served in county jail,
8 number of offenders sentenced to the custody of the Department of
9 Corrections, and average length of sentence served in the custody of
10 the Department of Corrections;

11 2. Current jail capacity, and jail population data by offender-
12 type including, but not limited to, misdemeanor, felony, trusty,
13 post-trial detainee, pretrial detainee, disciplinary sanction or
14 juvenile;

15 3. A listing of services and programs available in the
16 community, including costs, space availability, the number of
17 offenders participating, the average length of participation and
18 performance-based data;

19 4. Range of community punishments previously used by the courts
20 for offenders within the jurisdiction, including methods and use of
21 disciplinary sanctions for noncriminal behavior of offenders
22 sentenced to community punishment and use of incentives;

23 5. A listing of educational, vocational-technical, health,
24 mental health, substance abuse treatment, medical, and social

1 services available to offenders or to be made available within a
2 twelve-month period;

3 6. Restrictive residential facilities or other restrictive
4 housing options available or to be made available within a twelve-
5 month period; and

6 7. Approved local system plans and budgets.

7 SECTION 5. AMENDATORY 22 O.S. 2021, Section 988.18, is
8 amended to read as follows:

9 Section 988.18 A. On and after March 1, 2000, for each ~~felony~~
10 offender considered for any community punishment pursuant to the
11 Oklahoma Community Sentencing Act, the judge shall, prior to
12 sentencing, order an assessment and evaluation of the defendant as
13 required by law. The judge may determine that no additional
14 assessment is required if one was completed within the last six (6)
15 months.

16 B. The risk and needs assessment and evaluation instrument
17 designed to predict risk to recidivate approved by the Department of
18 Corrections, shall be required to determine eligibility for any
19 offender sentenced pursuant to the Oklahoma Community Sentencing
20 Act. The completed assessment accompanied by a written supervision
21 plan shall be presented to and reviewed by the court prior to
22 determining any punishment for the offense. The purpose of the
23 assessment shall be to identify the extent of the deficiencies and
24 pro-social needs of the defendant, the potential risk to commit

1 additional offenses that threaten public safety, and the
2 appropriateness of various community punishments.

3 C. Upon order of the court, the defendant shall be required to
4 submit to the risk and needs assessment which shall be administered
5 and scored by an appropriately trained person pursuant to a service
6 agreement with the local community sentencing system. Any defendant
7 lacking sufficient skills to comprehend or otherwise participate in
8 the assessment and evaluation shall have appropriate assistance. If
9 it is determined that the offender cannot be adequately evaluated
10 using the risk and needs assessment, the offender shall be deemed
11 ineligible for any community services pursuant to the Oklahoma
12 Community Sentencing Act, and shall be sentenced as prescribed by
13 law for the offense.

14 D. The willful failure or refusal of the defendant to be
15 assessed and evaluated by using the risk and needs assessment shall
16 preclude the defendant from eligibility for any community
17 punishment.

18 E. The completed risk and needs assessment, shall include a
19 written supervision plan and identify an appropriate community
20 punishment, if any, when the offender is considered eligible for
21 community punishments based upon the completed risk/need score from
22 the risk and needs assessment of the offender. Unless otherwise
23 prohibited by law, only eligible offenders, as defined in Section
24

1 988.2 of this title, shall be eligible for any state-funded
2 community punishments.

3 F. The court is not required to sentence any offender to a
4 community punishment regardless of an eligible score on the risk and
5 needs assessment. Any ~~felony~~ offender scoring in the low risk/need
6 levels on the risk and needs assessment may be sentenced to a
7 suspended sentence with minimal, if any, conditions of the sentence
8 to be paid by the offender. If the risk and needs assessment has
9 been conducted, the evaluation report shall accompany the judgment
10 and sentence, provided the risk and needs assessment indicates the
11 offender is in need of this level of supervision and treatment.

12 SECTION 6. AMENDATORY 57 O.S. 2021, Section 38.1, is
13 amended to read as follows:

14 Section 38.1 In jurisdictions where the local community
15 sentencing system is receiving state funds, the state shall provide
16 funding for county jail incarceration for disciplinary sanctions for
17 eligible ~~felony~~ offenders pursuant to the provisions of the Oklahoma
18 Community Sentencing Act at a rate of Twenty-four Dollars (\$24.00)
19 per day per person imprisoned for a maximum term as provided by law.

20 SECTION 7. This act shall become effective November 1, 2023.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
22 April 11, 2023 - DO PASS
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