

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 689, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Treat

Treat-BH-FS-Req#1621
3/20/2017 10:04 AM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE

FOR

SENATE BILL NO. 689

By: Treat of the Senate

and

O'Donnell and Young of the
House

FLOOR SUBSTITUTE

[criminal procedure - judgments and execution of
sentences - pilot financial obligation payment
program - Oklahoma Community Sentencing Act -
sentencing powers of the court - suspended and
deferred sentences and supervision fees - Delayed
Sentencing Program for Young Adults - codification -
effective date]

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
2016, Section 982a), is amended to read as follows:

Section 982a. A. 1. Any time within sixty (60) months after
the initial sentence is imposed or within sixty (60) months after
probation has been revoked, the court imposing sentence or
revocation of probation may modify such sentence or revocation by
directing that another sentence be imposed, if the court is

1 satisfied that the best interests of the public will not be
2 jeopardized; provided, however, the court shall not impose a
3 deferred sentence. Any application for sentence modification that
4 is filed and ruled upon beyond twelve (12) months of the initial
5 sentence being imposed must be approved by the district attorney who
6 shall provide written notice to any victims in the case which is
7 being considered for modification.

8 2. The court imposing sentence may modify the sentence of any
9 offender who was originally sentenced for a drug charge and ordered
10 to complete the Drug Offender Work Camp at the Bill Johnson
11 Correctional Facility and direct that another sentence be imposed,
12 if the court is satisfied that the best interests of the public will
13 not be jeopardized; provided, however, the court shall not impose a
14 deferred sentence. An application for sentence modification
15 pursuant to this paragraph may be filed and ruled upon beyond the
16 initial sixty-month time period provided for in paragraph 1 of this
17 subsection.

18 3. This section shall not apply to convicted felons who have
19 been in confinement in any state or federal prison system for any
20 previous felony conviction during the ten-year period preceding the
21 date that the sentence this section applies to was imposed.
22 Further, without the consent of the district attorney, this section
23 shall not apply to sentences imposed pursuant to a plea agreement or
24 jury verdict.

1 B. The court imposing the sentence may modify the sentence of
2 any offender sentenced to life without parole for an offense other
3 than a violent crime, as enumerated in Section 571 of Title 57 of
4 the Oklahoma Statutes, who has served at least ten (10) years of the
5 sentence in the custody of the Department of Corrections upon a
6 finding that the best interests of the public will not be
7 jeopardized.

8 C. For purposes of judicial review, upon court order or written
9 request from the sentencing judge, the Department of Corrections
10 shall provide the court imposing sentence or revocation of probation
11 with a report to include a summary of the assessed needs of the
12 offender, any progress made by the offender in addressing his or her
13 assessed needs, and any other information the Department can supply
14 on the offender. The court shall consider such reports when
15 modifying the sentence or revocation of probation. The court shall
16 allow the Department of Corrections at least twenty (20) days after
17 receipt of a request or order from the court to prepare the required
18 reports.

19 ~~C.~~ D. If the court considers modification of the sentence or
20 revocation of probation, a hearing shall be made in open court after
21 receipt of the reports required in subsection ~~B~~ C of this section.
22 The clerk of the court imposing sentence or revocation of probation
23 shall give notice of the judicial review hearing to the Department
24 of Corrections, the offender, the legal counsel of the offender, and

1 the district attorney of the county in which the offender was
2 convicted upon receipt of the reports. Such notice shall be mailed
3 at least twenty-one (21) days prior to the hearing date and shall
4 include a copy of the report and any other written information to be
5 considered at the judicial review hearing.

6 ~~D.~~ E. If an appeal is taken from the original sentence or from
7 a revocation of probation which results in a modification of the
8 sentence or modification to the revocation of probation of the
9 offender, such sentence may be further modified in the manner
10 described in paragraph 1 of subsection A of this section within
11 sixty (60) months after the receipt by the clerk of the district
12 court of the mandate from the Supreme Court or the Court of Criminal
13 Appeals.

14 SECTION 2. AMENDATORY 22 O.S. 2011, Section 983, is
15 amended to read as follows:

16 Section 983. A. Any defendant found guilty of an offense in
17 any court of this state may be imprisoned for nonpayment of the
18 fine, cost, fee, or assessment when the trial court finds after
19 notice and hearing that the defendant is financially able but
20 refuses or neglects to pay the fine, cost, fee, or assessment. A
21 sentence to pay a fine, cost, fee, or assessment may be converted
22 into a jail sentence only after a hearing and a judicial
23 determination, memorialized of record, that the defendant is able to
24

1 satisfy the fine, cost, fee, or assessment by payment, but refuses
2 or neglects so to do.

3 B. ~~After~~ Pursuant to the provisions of subsection L of Section
4 991a of this title, after a judicial determination that the
5 defendant is able to pay the fine, cost, fee, or assessment in
6 installments, the court ~~may~~ shall order the fine, cost, fee, or
7 assessment to be paid in installments and shall set the amount and
8 date for each installment.

9 C. In addition, the district court or municipal court, within
10 one hundred twenty (120) days from the date upon which the person
11 was originally ordered to make payment, may send notice of
12 nonpayment of any court ordered fine and costs for a moving traffic
13 violation to the Department of Public Safety with a recommendation
14 of suspension of driving privileges of the defendant until the total
15 amount of any fine and costs has been paid. Upon receipt of payment
16 of the total amount of the fine and costs for the moving traffic
17 violation, the court shall send notice thereof to the Department, if
18 a nonpayment notice was sent as provided for in this subsection.
19 Notices sent to the Department shall be on forms or by a method
20 approved by the Department.

21 D. ~~The Court of Criminal Appeals~~ Supreme Court shall implement
22 procedures and rules for methods of establishing payment plans of
23 fines, costs, fees, and assessments by indigents according to
24 discretionary income, as defined in subsection L of Section 991a of

1 this title, which procedures and rules shall be distributed to all
2 district courts and municipal courts by the Administrative Office of
3 the Courts.

4 SECTION 3. AMENDATORY Section 1, Chapter 392, O.S.L.
5 2016 (22 O.S. Supp. 2016, Section 983a), is amended to read as
6 follows:

7 Section 983a. A. On or after November 1, 2016, the court shall
8 have the authority to waive all outstanding fines, court costs and
9 fees in a criminal case for any person who:

10 1. Served a period of imprisonment in the custody of the
11 Department of Corrections after conviction for a crime;

12 2. Has been released from the custody of the Department of
13 Corrections;

14 3. Has complied with all probation or supervision requirements
15 since being released from the custody of the Department of
16 Corrections; and

17 4. Has made installment payments on outstanding fines, court
18 costs, fees and restitution ordered by the court on a timely basis
19 every month for the previous twenty-four (24) months following
20 release from the custody of the Department of Corrections.

21 B. The court shall waive outstanding fines, court costs and
22 fees if the offender has secured admission to and is enrolled in an
23 institution which is a member of The Oklahoma State System of Higher
24 Education or technology center school or a workforce training

1 program intended to expand further employment opportunities. Upon
2 the offender's completion of each forty (40) hour work week, the
3 court shall waive the fines, court costs and fees based on the
4 equivalent value of the potential gross income of the offender as
5 established by the minimum wage rate of the state as set forth in
6 Section 197.2 of Title 40 of the Oklahoma Statutes.

7 C. The provisions of this section shall not apply to amounts
8 owed by the person for restitution to a victim pursuant to a court
9 order or child support obligations pursuant to a court order.

10 SECTION 4. AMENDATORY Section 2, Chapter 243, O.S.L.
11 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
12 follows:

13 Section 985.1. A. When sentencing a person convicted of a
14 criminal offense for which there is a mandatory minimum sentence of
15 imprisonment, the court may depart from the applicable sentence if
16 the court finds substantial and compelling reasons on the record,
17 after giving due regard to the nature of the crime, history, and
18 character of the defendant and his or her chances of successful
19 rehabilitation, that:

20 1. The mandatory minimum sentence of imprisonment is not
21 necessary for the protection of the public; or

22 2. ~~and imposition~~ Imposition of the mandatory minimum sentence
23 of imprisonment would result in substantial injustice to the
24 defendant; or

1 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
2 necessary for the protection of the public and the defendant, based
3 on a risk and needs assessment, is eligible for an alternative
4 court, a diversion program or community sentencing, without regard
5 to exclusions because of previous convictions, and has been accepted
6 to the same, pending sentencing.

