

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 725

By: Wilkerson

AS INTRODUCED

An Act relating to criminal procedure; amending Section 51, Chapter 133, O.S.L. 1997, as amended by Section 13, Chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.13), which relates to the local administrator for the Oklahoma Community Sentencing Act; prohibiting collection and disbursement of certain payments; amending Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 990), which relates to suspended, split and delayed sentences; clarifying conditions of certain sentence; changing limitations on suspended sentence; providing certain extension of supervision by court order; deleting requirement to forward certain payments; prohibiting collection or disbursement of certain payments by certain persons; amending 22 O.S. 1991, Section 991a, as last amended by Section 65, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), which relates to the powers of the court; including requirement for victim compensation assessment; requiring restitution; clarifying language; requiring consideration of victim impact statement prior to sentencing; amending 22 O.S. 1991, Section 991d, as last amended by Section 3, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991d), which relates to supervision fee; prohibiting the Department of Corrections from collecting or disbursing restitution and other fines and payments; deleting authority for certain user fee; amending 22 O.S. 1991, Section 991f, as last amended by Section 1, Chapter 410, O.S.L. 1998 (22 O.S. Supp. 1998, Section 991f), which relates to restitution; expanding certain definition; making policy statement; providing certain interest on court-ordered restitution; including the state in priority for payments; modifying language; construing ability to proceed with restitution without certain form; providing assistance from certain office; authorizing referral of restitution for negotiation to certain office; authorizing certain office to file petition for modification of court-ordered restitution; authorizing alternative assistance to reducing court-ordered restitution to judgment; requiring consent of victim before converting restitution payments to community service hours; providing for reinstatement of restitution under certain condition; stating duties of the Restitution Office of the Courts; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 51, Chapter 133, O.S.L. 1997, as amended by Section 13, chapter 333, O.S.L. 1997 (22 O.S. Supp. 1998, Section 987.13), is amended to read as follows:

Section 987.13 A. Each local community sentencing system shall operate under the supervision of a local administrator who shall be employed by the Community Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

1. Administer the day-to-day operation of the local community sentencing system within the approved budget and plan and according to the provisions of the Oklahoma Community Sentencing Act and any rules promulgated by the Division;

2. Assist the planning council in the jurisdiction in identifying resources, collecting data on sentencing practices, and preparing the annual plan and supporting budget;

3. Provide the court with a listing of available services within the local community sentencing system for purposes of imposing a community sentence;

4. Carry out court orders pursuant to the provisions of this act as provided in the offender's judgment and sentence;

5. Assign offenders to specific service providers who are participating in the local system according to the conditions of the community sentence;

6. Report to the judge all completions and violations of court orders for community sentences or community punishments;

7. Keep accurate records for the local system and coordinate those records for monitoring by the Community Sentencing Division;

8. Monitor the local service providers to assure appropriate delivery of services to both the offender and the local system;

9. Coordinate and assist staff to support the planning council and the sentencing court;

10. Ensure that restitution, reimbursements, fines, costs, and other payments and fees are deposited with the appropriate entity. The Department of Corrections shall not collect or disburse restitution or other court-ordered payments;

11. Report to the Community Sentencing Division within the Department of Corrections any complaints or service delivery problems;

12. Ensure criminal disposition reports on community sentences are made to appropriate state and federal agencies; and

13. Perform other functions as specified by the Community Sentencing Division within the Department of Corrections for purposes of implementing the provisions of the Oklahoma Community Sentencing Act.

B. The local administrator shall supervise all existing county employees when a county has a preexisting community program operated by county employees and that program and preexisting staff are qualified to carry out the provisions of the Oklahoma Community Sentencing Act. The Division shall promulgate rules for continuing an existing program. An existing community service program that was in existence prior to January 1, 1997, shall not be terminated without the approval of the Department of Corrections.

C. When a service provider is selected to be part of the local community sentencing system, the employees of that service provider shall not become employees of the county, the local community sentencing system, or the state by virtue of any contractual agreement or payments from the state.

