

1 **SENATE FLOOR VERSION**

2 February 27, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 357

5 By: Bice

6 [**modification of sentences - judicial review,**
7 **suspended and deferred sentences - resentencing -**
8 **time limitation - appeal - application for sentence**
9 **modification - codification - effective date]**

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
13 last amended by Section 1, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
14 2018, Section 982a), is amended to read as follows:

15 Section 982a. A. 1. Any time within sixty (60) months after
16 the initial sentence is imposed or within sixty (60) months after
17 probation has been revoked, the court imposing sentence or
18 revocation of probation may modify such sentence or revocation by
19 directing that another sentence be imposed, if the court is
20 satisfied that the best interests of the public will not be
21 jeopardized; provided, however, the court shall not impose a
22 deferred sentence. Any application for sentence modification that
23 is filed and ruled upon beyond twelve (12) months of the initial
24 sentence being imposed must be approved by the district attorney who

1 shall provide written notice to any victims in the case which is
2 being considered for modification.

3 2. The court imposing sentence may modify the sentence of any
4 offender who was originally sentenced for a drug charge and ordered
5 to complete the Drug Offender Work Camp at the Bill Johnson
6 Correctional Facility and direct that another sentence be imposed,
7 if the court is satisfied that the best interests of the public will
8 not be jeopardized; provided, however, the court shall not impose a
9 deferred sentence. An application for sentence modification
10 pursuant to this paragraph may be filed and ruled upon beyond the
11 initial sixty-month time period provided for in paragraph 1 of this
12 subsection.

13 3. This section shall not apply to convicted felons who have
14 been in confinement in any state or federal prison system for any
15 previous felony conviction during the ten-year period preceding the
16 date that the sentence this section applies to was imposed.
17 Further, without the consent of the district attorney, this section
18 shall not apply to sentences imposed pursuant to a plea agreement or
19 jury verdict.

20 B. The court imposing the sentence may modify the sentence of
21 any offender sentenced to life without parole for an offense other
22 than a violent crime, as enumerated in Section 571 of Title 57 of
23 the Oklahoma Statutes, who has served at least ten (10) years of the
24 sentence in the custody of the Department of Corrections upon a

1 finding that the best interests of the public will not be
2 jeopardized. Provided; however, prior to granting a sentence
3 modification under the provisions of this subsection, the court
4 shall provide notice of the hearing to determine sentence
5 modification to the victim or representative of the victim and shall
6 allow the victim or representative of the victim the opportunity to
7 provide testimony at the hearing. The court shall consider the
8 testimony of the victim or representative of the victim when
9 rendering a decision to modify the sentence of an offender.

10 C. For purposes of judicial review, upon court order or written
11 request from the sentencing judge, the Department of Corrections
12 shall provide the court imposing sentence or revocation of probation
13 with a report to include a summary of the assessed needs of the
14 offender, any progress made by the offender in addressing his or her
15 assessed needs, and any other information the Department can supply
16 on the offender. The court shall consider such reports when
17 modifying the sentence or revocation of probation. The court shall
18 allow the Department of Corrections at least twenty (20) days after
19 receipt of a request or order from the court to prepare the required
20 reports.

21 D. If the court considers modification of the sentence or
22 revocation of probation, a hearing shall be made in open court after
23 receipt of the reports required in subsection C of this section.
24 The clerk of the court imposing sentence or revocation of probation

1 shall give notice of the judicial review hearing to the Department
2 of Corrections, the offender, the legal counsel of the offender, and
3 the district attorney of the county in which the offender was
4 convicted upon receipt of the reports. Such notice shall be mailed
5 at least twenty-one (21) days prior to the hearing date and shall
6 include a copy of the report and any other written information to be
7 considered at the judicial review hearing.

8 E. If an appeal is taken from the original sentence or from a
9 revocation of probation which results in a modification of the
10 sentence or modification to the revocation of probation of the
11 offender, such sentence may be further modified in the manner
12 described in paragraph 1 of subsection A of this section within
13 sixty (60) months after the receipt by the clerk of the district
14 court of the mandate from the Supreme Court or the Court of Criminal
15 Appeals.

