An Act

ENROLLED HOUSE
BILL NO. 2649

By: Steagall of the House

and

Gollihare of the Senate

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

SUBJECT: Community sentencing

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

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

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

1. "Local community sentencing system" means the use of public and private entities to deliver services to the sentencing court for

punishment of eligible ~~felony~~ offenders under the authority of a community sentence;

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

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

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

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

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

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

8. "Eligible offender" means an offender who has been convicted of or who has entered a plea other than not guilty to a crime and who upon completion of a risk and needs assessment has been found to be in a range other than the low range and who is not otherwise prohibited by law, or is a person who has had an assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes and the assessment recommends community sentencing. Provided, however, that no person who has been convicted of or who has entered a plea other than not guilty to an offense enumerated in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception

to the definition of "nonviolent offense", shall be eligible for a community sentence or community punishment unless the district attorney or an assistant district attorney for the district in which the offender's conviction was obtained consents thereto. The district attorney may consent to eligibility for an offender who has a mental illness or a developmental disability or a co-occurring mental illness and substance abuse disorder and who scores in the low range on the risk and needs assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes or another assessment instrument if the offender is not otherwise prohibited by law. Any consent by a district attorney shall be made a part of the record of the case; and

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

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

SECTION 2. AMENDATORY 22 O.S. 2021, Section 988.3, is amended to read as follows:

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

1. Protect the public;

2. Establish a statewide community sentencing system;

3. Adequately supervise ~~felony~~ offenders punished under a court-ordered community sentence;

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

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

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

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

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

Section 988.6 A. Each community sentencing planning council shall:

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

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

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

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

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

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

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

8. Identify and advocate the use of interlocal governmental agreements for qualified services where services are not available

within the jurisdiction or where services may be delivered in a more cost-effective manner by another jurisdiction;

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

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

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

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

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

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

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

Section 988.7 A. A detailed plan for each local community sentencing system seeking state funds shall be submitted each fiscal year to the Community Sentencing Division within the Department of Corrections pursuant to the rules promulgated for such purpose. The designated judge of the planning council shall review the range of services proposed in the plan and declare in writing whether the proposed services meet the needs of the court for purposes of sentencing pursuant to the authority of the Oklahoma Community Sentencing Act. The judge shall forward the plan to the Division for state review and appropriate funding. A plan that conforms with the purposes and goals of the Oklahoma Community Sentencing Act shall not be modified or disapproved except when the plan requires more funding than is available to the local system. Each local

community sentencing system plan shall include, but not be limited to, the following goals:

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

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

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

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

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

6. Identification of local policy statements;

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

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

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

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

B. A community sentencing system shall be operational when the plan is accepted by the Community Sentencing Division or is receiving funding. The Division, upon receipt of a proposed local system plan for conformance with the purpose and goals of the Oklahoma Community Sentencing Act, shall have not more than forty-five (45) days to evaluate the plan and to notify the planning council of any recommended modification. The Division shall notify

the chair of each local community sentencing system of its allocated budget by June 15. Based on the funding allocation, the local community sentencing system shall submit its budget to the Division prior to finalizing provider service agreements for the fiscal year. The Division shall not restrict by rule or practice the plan of any local system or determine what constitutes treatment or necessary services if the treatment or services comply with the purposes and goals of the Oklahoma Community Sentencing Act, unless there is a demonstrated deficiency or poor program evaluation.

C. A local administrator as provided in Section 988.13 of this title shall assist the local planning council in gathering and keeping accurate information about the jurisdiction to support the planning process. For the previous two (2) years, the information pertaining to the jurisdiction may include, but not be limited to:

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

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

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

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

5. A listing of educational, vocational-technical, health, mental health, substance abuse treatment, medical, and social services available to offenders or to be made available within a twelve-month period;

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

7. Approved local system plans and budgets.

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

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

B. The risk and needs assessment and evaluation instrument designed to predict risk to recidivate approved by the Department of Corrections, shall be required to determine eligibility for any offender sentenced pursuant to the Oklahoma Community Sentencing Act. The completed assessment accompanied by a written supervision plan shall be presented to and reviewed by the court prior to determining any punishment for the offense. The purpose of the assessment shall be to identify the extent of the deficiencies and pro-social needs of the defendant, the potential risk to commit additional offenses that threaten public safety, and the appropriateness of various community punishments.

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

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

E. The completed risk and needs assessment, shall include a written supervision plan and identify an appropriate community punishment, if any, when the offender is considered eligible for community punishments based upon the completed risk/need score from the risk and needs assessment of the offender. Unless otherwise prohibited by law, only eligible offenders, as defined in Section 988.2 of this title, shall be eligible for any state-funded community punishments.

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

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

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

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

Passed the House of Representatives the 8th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 20th

day of April, 20 23, at 3:15 o'clock p. M.

By: Summer Curry

Approved by the Governor of the State of Oklahoma this 26th

day of April, 20 23, at 1:20 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 26th

day of April, 20 23, at 3:02 o'clock P M.

By: Brian Bingman