SECTION 2. AMENDATORY Section 64, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 990), is amended to read as follows:

Section 990. A. For purposes of this act:

1. "Probation" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or

upon a plea of nolo contendere, and is released by the court with a fully suspended sentence and no conditional requirements, except periodic supervision which may be waived by the court or is subject to a deferred sentence;

2. "Suspended sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is released by the court subject to conditional requirements and supervision;

3. "Split sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is sentenced to a term of imprisonment for which the court orders only a portion of the imprisonment term to be actually served with the balance suspended and subject to conditional requirements and supervision;

4. "Delayed sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is sentenced to a term of imprisonment for which the date to begin serving the imprisonment term is suspended up to twelve (12) months, and the defendant is released by the court subject to conditional requirements which must be completed by the date set to begin serving the term of imprisonment; and

5. "Supervision" means a court-ordered conditional requirement of a sentence which provides active monitoring through varying types and numbers of contacts by an agency, a person designated by the court, or by an electronic device as specified in the court order for a convicted offender receiving a sentence of probation, a suspended sentence, a split sentence, or a delayed sentence.

B. At the time of sentencing, when a defendant is convicted of a crime and no death penalty or sentence of life without parole is imposed, the court shall have authority to suspend the punishment, in whole or in part, except where the law specifically prohibits

probation or a suspended sentence. The court may, after imposing the punishment for the offense, suspend that punishment by ordering a sentence to probation, a suspended sentence with conditional requirements, a split sentence, or a delayed sentence. The courts' authority to suspend the punishment for an offense shall include any prescribed provisions, fines, term of imprisonment, or any combination of prescribed punishments. The court, in addition, may order the convicted defendant at the time of sentencing, or at any time during the term of the suspended sentence, to complete any one or more conditional requirements. For persons sentenced under the Oklahoma Community Sentencing Act, the court shall not order any conditional requirement that is not available in the local community sentencing system. Provided, however, no corporal punishment shall be allowed. The authority for a suspended sentence shall not apply to defendants who have been convicted of any offense listed in Schedule A, B, C, D, S-1, S-2 or S-3 when the offender has two or more prior convictions for offenses listed in Schedule A, B, C, D, S-1, S-2 or S-3.

C. 1. The requirement for supervision shall be initiated upon an order from the court. Supervision shall not exceed two (2) years, except as otherwise provided in this section. Supervision services may be provided by:

- a. the Department of Corrections,
- b. a qualified provider for the local community sentencing system, or
- c. a qualified person designated by the court.

When the court does not specify the supervising agency or person, supervision shall be provided by the Department of Corrections. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years but shall not extend beyond the length of the sentence imposed. Provided further, any supervision authorized by this section may be extended by court order for a

period not to exceed the expiration of the maximum term of the sentence upon a finding by the court after notice and hearing that the best interests of the public and the defendant will be served by an extended period of supervision; provided, however, the county may be required to reimburse the supervising agency for the extended supervision for any periods beyond the provisions of this section.

2. The type of supervision shall be initially specified by the court and may later be modified as provided in this section as the offender demonstrates compliance with the court-ordered conditions. Types of supervision may include low-level supervision, standard supervision, high-level supervision, intensive supervision, or electronic monitoring. For purposes of this paragraph:

- a. "low-level supervision" means occasional contacts with the offender by the monitoring agency or person,
- b. "standard supervision" means scheduled and unscheduled personal or other contacts by the monitoring person with the offender,
- c. "high-level supervision" means a predetermined schedule of personal or other contacts by the monitoring person with the offender,
- d. "intensive supervision" means multiple weekly personal contacts by the monitoring person with the offender and unscheduled contacts by the monitoring person with the offender at varying times and places, and
- e. "electronic monitoring" means supervision or surveillance of the offender by means of an electronic device approved by the Department of Corrections or the community sentencing system, which is designed to detect if the offender is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person.

3. When the court orders supervision as a conditional requirement of a sentence, the court shall make payment of a supervision fee a required condition of the sentence. The supervising agency shall establish the fee in an amount not to exceed Forty Dollars (\$40.00) per month based upon the offender's ability to pay. In hardship cases, the supervising agency shall expressly waive all or part of the fee. No supervisory agency shall deny any offender services for the sole reason that the offender is indigent.

4. During any period of supervision, the agency or person designated to monitor a defendant shall be responsible for seeing that the defendant pays the restitution, repayments, reimbursements, fees, fines, and costs ordered by the court and that the defendant performs the conditions and completes the programs required by the terms of the sentence. The designated monitoring agency or person shall ~~ensure that all payments made by the defendant are forwarded to the appropriate person or entity in a timely manner~~ not collect or disburse any restitution or other court-ordered payments.

