

2nd

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

March 19, 2018

Mr. President:

Mr. Speaker:

The Conference Committee, to which was rereferred

SB 689

By: Treat et al of the Senate and O'Donnell et al of the House

Title: Criminal procedure; judgments and execution of sentences; pilot program; sentencing powers of the court. Effective date.

_____ together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the 2nd attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:



Treat



Jech



Shaw



Floyd



Fry

Matthews

Thompson

HOUSE CONFEREES:

Conference Committee on Public Safety

Senate Action _____ Date _____ House Action _____ Date _____

spe

SB689 CCR2 (C)
HOUSE CONFEREES

Babinec, Greg



Cleveland, Bobby



Fetgatter, Scott

Ford, Ross

Humphrey, Justin



Lepak, Mark



Loring, Ben



McDugle, Kevin

Newton, Carl

Ownbey, Pat

Renegar, Brian



Ritze, Mike

Rosecrants, Jacob

Virgin, Emily



West, Tammy



Williams, Cory



1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 689

By: Treat, Pittman, Sharp and
Jech of the Senate

6 and

7 O'Donnell, Young and
8 Cleveland of the House

9
10 2ND CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to criminal procedure; amending 22
12 O.S. 2011, Sections 982a, as last amended by Section
13 1, Chapter 160, O.S.L. 2016, 983 and Section 2,
14 Chapter 243, O.S.L. 2015 (22 O.S. Supp. 2017,
15 Sections 982a and 985.1), which relate to judgments
16 and execution of sentences; making certain offenders
17 eligible for sentence modification; providing
18 statutory references; modifying court procedures
19 related to financial obligations owed by defendants;
20 amending 22 O.S. 2011, Sections 988.2, as last
21 amended by Section 11, Chapter 42, O.S.L. 2017,
22 988.8, 988.18, 988.19, 988.20 and 988.22 (22 O.S.
23 Supp. 2017, Section 988.2), which relate to the
24 Oklahoma Community Sentencing Act; modifying
definitions; providing for use of specialized
caseloads when supervising certain offenders;
expanding available treatment options; providing for
use of assessment results under limited
circumstances; directing supervision providers to
comply with certain statutory requirements; amending
22 O.S. 2011, Section 991a, as last amended by
Section 2, Chapter 194, O.S.L. 2017 (22 O.S. Supp.
2017, Section 991a), which relates to sentencing
powers of the court; requiring certain convicted
defendants to receive batterer assessment;
authorizing courts to order certain counseling
services; modifying exceptions to certain sentencing

1 option; amending 22 O.S. 2011, Sections 991b, as last
2 amended by Section 1, Chapter 33, O.S.L. 2016, and
3 991c, as last amended by Section 1, Chapter 209,
4 O.S.L. 2015 (22 O.S. Supp. 2017, Sections 991b and
5 991c), which relate to suspended and deferred
6 sentences and supervision fees; decreasing time
7 limitation for revocation hearing; establishing time
8 limitation for filing certain petition; providing
9 exception for revocation option; and providing an
10 effective date.

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

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
13 last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
14 2017, Section 982a), is amended to read as follows:

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

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

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

18 B. The court imposing the sentence may modify the sentence of
19 any offender sentenced to life without parole for an offense other
20 than a violent crime, as enumerated in Section 571 of Title 57 of
21 the Oklahoma Statutes, who has served at least ten (10) years of the
22 sentence in the custody of the Department of Corrections upon a
23 finding that the best interests of the public will not be
24 jeopardized. Provided; however, prior to granting a sentence

1 modification under the provisions of this subsection, the court
2 shall provide notice of the hearing to determine sentence
3 modification to the victim or representative of the victim and shall
4 allow the victim or representative of the victim the opportunity to
5 provide testimony at the hearing. The court shall consider the
6 testimony of the victim or representative of the victim when
7 rendering a decision to modify the sentence of an offender.

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

19 ~~C.~~ D. If the court considers modification of the sentence or
20 revocation of probation, a hearing shall be made in open court after
21 receipt of the reports required in subsection ~~B~~ C of this section.
22 The clerk of the court imposing sentence or revocation of probation
23 shall give notice of the judicial review hearing to the Department
24 of Corrections, the offender, the legal counsel of the offender, and

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

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

14 SECTION 2. AMENDATORY 22 O.S. 2011, Section 983, is
15 amended to read as follows:

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

1 satisfy the fine, cost, fee, or assessment by payment, but refuses
2 or neglects so to do.

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

7 C. In addition, the district court or municipal court, within
8 one hundred twenty (120) days from the date upon which the person
9 was originally ordered to make payment, may send notice of
10 nonpayment of any court ordered fine and costs for a moving traffic
11 violation to the Department of Public Safety with a recommendation
12 of suspension of driving privileges of the defendant until the total
13 amount of any fine and costs has been paid. Upon receipt of payment
14 of the total amount of the fine and costs for the moving traffic
15 violation, the court shall send notice thereof to the Department, if
16 a nonpayment notice was sent as provided for in this subsection.
17 Notices sent to the Department shall be on forms or by a method
18 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, which procedures and rules shall
22 be distributed to all district courts and municipal courts by the
23 Administrative Office of the Courts.

