

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2088

By: Bryant (James)

AS INTRODUCED

An Act relating to criminal procedure; amending 22

O.S. 1991, Section 991b, which relates to suspended sentences; modifying terminology; modifying time limit for hearing on revocation of suspended sentence; specifying that certain evidence be admissible evidence; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 991b, is amended to read as follows:

Section 991b. Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of said person may not be revoked, in whole or in part, for any cause unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and ~~competent~~ admissible evidence justifying the revocation of said suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the date of arrest entry of the plea of not guilty to the petition, unless waived by both the state and the defendant.

Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, the Department of Corrections shall forward to the district attorney all information pertaining to the defendant's failure to make timely restitution as ordered by the court, and said district attorney shall file a petition setting forth the grounds for revocation.

The defendant ordered to make restitution can petition the court at any time for remission or a change in the terms of the order of restitution if he undergoes a change of condition which materially affects his ability to comply with the court's order.

At the hearing, if one of the grounds for the petition for revocation is the defendant's failure to make timely restitution as ordered by the court, the court will hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or his immediate family, the court may cancel all or any part of the amount still due, or modify the terms or method of payment.

The court may revoke a portion of the sentence and leave the remaining part not revoked, but suspended for the remainder of the term of the sentence, and under the provisions applying to it. The person whose suspended sentence is being considered for revocation at said hearing shall have the right to be represented by counsel, to present admissible evidence in his own behalf and to be confronted by the witnesses against him. Any order of the court revoking such suspended sentence, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases. Provided, however, that if the crime for which the suspended sentence is given was a felony, he may be allowed bail pending appeal. If the reason for revocation be that the defendant committed a felony, he shall not be allowed bail pending appeal.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-7953

SD