

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2218

By: May of the House and Jech of the Senate

Title: Criminal procedure; fines, costs and fees; nonpayment; waiving in certain circumstances;
sentencing; probation; effective date.

Together with Engrossed Senate 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 Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES

Jech _____

Daniels _____

Bice _____

Coleman _____

Brooks _____

Floyd _____

Shaw _____

Matthews _____

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2218

By: May and Dunnington of the
House

7 and

Jech of the Senate

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to criminal procedure; amending 22
12 O.S. 2011, Section 983, as amended by Section 2,
13 Chapter 128, O.S.L. 2018 and Sections 1 and 2,
14 Chapter 392, O.S.L. 2016 (22 O.S. Supp. 2018,
15 Sections 983, 983a and 983b), which relate to fines,
16 costs and fees in criminal cases; establishing
17 condition for sending notification of nonpayment of
18 certain fines and costs; providing statutory
19 reference; directing court to defer or waive payment
20 of fines, costs and fees under certain circumstances;
21 changing entity responsible for promulgating certain
22 rules; amending 22 O.S. 2011, Section 991a, as last
23 amended by Section 10, Chapter 128, O.S.L. 2018 (22
24 O.S. Supp. 2018, Section 991a), which relates to
sentencing powers of the court; modifying time
limitation for paying supervision fee to the district
attorney; directing district attorney to waive fee in
hardship cases; permitting court to waive prosecution
costs; directing probation supervisors to use certain
sanctions and incentive process; authorizing certain
persons to earn discharge credits; authorizing
defendants to request hearing to establish payment
plan; defining term; providing guidelines for
establishing payment plan; amending 22 O.S. 2011,
Sections 991b, as last amended by Section 11, Chapter
128, O.S.L. 2018, 991c, as last amended by Section
12, Chapter 128, O.S.L. 2018 and 991d, as amended by

1 Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp.
2 2018, Sections 991b, 991c and 991d), which relate to
3 the suspension of judgment and sentences; modifying
4 procedures for filing revocations for technical
5 violations; establishing time limitation for filing
6 petitions; providing guidelines for revocation
7 hearings; directing court to make certain
8 considerations prior to revoking probation; providing
9 suggested list of imprisonment periods for probation
10 revocations; returning probationer to probation
11 status under certain circumstances; authorizing
12 departure from period of imprisonment under certain
13 circumstances; modifying scope of certain definition;
14 deleting requirement to develop matrix for technical
15 violations; removing list of recommended sanction
16 options; permitting the Department of Corrections to
17 recommend revocation under certain circumstances;
18 reducing time limitation for deferred sentences and
19 community supervision; modifying time limitation for
20 paying supervision fee to the district attorney;
21 directing district attorney to waive fee in hardship
22 cases; permitting court to waive prosecution costs;
23 establishing time limitation for filing petition for
24 acceleration of deferred sentence; providing
statutory reference; modifying time limitation for
paying supervision fee to the district attorney;
directing district attorney to waive fee in hardship
cases; reducing time limitation for filing petition
for acceleration; directing court to sentence
offenders subject to acceleration in accordance with
certain provision; specifying time limitation for
payment of supervision fee; and providing an
effective date.

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

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

Section 983. A. Any defendant found guilty of an offense in
any court of this state may be imprisoned for nonpayment of the

1 fine, cost, fee~~7~~ or assessment when the trial court finds after
2 notice and hearing that the defendant is financially able but
3 refuses or neglects to pay the fine, cost, fee~~7~~ or assessment. A
4 sentence to pay a fine, cost, fee~~7~~ or assessment may be converted
5 into a jail sentence only after a hearing and a judicial
6 determination, memorialized of record, that the defendant is able to
7 satisfy the fine, cost, fee~~7~~ or assessment by payment, but refuses
8 or neglects so to do.

9 B. After a judicial determination that the defendant is able to
10 pay the fine, cost, fee~~7~~ or assessment in installments, the court
11 may order the fine, cost, fee~~7~~ or assessment to be paid in
12 installments and shall set the amount and date for each installment.

13 C. ~~In addition~~ If, after notice and hearing, the court finds
14 that the defendant is financially able but willfully refuses or
15 neglects to pay the fine, cost, fee or assessment, the district
16 court or municipal court, within one hundred twenty (120) days from
17 the date upon which the person was originally ordered to make
18 payment, may send notice of nonpayment of any court ordered fine and
19 costs for a moving traffic violation to the Department of Public
20 Safety with a recommendation of suspension of driving privileges of
21 the defendant until the total amount of any fine and costs has been
22 paid. Upon receipt of payment of the total amount of the fine and
23 costs for the moving traffic violation, the court shall send notice
24 thereof to the Department, if a nonpayment notice was sent as

1 provided for in this subsection. Notices sent to the Department
2 shall be on forms or by a method approved by the Department.

3 D. The Court of Criminal Appeals shall implement procedures and
4 rules for methods of establishing payment plans of fines, costs,
5 fees, and assessments by indigents according to discretionary
6 income, as defined in subsection L of Section 991a of this title,
7 which procedures and rules shall be distributed to all district
8 courts and municipal courts by the Administrative Office of the
9 Courts.