7 B. The court shall not have the discretion to depart from the
8 applicable mandatory minimum sentence of imprisonment on convictions
9 for criminal offenses under the following circumstances:

10 1. The offense for which the defendant was convicted is among
11 those crimes listed in Section 571 of Title 57 of the Oklahoma
12 Statutes as excepted from the definition of "nonviolent offense";

13 2. The offense for which the defendant was convicted was a sex
14 offense and will require the defendant to register as a sex offender
15 pursuant to the provisions of the Sex Offenders Registration Act;

16 3. The offense for which the defendant was convicted involved
17 the use of a firearm;

18 4. The offense for which the defendant was convicted is a crime
19 listed in Section 13.1 of Title 21 of the Oklahoma Statutes
20 requiring the defendant to serve not less than eighty-five percent
21 (85%) of any sentence of imprisonment imposed by the judicial system
22 prior to becoming eligible for consideration for parole;

1 5. The offense for which the defendant was convicted is a
2 violation of the Trafficking in Illegal Drugs Act as provided in
3 Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

4 6. The defendant was the leader, manager or supervisor of
5 others in a continuing criminal enterprise; or

6 7. The offense for which the defendant was convicted is a
7 violation of the Oklahoma Antiterrorism Act as provided in Sections
8 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

9 C. Any departure from the mandatory minimum sentence as
10 authorized in this section shall not reduce the sentence to less
11 than twenty-five percent (25%) of the mandatory term.

12 SECTION 5. AMENDATORY 22 O.S. 2011, Section 988.2, as
13 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
14 2016, Section 988.2), is amended to read as follows:

15 Section 988.2. A. For purposes of the Oklahoma Community
16 Sentencing Act:

17 1. "Local community sentencing system" means the use of public
18 and private entities to deliver services to the sentencing court for
19 punishment of eligible felony offenders under the authority of a
20 community sentence;

21 2. "Community sentence" or "community punishment" means a
22 punishment imposed by the court as a condition of a deferred or
23 suspended sentence for an eligible offender;

1 3. "Continuum of sanctions" means a variety of coercive
2 measures ~~and treatment options~~ ranked by degrees of public safety,
3 punitive effect, and cost benefit which are available to the
4 sentencing judge as punishment for criminal conduct;

5 4. "Community sentencing system planning council" or "planning
6 council" means a group of citizens and elected officials specified
7 by law or appointed by the Chief Judge of the Judicial District
8 which plans the local community sentencing system and with the
9 assistance of the Community Sentencing Division of the Department of
10 Corrections locates treatment providers and resources to support the
11 local community sentencing system;

12 5. "Incentive" means a court-ordered reduction in the terms or
13 conditions of a community sentence which is given for exceptional
14 performance or progress by the offender;

15 6. "Disciplinary sanction" means a court-ordered punishment in
16 response to a technical or noncompliance violation of a community
17 sentence which increases in intensity or duration with each
18 successive violation;

19 7. "Division" means the Community Sentencing Division within
20 the Department of Corrections which is the state administration
21 agency for the Oklahoma Community Sentencing Act, the statewide
22 community sentencing system, and all local community sentencing
23 systems;
24

1 8. "Eligible offender" means a felony offender who has been
2 convicted of or who has entered a plea other than not guilty to a
3 felony offense and who upon completion of a ~~Level of Services~~
4 ~~Inventory or another~~ risk and needs assessment instrument has been
5 found to be in a range other than the low range, who has been
6 convicted of at least one prior felony, and who is not otherwise
7 prohibited by law, or is a person who has had an assessment
8 authorized by Section 3-704 of Title 43A of the Oklahoma Statutes
9 and the assessment recommends community sentencing. Provided,
10 however, that no person who has been convicted of or who has entered
11 a plea other than not guilty to an offense enumerated in paragraph 2
12 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception
13 to the definition of "nonviolent offense" shall be eligible for a
14 community sentence or community punishment unless the district
15 attorney or an assistant district attorney for the district in which
16 the offender's conviction was obtained consents thereto. The
17 district attorney may consent to eligibility for an offender who has
18 a mental illness or a developmental disability or a co-occurring
19 mental illness and substance abuse disorder and who scores in the
20 low range on the ~~LSI or has an~~ risk and needs assessment authorized
21 by Section 3-704 of Title 43A of the Oklahoma Statutes or another
22 assessment instrument if the offender is not otherwise prohibited by
23 law. Any consent by a district attorney shall be made a part of the
24 record of the case; and

1 9. "Statewide community sentencing system" means a network of
2 all counties through their respective local community sentencing
3 systems serving the state judicial system and offering support
4 services to each other through reciprocal and interlocal agreements
5 and interagency cooperation.

6 B. For the purposes of the Oklahoma Community Sentencing Act,
7 if a judicial district does not have a Chief Judge or if a judicial
8 district has more than one Chief Judge, the duties of the Chief
9 Judge provided for in the Oklahoma Community Sentencing Act shall be
10 performed by the Presiding Judge of the Judicial Administrative
11 District.

12 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.8, is
13 amended to read as follows:

14 Section 988.8. A. A community sentencing system established
15 pursuant to the provisions of the Oklahoma Community Sentencing Act
16 shall include those community punishments and programs and services
17 enumerated and funded in the annual plan submitted to the Community
18 Sentencing Division within the Department of Corrections and any
19 other services or punishments subsequently added and funded during a
20 plan year. The options may not be utilized for offenders not
21 meeting the eligibility criteria of programs and score requirements
22 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and
23 needs assessment. Each local system shall strive to have available
24 to the court all of the following services for eligible offenders:

1 1. Community service with or without compensation to the
2 offender;

3 2. Substance abuse treatment and availability for periodic drug
4 testing of offenders following treatment;

5 3. Varying levels of supervision by the Department of
6 Corrections probation officers or another qualified supervision
7 source, including specialized supervision for repeat offenders,
8 offenders with convictions for sex crimes, offenders with conviction
9 for domestic violence offenses and offenders with diagnosed mental
10 health needs;

11 4. Education and literacy provided by the State Department of
12 Education, the county library system, the local school board, or
13 another qualified source;

14 5. Employment opportunities and job skills training provided by
15 the Oklahoma Department of Career and Technology Education or
16 another qualified source;

17 6. Cognitive behavioral treatment and any other programming or
18 treatment needs as identified based on the results of the risk and
19 needs assessment administered under this section;

20 7. Enforced collections provided by the local court clerk, or
21 another state agency; and

22 ~~7.~~ 8. The availability of county jail or another restrictive
23 housing facility for limited disciplinary sanctions.

1 B. The court may order as a community punishment for an
2 eligible offender any condition listed as a condition available for
3 a suspended sentence.

4 C. In all cases in which an offender is sentenced to a
5 community punishment, the offender shall be ordered as part of the
6 terms and conditions of the sentence to pay for the court ordered
7 sanction, based upon ability to pay. Payments may be as provided by
8 court order or pursuant to periodic payment schedules established by
9 the service provider. If the offender does not have the financial
10 ability to pay for the court ordered sanction, payment shall be made
11 from funds budgeted for the local community sentencing system.

12 SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.18, is
13 amended to read as follows:

14 Section 988.18. A. On and after March 1, 2000, for each felony
15 offender considered for any community punishment pursuant to the
16 Oklahoma Community Sentencing Act, the judge shall, prior to
17 sentencing, order an assessment and evaluation of the defendant as
18 required by law.

19 B. The ~~Level of Services Inventory (LSI), or another~~ risk and
20 needs assessment and evaluation instrument designed to predict risk
21 to recidivate approved by the Department of Corrections, shall be
22 required to determine eligibility for any offender sentenced
23 pursuant to the Oklahoma Community Sentencing Act. The completed
24 assessment accompanied by a written supervision plan shall be

1 presented to and reviewed by the court prior to determining any
2 punishment for the offense. The purpose of the assessment shall be
3 to identify the extent of the deficiencies and pro-social needs of
4 the defendant, the potential risk to commit additional offenses that
5 threaten public safety, and the appropriateness of various community
6 punishments.

