

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO.618

By: Jech

4  
5  
6 AS INTRODUCED

7 An Act relating to offender supervision procedure;  
8 amending 22 O.S. 2011, Section 983, as amended by  
9 Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
10 2018, Section 983), which relates to fines, fees and  
11 costs; modifying procedures; amending Section 1,  
12 Chapter 392, O.S.L. 2016 (22 O.S. Supp. 2018, Section  
13 983a), which relates to authority to waive fines,  
14 costs and fees; directing certain dismissal upon  
15 certain criteria; directing courts to waive fines,  
16 court costs and fees; amending Section 2, Chapter  
17 392, O.S.L. 2016 (22 O.S. Supp. 2018, Section 983b),  
18 which relates to determination for ability to pay;  
19 modifying requirements; amending 22 O.S. 2011,  
20 Section 991a, as last amended by Section 10, Chapter  
21 128, O.S.L. 2018 (22 O.S. Supp. 2018, Section 991a),  
22 which relates to sentencing powers of the court;  
23 modifying maximum supervision reimbursement;  
24 directing certain dismissal of fees; directing use of  
sanctions and incentive process; stating eligibility  
for discharge credits; establishment of certain  
payment plan; providing definition; amending 22 O.S.  
2011, Section 991b, as last amended by Section 11,  
Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018, Section  
991b), which relates to revocation of suspended  
sentence; modifying procedures; stipulating certain  
timeframes for procedures; allowing certain  
modification; modifying definitions; modifying  
certain authorization; amending 22 O.S. 2011, Section  
991c, as last amended by Section 12, Chapter 128,  
O.S.L. 2018 (22 O.S. Supp. 2018, Section 991c), which  
relates to deferred sentences; modifying  
prescriptions; allowing certain waiver; amending 22  
O.S. 2011, Section 991d, as amended by Section 1,  
Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2018, Section  
991d), which relates to supervision fees; modifying

1           allowable fee period; and providing an effective  
2           date.

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

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

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

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

22           C. ~~In addition,~~ If after notice and hearing it is found that  
23 the defendant is financially able but willfully refuses or neglects  
24 to pay the fine, cost, fee or assessment, the district court or

1 municipal court, within one hundred twenty (120) days from the date  
2 upon which the person was originally ordered to make payment, may  
3 send notice of nonpayment of any court ordered fine and costs for a  
4 moving traffic violation to the Department of Public Safety with a  
5 recommendation of suspension of driving privileges of the defendant  
6 until the total amount of any fine and costs has been paid. Upon  
7 receipt of payment of the total amount of the fine and costs for the  
8 moving traffic violation, the court shall send notice thereof to the  
9 Department, if a nonpayment notice was sent as provided for in this  
10 subsection. Notices sent to the Department shall be on forms or by  
11 a method approved by the Department.

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

18 SECTION 2. AMENDATORY Section 1, Chapter 392, O.S.L.  
19 2016 (22 O.S. Supp. 2018, Section 983a), is amended to read as  
20 follows:

21 Section 983a. A. On or after November 1, 2016, the court shall  
22 have the authority to waive all outstanding fines, court costs and  
23 fees in a criminal case for any person who:  
24

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

3 2. Has been released from the custody of the Department of  
4 Corrections;

5 3. Has complied with all probation or supervision requirements  
6 since being released from the custody of the Department of  
7 Corrections; and

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

12 B. The court shall waive outstanding fines, court costs and  
13 fees if the person has secured admission to and is enrolled in an  
14 institution that is a technology center school, workforce training  
15 program or a member of the Oklahoma State System of Higher  
16 Education. Upon the completion of each forty-hour work week, the  
17 court shall waive the fines, court costs and fees based on the  
18 equivalent value of the potential gross income of the person as  
19 determined by the state's minimum wage set forth in Section 197.2 of  
20 Title 40 of the Oklahoma Statutes.

21 C. The provisions of this section shall not apply to amounts  
22 owed by the person for restitution to a victim pursuant to a court  
23 order or child support obligations pursuant to a court order.  
24

1 SECTION 3. AMENDATORY Section 2, Chapter 392, O.S.L.

2 2016 (22 O.S. Supp. 2018, Section 983b), is amended to read as  
3 follows:

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

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

11 2. All other district courts or municipal courts where the  
12 person owes fines, fees, costs and assessments,  
13 for the purpose of scheduling a hearing to determine the ability of  
14 the person to pay fines, fees, costs or assessments owed by the  
15 person in every felony or misdemeanor criminal case filed in a  
16 district court or criminal case filed in a municipal court of this  
17 state. Such hearing shall be held in accordance with the provisions  
18 of Section VIII of the Rules of the Court of Criminal Appeals, 22  
19 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its  
20 discretion continue such hearing for up to one hundred eighty (180)  
21 days.