10 SECTION 2. AMENDATORY Section 1, Chapter 392, O.S.L.
11 2016 (22 O.S. Supp. 2018, Section 983a), is amended to read as
12 follows:

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

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

18 2. Has been released from the custody of the Department of
19 Corrections;

20 3. Has complied with all probation or supervision requirements
21 since being released from the custody of the Department of
22 Corrections; and

23 4. Has made installment payments on outstanding fines, court
24 costs, fees and restitution ordered by the court on a timely basis

1 every month for the previous twenty-four (24) months following
2 release from the custody of the Department of Corrections.

3 B. The court shall defer payment of outstanding fines, court
4 costs and fees if the person has secured admission to and is
5 enrolled and in good standing in an institution that is a technology
6 center school, workforce training program or member of The Oklahoma
7 State System of Higher Education.

8 C. Upon the completion of each forty-hour work week, the court
9 shall waive the fines, court costs and fees based on the equivalent
10 value of the potential gross income of the person as determined by
11 the minimum wage of the state as set forth in Section 197.2 of Title
12 40 of the Oklahoma Statutes.

13 D. The provisions of this section shall not apply to amounts
14 owed by the person for restitution to a victim pursuant to a court
15 order or child support obligations pursuant to a court order.

16 SECTION 3. AMENDATORY Section 2, Chapter 392, O.S.L.
17 2016 (22 O.S. Supp. 2018, Section 983b), is amended to read as
18 follows:

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

24

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

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

14 B. In determining the ability of the person to satisfy fines,
15 fees, costs or assessments owed to a district or municipal court,
16 the court shall inquire of the person at the time of the hearing
17 which counties and municipalities the person owes fines, fees, costs
18 or assessments in every felony or misdemeanor criminal case filed
19 against the person and shall consider all court-ordered debt,
20 including restitution and child support, in determining the ability
21 of the person to pay. The ~~person~~ court shall not ~~be required to pay~~
22 require payment of any outstanding fines, fees, costs or assessments
23 prior to the expiration of the one-hundred-eighty-day period;
24 provided, however, the person shall not be precluded from

1 voluntarily making payment toward the satisfaction of any fines,
2 fees, costs or assessments due and owing to a district or municipal
3 court of this state.

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

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

9 2. Consolidating district and municipal court fines, fees,
10 costs or assessments owed by a person into one order for payment;
11 and

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

15 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991a, as
16 last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
17 2018, Section 991a), is amended to read as follows:

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

22 1. Suspend the execution of sentence in whole or in part, with
23 or without probation. The court, in addition, may order the
24

1 convicted defendant at the time of sentencing or at any time during
2 the suspended sentence to do one or more of the following:

3 a. to provide restitution to the victim as provided by
4 Section 991f et seq. of this title or according to a
5 schedule of payments established by the sentencing
6 court, together with interest upon any pecuniary sum
7 at the rate of twelve percent (12%) per annum, if the
8 defendant agrees to pay such restitution or, in the
9 opinion of the court, if the defendant is able to pay
10 such restitution without imposing manifest hardship on
11 the defendant or the immediate family and if the
12 extent of the damage to the victim is determinable
13 with reasonable certainty,

14 b. to reimburse any state agency for amounts paid by the
15 state agency for hospital and medical expenses
16 incurred by the victim or victims, as a result of the
17 criminal act for which such person was convicted,
18 which reimbursement shall be made directly to the
19 state agency, with interest accruing thereon at the
20 rate of twelve percent (12%) per annum,

21 c. to engage in a term of community service without
22 compensation, according to a schedule consistent with
23 the employment and family responsibilities of the
24 person convicted,

- 1 d. to pay a reasonable sum into any trust fund,
2 established pursuant to the provisions of Sections 176
3 through 180.4 of Title 60 of the Oklahoma Statutes,
4 and which provides restitution payments by convicted
5 defendants to victims of crimes committed within this
6 state wherein such victim has incurred a financial
7 loss,
- 8 e. to confinement in the county jail for a period not to
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term
11 of post-imprisonment community supervision for not
12 less than three (3) years of the total term allowed by
13 law for imprisonment, with or without restitution;
14 provided, however, the authority of this provision is
15 limited to Section 843.5 of Title 21 of the Oklahoma
16 Statutes when the offense involved sexual abuse or
17 sexual exploitation; Sections 681, 741 and 843.1 of
18 Title 21 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; and
20 Sections 865 et seq., 885, 886, 888, 891, 1021,
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a
24 local certified crime stoppers program and the

1 Oklahoma Reward System. In determining whether the
2 defendant shall repay the reward or part of the
3 reward, the court shall consider the ability of the
4 defendant to make the payment, the financial hardship
5 on the defendant to make the required payment, and the
6 importance of the information to the prosecution of
7 the defendant as provided by the arresting officer or
8 the district attorney with due regard for the
9 confidentiality of the records of the local certified
10 crime stoppers program and the Oklahoma Reward System.
11 The court shall assess this repayment against the
12 defendant as a cost of prosecution. The term
13 "certified" means crime stoppers organizations that
14 annually meet the certification standards for crime
15 stoppers programs established by the Oklahoma Crime
16 Stoppers Association to the extent those standards do
17 not conflict with state statutes. The term "court"
18 refers to all municipal and district courts within
19 this state. The "Oklahoma Reward System" means the
20 reward program established by Section 150.18 of Title
21 74 of the Oklahoma Statutes,

