

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2259

By: Sterling, Goodwin, and
Pittman of the House

and

Howard of the Senate

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9 [court financial obligations - court cost compliance
10 program and warrants - court cost compliance liaisons
11 - cost hearings - down payment requirement -
12 citations to appear - defendant's ability to pay
13 court financial obligations - hardship waivers -
14 reporting procedures - terms for payment of court
15 financial obligations - guidelines to determine
16 delinquency - summons form - referrals to the court
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18 willfulness hearings - jail sentences - jail rates
19 related to fees and costs - effective date]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2021, Section 514.4, as
amended by Section 2, Chapter 350, O.S.L. 2022 (19 O.S. Supp. 2022,
Section 514.4), is amended to read as follows:

Section 514.4 A. 1. Effective ~~July~~ November 1, 2023, there is
hereby established a court cost compliance program. The purpose of
the program shall be to assist county sheriffs and the courts of
this state with the collection of fines, costs, fees, and

1 assessments associated with cases in which a warrant has been issued
2 and the case has been referred to the court cost compliance program
3 pursuant to Section 983 of Title 22 of the Oklahoma Statutes.

4 2. County sheriffs of any Oklahoma county may contract with a
5 statewide association of county sheriffs to administer contracts
6 with third parties who shall be known as court cost compliance
7 liaisons. The court cost compliance liaison may assist with
8 attempting to locate and notify persons of their outstanding
9 misdemeanor or ~~failure to pay~~ cost-related warrants, and recover and
10 maintain accounts relating to past due fines, fees, costs, and
11 assessments. County sheriffs contracting with a statewide
12 association of county sheriffs for the administration of third-party
13 contracts may assign their rights and duties regarding these third-
14 party contracts to the association.

15 B. A person may make payment directly to the court or court
16 cost compliance liaison as allowed by law, or the court cost
17 compliance liaison, as allowed, shall be authorized to accept
18 payment on misdemeanor or ~~failure to pay~~ cost-related warrants on
19 all cases referred, pursuant to Section 983 of Title 22 of the
20 Oklahoma Statutes, by various means including, but not limited to,
21 payment by phone, mail, or Internet, and in any payment form
22 including, but not limited to, personal, cashier's, traveler's,
23 certified, or guaranteed bank check, postal or commercial money
24 order, nationally recognized credit or a debit card, or other

1 generally accepted payment form. Any payment collected and received
2 by the court cost compliance liaison shall be paid to the court
3 clerk of the court that issued the warrant within fifteen (15) days
4 after receipt of the payment and proof of funds. Any payment
5 collected and received by the court, where the court has referred
6 the case to a court cost compliance liaison, shall be reported to
7 the court cost compliance liaison within four (4) days of receipt of
8 the payment. Any payment returned due to insufficient funds shall
9 have all insufficient fund charges incurred added to the outstanding
10 balance of the defendant. If a credit card payment taken by a court
11 cost compliance liaison is determined to be a fraudulent use of the
12 credit card by the payor and the payment is reversed by the credit
13 card company or payor's bank, the court clerk shall reverse the
14 transaction upon notification, return the payment to the court cost
15 compliance liaison, and the court cost compliance liaison shall
16 continue the collection process until paid. The court clerk shall
17 add any additional fees for the reversal of the transaction plus the
18 administration fees to the outstanding balance of the defendant.
19 Court cost compliance liaisons shall inform individuals of their
20 right to a cost hearing, as provided in Section 983 of Title 22 of
21 the Oklahoma Statutes.

22 C. As provided for by this section, a person may pay in lieu of
23 appearance before the court and such payment accepted by the court
24 shall constitute a finding of ~~guilty~~ guilt as though a plea of nolo

1 | contendere had been entered by the defendant as allowed by law and
2 | shall function as a written, dated, and signed plea form acceptable
3 | to the court. Such payment shall serve as a written waiver of a
4 | jury trial.