7 C. Upon order of the court, the defendant shall be required to
8 submit to the ~~LSI or other approved~~ risk and needs assessment which
9 shall be administered and scored by an appropriately trained person
10 pursuant to a service agreement with the local community sentencing
11 system. Any defendant lacking sufficient skills to comprehend or
12 otherwise participate in the assessment and evaluation shall have
13 appropriate assistance. If it is determined that the offender
14 cannot be adequately evaluated using the ~~LSI or another approved~~
15 risk and needs assessment, the offender shall be deemed ineligible
16 for any community services pursuant to the Oklahoma Community
17 Sentencing Act, and shall be sentenced as prescribed by law for the
18 offense.

19 D. The willful failure or refusal of the defendant to be
20 assessed and evaluated by using the ~~LSI or another approved~~ risk and
21 needs assessment shall preclude the defendant from eligibility for
22 any community punishment.

23 E. The completed ~~LSI, or other approved~~ risk and needs
24 assessment, shall include a written supervision plan and identify an

1 appropriate community punishment, if any, when the offender is
2 considered eligible for community punishments based upon the
3 completed risk/need score from the ~~LSI~~ risk and needs assessment of
4 the offender. Unless otherwise prohibited by law, only offenders
5 scoring in a range other than the low range on the ~~LSI~~ risk and
6 needs assessment ~~and having at least one prior felony conviction~~
7 shall be eligible for any state-funded community punishments.

8 F. The court is not required to sentence any offender to a
9 community punishment regardless of an eligible score on the ~~LSI~~ risk
10 and needs assessment. Any felony offender scoring in the low
11 risk/need levels on the ~~LSI~~ risk and needs assessment may be
12 sentenced to a suspended sentence with minimal, if any, conditions
13 of the sentence to be paid by the offender. If the ~~LSI or another~~
14 risk and needs assessment has been conducted, the evaluation report
15 shall accompany the judgment and sentence, provided the risk and
16 needs assessment indicates the offender is in need of this level of
17 supervision and treatment.

18 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.19, is
19 amended to read as follows:

20 Section 988.19. A. When ordering a community sentence or
21 community punishment, the court shall first impose a deferred or
22 suspended sentence for the offense as prescribed by law, and shall
23 then order the appropriate community punishment as a condition of
24 that deferred or suspended sentence. The design of the community

1 punishment shall be based upon the supervision and intervention
2 report from the ~~Level of Services Inventory (LSI)~~, or other approved
3 risk and needs assessment. The local community sentencing system
4 administrator shall have authority for all offender placements
5 within the local community sentencing system pursuant to the court-
6 ordered community sentence. The local community sentencing system
7 administrator shall ensure that the supervision provider complies
8 with the provisions of Section 517 of Title 57 of the Oklahoma
9 Statutes and Section 991b of this title.

10 B. Persons convicted of or pleading guilty or nolo contendere
11 to a combination of misdemeanor and felony offenses may receive
12 services from a local community sentencing system when the county
13 agrees in writing to pay the Community Sentencing Division within
14 the Department of Corrections for the actual costs of services used
15 for misdemeanor cases. No state funds shall be used to pay for
16 misdemeanor offenses.

17 C. Any time during the term of a community sentence, the court
18 imposing the sentence may modify any previous provision as provided
19 in this section.

20 D. Upon consideration of a properly filed motion to modify a
21 community sentence pursuant to the provisions of this section, the
22 staff of the community sentencing system in which the offender is
23 ordered to participate, the sheriff, the district attorney, the
24 service provider, or any agency or person providing supervision of

1 the offender shall provide the court with any reports and other
2 information available and relating to the offender, and to the
3 reason for the motion to modify the sentence. The court shall
4 consider any reports and information submitted prior to modifying
5 the sentence.

6 E. If the court considers a motion to modify a community
7 sentence, a hearing shall be held in open court. The notice of the
8 hearing shall be given to the offender, the offender's legal
9 counsel, and the district attorney of the county in which the
10 offender was convicted not less than ten (10) days prior to the
11 hearing. A copy of any reports to be presented to the court shall
12 accompany the notice of hearing.

13 F. Following the hearing, the court shall enter the appropriate
14 order authorized by law. The court may modify any community
15 sentence by imposing any other punishment allowed by law for the
16 offense and appropriate for the circumstances as determined by the
17 discretion of the judge; provided, however, no punishment shall be
18 imposed which is greater than the maximum punishment allowed by law
19 for the original offense. The court shall give the offender day-
20 for-day credit on any modified sentence for any term of
21 incarceration imposed. The court may impose either a disciplinary
22 sanction or an incentive as provided in ~~Section 20 of this act~~
23 Section 988.20 of this title in lieu of or together with any
24 modification authorized by this section.

1 G. The court shall not be limited on the number of
2 modifications a sentence may have within the term of the community
3 sentence.

4 H. Any offender who files a meritless or frivolous motion to
5 modify a community sentence shall pay the costs of the proceeding
6 and may be sanctioned as deemed appropriate by the court.

7 I. The court may revoke or accelerate a community punishment to
8 the original sentence imposed during the term of the sentence. When
9 a community sentence is revoked to state imprisonment, the court
10 shall give a day-for-day credit for any term of incarceration
11 actually served as community punishment.

12 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.20, is
13 amended to read as follows:

14 Section 988.20. A. Upon proper motion to the court to modify a
15 community sentence as provided in Section 988.19 of this title, the
16 judge shall have authority to impose disciplinary sanctions or
17 incentives. An order for a disciplinary sanction shall not modify
18 the terms of the original sentence and shall be imposed only to gain
19 compliance with the terms of the court-ordered community punishment.
20 The court may order any community punishment available and funded in
21 the jurisdiction that is deemed appropriate by the judge for the
22 circumstance including, but not limited to, a term of imprisonment
23 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
24 title per ~~disciplinary order~~ motion for modification in either:

- 1 1. The county jail;
- 2 2. A residential treatment facility;
- 3 3. A restrictive housing facility; or
- 4 4. A halfway house.

5 When the offender is to be confined, the sheriff shall, upon order
6 of the court, deliver the offender to the designated place of
7 confinement, provided the place of confinement has an agreement for
8 confinement services with the local community sentencing system or
9 is the county jail. The sheriff shall be reimbursed by the local
10 community sentencing system for transporting offenders pursuant to
11 this subsection. The offender shall be given day-for-day credit for
12 any terms of incarceration served in the county jail or other
13 restrictive facility when the sentence is modified.

14 B. The court may, through a standing court order, provide for
15 specific ~~disciplinary~~ sanctions and incentives specified in Section
16 517 of Title 57 of the Oklahoma Statutes which may be utilized by
17 the local administrator upon notification to the court.

18 C. When a motion for modification has been filed pursuant to
19 Section 988.19 of this title, the court shall have authority to
20 offer incentives to offenders to encourage proper conduct in the
21 community and for compliance with the community punishments pursuant
22 to Section 517 of Title 57 of the Oklahoma Statutes or any other
23 incentive the court deems appropriate. The court shall use its
24 discretion in ordering appropriate incentives. Incentives shall be

1 considered a reduction and modification to the community punishment
2 and may be ordered after the motion to modify has been heard.

3 D. When any offender is disciplined by the court as authorized
4 by this section and is to be imprisoned in the county jail or other
5 restrictive facility, the sheriff or facility administrator shall
6 receive compensation as provided by their agreement with the local
7 community sentencing system, or the sheriff or facility
8 administrator shall be paid directly for the services by the
9 offender when ordered to pay for the confinement as part of the
10 disciplinary sanction. In no event shall any compensation for
11 disciplinary confinement exceed the maximum amount provided for
12 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
13 Statutes.

14 E. The Department of Corrections is prohibited from accepting
15 offenders into any state penitentiary for disciplinary sanctions.

16 SECTION 10. AMENDATORY 22 O.S. 2011, Section 988.22, is
17 amended to read as follows:

18 Section 988.22. A. Any offender ordered to participate in the
19 local community sentencing system shall be advised of the conditions
20 of the specific program or service to which he or she is assigned.

21 B. Upon completion of any court-ordered provision, pursuant to
22 the Oklahoma Community Sentencing Act, the administrator of the
23 local system shall file a statement with the court defining the
24 provision which has been successfully completed. When all court-

1 ordered provisions have been successfully completed the defendant
2 shall be deemed to have completed the community punishment.

3 C. The provisions of the Oklahoma Community Sentencing Act
4 shall not confer any rights upon the defendant to avoid a term of
5 imprisonment prescribed by law for the offense, nor grant any
6 additional rights to appeal for failure to be offered any specific
7 punishment or treatment option available to the court.