22 h. to reimburse the Oklahoma State Bureau of
23 Investigation for costs incurred by that agency during
24 its investigation of the crime for which the defendant

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

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

23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

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

15 m. to be placed in a victims impact panel program, as
16 defined in subsection H of this section, or
17 victim/offender reconciliation program and payment of
18 a fee to the program of not less than Fifteen Dollars
19 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
20 by the governing authority of the program to offset
21 the cost of participation by the defendant. Provided,
22 each victim/offender reconciliation program shall be
23 required to obtain a written consent form voluntarily
24 signed by the victim and defendant that specifies the

1 methods to be used to resolve the issues, the
2 obligations and rights of each person, and the
3 confidentiality of the proceedings. Volunteer
4 mediators and employees of a victim/offender
5 reconciliation program shall be immune from liability
6 and have rights of confidentiality as provided in
7 Section 1805 of Title 12 of the Oklahoma Statutes,
8 n. to install, at the expense of the defendant, an
9 ignition interlock device approved by the Board of
10 Tests for Alcohol and Drug Influence. The device
11 shall be installed upon every motor vehicle operated
12 by the defendant, and the court shall require that a
13 notation of this restriction be affixed to the
14 defendant's driver license. The restriction shall
15 remain on the driver license not exceeding two (2)
16 years to be determined by the court. The restriction
17 may be modified or removed only by order of the court
18 and notice of any modification order shall be given to
19 the Department of Public Safety. Upon the expiration
20 of the period for the restriction, the Department of
21 Public Safety shall remove the restriction without
22 further court order. Failure to comply with the order
23 to install an ignition interlock device or operating
24 any vehicle without a device during the period of

1 restriction shall be a violation of the sentence and
2 may be punished as deemed proper by the sentencing
3 court. As used in this paragraph, "ignition interlock
4 device" means a device that, without tampering or
5 intervention by another person, would prevent the
6 defendant from operating a motor vehicle if the
7 defendant has a blood or breath alcohol concentration
8 of two-hundredths (0.02) or greater,

- 9 o. to be confined by electronic monitoring administered
10 and supervised by the Department of Corrections or a
11 community sentence provider, and payment of a
12 monitoring fee to the supervising authority, not to
13 exceed Three Hundred Dollars (\$300.00) per month. Any
14 fees collected pursuant to this paragraph shall be
15 deposited with the appropriate supervising authority.
16 Any willful violation of an order of the court for the
17 payment of the monitoring fee shall be a violation of
18 the sentence and may be punished as deemed proper by
19 the sentencing court. As used in this paragraph,
20 "electronic monitoring" means confinement of the
21 defendant within a specified location or locations
22 with supervision by means of an electronic device
23 approved by the Department of Corrections which is
24 designed to detect if the defendant is in the court-

1 ordered location at the required times and which
2 records violations for investigation by a qualified
3 supervisory agency or person,

- 4 p. to perform one or more courses of treatment, education
5 or rehabilitation for any conditions, behaviors,
6 deficiencies or disorders which may contribute to
7 criminal conduct, including but not limited to alcohol
8 and substance abuse, mental health, emotional health,
9 physical health, propensity for violence, antisocial
10 behavior, personality or attitudes, deviant sexual
11 behavior, child development, parenting assistance, job
12 skills, vocational-technical skills, domestic
13 relations, literacy, education, or any other
14 identifiable deficiency which may be treated
15 appropriately in the community and for which a
16 certified provider or a program recognized by the
17 court as having significant positive impact exists in
18 the community. Any treatment, education or
19 rehabilitation provider required to be certified
20 pursuant to law or rule shall be certified by the
21 appropriate state agency or a national organization,
- 22 q. to submit to periodic testing for alcohol,
23 intoxicating substance, or controlled dangerous
24 substances by a qualified laboratory,

- 1 r. to pay a fee, costs for treatment, education,
2 supervision, participation in a program, or any
3 combination thereof as determined by the court, based
4 upon the defendant's ability to pay the fees or costs,
5 s. to be supervised by a Department of Corrections
6 employee, a private supervision provider, or other
7 person designated by the court,
8 t. to obtain positive behavior modeling by a trained
9 mentor,
10 u. to serve a term of confinement in a restrictive
11 housing facility available in the community,
12 v. to serve a term of confinement in the county jail at
13 night or during weekends pursuant to Section 991a-2 of
14 this title or for work release,
15 w. to obtain employment or participate in employment-
16 related activities,
17 x. to participate in mandatory day reporting to
18 facilities or persons for services, payments, duties
19 or person-to-person contacts as specified by the
20 court,
21 y. to pay day fines not to exceed fifty percent (50%) of
22 the net wages earned. For purposes of this paragraph,
23 "day fine" means the offender is ordered to pay an
24 amount calculated as a percentage of net daily wages

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

5 z. to submit to blood or saliva testing as required by
6 subsection I of this section,

7 aa. to repair or restore property damaged by the
8 defendant's conduct, if the court determines the
9 defendant possesses sufficient skill to repair or
10 restore the property and the victim consents to the
11 repairing or restoring of the property,