D. 1. During any period of a suspended sentence or a split sentence, when the defendant is not benefiting from the prescribed conditions as ordered by the court, or when the defendant has violated any condition of the sentence not constituting a criminal offense, or when the defendant has successfully completed any condition of a sentence, the following persons may file a motion with the court for a modification of the conditions of the sentence:

- a. the defendant or defense attorney,
- b. the district attorney, or
- c. the supervisory agency or person with the consent of the defendant and the district attorney.

2. The person requesting the motion shall provide the court with any reports and other information relating to the defendant available from the sheriff, the supervisory agency or person, or the

treatment provider. The court shall consider any reports and information when modifying any conditions of a suspended or split sentence.

3. If the court considers a modification of any conditions of the sentence, a hearing shall be made in open court. The clerk of the court having jurisdiction shall give notice of the hearing and provide a copy of any reports and information to the defendant, the defense attorney, the district attorney, and to any other parties to the motion. The notice shall be given not less than three (3) days prior to the hearing of the motion.

4. Following the hearing, the court shall enter the appropriate modification to the conditions of the sentence, if any. The court may modify and impose any condition which is appropriate for the circumstances; provided, no corporal punishment shall be imposed and no condition shall be imposed which when taken in its entirety is greater than the original prescribed sentence which is subject to the suspension. The defendant may be ordered to serve a temporary period of incarceration in the county jail not to exceed five (5) days as a disciplinary sanction for failure to comply with the conditions of the sentence after proper notice and hearing. The defendant shall be given day-for-day credit on the sentence for any period of incarceration served in the county jail as a disciplinary sanction. The cost of any county jail incarceration as a disciplinary sanction shall be not more than the maximum amount provided in subsection B of Section 38 of Title 57 of the Oklahoma Statutes and shall be paid by:

- a. the defendant,
- b. the county, if the offense is not eligible for state payment for disciplinary sanctions and the defendant is unable to pay, or
- c. the local community sentencing system established pursuant to the Oklahoma Community Sentencing Act when

a contract with the county sheriff has been entered into for disciplinary sanctions and the defendant is unable to pay the cost.

5. The court shall not be limited in the number of modifications a suspended or split sentence may have; provided, the authority to modify the conditions of a suspended or split sentence pursuant to the provisions of this subsection shall not be construed to alter the authority of the district attorney to file for revocation of a suspended sentence either in whole or part as provided by Section 991b of ~~Title 22 of the Oklahoma Statutes~~ this title.

E. Any community punishment available to the court through the local community sentencing system may be imposed as a conditional requirement for a felony suspended or split sentence or for a delayed sentence.

F. 1. When the court determines the defendant to be eligible and appropriate for a delayed sentence as defined by this section, the court shall proceed to state on the record the term of incarceration appropriate for the offense pursuant to the applicable state sentencing matrix and the date the term of imprisonment shall begin to be served. The district attorney shall have the right to state any objections to a delayed sentence on the record but the decision of the judge shall be final. After the term of incarceration has been pronounced and the date to begin serving the incarceration has been ordered, the court may offer to the defendant the opportunity to complete certain specific conditions before the date to begin serving that sentence. The delayed sentence shall provide that in exchange for completing the court-ordered conditions before the date set to begin serving the term of imprisonment, the court shall either modify the sentence or withdraw the order imposing the term of incarceration. The maximum term a sentence may be delayed is twelve (12) months.

2. The court shall not have authority to commit the defendant to the custody of the Department of Corrections as a condition of the delayed sentence pursuant to the provisions of this section; provided, however, the court may commit the person to the county jail subject to available funding to pay the sheriff.

3. The court shall have no authority to order a delayed sentence pursuant to the provisions of this section without the defendant voluntarily agreeing to complete the required conditions.

