

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 15, 2019

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 616

By: Jech, et al of the Senate and West (Josh) of the House

Title: Pardons and parole; requiring Pardon and Parole Board to provide certain remediation measures; providing for revocation of parole. 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 attached Conference Committee Substitute be adopted.

Respectfully submitted,

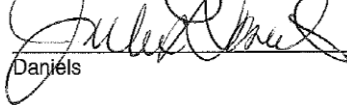
SENATE CONFEREES:



Jech



Shaw



Daniels

Brooks

Bice



Floyd

Coleman



Matthews

HOUSE CONFEREES:

Conference Committee on Rules

Senate Action _____ Date _____ House Action _____ Date _____

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1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 616

By: Jech, Young, Standridge and
Ikley-Freeman of the Senate

6 and

7 West (Josh) of the House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to pardons and parole; amending 22
11 O.S. 2011, Section 991a, as last amended by Section
12 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018,
13 Section 991a), which relates to sentencing powers of
14 the court; directing use of sanctions and incentive
15 process; stating eligibility for discharge credits;
16 amending 22 O.S. 2011, Section 991b, as last amended
17 by Section 11, Chapter 128, O.S.L. 2018 (22 O.S.
18 Supp. 2018, Section 991b), which relates to
19 revocation of suspended sentence; modifying
20 procedures; stipulating certain timeframes for
21 procedures; allowing certain modification; modifying
22 definitions; modifying certain authorization;
23 amending 22 O.S. 2011, Section 991c, as last amended
24 by Section 12, Chapter 128, O.S.L. 2018 (22 O.S.
Supp. 2018, Section 991c), which relates to deferred
sentences; modifying procedures;; amending 57 O.S.
2011, Section 332.7, as last amended by Section 2,
Chapter 117, O.S.L. 2018 (57 O.S. Supp. 2018, Section
332.7), which relates to consideration for parole;
requiring certain disclosure; directing the Pardon
and Parole Board to suggest remediation; modifying
computation of sentences; deleting certain
requirement for parole consideration; updating
statutory language; amending 57 O.S 2011, Section
350, which relates to parole revocation; modifying
certain authority; updating statutory reference;
making gender neutral; amending 57 O.S. 2011, Section
502, as last amended by Section 1, Chapter 259,

1 O.S.L. 2016 (57 O.S. Supp. 2018, Section 502), which
2 relates to definitions; providing definitions;
3 directing certain discharge credits for certain
4 compliance be given; prohibiting certain offenses
5 from eligibility for discharge credits; requiring
6 written policies and procedures; requiring
7 maintenance of records and notification; directing
8 the creation of rules for supervision and management
9 of probation providers; requiring certain inclusion
10 in rules; directing the creation of a matrix of
11 sanctions and incentives; requiring certain timeline
12 compliance; requiring establishment of procedures;
13 amending 57 O.S. 2011, Section 516, which relates to
14 parole violators; modifying allowable violations for
15 consideration; directing action by probation and
16 parole officer; allowing for certain justification
17 for further action; providing time requirements for
18 hearings; amending 57 O.S. 2011, Section 517, as
19 amended by Section 8, Chapter 228, O.S.L. 2012 (57
20 O.S. Supp. 2018, Section 517), which relates to
21 probation violators; modifying allowable violations
22 for consideration; directing action by probation and
23 parole officer; allowing for certain justification
24 for further action; providing time requirements for
hearings; providing definition; providing for
codification; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
2018, Section 991a), is amended to read as follows:

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

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

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

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

23 c. to engage in a term of community service without
24 compensation, according to a schedule consistent with

1 the employment and family responsibilities of the
2 person convicted,

3 d. to pay a reasonable sum into any trust fund,
4 established pursuant to the provisions of Sections 176
5 through 180.4 of Title 60 of the Oklahoma Statutes,
6 and which provides restitution payments by convicted
7 defendants to victims of crimes committed within this
8 state wherein such victim has incurred a financial
9 loss,

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

12 f. to confinement as provided by law together with a term
13 of post-imprisonment community supervision for not
14 less than three (3) years of the total term allowed by
15 law for imprisonment, with or without restitution;
16 provided, however, the authority of this provision is
17 limited to Section 843.5 of Title 21 of the Oklahoma
18 Statutes when the offense involved sexual abuse or
19 sexual exploitation; Sections 681, 741 and 843.1 of
20 Title 21 of the Oklahoma Statutes when the offense
21 involved sexual abuse or sexual exploitation; and
22 Sections 865 et seq., 885, 886, 888, 891, 1021,
23 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
24 1123 of Title 21 of the Oklahoma Statutes,

1 g. to repay the reward or part of the reward paid by a
2 local certified crime stoppers program and the
3 Oklahoma Reward System. In determining whether the
4 defendant shall repay the reward or part of the
5 reward, the court shall consider the ability of the
6 defendant to make the payment, the financial hardship
7 on the defendant to make the required payment, and the
8 importance of the information to the prosecution of
9 the defendant as provided by the arresting officer or
10 the district attorney with due regard for the
11 confidentiality of the records of the local certified
12 crime stoppers program and the Oklahoma Reward System.
13 The court shall assess this repayment against the
14 defendant as a cost of prosecution. The term
15 "certified" means crime stoppers organizations that
16 annually meet the certification standards for crime
17 stoppers programs established by the Oklahoma Crime
18 Stoppers Association to the extent those standards do
19 not conflict with state statutes. The term "court"
20 refers to all municipal and district courts within
21 this state. The "Oklahoma Reward System" means the
22 reward program established by Section 150.18 of Title
23 74 of the Oklahoma Statutes,
24

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

12 i. to reimburse the Oklahoma State Bureau of
13 Investigation and any authorized law enforcement
14 agency for all costs incurred by that agency for
15 cleaning up an illegal drug laboratory site for which
16 the defendant pleaded guilty, nolo contendere or was
17 convicted. The court clerk shall collect the amount
18 and may retain five percent (5%) of such monies to be
19 deposited in the Court Clerk Revolving Fund to cover
20 administrative costs and shall remit the remainder to
21 the Oklahoma State Bureau of Investigation to be
22 deposited in the OSBI Revolving Fund established by
23 Section 150.19a of Title 74 of the Oklahoma Statutes
24

1 or to the general fund wherein the other law
2 enforcement agency is located,

3 j. to pay a reasonable sum to the Crime Victims
4 Compensation Board, created by Section 142.2 et seq.
5 of Title 21 of the Oklahoma Statutes, for the benefit
6 of crime victims,

7 k. to reimburse the court fund for amounts paid to court-
8 appointed attorneys for representing the defendant in
9 the case in which the person is being sentenced,

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

19 m. to be placed in a victims impact panel program, as
20 defined in subsection H of this section, or
21 victim/offender reconciliation program and payment of
22 a fee to the program of not less than Fifteen Dollars
23 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
24 by the governing authority of the program to offset

1 the cost of participation by the defendant. Provided,
2 each victim/offender reconciliation program shall be
3 required to obtain a written consent form voluntarily
4 signed by the victim and defendant that specifies the
5 methods to be used to resolve the issues, the
6 obligations and rights of each person, and the
7 confidentiality of the proceedings. Volunteer
8 mediators and employees of a victim/offender
9 reconciliation program shall be immune from liability
10 and have rights of confidentiality as provided in
11 Section 1805 of Title 12 of the Oklahoma Statutes,
12 n. to install, at the expense of the defendant, an
13 ignition interlock device approved by the Board of
14 Tests for Alcohol and Drug Influence. The device
15 shall be installed upon every motor vehicle operated
16 by the defendant, and the court shall require that a
17 notation of this restriction be affixed to the
18 defendant's driver license. The restriction shall
19 remain on the driver license not exceeding two (2)
20 years to be determined by the court. The restriction
21 may be modified or removed only by order of the court
22 and notice of any modification order shall be given to
23 the Department of Public Safety. Upon the expiration
24 of the period for the restriction, the Department of

