

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1402

By: Thompson

4
5
6 AS INTRODUCED

7 An Act relating to fees; amending 22 O.S. 2011,
8 Sections 991a and 991c, as last amended by Sections 1
9 and 2, Chapter 453, O.S.L. 2019 (22 O.S. Supp. 2019,
10 Sections 991a and 991c), which relate to the
11 sentencing powers of the court and deferred
12 sentences; eliminating certain supervision fees;
13 repealing 22 O.S. 2011, Section 991d, as last amended
14 by Section 3, Chapter 453, O.S.L. 2019 (22 O.S. Supp.
15 2019, Section 991d), which relates to supervision
16 fees; and providing an effective date.

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

18 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
19 last amended by Section 1, Chapter 453, O.S.L. 2019 (22 O.S. Supp.
20 2019, Section 991a), is amended to read as follows:

21 Section 991a. A. Except as otherwise provided in the Elderly
22 and Incapacitated Victim's Protection Program, when a defendant is
23 convicted of a crime and no death sentence is imposed, the court
24 shall either:

25 1. Suspend the execution of sentence in whole or in part, with
26 or without probation. The court, in addition, may order the

1 convicted defendant at the time of sentencing or at any time during
2 the suspended sentence to do one or more of the following:

- 3 a. to provide restitution to the victim as provided by
4 Section 991f et seq. of this title or according to a
5 schedule of payments established by the sentencing
6 court, together with interest upon any pecuniary sum
7 at the rate of twelve percent (12%) per annum, if the
8 defendant agrees to pay such restitution or, in the
9 opinion of the court, if the defendant is able to pay
10 such restitution without imposing manifest hardship on
11 the defendant or the immediate family and if the
12 extent of the damage to the victim is determinable
13 with reasonable certainty,
- 14 b. to reimburse any state agency for amounts paid by the
15 state agency for hospital and medical expenses
16 incurred by the victim or victims, as a result of the
17 criminal act for which such person was convicted,
18 which reimbursement shall be made directly to the
19 state agency, with interest accruing thereon at the
20 rate of twelve percent (12%) per annum,
- 21 c. to engage in a term of community service without
22 compensation, according to a schedule consistent with
23 the employment and family responsibilities of the
24 person convicted,

- 1 d. to pay a reasonable sum into any trust fund,
2 established pursuant to the provisions of Sections 176
3 through 180.4 of Title 60 of the Oklahoma Statutes,
4 and which provides restitution payments by convicted
5 defendants to victims of crimes committed within this
6 state wherein such victim has incurred a financial
7 loss,
- 8 e. to confinement in the county jail for a period not to
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term
11 of post-imprisonment community supervision for not
12 less than three (3) years of the total term allowed by
13 law for imprisonment, with or without restitution;
14 provided, however, the authority of this provision is
15 limited to Section 843.5 of Title 21 of the Oklahoma
16 Statutes when the offense involved sexual abuse or
17 sexual exploitation; Sections 681, 741 and 843.1 of
18 Title 21 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; and
20 Sections 865 et seq., 885, 886, 888, 891, 1021,
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a
24 local certified crime stoppers program and the

1 Oklahoma Reward System. In determining whether the
2 defendant shall repay the reward or part of the
3 reward, the court shall consider the ability of the
4 defendant to make the payment, the financial hardship
5 on the defendant to make the required payment, and the
6 importance of the information to the prosecution of
7 the defendant as provided by the arresting officer or
8 the district attorney with due regard for the
9 confidentiality of the records of the local certified
10 crime stoppers program and the Oklahoma Reward System.
11 The court shall assess this repayment against the
12 defendant as a cost of prosecution. The term
13 "certified" means crime stoppers organizations that
14 annually meet the certification standards for crime
15 stoppers programs established by the Oklahoma Crime
16 Stoppers Association to the extent those standards do
17 not conflict with state statutes. The term "court"
18 refers to all municipal and district courts within
19 this state. The "Oklahoma Reward System" means the
20 reward program established by Section 150.18 of Title
21 74 of the Oklahoma Statutes,

22 h. to reimburse the Oklahoma State Bureau of
23 Investigation for costs incurred by that agency during
24 its investigation of the crime for which the defendant

1 pleaded guilty, nolo contendere or was convicted,
2 including compensation for laboratory, technical, or
3 investigation services performed by the Bureau if, in
4 the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant,
6 and if the costs incurred by the Bureau during the
7 investigation of the defendant's case may be
8 determined with reasonable certainty,

9 i. to reimburse the Oklahoma State Bureau of
10 Investigation and any authorized law enforcement
11 agency for all costs incurred by that agency for
12 cleaning up an illegal drug laboratory site for which
13 the defendant pleaded guilty, nolo contendere or was
14 convicted. The court clerk shall collect the amount
15 and may retain five percent (5%) of such monies to be
16 deposited in the Court Clerk Revolving Fund to cover
17 administrative costs and shall remit the remainder to
18 the Oklahoma State Bureau of Investigation to be
19 deposited in the OSBI Revolving Fund established by
20 Section 150.19a of Title 74 of the Oklahoma Statutes
21 or to the general fund wherein the other law
22 enforcement agency is located,