4. On the date set for the execution of the sentence, the court shall either require the term of incarceration to begin to be served if the defendant has failed to complete the conditions required by the court, or the court shall either modify the sentence or withdraw the order imposing the term of incarceration if the offender has successfully completed the conditions required by the court.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 65, Chapter 133, O.S.L. 1997 (22 O.S. Supp. 1998, Section 991a), is amended to read as follows:

Section 991a. A. When a defendant is convicted of a crime and no death sentence is imposed, the court shall, pursuant to any applicable state sentencing matrix, any requirement for a presentence investigation, or any requirement for an assessment and evaluation, either:

1. Impose the fine prescribed by law for the offense;

2. Commit such person for a term of imprisonment in the custody of the Department of Corrections with or without a period of postimprisonment supervision as defined by Section 4 14 of this ~~act~~ title, or commit such person for a term of imprisonment in the county jail as authorized by law for the offense;

3. Impose the fine and commit the person for imprisonment as prescribed by law for the offense; or

4. Impose a community sentence as authorized by law.

B. In addition to paragraph 1, 2 or 3 of subsection A of this section, the court shall impose restitution as provided in Section 991f of this title and a victim compensation assessment required by Section 142.18 of Title 21 of the Oklahoma Statutes, and may impose:

1. ~~Restitution, reimbursement~~ Reimbursements, repayment, or a combination of ~~restitution, reimbursement,~~ or repayment to be paid ~~to the victims or other entities~~ as reparations to the community and state; and

2. Other prescribed provisions for the offense.

C. In addition to the provisions of this section, the court may impose a suspended, split or delayed sentence as provided in Section ~~64~~ 990 of this ~~act~~ title, a deferred judgment as provided in Section 991c of ~~Title 22 of the Oklahoma Statutes~~ this title, night or weekend jail as provided by Section 991a-2 of ~~Title 22 of the Oklahoma Statutes~~ this title, postimprisonment supervision as defined by Section ~~4~~ 991c-1 of this ~~act~~ title or make any other disposition of a criminal case as authorized by law or required by the state's sentencing matrix.

D. In all criminal cases, the judge shall impose court costs and consider prior to sentencing any victim's impact statements presented to the court.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 991d, as last amended by Section 3, Chapter 304, O.S.L. 1996 (22 O.S. Supp. 1998, Section 991d), is amended to read as follows:

Section 991d. A. ~~1.~~ When the court orders supervision by the Department of Corrections, or the district attorney requires the Department to supervise any person pursuant to a deferred prosecution agreement, the person shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month during the supervision period, unless the fee would impose an unnecessary hardship on the person. In hardship cases, the Department shall expressly waive all or part of the fee. The court shall make

payment of the fee a condition of the sentence which shall be imposed whether the supervision is incident to the suspending of execution of a sentence, incident to the suspending of imposition of a sentence, or incident to the deferral of proceedings after a verdict or plea of guilty. The Department shall determine methods for payment of the supervision fee, and may charge a reasonable user fee for collection of supervision fees electronically. The Department is required to report to the sentencing court any failure of the person to pay supervision fees and to report immediately if the person violates any condition of the sentence. The Department of Corrections shall not collect or disburse restitution or other court-ordered fines or payments, except the supervision fee.

~~2. If restitution is ordered by the court in conjunction with supervision, the supervision fee will be paid in addition to the restitution ordered. In addition to the restitution payment and supervision fee, a reasonable user fee may be charged by the Department of Corrections to cover the expenses of administration of the restitution.~~

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

C. Upon acceptance of an offender by the Department of Corrections whose probation or parole supervision was transferred to Oklahoma through the Interstate Compact Agreement, ~~or upon the assignment of an inmate to any community placement,~~ a fee shall be required to be paid by the offender to the Department of Corrections as provided for other persons under supervision of the Department.

D. Except as provided in this subsection, all supervision fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund created pursuant to Section

557 of Title 57 of the Oklahoma Statutes. For the fiscal year ending June 30, 1996, fifty percent (50%) of all collections received from offenders placed on supervision after July 1, 1995, shall be transferred to the credit of the General Revenue Fund of the State Treasury until such time as total transfers equal Three Million Three Hundred Thousand Dollars (\$3,300,000.00).

SECTION 5. AMENDATORY 22 O.S. 1991, Section 991f, as last amended by Section 1, Chapter 410, O.S.L. 1998 (22 O.S. Supp. 1998, Section 991f), is amended to read as follows:

Section 991f. A. For the purposes of any provision of Title 22 of the Oklahoma Statutes relating to criminal sentencing and restitution orders:

1. "Restitution" shall mean the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for the economic loss suffered as a direct result of the criminal act of the defendant and the sum to be paid by the defendant to the state for reimbursements to any state agency for laboratory, technical or investigative costs incurred in the prosecution of the defendant and repayment of rewards leading to the prosecution of the defendant;

2. "Victim" means any person, partnership or corporation that suffers an economic loss as a direct result of the criminal act of another person; and

3. "Economic loss" means actual economic detriment suffered by the victim consisting of medical expenses actually incurred, damage to real and personal property and any other out-of-pocket expenses reasonably incurred as the direct result of the criminal act of the defendant. No other elements of damage shall be included.

