



1 The court shall first consider restitution among the various  
2 conditions it may prescribe. The court may also consider ordering  
3 the defendant to:

4 1. Pay court costs;

5 2. Pay an assessment in lieu of any fine authorized by law for  
6 the offense;

7 3. Pay any other assessment or cost authorized by law;

8 4. Engage in a term of community service without compensation,  
9 according to a schedule consistent with the employment and family  
10 responsibilities of the defendant;

11 5. County jail confinement for a period not to exceed ninety  
12 (90) days or the maximum amount of jail time provided for the  
13 offense, if it is less than ninety (90) days;

14 6. Pay an amount as reimbursement for reasonable attorney fees,  
15 to be paid into the court fund, if a court-appointed attorney has  
16 been provided to defendant;

17 7. Be supervised in the community for a period not to exceed  
18 two (2) years, unless a petition alleging violation of any condition  
19 of deferred judgment is filed during the period of supervision. As  
20 a condition of any supervision, the defendant shall be required to  
21 pay a supervision fee of Forty Dollars (\$40.00) per month. The  
22 supervision fee shall be waived in whole or part by the supervisory  
23 agency when the accused is indigent. No person shall be denied  
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1 supervision based solely on the inability of the person to pay a  
2 fee;

3 8. Pay into the court fund a monthly amount not exceeding Forty  
4 Dollars (\$40.00) per month during any period during which the  
5 proceedings are deferred when the defendant is not to be supervised  
6 in the community. The total amount to be paid into the court fund  
7 shall be established by the court and shall not exceed the amount of  
8 the maximum fine authorized by law for the offense;

9 9. Make other reparations to the community or victim as  
10 required and deemed appropriate by the court;

11 10. Order any conditions which can be imposed for a suspended  
12 sentence pursuant to paragraph 1 of subsection A of Section 991a of  
13 this title; or

14 11. Any combination of the above provisions.

15 However, unless under the supervision of the district attorney,  
16 the offender shall be required to pay Forty Dollars (\$40.00) per  
17 month to the district attorney during the first two (2) years of  
18 probation to compensate the district attorney for the costs incurred  
19 during the prosecution of the offender and for the additional work  
20 of verifying the compliance of the offender with the rules and  
21 conditions of his or her probation. The district attorney may waive  
22 any part of this requirement in the best interests of justice. The  
23 court shall not waive, suspend, defer or dismiss the costs of  
24 prosecution in its entirety. However, if the court determines that

1 a reduction in the fine, costs and costs of prosecution is  
2 warranted, the court shall equally apply the same percentage  
3 reduction to the fine, costs and costs of prosecution owed by the  
4 offender.

5 B. In addition to any conditions of supervision provided for in  
6 subsection A of this section, the court shall, in the case of a  
7 person before the court for the offense of operating or being in  
8 control of a motor vehicle while the person was under the influence  
9 of alcohol, other intoxicating substance, or a combination of  
10 alcohol and another intoxicating substance, or who is before the  
11 court for the offense of operating a motor vehicle while the ability  
12 of the person to operate such vehicle was impaired due to the  
13 consumption of alcohol, require the person to participate in an  
14 alcohol and drug substance abuse evaluation program offered by a  
15 facility or qualified practitioner certified by the Department of  
16 Mental Health and Substance Abuse Services for the purpose of  
17 evaluating the receptivity to treatment and prognosis of the person.  
18 The court shall order the person to reimburse the facility or  
19 qualified practitioner for the evaluation. The Department of Mental  
20 Health and Substance Abuse Services shall establish a fee schedule,  
21 based upon the ability of a person to pay, provided the fee for an  
22 evaluation shall not exceed Seventy-five Dollars (\$75.00). The  
23 evaluation shall be conducted at a certified facility, the office of  
24 a qualified practitioner or at another location as ordered by the

1 court. The facility or qualified practitioner shall, within  
2 seventy-two (72) hours from the time the person is assessed, submit  
3 a written report to the court for the purpose of assisting the court  
4 in its determination of conditions for deferred sentence. No  
5 person, agency or facility operating an alcohol and drug substance  
6 abuse evaluation program certified by the Department of Mental  
7 Health and Substance Abuse Services shall solicit or refer any  
8 person evaluated pursuant to this subsection for any treatment  
9 program or alcohol and drug substance abuse service in which the  
10 person, agency or facility has a vested interest; however, this  
11 provision shall not be construed to prohibit the court from ordering  
12 participation in or any person from voluntarily utilizing a  
13 treatment program or alcohol and drug substance abuse service  
14 offered by such person, agency or facility. Any evaluation report  
15 submitted to the court pursuant to this subsection shall be handled  
16 in a manner which will keep the report confidential from review by  
17 the general public. Nothing contained in this subsection shall be  
18 construed to prohibit the court from ordering judgment and sentence  
19 in the event the defendant fails or refuses to comply with an order  
20 of the court to obtain the evaluation required by this subsection.  
21 As used in this subsection, "qualified practitioner" means a person  
22 with at least a bachelor's degree in substance abuse treatment,  
23 mental health or a related health care field and at least two (2)  
24 years of experience in providing alcohol abuse treatment, other drug