22 B. In determining the ability of the person to satisfy fines,  
23 fees, costs or assessments owed to a district or municipal court,  
24 the court shall inquire of the person at the time of the hearing

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

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

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

17 2. Consolidating district and municipal court fines, fees,  
18 costs or assessments owed by a person into one order for payment;  
19 and

20 3. Accepting and distributing payments received for fines,  
21 fees, costs or assessments to various district and municipal courts  
22 when consolidated by the court into one order for payment.  
23  
24  
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1 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991a, as  
2 last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
3 2018, Section 991a), is amended to read as follows:

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

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

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

23 b. to reimburse any state agency for amounts paid by the  
24 state agency for hospital and medical expenses

1 incurred by the victim or victims, as a result of the  
2 criminal act for which such person was convicted,  
3 which reimbursement shall be made directly to the  
4 state agency, with interest accruing thereon at the  
5 rate of twelve percent (12%) per annum,

6 c. to engage in a term of community service without  
7 compensation, according to a schedule consistent with  
8 the employment and family responsibilities of the  
9 person convicted,

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

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

19 f. to confinement as provided by law together with a term  
20 of post-imprisonment community supervision for not  
21 less than three (3) years of the total term allowed by  
22 law for imprisonment, with or without restitution;  
23 provided, however, the authority of this provision is  
24 limited to Section 843.5 of Title 21 of the Oklahoma



1 Statutes when the offense involved sexual abuse or  
2 sexual exploitation; Sections 681, 741 and 843.1 of  
3 Title 21 of the Oklahoma Statutes when the offense  
4 involved sexual abuse or sexual exploitation; and  
5 Sections 865 et seq., 885, 886, 888, 891, 1021,  
6 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
7 1123 of Title 21 of the Oklahoma Statutes,

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

1 Stoppers Association to the extent those standards do  
2 not conflict with state statutes. The term "court"  
3 refers to all municipal and district courts within  
4 this state. The "Oklahoma Reward System" means the  
5 reward program established by Section 150.18 of Title  
6 74 of the Oklahoma Statutes,

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

18 i. to reimburse the Oklahoma State Bureau of  
19 Investigation and any authorized law enforcement  
20 agency for all costs incurred by that agency for  
21 cleaning up an illegal drug laboratory site for which  
22 the defendant pleaded guilty, nolo contendere or was  
23 convicted. The court clerk shall collect the amount  
24 and may retain five percent (5%) of such monies to be

1 deposited in the Court Clerk Revolving Fund to cover  
2 administrative costs and shall remit the remainder to  
3 the Oklahoma State Bureau of Investigation to be  
4 deposited in the OSBI Revolving Fund established by  
5 Section 150.19a of Title 74 of the Oklahoma Statutes  
6 or to the general fund wherein the other law  
7 enforcement agency is located,

8 j. to pay a reasonable sum to the Crime Victims  
9 Compensation Board, created by Section 142.2 et seq.  
10 of Title 21 of the Oklahoma Statutes, for the benefit  
11 of crime victims,

12 k. to reimburse the court fund for amounts paid to court-  
13 appointed attorneys for representing the defendant in  
14 the case in which the person is being sentenced,

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

1 m. to be placed in a victims impact panel program, as  
2 defined in subsection H of this section, or  
3 victim/offender reconciliation program and payment of  
4 a fee to the program of not less than Fifteen Dollars  
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set  
6 by the governing authority of the program to offset  
7 the cost of participation by the defendant. Provided,  
8 each victim/offender reconciliation program shall be  
9 required to obtain a written consent form voluntarily  
10 signed by the victim and defendant that specifies the  
11 methods to be used to resolve the issues, the  
12 obligations and rights of each person, and the  
13 confidentiality of the proceedings. Volunteer  
14 mediators and employees of a victim/offender  
15 reconciliation program shall be immune from liability  
16 and have rights of confidentiality as provided in  
17 Section 1805 of Title 12 of the Oklahoma Statutes,

18 n. to install, at the expense of the defendant, an  
19 ignition interlock device approved by the Board of  
20 Tests for Alcohol and Drug Influence. The device  
21 shall be installed upon every motor vehicle operated  
22 by the defendant, and the court shall require that a  
23 notation of this restriction be affixed to the  
24 defendant's driver license. The restriction shall

