

1 the suspended sentence is presented to the court at a hearing to be
2 held for that purpose within twenty (20) days after the entry of the
3 plea of not guilty to the petition, unless waived by both the state
4 and the defendant. The State of Oklahoma may dismiss the petition
5 without prejudice one time upon good cause shown to the court,
6 provided that any successor petition must be filed within forty-five
7 (45) days of the date of the dismissal of the petition.

8 B. 1. The Department of Corrections shall develop a matrix of
9 technical violations and sanctions to address violations committed
10 by persons who are being supervised by the Department. The
11 Department shall be authorized to use a violation response and
12 intermediate sanction process based on the sanction matrix to apply
13 to any technical violations of probationers. Within four (4)
14 working days of the discovery of the violation, the probation
15 officer shall initiate the violation response and intermediate
16 sanction process. The sentencing judge may authorize any
17 recommended sanctions, which may include, but are not limited to:
18 short-term jail or lockup, day treatment, program attendance,
19 community service, outpatient or inpatient treatment, monetary
20 fines, curfews, ignition interlock devices on vehicles, or a one-
21 time referral to a term of confinement of six (6) months in an
22 intermediate revocation facility operated by the Department of
23 Corrections; provided, upon approval of the district attorney, a
24 person may be sanctioned to serve additional terms of confinement in

1 an intermediate revocation facility. The probation officer shall
2 complete a sanction form, which shall specify the technical
3 violation, sanction, and the action plan to correct the noncompliant
4 behavior resulting in the technical violation. The probation
5 officer shall refer to the sanctioning matrix to determine the
6 supervision, treatment, and sanctions appropriate to address the
7 noncompliant behavior. The probation officer shall refer the
8 violation information and recommended response with a sanction plan
9 to the Department of Corrections to be heard by a hearing officer.
10 The Department of Corrections shall develop a sanction matrix,
11 forms, policies and procedures necessary to implement this
12 provision. The Department of Corrections shall establish procedures
13 to hear responses to technical violations and review sanction plans
14 including the following:

- 15 a. hearing officers shall report through a chain of
16 command separate from that of the supervising
17 probation officers,
- 18 b. the Department shall provide the offender written
19 notice of the violation, the evidence relied upon, and
20 the reason the sanction was imposed,
- 21 c. the hearing shall be held unless the offender waives
22 the right to the hearing,
- 23 d. hearings shall be electronically recorded, and
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1 e. the Department shall provide to judges and district
2 attorneys a record of all violations and actions taken
3 pursuant to this subsection.

4 2. The hearing officer shall determine based on a preponderance
5 of the evidence whether a technical violation occurred. Upon a
6 finding that a technical violation occurred, the hearing officer may
7 order the offender to participate in the recommended sanction plan
8 or may modify the plan. Offenders who accept the sanction plan
9 shall sign a violation response sanction form, and the hearing
10 officer shall then impose the sanction. Failure of the offender to
11 comply with the imposed sanction plan shall constitute a violation
12 of the rules and conditions of supervision that may result in a
13 revocation proceeding. If an offender does not voluntarily accept
14 the recommended sanction plan, the Department shall either impose
15 the sanction and allow the offender to appeal to the district court,
16 or request a revocation proceeding as provided by law. Every
17 administrative hearing and sanction imposed by the Department shall
18 be appealable to the district court.

19 C. 1. Where one of the grounds for revocation is the failure
20 of the defendant to make restitution as ordered, the Department of
21 Corrections shall forward to the district attorney all information
22 pertaining to the failure of the defendant to make timely
23 restitution as ordered by the court, and the district attorney shall
24 file a petition setting forth the grounds for revocation.

1 2. The defendant ordered to make restitution can petition the
2 court at any time for remission or a change in the terms of the
3 order of restitution if the defendant undergoes a change of
4 condition which materially affects the ability of the defendant to
5 comply with the order of the court.

6 3. At the hearing, if one of the grounds for the petition for
7 revocation is the failure of the defendant to make timely
8 restitution as ordered by the court, the court will hear evidence
9 and if it appears to the satisfaction of the court from such
10 evidence that the terms of the order of restitution create a
11 manifest hardship on the defendant or the immediate family of the
12 defendant, the court may cancel all or any part of the amount still
13 due, or modify the terms or method of payment. Provided, if the
14 court determines that a reduction in the restitution still due is
15 warranted, the court shall equally apply the same percentage
16 reduction to any court-ordered monetary obligation owed by the
17 defendant including, but not limited to, fines, costs and costs of
18 incarceration.

19 D. The court may revoke a portion of the sentence and leave the
20 remaining part not revoked, but suspended for the remainder of the
21 term of the sentence, and under the provisions applying to it. The
22 person whose suspended sentence is being considered for revocation
23 at the hearing shall have the right to be represented by counsel, to
24 present competent evidence in his or her own behalf and to be

1 confronted by the witnesses against the defendant. Any order of the
2 court revoking the suspended sentence, in whole or in part, shall be
3 subject to review on appeal, as in other appeals of criminal cases.
4 Provided, however, that if the crime for which the suspended
5 sentence is given was a felony, the defendant may be allowed bail
6 pending appeal. If the reason for revocation be that the defendant
7 committed a felony, the defendant shall not be allowed bail pending
8 appeal.

9 SECTION 2. This act shall become effective November 1, 2015.

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11 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
12 dated 02/05/2015 - DO PASS, As Coauthored.
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