16 F. 1. Notwithstanding subsections A, C and D of this section,
17 the court shall set aside the judgment and sentence and resentence a
18 person convicted pursuant to Section 2-402 of Title 63 of the
19 Oklahoma Statutes, whether by trial or plea, upon a finding that the
20 person, if such person committed the same crime on or after July 1,
21 2017, would have been guilty of a misdemeanor, and who is a person:

22 a. enumerated by the Department of Corrections pursuant
23 to Section 2 of this act who is currently serving a
24 sentence of imprisonment,

1 b. considered for a revocation of a suspended sentence
2 pursuant to subsection G of Section 991b of this
3 title, or

4 c. considered for an acceleration of a deferred sentence
5 pursuant to subsection K of Section 991c of this
6 title.

7 2. A hearing shall not be conducted to modify a sentence
8 pursuant to this subsection unless requested by the person.

9 If the person's sentence includes multiple felony convictions,
10 one or more of which were reduced to misdemeanors pursuant to this
11 subsection, the court shall reduce the sentence to the length it
12 would have been if the violation of Section 2-402 of Title 63 of the
13 Oklahoma Statutes was committed on or after July 1, 2017.

14 The court shall resentence each person set forth in subparagraph
15 a of paragraph 1 of this subsection within three (3) months of
16 receipt of the report pursuant to Section 2 of this act. The court
17 shall resentence each person set forth in subparagraphs b and c of
18 paragraph 1 of this subsection within six (6) months of referral.

19 A person whose sentence is modified pursuant to this subsection
20 shall be given credit for time served. In no event may a resentence
21 under this subsection result in the imposition of a term longer than
22 the original sentence.

23 3. A sentence for Section 2-402 of Title 63 of the Oklahoma
24 Statutes that is modified pursuant to this subsection shall be

1 considered a misdemeanor for all purposes. Upon a sentence
2 modification pursuant to this subsection, the court shall order all
3 applicable court and law enforcement records relating to the
4 person's felony conviction pursuant to Section 2-402 of Title 63 of
5 the Oklahoma Statutes to be modified to reflect the new sentence.

6 4. A final judgment entered under this subsection may be
7 appealed to the Court of Criminal Appeals within thirty (30) days
8 from the entry of the judgment.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 983c of Title 22, unless there
11 is created a duplication in numbering, reads as follows:

12 The Director of the Department of Corrections shall compile and
13 distribute a report on or before August 1, 2019, and every three (3)
14 months thereafter, to each presiding judge for each district court
15 from which any person has been sentenced and is currently serving a
16 sentence of imprisonment, including revocation and acceleration
17 sentences, for a conviction pursuant to Section 2-402 of Title 63 of
18 Oklahoma Statutes, who committed his or her offense prior to July 1,
19 2017, and has three (3) months or more remaining until his or her
20 expected release date. Such report shall include persons currently
21 serving a sentence of imprisonment for multiple offenses, served
22 concurrently or consecutively, one or more of which is for a
23 conviction pursuant to Section 2-402 of Title 63 of the Oklahoma
24 Statutes. Such report shall include the county from which a person

1 was sentenced, the court-imposed sentence, including sentences for
2 other offenses served concurrently or consecutively, and the
3 expected remaining stay in prison. Copies of the reports shall be
4 made available to the public upon request. The Department shall
5 notify any person serving a sentence of imprisonment for a
6 conviction pursuant to Section 2-402 of Title 63 of the Oklahoma
7 Statutes who committed his or her offense prior to July 1, 2017, who
8 has three (3) months or less remaining until the expected release
9 date, that he or she has the right to apply for sentence
10 modification for a conviction pursuant to Section 2-402 of Title 63
11 of the Oklahoma Statutes.