12 bb. to restore damaged property in kind or payment of out-
13 of-pocket expenses to the victim, if the court is able
14 to determine the actual out-of-pocket expenses
15 suffered by the victim,

16 cc. to attend a victim-offender reconciliation program if
17 the victim agrees to participate and the offender is
18 deemed appropriate for participation,

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

4 ee. in the case of a sex offender sentenced after November
5 1, 1989, and required by law to register pursuant to
6 the Sex Offender Registration Act, the court shall
7 require the person to comply with sex offender
8 specific rules and conditions of supervision
9 established by the Department of Corrections and
10 require the person to participate in a treatment
11 program designed for the treatment of sex offenders
12 during the period of time while the offender is
13 subject to supervision by the Department of
14 Corrections. The treatment program shall include
15 polygraph examinations specifically designed for use
16 with sex offenders for purposes of supervision and
17 treatment compliance, and shall be administered not
18 less than each six (6) months during the period of
19 supervision. The examination shall be administered by
20 a certified licensed polygraph examiner. The
21 treatment program must be approved by the Department
22 of Corrections or the Department of Mental Health and
23 Substance Abuse Services. Such treatment shall be at
24

1 the expense of the defendant based on the defendant's
2 ability to pay,

3 ff. in addition to other sentencing powers of the court,
4 the court in the case of a defendant being sentenced
5 for a felony conviction for a violation of Section 2-
6 402 of Title 63 of the Oklahoma Statutes which
7 involves marijuana may require the person to
8 participate in a drug court program, if available. If
9 a drug court program is not available, the defendant
10 may be required to participate in a community
11 sanctions program, if available,

12 gg. in the case of a person convicted of any false or
13 bogus check violation, as defined in Section 1541.4 of
14 Title 21 of the Oklahoma Statutes, impose a fee of
15 Twenty-five Dollars (\$25.00) to the victim for each
16 check, and impose a bogus check fee to be paid to the
17 district attorney. The bogus check fee paid to the
18 district attorney shall be equal to the amount
19 assessed as court costs plus Twenty-five Dollars
20 (\$25.00) for each check upon filing of the case in
21 district court. This money shall be deposited in the
22 Bogus Check Restitution Program Fund as established in
23 subsection B of Section 114 of this title.

24 Additionally, the court may require the offender to

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program,

4 hh. in the case of a person being sentenced for a
5 conviction for a violation of Section 644 of Title 21
6 of the Oklahoma Statutes, require the person to
7 receive an assessment for batterers, which shall be
8 conducted through a certified treatment program for
9 batterers, and

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

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

16 However, unless under the supervision of the district attorney,
17 the offender shall be required to pay Forty Dollars (\$40.00) per
18 month to the district attorney ~~during the first~~ for a period not
19 exceeding two (2) years of probation to compensate the district
20 attorney for the costs incurred during the prosecution of the
21 offender and for the additional work of verifying the compliance of
22 the offender with the rules and conditions of his or her probation.
23 In hardship cases, the district attorney shall expressly waive all
24 or part of the fee. The district attorney may waive any part of

1 this requirement in the best interests of justice. The court ~~shall~~
2 ~~not~~ may waive, suspend, defer or dismiss the costs of prosecution in
3 its entirety. However, if the court determines that a reduction in
4 the fine, costs and costs of prosecution is warranted, the court
5 shall equally apply the same percentage reduction to the fine, costs
6 and costs of prosecution owed by the offender;

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

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

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

22 5. Order the defendant to reimburse the Oklahoma State Bureau
23 of Investigation for all costs incurred by that agency for cleaning
24 up an illegal drug laboratory site for which the defendant pleaded

1 guilty, nolo contendere or was convicted. The court clerk shall
2 collect the amount and may retain five percent (5%) of such monies
3 to be deposited in the Court Clerk Revolving Fund to cover
4 administrative costs and shall remit the remainder to the Oklahoma
5 State Bureau of Investigation to be deposited in the OSBI Revolving
6 Fund established by Section 150.19a of Title 74 of the Oklahoma
7 Statutes;

8 6. In addition to the other sentencing powers of the court, in
9 the case of a person convicted of operating or being in control of a
10 motor vehicle while the person was under the influence of alcohol,
11 other intoxicating substance, or a combination of alcohol or another
12 intoxicating substance, or convicted of operating a motor vehicle
13 while the ability of the person to operate such vehicle was impaired
14 due to the consumption of alcohol, require such person:

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

24

1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, if such a program is
3 offered in the county where the judgment is rendered,
4 and to pay a fee 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 and approved
7 by the court, to the program to offset the cost of
8 participation by the defendant, if in the opinion of
9 the court the defendant has the ability to pay such
10 fee,

11 c. to both participate in the alcohol and drug substance
12 abuse course or treatment program, pursuant to
13 subparagraph a of this paragraph and attend a victims
14 impact panel program, pursuant to subparagraph b of
15 this paragraph,

16 d. to install, at the expense of the person, an ignition
17 interlock device approved by the Board of Tests for
18 Alcohol and Drug Influence, upon every motor vehicle
19 operated by such person and to require that a notation
20 of this restriction be affixed to the person's driver
21 license at the time of reinstatement of the license.
22 The restriction shall remain on the driver license for
23 such period as the court shall determine. The
24 restriction may be modified or removed by order of the