23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

6 l. to participate in an assessment and evaluation by an
7 assessment agency or assessment personnel certified by
8 the Department of Mental Health and Substance Abuse
9 Services pursuant to Section 3-460 of Title 43A of the
10 Oklahoma Statutes and, as determined by the
11 assessment, participate in an alcohol and drug
12 substance abuse course or treatment program or both,
13 pursuant to Sections 3-452 and 3-453 of Title 43A of
14 the Oklahoma Statutes, or as ordered by the court,

15 m. to be placed in a victims impact panel program, as
16 defined in subsection H of this section, or
17 victim/offender reconciliation program and payment of
18 a fee to the program of not less than Fifteen Dollars
19 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
20 by the governing authority of the program to offset
21 the cost of participation by the defendant. Provided,
22 each victim/offender reconciliation program shall be
23 required to obtain a written consent form voluntarily
24 signed by the victim and defendant that specifies the

1 methods to be used to resolve the issues, the
2 obligations and rights of each person, and the
3 confidentiality of the proceedings. Volunteer
4 mediators and employees of a victim/offender
5 reconciliation program shall be immune from liability
6 and have rights of confidentiality as provided in
7 Section 1805 of Title 12 of the Oklahoma Statutes,
8 n. to install, at the expense of the defendant, an
9 ignition interlock device approved by the Board of
10 Tests for Alcohol and Drug Influence. The device
11 shall be installed upon every motor vehicle operated
12 by the defendant, and the court shall require that a
13 notation of this restriction be affixed to the
14 defendant's driver license. The restriction shall
15 remain on the driver license not exceeding two (2)
16 years to be determined by the court. The restriction
17 may be modified or removed only by order of the court
18 and notice of any modification order shall be given to
19 the Department of Public Safety. Upon the expiration
20 of the period for the restriction, the Department of
21 Public Safety shall remove the restriction without
22 further court order. Failure to comply with the order
23 to install an ignition interlock device or operating
24 any vehicle without a device during the period of

1 restriction shall be a violation of the sentence and
2 may be punished as deemed proper by the sentencing
3 court. As used in this paragraph, "ignition interlock
4 device" means a device that, without tampering or
5 intervention by another person, would prevent the
6 defendant from operating a motor vehicle if the
7 defendant has a blood or breath alcohol concentration
8 of two-hundredths (0.02) or greater,

- 9 o. to be confined by electronic monitoring administered
10 and supervised by the Department of Corrections or a
11 community sentence provider, and payment of a
12 monitoring fee to the supervising authority, not to
13 exceed Three Hundred Dollars (\$300.00) per month. Any
14 fees collected pursuant to this paragraph shall be
15 deposited with the appropriate supervising authority.
16 Any willful violation of an order of the court for the
17 payment of the monitoring fee shall be a violation of
18 the sentence and may be punished as deemed proper by
19 the sentencing court. As used in this paragraph,
20 "electronic monitoring" means confinement of the
21 defendant within a specified location or locations
22 with supervision by means of an electronic device
23 approved by the Department of Corrections which is
24 designed to detect if the defendant is in the court-

1 ordered location at the required times and which
2 records violations for investigation by a qualified
3 supervisory agency or person,

- 4 p. to perform one or more courses of treatment, education
5 or rehabilitation for any conditions, behaviors,
6 deficiencies or disorders which may contribute to
7 criminal conduct, including but not limited to alcohol
8 and substance abuse, mental health, emotional health,
9 physical health, propensity for violence, antisocial
10 behavior, personality or attitudes, deviant sexual
11 behavior, child development, parenting assistance, job
12 skills, vocational-technical skills, domestic
13 relations, literacy, education, or any other
14 identifiable deficiency which may be treated
15 appropriately in the community and for which a
16 certified provider or a program recognized by the
17 court as having significant positive impact exists in
18 the community. Any treatment, education or
19 rehabilitation provider required to be certified
20 pursuant to law or rule shall be certified by the
21 appropriate state agency or a national organization,
- 22 q. to submit to periodic testing for alcohol,
23 intoxicating substance, or controlled dangerous
24 substances by a qualified laboratory,

- 1 r. to pay a fee, costs for treatment, education,
2 supervision, participation in a program, or any
3 combination thereof as determined by the court, based
4 upon the defendant's ability to pay the fees or costs,
5 s. to be supervised by a Department of Corrections
6 employee, a private supervision provider, or other
7 person designated by the court,
8 t. to obtain positive behavior modeling by a trained
9 mentor,
10 u. to serve a term of confinement in a restrictive
11 housing facility available in the community,
12 v. to serve a term of confinement in the county jail at
13 night or during weekends pursuant to Section 991a-2 of
14 this title or for work release,
15 w. to obtain employment or participate in employment-
16 related activities,
17 x. to participate in mandatory day reporting to
18 facilities or persons for services, payments, duties
19 or person-to-person contacts as specified by the
20 court,
21 y. to pay day fines not to exceed fifty percent (50%) of
22 the net wages earned. For purposes of this paragraph,
23 "day fine" means the offender is ordered to pay an
24 amount calculated as a percentage of net daily wages

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

5 z. to submit to blood or saliva testing as required by
6 subsection I of this section,

7 aa. to repair or restore property damaged by the
8 defendant's conduct, if the court determines the
9 defendant possesses sufficient skill to repair or
10 restore the property and the victim consents to the
11 repairing or restoring of the property,