12 This section shall terminate on August 1st, 2024.

13 SECTION 3. AMENDATORY 22 O.S. 2011, Section 991b, as
14 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
15 2018, Section 991b), is amended to read as follows:

16 Section 991b. A. Whenever a sentence has been suspended by the
17 court after conviction of a person for any crime, the suspended
18 sentence of the person may not be revoked, in whole or part, for any
19 cause unless a petition setting forth the grounds for such
20 revocation is filed by the district attorney with the clerk of the
21 sentencing court and competent evidence justifying the revocation of
22 the suspended sentence is presented to the court at a hearing to be
23 held for that purpose within twenty (20) days after the entry of the
24 plea of not guilty to the petition, unless waived by both the state

1 and the defendant. The State of Oklahoma may dismiss the petition
2 without prejudice one time upon good cause shown to the court,
3 provided that any successor petition must be filed within forty-five
4 (45) days of the date of the dismissal of the petition.

5 B. Whenever a sentence has been suspended by the court after
6 conviction of a person for any crime, the suspended sentence of the
7 person may not be revoked in whole for a technical violation unless
8 a petition setting forth the grounds for such revocation is filed by
9 the district attorney with the clerk of the sentencing court and
10 competent evidence justifying the revocation of the suspended
11 sentence is presented to the court at a hearing to be held for that
12 purpose within twenty (20) days after the entry of the plea of not
13 guilty to the petition, unless waived by both the state and the
14 defendant. The State of Oklahoma may dismiss the petition without
15 prejudice one time upon good cause shown to the court, provided that
16 any successor petition must be filed within forty-five (45) days of
17 the date of the dismissal of the petition. Any revocation of a
18 suspended sentence based on a technical violation shall not exceed
19 six (6) months for a first revocation and five (5) years for a
20 second or subsequent revocation.

21 C. "Technical violation" as used in this section means a
22 violation of the court-imposed rules and conditions of probation,
23 other than:

24 1. Committing or being arrested for a new crime;

1 2. Attempting to falsify a drug screen, or three (3) or more
2 failed drug or alcohol screens within a three (3) month period;

3 3. Failing to pay restitution;

4 4. Tampering with an electronic monitoring device;

5 5. Failing to initially report or missing assigned reporting
6 requirements for an excess of sixty (60) days;

7 6. Unlawfully contacting a victim, co-defendant or criminal
8 associates;

9 7. Five (5) or more separate and distinct technical violations
10 within a ninety-day period; or

11 8. Any violation of the Specialized Sex Offender Rules.

12 D. 1. The Department of Corrections shall develop a matrix of
13 technical violations and sanctions to address violations committed
14 by persons who are being supervised by the Department. The
15 Department shall be authorized to use a violation response and
16 intermediate sanction process based on the sanction matrix to apply
17 to any technical violations of probationers. Within four (4)
18 working days of the discovery of the violation, the probation
19 officer shall initiate the violation response and intermediate
20 sanction process. The sentencing judge may authorize any
21 recommended sanctions, which may include, but are not limited to:
22 short-term jail or lockup, day treatment, program attendance,
23 community service, outpatient or inpatient treatment, monetary
24 fines, curfews, ignition interlock devices on vehicles, or a one-

1 time referral to a term of confinement of six (6) months in an
2 intermediate revocation facility operated by the Department of
3 Corrections; provided, upon approval of the district attorney, a
4 person may be sanctioned to serve additional terms of confinement in
5 an intermediate revocation facility. The probation officer shall
6 complete a sanction form, which shall specify the technical
7 violation, sanction, and the action plan to correct the noncompliant
8 behavior resulting in the technical violation. The probation
9 officer shall refer to the sanctioning matrix to determine the
10 supervision, treatment, and sanctions appropriate to address the
11 noncompliant behavior. The probation officer shall refer the
12 violation information and recommended response with a sanction plan
13 to the Department of Corrections to be heard by a hearing officer.
14 The Department of Corrections shall develop a sanction matrix,
15 forms, policies and procedures necessary to implement this
16 provision. The Department of Corrections shall establish procedures
17 to hear responses to technical violations and review sanction plans
18 including the following:

- 19 a. hearing officers shall report through a chain of
20 command separate from that of the supervising
21 probation officers,
- 22 b. the Department shall provide the offender written
23 notice of the violation, the evidence relied upon, and
24 the reason the sanction was imposed,

- 1 c. the hearing shall be held unless the offender waives
2 the right to the hearing,
3 d. hearings shall be electronically recorded, and
4 e. the Department shall provide to judges and district
5 attorneys a record of all violations and actions taken
6 pursuant to this subsection.