24

1 SECTION 3. AMENDATORY Section 2, Chapter 243, O.S.L.
2 2015 (22 O.S. Supp. 2017, Section 985.1), is amended to read as
3 follows:

4 Section 985.1. A. When sentencing a person convicted of a
5 criminal offense for which there is a mandatory minimum sentence of
6 imprisonment, the court may depart from the applicable sentence if
7 the court finds substantial and compelling reasons on the record,
8 after giving due regard to the nature of the crime, history, and
9 character of the defendant and his or her chances of successful
10 rehabilitation, that:

11 1. The mandatory minimum sentence of imprisonment is not
12 necessary for the protection of the public ~~and imposition;~~ or

13 2. Imposition of the mandatory minimum sentence of imprisonment
14 would result in substantial injustice to the defendant; or

15 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
16 necessary for the protection of the public and the defendant, based
17 on a risk and needs assessment, is eligible for an alternative
18 court, a diversion program or community sentencing, without regard
19 to exclusions because of previous convictions, and has been accepted
20 to the same, pending sentencing.

21 B. The court shall not have the discretion to depart from the
22 applicable mandatory minimum sentence of imprisonment on convictions
23 for criminal offenses under the following circumstances:
24

1 1. The offense for which the defendant was convicted is among
2 those crimes listed in Section 571 of Title 57 of the Oklahoma
3 Statutes as excepted from the definition of "nonviolent offense";

4 2. The offense for which the defendant was convicted was a sex
5 offense and will require the defendant to register as a sex offender
6 pursuant to the provisions of the Sex Offenders Registration Act;

7 3. The offense for which the defendant was convicted involved
8 the use of a firearm;

9 4. The offense for which the defendant was convicted is a crime
10 listed in Section 13.1 of Title 21 of the Oklahoma Statutes
11 requiring the defendant to serve not less than eighty-five percent
12 (85%) of any sentence of imprisonment imposed by the judicial system
13 prior to becoming eligible for consideration for parole;

14 5. The offense for which the defendant was convicted is a
15 violation of the Trafficking in Illegal Drugs Act as provided in
16 Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

17 6. The defendant was the leader, manager or supervisor of
18 others in a continuing criminal enterprise; or

19 7. The offense for which the defendant was convicted is a
20 violation of the Oklahoma Antiterrorism Act as provided in Sections
21 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

22 C. Any departure from the mandatory minimum sentence as
23 authorized in this section shall not reduce the sentence to less
24 than twenty-five percent (25%) of the mandatory term.

1 SECTION 4. AMENDATORY 22 O.S. 2011, Section 988.2, as
2 last amended by Section 11, Chapter 42, O.S.L. 2017 (22 O.S. Supp.
3 2017, Section 988.2), is amended to read as follows:

4 Section 988.2. A. For purposes of the Oklahoma Community
5 Sentencing Act:

6 1. "Local community sentencing system" means the use of public
7 and private entities to deliver services to the sentencing court for
8 punishment of eligible felony offenders under the authority of a
9 community sentence;

10 2. "Community sentence" or "community punishment" means a
11 punishment imposed by the court as a condition of a deferred or
12 suspended sentence for an eligible offender;

13 3. "Continuum of sanctions" means a variety of coercive
14 measures ~~and treatment options~~ ranked by degrees of public safety,
15 punitive effect, and cost benefit which are available to the
16 sentencing judge as punishment for criminal conduct;

17 4. "Community sentencing system planning council" or "planning
18 council" means a group of citizens and elected officials specified
19 by law or appointed by the Chief Judge of the Judicial District
20 which plans the local community sentencing system and with the
21 assistance of the Community Sentencing Division of the Department of
22 Corrections locates treatment providers and resources to support the
23 local community sentencing system;

24

1 5. "Incentive" means a court-ordered reduction in the terms or
2 conditions of a community sentence which is given for exceptional
3 performance or progress by the offender;

4 6. "Disciplinary sanction" means a court-ordered punishment in
5 response to a technical or noncompliance violation of a community
6 sentence which increases in intensity or duration with each
7 successive violation;

8 7. "Division" means the Community Sentencing Division within
9 the Department of Corrections which is the state administration
10 agency for the Oklahoma Community Sentencing Act, the statewide
11 community sentencing system, and all local community sentencing
12 systems;

13 8. "Eligible offender" means a felony offender who has been
14 convicted of or who has entered a plea other than not guilty to a
15 felony offense and who upon completion of a ~~Level of Services~~
16 ~~Inventory or another~~ risk and needs assessment ~~instrument~~ has been
17 found to be in a range other than the low range, ~~who has been~~
18 ~~convicted of at least one prior felony,~~ and who is not otherwise
19 prohibited by law, or is a person who has had an assessment
20 authorized by Section 3-704 of Title 43A of the Oklahoma Statutes
21 and the assessment recommends community sentencing. Provided,
22 however, that no person who has been convicted of or who has entered
23 a plea other than not guilty to an offense enumerated in paragraph 2
24 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception

1 to the definition of "nonviolent offense", shall be eligible for a
2 community sentence or community punishment unless the district
3 attorney or an assistant district attorney for the district in which
4 the offender's conviction was obtained consents thereto. The
5 district attorney may consent to eligibility for an offender who has
6 a mental illness or a developmental disability or a co-occurring
7 mental illness and substance abuse disorder and who scores in the
8 low range on the ~~LSI~~ or has an risk and needs assessment authorized
9 by Section 3-704 of Title 43A of the Oklahoma Statutes or another
10 assessment instrument if the offender is not otherwise prohibited by
11 law. Any consent by a district attorney shall be made a part of the
12 record of the case; and

13 9. "Statewide community sentencing system" means a network of
14 all counties through their respective local community sentencing
15 systems serving the state judicial system and offering support
16 services to each other through reciprocal and interlocal agreements
17 and interagency cooperation.