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

- 19 o. to be confined by electronic monitoring administered  
20 and supervised by the Department of Corrections or a  
21 community sentence provider, and payment of a  
22 monitoring fee to the supervising authority, not to  
23 exceed Three Hundred Dollars (\$300.00) per month. Any  
24 fees collected pursuant to this paragraph shall be

1 deposited with the appropriate supervising authority.  
2 Any willful violation of an order of the court for the  
3 payment of the monitoring fee shall be a violation of  
4 the sentence and may be punished as deemed proper by  
5 the sentencing court. As used in this paragraph,  
6 "electronic monitoring" means confinement of the  
7 defendant within a specified location or locations  
8 with supervision by means of an electronic device  
9 approved by the Department of Corrections which is  
10 designed to detect if the defendant is in the court-  
11 ordered location at the required times and which  
12 records violations for investigation by a qualified  
13 supervisory agency or person,

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

1 appropriately in the community and for which a  
2 certified provider or a program recognized by the  
3 court as having significant positive impact exists in  
4 the community. Any treatment, education or  
5 rehabilitation provider required to be certified  
6 pursuant to law or rule shall be certified by the  
7 appropriate state agency or a national organization,  
8 q. to submit to periodic testing for alcohol,  
9 intoxicating substance, or controlled dangerous  
10 substances by a qualified laboratory,  
11 r. to pay a fee, costs for treatment, education,  
12 supervision, participation in a program, or any  
13 combination thereof as determined by the court, based  
14 upon the defendant's ability to pay the fees or costs,  
15 s. to be supervised by a Department of Corrections  
16 employee, a private supervision provider, or other  
17 person designated by the court,  
18 t. to obtain positive behavior modeling by a trained  
19 mentor,  
20 u. to serve a term of confinement in a restrictive  
21 housing facility available in the community,  
22 v. to serve a term of confinement in the county jail at  
23 night or during weekends pursuant to Section 991a-2 of  
24 this title or for work release,

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



1 to determine the actual out-of-pocket expenses  
2 suffered by the victim,

3 cc. to attend a victim-offender reconciliation program if  
4 the victim agrees to participate and the offender is  
5 deemed appropriate for participation,

6 dd. in the case of a person convicted of prostitution  
7 pursuant to Section 1029 of Title 21 of the Oklahoma  
8 Statutes, require such person to receive counseling  
9 for the behavior which may have caused such person to  
10 engage in prostitution activities. Such person may be  
11 required to receive counseling in areas including but  
12 not limited to alcohol and substance abuse, sexual  
13 behavior problems, or domestic abuse or child abuse  
14 problems,

15 ee. in the case of a sex offender sentenced after November  
16 1, 1989, and required by law to register pursuant to  
17 the Sex Offender Registration Act, the court shall  
18 require the person to comply with sex offender  
19 specific rules and conditions of supervision  
20 established by the Department of Corrections and  
21 require the person to participate in a treatment  
22 program designed for the treatment of sex offenders  
23 during the period of time while the offender is  
24 subject to supervision by the Department of

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

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

22 gg. in the case of a person convicted of any false or  
23 bogus check violation, as defined in Section 1541.4 of  
24 Title 21 of the Oklahoma Statutes, impose a fee of  
25

1 Twenty-five Dollars (\$25.00) to the victim for each  
2 check, and impose a bogus check fee to be paid to the  
3 district attorney. The bogus check fee paid to the  
4 district attorney shall be equal to the amount  
5 assessed as court costs plus Twenty-five Dollars  
6 (\$25.00) for each check upon filing of the case in  
7 district court. This money shall be deposited in the  
8 Bogus Check Restitution Program Fund as established in  
9 subsection B of Section 114 of this title.

10 Additionally, the court may require the offender to  
11 pay restitution and bogus check fees on any other  
12 bogus check or checks that have been submitted to the  
13 District Attorney Bogus Check Restitution Program,

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

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

21 However, any such order for restitution, community service,  
22 payment to a local certified crime stoppers program, payment to the  
23 Oklahoma Reward System, or confinement in the county jail, or a  
24

1 combination thereof, shall be made in conjunction with probation and  
2 shall be made a condition of the suspended sentence.