1 Public Safety shall remove the restriction without
2 further court order. Failure to comply with the order
3 to install an ignition interlock device or operating
4 any vehicle without a device during the period of
5 restriction shall be a violation of the sentence and
6 may be punished as deemed proper by the sentencing
7 court. As used in this paragraph, "ignition interlock
8 device" means a device that, without tampering or
9 intervention by another person, would prevent the
10 defendant from operating a motor vehicle if the
11 defendant has a blood or breath alcohol concentration
12 of two-hundredths (0.02) or greater,

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

1 defendant within a specified location or locations
2 with supervision by means of an electronic device
3 approved by the Department of Corrections which is
4 designed to detect if the defendant is in the court-
5 ordered location at the required times and which
6 records violations for investigation by a qualified
7 supervisory agency or person,

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

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

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned. For purposes of this paragraph,
5 "day fine" means the offender is ordered to pay an
6 amount calculated as a percentage of net daily wages
7 earned. The day fine shall be paid to the local
8 community sentencing system as reparation to the
9 community. Day fines shall be used to support the
10 local system,

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

13 aa. to repair or restore property damaged by the
14 defendant's conduct, if the court determines the
15 defendant possesses sufficient skill to repair or
16 restore the property and the victim consents to the
17 repairing or restoring of the property,

18 bb. to restore damaged property in kind or payment of out-
19 of-pocket expenses to the victim, if the court is able
20 to determine the actual out-of-pocket expenses
21 suffered by the victim,

22 cc. to attend a victim-offender reconciliation program if
23 the victim agrees to participate and the offender is
24 deemed appropriate for participation,

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

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

1 supervision. The examination shall be administered by
2 a certified licensed polygraph examiner. The
3 treatment program must be approved by the Department
4 of Corrections or the Department of Mental Health and
5 Substance Abuse Services. Such treatment shall be at
6 the expense of the defendant based on the defendant's
7 ability to pay,

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

17 gg. in the case of a person convicted of any false or
18 bogus check violation, as defined in Section 1541.4 of
19 Title 21 of the Oklahoma Statutes, impose a fee of
20 Twenty-five Dollars (\$25.00) to the victim for each
21 check, and impose a bogus check fee to be paid to the
22 district attorney. The bogus check fee paid to the
23 district attorney shall be equal to the amount
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in
2 district court. This money shall be deposited in the
3 Bogus Check Restitution Program Fund as established in
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to
6 pay restitution and bogus check fees on any other
7 bogus check or checks that have been submitted to the
8 District Attorney Bogus Check Restitution Program,

9 hh. in the case of a person being sentenced for a
10 conviction for a violation of Section 644 of Title 21
11 of the Oklahoma Statutes, require the person to
12 receive an assessment for batterers, which shall be
13 conducted through a certified treatment program for
14 batterers, and

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

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

21 However, unless under the supervision of the district attorney,
22 the offender shall be required to pay Forty Dollars (\$40.00) per
23 month to the district attorney during the first two (2) years of
24 probation to compensate the district attorney for the costs incurred

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

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

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

17 4. Order the defendant to reimburse the Oklahoma State Bureau
18 of Investigation for costs incurred by that agency during its
19 investigation of the crime for which the defendant pleaded guilty,
20 nolo contendere or was convicted, including compensation for
21 laboratory, technical, or investigation services performed by the
22 Bureau if, in the opinion of the court, the defendant is able to pay
23 without imposing manifest hardship on the defendant, and if the
24

1 costs incurred by the Bureau during the investigation of the
2 defendant's case may be determined with reasonable certainty;

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

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

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

1 determined by the assessment, participate in an
2 alcohol and drug substance abuse course or treatment
3 program or both, pursuant to Sections 3-452 and 3-453
4 of Title 43A of the Oklahoma Statutes,

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

15 c. to both participate in the alcohol and drug substance
16 abuse course or treatment program, pursuant to
17 subparagraph a of this paragraph and attend a victims
18 impact panel program, pursuant to subparagraph b of
19 this paragraph,

20 d. to install, at the expense of the person, an ignition
21 interlock device approved by the Board of Tests for
22 Alcohol and Drug Influence, upon every motor vehicle
23 operated by such person and to require that a notation
24 of this restriction be affixed to the person's driver

1 license at the time of reinstatement of the license.
2 The restriction shall remain on the driver license for
3 such period as the court shall determine. The
4 restriction may be modified or removed by order of the
5 court and notice of the order shall be given to the
6 Department of Public Safety. Upon the expiration of
7 the period for the restriction, the Department of
8 Public Safety shall remove the restriction without
9 further court order. Failure to comply with the order
10 to install an ignition interlock device or operating
11 any vehicle without such device during the period of
12 restriction shall be a violation of the sentence and
13 may be punished as deemed proper by the sentencing
14 court, or

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

1 monitoring fee, if willfully disobeyed, may be
2 enforced as an indirect contempt of court;

3 7. In addition to the other sentencing powers of the court, in
4 the case of a person convicted of prostitution pursuant to Section
5 1029 of Title 21 of the Oklahoma Statutes, require such person to
6 receive counseling for the behavior which may have caused such
7 person to engage in prostitution activities. Such person may be
8 required to receive counseling in areas including but not limited to
9 alcohol and substance abuse, sexual behavior problems, or domestic
10 abuse or child abuse problems;

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

1 The defendant may be required to pay all or part of the cost of the
2 treatment or counseling services;

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

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

23 11. In addition to the other sentencing powers of the court,
24 the court, in the case of a person convicted of cruelty to animals

1 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
2 require the person to pay restitution to animal facilities for
3 medical care and any boarding costs of victimized animals;

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

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

20 14. In addition to the other sentencing powers of the court, in
21 the case of a sex offender who is required by law to register
22 pursuant to the Sex Offenders Registration Act, the court shall
23 require the person to register any electronic mail address
24 information, instant message, chat or other Internet communication

1 name or identity information that the person uses or intends to use
2 while accessing the Internet or used for other purposes of social
3 networking or other similar Internet communication.

4 B. Notwithstanding any other provision of law, any person who
5 is found guilty of a violation of any provision of Section 761 or
6 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
7 guilty or nolo contendere for a violation of any provision of such
8 sections shall be ordered to participate in, prior to sentencing, an
9 alcohol and drug assessment and evaluation by an assessment agency
10 or assessment personnel certified by the Department of Mental Health
11 and Substance Abuse Services for the purpose of evaluating the
12 receptivity to treatment and prognosis of the person. The court
13 shall order the person to reimburse the agency or assessor for the
14 evaluation. The fee shall be the amount provided in subsection C of
15 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
16 shall be conducted at a certified assessment agency, the office of a
17 certified assessor or at another location as ordered by the court.
18 The agency or assessor shall, within seventy-two (72) hours from the
19 time the person is assessed, submit a written report to the court
20 for the purpose of assisting the court in its final sentencing
21 determination. No person, agency or facility operating an alcohol
22 and drug substance abuse evaluation program certified by the
23 Department of Mental Health and Substance Abuse Services shall
24 solicit or refer any person evaluated pursuant to this subsection

1 for any treatment program or alcohol and drug substance abuse
2 service in which such person, agency or facility has a vested
3 interest; however, this provision shall not be construed to prohibit
4 the court from ordering participation in or any person from
5 voluntarily utilizing a treatment program or alcohol and drug
6 substance abuse service offered by such person, agency or facility.
7 If a person is sentenced to the custody of the Department of
8 Corrections and the court has received a written evaluation report
9 pursuant to this subsection, the report shall be furnished to the
10 Department of Corrections with the judgment and sentence. Any
11 evaluation report submitted to the court pursuant to this subsection
12 shall be handled in a manner which will keep such report
13 confidential from the general public's review. Nothing contained in
14 this subsection shall be construed to prohibit the court from
15 ordering judgment and sentence in the event the defendant fails or
16 refuses to comply with an order of the court to obtain the
17 evaluation required by this subsection.