5 | D. The court shall release or recall the outstanding
6 | misdemeanor or ~~failure to pay~~ cost-related warrant ~~only~~ upon receipt
7 | of all sums due pursuant to ~~said~~ the warrant including the
8 | misdemeanor or ~~failure to pay~~ cost-related warrant, scheduled fine
9 | or sum due, all associated fees, costs and statutory penalty
10 | assessments, and the administrative cost pursuant to Section 514.5
11 | of this title, or with ~~a down payment of a minimum of One Hundred~~
12 | ~~Dollars (\$100.00)~~ and a mutually agreeable monthly payment plan and
13 | a down payment set at the discretion of the court at an amount no
14 | less than One Hundred Dollars (\$100.00). A single down payment
15 | shall be sufficient to recall all cost-related warrants against a
16 | defendant pending in a single jurisdiction.

17 | E. The provisions of any contract entered into by a county
18 | sheriff shall be administered by a statewide association of county
19 | sheriffs in Oklahoma.

20 | F. The provisions of this section and Section 514.5 of this
21 | title shall be applicable to:

22 | 1. Any misdemeanor or ~~failure to pay~~ cost-related warrant
23 | issued pursuant to Section 983 of Title 22 of the Oklahoma Statutes
24 |

1 or relating to any proceeding pursuant to the State and Municipal
2 Traffic Bail Bond Procedure Act;

3 2. Any misdemeanor or ~~failure to pay~~ cost-related warrant
4 issued that allows a defendant to resolve the matter by payment in
5 lieu of a personal appearance in court; and

6 3. Any ~~failure to pay~~ cost-related warrant issued in a criminal
7 case.

8 SECTION 2. AMENDATORY 19 O.S. 2021, Section 514.5, as
9 amended by Section 3, Chapter 350, O.S.L. 2022 (19 O.S. Supp. 2022,
10 Section 514.5), is amended to read as follows:

11 Section 514.5 A. Misdemeanor or ~~failure to pay~~ cost-related
12 warrants or cases referred to the court cost compliance liaison
13 pursuant to Section 514.4 of this title shall include the addition
14 of an administrative cost of thirty percent (30%) of the outstanding
15 misdemeanor or ~~failure to pay~~ cost-related warrant, scheduled fine
16 or sum due, and all associated fees, costs and statutory penalty
17 assessments. This administrative cost shall not be waived or
18 reduced unless the amount owed is waived or reduced or by order of
19 the court upon good cause.

20 B. The administrative cost reflected in subsection A of this
21 section shall be distributed to the court cost compliance liaison, a
22 portion of which may be used to compensate the statewide association
23 administering the contract.

24

1 C. The monies collected and disbursed shall be audited at least
2 once per year by a firm approved by the State Auditor and Inspector.

3 SECTION 3. AMENDATORY 22 O.S. 2021, Section 209, as
4 amended by Section 4, Chapter 350, O.S.L. 2022 (22 O.S. Supp. 2022,
5 Section 209), is amended to read as follows:

6 Section 209. A. A law enforcement officer who has arrested a
7 person on a misdemeanor charge or violation of an ordinance, without
8 a warrant, ~~or who has found a person to have an outstanding warrant~~
9 ~~for failure to appear for a cost hearing as provided in subsection C~~
10 ~~of Section 983 of this title,~~ may issue a citation to such person to
11 appear in court.

12 B. In issuing a citation hereunder the officer shall proceed as
13 follows:

14 1. The officer shall prepare a written citation to appear in
15 court, containing the name and address of the cited person and the
16 offense charged, and stating when the person shall appear in court.
17 The time specified in the citation to appear shall be at least five
18 (5) days after the issuance of the citation;

19 2. One copy of the citation to appear shall be delivered to the
20 person cited, and such person shall sign a duplicate written
21 citation which shall be retained by the officer;

22 3. The officer shall thereupon release the cited person from
23 any custody; and
24

1 4. As soon as practicable, the officer shall file one copy of
2 the citation with the court specified therein and shall deliver one
3 copy to the prosecuting attorney.

4 C. In any case in which the judicial officer finds sufficient
5 grounds for issuing a warrant, the judicial officer may issue a
6 summons commanding the defendant to appear in lieu of a warrant.

7 D. If a person summoned fails to appear in response to the
8 summons, a warrant for his or her arrest shall issue, and any person
9 who willfully fails to appear in response to a summons is guilty of
10 a misdemeanor; provided, however, any charges or warrant for failure
11 to appear shall be dismissed if the person can show the court that
12 the person was incarcerated or otherwise detained by law enforcement
13 at the time of the failure to appear.