7 2. The hearing officer shall determine based on a preponderance
8 of the evidence whether a technical violation occurred. Upon a
9 finding that a technical violation occurred, the hearing officer may
10 order the offender to participate in the recommended sanction plan
11 or may modify the plan. Offenders who accept the sanction plan
12 shall sign a violation response sanction form, and the hearing
13 officer shall then impose the sanction. Failure of the offender to
14 comply with the imposed sanction plan shall constitute a violation
15 of the rules and conditions of supervision that may result in a
16 revocation proceeding. If an offender does not voluntarily accept
17 the recommended sanction plan, the Department shall either impose
18 the sanction and allow the offender to appeal to the district court,
19 or request a revocation proceeding as provided by law. Every
20 administrative hearing and sanction imposed by the Department shall
21 be appealable to the district court.

22 3. Absent a finding of willful nonpayment by the offender, the
23 failure of an offender to pay fines and costs may not serve as a
24 basis for revocation, excluding restitution.

1 E. 1. Where one of the grounds for revocation is the failure
2 of the defendant to make restitution as ordered, the Department of
3 Corrections shall forward to the district attorney all information
4 pertaining to the failure of the defendant to make timely
5 restitution as ordered by the court, and the district attorney shall
6 file a petition setting forth the grounds for revocation.

7 2. The defendant ordered to make restitution can petition the
8 court at any time for remission or a change in the terms of the
9 order of restitution if the defendant undergoes a change of
10 condition which materially affects the ability of the defendant to
11 comply with the order of the court.

12 3. At the hearing, if one of the grounds for the petition for
13 revocation is the failure of the defendant to make timely
14 restitution as ordered by the court, the court will hear evidence
15 and if it appears to the satisfaction of the court from such
16 evidence that the terms of the order of restitution create a
17 manifest hardship on the defendant or the immediate family of the
18 defendant, the court may cancel all or any part of the amount still
19 due, or modify the terms or method of payment. Provided, if the
20 court determines that a reduction in the restitution still due is
21 warranted, the court shall equally apply the same percentage
22 reduction to any court-ordered monetary obligation owed by the
23 defendant including, but not limited to, fines, court costs and
24 costs of incarceration.

1 F. The court may revoke a portion of the sentence and leave the
2 remaining part not revoked, but suspended for the remainder of the
3 term of the sentence, and under the provisions applying to it. The
4 person whose suspended sentence is being considered for revocation
5 at the hearing shall have the right to be represented by counsel, to
6 present competent evidence in his or her own behalf and to be
7 confronted by the witnesses against the defendant. Any order of the
8 court revoking the suspended sentence, in whole or in part, shall be
9 subject to review on appeal, as in other appeals of criminal cases.
10 Provided, however, that if the crime for which the suspended
11 sentence is given was a felony, the defendant may be allowed bail
12 pending appeal. If the reason for revocation be that the defendant
13 committed a felony, the defendant shall not be allowed bail pending
14 appeal.

15 G. Notwithstanding subsections A and B of this section, in any
16 proceeding under this section for a person whose suspended sentence
17 was for a violation of Section 2-402 of Title 63 of the Oklahoma
18 Statutes and was entered prior to July 1, 2017, the person shall
19 have his or her underlying judgment and sentence for the violation
20 of Section 2-402 of Title 63 of the Oklahoma Statutes set aside by
21 the court and shall be resentenced pursuant to subsection F of
22 Section 982a of this title.

