

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 951

By: Daniels

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5  
6 AS INTRODUCED

7 An Act relating to court fines and costs; amending 22  
8 O.S. 2011, Section 983, as amended by Section 2,  
9 Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2020, Section  
10 983), which relates to failure to pay fines, costs,  
11 fees or assessments; modifying requirements for  
12 payment of fines, costs, fees or assessments;  
13 requiring certain hearing; authorizing court to order  
14 installment payments; authorizing request for payment  
15 plan, modification or reduction in payments;  
16 requiring certain instruction to defendant; requiring  
17 consideration of certain factors; requiring notice  
18 and hearing before certain sentence conversion;  
19 establishing procedures for certain hearing;  
20 authorizing court to take certain actions for  
21 defendant unable to pay amount owed; prohibiting  
22 imposition of costs and fees under certain  
23 circumstances; authorizing incarceration for willful  
24 nonpayment; establishing requirements for certain  
25 incarceration; authorizing court clerk to take  
26 certain collection actions; establishing certain  
27 allocation formula; and providing an effective date.

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

31 SECTION 1. AMENDATORY 22 O.S. 2011, Section 983, as  
32 amended by Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2020,  
33 Section 983), is amended to read as follows:  
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1           Section 983. A. The court shall conduct a hearing at the time  
2 of sentencing or other final order to determine the immediate  
3 ability of the defendant to pay restitution, fines, costs, fees and  
4 assessments. The court may order these to be paid in installments  
5 and shall set the amount and date for each installment. The court  
6 shall instruct the defendant that, if at any time the defendant is  
7 unable to pay any financial obligations ordered by the court, the  
8 defendant has the right to appear before the court to present  
9 evidence regarding ability to pay the amount due and to request the  
10 imposition of a payment plan, a modification of a payment plan or a  
11 reduction in the amount owed or waiver of payment.

12           B. The court shall instruct the defendant that it is the  
13 defendant's obligation to keep the court clerk informed of the  
14 defendant's contact information until all financial obligations have  
15 been paid.

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

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

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

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

19 D. In determining willful refusal or neglect to pay or  
20 inability to pay fines, costs, fees, restitution or assessments, the  
21 court shall consider:

22 1. Undue hardship to the defendant or to the legal dependents  
23 of the defendant;  
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1        2. The defendant has not made a good faith effort to comply  
2 with the order;

3        3. The present employment of the defendant;

4        4. The earning capacity of the defendant;

5        5. The availability and convertibility of any existing assets  
6 owned by the defendant;

7        6. Whether and to what extent the defendant has outstanding  
8 debts and liabilities;

9        7. The health of the defendant including mental and behavioral  
10 health issues that diminish the ability of the defendant to pay;

11        8. Access to transportation;

12        9. Public assistance including, but not limited to, state-  
13 administered general assistance, temporary family assistance, aid to  
14 the elderly, blind or disabled, SNAP benefits and supplemental  
15 social security; and

16        10. Any other relevant issues as determined by the court.

17        E. The court shall send a notice to the defendant by United  
18 States mail to his or her last known mailing address, and by  
19 electronic mail or text message to the defendant's electronic mail  
20 address or cellular phone number, stating that:

21        1. The court will conduct a hearing at a specified time, place  
22 and date to determine if the defendant has willfully refused or  
23 neglected to pay restitution or fines, or is unable to pay the  
24 amount owed;

1        2. The defendant may present evidence at the hearing to show  
2 his or her inability to pay the restitution or fines; and

3        3. If the defendant fails to appear at the hearing for failure  
4 to pay restitution or fines, a warrant for failure to appear may be  
5 issued for the arrest of the defendant. The court shall conduct the  
6 hearing within three (3) business days after the arrest of the  
7 defendant.

8        F. After a judicial determination that the defendant is able to  
9 pay the restitution or fines in installments, the court may order  
10 the restitution or fines to be paid in installments and shall set  
11 the amount and date for each installment.

12        G. If the court finds that the failure to pay restitution or  
13 finances was not willful and that defendant is unable to pay the amount  
14 owed, the court may:

15        1. Adjust the terms of payment of restitution or fines;

16        2. Lower the amount of the restitution or fines;

17        3. Waive the restitution or fines upon a finding by the court  
18 that the defendant is unable to pay and that such status is unlikely  
19 to change in the foreseeable future, or that the fines are  
20 preventing the defendant from obtaining basic necessities;

21        4. Order the defendant to perform community service in lieu of  
22 a payment of the restitution or fine; or

23        5. Enter a civil judgment for all or a portion of the unpaid  
24 restitution or fines to be paid either in whole or in installments.

1        H. If the court finds that nonpayment of restitution or fines  
2 was willful, a defendant may be incarcerated in the county jail for  
3 a term not to exceed thirty (30) days. The defendant shall be  
4 credited with an amount as specified by the court, not less than  
5 Fifty Dollars (\$50.00) per day for time served for nonpayment of  
6 finances. The court may release the defendant upon satisfactory  
7 arrangements to bring the defendant into compliance. If the  
8 defendant remains in noncompliance after ninety (90) days from  
9 release, the defendant may again be served with notice as provided  
10 in subsection C of this section and the court may again determine if  
11 the noncompliance is willful and order the defendant incarcerated as  
12 provided in this subsection.

13        I. The following allocation formula shall be used for monies  
14 paid into the court: payments shall first be credited toward  
15 satisfying restitution, then fines. Once restitution and fines have  
16 been paid, payments shall be credited towards the court-imposed  
17 costs, fees and assessments.

18        J. The Court of Criminal Appeals shall implement procedures and  
19 rules consistent with the provisions of this section for methods of  
20 establishing payment plans of fines, costs, fees, and assessments by  
21 indigents, which procedures and rules shall be distributed to all  
22 district courts and municipal courts by the Administrative Office of  
23 the Courts.

1 SECTION 2. This act shall become effective November 1, 2021.

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