14 SECTION 4. AMENDATORY 22 O.S. 2021, Section 983, as
15 amended by Section 5, Chapter 350, O.S.L. 2022 (22 O.S. Supp. 2022,
16 Section 983), is amended to read as follows:

17 Section 983. A. 1. Except in cases provided for in Section
18 983b of this title, when the judgment and sentence of a court,
19 either in whole or in part, imposes ~~finances, costs, fees, or~~
20 ~~assessments~~ court financial obligations upon a defendant, the court
21 at the time of sentencing ~~shall require the defendant to complete~~
22 ~~under oath a form promulgated by the Court of Criminal Appeals that~~
23 ~~provides current information regarding the financial ability of the~~
24 ~~defendant to pay~~ may immediately, or at any point thereafter until

1 the debt is either paid or waived, determine the ability of a
2 defendant to pay the court financial obligations. Courts may make
3 such evaluations and decisions at a cost hearing or upon written
4 motion or affidavit by the defendant. The ability of a defendant to
5 pay court financial obligations may not impact the sentence imposed.

6 2. ~~The information to be required on the form shall include,~~
7 ~~but not be limited to, the~~ When used in this section, unless the
8 context otherwise requires:

9 a. "court financial obligations" means all financial
10 obligations including fines, costs, fees, and
11 assessments, imposed by the court or required by law
12 to be paid, excluding restitution or payments to be
13 made other than to the court clerk,

14 b. "cost hearing" means a hearing wherein the court
15 determines ability of a defendant to pay court
16 financial obligations. Once a cost hearing date has
17 been set, all court financial obligations must be
18 suspended until the cost hearing has been held,

19 c. "willfulness hearing" means a hearing wherein the
20 court determines whether a defendant who has
21 previously been found to have the ability to pay court
22 financial obligations has willfully failed to pay the
23 debt,

1 d. "payment-in-full" means a court financial payment term
2 that requires the defendant to pay the full amount of
3 court financial obligations owed within ninety (90)
4 days of a plea or sentence in the district court or
5 within thirty (30) days of a plea or sentence in the
6 municipal court,

7 e. "payment-in-installments" means payment terms for
8 court financial obligations that require the defendant
9 to make monthly payments in any amount until the
10 amount owed is fully paid,

11 f. "cost arrest warrant" means a warrant authorizing
12 arrest that is issued by a court under the following
13 circumstances:

14 (1) failure to comply with the terms of a court
15 financial obligations payment plan,

16 (2) failure to appear at a cost hearing or
17 willfulness hearing, or

18 (3) failure to appear at the office of the court
19 clerk of the county in which the court financial
20 obligation is owed within ten (10) days of being
21 cited by a law enforcement officer to appear, and

22 g. "cost cite and release warrant" means a warrant issued
23 by a court authorizing citation and release under the
24 following circumstances:

- 1 (1) failure to comply with terms of a court financial
2 obligations payment plan, or
3 (2) failure to appear at a cost hearing or
4 willfulness hearing.

5 3. Defendants with court financial obligations who are found by
6 the court to be unable to pay, in whole or in part, shall be
7 relieved of the debt by the court through a hardship waiver of the
8 court financial obligations, either in whole or in part.

9 4. In determining the ability of a defendant to pay, the court
10 shall consider the following factors:

- 11 a. individual and household income and,
12 b. household living expenses of the defendant, excluding,
13 c. number of dependents,
14 d. assets,
15 e. child support and obligations,
16 f. physical or mental health conditions that diminish the
17 ability to generate income or manage resources,
18 g. additional case-related expenses to be paid by the
19 defendant, and
20 h. any other factors relevant to the ability of the
21 defendant to pay.

22 5. In determining the ability of a defendant to pay, the
23 following shall not be considered as income or assets:

- 24 a. child support income,

1 **b.** any monies received from a federal ~~or~~, state, or
2 tribal government need-based or disability assistance
3 program, ~~the number of dependents, a listing of~~
4 ~~assets, excluding or~~

5 **c.** ~~assets exempt from bankruptcy, child support~~
6 ~~obligations, health, mental or behavioral health~~
7 ~~conditions that diminish the ability of the defendant~~
8 ~~to pay restitution, and additional court-related~~
9 ~~expenses to be paid by the defendant.~~