12 bb. to restore damaged property in kind or payment of out-
13 of-pocket expenses to the victim, if the court is able
14 to determine the actual out-of-pocket expenses
15 suffered by the victim,

16 cc. to attend a victim-offender reconciliation program if
17 the victim agrees to participate and the offender is
18 deemed appropriate for participation,

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

4 ee. in the case of a sex offender sentenced after November
5 1, 1989, and required by law to register pursuant to
6 the Sex Offender Registration Act, the court shall
7 require the person to comply with sex offender
8 specific rules and conditions of supervision
9 established by the Department of Corrections and
10 require the person to participate in a treatment
11 program designed for the treatment of sex offenders
12 during the period of time while the offender is
13 subject to supervision by the Department of
14 Corrections. The treatment program shall include
15 polygraph examinations specifically designed for use
16 with sex offenders for purposes of supervision and
17 treatment compliance, and shall be administered not
18 less than each six (6) months during the period of
19 supervision. The examination shall be administered by
20 a certified licensed polygraph examiner. The
21 treatment program must be approved by the Department
22 of Corrections or the Department of Mental Health and
23 Substance Abuse Services. Such treatment shall be at
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1 the expense of the defendant based on the defendant's
2 ability to pay,

3 ff. in addition to other sentencing powers of the court,
4 the court in the case of a defendant being sentenced
5 for a felony conviction for a violation of Section 2-
6 402 of Title 63 of the Oklahoma Statutes which
7 involves marijuana may require the person to
8 participate in a drug court program, if available. If
9 a drug court program is not available, the defendant
10 may be required to participate in a community
11 sanctions program, if available,

12 gg. in the case of a person convicted of any false or
13 bogus check violation, as defined in Section 1541.4 of
14 Title 21 of the Oklahoma Statutes, impose a fee of
15 Twenty-five Dollars (\$25.00) to the victim for each
16 check, and impose a bogus check fee to be paid to the
17 district attorney. The bogus check fee paid to the
18 district attorney shall be equal to the amount
19 assessed as court costs plus Twenty-five Dollars
20 (\$25.00) for each check upon filing of the case in
21 district court. This money shall be deposited in the
22 Bogus Check Restitution Program Fund as established in
23 subsection B of Section 114 of this title.

24 Additionally, the court may require the offender to
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1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program,

4 hh. in the case of a person being sentenced for a
5 conviction for a violation of Section 644 of Title 21
6 of the Oklahoma Statutes, require the person to
7 receive an assessment for batterers, which shall be
8 conducted through a certified treatment program for
9 batterers, and

10 ii. any other provision specifically ordered by the court.

11 However, any such order for restitution, community service,
12 payment to a local certified crime stoppers program, payment to the
13 Oklahoma Reward System, or confinement in the county jail, or a
14 combination thereof, shall be made in conjunction with probation and
15 shall be made a condition of the suspended sentence.

16 ~~However, unless under the supervision of the district attorney,~~
17 ~~the offender shall be required to pay Forty Dollars (\$40.00) per~~
18 ~~month to the district attorney during the first two (2) years of~~
19 ~~probation to compensate the district attorney for the costs incurred~~
20 ~~during the prosecution of the offender and for the additional work~~
21 ~~of verifying the compliance of the offender with the rules and~~
22 ~~conditions of his or her probation. The district attorney may waive~~
23 ~~any part of this requirement in the best interests of justice. Any~~
24 ~~fees collected by the district attorney pursuant to this paragraph~~

1 ~~shall be deposited in the General Revenue Fund of the State~~
2 ~~Treasury.~~ The court shall not waive, suspend, defer or dismiss the
3 costs of prosecution in its entirety. However, if the court
4 determines that a reduction in the fine, costs and costs of
5 prosecution is warranted, the court shall equally apply the same
6 percentage reduction to the fine, costs and costs of prosecution
7 owed by the offender;

8 2. Impose a fine prescribed by law for the offense, with or
9 without probation or commitment and with or without restitution or
10 service as provided for in this section, Section 991a-4.1 of this
11 title or Section 227 of Title 57 of the Oklahoma Statutes;

12 3. Commit such person for confinement provided for by law with
13 or without restitution as provided for in this section;

14 4. Order the defendant to reimburse the Oklahoma State Bureau
15 of Investigation for costs incurred by that agency during its
16 investigation of the crime for which the defendant pleaded guilty,
17 nolo contendere or was convicted, including compensation for
18 laboratory, technical, or investigation services performed by the
19 Bureau if, in the opinion of the court, the defendant is able to pay
20 without imposing manifest hardship on the defendant, and if the
21 costs incurred by the Bureau during the investigation of the
22 defendant's case may be determined with reasonable certainty;

23 5. Order the defendant to reimburse the Oklahoma State Bureau
24 of Investigation for all costs incurred by that agency for cleaning
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1 up an illegal drug laboratory site for which the defendant pleaded
2 guilty, nolo contendere or was convicted. The court clerk shall
3 collect the amount and may retain five percent (5%) of such monies
4 to be deposited in the Court Clerk Revolving Fund to cover
5 administrative costs and shall remit the remainder to the Oklahoma
6 State Bureau of Investigation to be deposited in the OSBI Revolving
7 Fund established by Section 150.19a of Title 74 of the Oklahoma
8 Statutes;