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

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

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

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

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

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

1 while the ability of the person to operate such vehicle was impaired  
2 due to the consumption of alcohol, require such person:

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

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

22 c. to both participate in the alcohol and drug substance  
23 abuse course or treatment program, pursuant to  
24 subparagraph a of this paragraph and attend a victims  
25

1 impact panel program, pursuant to subparagraph b of  
2 this paragraph,

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

22 e. beginning January 1, 1993, to submit to electronically  
23 monitored home detention administered and supervised  
24 by the Department of Corrections, and to pay to the  
25

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

10 7. In addition to the other sentencing powers of the court, in  
11 the case of a person convicted of prostitution pursuant to Section  
12 1029 of Title 21 of the Oklahoma Statutes, require such person to  
13 receive counseling for the behavior which may have caused such  
14 person to engage in prostitution activities. Such person may be  
15 required to receive counseling in areas including but not limited to  
16 alcohol and substance abuse, sexual behavior problems, or domestic  
17 abuse or child abuse problems;

18 8. In addition to the other sentencing powers of the court, in  
19 the case of a person convicted of any crime related to domestic  
20 abuse, as defined in Section 60.1 of this title, the court may  
21 require the defendant to undergo the treatment or participate in an  
22 intervention program for batterers certified by the Office of the  
23 Attorney General, necessary to bring about the cessation of domestic  
24 abuse. In the instance where the defendant alleges that he or she



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

10 9. In addition to the other sentencing powers of the court, the  
11 court, in the case of a sex offender sentenced after November 1,  
12 1989, and required by law to register pursuant to the Sex Offenders  
13 Registration Act, shall require the person to participate in a  
14 treatment program designed specifically for the treatment of sex  
15 offenders, if available. The treatment program will include  
16 polygraph examinations specifically designed for use with sex  
17 offenders for the purpose of supervision and treatment compliance,  
18 provided the examination is administered by a certified licensed  
19 polygraph examiner. The treatment program must be approved by the  
20 Department of Corrections or the Department of Mental Health and  
21 Substance Abuse Services. Such treatment shall be at the expense of  
22 the defendant based on the defendant's ability to pay;

23 10. In addition to the other sentencing powers of the court,  
24 the court, in the case of a person convicted of child abuse or  
25

1 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma  
2 Statutes, may require the person to undergo treatment or to  
3 participate in counseling services. The defendant may be required  
4 to pay all or part of the cost of the treatment or counseling  
5 services;

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

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

20 13. In addition to the other sentencing powers of the court, in  
21 the case of a sex offender who is required by law to register  
22 pursuant to the Sex Offenders Registration Act, the court may  
23 prohibit the person from accessing or using any Internet social  
24 networking web site that has the potential or likelihood of allowing

1 the sex offender to have contact with any child who is under the age  
2 of eighteen (18) years; or

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

11 B. Notwithstanding any other provision of law, any person who  
12 is found guilty of a violation of any provision of Section 761 or  
13 11-902 of Title 47 of the Oklahoma Statutes or any person pleading  
14 guilty or nolo contendere for a violation of any provision of such  
15 sections shall be ordered to participate in, prior to sentencing, an  
16 alcohol and drug assessment and evaluation by an assessment agency  
17 or assessment personnel certified by the Department of Mental Health  
18 and Substance Abuse Services for the purpose of evaluating the  
19 receptivity to treatment and prognosis of the person. The court  
20 shall order the person to reimburse the agency or assessor for the  
21 evaluation. The fee shall be the amount provided in subsection C of  
22 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation  
23 shall be conducted at a certified assessment agency, the office of a  
24 certified assessor or at another location as ordered by the court.

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

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

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

8 2. A fourth or subsequent conviction for any other felony  
9 crime; or

10 3. Beginning January 1, 1993, a defendant being sentenced for a  
11 second or subsequent felony conviction for violation of Section 11-  
12 902 of Title 47 of the Oklahoma Statutes, except as otherwise  
13 provided in this subsection.

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

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

4 E. Probation, for purposes of subsection A of this section, is  
5 a procedure by which a defendant found guilty of a crime, whether  
6 upon a verdict or plea of guilty or upon a plea of nolo contendere,  
7 is released by the court subject to conditions imposed by the court  
8 and subject to supervision by the Department of Corrections, a  
9 private supervision provider or other person designated by the  
10 court. Such supervision shall be initiated upon an order of  
11 probation from the court, and shall not exceed two (2) years, unless  
12 a petition alleging a violation of any condition of deferred  
13 judgment or seeking revocation of the suspended sentence is filed  
14 during the supervision, or as otherwise provided by law. In the  
15 case of a person convicted of a sex offense, supervision shall begin  
16 immediately upon release from incarceration or if parole is granted  
17 and shall not be limited to two (2) years. The court shall require  
18 all providers that supervise persons under this section to use the  
19 sanctions and incentives process established pursuant to Section  
20 991b of this title in order to respond to probationer behavior.