10 ~~3. For purposes of this section, fines, costs, fees, and~~
11 ~~assessments shall include all financial obligations imposed by the~~
12 ~~court or required by law to be paid, excluding restitution or~~
13 ~~payments to be made other than to the court clerk, and shall be~~
14 ~~referred to as financial obligations.~~

15 6. Defendants in the following circumstances are presumed
16 unable to pay and eligible for relief under paragraph 3 of this
17 subsection:

18 **a.** designated as totally disabled by any federal, state,
19 or tribal disability services program including, but
20 not limited to, military disability, Social Security
21 Disability Income, Supplemental Security Income, or
22 tribal disability benefits,

23 **b.** receives support from the Oklahoma Temporary
24 Assistance for Needy Families program, Supplemental

1 Nutrition Assistance Program, the Women, Infants, and
2 Children nutrition education and supplemental food
3 program, or any other federal need-based financial
4 support,

5 c. receives subsidized housing support through the
6 Housing Choice Voucher program, the Department of
7 Housing and Urban Development, or other state, local,
8 or federal government housing subsidy program,

9 d. has been homeless, as defined in Section 2900.1 of
10 Title 74 of the Oklahoma Statutes, for at least six
11 (6) of the previous twelve (12) months, or

12 e. total income is below one hundred fifty percent (150%)
13 of the federal poverty level.

14 B. 1. ~~The~~ At the time of a plea or sentencing, the court shall
15 ~~order~~ inform the defendant ~~to appear immediately after sentencing at~~
16 ~~the office of the court clerk who shall inform the defendant of the~~
17 ~~total amount of all financial obligations that have been ordered by~~
18 ~~the court. If the defendant states to the court clerk that he or~~
19 ~~she is~~ of the total court financial obligations owed, the
20 consequences of failing to pay the court financial obligations, and
21 that the defendant may request a cost hearing if at any time he or
22 she is unable to pay the court financial obligations ~~immediately,~~
23 ~~the court clerk, based on the verified information provided by the~~
24 ~~defendant, shall establish, subject to approval of,~~ at which point

1 the court, ~~a monthly installment plan that will cause the financial~~
2 ~~obligations to be satisfied within no more than seventy two (72)~~
3 ~~months, unless extended by~~ may waive all or part of the debt owed.
4 If the total court financial obligations owed is not available at
5 the time of the plea or sentencing, the court shall inform the
6 defendant that court financial obligations have been incurred and
7 the time and location where the defendant may learn of the total
8 amount owed.

9 2. The court ~~clerk shall advise the defendant orally and by~~
10 ~~delivery of a form promulgated by the Court of Criminal Appeals,~~
11 ~~that:~~

12 a. ~~it is the obligation of the defendant to keep~~ order the
13 defendant to appear immediately after sentencing at the office of
14 ~~the court clerk informed of the~~ to provide current contact
15 ~~information of the defendant until the financial obligations have~~
16 ~~been paid. Such information shall include the current mailing and~~
17 ~~physical addresses of the defendant, telephone or cellular phone~~
18 ~~number of the defendant, and the email address where the defendant~~
19 ~~may receive notice from the court,~~

20 b. ~~if the defendant is unable to pay the financial~~
21 ~~obligations ordered by the court immediately or in the installments~~
22 ~~recommended by the court clerk, the defendant may request a cost~~
23 ~~hearing for the court to determine the ability of the defendant to~~
24 ~~pay the amount due and to request modification of the installment~~

1 ~~plan, a reduction in the amount owed, or waiver of payment of the~~
2 ~~amount owed, and~~
3 ~~e. upon any subsequent change in circumstances affecting the~~
4 ~~ability of the defendant to pay, the defendant may contact the court~~
5 ~~clerk and request additional cost hearings before the court and to~~
6 ~~either select payment terms or request a cost hearing. Failure to~~
7 ~~immediately report to the court clerk shall result in the full~~
8 ~~amount of court financial obligations to be due thirty (30) days~~
9 ~~from the date of the plea or sentencing in district courts or thirty~~
10 ~~(30) days from the date of the plea or sentencing in municipal~~
11 ~~courts.~~

12 3. ~~An order shall be filed in the case with the approval or~~
13 ~~disapproval by the court of the payment plan. If the court does not~~
14 ~~approve the payment plan recommended by the court clerk, the court~~
15 ~~shall enter its order establishing the payment plan. The Payment of~~
16 ~~court financial obligations may be made under the following terms:~~

- 17 a. payment in full, or
18 b. payment in installments.

