

1 ENGROSSED SENATE
BILL NO. 618

By: Jech of the Senate

2
3 and

4 West (Josh) of the House

5
6 [offender supervision procedure - fines, fees and
7 costs - determination for ability to pay - sentencing
8 powers of the court - revocation of suspended
9 sentence - deferred sentences - effective date]
10

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

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 983, as
13 amended by Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018,
14 Section 983), is amended to read as follows:

15 Section 983. A. Any defendant found guilty of an offense in
16 any court of this state may be imprisoned for nonpayment of the
17 fine, cost, fee, or assessment when the trial court finds after
18 notice and hearing that the defendant is financially able but
19 refuses or neglects to pay the fine, cost, fee, or assessment. A
20 sentence to pay a fine, cost, fee, or assessment may be converted
21 into a jail sentence only after a hearing and a judicial
22 determination, memorialized of record, that the defendant is able to
23 satisfy the fine, cost, fee, or assessment by payment, but refuses
24 or neglects so to do.

1 B. After a judicial determination that the defendant is able to
2 pay the fine, cost, fee, or assessment in installments, the court
3 may order the fine, cost, fee, or assessment to be paid in
4 installments and shall set the amount and date for each installment.

5 C. ~~In addition,~~ If after notice and hearing it is found that
6 the defendant is financially able but willfully refuses or neglects
7 to pay the fine, cost, fee or assessment, the district court or
8 municipal court, within one hundred twenty (120) days from the date
9 upon which the person was originally ordered to make payment, may
10 send notice of nonpayment of any court ordered fine and costs for a
11 moving traffic violation to the Department of Public Safety with a
12 recommendation of suspension of driving privileges of the defendant
13 until the total amount of any fine and costs has been paid. Upon
14 receipt of payment of the total amount of the fine and costs for the
15 moving traffic violation, the court shall send notice thereof to the
16 Department, if a nonpayment notice was sent as provided for in this
17 subsection. Notices sent to the Department shall be on forms or by
18 a method approved by the Department.

19 D. The Court of Criminal Appeals shall implement procedures and
20 rules for methods of establishing payment plans of fines, costs,
21 fees, and assessments by indigents according to discretionary income
22 as defined in subsection L of Section 991a of this title, which
23 procedures and rules shall be distributed to all district courts and
24 municipal courts by the Administrative Office of the Courts.

1 SECTION 2. AMENDATORY Section 1, Chapter 392, O.S.L.
2 2016 (22 O.S. Supp. 2018, Section 983a), is amended to read as
3 follows:

4 Section 983a. A. On or after November 1, 2016, the court shall
5 have the authority to waive all outstanding fines, court costs and
6 fees in a criminal case for any person who:

7 1. Served a period of imprisonment in the custody of the
8 Department of Corrections after conviction for a crime;

9 2. Has been released from the custody of the Department of
10 Corrections;

11 3. Has complied with all probation or supervision requirements
12 since being released from the custody of the Department of
13 Corrections; and

14 4. Has made installment payments on outstanding fines, court
15 costs, fees and restitution ordered by the court on a timely basis
16 every month for the previous twenty-four (24) months following
17 release from the custody of the Department of Corrections.

18 B. The court shall waive outstanding fines, court costs and
19 fees if the person has secured admission to and is enrolled in an
20 institution that is a technology center school, workforce training
21 program or a member of the Oklahoma State System of Higher
22 Education. Upon the completion of each forty-hour work week, the
23 court shall waive the fines, court costs and fees based on the
24 equivalent value of the potential gross income of the person as

1 determined by the state's minimum wage set forth in Section 197.2 of
2 Title 40 of the Oklahoma Statutes.

3 C. The provisions of this section shall not apply to amounts
4 owed by the person for restitution to a victim pursuant to a court
5 order or child support obligations pursuant to a court order.

6 SECTION 3. AMENDATORY Section 2, Chapter 392, O.S.L.
7 2016 (22 O.S. Supp. 2018, Section 983b), is amended to read as
8 follows:

9 Section 983b. A. Any person released on parole or released
10 without parole from a term of imprisonment with the Department of
11 Corrections shall be required to report at a time not less than one
12 hundred eighty (180) days after his or her release from the
13 Department of Corrections to:

14 1. The district court of the county from which the judgment and
15 sentence resulting in incarceration arose; and

16 2. All other district courts or municipal courts where the
17 person owes fines, fees, costs and assessments,
18 for the purpose of scheduling a hearing to determine the ability of
19 the person to pay fines, fees, costs or assessments owed by the
20 person in every felony or misdemeanor criminal case filed in a
21 district court or criminal case filed in a municipal court of this
22 state. Such hearing shall be held in accordance with the provisions
23 of Section VIII of the Rules of the Court of Criminal Appeals, 22
24 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its

1 discretion continue such hearing for up to one hundred eighty (180)
2 days.

3 B. In determining the ability of the person to satisfy fines,
4 fees, costs or assessments owed to a district or municipal court,
5 the court shall inquire of the person at the time of the hearing
6 which counties and municipalities the person owes fines, fees, costs
7 or assessments in every felony or misdemeanor criminal case filed
8 against the person and shall consider all court-ordered debt,
9 including restitution and child support, in determining the ability
10 of the person to pay. The ~~person~~ court shall ~~not be required to pay~~
11 waive payment of any outstanding fines, fees, costs or assessments
12 prior to the expiration of the one-hundred-eighty-day period;
13 provided, however, the person shall not be precluded from
14 voluntarily making payment toward the satisfaction of any fines,
15 fees, costs or assessments due and owing to a district or municipal
16 court of this state.

17 C. ~~The Court of Criminal Appeals~~ Supreme Court shall promulgate
18 rules governing the provisions of this section including, but not
19 limited to:

20 1. Reporting, hearing and payment requirements as provided for
21 in subsections A and B of this section;

22 2. Consolidating district and municipal court fines, fees,
23 costs or assessments owed by a person into one order for payment;
24 and

1 3. Accepting and distributing payments received for fines,
2 fees, costs or assessments to various district and municipal courts
3 when consolidated by the court into one order for payment.