21 Provided further, any supervision provided for in this section may  
22 be extended for a period not to exceed the expiration of the maximum  
23 term or terms of the sentence upon a determination by the court or  
24 the Division of Probation and Parole of the Department of

1 Corrections that the best interests of the public and the release  
2 will be served by an extended period of supervision. Any  
3 supervision provided for under this section may not have the period  
4 of supervision extended for a failure to pay fines, fees and other  
5 costs, ~~excluding restitution,~~ except upon a finding of willful  
6 nonpayment. Any person on probation supervision, except a person  
7 convicted of an offense enumerated in Section 13.1 of Title 21 of  
8 the Oklahoma Statutes or subsections C, D, E, F, G or J of Section  
9 644 of Title 21 of the Oklahoma Statutes, shall be eligible to earn  
10 discharge credits that reduce the period of supervision and the term  
11 of the sentence for compliance with the terms and conditions of  
12 supervision, pursuant to Section \_\_\_\_\_ of Title 57 of the Oklahoma  
13 Statutes.

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

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

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

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

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

21           5. The Department shall annually make a report to the Governor,  
22 the President Pro Tempore of the Senate and the Speaker of the House  
23 on the number of such Programs, the number of participating  
24



1 offenders, the success rates of each Program according to criteria  
2 established by the Department and the costs of each Program.

3 H. As used in this section:

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

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

14 3. "Victims impact panel program" means a meeting with at least  
15 one live presenter who will share personal stories with participants  
16 about how alcohol, drug abuse and the illegal conduct of others has  
17 personally impacted the life of the presenter. A victims impact  
18 panel program shall be attended by persons who have committed the  
19 offense of driving, operating or being in actual physical control of  
20 a motor vehicle while under the influence of alcohol or other  
21 intoxicating substance. Persons attending a victims impact panel  
22 program shall be required to pay a fee of not less than Fifteen  
23 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the  
24 provider of the program. A certificate of completion shall be

1 issued to the person upon satisfying the attendance and fee  
2 requirements of the victims impact panel program. A victims impact  
3 panel program shall not be provided by any certified assessment  
4 agency or certified assessor. The provider of the victims impact  
5 panel program shall carry general liability insurance and maintain  
6 an accurate accounting of all business transactions and funds  
7 received in relation to the victims impact panel program.

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

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

23 Any person who is incarcerated in the custody of the Department  
24 of Corrections after July 1, 1996, and who has not been released

1 before January 1, 2006, shall provide a blood or saliva sample prior  
2 to release. Every person subject to DNA testing after January 1,  
3 2006, whose sentence does not include a term of confinement with the  
4 Department of Corrections, shall submit a blood or saliva sample.  
5 Every person subject to DNA testing who is sentenced to unsupervised  
6 probation or otherwise not supervised by the Department of  
7 Corrections shall submit for blood or saliva testing to the sheriff  
8 of the sentencing county.

9 J. Samples of blood or saliva for DNA testing required by  
10 subsection I of this section shall be taken by employees or  
11 contractors of the Department of Corrections, peace officers, or the  
12 county sheriff or employees or contractors of the sheriff's office.  
13 The individuals shall be properly trained to collect blood or saliva  
14 samples. Persons collecting blood or saliva for DNA testing  
15 pursuant to this section shall be immune from civil liabilities  
16 arising from this activity. All collectors of DNA samples shall  
17 ensure the collection of samples are mailed to the Oklahoma State  
18 Bureau of Investigation within ten (10) days of the time the subject  
19 appears for testing or within ten (10) days of the date the subject  
20 comes into physical custody to serve a term of incarceration. All  
21 collectors of DNA samples shall use sample kits provided by the OSBI  
22 and procedures promulgated by the OSBI. Persons subject to DNA  
23 testing who are not received at the Lexington Assessment and  
24 Reception Center shall be required to pay a fee of Fifteen Dollars

1 (\$15.00) to the agency collecting the sample for submission to the  
2 OSBI Combined DNA Index System (CODIS) Database. Any fees collected  
3 pursuant to this subsection shall be deposited in the revolving  
4 account or the service fee account of the collection agency or  
5 department.