B. It is the policy of the state that in all criminal cases, when sentencing a person convicted of a crime or considering a deferred prosecution or deferred judgment procedure, restitution to the victim as provided in this section shall be the first consideration followed by sufficient reimbursements, repayments,

finances, victim compensation fund assessments, and court costs as may be appropriate for punishment for the offense.

C. In all criminal prosecutions and juvenile proceedings in this state, when the court enters an order directing the offender to pay restitution to any victim for economic loss or to pay to the state any fines, fees or assessments, the order, for purposes of validity and collection, shall not be limited to the maximum term of imprisonment for which the offender could have been sentenced, nor limited to any term of probation, parole, or extension thereof, nor expire until fully satisfied. Restitution and reimbursement orders may accrue interest upon the pecuniary sum at the rate of twelve percent (12%) per annum at the discretion of the court. Interest shall not be collected without a specific court order for interest. Interest shall be payable to the victim. The court order for restitution, fines, fees or assessments shall remain a continuing obligation of the offender until fully satisfied, and the obligation shall not be considered a debt, nor shall the obligation be dischargeable in any bankruptcy proceeding. The court order shall continue in full force and effect with the supervision of the state until fully satisfied, and the state shall use all methods of collection authorized by law.

~~C.~~ D. 1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution in addition to the punishments prescribed by law.

2. The court shall order full restitution based upon the following considerations:

- a. the nature and amount of restitution shall be sufficient to restore the crime victim to the

equivalent economic status existing prior to the losses sustained as a direct result of the crime, but shall not allow the crime victim to receive payment in excess of the losses sustained, and

- b. the amount of restitution shall be established regardless of the financial resources of the offender.

3. The court:

- a. may direct the return of property to be made as soon as practicable and make an award of restitution in the amount of the loss of value to the property itself as a direct result of the crime, including out-of-pocket expenses incurred for loss of use of the property, the cost to return the property to the victim or to restore the property to its pre-crime condition whichever may be appropriate under the circumstances,
- b. may order restitution in a lump sum or by such schedules as may be established and adjusted by the court clerk consistent with the order of the court,
- c. shall have the authority to amend or alter any order of restitution made pursuant to this section providing that the court of minor judiciary state its reasons and conclusions as a matter of record for any change or amendment to any previous order, and
- d. shall consider any pre-existing orders imposed on the defendant, including, but not limited to, orders imposed under civil and criminal proceedings.

~~D.~~ E. If restitution to more than one person, agency or entity is set at the same time, the court shall establish the following priorities of payment:

1. The crime victim or victims; ~~and~~
2. Any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct; and

3. The state.

~~E.~~ F. 1. The district attorney's office shall present the crime victim's restitution claim to the court following the conviction of the offender or the restitution provisions shall be included in the written plea agreement presented to the court in which case the restitution claim shall be reviewed by the judge prior to acceptance of the plea agreement.

2. At the initiation of the prosecution of the defendant, the district attorney's office shall provide all identifiable crime victims with written and oral information explaining their rights and responsibilities to court-ordered restitution established under this section.

3. The district attorney's office shall provide all crime victims, regardless of whether the crime victim makes a specific request, with an official request form for restitution ~~form~~ to be completed and signed by the crime victim, and to include all invoices, bills, receipts, and other evidence of injury, loss of earnings and out-of-pocket loss. This form shall be filed in all cases where restitution is sought and may be filed with any victim impact statement to be included in the judgment and sentence. Failure of the victim to complete the restitution form shall not prohibit the district attorney from seeking restitution from a defendant or limit the court's authority to order restitution, but shall limit the victim's rights as provided in subsection H of this section. Every crime victim receiving the restitution claim form shall be provided assistance and direction to properly complete the form by the Restitution Office of the Courts.