9 6. In addition to the other sentencing powers of the court, in
10 the case of a person convicted of operating or being in control of a
11 motor vehicle while the person was under the influence of alcohol,
12 other intoxicating substance, or a combination of alcohol or another
13 intoxicating substance, or convicted of operating a motor vehicle
14 while the ability of the person to operate such vehicle was impaired
15 due to the consumption of alcohol, require such person:

- 16 a. to participate in an alcohol and drug assessment and
17 evaluation by an assessment agency or assessment
18 personnel certified by the Department of Mental Health
19 and Substance Abuse Services pursuant to Section 3-460
20 of Title 43A of the Oklahoma Statutes and, as
21 determined by the assessment, participate in an
22 alcohol and drug substance abuse course or treatment
23 program or both, pursuant to Sections 3-452 and 3-453
24 of Title 43A of the Oklahoma Statutes,

1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, if such a program is
3 offered in the county where the judgment is rendered,
4 and to pay a fee of not less than Fifteen Dollars
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
6 by the governing authority of the program and approved
7 by the court, to the program to offset the cost of
8 participation by the defendant, if in the opinion of
9 the court the defendant has the ability to pay such
10 fee,

11 c. to both participate in the alcohol and drug substance
12 abuse course or treatment program, pursuant to
13 subparagraph a of this paragraph and attend a victims
14 impact panel program, pursuant to subparagraph b of
15 this paragraph,

16 d. to install, at the expense of the person, an ignition
17 interlock device approved by the Board of Tests for
18 Alcohol and Drug Influence, upon every motor vehicle
19 operated by such person and to require that a notation
20 of this restriction be affixed to the person's driver
21 license at the time of reinstatement of the license.
22 The restriction shall remain on the driver license for
23 such period as the court shall determine. The
24 restriction may be modified or removed by order of the

1 court and notice of the order shall be given to the
2 Department of Public Safety. Upon the expiration of
3 the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without such device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court, or

11 e. beginning January 1, 1993, to submit to electronically
12 monitored home detention administered and supervised
13 by the Department of Corrections, and to pay to the
14 Department a monitoring fee, not to exceed Seventy-
15 five Dollars (\$75.00) a month, to the Department of
16 Corrections, if in the opinion of the court the
17 defendant has the ability to pay such fee. Any fees
18 collected pursuant to this subparagraph shall be
19 deposited in the Department of Corrections Revolving
20 Fund. Any order by the court for the payment of the
21 monitoring fee, if willfully disobeyed, may be
22 enforced as an indirect contempt of court;

23 7. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section
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1 1029 of Title 21 of the Oklahoma Statutes, require such person to
2 receive counseling for the behavior which may have caused such
3 person to engage in prostitution activities. Such person may be
4 required to receive counseling in areas including but not limited to
5 alcohol and substance abuse, sexual behavior problems, or domestic
6 abuse or child abuse problems;

7 8. In addition to the other sentencing powers of the court, in
8 the case of a person convicted of any crime related to domestic
9 abuse, as defined in Section 60.1 of this title, the court may
10 require the defendant to undergo the treatment or participate in an
11 intervention program for batterers certified by the Office of the
12 Attorney General, necessary to bring about the cessation of domestic
13 abuse. In the instance where the defendant alleges that he or she
14 is a victim of domestic abuse and the current conviction is a
15 response to that abuse, the court may require the defendant to
16 undergo an assessment by a domestic violence program certified by
17 the Office of the Attorney General, and, if based upon the results
18 of the assessment, the defendant is determined to be a victim of
19 domestic violence, the defendant shall undergo treatment and
20 participate in a certified program for domestic violence victims.
21 The defendant may be required to pay all or part of the cost of the
22 treatment or counseling services;

23 9. In addition to the other sentencing powers of the court, the
24 court, in the case of a sex offender sentenced after November 1,

1 1989, and required by law to register pursuant to the Sex Offenders
2 Registration Act, shall require the person to participate in a
3 treatment program designed specifically for the treatment of sex
4 offenders, if available. The treatment program will include
5 polygraph examinations specifically designed for use with sex
6 offenders for the purpose of supervision and treatment compliance,
7 provided the examination is administered by a certified licensed
8 polygraph examiner. The treatment program must be approved by the
9 Department of Corrections or the Department of Mental Health and
10 Substance Abuse Services. Such treatment shall be at the expense of
11 the defendant based on the defendant's ability to pay;

12 10. In addition to the other sentencing powers of the court,
13 the court, in the case of a person convicted of child abuse or
14 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
15 Statutes, may require the person to undergo treatment or to
16 participate in counseling services. The defendant may be required
17 to pay all or part of the cost of the treatment or counseling
18 services;

19 11. In addition to the other sentencing powers of the court,
20 the court, in the case of a person convicted of cruelty to animals
21 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
22 require the person to pay restitution to animal facilities for
23 medical care and any boarding costs of victimized animals;

1 12. In addition to the other sentencing powers of the court, a
2 sex offender who is habitual or aggravated as defined by Section 584
3 of Title 57 of the Oklahoma Statutes and who is required to register
4 as a sex offender pursuant to the Oklahoma Sex Offenders
5 Registration Act shall be supervised by the Department of
6 Corrections for the duration of the registration period and shall be
7 assigned to a global position monitoring device by the Department of
8 Corrections for the duration of the registration period. The cost
9 of such monitoring device shall be reimbursed by the offender;