18 B. For the purposes of the Oklahoma Community Sentencing Act,
19 if a judicial district does not have a Chief Judge or if a judicial
20 district has more than one Chief Judge, the duties of the Chief
21 Judge provided for in the Oklahoma Community Sentencing Act shall be
22 performed by the Presiding Judge of the Judicial Administrative
23 District.

24

1 SECTION 5. AMENDATORY 22 O.S. 2011, Section 988.8, is
2 amended to read as follows:

3 Section 988.8. A. A community sentencing system established
4 pursuant to the provisions of the Oklahoma Community Sentencing Act
5 shall include those community punishments and programs and services
6 enumerated and funded in the annual plan submitted to the Community
7 Sentencing Division within the Department of Corrections and any
8 other services or punishments subsequently added and funded during a
9 plan year. The options may not be utilized for offenders not
10 meeting the eligibility criteria of programs and score requirements
11 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and
12 needs assessment. Each local system shall strive to have available
13 to the court all of the following services for eligible offenders:

- 14 1. Community service with or without compensation to the
15 offender;
- 16 2. Substance abuse treatment and availability for periodic drug
17 testing of offenders following treatment;
- 18 3. Varying levels of supervision by the Department of
19 Corrections probation officers or another qualified supervision
20 source, including specialized supervision for repeat offenders,
21 offenders with convictions for sex crimes, offenders with conviction
22 for domestic violence offenses and offenders with diagnosed mental
23 health needs;

1 4. Education and literacy provided by the State Department of
2 Education, the county library system, the local school board, or
3 another qualified source;

4 5. Employment opportunities and job skills training provided by
5 the Oklahoma Department of Career and Technology Education or
6 another qualified source;

7 6. Cognitive behavioral treatment and any other programming or
8 treatment needs as identified based on the results of the risk and
9 needs assessment administered under this section;

10 7. Enforced collections provided by the local court clerk, or
11 another state agency; and

12 ~~7.~~ 8. The availability of county jail or another restrictive
13 housing facility for limited disciplinary sanctions.

14 B. The court may order as a community punishment for an
15 eligible offender any condition listed as a condition available for
16 a suspended sentence.

17 C. In all cases in which an offender is sentenced to a
18 community punishment, the offender shall be ordered as part of the
19 terms and conditions of the sentence to pay for the court ordered
20 sanction, based upon ability to pay. Payments may be as provided by
21 court order or pursuant to periodic payment schedules established by
22 the service provider. If the offender does not have the financial
23 ability to pay for the court ordered sanction, payment shall be made
24 from funds budgeted for the local community sentencing system.

1 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.18, is
2 amended to read as follows:

3 Section 988.18. A. On and after March 1, 2000, for each felony
4 offender considered for any community punishment pursuant to the
5 Oklahoma Community Sentencing Act, the judge shall, prior to
6 sentencing, order an assessment and evaluation of the defendant as
7 required by law. The judge may determine that no additional
8 assessment is required if one was completed within the last six (6)
9 months.

10 B. ~~The Level of Services Inventory (LSI), or another~~ risk and
11 needs assessment and evaluation instrument designed to predict risk
12 to recidivate approved by the Department of Corrections, shall be
13 required to determine eligibility for any offender sentenced
14 pursuant to the Oklahoma Community Sentencing Act. The completed
15 assessment accompanied by a written supervision plan shall be
16 presented to and reviewed by the court prior to determining any
17 punishment for the offense. The purpose of the assessment shall be
18 to identify the extent of the deficiencies and pro-social needs of
19 the defendant, the potential risk to commit additional offenses that
20 threaten public safety, and the appropriateness of various community
21 punishments.

22 C. Upon order of the court, the defendant shall be required to
23 submit to the ~~LSI or other approved~~ risk and needs assessment which
24 shall be administered and scored by an appropriately trained person

1 pursuant to a service agreement with the local community sentencing
2 system. Any defendant lacking sufficient skills to comprehend or
3 otherwise participate in the assessment and evaluation shall have
4 appropriate assistance. If it is determined that the offender
5 cannot be adequately evaluated using the ~~LSI or another approved~~
6 risk and needs assessment, the offender shall be deemed ineligible
7 for any community services pursuant to the Oklahoma Community
8 Sentencing Act, and shall be sentenced as prescribed by law for the
9 offense.

10 D. The willful failure or refusal of the defendant to be
11 assessed and evaluated by using the ~~LSI or another approved~~ risk and
12 needs assessment shall preclude the defendant from eligibility for
13 any community punishment.

14 E. The completed ~~LSI, or other approved~~ risk and needs
15 assessment, shall include a written supervision plan and identify an
16 appropriate community punishment, if any, when the offender is
17 considered eligible for community punishments based upon the
18 completed risk/need score from the ~~LSI~~ risk and needs assessment of
19 the offender. Unless otherwise prohibited by law, only eligible
20 offenders ~~scoring in a range other than the low range on the LSI~~
21 ~~assessment and having at least one prior felony conviction~~ shall be
22 eligible for any state-funded community punishments.

