

Legislation

OKLAHOMA STATUTES

TITLE 22.

CRIMINAL PROCEDURE

§22-988.1. Short title.

Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Community Sentencing Act".

Added by Laws 1999, 1st Ex.Sess., c. 4, § 1, eff. July 1, 1999.

§22-988.2. Definitions – Duties of Chief Judge.

A. For purposes of the Oklahoma Community Sentencing Act:

1. "Local community sentencing system" means a partnership between the state and one or more county governments which uses 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 and treatment options 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 a felony offender who has been convicted of or who has entered a plea other than not guilty to a felony offense and who upon completion of a Level of Services Inventory or another assessment instrument has been found to be in the moderate range and who is not otherwise prohibited by law; 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 subsection 5 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 outside the moderate range on the LSI 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. Provided, further, that no person who has been convicted of or who has entered a plea other than not guilty to a felony enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes shall be eligible for a community sentence or community punishment; 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.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 2, eff. July 1, 1999. Amended by Laws 2004, c. 251, § 1, eff. July 1, 2004.

§22-988.3. Purpose of act.

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.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 3, eff. July 1, 1999. Amended by Laws 2003, c. 341, § 2, eff. Nov. 1, 2003.

§22-988.4. Mandatory local system.

In jurisdictions where a community sentencing system has not been established prior to the effective date of this act, the Chief Judge of the Judicial District shall establish the geographic boundaries of a community sentencing system which shall be the boundaries of each county, unless the Chief Judge establishes one or more multicounty community sentencing systems consisting of two or more contiguous counties within the judicial district; provided, however, the consent of the sheriff of each affected county and each district attorney operating within each of the subject counties must be obtained before a county may join a proposed multicounty community sentencing system. Multicounty community sentencing systems may be established by the Chief Judge of a Judicial District with the consent of each local council affected in such manner as provided by rules promulgated by the Community Sentencing Division within the Department of Corrections.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 4, eff. July 1, 1999.

§22-988.5. Community sentencing system planning councils.

- A. A community sentencing system planning council shall be established for each jurisdiction defined by the judge as provided in Section 4 of this act.
- B. Single county planning councils shall have membership as follows:
 1. The Chief Judge of the Judicial District or a judge having duties within the county appointed by the Chief Judge of the Judicial District;
 2. The district attorney for the county or an assistant district attorney appointed by the district attorney;
 3. The county sheriff or a deputy sheriff appointed by the sheriff;
 4. A county commissioner appointed by the board of county commissioners for the county; and
 5. Three or more citizens elected by the other designated members.
- C. Multicounty planning councils shall have membership consisting of at least the following:
 1. The Chief Judge of the Judicial District, or a judge having duties within the jurisdiction appointed by the Chief Judge of the Judicial District;
 2. A district attorney or an assistant district attorney appointed by a majority vote of all district attorneys participating in the multicounty system;
 3. A county sheriff or a deputy sheriff appointed by a majority vote of all sheriffs participating in the multicounty system;
 4. A county commissioner appointed by a majority vote of all county commissioners of the counties participating in the multicounty system; and
 5. Three or more citizens from each of the counties participating in the multicounty system elected by the other designated members.

Nothing in this subsection shall preclude a multicounty system from adding members from each of the participating offices of the sheriff, district attorney, and board of county commissioners, provided the number of citizen members equals or is greater than the number of sheriffs, district attorneys, and county commissioners serving on the multicounty planning council.

D. In the event the required planning council has not been established as provided by subsection A of this section for any county or as provided in Section 4 of this act or should a council cease to actively function as determined by the Community Sentencing Division of the Department of Corrections, the Chief Judge of the Judicial District upon notification by the Division shall appoint five or more persons to serve as the planning council in addition to a designated judge. All membership appointments required by this subsection shall be made on or before the first day of October of each year. Every planning council shall have a judge who shall be either the Chief Judge of the Judicial District or a judge having duties within the jurisdiction appointed by the Chief Judge. The Chief Judge making the appointments of a planning council pursuant to the provisions of this subsection shall decide whether the planning council shall be a single county planning council or a multicounty planning council. If a Chief Judge of a Judicial District will not serve as a member of a planning council or make any of the required appointments, the Chief Justice of the Supreme Court shall direct another judge of the jurisdiction to make the appointments or serve as the designated judge.