1 court and notice of the order shall be given to the
2 Department of Public Safety. Upon the expiration of
3 the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without such device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court, or

11 e. beginning January 1, 1993, to submit to electronically
12 monitored home detention administered and supervised
13 by the Department of Corrections, and to pay to the
14 Department a monitoring fee, not to exceed Seventy-
15 five Dollars (\$75.00) a month, to the Department of
16 Corrections, if in the opinion of the court the
17 defendant has the ability to pay such fee. Any fees
18 collected pursuant to this subparagraph shall be
19 deposited in the Department of Corrections Revolving
20 Fund. Any order by the court for the payment of the
21 monitoring fee, if willfully disobeyed, may be
22 enforced as an indirect contempt of court;

23 7. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section

1 1029 of Title 21 of the Oklahoma Statutes, require such person to
2 receive counseling for the behavior which may have caused such
3 person to engage in prostitution activities. Such person may be
4 required to receive counseling in areas including but not limited to
5 alcohol and substance abuse, sexual behavior problems, or domestic
6 abuse or child abuse problems;

7 8. In addition to the other sentencing powers of the court, in
8 the case of a person convicted of any crime related to domestic
9 abuse, as defined in Section 60.1 of this title, the court may
10 require the defendant to undergo the treatment or participate in an
11 intervention program for batterers certified by the Office of the
12 Attorney General, necessary to bring about the cessation of domestic
13 abuse. In the instance where the defendant alleges that he or she
14 is a victim of domestic abuse and the current conviction is a
15 response to that abuse, the court may require the defendant to
16 undergo an assessment by a domestic violence program certified by
17 the Office of the Attorney General, and, if based upon the results
18 of the assessment, the defendant is determined to be a victim of
19 domestic violence, the defendant shall undergo treatment and
20 participate in a certified program for domestic violence victims.
21 The defendant may be required to pay all or part of the cost of the
22 treatment or counseling services;

23 9. In addition to the other sentencing powers of the court, the
24 court, in the case of a sex offender sentenced after November 1,

1 1989, and required by law to register pursuant to the Sex Offenders
2 Registration Act, shall require the person to participate in a
3 treatment program designed specifically for the treatment of sex
4 offenders, if available. The treatment program will include
5 polygraph examinations specifically designed for use with sex
6 offenders for the purpose of supervision and treatment compliance,
7 provided the examination is administered by a certified licensed
8 polygraph examiner. The treatment program must be approved by the
9 Department of Corrections or the Department of Mental Health and
10 Substance Abuse Services. Such treatment shall be at the expense of
11 the defendant based on the defendant's ability to pay;

12 10. In addition to the other sentencing powers of the court,
13 the court, in the case of a person convicted of child abuse or
14 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
15 Statutes, may require the person to undergo treatment or to
16 participate in counseling services. The defendant may be required
17 to pay all or part of the cost of the treatment or counseling
18 services;

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

24

1 12. In addition to the other sentencing powers of the court, a
2 sex offender who is habitual or aggravated as defined by Section 584
3 of Title 57 of the Oklahoma Statutes and who is required to register
4 as a sex offender pursuant to the Oklahoma Sex Offenders
5 Registration Act shall be supervised by the Department of
6 Corrections for the duration of the registration period and shall be
7 assigned to a global position monitoring device by the Department of
8 Corrections for the duration of the registration period. The cost
9 of such monitoring device shall be reimbursed by the offender;

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

17 14. In addition to the other sentencing powers of the court, in
18 the case of a sex offender who is required by law to register
19 pursuant to the Sex Offenders Registration Act, the court shall
20 require the person to register any electronic mail address
21 information, instant message, chat or other Internet communication
22 name or identity information that the person uses or intends to use
23 while accessing the Internet or used for other purposes of social
24 networking or other similar Internet communication.

1 B. Notwithstanding any other provision of law, any person who
2 is found guilty of a violation of any provision of Section 761 or
3 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
4 guilty or nolo contendere for a violation of any provision of such
5 sections shall be ordered to participate in, prior to sentencing, an
6 alcohol and drug assessment and evaluation by an assessment agency
7 or assessment personnel certified by the Department of Mental Health
8 and Substance Abuse Services for the purpose of evaluating the
9 receptivity to treatment and prognosis of the person. The court
10 shall order the person to reimburse the agency or assessor for the
11 evaluation. The fee shall be the amount provided in subsection C of
12 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
13 shall be conducted at a certified assessment agency, the office of a
14 certified assessor or at another location as ordered by the court.
15 The agency or assessor shall, within seventy-two (72) hours from the
16 time the person is assessed, submit a written report to the court
17 for the purpose of assisting the court in its final sentencing
18 determination. No person, agency or facility operating an alcohol
19 and drug substance abuse evaluation program certified by the
20 Department of Mental Health and Substance Abuse Services shall
21 solicit or refer any person evaluated pursuant to this subsection
22 for any treatment program or alcohol and drug substance abuse
23 service in which such person, agency or facility has a vested
24 interest; however, this provision shall not be construed to prohibit

1 the court from ordering participation in or any person from
2 voluntarily utilizing a treatment program or alcohol and drug
3 substance abuse service offered by such person, agency or facility.
4 If a person is sentenced to the custody of the Department of
5 Corrections and the court has received a written evaluation report
6 pursuant to this subsection, the report shall be furnished to the
7 Department of Corrections with the judgment and sentence. Any
8 evaluation report submitted to the court pursuant to this subsection
9 shall be handled in a manner which will keep such report
10 confidential from the general public's review. Nothing contained in
11 this subsection shall be construed to prohibit the court from
12 ordering judgment and sentence in the event the defendant fails or
13 refuses to comply with an order of the court to obtain the
14 evaluation required by this subsection.