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

11 L. Any person who has been ordered by the court to pay a fine,  
12 court cost, fee or assessment, or any combination thereof, under the  
13 provisions of this section may request a hearing to establish a  
14 payment plan. The payment plan authorized under this subsection  
15 shall be determined by assessing the discretionary income of the  
16 person. As used in this section, "discretionary income" shall be  
17 defined as income in excess of one hundred-fifty percent (150%) of  
18 the federal poverty line. After a judicial determination of the  
19 discretionary income of the person, the court shall order the total  
20 amount of the financial obligation of the person, excluding  
21 restitution, be paid in installments equal to no more than ten  
22 percent (10%) of the discretionary income of the person. The  
23 payment plan shall be established regardless of the results of an  
24 indigent request for representation as provided in Section 1355A of

1 this title. The payment plan established under the provisions of  
2 this subsection shall apply to all fines, court costs and fees  
3 ordered by the court pursuant to this section and all subsections  
4 therein.

5 SECTION 5. AMENDATORY 22 O.S. 2011, Section 991b, as  
6 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
7 2018, Section 991b), is amended to read as follows:

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

21 B. 1. Whenever a sentence has been suspended by the court  
22 after conviction of a person for any crime, the suspended sentence  
23 of the person may not be revoked ~~in whole~~ for a technical violation  
24 ~~unless a petition setting forth the grounds for such revocation is~~

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

18 2. The court shall hold a revocation hearing for any  
19 probationer who is issued a summons within twenty (20) calendar days  
20 from the date the summons is issued. The court may, in its  
21 discretion, revoke probation or continue probation and modify the  
22 terms and conditions thereof. The court shall consider the  
23 offender's employment status when making a determination as to  
24 whether to revoke or continue the offender on probation. Upon a

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

22 3. If the probationer has been arrested and detained on a  
23 warrant and the court does not hold a revocation hearing within  
24 twenty (20) calendar days, the probationer shall be released from



1 county jail, intermediate sanction facility or Department of  
2 Corrections facility and shall return to probation status. The  
3 court may subsequently hold a revocation hearing and may revoke  
4 probation or continue probation and modify the terms and conditions  
5 of probation. If the court revokes probation for a technical  
6 violation and imposes a period of imprisonment, the court shall  
7 impose a period of imprisonment that follows the revocation periods  
8 provided for in this section.

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

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

16 1. ~~Committing or being arrested for a new crime~~ Commission of a  
17 new criminal offense for which felony or misdemeanor charges are  
18 filed, including violation of a protective order pursuant to Section  
19 60.6 of this title;

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

22 3. ~~Failing to pay restitution;~~

23 4. ~~Tampering with an electronic monitoring device;~~

1       ~~5. Failing Absconding, defined as failing to initially report~~  
2 or missing assigned reporting requirements for an excess of sixty  
3 (60) days; or

4       ~~6. Unlawfully contacting a victim, co-defendant or criminal~~  
5 ~~associates;~~

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

8       ~~8. 3.~~ Any violation of the Specialized Sex Offender Rules.

9       D. 1. ~~The Department of Corrections shall develop a matrix of~~  
10 ~~technical violations and sanctions to address violations committed~~  
11 ~~by persons who are being supervised by the Department. The~~  
12 Department of Corrections shall be authorized to use a violation  
13 response and intermediate sanction process based on the sanction  
14 matrix established in Section \_\_\_\_\_ of Title 57 of the Oklahoma  
15 Statutes to apply to any technical violations of probationers  
16 supervised by the Department. Within four (4) working days of the  
17 discovery of the violation, the probation officer shall initiate the  
18 violation response and intermediate sanction process. ~~The~~  
19 ~~sentencing judge may authorize any recommended sanctions, which may~~  
20 ~~include, but are not limited to: short-term jail or lockup, day~~  
21 ~~treatment, program attendance, community service, outpatient or~~  
22 ~~inpatient treatment, monetary fines, curfews, ignition interlock~~  
23 ~~devices on vehicles, or a one-time referral to a term of confinement~~  
24 ~~of six (6) months in an intermediate revocation facility operated by~~