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1 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991c, as
2 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
3 2018, Section 991c), is amended to read as follows:

4 Section 991c. A. Upon a verdict or plea of guilty or upon a
5 plea of nolo contendere, but before a judgment of guilt, the court
6 may, without entering a judgment of guilt and with the consent of
7 the defendant, defer further proceedings upon the specific
8 conditions prescribed by the court not to exceed a seven-year
9 period, except as authorized under subsection B of this section.

10 The court shall first consider restitution among the various
11 conditions it may prescribe. The court may also consider ordering
12 the defendant to:

- 13 1. Pay court costs;
- 14 2. Pay an assessment in lieu of any fine authorized by law for
15 the offense;
- 16 3. Pay any other assessment or cost authorized by law;
- 17 4. Engage in a term of community service without compensation,
18 according to a schedule consistent with the employment and family
19 responsibilities of the defendant;
- 20 5. County jail confinement for a period not to exceed ninety
21 (90) days or the maximum amount of jail time provided for the
22 offense, if it is less than ninety (90) days;

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

4 7. Be supervised in the community for a period not to exceed
5 eighteen (18) months, unless a petition alleging violation of any
6 condition of deferred judgment is filed during the period of
7 supervision. As a condition of any supervision, the defendant shall
8 be required to pay a supervision fee of Forty Dollars (\$40.00) per
9 month. The supervision fee shall be waived in whole or part by the
10 supervisory agency when the accused is indigent. No person shall be
11 denied supervision based solely on the inability of the person to
12 pay a fee;

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

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

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

24 11. Any combination of the above provisions.

1 However, unless under the supervision of the district attorney,
2 the offender shall be required to pay Forty Dollars (\$40.00) per
3 month to the district attorney during the first two (2) years of
4 probation to compensate the district attorney for the costs incurred
5 during the prosecution of the offender and for the additional work
6 of verifying the compliance of the offender with the rules and
7 conditions of his or her probation. The district attorney may waive
8 any part of this requirement in the best interests of justice. The
9 court shall not waive, suspend, defer or dismiss the costs of
10 prosecution in its entirety. However, if the court determines that
11 a reduction in the fine, costs and costs of prosecution is
12 warranted, the court shall equally apply the same percentage
13 reduction to the fine, costs and costs of prosecution owed by the
14 offender.

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

20 C. In addition to any conditions of supervision provided for in
21 subsection A of this section, the court shall, in the case of a
22 person before the court for the offense of operating or being in
23 control of a motor vehicle while the person was under the influence
24 of alcohol, other intoxicating substance, or a combination of

1 alcohol and another intoxicating substance, or who is before the
2 court for the offense of operating a motor vehicle while the ability
3 of the person to operate such vehicle was impaired due to the
4 consumption of alcohol, require the person to participate in an
5 alcohol and drug substance abuse evaluation program offered by a
6 facility or qualified practitioner certified by the Department of
7 Mental Health and Substance Abuse Services for the purpose of
8 evaluating the receptivity to treatment and prognosis of the person.
9 The court shall order the person to reimburse the facility or
10 qualified practitioner for the evaluation. The Department of Mental
11 Health and Substance Abuse Services shall establish a fee schedule,
12 based upon the ability of a person to pay, provided the fee for an
13 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
14 evaluation shall be conducted at a certified facility, the office of
15 a qualified practitioner or at another location as ordered by the
16 court. The facility or qualified practitioner shall, within
17 seventy-two (72) hours from the time the person is assessed, submit
18 a written report to the court for the purpose of assisting the court
19 in its determination of conditions for deferred sentence. No
20 person, agency or facility operating an alcohol and drug substance
21 abuse evaluation program certified by the Department of Mental
22 Health and Substance Abuse Services shall solicit or refer any
23 person evaluated pursuant to this subsection for any treatment
24 program or alcohol and drug substance abuse service in which the