E. Once a planning council has been established, it shall notify the Community Sentencing Division within the Department of Corrections of its membership, and thereafter the jurisdiction shall be eligible to receive technical assistance from the state in establishing the required local community sentencing system.

F. Each member of a planning council shall reside in or have employment duties in the jurisdiction to be served by the council. Members serving on a planning council who are elected officials shall have a term of office on the planning council concurrent with the term of the elected office, except when the person resigns or is otherwise removed as provided by the rules promulgated for the council or as authorized by law. All other members of the planning council shall have staggered terms of office not exceeding a three-year term. Planning council members may be reappointed upon the expiration of their terms. The Chief Judge of the Judicial District shall have the authority to remove any planning council member within the jurisdiction of the court district at any time for violation of the rules governing the local planning council.

G. Each planning council member shall have one vote, and a majority of voting members shall constitute a quorum. No vacancy shall impair the right of the remaining members to exercise all the duties of the planning council. Any vacancy occurring in the membership of a planning council shall be filled for the unexpired term of office in the same manner as the original selection.

H. The designated judge shall convene the initial meeting of the planning council within fifteen (15) days following the establishment of the council. At the initial meeting of the planning council, the membership shall elect a chair from its members who shall preside at all meetings of the council and perform such other duties as may be required by law. The planning council may elect another member as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act, a secretary who shall keep minutes of all meetings, and other officers as necessary.

I. Each planning council shall adopt written rules concerning meeting times, places, dates, conduct for disclosing and handling conflicts of interest, procedures for recommending service providers, procedures for removal and replacement of members for failure to attend a required number of meetings, procedures and timing for election of officers and any other provision necessary to implement the planning of a local system pursuant to the provisions of the Oklahoma Community Sentencing Act. The written rules promulgated by a planning council shall not be subject to the Administrative Procedures Act; provided, however, the rules shall be filed with the clerk of the district court or courts of the jurisdiction to be served by the community sentencing system. The rules may be amended by a majority vote of the planning council members after a thirty-day written notice detailing the change or addition has been filed with the court clerk where the original rules are filed.

J. Each planning council shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 5, eff. July 1, 1999.

§22-988.6. Planning council duties.

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 7 of this act;
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.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 6, eff. July 1, 1999.

§22-988.7. Local system plan.

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.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 7, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 1, eff. July 1, 2002.

§22-988.8. Community services and sentencing options.

A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act shall include those community punishments and programs and services enumerated and funded in the annual plan submitted to the Community Sentencing Division within the Department of Corrections and any other services or punishments subsequently added and funded during a plan year. The options may not be utilized for offenders not meeting the eligibility criteria of programs and score requirements for the Level of Services Inventory (LSI) or other approved assessment. Each local system shall strive to have available to the court all of the following services for eligible offenders:

1. Community service with or without compensation to the offender;
2. Substance abuse treatment and availability for periodic drug testing of offenders following treatment;
3. Varying levels of supervision by the Department of Corrections probation officers or another qualified supervision source;
4. Education and literacy provided by the State Department of Education, the county library system, the local school board, or another qualified source;
5. Employment opportunities and job skills training provided by the Oklahoma Department of Career and Technology Education or another qualified source;
6. Enforced collections provided by the local court clerk, or another state agency; and
7. The availability of county jail or another restrictive housing facility for limited disciplinary sanctions.

B. The court may order as a community punishment for an eligible offender any condition listed as a condition available for a suspended sentence.

C. In all cases in which an offender is sentenced to a community punishment, the offender shall be ordered as part of the terms and conditions of the sentence to pay for the court ordered sanction, based upon ability to pay. Payments may be as provided by court order or pursuant to periodic payment schedules established by the service

provider. If the offender does not have the financial ability to pay for the court ordered sanction, payment shall be made from funds budgeted for the local community sentencing system.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 8, eff. July 1, 1999. Amended by Laws 2001, c. 33, § 22, eff. July 1, 2001; Laws 2002, c. 165, § 2, eff. July 1, 2002.