1 ~~the Department of Corrections; provided, upon approval of the~~  
2 ~~district attorney, a person may be sanctioned to serve additional~~  
3 ~~terms of confinement in an intermediate revocation facility.~~ The  
4 probation officer shall complete a sanction form, which shall  
5 specify the technical violation, sanction, and the action plan to  
6 correct the noncompliant behavior resulting in the technical  
7 violation. The probation officer shall refer to the sanctioning  
8 matrix to determine the supervision, treatment, and sanctions  
9 appropriate to address the noncompliant behavior. The probation  
10 officer shall refer the violation information and recommended  
11 response with a sanction plan to the Department of Corrections to be  
12 heard by a hearing officer. The Department of Corrections shall  
13 develop ~~a sanction matrix, forms,~~ policies and procedures necessary  
14 to implement this provision. If the severity of a violation  
15 warrants a more severe response, intermediate sanctions within the  
16 sanctions matrix have been exhausted, and the noncompliant behavior  
17 has continued, the Department may recommend revocation pursuant to  
18 subsection B of this section. The Department of Corrections shall  
19 establish procedures to hear responses to technical violations and  
20 review sanction plans including the following:

- 21 a. hearing officers shall report through a chain of  
22 command separate from that of the supervising  
23 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, or request a revocation proceeding as provided by law. Every administrative hearing and sanction imposed by the Department shall be appealable to the district court.

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

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

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

16           3. At the hearing, if one of the grounds for the petition for  
17 revocation is the failure of the defendant to make timely  
18 restitution as ordered by the court, the court will hear evidence  
19 and if it appears to the satisfaction of the court from such  
20 evidence that the terms of the order of restitution create a  
21 manifest hardship on the defendant or the immediate family of the  
22 defendant, the court may cancel all or any part of the amount still  
23 due, or modify the terms or method of payment. Provided, if the  
24 court determines that a reduction in the restitution still due is

1 warranted, the court shall equally apply the same percentage  
2 reduction to any court-ordered monetary obligation owed by the  
3 defendant including, but not limited to, fines, court costs and  
4 costs of incarceration.

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

20 SECTION 6. AMENDATORY 22 O.S. 2011, Section 991c, as  
21 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
22 2018, Section 991c), is amended to read as follows:

23 Section 991c. A. Upon a verdict or plea of guilty or upon a  
24 plea of nolo contendere, but before a judgment of guilt, the court

1 may, without entering a judgment of guilt and with the consent of  
2 the defendant, defer further proceedings upon the specific  
3 conditions prescribed by the court not to exceed a ~~seven-year~~ four-  
4 year period, except as authorized under subsection B of this  
5 section. The court shall first consider restitution among the  
6 various conditions it may prescribe. The court may also consider  
7 ordering the defendant to:

8 1. Pay court costs;

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

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

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

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

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

21 7. Be supervised in the community for a period not to exceed  
22 ~~eighteen (18) months~~ one (1) year, unless a petition alleging  
23 violation of any condition of deferred judgment is filed during the  
24 period of supervision. As a condition of any supervision, the

1 defendant shall be required to pay a supervision fee of Forty  
2 Dollars (\$40.00) per month. The supervision fee shall be waived in  
3 whole or part by the supervisory agency when the accused is  
4 indigent. No person shall be denied supervision based solely on the  
5 inability of the person to pay a fee;

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

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

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

17 11. Any combination of the above provisions.

18 However, unless under the supervision of the district attorney,  
19 the offender shall be required to pay Forty Dollars (\$40.00) per  
20 month to the district attorney ~~during the first~~ for a period not to  
21 exceed two (2) years ~~of probation~~ to compensate the district  
22 attorney for the costs incurred during the prosecution of the  
23 offender and for the additional work of verifying the compliance of  
24 the offender with the rules and conditions of his or her probation.



1 In hardship cases, the district attorney shall expressly waive all  
2 or part of the fee. The district attorney may waive any part of  
3 this requirement in the best interests of justice. The court ~~shall~~  
4 ~~not~~ may waive, suspend, defer or dismiss the costs of prosecution in  
5 its entirety. ~~However, if the court determines that a reduction in~~  
6 ~~the fine, costs and costs of prosecution is warranted, the court~~  
7 ~~shall equally apply the same percentage reduction to the fine, costs~~  
8 ~~and costs of prosecution owed by the offender.~~