4 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991a, as
5 last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
6 2018, Section 991a), is amended to read as follows:

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

11 1. Suspend the execution of sentence in whole or in part, with
12 or without probation. The court, in addition, may order the
13 convicted defendant at the time of sentencing or at any time during
14 the suspended sentence to do one or more of the following:

15 a. to provide restitution to the victim as provided by
16 Section 991f et seq. of this title or according to a
17 schedule of payments established by the sentencing
18 court, together with interest upon any pecuniary sum
19 at the rate of twelve percent (12%) per annum, if the
20 defendant agrees to pay such restitution or, in the
21 opinion of the court, if the defendant is able to pay
22 such restitution without imposing manifest hardship on
23 the defendant or the immediate family and if the
24

1 extent of the damage to the victim is determinable
2 with reasonable certainty,

3 b. to reimburse any state agency for amounts paid by the
4 state agency for hospital and medical expenses
5 incurred by the victim or victims, as a result of the
6 criminal act for which such person was convicted,
7 which reimbursement shall be made directly to the
8 state agency, with interest accruing thereon at the
9 rate of twelve percent (12%) per annum,

10 c. to engage in a term of community service without
11 compensation, according to a schedule consistent with
12 the employment and family responsibilities of the
13 person convicted,

14 d. to pay a reasonable sum into any trust fund,
15 established pursuant to the provisions of Sections 176
16 through 180.4 of Title 60 of the Oklahoma Statutes,
17 and which provides restitution payments by convicted
18 defendants to victims of crimes committed within this
19 state wherein such victim has incurred a financial
20 loss,

21 e. to confinement in the county jail for a period not to
22 exceed six (6) months,

23 f. to confinement as provided by law together with a term
24 of post-imprisonment community supervision for not

1 less than three (3) years of the total term allowed by
2 law for imprisonment, with or without restitution;
3 provided, however, the authority of this provision is
4 limited to Section 843.5 of Title 21 of the Oklahoma
5 Statutes when the offense involved sexual abuse or
6 sexual exploitation; Sections 681, 741 and 843.1 of
7 Title 21 of the Oklahoma Statutes when the offense
8 involved sexual abuse or sexual exploitation; and
9 Sections 865 et seq., 885, 886, 888, 891, 1021,
10 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
11 1123 of Title 21 of the Oklahoma Statutes,

12 g. to repay the reward or part of the reward paid by a
13 local certified crime stoppers program and the
14 Oklahoma Reward System. In determining whether the
15 defendant shall repay the reward or part of the
16 reward, the court shall consider the ability of the
17 defendant to make the payment, the financial hardship
18 on the defendant to make the required payment, and the
19 importance of the information to the prosecution of
20 the defendant as provided by the arresting officer or
21 the district attorney with due regard for the
22 confidentiality of the records of the local certified
23 crime stoppers program and the Oklahoma Reward System.
24 The court shall assess this repayment against the

1 defendant as a cost of prosecution. The term
2 "certified" means crime stoppers organizations that
3 annually meet the certification standards for crime
4 stoppers programs established by the Oklahoma Crime
5 Stoppers Association to the extent those standards do
6 not conflict with state statutes. The term "court"
7 refers to all municipal and district courts within
8 this state. The "Oklahoma Reward System" means the
9 reward program established by Section 150.18 of Title
10 74 of the Oklahoma Statutes,

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

22 i. to reimburse the Oklahoma State Bureau of
23 Investigation and any authorized law enforcement
24 agency for all costs incurred by that agency for

1 cleaning up an illegal drug laboratory site for which
2 the defendant pleaded guilty, nolo contendere or was
3 convicted. The court clerk shall collect the amount
4 and may retain five percent (5%) of such monies to be
5 deposited in the Court Clerk Revolving Fund to cover
6 administrative costs and shall remit the remainder to
7 the Oklahoma State Bureau of Investigation to be
8 deposited in the OSBI Revolving Fund established by
9 Section 150.19a of Title 74 of the Oklahoma Statutes
10 or to the general fund wherein the other law
11 enforcement agency is located,

12 j. to pay a reasonable sum to the Crime Victims
13 Compensation Board, created by Section 142.2 et seq.
14 of Title 21 of the Oklahoma Statutes, for the benefit
15 of crime victims,

16 k. to reimburse the court fund for amounts paid to court-
17 appointed attorneys for representing the defendant in
18 the case in which the person is being sentenced,

19 l. to participate in an assessment and evaluation by an
20 assessment agency or assessment personnel certified by
21 the Department of Mental Health and Substance Abuse
22 Services pursuant to Section 3-460 of Title 43A of the
23 Oklahoma Statutes and, as determined by the
24 assessment, participate in an alcohol and drug

1 substance abuse course or treatment program or both,
2 pursuant to Sections 3-452 and 3-453 of Title 43A of
3 the Oklahoma Statutes, or as ordered by the court,
4 m. to be placed in a victims impact panel program, as
5 defined in subsection H of this section, or
6 victim/offender reconciliation program and payment of
7 a fee to the program of not less than Fifteen Dollars
8 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
9 by the governing authority of the program to offset
10 the cost of participation by the defendant. Provided,
11 each victim/offender reconciliation program shall be
12 required to obtain a written consent form voluntarily
13 signed by the victim and defendant that specifies the
14 methods to be used to resolve the issues, the
15 obligations and rights of each person, and the
16 confidentiality of the proceedings. Volunteer
17 mediators and employees of a victim/offender
18 reconciliation program shall be immune from liability
19 and have rights of confidentiality as provided in
20 Section 1805 of Title 12 of the Oklahoma Statutes,
21 n. to install, at the expense of the defendant, an
22 ignition interlock device approved by the Board of
23 Tests for Alcohol and Drug Influence. The device
24 shall be installed upon every motor vehicle operated