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

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

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

3 3. Beginning January 1, 1993, a defendant being sentenced for a
4 second or subsequent felony conviction for violation of Section 11-
5 902 of Title 47 of the Oklahoma Statutes, except as otherwise
6 provided in this subsection.

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

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

21 E. Probation, for purposes of subsection A of this section, is
22 a procedure by which a defendant found guilty of a crime, whether
23 upon a verdict or plea of guilty or upon a plea of nolo contendere,
24 is released by the court subject to conditions imposed by the court

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

1 the Oklahoma Statutes or subsections C, D, E, F, G or J of Section
2 644 of Title 21 of the Oklahoma Statutes, shall be eligible to earn
3 discharge credits that reduce the period of supervision and the term
4 of the sentence for compliance with the terms and conditions of
5 supervision, pursuant to Section 7 of this act.

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

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

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

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

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

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

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

17 H. As used in this section:

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

23 2. "Electronically monitored home detention" means
24 incarceration of the defendant within a specified location or

1 locations with monitoring by means of a device approved by the
2 Department of Corrections that detects if the person leaves the
3 confines of any specified location; and

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

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

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

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

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

23 J. Samples of blood or saliva for DNA testing required by
24 subsection I of this section shall be taken by employees or

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

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

1 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991b, as
2 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
3 2018, Section 991b), is amended to read as follows:

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

17 B. 1. Whenever a sentence has been suspended by the court
18 after conviction of a person for any crime, the suspended sentence
19 of the person may not be revoked ~~in whole~~ for a technical violation
20 ~~unless a petition setting forth the grounds for such revocation is~~
21 ~~filed by the district attorney with the clerk of the sentencing~~
22 ~~court and competent evidence justifying the revocation of the~~
23 ~~suspended sentence is presented to the court at a hearing to be held~~
24 ~~for that purpose within twenty (20) days after the entry of the plea~~

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

14 2. The court shall hold a revocation hearing for any
15 probationer who is issued a summons within twenty (20) calendar days
16 from the date the defendant appears on the summons. The court may,
17 in its discretion, revoke probation or continue probation and modify
18 the terms and conditions thereof. The court shall consider the
19 offender's employment status when making a determination as to
20 whether to revoke or continue the offender on probation. Upon a
21 finding that the offender is employed and a revocation sentence
22 would result in a disruption of employment, the court may, in lieu
23 of revocation, order the probationer to serve weekends in a county
24 jail pursuant to Section 991a of this title, at the discretion of

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

18 3. If the probationer has been arrested and detained on a
19 warrant and the court does not hold a revocation hearing within
20 twenty (20) calendar days, the probationer shall be released from
21 county jail, intermediate sanction facility or a Department of
22 Corrections facility and shall return to probation status. The
23 county jail shall be compensated by the Department of Corrections
24 for the time served in the county jail at the daily jail cost as

1 provided by the chief district judge of the county in which the
2 sentence is served. The court may subsequently hold a revocation
3 hearing and may revoke probation or continue probation and modify
4 the terms and conditions of probation. If the court revokes
5 probation for a technical violation and imposes a period of
6 imprisonment, the court shall impose a period of imprisonment that
7 follows the revocation periods provided for in this section.

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

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

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

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

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

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

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

4 ~~6. 3. Unlawfully contacting a victim, ~~co-defendant or criminal~~~~
5 ~~associates; or~~

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

8 ~~8. 4. Any violation of the Specialized Sex Offender Rules.~~

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

1 ~~Corrections; provided, upon approval of the district attorney, a~~
2 ~~person may be sanctioned to serve additional terms of confinement in~~
3 ~~an intermediate revocation facility.~~ The probation officer shall
4 complete a sanction form, which shall specify the technical
5 violation, sanction, and the action plan to correct the noncompliant
6 behavior resulting in the technical violation. The probation
7 officer shall refer to the sanctioning matrix to determine the
8 supervision, treatment, and sanctions appropriate to address the
9 noncompliant behavior. The probation officer shall refer the
10 violation information and recommended response with a sanction plan
11 to the Department of Corrections to be heard by a hearing officer.
12 The Department of Corrections shall develop ~~a sanction matrix,~~
13 ~~forms,~~ policies and procedures necessary to implement this
14 provision. If the severity of a violation warrants a more severe
15 response, intermediate sanctions within the sanctions matrix have
16 been exhausted, and the noncompliant behavior has continued, the
17 Department may recommend revocation pursuant to subsection B of this
18 section. The Department of Corrections shall establish procedures
19 to hear responses to technical violations and review sanction plans
20 including the following:
21 a. hearing officers shall report through a chain of
22 command separate from that of the supervising
23 probation officers,
24

- 1 b. the Department shall provide the offender written
2 notice of the violation, the evidence relied upon, and
3 the reason the sanction was imposed,
4 c. the hearing shall be held unless the offender waives
5 the right to the hearing,
6 d. hearings shall be electronically recorded, and
7 e. the Department shall provide to judges and district
8 attorneys a record of all violations and actions taken
9 pursuant to this subsection.

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

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

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

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

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

1 reduction to any court-ordered monetary obligation owed by the
2 defendant including, but not limited to, fines, court costs and
3 costs of incarceration.

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

19 SECTION 3. AMENDATORY 22 O.S. 2011, Section 991c, as
20 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
21 2018, Section 991c), is amended to read as follows:

22 Section 991c. A. Upon a verdict or plea of guilty or upon a
23 plea of nolo contendere, but before a judgment of guilt, the court
24 may, without entering a judgment of guilt and with the consent of

1 the defendant, defer further proceedings upon the specific
2 conditions prescribed by the court not to exceed a seven-year
3 period, except as authorized under subsection B of this section.

4 The court shall first consider restitution among the various
5 conditions it may prescribe. The court may also consider ordering
6 the defendant to:

7 1. Pay court costs;

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

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

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

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

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

20 7. Be supervised in the community for a period not to exceed
21 eighteen (18) months, unless a petition alleging violation of any
22 condition of deferred judgment is filed during the period of
23 supervision. As a condition of any supervision, the defendant shall
24 be required to pay a supervision fee of Forty Dollars (\$40.00) per

1 month. The supervision fee shall be waived in whole or part by the
2 supervisory agency when the accused is indigent. No person shall be
3 denied supervision based solely on the inability of the person to
4 pay a fee;

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

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

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

16 11. Any combination of the above provisions.