10 13. In addition to the other sentencing powers of the court, in
11 the case of a sex offender who is required by law to register
12 pursuant to the Sex Offenders Registration Act, the court may
13 prohibit the person from accessing or using any Internet social
14 networking web site that has the potential or likelihood of allowing
15 the sex offender to have contact with any child who is under the age
16 of eighteen (18) years; or

17 14. In addition to the other sentencing powers of the court, in
18 the case of a sex offender who is required by law to register
19 pursuant to the Sex Offenders Registration Act, the court shall
20 require the person to register any electronic mail address
21 information, instant message, chat or other Internet communication
22 name or identity information that the person uses or intends to use
23 while accessing the Internet or used for other purposes of social
24 networking or other similar Internet communication.

1 B. Notwithstanding any other provision of law, any person who
2 is found guilty of a violation of any provision of Section 761 or
3 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
4 guilty or nolo contendere for a violation of any provision of such
5 sections shall be ordered to participate in, prior to sentencing, an
6 alcohol and drug assessment and evaluation by an assessment agency
7 or assessment personnel certified by the Department of Mental Health
8 and Substance Abuse Services for the purpose of evaluating the
9 receptivity to treatment and prognosis of the person. The court
10 shall order the person to reimburse the agency or assessor for the
11 evaluation. The fee shall be the amount provided in subsection C of
12 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
13 shall be conducted at a certified assessment agency, the office of a
14 certified assessor or at another location as ordered by the court.
15 The agency or assessor shall, within seventy-two (72) hours from the
16 time the person is assessed, submit a written report to the court
17 for the purpose of assisting the court in its final sentencing
18 determination. No person, agency or facility operating an alcohol
19 and drug substance abuse evaluation program certified by the
20 Department of Mental Health and Substance Abuse Services shall
21 solicit or refer any person evaluated pursuant to this subsection
22 for any treatment program or alcohol and drug substance abuse
23 service in which such person, agency or facility has a vested
24 interest; however, this provision shall not be construed to prohibit

1 the court from ordering participation in or any person from
2 voluntarily utilizing a treatment program or alcohol and drug
3 substance abuse service offered by such person, agency or facility.
4 If a person is sentenced to the custody of the Department of
5 Corrections and the court has received a written evaluation report
6 pursuant to this subsection, the report shall be furnished to the
7 Department of Corrections with the judgment and sentence. Any
8 evaluation report submitted to the court pursuant to this subsection
9 shall be handled in a manner which will keep such report
10 confidential from the general public's review. Nothing contained in
11 this subsection shall be construed to prohibit the court from
12 ordering judgment and sentence in the event the defendant fails or
13 refuses to comply with an order of the court to obtain the
14 evaluation required by this subsection.

15 C. When sentencing a person convicted of a crime, the court
16 shall first consider a program of restitution for the victim, as
17 well as imposition of a fine or incarceration of the offender. The
18 provisions of paragraph 1 of subsection A of this section shall not
19 apply to a defendant being sentenced for:

- 20 1. A third or subsequent conviction of a violent crime
21 enumerated in Section 571 of Title 57 of the Oklahoma Statutes;
 - 22 2. A fourth or subsequent conviction for any other felony
23 crime; or
- 24
25

1 3. Beginning January 1, 1993, a defendant being sentenced for a
2 second or subsequent felony conviction for violation of Section 11-
3 902 of Title 47 of the Oklahoma Statutes, except as otherwise
4 provided in this subsection.

5 In the case of a person being sentenced for a second or
6 subsequent felony conviction for violation of Section 11-902 of
7 Title 47 of the Oklahoma Statutes, the court may sentence the person
8 pursuant to the provisions of paragraph 1 of subsection A of this
9 section if the court orders the person to submit to electronically
10 monitored home detention administered and supervised by the
11 Department of Corrections pursuant to subparagraph e of paragraph 7
12 of subsection A of this section. Provided, the court may waive
13 these prohibitions upon written application of the district
14 attorney. Both the application and the waiver shall be made part of
15 the record of the case.

16 D. When sentencing a person convicted of a crime, the judge
17 shall consider any victims impact statements if submitted to the
18 jury, or the judge in the event a jury is waived.

19 E. Probation, for purposes of subsection A of this section, is
20 a procedure by which a defendant found guilty of a crime, whether
21 upon a verdict or plea of guilty or upon a plea of nolo contendere,
22 is released by the court subject to conditions imposed by the court
23 and subject to supervision by the Department of Corrections, a
24 private supervision provider or other person designated by the

1 court. Such supervision shall be initiated upon an order of
2 probation from the court, and shall not exceed two (2) years, unless
3 a petition alleging a violation of any condition of deferred
4 judgment or seeking revocation of the suspended sentence is filed
5 during the supervision, or as otherwise provided by law. In the
6 case of a person convicted of a sex offense, supervision shall begin
7 immediately upon release from incarceration or if parole is granted
8 and shall not be limited to two (2) years. Provided further, any
9 supervision provided for in this section may be extended for a
10 period not to exceed the expiration of the maximum term or terms of
11 the sentence upon a determination by the court or the Division of
12 Probation and Parole of the Department of Corrections that the best
13 interests of the public and the release will be served by an
14 extended period of supervision. Any supervision provided for under
15 this section may not have the period of supervision extended for a
16 failure to pay fines, fees and other costs, excluding restitution,
17 except upon a finding of willful nonpayment.