1 by the defendant, and the court shall require that a
2 notation of this restriction be affixed to the
3 defendant's driver license. The restriction shall
4 remain on the driver license not exceeding two (2)
5 years to be determined by the court. The restriction
6 may be modified or removed only by order of the court
7 and notice of any modification order shall be given to
8 the Department of Public Safety. Upon the expiration
9 of the period for the restriction, the Department of
10 Public Safety shall remove the restriction without
11 further court order. Failure to comply with the order
12 to install an ignition interlock device or operating
13 any vehicle without a device during the period of
14 restriction shall be a violation of the sentence and
15 may be punished as deemed proper by the sentencing
16 court. As used in this paragraph, "ignition interlock
17 device" means a device that, without tampering or
18 intervention by another person, would prevent the
19 defendant from operating a motor vehicle if the
20 defendant has a blood or breath alcohol concentration
21 of two-hundredths (0.02) or greater,
22 o. to be confined by electronic monitoring administered
23 and supervised by the Department of Corrections or a
24 community sentence provider, and payment of a

1 monitoring fee to the supervising authority, not to
2 exceed Three Hundred Dollars (\$300.00) per month. Any
3 fees collected pursuant to this paragraph shall be
4 deposited with the appropriate supervising authority.
5 Any willful violation of an order of the court for the
6 payment of the monitoring fee shall be a violation of
7 the sentence and may be punished as deemed proper by
8 the sentencing court. As used in this paragraph,
9 "electronic monitoring" means confinement of the
10 defendant within a specified location or locations
11 with supervision by means of an electronic device
12 approved by the Department of Corrections which is
13 designed to detect if the defendant is in the court-
14 ordered location at the required times and which
15 records violations for investigation by a qualified
16 supervisory agency or person,

- 17 p. to perform one or more courses of treatment, education
18 or rehabilitation for any conditions, behaviors,
19 deficiencies or disorders which may contribute to
20 criminal conduct, including but not limited to alcohol
21 and substance abuse, mental health, emotional health,
22 physical health, propensity for violence, antisocial
23 behavior, personality or attitudes, deviant sexual
24 behavior, child development, parenting assistance, job

1 skills, vocational-technical skills, domestic
2 relations, literacy, education, or any other
3 identifiable deficiency which may be treated
4 appropriately in the community and for which a
5 certified provider or a program recognized by the
6 court as having significant positive impact exists in
7 the community. Any treatment, education or
8 rehabilitation provider required to be certified
9 pursuant to law or rule shall be certified by the
10 appropriate state agency or a national organization,

11 q. to submit to periodic testing for alcohol,
12 intoxicating substance, or controlled dangerous
13 substances by a qualified laboratory,

14 r. to pay a fee, costs for treatment, education,
15 supervision, participation in a program, or any
16 combination thereof as determined by the court, based
17 upon the defendant's ability to pay the fees or costs,

18 s. to be supervised by a Department of Corrections
19 employee, a private supervision provider, or other
20 person designated by the court,

21 t. to obtain positive behavior modeling by a trained
22 mentor,

23 u. to serve a term of confinement in a restrictive
24 housing facility available in the community,

- 1 v. to serve a term of confinement in the county jail at
2 night or during weekends pursuant to Section 991a-2 of
3 this title or for work release,
- 4 w. to obtain employment or participate in employment-
5 related activities,
- 6 x. to participate in mandatory day reporting to
7 facilities or persons for services, payments, duties
8 or person-to-person contacts as specified by the
9 court,
- 10 y. to pay day fines not to exceed fifty percent (50%) of
11 the net wages earned. For purposes of this paragraph,
12 "day fine" means the offender is ordered to pay an
13 amount calculated as a percentage of net daily wages
14 earned. The day fine shall be paid to the local
15 community sentencing system as reparation to the
16 community. Day fines shall be used to support the
17 local system,
- 18 z. to submit to blood or saliva testing as required by
19 subsection I of this section,
- 20 aa. to repair or restore property damaged by the
21 defendant's conduct, if the court determines the
22 defendant possesses sufficient skill to repair or
23 restore the property and the victim consents to the
24 repairing or restoring of the property,

- 1 bb. to restore damaged property in kind or payment of out-
2 of-pocket expenses to the victim, if the court is able
3 to determine the actual out-of-pocket expenses
4 suffered by the victim,
- 5 cc. to attend a victim-offender reconciliation program if
6 the victim agrees to participate and the offender is
7 deemed appropriate for participation,
- 8 dd. in the case of a person convicted of prostitution
9 pursuant to Section 1029 of Title 21 of the Oklahoma
10 Statutes, require such person to receive counseling
11 for the behavior which may have caused such person to
12 engage in prostitution activities. Such person may be
13 required to receive counseling in areas including but
14 not limited to alcohol and substance abuse, sexual
15 behavior problems, or domestic abuse or child abuse
16 problems,
- 17 ee. in the case of a sex offender sentenced after November
18 1, 1989, and required by law to register pursuant to
19 the Sex Offender Registration Act, the court shall
20 require the person to comply with sex offender
21 specific rules and conditions of supervision
22 established by the Department of Corrections and
23 require the person to participate in a treatment
24 program designed for the treatment of sex offenders

1 during the period of time while the offender is
2 subject to supervision by the Department of
3 Corrections. The treatment program shall include
4 polygraph examinations specifically designed for use
5 with sex offenders for purposes of supervision and
6 treatment compliance, and shall be administered not
7 less than each six (6) months during the period of
8 supervision. The examination shall be administered by
9 a certified licensed polygraph examiner. The
10 treatment program must be approved by the Department
11 of Corrections or the Department of Mental Health and
12 Substance Abuse Services. Such treatment shall be at
13 the expense of the defendant based on the defendant's
14 ability to pay,