23 F. The court is not required to sentence any offender to a
24 community punishment regardless of an eligible score on the ~~LSI~~ risk

1 and needs assessment. Any felony offender scoring in the low
2 risk/need levels on the ~~LSI~~ risk and needs assessment may be
3 sentenced to a suspended sentence with minimal, if any, conditions
4 of the sentence to be paid by the offender. If the ~~LSI or another~~
5 risk and needs assessment has been conducted, the evaluation report
6 shall accompany the judgment and sentence, provided the risk and
7 needs assessment indicates the offender is in need of this level of
8 supervision and treatment.

9 SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.19, is
10 amended to read as follows:

11 Section 988.19. A. When ordering a community sentence or
12 community punishment, the court shall first impose a deferred or
13 suspended sentence for the offense as prescribed by law, and shall
14 then order the appropriate community punishment as a condition of
15 that deferred or suspended sentence. The design of the community
16 punishment shall be based upon the supervision and intervention
17 report from the ~~Level of Services Inventory (LSI), or other approved~~
18 risk and needs assessment. The local community sentencing system
19 administrator shall have authority for all offender placements
20 within the local community sentencing system pursuant to the court-
21 ordered community sentence.

22 B. Persons convicted of or pleading guilty or nolo contendere
23 to a combination of misdemeanor and felony offenses may receive
24 services from a local community sentencing system when the county

1 agrees in writing to pay the Community Sentencing Division within
2 the Department of Corrections for the actual costs of services used
3 for misdemeanor cases. No state funds shall be used to pay for
4 misdemeanor offenses.

5 C. Any time during the term of a community sentence, the court
6 imposing the sentence may modify any previous provision as provided
7 in this section.

8 D. Upon consideration of a properly filed motion to modify a
9 community sentence pursuant to the provisions of this section, the
10 staff of the community sentencing system in which the offender is
11 ordered to participate, the sheriff, the district attorney, the
12 service provider, or any agency or person providing supervision of
13 the offender shall provide the court with any reports and other
14 information available and relating to the offender, and to the
15 reason for the motion to modify the sentence. The court shall
16 consider any reports and information submitted prior to modifying
17 the sentence.

18 E. If the court considers a motion to modify a community
19 sentence, a hearing shall be held in open court. The notice of the
20 hearing shall be given to the offender, the offender's legal
21 counsel, and the district attorney of the county in which the
22 offender was convicted not less than ten (10) days prior to the
23 hearing. A copy of any reports to be presented to the court shall
24 accompany the notice of hearing.

1 F. Following the hearing, the court shall enter the appropriate
2 order authorized by law. The court may modify any community
3 sentence by imposing any other punishment allowed by law for the
4 offense and appropriate for the circumstances as determined by the
5 discretion of the judge; provided, however, no punishment shall be
6 imposed which is greater than the maximum punishment allowed by law
7 for the original offense. The court shall give the offender day-
8 for-day credit on any modified sentence for any term of
9 incarceration imposed. The court may impose either a disciplinary
10 sanction or an incentive as provided in ~~Section 20 of this act~~
11 Section 988.20 of this title in lieu of or together with any
12 modification authorized by this section.

13 G. The court shall not be limited on the number of
14 modifications a sentence may have within the term of the community
15 sentence.

16 H. Any offender who files a meritless or frivolous motion to
17 modify a community sentence shall pay the costs of the proceeding
18 and may be sanctioned as deemed appropriate by the court.

19 I. The court may revoke or accelerate a community punishment to
20 the original sentence imposed during the term of the sentence. When
21 a community sentence is revoked to state imprisonment, the court
22 shall give a day-for-day credit for any term of incarceration
23 actually served as community punishment.

24

1 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.20, is
2 amended to read as follows:

3 Section 988.20. A. Upon proper motion to the court to modify a
4 community sentence as provided in Section 988.19 of this title, the
5 judge shall have authority to impose disciplinary sanctions or
6 incentives. An order for a disciplinary sanction shall not modify
7 the terms of the original sentence and shall be imposed only to gain
8 compliance with the terms of the court-ordered community punishment.
9 The court may order any community punishment available and funded in
10 the jurisdiction that is deemed appropriate by the judge for the
11 circumstance including, but not limited to, a term of imprisonment
12 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
13 title per disciplinary order motion for modification in either:

- 14 1. The county jail;
- 15 2. A residential treatment facility;
- 16 3. A restrictive housing facility; or
- 17 4. A halfway house.

18 When the offender is to be confined, the sheriff shall, upon order
19 of the court, deliver the offender to the designated place of
20 confinement, provided the place of confinement has an agreement for
21 confinement services with the local community sentencing system or
22 is the county jail. The sheriff shall be reimbursed by the local
23 community sentencing system for transporting offenders pursuant to
24 this subsection. The offender shall be given day-for-day credit for

1 any terms of incarceration served in the county jail or other
2 restrictive facility when the sentence is modified.

3 B. The court may, through a standing court order, provide for
4 specific ~~disciplinary~~ sanctions and incentives which may be utilized
5 by the local administrator upon notification to the court.