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

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

22 2. A fourth or subsequent conviction for any other felony
23 crime; or
24

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

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

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

19 E. Probation, for purposes of subsection A of this section, is
20 a procedure by which a defendant found guilty of a crime, whether
21 upon a verdict or plea of guilty or upon a plea of nolo contendere,
22 is released by the court subject to conditions imposed by the court
23 and subject to supervision by the Department of Corrections, a
24 private supervision provider or other person designated by the

1 court. Such supervision shall be initiated upon an order of
2 probation from the court, and shall not exceed two (2) years, unless
3 a petition alleging a violation of any condition of deferred
4 judgment or seeking revocation of the suspended sentence is filed
5 during the supervision, or as otherwise provided by law. In the
6 case of a person convicted of a sex offense, supervision shall begin
7 immediately upon release from incarceration or if parole is granted
8 and shall not be limited to two (2) years. The court shall require
9 all providers that supervise persons under this section to use the
10 sanctions and incentives process established under Section 991b of
11 this title in order to respond to probationer behavior. Provided
12 further, any supervision provided for in this section may be
13 extended for a period not to exceed the expiration of the maximum
14 term or terms of the sentence upon a determination by the court or
15 the Division of Probation and Parole of the Department of
16 Corrections that the best interests of the public and the release
17 will be served by an extended period of supervision. Any
18 supervision provided for under this section may not have the period
19 of supervision extended for a failure to pay fines, fees and other
20 costs, excluding restitution, except upon a finding of willful
21 nonpayment. Any person on probation supervision, except a person
22 convicted of an offense enumerated in Section 13.1 of Title 21 of
23 the Oklahoma Statutes or subsection C, D, E, F, G or J of Section
24 644 of Title 21 of the Oklahoma Statutes, shall be eligible to earn

1 discharge credits that reduce the period of supervision and the term
2 of the sentence for compliance with the terms and conditions of
3 supervision pursuant to Section 515a of Title 57 of the Oklahoma
4 Statutes.

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

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

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

21 3. The Department shall establish criteria and specifications
22 for contracts with counties for such Programs. A county may apply
23 to the Department for a contract for a county-funded Program for a
24 specific period of time. The Department shall be responsible for

1 ensuring that any contracting county complies in full with
2 specifications and requirements of the contract. The contract shall
3 set appropriate compensation to the county for services to the
4 Department.

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

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

16 H. As used in this section:

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

22 2. "Electronically monitored home detention" means
23 incarceration of the defendant within a specified location or
24 locations with monitoring by means of a device approved by the

1 Department of Corrections that detects if the person leaves the
2 confines of any specified location; and

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

21 I. A person convicted of a felony offense or receiving any form
22 of probation for an offense in which registration is required
23 pursuant to the Sex Offenders Registration Act, shall submit to
24 deoxyribonucleic acid DNA testing for law enforcement identification

1 purposes in accordance with Section 150.27 of Title 74 of the
2 Oklahoma Statutes and the rules promulgated by the Oklahoma State
3 Bureau of Investigation for the OSBI Combined DNA Index System
4 (CODIS) Database. Subject to the availability of funds, any person
5 convicted of a misdemeanor offense of assault and battery, domestic
6 abuse, stalking, possession of a controlled substance prohibited
7 under Schedule IV of the Uniform Controlled Dangerous Substances
8 Act, outraging public decency, resisting arrest, escape or
9 attempting to escape, eluding a police officer, Peeping Tom,
10 pointing a firearm, unlawful carry of a firearm, illegal transport
11 of a firearm, discharging of a firearm, threatening an act of
12 violence, breaking and entering a dwelling place, destruction of
13 property, negligent homicide, or causing a personal injury accident
14 while driving under the influence of any intoxicating substance, or
15 any alien unlawfully present under federal immigration law, upon
16 arrest, shall submit to deoxyribonucleic acid DNA testing for law
17 enforcement identification purposes in accordance with Section
18 150.27 of Title 74 of the Oklahoma Statutes and the rules
19 promulgated by the Oklahoma State Bureau of Investigation for the
20 OSBI Combined DNA Index System (CODIS) Database. Any defendant
21 sentenced to probation shall be required to submit to testing within
22 thirty (30) days of sentencing either to the Department of
23 Corrections or to the county sheriff or other peace officer as
24 directed by the court. Defendants who are sentenced to a term of

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

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

22 J. Samples of blood or saliva for DNA testing required by
23 subsection I of this section shall be taken by employees or
24 contractors of the Department of Corrections, peace officers, or the

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

19 K. When sentencing a person who has been convicted of a crime
20 that would subject that person to the provisions of the Sex
21 Offenders Registration Act, neither the court nor the district
22 attorney shall be allowed to waive or exempt such person from the
23 registration requirements of the Sex Offenders Registration Act.