1 abuse treatment, or both alcohol and other drug abuse treatment who  
2 is certified each year by the Department of Mental Health and  
3 Substance Abuse Services to provide these assessments. However, any  
4 person who does not meet the requirements for a qualified  
5 practitioner as defined herein, but who has been previously  
6 certified by the Department of Mental Health and Substance Abuse  
7 Services to provide alcohol or drug treatment or assessments, shall  
8 be considered a qualified practitioner provided all education,  
9 experience and certification requirements stated herein are met by  
10 September 1, 1995. The court may also require the person to  
11 participate in one or both of the following:

12 1. An alcohol and drug substance abuse course, pursuant to  
13 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

14 2. A victims impact panel program, as defined in subsection H  
15 of Section 991a of this title, if such a program is offered in the  
16 county where the judgment is rendered. The defendant shall be  
17 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor  
18 more than Sixty Dollars (\$60.00) as set by the governing authority  
19 of the program and approved by the court to the victims impact panel  
20 program to offset the cost of participation by the defendant, if in  
21 the opinion of the court the defendant has the ability to pay such  
22 fee.

23 C. Upon completion of the conditions of the deferred judgment,  
24 and upon a finding by the court that the conditions have been met

1 and all fines, fees, and monetary assessments have been paid as  
2 ordered, the defendant shall be discharged without a court judgment  
3 of guilt, and the court shall order the verdict or plea of guilty or  
4 plea of nolo contendere to be expunged from the record and the  
5 charge shall be dismissed with prejudice to any further action. The  
6 procedure to expunge the record of the defendant shall be as  
7 follows:

8 1. All references to the name of the defendant shall be deleted  
9 from the docket sheet;

10 2. The public index of the filing of the charge shall be  
11 expunged by deletion, mark-out or obliteration;

12 3. Upon expungement, the court clerk shall keep a separate  
13 confidential index of case numbers and names of defendants which  
14 have been obliterated pursuant to the provisions of this section;

15 4. No information concerning the confidential file shall be  
16 revealed or released, except upon written order of a judge of the  
17 district court or upon written request by the named defendant to the  
18 court clerk for the purpose of updating the criminal history record  
19 of the defendant with the Oklahoma State Bureau of Investigation;  
20 and

21 5. Defendants qualifying under Section 18 of this title may  
22 petition the court to have the filing of the indictment and the  
23 dismissal expunged from the public index and docket sheet. This  
24 section shall not be mutually exclusive of Section 18 of this title.

1 Records expunged pursuant to this subsection shall be sealed to  
2 the public but not to law enforcement agencies for law enforcement  
3 purposes. Records expunged pursuant to this subsection shall be  
4 admissible in any subsequent criminal prosecution to prove the  
5 existence of a prior conviction or prior deferred judgment without  
6 the necessity of a court order requesting the unsealing of such  
7 records.

8 D. The provisions of subsection C of this section shall be  
9 retroactive.

10 E. Upon violation of any condition of the deferred judgment,  
11 the court may enter a judgment of guilt and proceed as provided in  
12 Section 991a of this title or may modify any condition imposed.  
13 Provided, however, if the deferred judgment is for a felony offense,  
14 and the defendant commits another felony offense, the defendant  
15 shall not be allowed bail pending appeal.

16 F. The deferred judgment procedure described in this section  
17 shall apply only to defendants who have not been previously  
18 convicted of a felony offense and have not received a deferred  
19 judgment for a felony offense within the ten (10) years previous to  
20 the commission of the pending offense.

21 Provided, the court may waive this prohibition upon written  
22 application of the district attorney. Both the application and the  
23 waiver shall be made a part of the record of the case.

24

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 G. The deferred judgment procedure described in this section  
2 shall not apply to defendants found guilty or who plead guilty or  
3 nolo contendere to a sex offense required by law to register  
4 pursuant to the Sex Offenders Registration Act.

5 H. Defendants who are supervised by the Department of  
6 Corrections pursuant to this section shall be subject to the  
7 intermediate sanction process as established in subsection B of  
8 Section 991b of this title.

9 SECTION 2. This act shall become effective November 1, 2015.

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11 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
12 dated 02/18/2015 - DO PASS, As Coauthored.

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