15 ff. in addition to other sentencing powers of the court,
16 the court in the case of a defendant being sentenced
17 for a felony conviction for a violation of Section 2-
18 402 of Title 63 of the Oklahoma Statutes which
19 involves marijuana may require the person to
20 participate in a drug court program, if available. If
21 a drug court program is not available, the defendant
22 may be required to participate in a community
23 sanctions program, if available,

1 gg. in the case of a person convicted of any false or
2 bogus check violation, as defined in Section 1541.4 of
3 Title 21 of the Oklahoma Statutes, impose a fee of
4 Twenty-five Dollars (\$25.00) to the victim for each
5 check, and impose a bogus check fee to be paid to the
6 district attorney. The bogus check fee paid to the
7 district attorney shall be equal to the amount
8 assessed as court costs plus Twenty-five Dollars
9 (\$25.00) for each check upon filing of the case in
10 district court. This money shall be deposited in the
11 Bogus Check Restitution Program Fund as established in
12 subsection B of Section 114 of this title.
13 Additionally, the court may require the offender to
14 pay restitution and bogus check fees on any other
15 bogus check or checks that have been submitted to the
16 District Attorney Bogus Check Restitution Program,

17 hh. in the case of a person being sentenced for a
18 conviction for a violation of Section 644 of Title 21
19 of the Oklahoma Statutes, require the person to
20 receive an assessment for batterers, which shall be
21 conducted through a certified treatment program for
22 batterers, and

23 ii. any other provision specifically ordered by the court.
24

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

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

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

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

3 4. Order the defendant to reimburse the Oklahoma State Bureau
4 of Investigation for costs incurred by that agency during its
5 investigation of the crime for which the defendant pleaded guilty,
6 nolo contendere or was convicted, including compensation for
7 laboratory, technical, or investigation services performed by the
8 Bureau if, in the opinion of the court, the defendant is able to pay
9 without imposing manifest hardship on the defendant, and if the
10 costs incurred by the Bureau during the investigation of the
11 defendant's case may be determined with reasonable certainty;

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

22 6. In addition to the other sentencing powers of the court, in
23 the case of a person convicted of operating or being in control of a
24 motor vehicle while the person was under the influence of alcohol,

1 other intoxicating substance, or a combination of alcohol or another
2 intoxicating substance, or convicted of operating a motor vehicle
3 while the ability of the person to operate such vehicle was impaired
4 due to the consumption of alcohol, require such person:

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

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

1 c. to both participate in the alcohol and drug substance
2 abuse course or treatment program, pursuant to
3 subparagraph a of this paragraph and attend a victims
4 impact panel program, pursuant to subparagraph b of
5 this paragraph,

6 d. to install, at the expense of the person, an ignition
7 interlock device approved by the Board of Tests for
8 Alcohol and Drug Influence, upon every motor vehicle
9 operated by such person and to require that a notation
10 of this restriction be affixed to the person's driver
11 license at the time of reinstatement of the license.
12 The restriction shall remain on the driver license for
13 such period as the court shall determine. The
14 restriction may be modified or removed by order of the
15 court and notice of the order shall be given to the
16 Department of Public Safety. Upon the expiration of
17 the period for the restriction, the Department of
18 Public Safety shall remove the restriction without
19 further court order. Failure to comply with the order
20 to install an ignition interlock device or operating
21 any vehicle without such device during the period of
22 restriction shall be a violation of the sentence and
23 may be punished as deemed proper by the sentencing
24 court, or

1 e. beginning January 1, 1993, to submit to electronically
2 monitored home detention administered and supervised
3 by the Department of Corrections, and to pay to the
4 Department a monitoring fee, not to exceed Seventy-
5 five Dollars (\$75.00) a month, to the Department of
6 Corrections, if in the opinion of the court the
7 defendant has the ability to pay such fee. Any fees
8 collected pursuant to this subparagraph shall be
9 deposited in the Department of Corrections Revolving
10 Fund. Any order by the court for the payment of the
11 monitoring fee, if willfully disobeyed, may be
12 enforced as an indirect contempt of court;

13 7. In addition to the other sentencing powers of the court, in
14 the case of a person convicted of prostitution pursuant to Section
15 1029 of Title 21 of the Oklahoma Statutes, require such person to
16 receive counseling for the behavior which may have caused such
17 person to engage in prostitution activities. Such person may be
18 required to receive counseling in areas including but not limited to
19 alcohol and substance abuse, sexual behavior problems, or domestic
20 abuse or child abuse problems;

21 8. In addition to the other sentencing powers of the court, in
22 the case of a person convicted of any crime related to domestic
23 abuse, as defined in Section 60.1 of this title, the court may
24 require the defendant to undergo the treatment or participate in an

1 intervention program for batterers certified by the Office of the
2 Attorney General, necessary to bring about the cessation of domestic
3 abuse. In the instance where the defendant alleges that he or she
4 is a victim of domestic abuse and the current conviction is a
5 response to that abuse, the court may require the defendant to
6 undergo an assessment by a domestic violence program certified by
7 the Office of the Attorney General, and, if based upon the results
8 of the assessment, the defendant is determined to be a victim of
9 domestic violence, the defendant shall undergo treatment and
10 participate in a certified program for domestic violence victims.
11 The defendant may be required to pay all or part of the cost of the
12 treatment or counseling services;

13 9. In addition to the other sentencing powers of the court, the
14 court, in the case of a sex offender sentenced after November 1,
15 1989, and required by law to register pursuant to the Sex Offenders
16 Registration Act, shall require the person to participate in a
17 treatment program designed specifically for the treatment of sex
18 offenders, if available. The treatment program will include
19 polygraph examinations specifically designed for use with sex
20 offenders for the purpose of supervision and treatment compliance,
21 provided the examination is administered by a certified licensed
22 polygraph examiner. The treatment program must be approved by the
23 Department of Corrections or the Department of Mental Health and
24