§22-988.9. Fees and costs.

A. Any offender sentenced to a community sentence pursuant to the Oklahoma Community Sentencing Act which requires supervision shall be required to pay a supervision fee. The supervising agency shall establish the fee amount, not to exceed Forty Dollars (\$40.00) per month, based upon the offender's ability to pay. In hardship cases the supervising agency may expressly waive all or part of the fee. No supervising agency participating in a local community sentencing system shall deny any offender supervision services for the sole reason that the offender is indigent. Fees collected for supervision services performed by the Department of Corrections shall be paid directly to the Department to be deposited in the Department of Corrections Revolving Fund. Supervision services performed by agencies other than the Department shall be paid directly to that agency.

B. In addition to any supervision fee, offenders scoring in the moderate range of the Level of Services Inventory (LSI) and participating in a local community sentencing system under a court-ordered community punishment shall be required to pay an administrative fee to support the local system which shall not exceed Twenty Dollars (\$20.00) per month to be set by the court. Administrative fees when collected shall be deposited with the Community Sentencing Division within the Department of Corrections and credited to the local community sentencing system for support and expansion of the local community corrections system. In the event the court fails to order the amount of the administrative fee, the fee shall be Twenty Dollars (\$20.00) per month.

C. In addition to any supervision fee and administrative fee authorized by this section, the court shall assess court costs, and may assess program reimbursement costs, restitution, and fines to be paid by the offender. With the exception of supervision fees, other fees, costs, fines, restitution, or monetary obligations ordered to be paid by the offender shall not cease with the termination of active supervision and such obligations shall continue until fully paid and may be collected in the same manner as court costs.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 9, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 3, eff. July 1, 2002.

§22-988.10. Resource-limited system.

A. It is the responsibility of the planning council, the sentencing judge, and the local administrator to ensure that the expenditure of funds within the local community sentencing system is appropriately made only for eligible offenders within the range of services offered to the court. It is further the responsibility of the local system, the prosecutor, the defense attorney, and sentencing court to keep an awareness of the local correctional resources and to utilize those resources in the most efficient manner when punishing eligible offenders with community punishments.

B. The sentencing judge when imposing any punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall consider the most cost-effective treatment specifically targeted for the offender's needs as determined by the Level of Services Inventory (LSI) report.

C. The statewide system and each local system is required to monitor sentencing practices and eligibility requirements, prioritize expenditures, and operate within available resources for eligible offenders.

D. The Community Sentencing Division within the Department of Corrections shall not fund any community sentencing system beyond the accepted budget amounts in any fiscal year.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 10, eff. July 1, 1999.

§22-988.11. Performance-based evaluations.

Each service provider contracting with the state pursuant to the Oklahoma Community Sentencing Act shall be required to have a performance-based evaluation within two (2) years of participating in a local community sentencing system. The initial performance-based evaluation of a program or service shall be made two (2) years from the date a program or service is first designated in the local system plan and funded, provided the program or service continues to be included in the local system plan during a second or subsequent plan year. After an initial evaluation, the program or service shall be reviewed annually when the program or service continues to be designated as part of the local system plan. The Community Sentencing Division within the Department of Corrections may establish other criteria for evaluating programs and services, and shall establish procedures by rule for review of the evaluations prior to any renewal of service provider agreements or selection of new service providers. Evaluations shall apply to state agencies offering services pursuant to the provisions of the Oklahoma Community Sentencing Act.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 11, eff. July 1, 1999.

§22-988.12. Custody of offenders – Medical expenditures.

A. Any person sentenced to a community punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall not be deemed an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment Center. Persons sentenced to community punishment pursuant to the Oklahoma Community Sentencing Act shall be in community custody within the county.

B. Except as otherwise specifically provided by law, persons sentenced to a community punishment which does not include incarceration shall not have medical or dental expenses paid by the Department of Corrections or reimbursed by the Community Sentencing Division.