8 D. A community sentence pursuant to the Oklahoma Community
9 Sentencing Act shall not require active supervision, programs or
10 services for more than ~~three (3)~~ two (2) years, but may continue
11 beyond the ~~three-year~~ two-year limitation for purpose of completing
12 court-ordered ~~monetary obligations~~ restitution payments.

13 SECTION 11. AMENDATORY 22 O.S. 2011, Section 991a, as
14 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
15 2016, Section 991a), is amended to read as follows:

16 Section 991a. A. Except as otherwise provided in the Elderly
17 and Incapacitated Victim's Protection Program, when a defendant is
18 convicted of a crime and no death sentence is imposed, the court
19 shall either:

20 1. Suspend the execution of sentence in whole or in part, with
21 or without probation. The court, in addition, may order the
22 convicted defendant at the time of sentencing or at any time during
23 the suspended sentence to do one or more of the following:
24

- 1 a. to provide restitution to the victim as provided by
2 Section 991f et seq. of this title or according to a
3 schedule of payments established by the sentencing
4 court, together with interest upon any pecuniary sum
5 at the rate of twelve percent (12%) per annum, if the
6 defendant agrees to pay such restitution or, in the
7 opinion of the court, if the defendant is able to pay
8 such restitution without imposing manifest hardship on
9 the defendant or the immediate family and if the
10 extent of the damage to the victim is determinable
11 with reasonable certainty,
- 12 b. to reimburse any state agency for amounts paid by the
13 state agency for hospital and medical expenses
14 incurred by the victim or victims, as a result of the
15 criminal act for which such person was convicted,
16 which reimbursement shall be made directly to the
17 state agency, with interest accruing thereon at the
18 rate of twelve percent (12%) per annum,
- 19 c. to engage in a term of community service without
20 compensation, according to a schedule consistent with
21 the employment and family responsibilities of the
22 person convicted,
- 23 d. to pay a reasonable sum into any trust fund,
24 established pursuant to the provisions of Sections 176

1 through 180.4 of Title 60 of the Oklahoma Statutes,
2 and which provides restitution payments by convicted
3 defendants to victims of crimes committed within this
4 state wherein such victim has incurred a financial
5 loss,

6 e. to confinement in the county jail for a period not to
7 exceed six (6) months,

8 f. to confinement as provided by law together with a term
9 of post-imprisonment community supervision for not
10 less than three (3) years of the total term allowed by
11 law for imprisonment, with or without restitution;
12 provided, however, the authority of this provision is
13 limited to Section 843.5 of Title 21 of the Oklahoma
14 Statutes when the offense involved sexual abuse or
15 sexual exploitation; Sections 681, 741 and 843.1 of
16 Title 21 of the Oklahoma Statutes when the offense
17 involved sexual abuse or sexual exploitation; and
18 Sections 865 et seq., 885, 886, 888, 891, 1021,
19 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
20 1123 of Title 21 of the Oklahoma Statutes,

21 g. to repay the reward or part of the reward paid by a
22 local certified crime stoppers program and the
23 Oklahoma Reward System. In determining whether the
24 defendant shall repay the reward or part of the

1 reward, the court shall consider the ability of the
2 defendant to make the payment, the financial hardship
3 on the defendant to make the required payment, and the
4 importance of the information to the prosecution of
5 the defendant as provided by the arresting officer or
6 the district attorney with due regard for the
7 confidentiality of the records of the local certified
8 crime stoppers program and the Oklahoma Reward System.
9 The court shall assess this repayment against the
10 defendant as a cost of prosecution. The term
11 "certified" means crime stoppers organizations that
12 annually meet the certification standards for crime
13 stoppers programs established by the Oklahoma Crime
14 Stoppers Association to the extent those standards do
15 not conflict with state statutes. The term "court"
16 refers to all municipal and district courts within
17 this state. The "Oklahoma Reward System" means the
18 reward program established by Section 150.18 of Title
19 74 of the Oklahoma Statutes,

20 h. to reimburse the Oklahoma State Bureau of
21 Investigation for costs incurred by that agency during
22 its investigation of the crime for which the defendant
23 pleaded guilty, nolo contendere or was convicted,
24 including compensation for laboratory, technical, or

1 investigation services performed by the Bureau if, in
2 the opinion of the court, the defendant is able to pay
3 without imposing manifest hardship on the defendant,
4 and if the costs incurred by the Bureau during the
5 investigation of the defendant's case may be
6 determined with reasonable certainty,

7 i. to reimburse the Oklahoma State Bureau of
8 Investigation and any authorized law enforcement
9 agency for all costs incurred by that agency for
10 cleaning up an illegal drug laboratory site for which
11 the defendant pleaded guilty, nolo contendere or was
12 convicted. The court clerk shall collect the amount
13 and may retain five percent (5%) of such monies to be
14 deposited in the Court Clerk Revolving Fund to cover
15 administrative costs and shall remit the remainder to
16 the Oklahoma State Bureau of Investigation to be
17 deposited in the OSBI Revolving Fund established by
18 Section 150.19a of Title 74 of the Oklahoma Statutes
19 or to the general fund wherein the other law
20 enforcement agency is located,

21 j. to pay a reasonable sum to the Crime Victims
22 Compensation Board, created by Section 142.2 et seq.
23 of Title 21 of the Oklahoma Statutes, for the benefit
24 of crime victims,

- 1 k. to reimburse the court fund for amounts paid to court-
- 2 appointed attorneys for representing the defendant in
- 3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
- 5 assessment agency or assessment personnel certified by
- 6 the Department of Mental Health and Substance Abuse
- 7 Services pursuant to Section 3-460 of Title 43A of the
- 8 Oklahoma Statutes and, as determined by the
- 9 assessment, participate in an alcohol and drug
- 10 substance abuse course or treatment program or both,
- 11 pursuant to Sections 3-452 and 3-453 of Title 43A of
- 12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
- 14 defined in subsection H of this section, or
- 15 victim/offender reconciliation program and payment of
- 16 a fee to the program of not less than Fifteen Dollars
- 17 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
- 18 by the governing authority of the program to offset
- 19 the cost of participation by the defendant. Provided,
- 20 each victim/offender reconciliation program shall be
- 21 required to obtain a written consent form voluntarily
- 22 signed by the victim and defendant that specifies the
- 23 methods to be used to resolve the issues, the
- 24 obligations and rights of each person, and the

1 confidentiality of the proceedings. Volunteer
2 mediators and employees of a victim/offender
3 reconciliation program shall be immune from liability
4 and have rights of confidentiality as provided in
5 Section 1805 of Title 12 of the Oklahoma Statutes,
6 n. to install, at the expense of the defendant, an
7 ignition interlock device approved by the Board of
8 Tests for Alcohol and Drug Influence. The device
9 shall be installed upon every motor vehicle operated
10 by the defendant, and the court shall require that a
11 notation of this restriction be affixed to the
12 defendant's driver license. The restriction shall
13 remain on the driver license not exceeding two (2)
14 years to be determined by the court. The restriction
15 may be modified or removed only by order of the court
16 and notice of any modification order shall be given to
17 the Department of Public Safety. Upon the expiration
18 of the period for the restriction, the Department of
19 Public Safety shall remove the restriction without
20 further court order. Failure to comply with the order
21 to install an ignition interlock device or operating
22 any vehicle without a device during the period of
23 restriction shall be a violation of the sentence and
24 may be punished as deemed proper by the sentencing

1 court. As used in this paragraph, "ignition interlock
2 device" means a device that, without tampering or
3 intervention by another person, would prevent the
4 defendant from operating a motor vehicle if the
5 defendant has a blood or breath alcohol concentration
6 of two-hundredths (0.02) or greater,

- 7 o. to be confined by electronic monitoring administered
8 and supervised by the Department of Corrections or a
9 community sentence provider, and payment of a
10 monitoring fee to the supervising authority, not to
11 exceed Three Hundred Dollars (\$300.00) per month. Any
12 fees collected pursuant to this paragraph shall be
13 deposited with the appropriate supervising authority.
14 Any willful violation of an order of the court for the
15 payment of the monitoring fee shall be a violation of
16 the sentence and may be punished as deemed proper by
17 the sentencing court. As used in this paragraph,
18 "electronic monitoring" means confinement of the
19 defendant within a specified location or locations
20 with supervision by means of an electronic device
21 approved by the Department of Corrections which is
22 designed to detect if the defendant is in the court-
23 ordered location at the required times and which
24