17 However, unless under the supervision of the district attorney,
18 the offender shall be required to pay Forty Dollars (\$40.00) per
19 month to the district attorney during the first two (2) years of
20 probation to compensate the district attorney for the costs incurred
21 during the prosecution of the offender and for the additional work
22 of verifying the compliance of the offender with the rules and
23 conditions of his or her probation. The district attorney may waive
24 any part of this requirement in the best interests of justice. The

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

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

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

1 The court shall order the person to reimburse the facility or
2 qualified practitioner for the evaluation. The Department of Mental
3 Health and Substance Abuse Services shall establish a fee schedule,
4 based upon the ability of a person to pay, provided the fee for an
5 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
6 evaluation shall be conducted at a certified facility, the office of
7 a qualified practitioner or at another location as ordered by the
8 court. The facility or qualified practitioner shall, within
9 seventy-two (72) hours from the time the person is assessed, submit
10 a written report to the court for the purpose of assisting the court
11 in its determination of conditions for deferred sentence. No
12 person, agency or facility operating an alcohol and drug substance
13 abuse evaluation program certified by the Department of Mental
14 Health and Substance Abuse Services shall solicit or refer any
15 person evaluated pursuant to this subsection for any treatment
16 program or alcohol and drug substance abuse service in which the
17 person, agency or facility has a vested interest; however, this
18 provision shall not be construed to prohibit the court from ordering
19 participation in or any person from voluntarily utilizing a
20 treatment program or alcohol and drug substance abuse service
21 offered by such person, agency or facility. Any evaluation report
22 submitted to the court pursuant to this subsection shall be handled
23 in a manner which will keep the report confidential from review by
24 the general public. Nothing contained in this subsection shall be

1 construed to prohibit the court from ordering judgment and sentence
2 in the event the defendant fails or refuses to comply with an order
3 of the court to obtain the evaluation required by this subsection.
4 As used in this subsection, "qualified practitioner" means a person
5 with at least a bachelor's degree in substance abuse treatment,
6 mental health or a related health care field and at least two (2)
7 years of experience in providing alcohol abuse treatment, other drug
8 abuse treatment, or both alcohol and other drug abuse treatment who
9 is certified each year by the Department of Mental Health and
10 Substance Abuse Services to provide these assessments. However, any
11 person who does not meet the requirements for a qualified
12 practitioner as defined herein, but who has been previously
13 certified by the Department of Mental Health and Substance Abuse
14 Services to provide alcohol or drug treatment or assessments, shall
15 be considered a qualified practitioner provided all education,
16 experience and certification requirements stated herein are met by
17 September 1, 1995. The court may also require the person to
18 participate in one or both of the following:

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

21 2. A victims impact panel program, as defined in subsection H
22 of Section 991a of this title, if such a program is offered in the
23 county where the judgment is rendered. The defendant shall be
24 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor

1 more than Sixty Dollars (\$60.00) as set by the governing authority
2 of the program and approved by the court to the victims impact panel
3 program to offset the cost of participation by the defendant, if in
4 the opinion of the court the defendant has the ability to pay such
5 fee.

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

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

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

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

22 4. No information concerning the confidential file shall be
23 revealed or released, except upon written order of a judge of the
24 district court or upon written request by the named defendant to the

1 court clerk for the purpose of updating the criminal history record
2 of the defendant with the Oklahoma State Bureau of Investigation;
3 and

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

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

15 E. The provisions of subsection D of this section shall be
16 retroactive.

17 F. Whenever a judgment has been deferred by the court according
18 to the provisions of this section, deferred judgment may not be
19 accelerated for any technical violation unless a petition setting
20 forth the grounds for such acceleration is filed by the district
21 attorney with the clerk of the sentencing court and competent
22 evidence justifying the acceleration of the judgment is presented to
23 the court at a hearing to be held for that purpose. The hearing
24 shall be held not more than twenty (20) days after the entry of the

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

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

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

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

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

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

8 SECTION 4. AMENDATORY 57 O.S. 2011, Section 332.7, as
9 last amended by Section 2, Chapter 117, O.S.L. 2018 (57 O.S. Supp.
10 2018, Section 332.7), is amended to read as follows:

11 Section 332.7. A. For a crime committed prior to July 1, 1998,
12 any person in the custody of the Department of Corrections shall be
13 eligible for consideration for parole at the earliest of the
14 following dates:

- 15 1. Has completed serving one-third (1/3) of the sentence;
- 16 2. Has reached at least sixty (60) years of age and also has
17 served at least fifty percent (50%) of the time of imprisonment that
18 would have been imposed for that offense pursuant to the applicable
19 matrix, provided in Sections 598 through 601, Chapter 133, O.S.L.
20 1997; provided, however, no inmate serving a sentence for crimes
21 listed in Schedules A, S-1, S-2 or S-3 of Section 6, Chapter 133,
22 O.S.L. 1997, or serving a sentence of life imprisonment without
23 parole shall be eligible to be considered for parole pursuant to
24 this paragraph;

1 3. Has reached eighty-five percent (85%) of the midpoint of the
2 time of imprisonment that would have been imposed for an offense
3 that is listed in Schedule A, B, C, D, D-1, S-1, S-2 or S-3 of
4 Section 6, Chapter 133, O.S.L. 1997, pursuant to the applicable
5 matrix; provided, however, no inmate serving a sentence of life
6 imprisonment without parole shall be eligible to be considered for
7 parole pursuant to this paragraph; or

8 4. Has reached seventy-five percent (75%) of the midpoint of
9 the time of imprisonment that would have been imposed for an offense
10 that is listed in any other schedule, pursuant to the applicable
11 matrix; provided, however, no inmate serving a sentence of life
12 imprisonment without parole shall be eligible to be considered for
13 parole pursuant to this paragraph.

14 B. For a crime committed on or after July 1, 1998, and before
15 November 1, 2018, any person in the custody of the Department of
16 Corrections shall be eligible for consideration for parole who has
17 completed serving one-third (1/3) of the sentence; provided,
18 however, no inmate serving a sentence of life imprisonment without
19 parole shall be eligible to be considered for parole pursuant to
20 this subsection.

21 C. For a crime committed on or after November 1, 2018, any
22 person in the custody of the Department of Corrections shall be
23 eligible for parole after serving one-fourth (1/4) of the sentence
24

1 or consecutive sentences aggregated pursuant to subsection K of this
2 section imposed, according to the following criteria:

3 1. A person eligible for parole under this subsection shall be
4 eligible for administrative parole under subsection R S of this
5 section once the person serves one-fourth (1/4) of the sentence or
6 consecutive sentences imposed; provided, however, no inmate serving
7 a sentence of life imprisonment without parole, a sentence for a
8 violent crime as set forth in Section 571 of this title or any crime
9 enumerated in Section 13.1 of Title 21 of the Oklahoma Statutes
10 shall be eligible for administrative parole.

11 2. A person eligible for parole under this subsection shall be
12 eligible for parole once the person serves one-fourth (1/4) of the
13 sentence or consecutive sentences imposed; provided, however no
14 inmate serving a sentence of life imprisonment without parole is
15 eligible for parole.

16 D. The parole hearings conducted for persons pursuant to
17 paragraph 3 of subsection A of this section or for any person who
18 was convicted of a violent crime as set forth in Section 571 of this
19 title and who is eligible for parole consideration pursuant to
20 paragraph 1 of subsection A of this section, subsection B or
21 paragraph 2 of subsection C of this section shall be conducted in
22 two stages, as follows:

23 1. At the initial hearing, the Pardon and Parole Board shall
24 review the completed report submitted by the staff of the Board and

1 shall conduct a vote regarding whether, based upon that report, the
2 Board decides to consider the person for parole at a subsequent
3 meeting of the Board; and

4 2. At the subsequent meeting, the Board shall hear from any
5 victim or representatives of the victim that want to contest the
6 granting of parole to that person and shall conduct a vote regarding
7 whether parole should be recommended for that person.

8 E. Any inmate who has parole consideration dates calculated
9 pursuant to subsection A, B or C of this section may be considered
10 up to two (2) months prior to the parole eligibility date. Except
11 as otherwise directed by the Pardon and Parole Board, any person who
12 has been considered for parole and was denied parole ~~or who has~~
13 ~~waived consideration~~ shall not be reconsidered for parole:

14 1. Within three (3) years of the denial ~~or waiver~~, if the
15 person was convicted of a violent crime, as set forth in Section 571
16 of this title, and was eligible for consideration pursuant to
17 paragraph 1 of subsection A of this section, subsection B of this
18 section or paragraph 2 of subsection C of this section, unless the
19 person is within one (1) year of discharge; or

20 2. Until the person has served at least one-third (1/3) of the
21 sentence imposed, if the person was eligible for consideration
22 pursuant to paragraph 3 of subsection A of this section. Thereafter
23 the person shall not be considered more frequently than once every
24

1 three (3) years, unless the person is within one (1) year of
2 discharge.