4. The official restitution request form shall be presented in all cases regardless of whether the case is brought to trial. In a plea bargain, the district attorney in every case where the victim has suffered economic loss, shall, as a part of the plea bargain, require that the offender pay restitution to the crime victim.

~~F.~~ G. The crime victim shall provide all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.

~~G.~~ H. The court shall, upon motion by the crime victim, redact from the submitted documentation all personal information relating to the crime victim that does not directly and necessarily establish the authenticity of any document or substantiate the asserted amount of the restitution claim.

~~H.~~ I. The unexcused failure or refusal of the crime victim to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed available information. The court shall order the offender to submit either as part of the pre-sentence investigation or assessment and evaluation required for a community sentence or, if no pre-sentence investigation is conducted, in advance of the sentencing proceeding such information as the court may direct and finds necessary to be disclosed for the purpose of ascertaining the type and manner of restitution to be ordered.

~~I.~~ J. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court shall not deprive the court of the authority to set restitution or set the schedule of payment. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information. The willful failure or refusal of the offender to

provide all or part of the requisite information prior to sentencing, unless disclosure is deferred by the court, shall constitute an act of contempt.

~~J.~~ K. The court shall conduct such hearings or proceedings as it deems necessary to set restitution and payment schedules at the time of sentencing or may bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require. The court or the district attorney may refer a criminal case for restitution negotiation by the Restitution Office of the Court. Amendments or alterations to the restitution order may be made upon the court's own motion, petition by the crime victim ~~or,~~ petition by the offender, or petition by the Restitution Office of the Courts on behalf of either the victim or offender.

~~K.~~ L. An offender who files a meritless or frivolous petition for amendment or alteration to the restitution order shall pay the costs of the proceeding on the petition and shall have added to the existing restitution order the additional loss of earnings and out-of-pocket loss incurred by the crime victim in responding to the petition.

~~L.~~ M. The restitution request form shall be promulgated by the District Attorneys Council and provided to all district attorney offices.

~~M.~~ N. If a defendant who is financially able refuses or neglects to pay restitution as ordered by this section, payment may be enforced:

1. By contempt of court as provided in subsection A of Section 566 of Title 21 of the Oklahoma Statutes with imprisonment or fine or both;

2. In the same manner as prescribed in subsection ~~N~~ O of this section for a defendant who is without means to make such restitution payment; or

3. Revocation of the criminal sentence if the sentence imposed was a suspended or deferred sentence or a community sentence.

~~N.~~ O. If the defendant is without means to pay the restitution, the judge may direct the total amount due, or any portion thereof, to be entered upon the court minutes and to be certified in the district court of the county where it shall then be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment in a civil case. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to enforce other judgments; provided, however, the judgment herein prescribed shall not be considered a debt nor dischargeable in any bankruptcy proceeding. In the alternative, if the defendant is without means to pay restitution the judge may refer the defendant to the Restitution Office of the Courts, and the defendant will be assisted in finding ways to meet the restitution obligations.

~~O.~~ ~~Whenever~~ P. With the consent of the victim, whenever a person has been ordered to pay restitution as provided in this section or any section of the Oklahoma Statutes for a criminal penalty, the judge may order the defendant to a term of community service, with or without compensation, to be credited at a rate of Five Dollars (\$5.00) per day against the total amount due for restitution. If the defendant fails to perform the required community service authorized by this subsection or if the conditions of community service are violated, the judge may impose a term of imprisonment not to exceed five (5) days in the county jail for each failure to comply and any restitution credited pursuant to the provisions of this subsection may be fully reinstated and owed to the victim.

~~P.~~ Q. Nothing in subsections ~~M~~ N through ~~Θ~~ P of this section shall be construed to be additions to the original criminal penalty, but shall be used by the court as sanctions and means of collection

for criminal restitution orders and restitution orders that have been reduced to judgment.

R. The Restitution Office of the Courts shall have the duty to assist victims and offenders in negotiating the appropriate amount of restitution to be paid to the victim, arrange payment schedules that are appropriate for both the victim and offender, assist in locating resources for defendants having difficulty making court-ordered payment obligations, monitor outstanding restitution orders until fully paid, disburse restitution payments to victims, collect restitution from defendants, assist in coordinating criminal financial obligations of defendants with other financial obligations, and improve the collection rates for court-ordered payments.

SECTION 6. 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.

47-1-506

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