24

1 L. Any person who has been ordered by the court to pay a fine,
2 court cost, fee or assessment, or any combination thereof, under the
3 provisions of this section may request a hearing to establish a
4 payment plan. The payment plan authorized under this subsection
5 shall be determined by assessing the discretionary income of the
6 person. As used in this section, "discretionary income" shall be
7 defined as income in excess of one hundred fifty percent (150%) of
8 the federal poverty line. After a judicial determination of the
9 discretionary income of the person, the court shall order the total
10 amount of the financial obligation of the person, excluding
11 restitution, be paid in installments equal to no more than ten
12 percent (10%) of the discretionary income of the person. The
13 payment plan shall be established regardless of the result of an
14 indigent request for representation as provided in Section 1355A of
15 this title. The payment plan established under the provisions of
16 this subsection shall apply to all fines, court costs and fees
17 ordered by the court pursuant to this section and all subsections
18 therein.

19 SECTION 5. AMENDATORY 22 O.S. 2011, Section 991b, as
20 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
21 2018, Section 991b), is amended to read as follows:

22 Section 991b. A. Whenever a sentence has been suspended by the
23 court after conviction of a person for any crime, the suspended
24 sentence of the person may not be revoked, in whole or part, for any

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

11 B. 1. Whenever a sentence has been suspended by the court
12 after conviction of a person for any crime, the suspended sentence
13 of the person may not be revoked ~~in whole~~ for a technical violation
14 ~~unless a petition setting forth the grounds for such revocation is~~
15 ~~filed by the district attorney with the clerk of the sentencing~~
16 ~~court and competent evidence justifying the revocation of the~~
17 ~~suspended sentence is presented to the court at a hearing to be held~~
18 ~~for that purpose within twenty (20) days after the entry of the plea~~
19 ~~of not guilty to the petition, unless waived by both the state and~~
20 ~~the defendant. The State of Oklahoma may dismiss the petition~~
21 ~~without prejudice one time upon good cause shown to the court,~~
22 ~~provided that any successor petition must be filed within forty-five~~
23 ~~(45) days of the date of the dismissal of the petition. Any~~
24 ~~revocation of a suspended sentence based on a technical violation~~

1 ~~shall not exceed six (6) months for a first revocation and five (5)~~
2 ~~years for a second or subsequent revocation~~ except in accordance
3 with paragraphs 2, 3 and 4 of this subsection and Section 517 of
4 Title 57 of the Oklahoma Statutes. The petition to revoke under
5 this subsection must be filed within sixty (60) days of the alleged
6 violation, provided the district attorney has received adequate
7 notice from the supervision provider.

8 2. The court shall hold a revocation hearing for any
9 probationer who is issued a summons within twenty (20) calendar days
10 from the date the summons is issued. The court may, in its
11 discretion, revoke probation or continue probation and modify the
12 term and conditions thereof. The court shall consider the
13 employment status of the person when making a determination as to
14 whether to revoke or continue the person on probation. Upon a
15 finding that the person is employed and a revocation of the sentence
16 would result in a disruption of employment, the court may, in lieu
17 of revocation, order the probationer to serve weekends in a county
18 jail or intermediate sanction facility pursuant to Section 991a of
19 this title. The county jail housing the person shall be
20 compensated for the time served in the county jail by the Department
21 of Corrections. If the court revokes probation for a technical
22 violation of the terms or conditions of probation, the court shall
23 impose a period of imprisonment of not more than fifteen (15) days
24 for the first revocation, not more than thirty (30) days for the

1 second revocation, and not more than sixty (60) days for the third
2 revocation. For the fourth and subsequent revocation for a
3 technical violation, the court may impose a period of imprisonment
4 of not more than two (2) years or the remainder of the maximum
5 sentence imposed, whichever is less. If the court does not hold a
6 revocation hearing within twenty (20) calendar days pursuant to this
7 paragraph, the probationer shall be returned to probation status.
8 The court may subsequently hold a revocation hearing and may revoke
9 probation or continue probation and modify the terms and conditions
10 of probation. If the court revokes probation for a technical
11 violation, the court shall impose a period of imprisonment that
12 follows the revocation periods outlined in this paragraph.

13 3. If the probationer has been detained and the court does not
14 hold a revocation hearing within twenty (20) calendar days, the
15 probationer shall be released from county jail, intermediate
16 sanctions facility or facility of the Department of Corrections and
17 shall return to probation status. The court may subsequently hold a
18 revocation hearing and may revoke probation or continue probation
19 and modify the terms and conditions of probation. If the court
20 revokes probation for a technical violation and imposes a period of
21 imprisonment, the court shall impose a period of imprisonment that
22 follows the revocation periods outlined in paragraph 2 of this
23 subsection.

24

1 4. The judge may depart from the periods of imprisonment
2 required under paragraph 2 of this subsection if the person is on
3 probation supervision for an offense enumerated in Section 13.1 of
4 Title 21 of the Oklahoma Statutes.