1 records violations for investigation by a qualified
2 supervisory agency or person,

- 3 p. to perform one or more courses of treatment, education
4 or rehabilitation for any conditions, behaviors,
5 deficiencies or disorders which may contribute to
6 criminal conduct, including but not limited to alcohol
7 and substance abuse, mental health, emotional health,
8 physical health, propensity for violence, antisocial
9 behavior, personality or attitudes, deviant sexual
10 behavior, child development, parenting assistance, job
11 skills, vocational-technical skills, domestic
12 relations, literacy, education, or any other
13 identifiable deficiency which may be treated
14 appropriately in the community and for which a
15 certified provider or a program recognized by the
16 court as having significant positive impact exists in
17 the community. Any treatment, education or
18 rehabilitation provider required to be certified
19 pursuant to law or rule shall be certified by the
20 appropriate state agency or a national organization,
- 21 q. to submit to periodic testing for alcohol,
22 intoxicating substance, or controlled dangerous
23 substances by a qualified laboratory,
24

- r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
- s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- t. to obtain positive behavior modeling by a trained mentor,
- u. to serve a term of confinement in a restrictive housing facility available in the community,
- v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- w. to obtain employment or participate in employment-related activities,
- x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

5 z. to submit to blood or saliva testing as required by
6 subsection I of this section,

7 aa. to repair or restore property damaged by the
8 defendant's conduct, if the court determines the
9 defendant possesses sufficient skill to repair or
10 restore the property and the victim consents to the
11 repairing or restoring of the property,

12 bb. to restore damaged property in kind or payment of out-
13 of-pocket expenses to the victim, if the court is able
14 to determine the actual out-of-pocket expenses
15 suffered by the victim,

16 cc. to attend a victim-offender reconciliation program if
17 the victim agrees to participate and the offender is
18 deemed appropriate for participation,

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

4 ee. in the case of a sex offender sentenced after November
5 1, 1989, and required by law to register pursuant to
6 the Sex Offender Registration Act, the court shall
7 require the person to comply with sex offender
8 specific rules and conditions of supervision
9 established by the Department of Corrections and
10 require the person to participate in a treatment
11 program designed for the treatment of sex offenders
12 during the period of time while the offender is
13 subject to supervision by the Department of
14 Corrections. The treatment program shall include
15 polygraph examinations specifically designed for use
16 with sex offenders for purposes of supervision and
17 treatment compliance, and shall be administered not
18 less than each six (6) months during the period of
19 supervision. The examination shall be administered by
20 a certified licensed polygraph examiner. The
21 treatment program must be approved by the Department
22 of Corrections or the Department of Mental Health and
23 Substance Abuse Services. Such treatment shall be at
24

1 the expense of the defendant based on the defendant's
2 ability to pay,

3 ff. in addition to other sentencing powers of the court,
4 the court in the case of a defendant being sentenced
5 for a felony conviction for a violation of Section 2-
6 402 of Title 63 of the Oklahoma Statutes which
7 involves marijuana may require the person to
8 participate in a drug court program, if available. If
9 a drug court program is not available, the defendant
10 may be required to participate in a community
11 sanctions program, if available,

12 gg. in the case of a person convicted of any false or
13 bogus check violation, as defined in Section 1541.4 of
14 Title 21 of the Oklahoma Statutes, impose a fee of
15 Twenty-five Dollars (\$25.00) to the victim for each
16 check, and impose a bogus check fee to be paid to the
17 district attorney. The bogus check fee paid to the
18 district attorney shall be equal to the amount
19 assessed as court costs plus Twenty-five Dollars
20 (\$25.00) for each check upon filing of the case in
21 district court. This money shall be deposited in the
22 Bogus Check Restitution Program Fund as established in
23 subsection B of Section 114 of this title.
24 Additionally, the court may require the offender to

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program, ~~and~~
4 hh. in the case of a person being sentenced for a
5 conviction for a violation of Section 644 of Title 21
6 of the Oklahoma Statutes, require the person to
7 receive an assessment for batterers, which shall be
8 conducted through a certified treatment program for
9 batterers, and
10 ii. any other provision specifically ordered by the court.

11 However, any such order for restitution, community service,
12 payment to a local certified crime stoppers program, payment to the
13 Oklahoma Reward System, or confinement in the county jail, or a
14 combination thereof, shall be made in conjunction with probation and
15 shall be made a condition of the suspended sentence.

16 However, unless under the supervision of the district attorney,
17 the offender shall be required to pay Forty Dollars (\$40.00) per
18 month to the district attorney during the first two (2) years of
19 probation to compensate the district attorney for the costs incurred
20 during the prosecution of the offender and for the additional work
21 of verifying the compliance of the offender with the rules and
22 conditions of his or her probation. The district attorney may waive
23 any part of this requirement in the best interests of justice. The
24 court shall not waive, suspend, defer or dismiss the costs of

1 prosecution in its entirety. However, if the court determines that
2 a reduction in the fine, costs and costs of prosecution is
3 warranted, the court shall equally apply the same percentage
4 reduction to the fine, costs and costs of prosecution owed by the
5 offender;

6 2. Impose a fine prescribed by law for the offense, with or
7 without probation or commitment and with or without restitution or
8 service as provided for in this section, Section 991a-4.1 of this
9 title or Section 227 of Title 57 of the Oklahoma Statutes;

10 3. Commit such person for confinement provided for by law with
11 or without restitution as provided for in this section;

12 4. Order the defendant to reimburse the Oklahoma State Bureau
13 of Investigation for costs incurred by that agency during its
14 investigation of the crime for which the defendant pleaded guilty,
15 nolo contendere or was convicted, including compensation for
16 laboratory, technical, or investigation services performed by the
17 Bureau if, in the opinion of the court, the defendant is able to pay
18 without imposing manifest hardship on the defendant, and if the
19 costs incurred by the Bureau during the investigation of the
20 defendant's case may be determined with reasonable certainty;

21 5. Order the defendant to reimburse the Oklahoma State Bureau
22 of Investigation for all costs incurred by that agency for cleaning
23 up an illegal drug laboratory site for which the defendant pleaded
24 guilty, nolo contendere or was convicted. The court clerk shall

1 collect the amount and may retain five percent (5%) of such monies
2 to be deposited in the Court Clerk Revolving Fund to cover
3 administrative costs and shall remit the remainder to the Oklahoma
4 State Bureau of Investigation to be deposited in the OSBI Revolving
5 Fund established by Section 150.19a of Title 74 of the Oklahoma
6 Statutes;

7 6. In the case of nonviolent felony offenses, sentence such
8 person to the Community Service Sentencing Program;

9 7. In addition to the other sentencing powers of the court, in
10 the case of a person convicted of operating or being in control of a
11 motor vehicle while the person was under the influence of alcohol,
12 other intoxicating substance, or a combination of alcohol or another
13 intoxicating substance, or convicted of operating a motor vehicle
14 while the ability of the person to operate such vehicle was impaired
15 due to the consumption of alcohol, require such person:

16 a. to participate in an alcohol and drug assessment and
17 evaluation by an assessment agency or assessment
18 personnel certified by the Department of Mental Health
19 and Substance Abuse Services pursuant to Section 3-460
20 of Title 43A of the Oklahoma Statutes and, as
21 determined by the assessment, participate in an
22 alcohol and drug substance abuse course or treatment
23 program or both, pursuant to Sections 3-452 and 3-453
24 of Title 43A of the Oklahoma Statutes,

- b. to attend a victims impact panel program, as defined in subsection H of this section, if such a program is offered in the county where the judgment is rendered, and to pay a fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the

1 court and notice of the order shall be given to the
2 Department of Public Safety. Upon the expiration of
3 the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without such device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court, or

11 e. beginning January 1, 1993, to submit to electronically
12 monitored home detention administered and supervised
13 by the Department of Corrections, and to pay to the
14 Department a monitoring fee, not to exceed Seventy-
15 five Dollars (\$75.00) a month, to the Department of
16 Corrections, if in the opinion of the court the
17 defendant has the ability to pay such fee. Any fees
18 collected pursuant to this subparagraph shall be
19 deposited in the Department of Corrections Revolving
20 Fund. Any order by the court for the payment of the
21 monitoring fee, if willfully disobeyed, may be
22 enforced as an indirect contempt of court;