3 F. If the Pardon and Parole Board denies parole, the Board
4 shall state on the record the reason for the denial.

5 G. If the Board denies parole for any person convicted of a
6 crime other than those set forth in Section 13.1 of Title 21 of the
7 Oklahoma Statutes, the Board shall suggest a course of remediation
8 for the inmate in preparation for the next parole consideration.

9 H. Any person in the custody of the Department of Corrections
10 for a crime committed prior to July 1, 1998, who has been considered
11 for parole on a docket created for a type of parole consideration
12 that has been abolished by the Legislature, shall not be considered
13 for parole except in accordance with this section.

14 ~~G.~~ I. The Pardon and Parole Board shall promulgate rules for
15 the implementation of subsections A, B and C of this section. The
16 rules shall include, but not be limited to, procedures for
17 reconsideration of persons denied parole under this section and
18 procedure for determining what sentence a person eligible for parole
19 consideration pursuant to subsection A of this section would have
20 received under the applicable matrix.

21 ~~H.~~ J. The Pardon and Parole Board shall not recommend to the
22 Governor any person who has been convicted of three or more felonies
23 arising out of separate and distinct transactions, with three or
24 more incarcerations for such felonies, unless such person shall have

1 served the lesser of at least one-third (1/3) of the sentence
2 imposed, or ten (10) years; provided, that whenever the population
3 of the prison system exceeds ninety-five percent (95%) of the
4 capacity as certified by the State Board of Corrections, the Pardon
5 and Parole Board may, at its discretion, recommend to the Governor
6 for parole any person who is incarcerated for a nonviolent offense
7 not involving injury to a person and who is within six (6) months of
8 his or her statutory parole eligibility date.

9 ~~F.~~ K. Inmates sentenced to consecutive sentences shall not be
10 eligible for parole consideration on any such consecutive sentence
11 until one-third (1/3) of the aggregate term of the consecutive
12 ~~sentence sentences~~ has been served if sentenced for a crime
13 committed before November 1, 2018, or one-fourth (1/4) of the
14 aggregate term of the sentences if sentenced for a crime committed
15 on or after November 1, 2018, or where parole has been otherwise
16 limited by law, until the minimum term of incarceration has been
17 served as required by law. Unless otherwise ordered by the
18 sentencing court, any credit for jail time served shall be credited
19 to ~~only one offense~~ reduce the aggregate term. Parole eligibility
20 for consecutive sentences shall be determined by combining
21 consecutive sentences to arrive at an aggregate term of all
22 sentences imposed. The provisions of this subsection shall apply to
23 all consecutive sentences currently being served or a subsequent
24 sentence ordered to run consecutive to an existing sentence.

1 ~~J.~~ L. The Pardon and Parole Board shall consider the prior
2 criminal record of inmates under consideration for parole
3 recommendation or granting of parole.

4 ~~K.~~ ~~In the event the Board grants parole for a nonviolent~~
5 ~~offender who has previously been convicted of an offense enumerated~~
6 ~~in Section 13.1 of Title 21 of the Oklahoma Statutes or Section 571~~
7 ~~of this title, such offender shall be subject to nine (9) months~~
8 ~~postimprisonment supervision upon release.~~

9 ~~L.~~ M. It shall be the duty of the Pardon and Parole Board to
10 cause an examination to be made at the penal institution where the
11 person is assigned, and to make inquiry into the conduct and the
12 record of the ~~said~~ the person during his custody in the Department
13 of Corrections, which shall be considered as a basis for
14 consideration of ~~said~~ the person for recommendation to the Governor
15 for parole. However, the Pardon and Parole Board shall not be
16 required to consider for parole any person who has completed the
17 time period provided for in this subsection if the person has
18 participated in a riot or in the taking of hostages, or has been
19 placed on escape status, while in the custody of the Department of
20 Corrections. The Pardon and Parole Board shall adopt policies and
21 procedures governing parole consideration for such persons.

22 ~~M.~~ N. Any person in the custody of the Department of
23 Corrections who is convicted of an offense not designated as a
24 violent offense by Section 571 of this title, is not a citizen of

1 the United States and is subject to or becomes subject to a final
2 order of deportation issued by the United States Department of
3 Justice shall be considered for parole to the custody of the United
4 States Immigration and Naturalization Service for continuation of
5 deportation proceedings at any time subsequent to reception and
6 processing through the Department of Corrections. No person shall
7 be considered for parole under this subsection without the
8 concurrence of at least three members of the Pardon and Parole
9 Board. The vote on whether or not to consider such person for
10 parole and the names of the concurring Board members shall be set
11 forth in the written minutes of the meeting of the Board at which
12 the issue is considered.

13 ~~N.~~ O. Upon application of any person convicted and sentenced by
14 a court of this state and relinquished to the custody of another
15 state or federal authorities pursuant to Section 61.2 of Title 21 of
16 the Oklahoma Statutes, the Pardon and Parole Board may determine a
17 parole consideration date consistent with the provisions of this
18 section and criteria established by the Pardon and Parole Board.

19 ~~O.~~ P. All references in this section to matrices or schedules
20 shall be construed with reference to the provisions of Sections 6,
21 598, 599, 600 and 601, Chapter 133, O.S.L. 1997.

22 ~~P.~~ Q. Any person in the custody of the Department of
23 Corrections who is convicted of a felony sex offense pursuant to
24

1 Section 582 of this title who is paroled shall immediately be placed
2 on intensive supervision.

3 ~~Q.~~ R. A person in the custody of the Department of Corrections
4 whose parole consideration date is calculated pursuant to subsection
5 B or C of this section, and is not serving a sentence of life
6 imprisonment without parole or who is not ~~convicted of~~ serving a
7 sentence for an offense designated as a violent offense by Section
8 571 of this title or any crime enumerated in Section 13.1 of Title
9 21 of the Oklahoma Statutes shall be eligible for administrative
10 parole under subsection ~~R~~ S of this section.

11 ~~R.~~ S. The Pardon and Parole Board shall, ~~by majority vote,~~
12 grant administrative parole to any person in the custody of the
13 Department of Corrections if:

14 1. The person has substantially complied with the requirements
15 of the case plan established pursuant to Section 512 of this title;

16 2. A victim, as defined in Section 332.2 of this title, or the
17 district attorney speaking on behalf of a victim, has not submitted
18 an objection;

19 3. The person has not received a primary class X infraction
20 within two (2) years of the parole eligibility date;

21 4. The person has not received a secondary class X infraction
22 within one (1) year of the parole eligibility date; or

23 5. The person has not received a class A infraction within six
24 (6) months of the parole eligibility date.

1 ~~S.~~ T. Any person granted parole pursuant to subsection ~~R~~ S of
2 this section shall be released from the institution at the time of
3 the parole eligibility date of the person as calculated under
4 subsection B or C of this section.

5 ~~T.~~ U. No less than ninety (90) days prior to the parole
6 eligibility date of the person, the Department shall notify the
7 Pardon and Parole Board in writing of the compliance or
8 noncompliance of the person with the case plan and any infractions
9 committed by the person.

10 ~~U.~~ V. The Pardon and Parole Board shall not be required to
11 conduct a hearing before granting administrative parole pursuant to
12 subsection ~~R~~ S of this section.