1 Substance Abuse Services. Such treatment shall be at the expense of
2 the defendant based on the defendant's ability to pay;

3 10. In addition to the other sentencing powers of the court,
4 the court, in the case of a person convicted of child abuse or
5 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
6 Statutes, may require the person to undergo treatment or to
7 participate in counseling services. The defendant may be required
8 to pay all or part of the cost of the treatment or counseling
9 services;

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

15 12. In addition to the other sentencing powers of the court, a
16 sex offender who is habitual or aggravated as defined by Section 584
17 of Title 57 of the Oklahoma Statutes and who is required to register
18 as a sex offender pursuant to the Oklahoma Sex Offenders
19 Registration Act shall be supervised by the Department of
20 Corrections for the duration of the registration period and shall be
21 assigned to a global position monitoring device by the Department of
22 Corrections for the duration of the registration period. The cost
23 of such monitoring device shall be reimbursed by the offender;

24

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

8 14. In addition to the other sentencing powers of the court, in
9 the case of a sex offender who is required by law to register
10 pursuant to the Sex Offenders Registration Act, the court shall
11 require the person to register any electronic mail address
12 information, instant message, chat or other Internet communication
13 name or identity information that the person uses or intends to use
14 while accessing the Internet or used for other purposes of social
15 networking or other similar Internet communication.

16 B. Notwithstanding any other provision of law, any person who
17 is found guilty of a violation of any provision of Section 761 or
18 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
19 guilty or nolo contendere for a violation of any provision of such
20 sections shall be ordered to participate in, prior to sentencing, an
21 alcohol and drug assessment and evaluation by an assessment agency
22 or assessment personnel certified by the Department of Mental Health
23 and Substance Abuse Services for the purpose of evaluating the
24 receptivity to treatment and prognosis of the person. The court

1 shall order the person to reimburse the agency or assessor for the
2 evaluation. The fee shall be the amount provided in subsection C of
3 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
4 shall be conducted at a certified assessment agency, the office of a
5 certified assessor or at another location as ordered by the court.
6 The agency or assessor shall, within seventy-two (72) hours from the
7 time the person is assessed, submit a written report to the court
8 for the purpose of assisting the court in its final sentencing
9 determination. No person, agency or facility operating an alcohol
10 and drug substance abuse evaluation program certified by the
11 Department of Mental Health and Substance Abuse Services shall
12 solicit or refer any person evaluated pursuant to this subsection
13 for any treatment program or alcohol and drug substance abuse
14 service in which such person, agency or facility has a vested
15 interest; however, this provision shall not be construed to prohibit
16 the court from ordering participation in or any person from
17 voluntarily utilizing a treatment program or alcohol and drug
18 substance abuse service offered by such person, agency or facility.
19 If a person is sentenced to the custody of the Department of
20 Corrections and the court has received a written evaluation report
21 pursuant to this subsection, the report shall be furnished to the
22 Department of Corrections with the judgment and sentence. Any
23 evaluation report submitted to the court pursuant to this subsection
24 shall be handled in a manner which will keep such report

1 confidential from the general public's review. Nothing contained in
2 this subsection shall be construed to prohibit the court from
3 ordering judgment and sentence in the event the defendant fails or
4 refuses to comply with an order of the court to obtain the
5 evaluation required by this subsection.

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

11 1. A third or subsequent conviction of a violent crime
12 enumerated in Section 571 of Title 57 of the Oklahoma Statutes;

13 2. A fourth or subsequent conviction for any other felony
14 crime; or

15 3. Beginning January 1, 1993, a defendant being sentenced for a
16 second or subsequent felony conviction for violation of Section 11-
17 902 of Title 47 of the Oklahoma Statutes, except as otherwise
18 provided in this subsection.

19 In the case of a person being sentenced for a second or
20 subsequent felony conviction for violation of Section 11-902 of
21 Title 47 of the Oklahoma Statutes, the court may sentence the person
22 pursuant to the provisions of paragraph 1 of subsection A of this
23 section if the court orders the person to submit to electronically
24 monitored home detention administered and supervised by the

1 Department of Corrections pursuant to subparagraph e of paragraph 7
2 of subsection A of this section. Provided, the court may waive
3 these prohibitions upon written application of the district
4 attorney. Both the application and the waiver shall be made part of
5 the record of the case.

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

9 E. Probation, for purposes of subsection A of this section, is
10 a procedure by which a defendant found guilty of a crime, whether
11 upon a verdict or plea of guilty or upon a plea of nolo contendere,
12 is released by the court subject to conditions imposed by the court
13 and subject to supervision by the Department of Corrections, a
14 private supervision provider or other person designated by the
15 court. Such supervision shall be initiated upon an order of
16 probation from the court, and shall not exceed two (2) years, unless
17 a petition alleging a violation of any condition of deferred
18 judgment or seeking revocation of the suspended sentence is filed
19 during the supervision, or as otherwise provided by law. In the
20 case of a person convicted of a sex offense, supervision shall begin
21 immediately upon release from incarceration or if parole is granted
22 and shall not be limited to two (2) years. The court shall require
23 all providers that supervise persons under this section to use the
24 sanctions and incentives process established pursuant to Section

1 991b of this title in order to respond to probationer behavior.
2 Provided further, any supervision provided for in this section may
3 be extended for a period not to exceed the expiration of the maximum
4 term or terms of the sentence upon a determination by the court or
5 the Division of Probation and Parole of the Department of
6 Corrections that the best interests of the public and the release
7 will be served by an extended period of supervision. Any
8 supervision provided for under this section may not have the period
9 of supervision extended for a failure to pay fines, fees and other
10 costs, ~~excluding restitution,~~ except upon a finding of willful
11 nonpayment. Any person on probation supervision, except a person
12 convicted of an offense enumerated in Section 13.1 of Title 21 of
13 the Oklahoma Statutes or subsections C, D, E, F, G or J of Section
14 644 of Title 21 of the Oklahoma Statutes, shall be eligible to earn
15 discharge credits that reduce the period of supervision and the term
16 of the sentence for compliance with the terms and conditions of
17 supervision, pursuant to Section _____ of Title 57 of the Oklahoma
18 Statutes.