18 F. The Department of Corrections, or such other agency as the
19 court may designate, shall be responsible for the monitoring and
20 administration of the restitution and service programs provided for
21 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
22 section, and shall ensure that restitution payments are forwarded to
23 the victim and that service assignments are properly performed.

1 G. 1. The Department of Corrections is hereby authorized,
2 subject to funds available through appropriation by the Legislature,
3 to contract with counties for the administration of county Community
4 Service Sentencing Programs.

5 2. Any offender eligible to participate in the Program pursuant
6 to Section 991a et seq. of this title shall be eligible to
7 participate in a county Program; provided, participation in county-
8 funded Programs shall not be limited to offenders who would
9 otherwise be sentenced to confinement with the Department of
10 Corrections.

11 3. The Department shall establish criteria and specifications
12 for contracts with counties for such Programs. A county may apply
13 to the Department for a contract for a county-funded Program for a
14 specific period of time. The Department shall be responsible for
15 ensuring that any contracting county complies in full with
16 specifications and requirements of the contract. The contract shall
17 set appropriate compensation to the county for services to the
18 Department.

19 4. The Department is hereby authorized to provide technical
20 assistance to any county in establishing a Program, regardless of
21 whether the county enters into a contract pursuant to this
22 subsection. Technical assistance shall include appropriate
23 staffing, development of community resources, sponsorship,
24 supervision and any other requirements.

1 5. The Department shall annually make a report to the Governor,
2 the President Pro Tempore of the Senate and the Speaker of the House
3 on the number of such Programs, the number of participating
4 offenders, the success rates of each Program according to criteria
5 established by the Department and the costs of each Program.

6 H. As used in this section:

7 1. "Ignition interlock device" means a device that, without
8 tampering or intervention by another person, would prevent the
9 defendant from operating a motor vehicle if the defendant has a
10 blood or breath alcohol concentration of two-hundredths (0.02) or
11 greater;

12 2. "Electronically monitored home detention" means
13 incarceration of the defendant within a specified location or
14 locations with monitoring by means of a device approved by the
15 Department of Corrections that detects if the person leaves the
16 confines of any specified location; and

17 3. "Victims impact panel program" means a meeting with at least
18 one live presenter who will share personal stories with participants
19 about how alcohol, drug abuse and the illegal conduct of others has
20 personally impacted the life of the presenter. A victims impact
21 panel program shall be attended by persons who have committed the
22 offense of driving, operating or being in actual physical control of
23 a motor vehicle while under the influence of alcohol or other
24 intoxicating substance. Persons attending a victims impact panel

1 program shall be required to pay a fee of not less than Fifteen
2 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
3 provider of the program. A certificate of completion shall be
4 issued to the person upon satisfying the attendance and fee
5 requirements of the victims impact panel program. A victims impact
6 panel program shall not be provided by any certified assessment
7 agency or certified assessor. The provider of the victims impact
8 panel program shall carry general liability insurance and maintain
9 an accurate accounting of all business transactions and funds
10 received in relation to the victims impact panel program.

11 I. A person convicted of a felony offense or receiving any form
12 of probation for an offense in which registration is required
13 pursuant to the Sex Offenders Registration Act, shall submit to
14 deoxyribonucleic acid DNA testing for law enforcement identification
15 purposes in accordance with Section 150.27 of Title 74 of the
16 Oklahoma Statutes and the rules promulgated by the Oklahoma State
17 Bureau of Investigation for the OSBI Combined DNA Index System
18 (CODIS) Database. Subject to the availability of funds, any person
19 convicted of a misdemeanor offense of assault and battery, domestic
20 abuse, stalking, possession of a controlled substance prohibited
21 under Schedule IV of the Uniform Controlled Dangerous Substances
22 Act, outraging public decency, resisting arrest, escape or
23 attempting to escape, eluding a police officer, Peeping Tom,
24 pointing a firearm, unlawful carry of a firearm, illegal transport

1 of a firearm, discharging of a firearm, threatening an act of
2 violence, breaking and entering a dwelling place, destruction of
3 property, negligent homicide, or causing a personal injury accident
4 while driving under the influence of any intoxicating substance, or
5 any alien unlawfully present under federal immigration law, upon
6 arrest, shall submit to deoxyribonucleic acid DNA testing for law
7 enforcement identification purposes in accordance with Section
8 150.27 of Title 74 of the Oklahoma Statutes and the rules
9 promulgated by the Oklahoma State Bureau of Investigation for the
10 OSBI Combined DNA Index System (CODIS) Database. Any defendant
11 sentenced to probation shall be required to submit to testing within
12 thirty (30) days of sentencing either to the Department of
13 Corrections or to the county sheriff or other peace officer as
14 directed by the court. Defendants who are sentenced to a term of
15 incarceration shall submit to testing in accordance with Section
16 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
17 enter the custody of the Department of Corrections or to the county
18 sheriff, for those defendants sentenced to incarceration in a county
19 jail. Convicted individuals who have previously submitted to DNA
20 testing under this section and for whom a valid sample is on file in
21 the OSBI Combined DNA Index System (CODIS) Database at the time of
22 sentencing shall not be required to submit to additional testing.
23 Except as required by the Sex Offenders Registration Act, a deferred
24

1 judgment does not require submission to deoxyribonucleic acid
2 testing.