13 ~~V.~~ W. Any person who is not granted administrative parole shall
14 be otherwise eligible for parole pursuant to this section.

15 ~~W.~~ X. Any person who is granted administrative parole under
16 subsection ~~R~~ S of this section shall be supervised and managed by
17 the Department of Corrections in the same manner as a parolee who
18 has been granted parole pursuant to this section. The person shall
19 be subject to all of the rules and regulations of parole.

20 Y. An inmate shall not be allowed to waive consideration for
21 parole or a recommendation for parole.

22 SECTION 5. AMENDATORY 57 O.S. 2011, Section 350, is
23 amended to read as follows:

24

1 Section 350. A. Every person, hereinafter referred to as
2 "convict", who has been or who in the future may be sentenced to
3 imprisonment in any state penal institution shall, in addition to
4 any other deductions provided for by law, be entitled to a deduction
5 from his or her sentence for all time during which he or she has
6 been or may be on parole. The provisions of this section are hereby
7 declared to be both retroactive and prospective, and to apply to
8 convicts who are on parole on ~~the effective date of this act~~ October
9 1, 1981, as well as to convicts who may be paroled thereafter; and
10 shall at the discretion of the paroling authority apply to time on a
11 parole which has been or shall be revoked.

12 B. Beginning November 1, 1987, the paroling authority ~~also~~
13 ~~shall have the discretion to~~ may revoke all or any portion of the
14 parole except as provided pursuant to subsection C of this section.

15 C. Beginning November 1, 2019, the paroling authority may
16 revoke all or any portion of the parole in accordance with Section
17 516 of this title.

18 SECTION 6. AMENDATORY 57 O.S. 2011, Section 502, as last
19 amended by Section 1, Chapter 259, O.S.L. 2016 (57 O.S. Supp. 2018,
20 Section 502), is amended to read as follows:

21 Section 502. As used in this title, unless the context
22 otherwise requires:

23 1. "Board" means the State Board of Corrections;
24

1 2. "Department" means the Department of Corrections of this
2 state;

3 3. "Director" means the Director of the Department of
4 Corrections;

5 4. "Halfway house" means a private facility for the placement
6 of inmates in a community setting for the purpose of reintegrating
7 into the community inmates who are nearing their release dates. The
8 term shall not include private prisons;

9 5. "Institutions" means the Oklahoma State Penitentiary located
10 at McAlester, Oklahoma; the Oklahoma State Reformatory located at
11 Granite, Oklahoma; the Lexington Assessment and Reception Center
12 located at Lexington, Oklahoma; the Joseph Harp Correctional Center
13 located at Lexington, Oklahoma; the Jackie Brannon Correctional
14 Center located at McAlester, Oklahoma; the Howard C. McLeod
15 Correctional Center located at Farris, Oklahoma; the Mack H. Alford
16 Correctional Center located at Stringtown, Oklahoma; the Jim E.
17 Hamilton Correctional Center located at Hodgen, Oklahoma; the Mabel
18 Bassett Correctional Center located at McLoud, Oklahoma; the R.B.
19 "Dick" Conner Correctional Center located at Hominy, Oklahoma; the
20 James Crabtree Correctional Center located at Helena, Oklahoma; the
21 Jess Dunn Correctional Center located at Taft, Oklahoma; the John
22 Lilley Correctional Center located at Boley, Oklahoma; the William
23 S. Key Correctional Center located at Fort Supply, Oklahoma; the Dr.
24 Eddie Walter Warrior Correctional Center located at Taft, Oklahoma;

1 the Northeast Oklahoma Correctional Center located at Vinita,
2 Oklahoma; the Clara Waters and Kate Barnard Community Corrections
3 Centers located at Oklahoma City, Oklahoma; the Community
4 Corrections Centers located at Lawton, Enid, Oklahoma City and Union
5 City; the Charles E. "Bill" Johnson Correctional Center, located
6 east of Alva, Oklahoma; the Southern Oklahoma Resource Center
7 located at Pauls Valley, Oklahoma; and other facilities under the
8 jurisdiction and control of the Department of Corrections or
9 hereafter established by the Department of Corrections;

10 6. "Intermediate revocation facility" means a corrections
11 center operated by the Department of Corrections or a private
12 facility or public trust operating pursuant to contract with the
13 Department of Corrections which provides housing and intensive
14 programmatic services for offenders who have violated the terms or
15 conditions of probation as determined by a supervising probation
16 officer. "Intensive programmatic services" offered by the
17 Department of Corrections includes, but shall not be limited to,
18 alcohol and substance abuse counseling and treatment, mental health
19 counseling and treatment and domestic violence courses and treatment
20 programs;

21 7. "Intermediate sanctions facility" means a community
22 corrections center operated by the Department of Corrections or a
23 private facility or public trust operating pursuant to contract with
24 the Department of Corrections which provides for the housing and

1 programmatic services of offenders such as probation or parole
2 violators or community sentenced offenders placed in the facility
3 for disciplinary sanctions, work release offenders, offenders who
4 need intensive programmatic services, or offenders who have
5 demonstrated positive adjustment while in an institutional setting
6 who need additional programmatic services to enhance their reentry
7 into society upon release from a prison term; ~~and~~

8 8. "Private prison contractor" means:

- 9 a. a nongovernmental entity or public trust which,
10 pursuant to a contract with the Department of
11 Corrections, operates an institution within the
12 Department other than a halfway house or intermediate
13 sanctions facility, or provides for the housing, care,
14 and control of inmates and performs other functions
15 related to these responsibilities within a minimum,
16 medium, or maximum security level facility not owned
17 by the Department but operated by the contractor, or
18 b. a nongovernmental entity or public trust which,
19 pursuant to a contract with the United States or
20 another state, provides for the housing, care, and
21 control of minimum or medium security inmates in the
22 custody of the United States or another state, and
23 performs other functions related to these
24 responsibilities other than a halfway house or

1 intermediate sanctions facility within a facility
2 owned or operated by the contractor;

3 9. "Technical violation" means a violation of the rules and
4 conditions of supervision, other than:

5 a. commission of a new criminal offense for which felony
6 or misdemeanor charges are filed, including violation
7 of a protective order pursuant to Section 60.6 of
8 Title 22 of the Oklahoma Statutes,

9 b. absconding, defined as failing to initially report or
10 missing assigned reporting requirements for an excess
11 of sixty (60) days,

12 c. any violation of the Specialized Sex Offender Rules,
13 or

14 d. unlawfully contacting a victim; and

15 10. "Risk and needs assessment" means an actuarial tool
16 validated on the correctional population of the state that
17 determines the risk of an individual to reoffend and the criminal
18 risk factors that, when addressed, reduce the risk of an individual
19 to reoffend.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 512.1 of Title 57, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Every offender on felony probation supervision under Section
24 515a of Title 57 of the Oklahoma Statutes shall be eligible to earn

1 discharge credits for compliance with the terms and conditions of
2 probation supervision to reduce the term of supervision and the
3 overall term of the sentence. For every calendar month of
4 compliance with the terms and conditions of probation supervision,
5 the supervising body, defined for the purposes of this section as
6 the Department of Corrections, district attorney or private
7 supervision provider responsible for the supervision of felony
8 probationers, shall award the offender earned discharge credits
9 equal to thirty (30) calendar days to be applied toward a reduction
10 of the probation supervision term ordered under Section 991a of
11 Title 22 of the Oklahoma Statutes. For the purposes of this
12 section, "compliance" shall be defined as the absence of a violation
13 report submitted by the supervising body during a calendar month.

14 B. No person convicted of an offense under Section 13.1 or
15 subsections C, D, E, F, G or J of Section 644 of Title 21 of the
16 Oklahoma Statutes shall be eligible for earned discharge credits
17 under this section.