19 F. The Department of Corrections, or such other agency as the
20 court may designate, shall be responsible for the monitoring and
21 administration of the restitution and service programs provided for
22 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
23 section, and shall ensure that restitution payments are forwarded to
24 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 L. Any person who has been ordered by the court to pay a fine,
16 court cost, fee or assessment, or any combination thereof, under the
17 provisions of this section may request a hearing to establish a
18 payment plan. The payment plan authorized under this subsection
19 shall be determined by assessing the discretionary income of the
20 person. As used in this section, "discretionary income" shall be
21 defined as income in excess of one hundred-fifty percent (150%) of
22 the federal poverty line. After a judicial determination of the
23 discretionary income of the person, the court shall order the total
24 amount of the financial obligation of the person, excluding

1 restitution, be paid in installments equal to no more than ten
2 percent (10%) of the discretionary income of the person. The
3 payment plan shall be established regardless of the results of an
4 indigent request for representation as provided in Section 1355A of
5 this title. The payment plan established under the provisions of
6 this subsection shall apply to all fines, court costs and fees
7 ordered by the court pursuant to this section and all subsections
8 therein.

9 SECTION 5. AMENDATORY 22 O.S. 2011, Section 991b, as
10 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
11 2018, Section 991b), is amended to read as follows:

12 Section 991b. A. Whenever a sentence has been suspended by the
13 court after conviction of a person for any crime, the suspended
14 sentence of the person may not be revoked, in whole or part, for any
15 cause unless a petition setting forth the grounds for such
16 revocation is filed by the district attorney with the clerk of the
17 sentencing court and competent evidence justifying the revocation of
18 the suspended sentence is presented to the court at a hearing to be
19 held for that purpose within twenty (20) days after the entry of the
20 plea of not guilty to the petition, unless waived by both the state
21 and the defendant. The State of Oklahoma may dismiss the petition
22 without prejudice one time upon good cause shown to the court,
23 provided that any successor petition must be filed within forty-five
24 (45) days of the date of the dismissal of the petition.

1 B. 1. Whenever a sentence has been suspended by the court
2 after conviction of a person for any crime, the suspended sentence
3 of the person may not be revoked ~~in whole~~ for a technical violation
4 ~~unless a petition setting forth the grounds for such revocation is~~
5 ~~filed by the district attorney with the clerk of the sentencing~~
6 ~~court and competent evidence justifying the revocation of the~~
7 ~~suspended sentence is presented to the court at a hearing to be held~~
8 ~~for that purpose within twenty (20) days after the entry of the plea~~
9 ~~of not guilty to the petition, unless waived by both the state and~~
10 ~~the defendant. The State of Oklahoma may dismiss the petition~~
11 ~~without prejudice one time upon good cause shown to the court,~~
12 ~~provided that any successor petition must be filed within forty-five~~
13 ~~(45) days of the date of the dismissal of the petition. Any~~
14 ~~revocation of a suspended sentence based on a technical violation~~
15 ~~shall not exceed six (6) months for a first revocation and five (5)~~
16 ~~years for a second or subsequent revocation except in accordance~~
17 ~~with paragraphs 1 through 4 of subsection B of this section and~~
18 ~~Section 517 of Title 57 of the Oklahoma Statutes. The petition to~~
19 ~~revoke under this subsection must be filed within sixty (60) days of~~
20 ~~the alleged violation, provided the district attorney has received~~
21 ~~adequate notice from the supervision provider.~~

22 2. The court shall hold a revocation hearing for any
23 probationer who is issued a summons within twenty (20) calendar days
24 from the date the summons is issued. The court may, in its

1 discretion, revoke probation or continue probation and modify the
2 terms and conditions thereof. The court shall consider the
3 offender's employment status when making a determination as to
4 whether to revoke or continue the offender on probation. Upon a
5 finding that the offender is employed and a revocation sentence
6 would result in a disruption of employment, the court may, in lieu
7 of revocation, order the probationer to serve weekends in a county
8 jail pursuant to Section 991a of this title, at the discretion of
9 the court. If the court revokes probation for a technical violation
10 of the terms or conditions of probation, the court shall impose a
11 period of imprisonment of not more than fifteen (15) days for the
12 first application of revocation, not more than thirty (30) days for
13 a second application for revocation, and not more than sixty (60)
14 days for the third application for revocation. For the fourth and
15 subsequent application for revocation for a technical violation, the
16 court may impose a period of imprisonment of not more than two (2)
17 years or the remainder of the maximum sentence imposed, whichever is
18 less. If the court does not hold a revocation hearing within twenty
19 (20) calendar days pursuant to this section, the probationer shall
20 be returned to probation status. The court may subsequently hold a
21 revocation hearing and may revoke probation or continue probation
22 and modify the terms and conditions of probation. If the court
23 revokes probation for a technical violation, the court shall impose
24

1 a period of imprisonment that follows the revocation periods
2 provided for in this section.

3 3. If the probationer has been arrested and detained on a
4 warrant and the court does not hold a revocation hearing within
5 twenty (20) calendar days, the probationer shall be released from
6 county jail, intermediate sanction facility or Department of
7 Corrections facility and shall return to probation status. The
8 court may subsequently hold a revocation hearing and may revoke
9 probation or continue probation and modify the terms and conditions
10 of probation. If the court revokes probation for a technical
11 violation and imposes a period of imprisonment, the court shall
12 impose a period of imprisonment that follows the revocation periods
13 provided for in this section.