3 Any person who is incarcerated in the custody of the Department
4 of Corrections after July 1, 1996, and who has not been released
5 before January 1, 2006, shall provide a blood or saliva sample prior
6 to release. Every person subject to DNA testing after January 1,
7 2006, whose sentence does not include a term of confinement with the
8 Department of Corrections, shall submit a blood or saliva sample.
9 Every person subject to DNA testing who is sentenced to unsupervised
10 probation or otherwise not supervised by the Department of
11 Corrections shall submit for blood or saliva testing to the sheriff
12 of the sentencing county.

13 J. Samples of blood or saliva for DNA testing required by
14 subsection I of this section shall be taken by employees or
15 contractors of the Department of Corrections, peace officers, or the
16 county sheriff or employees or contractors of the sheriff's office.
17 The individuals shall be properly trained to collect blood or saliva
18 samples. Persons collecting blood or saliva for DNA testing
19 pursuant to this section shall be immune from civil liabilities
20 arising from this activity. All collectors of DNA samples shall
21 ensure the collection of samples are mailed to the Oklahoma State
22 Bureau of Investigation within ten (10) days of the time the subject
23 appears for testing or within ten (10) days of the date the subject
24 comes into physical custody to serve a term of incarceration. All

1 collectors of DNA samples shall use sample kits provided by the OSBI
2 and procedures promulgated by the OSBI. Persons subject to DNA
3 testing who are not received at the Lexington Assessment and
4 Reception Center shall be required to pay a fee of Fifteen Dollars
5 (\$15.00) to the agency collecting the sample for submission to the
6 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
7 pursuant to this subsection shall be deposited in the revolving
8 account or the service fee account of the collection agency or
9 department.

10 K. When sentencing a person who has been convicted of a crime
11 that would subject that person to the provisions of the Sex
12 Offenders Registration Act, neither the court nor the district
13 attorney shall be allowed to waive or exempt such person from the
14 registration requirements of the Sex Offenders Registration Act.

15 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991c, as
16 last amended by Section 2, Chapter 453, O.S.L. 2019 (22 O.S. Supp.
17 2019, Section 991c), is amended to read as follows:

18 Section 991c. A. Upon a verdict or plea of guilty or upon a
19 plea of nolo contendere, but before a judgment of guilt, the court
20 may, without entering a judgment of guilt and with the consent of
21 the defendant, defer further proceedings upon the specific
22 conditions prescribed by the court not to exceed a seven-year
23 period, except as authorized under subsection B of this section.
24 The court shall first consider restitution among the various

1 conditions it may prescribe. The court may also consider ordering
2 the defendant to:

3 1. Pay court costs;

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

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

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

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

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

16 7. Be supervised in the community for a period not to exceed
17 eighteen (18) months, unless a petition alleging violation of any
18 condition of deferred judgment is filed during the period of
19 supervision. ~~As a condition of any supervision, the defendant shall~~
20 ~~be required to pay a supervision fee of Forty Dollars (\$40.00) per~~
21 ~~month. The supervision fee shall be waived in whole or part by the~~
22 ~~supervisory agency when the accused is indigent. Any fees collected~~
23 ~~by the district attorney pursuant to this paragraph shall be~~
24 ~~deposited in the General Revenue Fund of the State Treasury. No~~

1 ~~person shall be denied supervision based solely on the inability of~~
2 ~~the person to pay a 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. 9.~~ Order any conditions which can be imposed for a
12 suspended sentence pursuant to paragraph 1 of subsection A of
13 Section 991a of this title; or

14 ~~11. 10.~~ 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. Any fees collected by the district attorney pursuant to~~
5 ~~this paragraph shall be deposited in the General Revenue Fund of the~~
6 ~~State Treasury.~~

7 B. When the court has ordered restitution as a condition of
8 supervision as provided for in subsection A of this section and that
9 condition has not been satisfied, the court may, at any time prior
10 to the termination or expiration of the supervision period, order an
11 extension of supervision for a period not to exceed three (3) years.

12 C. In addition to any conditions of supervision provided for in
13 subsection A of this section, the court shall, in the case of a
14 person before the court for the offense of operating or being in
15 control of a motor vehicle while the person was under the influence
16 of alcohol, other intoxicating substance, or a combination of
17 alcohol and another intoxicating substance, or who is before the
18 court for the offense of operating a motor vehicle while the ability
19 of the person to operate such vehicle was impaired due to the
20 consumption of alcohol, require the person to participate in an
21 alcohol and drug substance abuse evaluation program offered by a
22 facility or qualified practitioner certified by the Department of
23 Mental Health and Substance Abuse Services for the purpose of
24 evaluating the receptivity to treatment and prognosis of the person.