18 C. Every supervising body shall develop written policies and
19 procedures necessary for the implementation of earned discharge
20 credits for offenders on felony probation supervision as authorized
21 pursuant to this section. The policies and procedures developed by
22 the supervising bodies shall include, but not be limited to, written
23 guidelines regarding the process to earn discharge credits and the
24 application of the credits toward the reduction of the term of

1 supervision or term of the sentence, the collection of data related
2 to who earns credit, how much is applied and how much of the
3 supervision period or sentence term is reduced at the point of
4 discharge.

5 D. Every supervising body shall maintain a record of credits
6 earned by an offender under this section. At least every six (6)
7 months from the date the offender is placed on probation, the
8 supervising body shall notify the offender of the current discharge
9 date for the offender's term of supervision and the overall sentence
10 of the offender.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 512.2 of Title 57, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Every offender released to parole supervision pursuant to
15 Section 512 of Title 57 of the Oklahoma Statutes shall be eligible
16 to earn discharge credits for compliance with the terms and
17 conditions of parole supervision that reduce the offender's term of
18 supervision. For every calendar month of compliance with the terms
19 and conditions of parole supervision, the Department of Corrections
20 shall award the offender earned discharge credits equal to thirty
21 (30) calendar days to be applied toward a reduction of the parole
22 supervision period. For the purposes of this section, "compliance"
23 shall be defined as the absence of a violation report submitted by a
24 Probation and Parole Officer during a calendar month. No person

1 convicted of an offense under Section 13.1 or subsections C, D, E,
2 F, G or J of Section 644 of Title 21 of the Oklahoma Statutes shall
3 be eligible for earned discharge credits under this section.

4 B. The Department of Corrections shall develop written policies
5 and procedures necessary for the implementation of earned discharge
6 credits as authorized pursuant to this section. The policies and
7 procedures developed by the Department of Corrections shall include,
8 but not be limited to, written guidelines regarding the process to
9 earn discharge credits and the application of the credits toward the
10 reduction of the term of supervision, the collection of data related
11 to who earns credit, how much is applied and how much of the
12 supervision period is reduced at the point of discharge.

13 C. The Department shall maintain a record of credits earned by
14 an offender under this section. At least every six (6) months from
15 the date the offender is placed on parole, the Department shall
16 notify the offender and the Pardon and Parole Board of the current
17 parole termination date.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 515b of Title 57, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Supreme Court, in coordination with the Department of
22 Corrections, shall establish regulations by rule for all providers
23 under contract with a district court whose duties include
24 supervision of felony probationers pursuant to Section 515a of Title

1 57 of the Oklahoma Statutes. These rules shall guide the
2 supervision and management of people on probation supervision and
3 the performance of the provider. The rules developed pursuant to
4 this section shall include, but not be limited to:

5 1. The use of a risk and needs assessment, as defined in
6 Section 502 of Title 57 of the Oklahoma Statutes, to guide
7 supervision and programming decisions and the development of an
8 individualized case plan pursuant to Section 515a of Title 57 of the
9 Oklahoma Statutes;

10 2. The application of the earned discharge program pursuant to
11 Section 4 of this act;

12 3. The application of the graduated sanctions and incentives
13 matrix pursuant to Section 991b of Title 22 of the Oklahoma
14 Statutes; and

15 4. The collection and reporting of data required under Section
16 1002 of Title 57 of the Oklahoma Statutes.

17 B. Any provider under contract with a district court whose
18 duties include supervision of felony probationers pursuant to
19 Section 515a of Title 57 of the Oklahoma Statutes shall complete,
20 upon hiring and on an annual basis, training courses, including, but
21 not limited to:

22 1. Identifying, understanding, targeting and effectively
23 addressing an individual's criminal risk and need factors and
24 barriers to successful completion of supervision;

1 2. Supporting and encouraging compliance and behavior change;

2 3. The use of a graduated sanctions matrix developed by the
3 Department of Corrections according to Section 991b of Title 22 of
4 the Oklahoma Statutes; and

5 4. If applicable, best practices on graduated responses to
6 domestic violence offenders and victim sensitivity training.

7 C. Each judicial district shall be responsible for developing
8 and administering procedures by rule for the implementation of the
9 requirements in this section. The chief judge of each judicial
10 district shall carry out this mandate within one (1) year of the
11 effective date of this act.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 515c of Title 57, unless there
14 is created a duplication in numbering, reads as follows:

15 A. The Department of Corrections shall develop a matrix of
16 sanctions and incentives to address behavior committed by parolees
17 and probationers who are being supervised by the Department. The
18 Department shall be authorized to use a violation response and
19 intermediate sanction process based on the matrix to apply to any
20 technical violations of the terms and conditions of parole and
21 probation, as defined in Section 502 of Title 57 of the Oklahoma
22 Statutes. The matrix shall be used for probationers in accordance
23 with the procedures laid out in Section 991b of Title 22 of the
24 Oklahoma Statutes, and for parolees in accordance with this section.

1 B. Within four (4) working days of the discovery of a parole
2 violation, the Probation and Parole Officer shall initiate the
3 violation response and intermediate sanction process. The Probation
4 and Parole Officer shall complete a sanction form, which shall
5 specify the technical violation, sanction and action plan to correct
6 the noncompliant behavior resulting in the technical violation. The
7 Probation and Parole Officer shall refer to the matrix to determine
8 the supervision, treatment and sanctions appropriate to address the
9 noncompliant behavior. The Probation and Parole Officer shall refer
10 the violation information and recommended response with a sanction
11 plan to the Department of Corrections to be heard by a hearing
12 officer. The Department of Corrections shall develop the policies
13 and procedures necessary to implement this section.

14 C. The Department of Corrections shall establish procedures to
15 hear responses to technical violations and review sanction plans for
16 parolees including the following:

17 1. Hearing officers shall report through a chain of command
18 separate from that of the supervising Probation and Parole Officers;

19 2. The Department shall provide the offender written notice of
20 the violation, the evidence relied upon and the reason the sanction
21 was imposed;

22 3. The hearing shall be held unless the offender waives the
23 right to the hearing;

24 4. The hearings shall be electronically recorded; and

1 5. The Department shall provide to the Pardon and Parole Board
2 a record of all violations and actions taken pursuant to this
3 subsection.

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

18 E. Absent a finding by the Probation and Parole Officer of an
19 offender's willful nonpayment, an offender's failure to pay fines
20 and costs may not serve as a basis for revocation.

21 SECTION 11. AMENDATORY 57 O.S. 2011, Section 516, is
22 amended to read as follows:

23 Section 516. A. Except as provided in ~~subsection~~ subsections B
24 and C of this section, the probation and parole officer shall, upon

1 information sufficient to give the officer reasonable grounds to
2 believe that the parolee has violated the terms ~~of~~ and conditions of
3 parole, notify the Department of Corrections. If it is determined
4 that the ~~facts justify revocation action~~ parolee has:

5 1. Committed a new criminal offense for which felony or
6 misdemeanor charges are filed, including violations of a protective
7 order pursuant to Section 60.6 of Title 22 of the Oklahoma Statutes;

8 2. Absconded, which is defined as failing to initially report
9 or missing assigned reporting requirements for more than sixty (60)
10 days;

11 3. Committed any violation of the specialized sex offender
12 rules; or

13 4. Unlawfully contacted a victim, the Department shall issue a
14 warrant for the arrest of the parolee and the warrant shall have the
15 force and effect of any warrant of arrest issued by a district court
16 in this state. The parolee shall, after arrest, be immediately
17 incarcerated in the nearest county jail, intermediate sanctions
18 facility, or a Department of Corrections facility to await action by
19 the Governor as to whether the parole will be revoked. Parole time
20 shall cease to run after the issuance of a warrant for arrest by the
21 Department of Corrections for a parolee who has absconded, and
22 earned credits shall not be accrued during any period of time when
23 the parolee is incarcerated pending revocation action by the
24 Governor.