23 8. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section

1 1029 of Title 21 of the Oklahoma Statutes, require such person to
2 receive counseling for the behavior which may have caused such
3 person to engage in prostitution activities. Such person may be
4 required to receive counseling in areas including but not limited to
5 alcohol and substance abuse, sexual behavior problems, or domestic
6 abuse or child abuse problems;

7 9. In addition to the other sentencing powers of the court, in
8 the case of a person convicted of any crime related to domestic
9 abuse, as defined in Section 60.1 of this title, the court may
10 require the defendant to undergo the treatment or participate ~~in the~~
11 ~~counseling services~~ an intervention program for batterers certified
12 by the Office of the Attorney General, as directed under the
13 provisions of Section 515a of Title 57 of the Oklahoma Statutes,
14 necessary to bring about the cessation of domestic abuse ~~against the~~
15 ~~victim.~~ In the instance where the defendant alleges that he or she
16 is a victim of domestic abuse and the current conviction is a
17 response to that abuse, the court may require the defendant to
18 undergo an assessment by a domestic violence program certified by
19 the Office of the Attorney General, and, if based upon the results
20 of the assessment, the defendant is determined to be a victim of
21 domestic violence, the defendant is determined to be a victim of
22 domestic violence, the defendant shall undergo treatment and
23 participate in a certified program for domestic violence victims.
24

1 The defendant may be required to pay all or part of the cost of the
2 treatment or counseling services;

3 10. In addition to the other sentencing powers of the court,
4 the court, in the case of a sex offender sentenced after November 1,
5 1989, and required by law to register pursuant to the Sex Offenders
6 Registration Act, shall require the person to participate in a
7 treatment program designed specifically for the treatment of sex
8 offenders, if available. The treatment program will include
9 polygraph examinations specifically designed for use with sex
10 offenders for the purpose of supervision and treatment compliance,
11 provided the examination is administered by a certified licensed
12 polygraph examiner. The treatment program must be approved by the
13 Department of Corrections or the Department of Mental Health and
14 Substance Abuse Services. Such treatment shall be at the expense of
15 the defendant based on the defendant's ability to pay;

16 11. In addition to the other sentencing powers of the court,
17 the court, in the case of a person convicted of child abuse or
18 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
19 Statutes, may require the person to undergo treatment or to
20 participate in counseling services. The defendant may be required
21 to pay all or part of the cost of the treatment or counseling
22 services;

23 12. In addition to the other sentencing powers of the court,
24 the court, in the case of a person convicted of cruelty to animals

1 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
2 require the person to pay restitution to animal facilities for
3 medical care and any boarding costs of victimized animals;

4 13. In addition to the other sentencing powers of the court, a
5 sex offender who is habitual or aggravated as defined by Section 584
6 of Title 57 of the Oklahoma Statutes and who is required to register
7 as a sex offender pursuant to the Oklahoma Sex Offenders
8 Registration Act shall be supervised by the Department of
9 Corrections for the duration of the registration period and shall be
10 assigned to a global position monitoring device by the Department of
11 Corrections for the duration of the registration period. The cost
12 of such monitoring device shall be reimbursed by the offender;

13 14. In addition to the other sentencing powers of the court, in
14 the case of a sex offender who is required by law to register
15 pursuant to the Sex Offenders Registration Act, the court may
16 prohibit the person from accessing or using any Internet social
17 networking web site that has the potential or likelihood of allowing
18 the sex offender to have contact with any child who is under the age
19 of eighteen (18) years; or

20 15. In addition to the other sentencing powers of the court, in
21 the case of a sex offender who is required by law to register
22 pursuant to the Sex Offenders Registration Act, the court shall
23 require the person to register any electronic mail address
24 information, instant message, chat or other Internet communication

1 name or identity information that the person uses or intends to use
2 while accessing the Internet or used for other purposes of social
3 networking or other similar Internet communication.

4 B. Notwithstanding any other provision of law, any person who
5 is found guilty of a violation of any provision of Section 761 or
6 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
7 guilty or nolo contendere for a violation of any provision of such
8 sections shall be ordered to participate in, prior to sentencing, an
9 alcohol and drug assessment and evaluation by an assessment agency
10 or assessment personnel certified by the Department of Mental Health
11 and Substance Abuse Services for the purpose of evaluating the
12 receptivity to treatment and prognosis of the person. The court
13 shall order the person to reimburse the agency or assessor for the
14 evaluation. The fee shall be the amount provided in subsection C of
15 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
16 shall be conducted at a certified assessment agency, the office of a
17 certified assessor or at another location as ordered by the court.
18 The agency or assessor shall, within seventy-two (72) hours from the
19 time the person is assessed, submit a written report to the court
20 for the purpose of assisting the court in its final sentencing
21 determination. No person, agency or facility operating an alcohol
22 and drug substance abuse evaluation program certified by the
23 Department of Mental Health and Substance Abuse Services shall
24 solicit or refer any person evaluated pursuant to this subsection

1 for any treatment program or alcohol and drug substance abuse
2 service in which such person, agency or facility has a vested
3 interest; however, this provision shall not be construed to prohibit
4 the court from ordering participation in or any person from
5 voluntarily utilizing a treatment program or alcohol and drug
6 substance abuse service offered by such person, agency or facility.
7 If a person is sentenced to the custody of the Department of
8 Corrections and the court has received a written evaluation report
9 pursuant to this subsection, the report shall be furnished to the
10 Department of Corrections with the judgment and sentence. Any
11 evaluation report submitted to the court pursuant to this subsection
12 shall be handled in a manner which will keep such report
13 confidential from the general public's review. Nothing contained in
14 this subsection shall be construed to prohibit the court from
15 ordering judgment and sentence in the event the defendant fails or
16 refuses to comply with an order of the court to obtain the
17 evaluation required by this subsection.

18 C. When sentencing a person convicted of a crime, the court
19 shall first consider a program of restitution for the victim, as
20 well as imposition of a fine or incarceration of the offender. The
21 provisions of paragraph 1 of subsection A of this section shall not
22 apply to ~~defendants~~ a defendant being sentenced ~~upon their~~ for:

23

24

1 1. A third or subsequent ~~to their third~~ conviction of a felony
2 ~~or, beginning~~ violent crime enumerated in Section 571 of Title 57 of
3 the Oklahoma Statutes;

4 2. A fourth or subsequent conviction for any other felony
5 crime; or

6 3. Beginning January 1, 1993, to ~~defendants~~ a defendant being
7 sentenced for ~~their~~ a second or subsequent felony conviction for
8 violation of Section 11-902 of Title 47 of the Oklahoma Statutes,
9 except as otherwise provided in this subsection.

10 In the case of a person being sentenced for ~~their~~ a second or
11 subsequent felony conviction for violation of Section 11-902 of
12 Title 47 of the Oklahoma Statutes, the court may sentence the person
13 pursuant to the provisions of paragraph 1 of subsection A of this
14 section if the court orders the person to submit to electronically
15 monitored home detention administered and supervised by the
16 Department of Corrections pursuant to subparagraph e of paragraph 7
17 of subsection A of this section. Provided, the court may waive
18 these prohibitions upon written application of the district
19 attorney. Both the application and the waiver shall be made part of
20 the record of the case.

21 D. When sentencing a person convicted of a crime, the judge
22 shall consider any victims impact statements if submitted to the
23 jury, or the judge in the event a jury is waived.

1 E. Probation, for purposes of subsection A of this section, is
2 a procedure by which a defendant found guilty of a crime, whether
3 upon a verdict or plea of guilty or upon a plea of nolo contendere,
4 is released by the court subject to conditions imposed by the court
5 and subject to supervision by the Department of Corrections, a
6 private supervision provider or other person designated by the
7 court. All supervision providers that supervise persons under this
8 section use the sanctions and incentives process established under
9 Section 991b of this title. Such supervision shall be initiated
10 upon an order of probation from the court, and shall not exceed two
11 (2) years, unless a petition alleging a violation of any condition
12 of deferred judgment or seeking revocation of the suspended sentence
13 is filed during the supervision, or as otherwise provided by law.
14 In the case of a person convicted of a sex offense, supervision
15 shall begin immediately upon release from incarceration or if parole
16 is granted and shall not be limited to two (2) years. Provided
17 further, any supervision provided for in this section may be
18 extended for a period not to exceed the expiration of the maximum
19 term or terms of the sentence upon a determination by the court or
20 the Division of Probation and Parole of the Department of
21 Corrections that the best interests of the public and the release
22 will be served by an extended period of supervision. Any
23 supervision provided for under this section may not be extended for
24

1 a failure to pay fines, fees and other costs, excluding restitution,
2 except upon a finding of willful nonpayment.