1 The court shall order the person to reimburse the facility or
2 qualified practitioner for the evaluation. The Department of Mental
3 Health and Substance Abuse Services shall establish a fee schedule,
4 based upon the ability of a person to pay, provided the fee for an
5 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
6 evaluation shall be conducted at a certified facility, the office of
7 a qualified practitioner or at another location as ordered by the
8 court. The facility or qualified practitioner shall, within
9 seventy-two (72) hours from the time the person is assessed, submit
10 a written report to the court for the purpose of assisting the court
11 in its determination of conditions for deferred sentence. No
12 person, agency or facility operating an alcohol and drug substance
13 abuse evaluation program certified by the Department of Mental
14 Health and Substance Abuse Services shall solicit or refer any
15 person evaluated pursuant to this subsection for any treatment
16 program or alcohol and drug substance abuse service in which the
17 person, agency or facility has a vested interest; however, this
18 provision shall not be construed to prohibit the court from ordering
19 participation in or any person from voluntarily utilizing a
20 treatment program or alcohol and drug substance abuse service
21 offered by such person, agency or facility. Any evaluation report
22 submitted to the court pursuant to this subsection shall be handled
23 in a manner which will keep the report confidential from review by
24 the general public. Nothing contained in this subsection shall be

1 construed to prohibit the court from ordering judgment and sentence
2 in the event the defendant fails or refuses to comply with an order
3 of the court to obtain the evaluation required by this subsection.
4 As used in this subsection, "qualified practitioner" means a person
5 with at least a bachelor's degree in substance abuse treatment,
6 mental health or a related health care field and at least two (2)
7 years of experience in providing alcohol abuse treatment, other drug
8 abuse treatment, or both alcohol and other drug abuse treatment who
9 is certified each year by the Department of Mental Health and
10 Substance Abuse Services to provide these assessments. However, any
11 person who does not meet the requirements for a qualified
12 practitioner as defined herein, but who has been previously
13 certified by the Department of Mental Health and Substance Abuse
14 Services to provide alcohol or drug treatment or assessments, shall
15 be considered a qualified practitioner provided all education,
16 experience and certification requirements stated herein are met by
17 September 1, 1995. The court may also require the person to
18 participate in one or both of the following:

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

21 2. A victims impact panel program, as defined in subsection H
22 of Section 991a of this title, if such a program is offered in the
23 county where the judgment is rendered. The defendant shall be
24 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor

1 more than Sixty Dollars (\$60.00) as set by the governing authority
2 of the program and approved by the court to the victims impact panel
3 program to offset the cost of participation by the defendant, if in
4 the opinion of the court the defendant has the ability to pay such
5 fee.

6 D. Upon completion of the conditions of the deferred judgment,
7 and upon a finding by the court that the conditions have been met
8 and all fines, fees, and monetary assessments have been paid as
9 ordered, the defendant shall be discharged without a court judgment
10 of guilt, and the court shall order the verdict or plea of guilty or
11 plea of nolo contendere to be expunged from the record and the
12 charge shall be dismissed with prejudice to any further action. The
13 procedure to expunge the record of the defendant shall be as
14 follows:

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

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

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

22 4. No information concerning the confidential file shall be
23 revealed or released, except upon written order of a judge of the
24 district court or upon written request by the named defendant to the

1 court clerk for the purpose of updating the criminal history record
2 of the defendant with the Oklahoma State Bureau of Investigation;
3 and

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

8 Records expunged pursuant to this subsection shall be sealed to
9 the public but not to law enforcement agencies for law enforcement
10 purposes. Records expunged pursuant to this subsection shall be
11 admissible in any subsequent criminal prosecution to prove the
12 existence of a prior conviction or prior deferred judgment without
13 the necessity of a court order requesting the unsealing of such
14 records.

15 E. The provisions of subsection D of this section shall be
16 retroactive.

17 F. Whenever a judgment has been deferred by the court according
18 to the provisions of this section, deferred judgment may not be
19 accelerated for any technical violation unless a petition setting
20 forth the grounds for such acceleration is filed by the district
21 attorney with the clerk of the sentencing court and competent
22 evidence justifying the acceleration of the judgment is presented to
23 the court at a hearing to be held for that purpose. The hearing
24 shall be held not more than twenty (20) days after the entry of the

1 plea of not guilty to the petition, unless waived by both the state
2 and the defendant. Any acceleration of a deferred sentence based on
3 a technical violation shall not exceed ninety (90) days for a first
4 acceleration or five (5) years for a second or subsequent
5 acceleration.

6 G. Upon any violation of the deferred judgment, other than a
7 technical violation, the court may enter a judgment of guilt and
8 proceed as provided in Section 991a of this title or may modify any
9 condition imposed. Provided, however, if the deferred judgment is
10 for a felony offense, and the defendant commits another felony
11 offense, the defendant shall not be allowed bail pending appeal.

12 H. The deferred judgment procedure described in this section
13 shall apply only to defendants who have not been previously
14 convicted of a felony offense and have not received more than one
15 deferred judgment for a felony offense within the ten (10) years
16 previous to the commission of the pending offense.

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

20 I. The deferred judgment procedure described in this section
21 shall not apply to defendants found guilty or who plead guilty or
22 nolo contendere to a sex offense required by law to register
23 pursuant to the Sex Offenders Registration Act.
24

1 J. All defendants who are supervised pursuant to this section
2 shall be subject to the sanction process as established in
3 subsection B of Section 991b of this title.

4 SECTION 3. REPEALER 22 O.S. 2011, Section 991d, as last
5 amended by Section 3, Chapter 453, O.S.L. 2019 (22 O.S. Supp. 2019,
6 Section 991d), is hereby repealed.

7 SECTION 4. This act shall become effective November 1, 2020.

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