1 B. The Probation and Parole Officer shall, upon information
2 sufficient to give the officer reasonable grounds to believe that
3 the parolee has committed a technical violation of the terms and
4 conditions of parole, as defined in Section 502 of this title,
5 respond in accordance with the procedures established in Section 7
6 of this act for the use of the sanctions matrix. If the severity of
7 a violation warrants a more severe response, intermediate sanctions
8 within the sanctions matrix have been exhausted and the Department
9 has determined the facts justify revocation of parole, the
10 Department shall issue a summons requiring the parolee to appear
11 before the Pardon and Parole Board for a preliminary revocation
12 hearing. If the parolee fails to appear at the preliminary
13 revocation hearing, or if the Department finds that a warrant is
14 justified for the protection of public safety, the Department shall
15 issue a warrant for the arrest of the parolee and the warrant shall
16 have the force and effect of any warrant of arrest issued by a
17 district court in this state and the parolee shall be held in
18 accordance with subsection A of this section.

19 C. If a parolee is issued a summons pursuant to subsection B of
20 this section, the Pardon and Parole Board shall hold the preliminary
21 revocation hearing within twenty (20) calendar days from the date
22 the defendant appears on the summons. The Board may, in its
23 discretion, continue parole and modify the terms and conditions of
24 parole or forward the decision to the Governor.

1 D. If a parolee is arrested and detained on a warrant pursuant
2 to subsection A or subsection B of this section, the Pardon and
3 Parole Board shall hold the preliminary hearing within twenty (20)
4 calendar days from the date the parolee is detained on the warrant.
5 The Board may, in its discretion, continue parole and modify the
6 terms and conditions of parole or forward the decision to the
7 Governor who may deliberate for a further fifteen (15) days.

8 E. If the Board does not hold a preliminary revocation hearing
9 within twenty (20) calendar days as required in subsection D of this
10 section, the parolee shall be released from a county jail,
11 intermediate sanctions facility or a Department of Corrections
12 facility and shall return to parole status. The Pardon and Parole
13 Board may subsequently hold a preliminary revocation hearing within
14 a reasonable timeframe. The Board may, in its discretion, continue
15 parole and modify the terms and conditions of parole or forward the
16 decision to the Governor.

17 F. Any parolee determined to have violated any terms or
18 conditions of parole by the supervising parole officer ~~may be given~~
19 ~~the option, at the discretion of the Department of Corrections, to,~~
20 ~~other than those listed in subsection A of this section, shall be~~
21 placed in an intermediate sanctions facility for disciplinary
22 sanction and programmatic services in lieu of revocation or when
23 revocation action by the Governor is deemed unnecessary for the
24 nature of the violation. Any parolee for whom a warrant for arrest

1 issues as provided in subsection A of this section may, at the
2 discretion of the Department or the Governor, be placed in an
3 intermediate sanctions facility pending or following any action by
4 the Governor as to revocation of parole or required additional
5 conditions to remain on parole. A parolee may be received and
6 processed into the custody of the Department on an expedited basis
7 through any facility serving such purpose or may be processed
8 directly by the intermediate sanctions facility. The county jail
9 shall be compensated by the Department of Corrections for the time
10 served in the county jail at the daily jail cost as provided by the
11 chief district judge of the county in which the sentence is served.

12 G. The Department and the Pardon and Parole Board shall adopt
13 rules and regulations related to this section.

14 SECTION 12. AMENDATORY 57 O.S. 2011, Section 517, as
15 amended by Section 8, Chapter 228, O.S.L. 2012 (57 O.S. Supp. 2018,
16 Section 517), is amended to read as follows:

17 Section 517. A. A Probation and Parole Officer, upon
18 information sufficient to give the officer reasonable grounds to
19 believe that a probationer has ~~been charged with or found guilty of~~
20 ~~committing a felony or misdemeanor offense, or has escaped from~~
21 ~~custody as provided in Section 443 of Title 21 of the Oklahoma~~
22 ~~Statutes,~~ committed a violation, other than a technical violation as
23 defined in Section 502 of this title, of the terms of and conditions
24 of probation, shall notify the Department. If it is determined that

1 the facts justify revocation action, the Department shall issue a
2 warrant for the arrest of the probationer and the warrant shall have
3 the force and effect of any warrant of arrest issued by a district
4 court in this state. A probationer ~~shall~~ may, after arrest, be
5 immediately incarcerated in the nearest county jail or intermediate
6 sanctions facility to await action by the court as to whether the
7 probation will be revoked.

8 B. A Probation and Parole Officer, upon information sufficient
9 to give the officer reasonable grounds to believe that a probationer
10 has ~~violated the terms or conditions of probation,~~ may notify the
11 Department. ~~If it is determined that the facts justify disciplinary~~
12 ~~sanctions, the Department shall issue a warrant for the arrest of~~
13 ~~the probationer and the warrant shall have the force and effect of~~
14 ~~any warrant of arrest issued by a district court in this state. The~~
15 ~~probationer shall, after arrest, be immediately incarcerated in the~~
16 ~~nearest county jail or intermediate sanction facility to await~~
17 ~~action by the court as to whether disciplinary sanctions shall be~~
18 ~~imposed. Upon approval of the court and the Department of~~
19 ~~Corrections, the probationer shall be placed in an intermediate~~
20 ~~revocation facility for disciplinary sanction and intensive~~
21 ~~programmatic services in lieu of a first revocation. Repeated~~
22 ~~violations by the probationer of the terms and conditions of~~
23 ~~probation may result in a revocation proceeding committed a~~
24 technical violation of the terms or conditions of probation, as

1 defined in Section 502 of this title, may notify the Department. If
2 the Department has determined that the facts justify revocation of
3 probation in accordance with the procedure established in subsection
4 D of Section 991b of Title 22 of the Oklahoma Statutes, the
5 Department shall issue a summons requiring the probationer to appear
6 at a revocation hearing. The district attorney may petition the
7 court to issue a warrant in place of a summons in the interest of
8 public safety. If the probationer fails to appear at the hearing
9 ordered by the summons, or if the court approves the district
10 attorney's petition for a warrant, the Department shall issue a
11 warrant for the arrest of the probationer and the warrant shall have
12 the force and effect of any warrant of arrest issued by a district
13 court in this state. The probationer may, after arrest, be
14 immediately incarcerated in the nearest county jail or intermediate
15 sanction facility to await action by the court as to whether
16 disciplinary sanctions will be imposed.

17 C. Any probationer for whom a warrant for arrest ~~issues~~ is
18 issued as provided in subsection A or B of this section may, at the
19 discretion of the court, be placed in an intermediate sanctions
20 facility pending or following any action by the court as to
21 revocation of probation or required additional conditions to remain
22 on probation. A probationer may be processed by the Department on
23 an expedited basis through any facility serving such purpose or may
24 be processed directly by the intermediate sanctions facility.

1 D. Nothing in this section shall preclude a district attorney
2 from initiating an application to revoke a suspended sentence
3 pursuant to subsection A of this section without a recommendation
4 from the Department or from initiating an application to revoke a
5 suspended sentence and referring the person to an intermediate
6 revocation facility without a recommendation from the Department
7 pursuant to subsection B of this section, when the district attorney
8 believes that competent evidence justifies the revocation of the
9 suspended sentence.

10 E. For purposes of this section, the term "probationer" means
11 any offender on a deferred judgment or suspended sentence supervised
12 by the Department of Corrections or another supervising body.

13 SECTION 13. This act shall become effective November 1, 2019.

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