6 C. When a motion for modification has been filed pursuant to
7 Section 988.19 of this title, the court shall have authority to
8 offer incentives to offenders to encourage proper conduct in the
9 community and for compliance with the community punishments. The
10 court shall use its discretion in ordering appropriate incentives.
11 Incentives shall be considered a reduction and modification to the
12 community punishment and may be ordered after the motion to modify
13 has been heard.

14 D. When any offender is disciplined by the court as authorized
15 by this section and is to be imprisoned in the county jail or other
16 restrictive facility, the sheriff or facility administrator shall
17 receive compensation as provided by their agreement with the local
18 community sentencing system, or the sheriff or facility
19 administrator shall be paid directly for the services by the
20 offender when ordered to pay for the confinement as part of the
21 disciplinary sanction. In no event shall any compensation for
22 disciplinary confinement exceed the maximum amount provided for
23 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
24 Statutes.

1 E. The Department of Corrections is prohibited from accepting
2 offenders into any state penitentiary for disciplinary sanctions.

3 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.22, is
4 amended to read as follows:

5 Section 988.22. A. Any offender ordered to participate in the
6 local community sentencing system shall be advised of the conditions
7 of the specific program or service to which he or she is assigned.

8 B. Upon completion of any court-ordered provision, pursuant to
9 the Oklahoma Community Sentencing Act, the administrator of the
10 local system shall file a statement with the court defining the
11 provision which has been successfully completed. When all court-
12 ordered provisions have been successfully completed the defendant
13 shall be deemed to have completed the community punishment.

14 C. The provisions of the Oklahoma Community Sentencing Act
15 shall not confer any rights upon the defendant to avoid a term of
16 imprisonment prescribed by law for the offense, nor grant any
17 additional rights to appeal for failure to be offered any specific
18 punishment or treatment option available to the court.

19 D. A community sentence pursuant to the Oklahoma Community
20 Sentencing Act shall not require active supervision, programs or
21 services for more than three (3) years, but may continue beyond the
22 three-year limitation for purpose of completing court-ordered
23 ~~monetary obligations~~ restitution payments.

24

1 SECTION 10. AMENDATORY 22 O.S. 2011, Section 991a, as
2 last amended by Section 2, Chapter 194, O.S.L. 2017 (22 O.S. Supp.
3 2017, 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

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, ~~and~~

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 two (2) years of
6 probation to compensate the district attorney for the costs incurred
7 during the prosecution of the offender and for the additional work
8 of verifying the compliance of the offender with the rules and
9 conditions of his or her probation. The district attorney may waive
10 any part of this requirement in the best interests of justice. The
11 court shall not waive, suspend, defer or dismiss the costs of
12 prosecution in its entirety. However, if the court determines that
13 a reduction in the fine, costs and costs of prosecution is
14 warranted, the court shall equally apply the same percentage
15 reduction to the fine, costs and costs of prosecution owed by the
16 offender;

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

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

23 4. Order the defendant to reimburse the Oklahoma State Bureau
24 of Investigation for costs incurred by that agency during its

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

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

18 ~~6. In the case of nonviolent felony offenses, sentence such~~
19 ~~person to the Community Service Sentencing Program;~~

20 ~~7.~~ 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

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

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 ~~8.~~ 7. In addition to the other sentencing powers of the court,
11 in the case of a person convicted of prostitution pursuant to
12 Section 1029 of Title 21 of the Oklahoma Statutes, require such
13 person to receive counseling for the behavior which may have caused
14 such person to engage in prostitution activities. Such person may
15 be required to receive counseling in areas including but not limited
16 to alcohol and substance abuse, sexual behavior problems, or
17 domestic abuse or child abuse problems;

18 ~~9.~~ 8. In addition to the other sentencing powers of the court,
19 in 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 ~~the~~
22 ~~counseling services~~ an intervention program for batterers certified
23 by the Office of the Attorney General, necessary to bring about the
24 cessation of domestic abuse ~~against the victim.~~ In the instance

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

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

24

1 ~~11.~~ 10. In addition to the other sentencing powers of the
2 court, the court, in the case of a person convicted of child abuse
3 or neglect, as defined in Section 1-1-105 of Title 10A of the
4 Oklahoma Statutes, may require the person to undergo treatment or to
5 participate in counseling services. The defendant may be required
6 to pay all or part of the cost of the treatment or counseling
7 services;

8 ~~12.~~ 11. In addition to the other sentencing powers of the
9 court, the court, in the case of a person convicted of cruelty to
10 animals pursuant to Section 1685 of Title 21 of the Oklahoma
11 Statutes, may require the person to pay restitution to animal
12 facilities for medical care and any boarding costs of victimized
13 animals;

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

23 ~~14.~~ 13. In addition to the other sentencing powers of the
24 court, in the case of a sex offender who is required by law to

1 register pursuant to the Sex Offenders Registration Act, the court
2 may prohibit the person from accessing or using any Internet social
3 networking web site that has the potential or likelihood of allowing
4 the sex offender to have contact with any child who is under the age
5 of eighteen (18) years; or

6 ~~15.~~ 14. In addition to the other sentencing powers of the
7 court, in the case of a sex offender who is required by law to
8 register pursuant to the Sex Offenders Registration Act, the court
9 shall require the person to register any electronic mail address
10 information, instant message, chat or other Internet communication
11 name or identity information that the person uses or intends to use
12 while accessing the Internet or used for other purposes of social
13 networking or other similar Internet communication.