C. In jurisdictions where the local community sentencing system is receiving state funds, the state will pay all required medical expenses while a person is incarcerated in the county jail pursuant to a disciplinary sanction for a community punishment, provided the state has the obligation to pay for the term of incarceration pursuant to the provisions of the Oklahoma Community Sentencing Act. Any community sentenced offender confined pursuant to a disciplinary sanction who requires extensive medical treatment may be transferred to the Department of Corrections for appropriate medical treatment upon order of the court. The community sentenced offender shall be returned to the local system following the necessary medical treatment or upon completion of the term of the disciplinary sanction whichever occurs first.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 12, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 4, eff. July 1, 2002.

§22-988.13. Local administrator.

A. Each local community sentencing system shall collaborate with a local administrator who shall be employed by the Community Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

1. Assist in administering the day-to-day operation of the local community sentencing system within the approved budget and plan and according to the provisions of the Oklahoma Community Sentencing Act and any rules promulgated by the Division;
2. Assist the planning council in the jurisdiction in identifying resources, collecting data on sentencing practices, and preparing the annual plan and supporting budget;
3. Provide the court with a listing of available services within the local community sentencing system for purposes of imposing a community sentence;
4. Carry out court orders pursuant to the provisions of the Oklahoma Community Sentencing Act as provided in the offender's judgment and sentence;
5. Assist offenders in locating service providers who are participating in the local system according to the terms of the community sentence;
6. Report to the judge all completions and violations of court orders for community sentences or community punishments;
7. Keep accurate records for the local system and coordinate those records for monitoring by the Community Sentencing Division;
8. Monitor the local service providers to assure appropriate delivery of services to both the offender and the local system;
9. Coordinate support for the planning council and the sentencing court;
10. Ensure that restitution, reimbursements, fines, costs, and other payments and fees are paid to and deposited with the appropriate entity;
11. Report to the Community Sentencing Division within the Department of Corrections any complaints or service delivery problems;
12. Ensure criminal disposition reports on community sentences are made to appropriate state and federal agencies; and
13. Perform other functions as specified by the Community Sentencing Division within the Department of Corrections for purposes of implementing the provisions of the Oklahoma Community Sentencing Act.

B. The local administrator shall collaborate with and assist all existing county employees when a county has a preexisting community program operated at county expense. In the event state funding is to be provided for continuing an existing program, the Division shall promulgate rules for continuing an existing program.

C. When a service provider is selected to be part of the local community sentencing system, the employees of that service provider shall not become employees of the county, the local community sentencing system, or the state by virtue of any contractual agreement or payments from the state.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 13, eff. July 1, 1999.

§22-988.14. State agency - Creation.

A. There is hereby created within the Department of Corrections the "Community Sentencing Division". The purpose of the Division shall be to implement and administer the Oklahoma Community Sentencing Act and any provisions of law relating to the operation and management of a statewide community sentencing system.

B. The Community Sentencing Division shall employ an executive management staff consisting of a deputy director and such other employees as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees. In addition to the executive management staff, there shall be an appropriate number of local community sentencing system administrators as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees of the Division. The deputy director of the Division shall report directly to the Director of the Department of Corrections. The Legislature shall provide the Department of Corrections sufficient funds for administrative support to the Division, and the Division shall have a separate legislative appropriation for the implementation and operation of the statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act. The Director of the Department of Corrections shall hire and set the salary of the executive management staff. The deputy director of the Division shall hire the local administrators.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 14, eff. July 1, 1999.

§22-988.15. Duties of state agency.