1 person, agency or facility has a vested interest; however, this
2 provision shall not be construed to prohibit the court from ordering
3 participation in or any person from voluntarily utilizing a
4 treatment program or alcohol and drug substance abuse service
5 offered by such person, agency or facility. Any evaluation report
6 submitted to the court pursuant to this subsection shall be handled
7 in a manner which will keep the report confidential from review by
8 the general public. Nothing contained in this subsection shall be
9 construed to prohibit the court from ordering judgment and sentence
10 in the event the defendant fails or refuses to comply with an order
11 of the court to obtain the evaluation required by this subsection.
12 As used in this subsection, "qualified practitioner" means a person
13 with at least a bachelor's degree in substance abuse treatment,
14 mental health or a related health care field and at least two (2)
15 years of experience in providing alcohol abuse treatment, other drug
16 abuse treatment, or both alcohol and other drug abuse treatment who
17 is certified each year by the Department of Mental Health and
18 Substance Abuse Services to provide these assessments. However, any
19 person who does not meet the requirements for a qualified
20 practitioner as defined herein, but who has been previously
21 certified by the Department of Mental Health and Substance Abuse
22 Services to provide alcohol or drug treatment or assessments, shall
23 be considered a qualified practitioner provided all education,
24 experience and certification requirements stated herein are met by

1 September 1, 1995. The court may also require the person to
2 participate in one or both of the following:

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

5 2. A victims impact panel program, as defined in subsection H
6 of Section 991a of this title, if such a program is offered in the
7 county where the judgment is rendered. The defendant shall be
8 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
9 more than Sixty Dollars (\$60.00) as set by the governing authority
10 of the program and approved by the court to the victims impact panel
11 program to offset the cost of participation by the defendant, if in
12 the opinion of the court the defendant has the ability to pay such
13 fee.

14 D. Upon completion of the conditions of the deferred judgment,
15 and upon a finding by the court that the conditions have been met
16 and all fines, fees, and monetary assessments have been paid as
17 ordered, the defendant shall be discharged without a court judgment
18 of guilt, and the court shall order the verdict or plea of guilty or
19 plea of nolo contendere to be expunged from the record and the
20 charge shall be dismissed with prejudice to any further action. The
21 procedure to expunge the record of the defendant shall be as
22 follows:

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

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

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

6 4. No information concerning the confidential file shall be
7 revealed or released, except upon written order of a judge of the
8 district court or upon written request by the named defendant to the
9 court clerk for the purpose of updating the criminal history record
10 of the defendant with the Oklahoma State Bureau of Investigation;
11 and

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

16 Records expunged pursuant to this subsection shall be sealed to
17 the public but not to law enforcement agencies for law enforcement
18 purposes. Records expunged pursuant to this subsection shall be
19 admissible in any subsequent criminal prosecution to prove the
20 existence of a prior conviction or prior deferred judgment without
21 the necessity of a court order requesting the unsealing of such
22 records.

23 E. The provisions of subsection D of this section shall be
24 retroactive.

1 F. Whenever a judgment has been deferred by the court according
2 to the provisions of this section, deferred judgment may not be
3 accelerated for any technical violation unless a petition setting
4 forth the grounds for such acceleration is filed by the district
5 attorney with the clerk of the sentencing court and competent
6 evidence justifying the acceleration of the judgment is presented to
7 the court at a hearing to be held for that purpose. The hearing
8 shall be held not more than twenty (20) days after the entry of the
9 plea of not guilty to the petition, unless waived by both the state
10 and the defendant. Any acceleration of a deferred sentence based on
11 a technical violation shall not exceed ninety (90) days for a first
12 acceleration or five (5) years for a second or subsequent
13 acceleration.

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

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

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

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

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

11 K. Notwithstanding subsections F and G of this section, in any
12 proceeding under this section for a person whose deferred sentence
13 was for a violation of Section 2-402 of Title 63 of the Oklahoma
14 Statutes and was entered prior to July 1, 2017, the person shall
15 have his or her underlying judgment and sentence for the violation
16 of Section 2-402 of Title 63 of the Oklahoma Statutes set aside by
17 the court and shall be resentenced pursuant to subsection F of
18 Section 982a of this title.

19 SECTION 5. This act shall become effective November 1, 2019.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
21 February 27, 2019 - DO PASS AS AMENDED
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