19 Upon any change in circumstances affecting the ability of a
20 defendant to pay, a defendant shall be notified by certified mail or
21 personal service of the order entered by the court and shall be
22 given the opportunity for may request a cost hearing before the
23 court by contacting the court clerk.

24

1 4. The district court for each county and all municipal courts
2 shall ~~set a regular time and courtroom for~~ provide a cost hearings
3 hearing for any defendant who requests one, either by establishing a
4 dedicated docket or on an as-requested basis. Defendants who
5 request a cost hearing will receive a summons by personal service or
6 mail to appear in court as required by subsection F of this section.
7 If a defendant fails to appear for a requested cost hearing, the
8 court may issue either a cost cite and release warrant or a cost
9 arrest warrant. No fees shall be assessed or collected from the
10 defendant as a consequence of either requesting a cost hearing or
11 the issuing of a cost cite and release warrant.

12 C. ~~If the defendant requests a cost hearing, the court clerk~~
13 ~~shall set the hearing no later than sixty (60) days after~~
14 ~~sentencing.~~ In determining the ability of the defendant to pay
15 court-related obligations, the court ~~shall~~ may rely on ~~the verified~~
16 testimony, relevant documents, and any information submitted by the
17 defendant on the form provided by the defendant using a cost hearing
18 affidavit promulgated by the Court of Criminal Appeals and any
19 updates to the information. In addition, the court may make inquiry
20 of the defendant and consider any other evidence or testimony
21 concerning the ability of the defendant to pay.

22 D. 1. If at the initial cost hearing or any subsequent cost
23 hearing, the court determines that the defendant is ~~unable~~ able to
24 ~~immediately~~ pay some or all of the court financial obligations ~~or~~

1 ~~the required installments, the court may reduce the amount of the~~
2 ~~installments, extend the payment plan beyond seventy two (72)~~
3 ~~months, or waive payment of all or part of the amount owed. The,~~
4 the court may include a order any of the following conditions for
5 payment:

- 6 a. payment in full,
 - 7 b. payment in installments,
 - 8 c. financial incentive for accelerated payment.
- 9 ~~Additionally, the court may order~~ under a set of
10 conditions determined by the court, or
- 11 d. community service in lieu of payment. The; provided,
12 the defendant shall receive credit for no less than
13 two times the amount of the minimum wage specified
14 pursuant to state law for each hour of community
15 service.

16 2. ~~If at any time due to a change in conditions the Any~~
17 ~~defendant is unable to pay the financial obligations ordered by the~~
18 ~~court or any installment, the defendant~~ who fails to comply with the
19 terms of the payment plan ordered by the court shall be considered
20 delinquent and the court may request an additional cost hearing
21 issue either a cost cite and release warrant or a cost arrest
22 warrant.

23 E. If the court determines that a waiver of any of the
24 financial obligations is warranted, the court shall equally apply

1 the same percentage reduction to all fines, costs, fees, and
2 assessments, excluding restitution.

3 F. 1. ~~If a~~ A defendant is considered delinquent in the payment
4 of court financial obligations ~~or an installment by more than sixty~~
5 ~~(60) days, the~~ under the following circumstances:

6 a. when the total amount due has not been paid by the due
7 date, or

8 b. when no installment payments have been received in the
9 most recent ninety-day period.

10 2. The court clerk shall ~~notify the court which shall, within~~
11 ~~ten (10) days thereafter, set a cost hearing for~~ periodically review
12 cases for delinquency at least once every six (6) months and, upon
13 identifying a delinquent defendant, notify the court which shall,
14 within ten (10) days thereafter, set a cost hearing for the court to
15 determine if the defendant is able to pay. The cost hearing shall
16 be set ~~on a date that will allow the court clerk to issue a~~ within
17 forty-five (45) days of the issuance of the summons. The hearing
18 shall be set on a date that shall allow the court clerk to issue a
19 summons fourteen (14) days prior to the cost hearing. Defendants
20 shall incur no additional fees associated with the issuance of the
21 summons.