14 4. The judge may depart from periods of imprisonment required
15 under subsection C of this section if the offender is on probation
16 supervision for an offense enumerated in Section 13.1 of Title 21 of
17 the Oklahoma Statutes.

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

21 1. ~~Committing or being arrested for a new crime~~ Commission of a
22 new criminal offense for which felony or misdemeanor charges are
23 filed, including violation of a protective order pursuant to Section
24 60.6 of this title;

- ~~2. Attempting to falsify a drug screen, or three (3) or more failed drug or alcohol screens within a three (3) month period;~~
- ~~3. Failing to pay restitution;~~
- ~~4. Tampering with an electronic monitoring device;~~
5. ~~Failing~~ Absconding, defined as failing to initially report or missing assigned reporting requirements for an excess of sixty (60) days; or
- ~~6. Unlawfully contacting a victim, co-defendant or criminal associates;~~
- ~~7. Five (5) or more separate and distinct technical violations within a ninety day period; or~~
- ~~8.~~ 3. Any violation of the Specialized Sex Offender Rules.

D. 1. ~~The Department of Corrections shall develop a matrix of technical violations and sanctions to address violations committed by persons who are being supervised by the Department. The Department of Corrections shall be authorized to use a violation response and intermediate sanction process based on the sanction matrix established in Section _____ of Title 57 of the Oklahoma Statutes to apply to any technical violations of probationers supervised by the Department. Within four (4) working days of the discovery of the violation, the probation officer shall initiate the violation response and intermediate sanction process. The sentencing judge may authorize any recommended sanctions, which may include, but are not limited to: short-term jail or lockup, day~~

1 ~~treatment, program attendance, community service, outpatient or~~
2 ~~inpatient treatment, monetary fines, curfews, ignition interlock~~
3 ~~devices on vehicles, or a one-time referral to a term of confinement~~
4 ~~of six (6) months in an intermediate revocation facility operated by~~
5 ~~the Department of Corrections; provided, upon approval of the~~
6 ~~district attorney, a person may be sanctioned to serve additional~~
7 ~~terms of confinement in an intermediate revocation facility. The~~
8 probation officer shall complete a sanction form, which shall
9 specify the technical violation, sanction, and the action plan to
10 correct the noncompliant behavior resulting in the technical
11 violation. The probation officer shall refer to the sanctioning
12 matrix to determine the supervision, treatment, and sanctions
13 appropriate to address the noncompliant behavior. The probation
14 officer shall refer the violation information and recommended
15 response with a sanction plan to the Department of Corrections to be
16 heard by a hearing officer. The Department of Corrections shall
17 develop ~~a sanction matrix, forms,~~ policies and procedures necessary
18 to implement this provision. If the severity of a violation
19 warrants a more severe response, intermediate sanctions within the
20 sanctions matrix have been exhausted, and the noncompliant behavior
21 has continued, the Department may recommend revocation pursuant to
22 subsection B of this section. The Department of Corrections shall
23 establish procedures to hear responses to technical violations and
24 review sanction plans including the following:

- a. hearing officers shall report through a chain of command separate from that of the supervising probation officers,
- b. the Department shall provide the offender written notice of the violation, the evidence relied upon, and the reason the sanction was imposed,
- c. the hearing shall be held unless the offender waives the right to the hearing,
- d. hearings shall be electronically recorded, and
- e. the Department shall provide to judges and district attorneys a record of all violations and actions taken pursuant to this subsection.

2. The hearing officer shall determine based on a preponderance of the evidence whether a technical violation occurred. Upon a finding that a technical violation occurred, the hearing officer may order the offender to participate in the recommended sanction plan or may modify the plan. Offenders who accept the sanction plan shall sign a violation response sanction form, and the hearing officer shall then impose the sanction. Failure of the offender to comply with the imposed sanction plan shall constitute a violation of the rules and conditions of supervision that may result in a revocation proceeding. If an offender does not voluntarily accept the recommended sanction plan, the Department shall either impose the sanction and allow the offender to appeal to the district court,

1 or request a revocation proceeding as provided by law. Every
2 administrative hearing and sanction imposed by the Department shall
3 be appealable to the district court.

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

7 E. 1. Where one of the grounds for revocation is the willful
8 failure of the defendant to make restitution as ordered, the
9 Department of Corrections shall forward to the district attorney all
10 information pertaining to the failure of the defendant to make
11 timely restitution as ordered by the court, and the district
12 attorney shall file a petition setting forth the grounds for
13 revocation.

14 2. The defendant ordered to make restitution can petition the
15 court at any time for remission or a change in the terms of the
16 order of restitution if the defendant undergoes a change of
17 condition which materially affects the ability of the defendant to
18 comply with the order of the court.

19 3. At the hearing, if one of the grounds for the petition for
20 revocation is the failure of the defendant to make timely
21 restitution as ordered by the court, the court will hear evidence
22 and if it appears to the satisfaction of the court from such
23 evidence that the terms of the order of restitution create a
24 manifest hardship on the defendant or the immediate family of the

1 defendant, the court may cancel all or any part of the amount still
2 due, or modify the terms or method of payment. Provided, if the
3 court determines that a reduction in the restitution still due is
4 warranted, the court shall equally apply the same percentage
5 reduction to any court-ordered monetary obligation owed by the
6 defendant including, but not limited to, fines, court costs and
7 costs of incarceration.