3 F. The Department of Corrections, or such other agency as the
4 court may designate, shall be responsible for the monitoring and
5 administration of the restitution and service programs provided for
6 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
7 section, and shall ensure that restitution payments are forwarded to
8 the victim and that service assignments are properly performed.

9 G. 1. The Department of Corrections is hereby authorized,
10 subject to funds available through appropriation by the Legislature,
11 to contract with counties for the administration of county Community
12 Service Sentencing Programs.

13 2. Any offender eligible to participate in the Program pursuant
14 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
15 participate in a county Program; provided, participation in county-
16 funded Programs shall not be limited to offenders who would
17 otherwise be sentenced to confinement with the Department of
18 Corrections.

19 3. The Department shall establish criteria and specifications
20 for contracts with counties for such Programs. A county may apply
21 to the Department for a contract for a county-funded Program for a
22 specific period of time. The Department shall be responsible for
23 ensuring that any contracting county complies in full with
24 specifications and requirements of the contract. The contract shall

1 set appropriate compensation to the county for services to the
2 Department.

3 4. The Department is hereby authorized to provide technical
4 assistance to any county in establishing a Program, regardless of
5 whether the county enters into a contract pursuant to this
6 subsection. Technical assistance shall include appropriate
7 staffing, development of community resources, sponsorship,
8 supervision and any other requirements.

9 5. The Department shall annually make a report to the Governor,
10 the President Pro Tempore of the Senate and the Speaker of the House
11 on the number of such Programs, the number of participating
12 offenders, the success rates of each Program according to criteria
13 established by the Department and the costs of each Program.

14 H. As used in this section:

15 1. "Ignition interlock device" means a device that, without
16 tampering or intervention by another person, would prevent the
17 defendant from operating a motor vehicle if the defendant has a
18 blood or breath alcohol concentration of two-hundredths (0.02) or
19 greater;

20 2. "Electronically monitored home detention" means
21 incarceration of the defendant within a specified location or
22 locations with monitoring by means of a device approved by the
23 Department of Corrections that detects if the person leaves the
24 confines of any specified location; and

1 3. "Victims impact panel program" means a meeting with at least
2 one live presenter who will share personal stories with participants
3 about how alcohol, drug abuse and the illegal conduct of others has
4 personally impacted the life of the presenter. A victims impact
5 panel program shall be attended by persons who have committed the
6 offense of driving, operating or being in actual physical control of
7 a motor vehicle while under the influence of alcohol or other
8 intoxicating substance. Persons attending a victims impact panel
9 program shall be required to pay a fee of not less than Fifteen
10 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
11 provider of the program. A certificate of completion shall be
12 issued to the person upon satisfying the attendance and fee
13 requirements of the victims impact panel program. A victims impact
14 panel program shall not be provided by any certified assessment
15 agency or certified assessor. The provider of the victims impact
16 panel program shall carry general liability insurance and maintain
17 an accurate accounting of all business transactions and funds
18 received in relation to the victims impact panel program.

19 I. A person convicted of a felony offense or receiving any form
20 of probation for an offense in which registration is required
21 pursuant to the Sex Offenders Registration Act, shall submit to
22 deoxyribonucleic acid DNA testing for law enforcement identification
23 purposes in accordance with Section 150.27 of Title 74 of the
24 Oklahoma Statutes and the rules promulgated by the Oklahoma State

1 Bureau of Investigation for the OSBI Combined DNA Index System
2 (CODIS) Database. Subject to the availability of funds, any person
3 convicted of a misdemeanor offense of assault and battery, domestic
4 abuse, stalking, possession of a controlled substance prohibited
5 under Schedule IV of the Uniform Controlled Dangerous Substances
6 Act, outraging public decency, resisting arrest, escape or
7 attempting to escape, eluding a police officer, peeping tom,
8 pointing a firearm, unlawful carry of a firearm, illegal transport
9 of a firearm, discharging of a firearm, threatening an act of
10 violence, breaking and entering a dwelling place, destruction of
11 property, negligent homicide, or causing a personal injury accident
12 while driving under the influence of any intoxicating substance, or
13 any alien unlawfully present under federal immigration law, upon
14 arrest, shall submit to deoxyribonucleic acid DNA testing for law
15 enforcement identification purposes in accordance with Section
16 150.27 of Title 74 of the Oklahoma Statutes and the rules
17 promulgated by the Oklahoma State Bureau of Investigation for the
18 OSBI Combined DNA Index System (CODIS) Database. Any defendant
19 sentenced to probation shall be required to submit to testing within
20 thirty (30) days of sentencing either to the Department of
21 Corrections or to the county sheriff or other peace officer as
22 directed by the court. Defendants who are sentenced to a term of
23 incarceration shall submit to testing in accordance with Section
24 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who

1 enter the custody of the Department of Corrections or to the county
2 sheriff, for those defendants sentenced to incarceration in a county
3 jail. Convicted individuals who have previously submitted to DNA
4 testing under this section and for whom a valid sample is on file in
5 the OSBI Combined DNA Index System (CODIS) Database at the time of
6 sentencing shall not be required to submit to additional testing.
7 Except as required by the Sex Offenders Registration Act, a deferred
8 judgment does not require submission to deoxyribonucleic acid
9 testing.

10 Any person who is incarcerated in the custody of the Department
11 of Corrections after July 1, 1996, and who has not been released
12 before January 1, 2006, shall provide a blood or saliva sample prior
13 to release. Every person subject to DNA testing after January 1,
14 2006, whose sentence does not include a term of confinement with the
15 Department of Corrections, shall submit a blood or saliva sample.
16 Every person subject to DNA testing who is sentenced to unsupervised
17 probation or otherwise not supervised by the Department of
18 Corrections shall submit for blood or saliva testing to the sheriff
19 of the sentencing county.

20 J. Samples of blood or saliva for DNA testing required by
21 subsection I of this section shall be taken by employees or
22 contractors of the Department of Corrections, peace officers, or the
23 county sheriff or employees or contractors of the sheriff's office.
24 The individuals shall be properly trained to collect blood or saliva

1 samples. Persons collecting blood or saliva for DNA testing
2 pursuant to this section shall be immune from civil liabilities
3 arising from this activity. All collectors of DNA samples shall
4 ensure the collection of samples are mailed to the Oklahoma State
5 Bureau of Investigation within ten (10) days of the time the subject
6 appears for testing or within ten (10) days of the date the subject
7 comes into physical custody to serve a term of incarceration. All
8 collectors of DNA samples shall use sample kits provided by the OSBI
9 and procedures promulgated by the OSBI. Persons subject to DNA
10 testing who are not received at the Lexington Assessment and
11 Reception Center shall be required to pay a fee of Fifteen Dollars
12 (\$15.00) to the agency collecting the sample for submission to the
13 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
14 pursuant to this subsection shall be deposited in the revolving
15 account or the service fee account of the collection agency or
16 department.

17 K. When sentencing a person who has been convicted of a crime
18 that would subject that person to the provisions of the Sex
19 Offenders Registration Act, neither the court nor the district
20 attorney shall be allowed to waive or exempt such person from the
21 registration requirements of the Sex Offenders Registration Act.

22 L. Any person who has been ordered by the court to pay a fine,
23 court cost, fee or assessment or any combination thereof under the
24 provisions of this section may request a hearing to establish a

1 payment plan. The payment plan authorized under this subsection
2 shall be determined by assessing the discretionary income of the
3 person. As used in this subsection, "discretionary income" shall be
4 defined as income in excess of one hundred-fifty percent (150%) of
5 the federal poverty line. After a judicial determination of the
6 discretionary income of a person, the court shall order the total
7 amount of the financial obligation of the person, excluding
8 restitution, be paid in installments equal to no more than ten
9 percent (10%) of the discretionary income of the person. The
10 payment plan shall be established regardless of the results of an
11 indigent request for representation as provided in Section 1355A of
12 this title. The payment plan established under the provisions of
13 this subsection shall apply to all fines, court costs and fees
14 ordered by the court pursuant to this section and all subsections
15 therein.