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

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

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

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

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

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

19 6. 3. ~~Unlawfully contacting a victim, co-defendant or criminal~~
20 ~~associates; and~~

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

23 8. 4. Any violation of the Specialized Sex Offender Rules.
24

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

1 violation information and recommended response with a sanction plan
2 to the Department of Corrections to be heard by a hearing officer.
3 The Department of Corrections shall develop ~~a sanction matrix,~~
4 ~~forms,~~ the policies and procedures necessary to implement this
5 provision. If the severity of a violation warrants a more severe
6 response, intermediate sanctions have been exhausted and the
7 noncompliant behavior has continued, the Department may recommend
8 revocation pursuant to subsection B of this section. The Department
9 of Corrections shall establish procedures to hear responses to
10 technical violations and review sanction plans including the
11 following:

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

24

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 E. 1. Where one of the grounds for revocation is the willful
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 F. The Subject to the limitations described in subsection B of
22 this section, the court may revoke a portion of the sentence and
23 leave the remaining part not revoked, but suspended for the
24 remainder of the term of the sentence, and under the provisions

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

12 SECTION 6. AMENDATORY 22 O.S. 2011, Section 991c, as
13 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
14 2018, Section 991c), is amended to read as follows:

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

24 1. Pay court costs;

- 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 ~~eighteen (18) months~~ one (1) year, 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~~ for a period not to
13 exceed two (2) years of probation to compensate the district
14 attorney for the costs incurred during the prosecution of the
15 offender and for the additional work of verifying the compliance of
16 the offender with the rules and conditions of his or her probation.
17 In hardship cases, the district attorney shall expressly waive all
18 or part of the fee. The district attorney may waive any part of
19 this requirement in the best interests of justice. The court ~~shall~~
20 ~~not~~ may waive, suspend, defer or dismiss the costs of prosecution in
21 its entirety. However, if the court determines that a reduction in
22 the fine, costs and costs of prosecution is warranted, the court
23 shall equally apply the same percentage reduction to the fine, costs
24 and costs of prosecution owed by the offender.

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

12 F. Whenever a judgment has been deferred by the court according
13 to the provisions of this section, deferred judgment may not be
14 accelerated for any technical violation unless a petition setting
15 forth the grounds for such acceleration is filed by the district
16 attorney with the clerk of the sentencing court and competent
17 evidence justifying the acceleration of the judgment is presented to
18 the court at a hearing to be held for that purpose. The hearing
19 shall be held not more than twenty (20) days after the entry of the
20 plea of not guilty to the petition, unless waived by both the state
21 and the defendant. ~~Any A petition for 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~~ under this subsection must be filed within

1 sixty (60) days of the alleged violation, provided the district
2 attorney has received adequate notice from the supervision provider.
3 For accelerations under this subsection, the court shall sentence
4 the offender in accordance with the provisions of Section 517 of
5 Title 57 of the Oklahoma Statutes.

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

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

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

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

1 J. All defendants who are supervised pursuant to this section
2 shall be subject to the sanction process as established in
3 subsection ~~B~~ D of Section 991b of this title.

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

7 Section 991d. A. 1. When the court orders supervision by the
8 Department of Corrections, or the district attorney requires the
9 Department to supervise any person pursuant to a deferred
10 prosecution agreement, the person shall be required to pay a
11 supervision fee of Forty Dollars (\$40.00) per month during the
12 supervision period, unless the fee would impose an unnecessary
13 hardship on the person. In hardship cases, the Department shall
14 expressly waive all or part of the fee. The court shall make
15 payment of the fee a condition of the sentence which shall be
16 imposed whether the supervision is incident to the suspending of
17 execution of a sentence, incident to the suspending of imposition of
18 a sentence, or incident to the deferral of proceedings after a
19 verdict or plea of guilty. The Department shall determine methods
20 for payment of supervision fee, and may charge a reasonable user fee
21 for collection of supervision fees electronically. The Department
22 is required to report to the sentencing court any failure of the
23 person to pay supervision fees and to report immediately if the
24 person violates any condition of the sentence.

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

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

18 B. The Pardon and Parole Board shall require a supervision fee
19 to be paid by the parolee as a condition of parole which shall be
20 paid to the Department of Corrections. The Department shall
21 determine the amount of the fee as provided for other persons under
22 supervision by the Department.

23 C. Upon acceptance of an offender by the Department of
24 Corrections whose probation or parole supervision was transferred to

1 Oklahoma through the Interstate Compact Agreement, or upon the
2 assignment of an inmate to any community placement, a fee shall be
3 required to be paid by the offender to the Department of Corrections
4 as provided for other persons under supervision of the Department.

5 D. Except as provided in subsection A and this subsection, all
6 fees collected pursuant to this section shall be deposited in the
7 Department of Corrections Revolving Fund created pursuant to Section
8 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
9 ending June 30, 1996, fifty percent (50%) of all collections
10 received from offenders placed on supervision after July 1, 1995,
11 shall be transferred to the credit of the General Revenue Fund of
12 the State Treasury until such time as total transfers equal Three
13 Million Three Hundred Thousand Dollars (\$3,300,000.00).

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

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