22 ~~2.~~ 3. No less than fourteen (14) days prior to the cost
23 hearing, the court clerk shall issue one summons to the defendant to
24

1 be served by United States mail to the mailing address of the
2 defendant on file in the case, substantially as follows:

3 SUMMONS

4 You are ORDERED to appear for a ~~cost hearing~~ COST HEARING at a
5 specified time, place, and date to determine if you are financially
6 able ~~but willfully refuse or neglect~~ to pay the fines, costs, fees,
7 or assessments or an installment due in Case No. _____.

8 ~~You must be present at the hearing.~~ YOU MUST BE PRESENT AT THE
9 HEARING.

10 At any time before the date of the cost hearing, you may contact
11 the court clerk and pay the ~~fines, costs, fees, or assessments~~
12 amount due or any installment due request in writing or in person
13 prior to the court date, that the hearing be rescheduled for no
14 later than thirty (30) days after the scheduled time.

15 THIS IS NOT AN ARREST WARRANT. However, if you fail to appear
16 for the cost hearing or ~~to make the payment~~ pay the amount due, the
17 court will issue a WARRANT for ~~"FAILURE TO APPEAR COST HEARING"~~ and
18 refer the case to a court cost compliance liaison which will cause
19 an additional ~~thirty percent (30%)~~ administrative fee of up to
20 thirty-five percent (35%) to be added to the amount owed, and may
21 include additional costs imposed by the court.

22 ~~3. If the defendant fails to appear at~~

23 4. Referrals to the court cost hearing or pay the amount due
24 ~~the court shall issue a warrant for FAILURE TO APPEAR COST HEARING~~

1 ~~and refer the case to the court cost~~ compliance program as provided
2 in subsection K of this section shall be made as follows:

3 a. courts shall refer a case to the court cost compliance
4 program upon the issuance of a cost arrest warrant,

5 b. courts may refer a case to the court cost compliance
6 program upon the issuance of a cost cite and release
7 warrant, or

8 c. courts may refer a case to the court cost compliance
9 program without the issuance of a warrant; provided,
10 the defendant is delinquent and has had sufficient
11 notice and opportunity to have a cost hearing.

12 ~~4.~~ 5. Municipal courts, in lieu of mailing the summons provided
13 for in this subsection, may give the ~~defendant personal notice~~
14 summons to the defendant in person at the time of sentencing or
15 subsequent appearance of a specific date, time, and place, not less
16 than ~~sixty (60)~~ thirty (30) days nor more than one hundred twenty
17 (120) days from the date of sentencing to appear for a cost hearing
18 if the ~~finer, costs, fees, and assessments~~ court financial
19 obligations remain unpaid.

20 G. 1. If a defendant is found by a law enforcement officer to
21 have an outstanding cost cite and release warrant ~~for FAILURE TO~~
22 ~~APPEAR COST HEARING,~~ the law enforcement officer shall ~~release the~~
23 ~~defendant and~~ issue a citation Warning/Notice to appear ~~pursuant to~~
24 ~~Section 209 of this title~~ within ten (10) days of release from

1 detention on the warrant to the court clerk of the court in which
2 the court financial obligations are owed. If the officer has the
3 necessary equipment, the officer shall immediately transmit the
4 Warning/Notice electronically to the court clerk of the court in
5 which the court financial obligations are owed. The law enforcement
6 officer shall not take the defendant into custody on the cite and
7 release warrant, and no other law enforcement officer who encounters
8 the defendant during this ten-day period may take the defendant into
9 custody on the warrant. If the law enforcement officer is unable to
10 transmit the Warning/Notice electronically to the court clerk, the
11 officer shall inform the appropriate department staff member within
12 the agency of the law enforcement officer of the Warning/Notice
13 within five (5) days. The department staff member shall then
14 promptly notify the law enforcement agency in the jurisdiction that
15 issued the warrant electronically. The electronic communication
16 shall be treated as a duplicate original for all purposes in any
17 subsequent hearings before the appropriate court.

18 2. If the defendant fails to appear at the time and place cited
19 by the law enforcement officer, the court may issue a summons or
20 warrant as provided in Section 209 of this title. The provisions of
21 this subsection shall not apply to a municipal court reports to the
22 office of the court clerk within the ten (10) days, the court clerk
23 shall:

24

- a. inform the court of the Warning/Notice to the defendant and contact,
- b. schedule a cost hearing pursuant to applicable local court rule, and
- c. submit the warrant to the court for recall pending the cost hearing.