The Community Sentencing Division within the Department of Corrections shall have the duty to:

1. Administer a statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act and other provisions of law;
2. Establish goals and standards for the statewide community sentencing system and the local community sentencing systems;
3. Promulgate rules pursuant to the Administrative Procedures Act for the implementation and operation of the Oklahoma Community Sentencing Act;
4. Provide technical assistance and administrative support to each local community sentencing system. The technical assistance shall include, but not be limited to, information on:
 - a. corrections system design,
 - b. administration,
 - c. development, monitoring, and evaluating of programs and services,
 - d. program identification and specifications,
 - e. offender risk management,
 - f. supervision of offenders,
 - g. planning and budgeting,
 - h. grant applications, and
 - i. preparation and submission of documents, data, budgets, and system plans;
5. Coordinate and collaborate with other state agencies for services and technical assistance to each local community sentencing system;
6. Apply for and accept money and other assets to be utilized for support of a statewide community sentencing system and to allocate and disburse appropriated funds to local community sentencing systems through an appropriate funding method;
7. Review, analyze and fund local system plans within budgetary limitations;
8. Contract with local service providers and state agencies for services to the local system;
9. Identify and solicit other funding sources and resources to support the statewide community sentencing system;

10. Request post audits of state funds;
11. Monitor and coordinate local systems;
12. Provide performance-based evaluations for all service providers of the statewide system;
13. Report annually by January 15 to the Legislature and Governor on the statewide system. The report shall provide an evaluation of the effectiveness of the Oklahoma Community Sentencing Act in terms of public safety, appropriate range of community punishments, cost-effectiveness, performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource allocation, and reduced state and local institutional receptions, if any; and
14. Disseminate information to local administrators and community sentencing systems concerning corrections issues including, but not limited to:
 - a. punishment options,
 - b. disciplinary sanctions,
 - c. resource allocation,
 - d. administration,
 - e. legal issues,
 - f. supervision and risk management,
 - g. treatment methodology and services,
 - h. education and vocational services,
 - i. service and program monitoring and evaluation methods,
 - j. grants and funding assistance,
 - k. data and record keeping, and
 - l. offender characteristics.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 15, eff. July 1, 1999.

§22-988.16. Community sentencing system budgeting.

A. Each fiscal year the Division, in collaboration with the local planning councils, shall provide goals and funding priorities for community punishments as provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. The Division shall promulgate rules for local community sentencing systems based upon objective criteria for allocation of state-appropriated funds to local systems for day-to-day operation during a fiscal year which may include identification of:

1. Fiscally responsible allocations of services and funds;
2. Innovative or effective programs of the local system; and
3. Appropriate targeting of offenders for services.

The Division and each of the local community sentencing systems are required to operate within the appropriated funds. The state shall require each local community sentencing system to identify resources other than state funds as part of the funding formula. The Division shall establish procedures for disbursement of state funds to service providers, and shall disburse state funds in a timely manner.

B. For a local community sentencing system to remain eligible for state funding, a local community sentencing system shall:

1. Demonstrate fiscal responsibility by operating the local system within the plan and budget allocation;
2. Require performance-based selection of service providers participating in the annual system plan;
3. Submit a plan which offers a continuum of sanctions for eligible offenders sentenced to the local community sentencing system and appropriately assign offenders for services; and
4. Comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of the Oklahoma Community Sentencing Act.

C. When state funding is required to implement a local community sentencing system plan, the Community Sentencing Division shall approve the plan only to the extent that the jurisdiction's share of the total state appropriations will support the implementation of the local system plan. Modification to a local plan shall be for budgetary purposes, as provided in Section 988.7 of this title, and for compliance with law and rule.

D. State funds from the Community Sentencing Division disbursed to community sentencing systems shall be used for operation and administrative expenses and shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure, nor shall these funds be used to replace funding or other resources from the federal, state, county or city government committed in support of the detailed system plan during the plan year.

E. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 557.1 of Title 57 of the Oklahoma Statutes, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections and every local planning council are authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens to support or expand the community sentencing system.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 16, eff. July 1, 1999. Amended by Laws 2000, c. 39, § 1, emerg. eff. April 10, 2000; Laws 2002, c. 165, § 5, eff. July 1, 2002.

§22-988.17. Development and use of community sentence assessment and evaluation tests.

A. The Department of Corrections shall utilize the Level of Services Inventory (LSI) assessment instrument, or another assessment that evaluates criminal risk to recidivate, to evaluate all eligible offenders sentenced to community punishments under the Oklahoma Community Sentencing Act. This assessment shall not be waived and is required for eligibility determination.