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

1 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
2 shall be conducted at a certified assessment agency, the office of a
3 certified assessor or at another location as ordered by the court.
4 The agency or assessor shall, within seventy-two (72) hours from the
5 time the person is assessed, submit a written report to the court
6 for the purpose of assisting the court in its final sentencing
7 determination. No person, agency or facility operating an alcohol
8 and drug substance abuse evaluation program certified by the
9 Department of Mental Health and Substance Abuse Services shall
10 solicit or refer any person evaluated pursuant to this subsection
11 for any treatment program or alcohol and drug substance abuse
12 service in which such person, agency or facility has a vested
13 interest; however, this provision shall not be construed to prohibit
14 the court from ordering participation in or any person from
15 voluntarily utilizing a treatment program or alcohol and drug
16 substance abuse service offered by such person, agency or facility.
17 If a person is sentenced to the custody of the Department of
18 Corrections and the court has received a written evaluation report
19 pursuant to this subsection, the report shall be furnished to the
20 Department of Corrections with the judgment and sentence. Any
21 evaluation report submitted to the court pursuant to this subsection
22 shall be handled in a manner which will keep such report
23 confidential from the general public's review. Nothing contained in
24 this subsection shall be construed to prohibit the court from

1 ordering judgment and sentence in the event the defendant fails or
2 refuses to comply with an order of the court to obtain the
3 evaluation required by this subsection.

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

9 1. A third or subsequent ~~to their third~~ conviction of a felony
10 or, beginning violent crime enumerated in Section 571 of Title 57 of
11 the Oklahoma Statutes;

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

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

18 In the case of a person being sentenced for ~~their~~ a second or
19 subsequent felony conviction for violation of Section 11-902 of
20 Title 47 of the Oklahoma Statutes, the court may sentence the person
21 pursuant to the provisions of paragraph 1 of subsection A of this
22 section if the court orders the person to submit to electronically
23 monitored home detention administered and supervised by the
24 Department of Corrections pursuant to subparagraph e of paragraph 7

1 of subsection A of this section. Provided, the court may waive
2 these prohibitions upon written application of the district
3 attorney. Both the application and the waiver shall be made part of
4 the record of the case.

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

8 E. Probation, for purposes of subsection A of this section, is
9 a procedure by which a defendant found guilty of a crime, whether
10 upon a verdict or plea of guilty or upon a plea of nolo contendere,
11 is released by the court subject to conditions imposed by the court
12 and subject to supervision by the Department of Corrections, a
13 private supervision provider or other person designated by the
14 court. Such supervision shall be initiated upon an order of
15 probation from the court, and shall not exceed two (2) years, unless
16 a petition alleging a violation of any condition of deferred
17 judgment or seeking revocation of the suspended sentence is filed
18 during the supervision, or as otherwise provided by law. In the
19 case of a person convicted of a sex offense, supervision shall begin
20 immediately upon release from incarceration or if parole is granted
21 and shall not be limited to two (2) years. Provided further, any
22 supervision provided for in this section may be extended for a
23 period not to exceed the expiration of the maximum term or terms of
24 the sentence upon a determination by the court or the Division of

1 Probation and Parole of the Department of Corrections that the best
2 interests of the public and the release will be served by an
3 extended period of supervision. Any supervision provided for under
4 this section may not have the period of supervision extended for a
5 failure to pay fines, fees and other costs, excluding restitution,
6 except upon a finding of willful nonpayment.

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

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

17 2. Any offender eligible to participate in the Program pursuant
18 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
19 participate in a county Program; provided, participation in county-
20 funded Programs shall not be limited to offenders who would
21 otherwise be sentenced to confinement with the Department of
22 Corrections.

23 3. The Department shall establish criteria and specifications
24 for contracts with counties for such Programs. A county may apply

1 to the Department for a contract for a county-funded Program for a
2 specific period of time. The Department shall be responsible for
3 ensuring that any contracting county complies in full with
4 specifications and requirements of the contract. The contract shall
5 set appropriate compensation to the county for services to the
6 Department.

7 4. The Department is hereby authorized to provide technical
8 assistance to any county in establishing a Program, regardless of
9 whether the county enters into a contract pursuant to this
10 subsection. Technical assistance shall include appropriate
11 staffing, development of community resources, sponsorship,
12 supervision and any other requirements.

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

18 H. As used in this section:

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

24

1 2. "Electronically monitored home detention" means
2 incarceration of the defendant within a specified location or
3 locations with monitoring by means of a device approved by the
4 Department of Corrections that detects if the person leaves the
5 confines of any specified location; and

6 3. "Victims impact panel program" means a meeting with at least
7 one live presenter who will share personal stories with participants
8 about how alcohol, drug abuse and the illegal conduct of others has
9 personally impacted the life of the presenter. A victims impact
10 panel program shall be attended by persons who have committed the
11 offense of driving, operating or being in actual physical control of
12 a motor vehicle while under the influence of alcohol or other
13 intoxicating substance. Persons attending a victims impact panel
14 program shall be required to pay a fee of not less than Fifteen
15 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
16 provider of the program. A certificate of completion shall be
17 issued to the person upon satisfying the attendance and fee
18 requirements of the victims impact panel program. A victims impact
19 panel program shall not be provided by any certified assessment
20 agency or certified assessor. The provider of the victims impact
21 panel program shall carry general liability insurance and maintain
22 an accurate accounting of all business transactions and funds
23 received in relation to the victims impact panel program.