3. If the defendant fails to report to the office of the court clerk within the ten (10) days, the court may issue a cost arrest warrant for the arrest of the defendant.

4. At the hearing following the arrest for failure to appear, the court shall conduct a cost hearing or willfulness hearing, as the court deems appropriate, within seventy-two (72) hours unless:

- a. the defendant pays One Hundred Dollars (\$100.00) toward the court financial obligation, is released from custody, and the new cost hearing date is provided, or
- b. the court releases the defendant on the defendant's own recognizance and a new cost hearing date is provided.

5. The provisions for issuing a separate summons described in subsection F of this section shall not apply to a municipal court if the municipal court has previously provided actual personal ~~service~~ notice to the defendant of an opportunity for a cost hearing. If such notice was given and the defendant fails to appear, the

1 municipal court may issue either a cost cite and release warrant or
2 a cost arrest warrant.

3 6. All warrants for failure to appear at a cost hearing or for
4 failure to pay court financial obligations which have been issued
5 prior to the effective date of this act and which remain unserved,
6 shall be treated as cost cite and release warrants. All warrant
7 fees assessed for warrants for failure to appear at a cost hearing
8 or for failure to pay court financial obligations issued prior to
9 the effective date of this act shall remain in effect unless waived
10 by the court.

11 ~~H. In determining whether the defendant is able to pay~~
12 ~~delinquent~~ Supporting documents in a motion or affidavit for relief
13 from court financial obligations obligation debt or any installments
14 ~~due, the court shall consider the criteria provided in subsection C~~
15 ~~of this section~~ documents taken into evidence during a cost hearing
16 or willfulness hearing shall not be publicly viewable on a court-
17 controlled website.

18 ~~I. Any~~ 1. After a cost hearing where a defendant has been
19 found guilty of an offense in any court of this state may be
20 imprisoned for nonpayment of his or her able to pay a court
21 financial obligations when the obligation, either in whole or in
22 part, and then becomes delinquent in that payment, a court finds
23 after notice and may conduct a willfulness hearing that the
24 defendant is financially able but willfully refuses or neglects to

1 ~~pay at any time beginning immediately after a cost hearing has been~~
2 ~~held and a decision rendered on the court financial obligations~~
3 ~~owed. A sentence to pay a fine, cost, fee, or assessment may be~~
4 ~~converted into a jail sentence only after a hearing and a judicial~~
5 ~~determination, memorialized of record, that the defendant is able to~~
6 ~~satisfy the fine, cost, fee, or assessment by payment, but refuses~~
7 ~~or neglects so to do obligation at issue, and after sufficient~~
8 ~~notice to the defendant of the hearing. Findings of a defendant's~~
9 ~~prior ability to pay may be considered as evidence of ability to pay~~
10 ~~or willfulness at the hearing. This provision shall not be~~
11 ~~interpreted to prohibit the ability of the court to hold subsequent~~
12 ~~cost hearings on the same court financial obligations.~~

13 2. At a willfulness hearing, the court shall evaluate the
14 following:

- 15 a. whether a cost hearing has been held previously where
16 evidence relating to ability to pay was presented and
17 the court found the defendant was able to pay the
18 court financial obligations, either in whole or in
19 part,
- 20 b. whether there is any new evidence of ability to pay
21 not previously considered or a change in circumstances
22 since the cost hearing,

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1 c. whether the defendant was afforded sufficient time and
2 opportunity to fulfill the obligation to pay the court
3 financial obligations,

4 d. whether the defendant made any efforts to satisfy the
5 court financial obligations, and

6 e. whether there are any other relevant facts or
7 circumstances.

8 3. After a finding of willful failure to pay court financial
9 obligations, the court may impose a jail sentence pursuant to
10 Section 101 of Title 28 of the Oklahoma Statutes only under the
11 following circumstances:

12 a. the hearing is conducted on the record pursuant to the
13 rules promulgated by the Court of Criminal Appeals,
14 and

15 b. the defendant is represented by counsel or expressly
16 waives his or her right to counsel.

17 4. If a jail sentence is imposed, the court may grant credit
18 for any time already served. At any time after incarceration, the
19 jail sentence may be satisfied upon payment in full of the
20 outstanding balance with credit for any time already served.