B. The Administrative Office of the Courts shall assist in promulgating instructions and forms necessary for the courts' use of the required assessment. In collaboration with the Department of Corrections, all state agencies shall provide technical assistance necessary to implement and monitor the Oklahoma Community Sentencing Act in the areas of their expertise and experience, and shall offer services to local community sentencing systems.

C. All participating state agencies and local planning councils are directed to promulgate rules necessary to implement the provisions of the Oklahoma Community Sentencing Act. When promulgating the rules, participating state agencies and local planning councils shall collaborate with the Division so their rules enhance the effectiveness of the statewide community sentencing system and statewide goals established for the criminal justice system.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 17, eff. July 1, 1999.

§22-988.18. Assessment and evaluation of defendants.

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.

B. The Level of Services Inventory (LSI), or another 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 defendant's deficiencies and pro-social needs, 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 LSI or other approved 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 LSI or another approved 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 LSI or another approved assessment shall preclude the defendant from eligibility for any community punishment.

E. The completed LSI, or other approved 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 offender's completed risk/need score from the LSI assessment. Any offender scoring outside the moderate range on the LSI assessment shall not 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 LSI. Any felony offender scoring in the low risk/need levels on the LSI may be sentenced to a suspended sentence with minimal, if any, conditions of the sentence to be paid by the offender. If the LSI or another assessment has been conducted, the evaluation report shall accompany the judgment and sentence.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 18, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 6, eff. July 1, 2002.

§22-988.19. Sentencing.

A. When ordering a community sentence or community punishment, the court shall first impose a deferred or suspended sentence for the offense as prescribed by law, and shall then order the appropriate community punishment as a condition of that deferred or suspended sentence. The design of the community punishment shall be based upon the supervision and intervention report from the Level of Services Inventory (LSI), or other approved assessment. The local community sentencing system administrator shall have authority for all offender placements within the local community sentencing system pursuant to the court-ordered community sentence.

B. Persons convicted of or pleading guilty or nolo contendere to a combination of misdemeanor and felony offenses may receive services from a local community sentencing system when the county agrees in writing to pay the Community Sentencing Division within the Department of Corrections for the actual costs of services used for misdemeanor cases. No state funds shall be used to pay for misdemeanor offenses.

C. Any time during the term of a community sentence, the court imposing the sentence may modify any previous provision as provided in this section.

D. Upon consideration of a properly filed motion to modify a community sentence pursuant to the provisions of this section, the staff of the community sentencing system in which the offender is ordered to participate, the sheriff, the district attorney, the service provider, or any agency or person providing supervision of the offender shall provide the court with any reports and other information available and relating to the offender, and to the reason for the motion to modify the sentence. The court shall consider any reports and information submitted prior to modifying the sentence.

E. If the court considers a motion to modify a community sentence, a hearing shall be held in open court. The notice of the hearing shall be given to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was convicted not less than ten (10) days prior to the hearing. A copy of any reports to be presented to the court shall accompany the notice of hearing.

F. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any community sentence by imposing any other punishment allowed by law for the offense and appropriate for the circumstances as determined by the discretion of the judge; provided, however, no punishment shall be imposed which is greater than the maximum punishment allowed by law for the original offense. The court shall give the offender day-for-day credit on any modified sentence for any term of incarceration imposed. The court may impose either a disciplinary sanction or an incentive as provided in Section 20 of this act in lieu of or together with any modification authorized by this section.

G. The court shall not be limited on the number of modifications a sentence may have within the term of the community sentence.

H. Any offender who files a meritless or frivolous motion to modify a community sentence shall pay the costs of the proceeding and may be sanctioned as deemed appropriate by the court.

I. The court may revoke or accelerate a community punishment to the original sentence imposed during the term of the sentence. When a community sentence is revoked to state imprisonment, the court shall give a day-for-day credit for any term of incarceration actually served as community punishment.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 19, eff. July 1, 1999.

§22-988.20. Disciplinary sanctions or incentives.

