

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                           1st Session of the 57th Legislature (2019)

4   ENGROSSED SENATE  
5   BILL NO. 186

                                  By: Shaw of the Senate

  and

  Worthen of the House

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9           An Act relating to criminal procedure; amending 22  
10           O.S. 2011, Section 982, as amended by Section 1,  
          Chapter 170, O.S.L. 2017 (22 O.S. 2018, Section 982),  
11           which relates to presentence investigations;  
          modifying allowable fee for certain investigation;  
12           modifying requirement for certain investigation; and  
          providing an effective date.

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

16           SECTION 1.           AMENDATORY           22 O.S. 2011, Section 982, as  
17           amended by Section 1, Chapter 170, O.S.L. 2017 (22 O.S. Supp. 2018,  
18           Section 982), is amended to read as follows:

19           Section 982.   A.   Whenever a person is convicted of a violent  
20           felony offense whether the conviction is for a single offense or  
21           part of any combination of offenses, except when the death sentence  
22           is available as punishment for the offense, the court may, before  
23           imposing the sentence, require a presentence investigation be made  
24           of the offender by the Department of Corrections.   The court shall

1 order the defendant to pay a fee to the Department of Corrections ~~of~~  
2 ~~not less than Five Dollars (\$5.00), nor more than~~ in the amount of  
3 Five Hundred Dollars (\$500.00) for the presentence investigation.  
4 In hardship cases, the court ~~shall set~~ may reduce the amount of the  
5 fee and establish a payment schedule.

6 B. ~~Whenever a person has a prior felony conviction and is~~  
7 ~~convicted of a nonviolent offense the court may, before imposing a~~  
8 ~~sentence, order a presentence investigation be made of the offender~~  
9 ~~by a private provider or someone designated by the court. The court~~  
10 ~~shall order the defendant to pay to the private provider or court~~  
11 ~~designee assigned to complete the presentence investigation a fee of~~  
12 ~~not less than Five Dollars (\$5.00) nor more than Five Hundred~~  
13 ~~Dollars (\$500.00). In hardship cases, the court shall set the~~  
14 ~~amount of the fee and establish a payment schedule~~ Whenever a person  
15 has a prior felony conviction and enters a plea of guilty or nolo  
16 contendere to a felony offense other than a violent felony offense,  
17 without an agreement by the district attorney regarding the sentence  
18 to be imposed, the court may order a presentence investigation be  
19 made by the Department of Corrections. The fee provided in  
20 subsection A of this section shall apply to persons subject to this  
21 subsection.

22 C. Whenever a person has entered a plea of not guilty to a  
23 nonviolent felony offense and is found guilty by a court following a  
24 non-jury trial, the court may require a presentence investigation be

1 made by the Department of Corrections. The fee provided in  
2 subsection A of this section shall apply to persons subject to this  
3 subsection.

4 D. When conducting a presentence investigation, the Department  
5 shall inquire into the circumstances of the offense and the  
6 characteristics of the offender. The information obtained from the  
7 investigation shall include, but not be limited to, a voluntary  
8 statement from each victim of the offense concerning the nature of  
9 the offense and the impact of the offense on the victim and the  
10 immediate family of the victim, the amount of the loss suffered or  
11 incurred by the victim as a result of the criminal conduct of the  
12 offender, and the age, marital status, living arrangements,  
13 financial obligations, income, family history and education, prior  
14 juvenile and criminal records, associations with other persons  
15 convicted of a felony offense, social history, indications of a  
16 predisposition to violence or substance abuse, remorse or guilt  
17 about the offense or the harm to the victim, job skills and  
18 employment history of the offender. The Department shall make a  
19 report of information from such investigation to the court,  
20 including a recommendation detailing the punishment which is deemed  
21 appropriate for both the offense and the offender, and specifically  
22 a recommendation for or against probation or suspended sentence.  
23 The report of the investigation shall be presented to the judge  
24 within a reasonable time, and upon failure to present the report,

1 the judge may proceed with sentencing. Whenever, in the opinion of  
2 the court or the Department, it is desirable, the investigation  
3 shall include a physical and mental examination or either a physical  
4 or mental examination of the offender.

5 ~~D.~~ E. The district attorney ~~shall~~ may have a presentence  
6 investigation made by the Department on each person charged with a  
7 violent felony offense and entering a plea of guilty or a plea of  
8 nolo contendere as part of or in exchange for a plea agreement for a  
9 violent felony offense. The presentence investigation shall be  
10 completed before the terms of the plea agreement are finalized. The  
11 court shall not approve the terms of any plea agreement without  
12 reviewing the presentence investigation report to determine whether  
13 or not the terms of the sentence are appropriate for both the  
14 offender and the offense. The fee provided in subsection A of this  
15 section shall apply to persons subject to this subsection and shall  
16 be a condition of the plea agreement and sentence.

17 ~~E.~~ F. The presentence investigation reports specified in this  
18 section shall not be referred to, or be considered, in any appeal  
19 proceedings. Before imposing a sentence, the court shall advise the  
20 defendant, counsel for the defendant, and the district attorney of  
21 the factual contents and conclusions of the presentence  
22 investigation report. The court shall afford the offender a fair  
23 opportunity to controvert the findings and conclusions of the  
24 reports at the time of sentencing. If either the defendant or the

1 district attorney desires, a hearing shall be set by the court to  
2 allow both parties an opportunity to offer evidence proving or  
3 disproving any finding contained in a report, which shall be a  
4 hearing in mitigation or aggravation of punishment.

5 ~~F.~~ G. The required presentence investigation and report may be  
6 waived upon written waiver by the district attorney and the  
7 defendant and upon approval by the Court.

8 ~~G.~~ H. As used in this section, "violent felony offense" means:

- 9 1. Arson in the first degree;
- 10 2. Assault with a dangerous weapon, battery with a dangerous  
11 weapon or assault and battery with a dangerous weapon;
- 12 3. Aggravated assault and battery on a police officer, sheriff,  
13 highway patrol officer, or any other officer of the law;
- 14 4. Assault with intent to kill, or shooting with intent to  
15 kill;
- 16 5. Assault with intent to commit a felony, or use of a firearm  
17 to commit a felony;
- 18 6. Assault while masked or disguised;
- 19 7. Burglary in the first degree or burglary with explosives;
- 20 8. Child beating or maiming;
- 21 9. Forcible sodomy;
- 22 10. Kidnapping, or kidnapping for extortion;
- 23 11. Lewd or indecent proposition or lewd or indecent acts with  
24 a child;

1 12. Manslaughter in the first or second degrees;

2 13. Murder in the first or second degrees;

3 14. Rape in the first or second degrees, or rape by  
4 instrumentation;

5 15. Robbery in the first or second degrees, or robbery by two  
6 or more persons, or robbery with a dangerous weapon; or

7 16. Any attempt, solicitation or conspiracy to commit any of  
8 the above enumerated offenses.

9 SECTION 2. This act shall become effective November 1, 2019.

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11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
12 03/28/2019 - DO PASS.

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