21 J. In addition, the district court or municipal court, within
22 one hundred twenty (120) days from the date upon which the person
23 was originally ordered to make payment, and if the court finds and
24 memorializes into the record that the defendant is financially able

1 but willfully refuses to ~~or neglects to~~ pay the ~~finer, costs, fees,~~
2 ~~or assessments~~ court financial obligations, or an installment due,
3 may send notice of nonpayment of any ~~court ordered~~ court-ordered
4 fine and costs for a moving traffic violation to ~~the Department of~~
5 ~~Public Safety~~ Service Oklahoma with a recommendation of suspension
6 of driving privileges of the defendant until the total amount of any
7 fine and costs has been paid. Upon receipt of payment of the total
8 amount of the ~~fine and costs~~ court financial obligations for the
9 moving traffic violation, the court shall send notice thereof to ~~the~~
10 ~~Department~~ Service Oklahoma, if a nonpayment notice was sent as
11 provided for in this subsection. Notices sent to ~~the Department~~
12 Service Oklahoma shall be on forms or by a method approved by ~~the~~
13 ~~Department~~ Service Oklahoma.

14 K. All counties of the state shall fully utilize and
15 participate in the court cost compliance program. Cases shall be
16 referred to the court cost compliance program ~~not less than thirty~~
17 ~~(30) days nor~~ no more than sixty (60) days after the ~~defendant fails~~
18 ~~to appear for a cost hearing~~ court has ordered the referral pursuant
19 to paragraph 4 of subsection F of this section, unless the defendant
20 pays the amount owed on the court financial obligation, or an
21 installment due. When the court refers the case, the updated
22 contact information on file shall be forwarded to a court cost
23 compliance liaison for collection purposes.

24

1 L. The Court of Criminal Appeals shall implement procedures,
2 ~~forms,~~ and rules consistent with the provisions of this section ~~for~~
3 ~~methods of establishing payment plans of fines, costs, fees, and~~
4 ~~assessments by indigents, which.~~ Such procedures, ~~forms,~~ and rules
5 ~~shall be distributed to all district courts and municipal courts,~~
6 and any supplemental forms may be made available by the
7 Administrative Office of the Courts.

8 SECTION 5. AMENDATORY 28 O.S. 2021, Section 101, is
9 amended to read as follows:

10 Section 101. The fees herein provided for the clerk of the
11 district court and the sheriff, as provided in this ~~act~~ section, and
12 all costs in the prosecution of all criminal actions shall, in case
13 of conviction of the defendant, be adjudged a part of the penalty of
14 the offense of which the defendant may be convicted, whether the
15 punishment for such offense be either imprisonment, or fine, or
16 both, and fixed either by the verdict of the jury, or judgment of
17 the court, trying the case, and if the defendant shall refuse to pay
18 the ~~fine, fees or costs~~ court financial obligations, the payment of
19 such fees and costs, in addition to the payment of the fine
20 assessed, shall be enforced by imprisonment until the same shall be
21 satisfied at a rate of ~~Twenty-five Dollars (\$25.00)~~ up to One
22 Hundred Dollars (\$100.00) per day of such fees and costs, or fine,
23 or both, or shall be satisfied at a rate of ~~Fifty Dollars (\$50.00)~~
24 up to Two Hundred Dollars (\$200.00) per day of such fees and costs,

1 or fine, or both, should the defendant perform useful labor. If the
2 defendant is without means to pay the fine, fees or costs, the total
3 amount owed ~~shall~~ may be entered ~~upon the~~ as a judgment ~~docket~~ and
4 thereupon the same remedies shall be available for the enforcement
5 of ~~said the~~ judgment as are available to any other judgment
6 creditor.

7 The term "all costs in the prosecution of all criminal actions",
8 as used in this section, shall include ~~only the following taxable~~
9 ~~items:~~

- 10 1. ~~Court clerk's costs and fees authorized by statute;~~
- 11 2. ~~Sheriff's fees;~~
- 12 3. ~~Fees and mileage of witnesses; and~~
- 13 4. ~~Cost deposits in the appellate court, whether on appeal, in~~
14 ~~an original proceeding or in any postconviction challenge, if waived~~
15 ~~on the basis of a pauper's affidavit~~ all court financial obligations
16 as defined in Section 983 of Title 22 of the Oklahoma Statutes.

17 SECTION 6. This act shall become effective November 1, 2023.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 April 4, 2023 - DO PASS AS AMENDED BY CS

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