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

23

24

1 SECTION 6. 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~~ four-
9 year period, except as authorized under subsection B of this
10 section. The court shall first consider restitution among the
11 various conditions it may prescribe. The court may also consider
12 ordering 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;

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~~ one (1) year, unless a petition alleging
6 violation of any condition of deferred judgment is filed during the
7 period of supervision. As a condition of any supervision, the
8 defendant shall be required to pay a supervision fee of Forty
9 Dollars (\$40.00) per month. The supervision fee shall be waived in
10 whole or part by the supervisory agency when the accused is
11 indigent. No person shall be denied supervision based solely on the
12 inability of the person to 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~~ for a period not to
4 exceed two (2) years of probation to compensate the district
5 attorney for the costs incurred during the prosecution of the
6 offender and for the additional work of verifying the compliance of
7 the offender with the rules and conditions of his or her probation.
8 In hardship cases, the district attorney shall expressly waive all
9 or part of the fee. The district attorney may waive any part of
10 this requirement in the best interests of justice. The court ~~shall~~
11 ~~not~~ may waive, suspend, defer or dismiss the costs of prosecution in
12 its entirety. ~~However, if the court determines that a reduction in~~
13 ~~the fine, costs and costs of prosecution is warranted, the court~~
14 ~~shall equally apply the same percentage reduction to the fine, costs~~
15 ~~and costs of prosecution owed by the offender.~~

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

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

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

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

1 experience and certification requirements stated herein are met by
2 September 1, 1995. The court may also require the person to
3 participate in one or both of the following:

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

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

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

24

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

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

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

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

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

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

1 E. The provisions of subsection D of this section shall be
2 retroactive.

3 F. Whenever a judgment has been deferred by the court according
4 to the provisions of this section, deferred judgment may not be
5 accelerated for any technical violation unless a petition setting
6 forth the grounds for such acceleration is filed by the district
7 attorney with the clerk of the sentencing court and competent
8 evidence justifying the acceleration of the judgment is presented to
9 the court at a hearing to be held for that purpose. The hearing
10 shall be held not more than twenty (20) days after the entry of the
11 plea of not guilty to the petition, unless waived by both the state
12 and the defendant. ~~Any acceleration of a deferred sentence based on~~
13 ~~a technical violation shall not exceed ninety (90) days for a first~~
14 ~~acceleration or five (5) years for a second or subsequent~~
15 ~~acceleration~~ A petition for acceleration under this subsection must
16 be filed within sixty (60) days of the alleged violation, provided
17 the district attorney has received adequate notice from the
18 supervision provider. For accelerations under this subsection, the
19 court shall sentence the offender in accordance with Section 517 of
20 Title 57 of the Oklahoma Statutes.

21 G. Upon any violation of the deferred judgment, other than a
22 technical violation, the court may enter a judgment of guilt and
23 proceed as provided in Section 991a of this title or may modify any
24 condition imposed. Provided, however, if the deferred judgment is

1 for a felony offense, and the defendant commits another felony
2 offense, the defendant shall not be allowed bail pending appeal.

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

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

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

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

18 SECTION 7. AMENDATORY 22 O.S. 2011, Section 991d, as
19 amended by Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2018,
20 Section 991d), is amended to read as follows:

21 Section 991d. A. 1. When the court orders supervision by the
22 Department of Corrections, or the district attorney requires the
23 Department to supervise any person pursuant to a deferred
24 prosecution agreement, the person shall be required to pay a

1 supervision fee of Forty Dollars (\$40.00) per month during the
2 supervision period, unless the fee would impose an unnecessary
3 hardship on the person. In hardship cases, the Department shall
4 expressly waive all or part of the fee. The court shall make
5 payment of the fee a condition of the sentence which shall be
6 imposed whether the supervision is incident to the suspending of
7 execution of a sentence, incident to the suspending of imposition of
8 a sentence, or incident to the deferral of proceedings after a
9 verdict or plea of guilty. The Department shall determine methods
10 for payment of supervision fee, and may charge a reasonable user fee
11 for collection of supervision fees electronically. The Department
12 is required to report to the sentencing court any failure of the
13 person to pay supervision fees and to report immediately if the
14 person violates any condition of the sentence.

15 2. When the court imposes a suspended or deferred sentence for
16 any offense and does not order supervision by the Department of
17 Corrections, the offender shall be required to pay to the district
18 attorney a supervision fee of Forty Dollars (\$40.00) per month as a
19 fee to compensate the district attorney for the actual act of
20 supervising the offender ~~during the applicable period of supervision~~
21 for a period not to exceed two (2) years. In hardship cases, the
22 district attorney shall expressly waive all or part of the fee.

23 3. If restitution is ordered by the court in conjunction with
24 supervision, the supervision fee will be paid in addition to the

1 restitution ordered. In addition to the restitution payment and
2 supervision fee, a reasonable user fee may be charged by the
3 Department of Corrections to cover the expenses of administration of
4 the restitution, except no user fee shall be collected by the
5 Department when restitution payment is collected and disbursed to
6 the victim by the office of the district attorney as provided in
7 Section 991f of this title or Section 991f-1.1 of this title.

8 B. The Pardon and Parole Board shall require a supervision fee
9 to be paid by the parolee as a condition of parole which shall be
10 paid to the Department of Corrections. The Department shall
11 determine the amount of the fee as provided for other persons under
12 supervision by the Department.

13 C. Upon acceptance of an offender by the Department of
14 Corrections whose probation or parole supervision was transferred to
15 Oklahoma through the Interstate Compact Agreement, or upon the
16 assignment of an inmate to any community placement, a fee shall be
17 required to be paid by the offender to the Department of Corrections
18 as provided for other persons under supervision of the Department.

19 D. Except as provided in subsection A and this subsection, all
20 fees collected pursuant to this section shall be deposited in the
21 Department of Corrections Revolving Fund created pursuant to Section
22 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
23 ending June 30, 1996, fifty percent (50%) of all collections
24 received from offenders placed on supervision after July 1, 1995,

1 shall be transferred to the credit of the General Revenue Fund of
2 the State Treasury until such time as total transfers equal Three
3 Million Three Hundred Thousand Dollars (\$3,300,000.00).

4 SECTION 8. This act shall become effective November 1, 2019.

5 Passed the Senate the 14th day of March, 2019.

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Presiding Officer of the Senate

9 Passed the House of Representatives the ____ day of _____,
10 2019.

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Presiding Officer of the House
of Representatives

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