

1 ENGROSSED HOUSE
2 BILL NO. 2484

By: Grau of the House

3 and

4 Barrington of the Senate

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6
7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 991b, which relates to revocation
9 of suspended sentences; modifying time limitation for
10 revocation hearings; and providing an effective date.

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

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991b, is
13 amended to read as follows:

14 Section 991b. A. Whenever a sentence has been suspended by the
15 court after conviction of a person for any crime, the suspended
16 sentence of the person may not be revoked, in whole or part, for any
17 cause unless a petition setting forth the grounds for such
18 revocation is filed by the district attorney with the clerk of the
19 sentencing court and competent evidence justifying the revocation of
20 the suspended sentence is presented to the court at a hearing to be
21 held for that purpose within ~~twenty (20)~~ thirty (30) days after the
22 entry of the plea of not guilty to the petition, unless waived by
23 both the state and the defendant. The State of Oklahoma may dismiss
24 the petition without prejudice one time upon good cause shown to the

1 court, provided that any successor petition must be filed within
2 forty-five (45) days of the date of the dismissal of the petition.

3 B. 1. The Department of Corrections shall develop a matrix of
4 technical violations and sanctions to address the violations. The
5 Department shall be authorized to use a violation response and
6 intermediate sanction process based on the sanction matrix to apply
7 to any technical violations of probationers. Within four (4)
8 working days of the discovery of the violation, the officer shall
9 initiate the violation response and intermediate sanction process.
10 The sentencing judge may authorize any recommended sanctions, which
11 may include, but are not limited to: short-term jail or lockup, day
12 treatment, program attendance, community service, outpatient or
13 inpatient treatment, monetary fines, curfews, or ignition interlock
14 devices on vehicles. The officer shall complete a sanction form,
15 which shall specify the technical violation, sanction, and the
16 action plan to correct the noncompliant behavior resulting in the
17 technical violation. The officer shall refer to the sanctioning
18 matrix to determine the supervision, treatment, and sanctions
19 appropriate to address the noncompliant behavior. The officer shall
20 refer the violation information and recommended response with a
21 sanction plan to the Department of Corrections to be heard by a
22 hearing officer. The Department of Corrections shall develop a
23 sanction matrix, forms, policies and procedures necessary to
24 implement this provision. The Department of Corrections shall

1 establish procedures to hear responses to technical violations and
2 review sanction plans including the following:

- 3 a. hearing officers shall report through a chain of
4 command separate from that of the supervising
5 probation officers,
- 6 b. the Department shall provide the offender written
7 notice of the violation, the evidence relied upon, and
8 the reason the sanction was imposed,
- 9 c. the hearing shall be held unless the offender waives
10 the right to the hearing,
- 11 d. hearings shall be electronically recorded, and
- 12 e. the Department shall make available to judges and
13 district attorneys a record of all actions taken
14 pursuant to this subsection.

15 2. The hearing officer shall determine based on a preponderance
16 of the evidence whether a technical violation occurred. Upon a
17 finding that a technical violation occurred, the hearing officer may
18 order the offender to participate in the recommended sanction plan
19 or may modify the plan. Offenders who accept the sanction plan
20 shall sign a violation response sanction form, and the hearing
21 officer shall then impose the sanction. Failure of the offender to
22 comply with the imposed sanction plan shall constitute a violation
23 of the rules and conditions of supervision that may result in a
24 revocation proceeding. If an offender does not voluntarily accept

1 the recommended sanction plan, the Department shall either impose
2 the sanction and allow the offender to appeal to the district court,
3 or request a revocation proceeding as provided by law. Every
4 administrative hearing and sanction imposed by the Department shall
5 be appealable to the district court.

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

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

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

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

15 SECTION 2. This act shall become effective November 1, 2012.
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1 Passed the House of Representatives the 22nd day of February,
2 2012.

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5 Presiding Officer of the House of
6 Representatives

7 Passed the Senate the ____ day of _____, 2012.

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10 Presiding Officer of the Senate

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