24

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

1 sentenced to probation shall be required to submit to testing within
2 thirty (30) days of sentencing either to the Department of
3 Corrections or to the county sheriff or other peace officer as
4 directed by the court. Defendants who are sentenced to a term of
5 incarceration shall submit to testing in accordance with Section
6 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
7 enter the custody of the Department of Corrections or to the county
8 sheriff, for those defendants sentenced to incarceration in a county
9 jail. Convicted individuals who have previously submitted to DNA
10 testing under this section and for whom a valid sample is on file in
11 the OSBI Combined DNA Index System (CODIS) Database at the time of
12 sentencing shall not be required to submit to additional testing.
13 Except as required by the Sex Offenders Registration Act, a deferred
14 judgment does not require submission to deoxyribonucleic acid
15 testing.

16 Any person who is incarcerated in the custody of the Department
17 of Corrections after July 1, 1996, and who has not been released
18 before January 1, 2006, shall provide a blood or saliva sample prior
19 to release. Every person subject to DNA testing after January 1,
20 2006, whose sentence does not include a term of confinement with the
21 Department of Corrections, shall submit a blood or saliva sample.
22 Every person subject to DNA testing who is sentenced to unsupervised
23 probation or otherwise not supervised by the Department of
24

1 Corrections shall submit for blood or saliva testing to the sheriff
2 of the sentencing county.

3 J. Samples of blood or saliva for DNA testing required by
4 subsection I of this section shall be taken by employees or
5 contractors of the Department of Corrections, peace officers, or the
6 county sheriff or employees or contractors of the sheriff's office.
7 The individuals shall be properly trained to collect blood or saliva
8 samples. Persons collecting blood or saliva for DNA testing
9 pursuant to this section shall be immune from civil liabilities
10 arising from this activity. All collectors of DNA samples shall
11 ensure the collection of samples are mailed to the Oklahoma State
12 Bureau of Investigation within ten (10) days of the time the subject
13 appears for testing or within ten (10) days of the date the subject
14 comes into physical custody to serve a term of incarceration. All
15 collectors of DNA samples shall use sample kits provided by the OSBI
16 and procedures promulgated by the OSBI. Persons subject to DNA
17 testing who are not received at the Lexington Assessment and
18 Reception Center shall be required to pay a fee of Fifteen Dollars
19 (\$15.00) to the agency collecting the sample for submission to the
20 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
21 pursuant to this subsection shall be deposited in the revolving
22 account or the service fee account of the collection agency or
23 department.

24

1 K. When sentencing a person who has been convicted of a crime
2 that would subject that person to the provisions of the Sex
3 Offenders Registration Act, neither the court nor the district
4 attorney shall be allowed to waive or exempt such person from the
5 registration requirements of the Sex Offenders Registration Act.

6 SECTION 11. AMENDATORY 22 O.S. 2011, Section 991b, as
7 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
8 2017, Section 991b), is amended to read as follows:

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

22 B. Whenever a sentence has been suspended by the court after
23 conviction of a person for any crime, the suspended sentence of the
24 person may not be revoked in whole for a technical violation unless

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

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

- 17 1. Committing or being arrested for a new crime;
 - 18 2. Attempting to falsify a drug screen, or three (3) or more
19 failed drug or alcohol screens within a three (3) month period;
 - 20 3. Failing to pay restitution;
 - 21 4. Tampering with an electronic monitoring device;
 - 22 5. Failing to initially report or missing assigned reporting
23 requirements for an excess of sixty (60) days;
- 24

1 6. Unlawfully contacting a victim, co-defendant or criminal
2 associates;

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

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

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

1 violation, sanction, and the action plan to correct the noncompliant
2 behavior resulting in the technical violation. The probation
3 officer shall refer to the sanctioning matrix to determine the
4 supervision, treatment, and sanctions appropriate to address the
5 noncompliant behavior. The probation officer shall refer the
6 violation information and recommended response with a sanction plan
7 to the Department of Corrections to be heard by a hearing officer.
8 The Department of Corrections shall develop a sanction matrix,
9 forms, policies and procedures necessary to implement this
10 provision. The Department of Corrections shall establish procedures
11 to hear responses to technical violations and review sanction plans
12 including the following:

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

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

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

19 ~~C.~~ E. 1. Where one of the grounds for revocation is the
20 failure of the defendant to make restitution as ordered, the
21 Department of Corrections shall forward to the district attorney all
22 information pertaining to the failure of the defendant to make
23 timely restitution as ordered by the court, and the district
24

1 attorney shall file a petition setting forth the grounds for
2 revocation.

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

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

21 ~~D.~~ F. The court may revoke a portion of the sentence and
22 leave the remaining part not revoked, but suspended for the
23 remainder of the term of the sentence, and under the provisions
24 applying to it. The person whose suspended sentence is being

1 considered for revocation at the hearing shall have the right to be
2 represented by counsel, to present competent evidence in his or her
3 own behalf and to be confronted by the witnesses against the
4 defendant. Any order of the court revoking the suspended sentence,
5 in whole or in part, shall be subject to review on appeal, as in
6 other appeals of criminal cases. Provided, however, that if the
7 crime for which the suspended sentence is given was a felony, the
8 defendant may be allowed bail pending appeal. If the reason for
9 revocation be that the defendant committed a felony, the defendant
10 shall not be allowed bail pending appeal.