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

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

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

1 in a manner which will keep the report confidential from review by  
2 the general public. Nothing contained in this subsection shall be  
3 construed to prohibit the court from ordering judgment and sentence  
4 in the event the defendant fails or refuses to comply with an order  
5 of the court to obtain the evaluation required by this subsection.  
6 As used in this subsection, "qualified practitioner" means a person  
7 with at least a bachelor's degree in substance abuse treatment,  
8 mental health or a related health care field and at least two (2)  
9 years of experience in providing alcohol abuse treatment, other drug  
10 abuse treatment, or both alcohol and other drug abuse treatment who  
11 is certified each year by the Department of Mental Health and  
12 Substance Abuse Services to provide these assessments. However, any  
13 person who does not meet the requirements for a qualified  
14 practitioner as defined herein, but who has been previously  
15 certified by the Department of Mental Health and Substance Abuse  
16 Services to provide alcohol or drug treatment or assessments, shall  
17 be considered a qualified practitioner provided all education,  
18 experience and certification requirements stated herein are met by  
19 September 1, 1995. The court may also require the person to  
20 participate in one or both of the following:

- 21 1. An alcohol and drug substance abuse course, pursuant to  
22 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and
- 23 2. A victims impact panel program, as defined in subsection H  
24 of Section 991a of this title, if such a program is offered in the

1 county where the judgment is rendered. The defendant shall be  
2 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor  
3 more than Sixty Dollars (\$60.00) as set by the governing authority  
4 of the program and approved by the court to the victims impact panel  
5 program to offset the cost of participation by the defendant, if in  
6 the opinion of the court the defendant has the ability to pay such  
7 fee.

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

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

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

21 3. Upon expungement, the court clerk shall keep a separate  
22 confidential index of case numbers and names of defendants which  
23 have been obliterated pursuant to the provisions of this section;  
24

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

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

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

18 E. The provisions of subsection D of this section shall be  
19 retroactive.

20 F. Whenever a judgment has been deferred by the court according  
21 to the provisions of this section, deferred judgment may not be  
22 accelerated for any technical violation unless a petition setting  
23 forth the grounds for such acceleration is filed by the district  
24 attorney with the clerk of the sentencing court and competent

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

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

14        Section 991d. A. 1. When the court orders supervision by the  
15 Department of Corrections, or the district attorney requires the  
16 Department to supervise any person pursuant to a deferred  
17 prosecution agreement, the person shall be required to pay a  
18 supervision fee of Forty Dollars (\$40.00) per month during the  
19 supervision period, unless the fee would impose an unnecessary  
20 hardship on the person. In hardship cases, the Department shall  
21 expressly waive all or part of the fee. The court shall make  
22 payment of the fee a condition of the sentence which shall be  
23 imposed whether the supervision is incident to the suspending of  
24 execution of a sentence, incident to the suspending of imposition of

1 a sentence, or incident to the deferral of proceedings after a  
2 verdict or plea of guilty. The Department shall determine methods  
3 for payment of supervision fee, and may charge a reasonable user fee  
4 for collection of supervision fees electronically. The Department  
5 is required to report to the sentencing court any failure of the  
6 person to pay supervision fees and to report immediately if the  
7 person violates any condition of the sentence.

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

16 3. If restitution is ordered by the court in conjunction with  
17 supervision, the supervision fee will be paid in addition to the  
18 restitution ordered. In addition to the restitution payment and  
19 supervision fee, a reasonable user fee may be charged by the  
20 Department of Corrections to cover the expenses of administration of  
21 the restitution, except no user fee shall be collected by the  
22 Department when restitution payment is collected and disbursed to  
23 the victim by the office of the district attorney as provided in  
24 Section 991f of this title or Section 991f-1.1 of this title.



1 B. The Pardon and Parole Board shall require a supervision fee  
2 to be paid by the parolee as a condition of parole which shall be  
3 paid to the Department of Corrections. The Department shall  
4 determine the amount of the fee as provided for other persons under  
5 supervision by the Department.

6 C. Upon acceptance of an offender by the Department of  
7 Corrections whose probation or parole supervision was transferred to  
8 Oklahoma through the Interstate Compact Agreement, or upon the  
9 assignment of an inmate to any community placement, a fee shall be  
10 required to be paid by the offender to the Department of Corrections  
11 as provided for other persons under supervision of the Department.

12 D. Except as provided in subsection A and this subsection, all  
13 fees collected pursuant to this section shall be deposited in the  
14 Department of Corrections Revolving Fund created pursuant to Section  
15 557 of Title 57 of the Oklahoma Statutes. For the fiscal year  
16 ending June 30, 1996, fifty percent (50%) of all collections  
17 received from offenders placed on supervision after July 1, 1995,  
18 shall be transferred to the credit of the General Revenue Fund of  
19 the State Treasury until such time as total transfers equal Three  
20 Million Three Hundred Thousand Dollars (\$3,300,000.00).

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

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