A. Upon proper motion to the court to modify a community sentence as provided in Section 988.19 of this title, the judge shall have authority to impose disciplinary sanctions or incentives. An order for a disciplinary sanction shall not modify the terms of the original sentence and shall be imposed only to gain compliance with the terms of the court-ordered community punishment. The court may order any community punishment available and funded in the jurisdiction that is deemed appropriate by the judge for the circumstance including, but not limited to, a term of imprisonment not to exceed thirty (30) days per disciplinary order in either:

1. The county jail;
2. A residential treatment facility;
3. A restrictive housing facility; or
4. A halfway house.

When the offender is to be confined, the sheriff shall, upon order of the court, deliver the offender to the designated place of confinement, provided the place of confinement has an agreement for confinement services with the local community sentencing system or is the county jail. The sheriff shall be reimbursed by the local community sentencing system for transporting offenders pursuant to this subsection. The offender shall be given day-for-day credit for any terms of incarceration served in the county jail or other restrictive facility when the sentence is modified.

B. The court may, through a standing court order, provide for specific disciplinary sanctions and incentives which may be utilized by the local administrator upon notification to the court.

C. When a motion for modification has been filed pursuant to Section 988.19 of this title, the court shall have authority to offer incentives to offenders to encourage proper conduct in the community and for compliance with the community punishments. The court shall use its discretion in ordering appropriate incentives. Incentives shall be considered a reduction and modification to the community punishment and may be ordered after the motion to modify has been heard.

D. When any offender is disciplined by the court as authorized by this section and is to be imprisoned in the county jail or other restrictive facility, the sheriff or facility administrator shall receive compensation as provided by their agreement with the local community sentencing system, or the sheriff or facility administrator shall be paid directly for the services by the offender when ordered to pay for the confinement as part of the disciplinary sanction. In no event shall any compensation for disciplinary confinement exceed the maximum amount provided for county jail confinement in Section 38.1 of Title 57 of the Oklahoma Statutes.

E. The Department of Corrections is prohibited from accepting offenders into any state penitentiary for disciplinary sanctions.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 20, eff. July 1, 1999. Amended by Laws 2000, c. 39, § 2, emerg. eff. April 10, 2000.

§22-988.21. Earned credits.

Any law directing earned credits during periods of imprisonment or otherwise, including Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes, shall not be applicable to persons sentenced to a community sentence pursuant to the provisions of the Oklahoma Community Sentencing Act. Day-for-day credits for any term of incarceration served as part of a community punishment shall be given to offenders who have community sentences revoked to county jail or state prison and also shall be given when a community sentence is modified.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 21, eff. July 1, 1999.

§22-988.22. Completion of community punishment.

A. Any offender ordered to participate in the local community sentencing system shall be advised of the conditions of the specific program or service to which he or she is assigned.

B. Upon completion of any court-ordered provision, pursuant to the Oklahoma Community Sentencing Act, the administrator of the local system shall file a statement with the court defining the provision which has been successfully completed. When all court-ordered provisions have been successfully completed the defendant shall be deemed to have completed the community punishment.

C. The provisions of the Oklahoma Community Sentencing Act shall not confer any rights upon the defendant to avoid a term of imprisonment prescribed by law for the offense, nor grant any additional rights to appeal for failure to be offered any specific punishment or treatment option available to the court.

D. A community sentence pursuant to the Oklahoma Community Sentencing Act shall not require active supervision, programs or services for more than three (3) years, but may continue beyond the three-year limitation for purpose of completing court-ordered monetary obligations.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 22, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 7, eff. July 1, 2002.

§22-988.23. Immunity from liability.

All state and local government agencies, community service agencies, nonprofit organizations, educational or vocational-technical entities, and other providers participating in a community sentencing system or contracting to provide services to the system pursuant to the provisions of the Oklahoma Community Sentencing Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in a community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act, Section 151 et seq. of Title 51 of the Oklahoma Statutes.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 23, eff. July 1, 1999.

§22-988.24. Community sentencing program pilot projects for persons whose suspended sentences have been revoked.

The Department of Corrections may establish pilot projects that allow a person whose suspended sentence has been revoked by the court to participate in the community sentencing program, subject to the availability of funds.

Added by Laws 2002, c. 91, § 1, eff. July 1, 2002.