11 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991c, as
12 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
13 2017, Section 991c), is amended to read as follows:

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

23 1. Pay court costs;

24

- 1 2. Pay an assessment in lieu of any fine authorized by law for
2 the offense;
- 3 3. Pay any other assessment or cost authorized by law;
- 4 4. Engage in a term of community service without compensation,
5 according to a schedule consistent with the employment and family
6 responsibilities of the defendant;
- 7 5. County jail confinement for a period not to exceed ninety
8 (90) days or the maximum amount of jail time provided for the
9 offense, if it is less than ninety (90) days;
- 10 6. Pay an amount as reimbursement for reasonable attorney fees,
11 to be paid into the court fund, if a court-appointed attorney has
12 been provided to defendant;
- 13 7. Be supervised in the community for a period not to exceed
14 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
15 violation of any condition of deferred judgment is filed during the
16 period of supervision. As a condition of any supervision, the
17 defendant shall be required to pay a supervision fee of Forty
18 Dollars (\$40.00) per month. The supervision fee shall be waived in
19 whole or part by the supervisory agency when the accused is
20 indigent. No person shall be denied supervision based solely on the
21 inability of the person to pay a fee;
- 22 8. Pay into the court fund a monthly amount not exceeding Forty
23 Dollars (\$40.00) per month during any period during which the
24 proceedings are deferred when the defendant is not to be supervised

1 in the community. The total amount to be paid into the court fund
2 shall be established by the court and shall not exceed the amount of
3 the maximum fine authorized by law for the offense;

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

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

9 11. Any combination of the above provisions.

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

24

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

6 C. In addition to any conditions of supervision provided for in
7 subsection A of this section, the court shall, in the case of a
8 person before the court for the offense of operating or being in
9 control of a motor vehicle while the person was under the influence
10 of alcohol, other intoxicating substance, or a combination of
11 alcohol and another intoxicating substance, or who is before the
12 court for the offense of operating a motor vehicle while the ability
13 of the person to operate such vehicle was impaired due to the
14 consumption of alcohol, require the person to participate in an
15 alcohol and drug substance abuse evaluation program offered by a
16 facility or qualified practitioner certified by the Department of
17 Mental Health and Substance Abuse Services for the purpose of
18 evaluating the receptivity to treatment and prognosis of the person.
19 The court shall order the person to reimburse the facility or
20 qualified practitioner for the evaluation. The Department of Mental
21 Health and Substance Abuse Services shall establish a fee schedule,
22 based upon the ability of a person to pay, provided the fee for an
23 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
24 evaluation shall be conducted at a certified facility, the office of

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

1 years of experience in providing alcohol abuse treatment, other drug
2 abuse treatment, or both alcohol and other drug abuse treatment who
3 is certified each year by the Department of Mental Health and
4 Substance Abuse Services to provide these assessments. However, any
5 person who does not meet the requirements for a qualified
6 practitioner as defined herein, but who has been previously
7 certified by the Department of Mental Health and Substance Abuse
8 Services to provide alcohol or drug treatment or assessments, shall
9 be considered a qualified practitioner provided all education,
10 experience and certification requirements stated herein are met by
11 September 1, 1995. The court may also require the person to
12 participate in one or both of the following:

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

15 2. A victims impact panel program, as defined in subsection H
16 of Section 991a of this title, if such a program is offered in the
17 county where the judgment is rendered. The defendant shall be
18 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
19 more than Sixty Dollars (\$60.00) as set by the governing authority
20 of the program and approved by the court to the victims impact panel
21 program to offset the cost of participation by the defendant, if in
22 the opinion of the court the defendant has the ability to pay such
23 fee.

24

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

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

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

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

17 4. No information concerning the confidential file shall be
18 revealed or released, except upon written order of a judge of the
19 district court or upon written request by the named defendant to the
20 court clerk for the purpose of updating the criminal history record
21 of the defendant with the Oklahoma State Bureau of Investigation;
22 and

23 5. Defendants qualifying under Section 18 of this title may
24 petition the court to have the filing of the indictment and the

1 dismissal expunged from the public index and docket sheet. This
2 section shall not be mutually exclusive of Section 18 of this title.

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

10 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
11 retroactive.

12 ~~E.~~ F. Whenever a judgment has been deferred by the court
13 according to the provisions of this section, deferred judgment may
14 not be accelerated for any technical violation unless a petition
15 setting forth the grounds for such acceleration is filed by the
16 district attorney with the clerk of the sentencing court and
17 competent evidence justifying the acceleration of the judgment is
18 presented to the court at a hearing to be held for that purpose.
19 The hearing shall be held not more than twenty (20) days after the
20 entry of the plea of not guilty to the petition, unless waived by
21 both the state and the defendant. Any acceleration of a deferred
22 sentence based on a technical violation shall not exceed ninety (90)
23 days for a first acceleration or five (5) years for a second or
24 subsequent acceleration.

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

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

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

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

21 ~~H. Defendants~~ J. All defendants who are supervised ~~by the~~
22 ~~Department of Corrections~~ pursuant to this section shall be subject
23 to the ~~intermediate~~ sanction process as established in subsection B
24 of Section 991b of this title.

1 SECTION 13. This act shall become effective November 1, 2018.

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