16 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991b, as
17 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
18 2016, Section 991b), is amended to read as follows:

19 Section 991b. A. Whenever a sentence has been suspended by the
20 court after conviction of a person for any crime, the suspended
21 sentence of the person may not be revoked, in whole or part, for any
22 cause unless a petition setting forth the grounds for such
23 revocation is filed by the district attorney with the clerk of the
24 sentencing court and competent evidence justifying the revocation of

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. Whenever a sentence has been suspended by the court after
9 conviction of a person for any crime, the suspended sentence of the
10 person may not be revoked, in whole or part, for a technical
11 violation unless a petition setting forth the grounds for such
12 revocation is filed by the district attorney with the clerk of the
13 sentencing court and competent evidence justifying the revocation of
14 the suspended sentence is presented to the court at a hearing to be
15 held for that purpose within ten (10) days after the entry of the
16 plea of not guilty to the petition, unless waived by both the state
17 and the defendant. An application to revoke for a technical
18 violation shall be limited to a technical violation that has
19 occurred within sixty (60) days, provided the district attorney has
20 received adequate notice. The State of Oklahoma may dismiss the
21 petition without prejudice one time upon good cause shown to the
22 court, provided that any successor petition must be filed within
23 forty-five (45) days of the date of the dismissal of the petition.
24

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

1 noncompliant behavior. The probation officer shall refer the
2 violation information and recommended response with a sanction plan
3 to the Department of Corrections to be heard by a hearing officer.
4 The Department of Corrections shall develop a sanction matrix,
5 forms, policies and procedures necessary to implement this
6 provision. If the severity of the violation warrants or the
7 graduated use of sanctions has been exhausted and the noncompliant
8 behavior has continued, the probation officer may recommend
9 revocation of the probation of the offender to the hearing officer
10 of the Department or appropriate supervising authority. The
11 Department of Corrections shall establish procedures to hear
12 responses to technical violations and review sanction plans
13 including the following:

- 14 a. hearing officers shall report through a chain of
15 command separate from that of the supervising
16 probation officers,
 - 17 b. the Department shall provide the offender written
18 notice of the violation, the evidence relied upon, and
19 the reason the sanction was imposed,
 - 20 c. the hearing shall be held unless the offender waives
21 the right to the hearing,
 - 22 d. hearings shall be electronically recorded, and
- 23
24

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 3. Absent a finding of willful nonpayment by the offender, the
20 failure of an offender to pay fines and costs may not serve as a
21 basis for revocation, excluding restitution.

22 ~~C.~~ D. 1. Where one of the grounds for revocation is the
23 failure of the defendant to make restitution as ordered, the
24 Department of Corrections shall forward to the district attorney all

1 information pertaining to the failure of the defendant to make
2 timely restitution as ordered by the court, and the district
3 attorney shall file a petition setting forth the grounds for
4 revocation.

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

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

23 ~~D. E.~~ The Except as provided in Section 517 of Title 57 of the
24 Oklahoma Statutes, the court may revoke a portion of the sentence

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

14 F. If the court revokes a suspended sentence for a technical
15 violation of the terms and conditions of probation, the court shall
16 sentence the offender in accordance with Section 517 of Title 57 of
17 the Oklahoma Statutes.

18 SECTION 13. AMENDATORY 22 O.S. 2011, Section 991c, as
19 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
20 2016, Section 991c), is amended to read as follows:

21 Section 991c. A. Upon a verdict or plea of guilty or upon a
22 plea of nolo contendere, but before a judgment of guilt, the court
23 may, without entering a judgment of guilt and with the consent of
24 the defendant, defer further proceedings upon the specific

1 conditions prescribed by the court not to exceed a ~~ten-year~~ four-
2 year period, except as authorized under subsection B of this
3 section. The court shall first consider restitution among the
4 various conditions it may prescribe. The court may also consider
5 ordering the defendant to:

6 1. Pay court costs;

7 2. Pay an assessment in lieu of any fine authorized by law for
8 the offense;

9 3. Pay any other assessment or cost authorized by law;

10 4. Engage in a term of community service without compensation,
11 according to a schedule consistent with the employment and family
12 responsibilities of the defendant;

13 5. County jail confinement for a period not to exceed ninety
14 (90) days or the maximum amount of jail time provided for the
15 offense, if it is less than ninety (90) days;

16 6. Pay an amount as reimbursement for reasonable attorney fees,
17 to be paid into the court fund, if a court-appointed attorney has
18 been provided to defendant;

19 7. Be supervised in the community for a period not to exceed
20 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
21 violation of any condition of deferred judgment is filed during the
22 period of supervision. As a condition of any supervision, the
23 defendant shall be required to pay a supervision fee of Forty
24 Dollars (\$40.00) per month. The supervision fee shall be waived in

1 whole or part by the supervisory agency when the accused is
2 indigent. No person shall be denied supervision based solely on the
3 inability of the person to pay a fee;

4 8. Pay into the court fund a monthly amount not exceeding Forty
5 Dollars (\$40.00) per month during any period during which the
6 proceedings are deferred when the defendant is not to be supervised
7 in the community. The total amount to be paid into the court fund
8 shall be established by the court and shall not exceed the amount of
9 the maximum fine authorized by law for the offense;

10 9. Make other reparations to the community or victim as
11 required and deemed appropriate by the court;

12 10. Order any conditions which can be imposed for a suspended
13 sentence pursuant to paragraph 1 of subsection A of Section 991a of
14 this title; or

15 11. Any combination of the above provisions.

16 However, unless under the supervision of the district attorney,
17 the offender shall be required to pay Forty Dollars (\$40.00) per
18 month to the district attorney during the first two (2) years of
19 probation to compensate the district attorney for the costs incurred
20 during the prosecution of the offender and for the additional work
21 of verifying the compliance of the offender with the rules and
22 conditions of his or her probation. The district attorney may waive
23 any part of this requirement in the best interests of justice. The
24 court shall not waive, suspend, defer or dismiss the costs of

1 prosecution in its entirety. However, if the court determines that
2 a reduction in the fine, costs and costs of prosecution is
3 warranted, the court shall equally apply the same percentage
4 reduction to the fine, costs and costs of prosecution owed by the
5 offender.

6 B. When the court has ordered restitution as a condition of
7 supervision as provided for in subsection A of this section and that
8 condition has not been satisfied, the court may, at any time prior
9 to the termination or expiration of the supervision period, order an
10 extension for a period not to exceed three (3) years.

11 C. In addition to any conditions of supervision provided for in
12 subsection A of this section, the court shall, in the case of a
13 person before the court for the offense of operating or being in
14 control of a motor vehicle while the person was under the influence
15 of alcohol, other intoxicating substance, or a combination of
16 alcohol and another intoxicating substance, or who is before the
17 court for the offense of operating a motor vehicle while the ability
18 of the person to operate such vehicle was impaired due to the
19 consumption of alcohol, require the person to participate in an
20 alcohol and drug substance abuse evaluation program offered by a
21 facility or qualified practitioner certified by the Department of
22 Mental Health and Substance Abuse Services for the purpose of
23 evaluating the receptivity to treatment and prognosis of the person.
24 The court shall order the person to reimburse the facility or

1 qualified practitioner for the evaluation. The Department of Mental
2 Health and Substance Abuse Services shall establish a fee schedule,
3 based upon the ability of a person to pay, provided the fee for an
4 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
5 evaluation shall be conducted at a certified facility, the office of
6 a qualified practitioner or at another location as ordered by the
7 court. The facility or qualified practitioner shall, within
8 seventy-two (72) hours from the time the person is assessed, submit
9 a written report to the court for the purpose of assisting the court
10 in its determination of conditions for deferred sentence. No
11 person, agency or facility operating an alcohol and drug substance
12 abuse evaluation program certified by the Department of Mental
13 Health and Substance Abuse Services shall solicit or refer any
14 person evaluated pursuant to this subsection for any treatment
15 program or alcohol and drug substance abuse service in which the
16 person, agency or facility has a vested interest; however, this
17 provision shall not be construed to prohibit the court from ordering
18 participation in or any person from voluntarily utilizing a
19 treatment program or alcohol and drug substance abuse service
20 offered by such person, agency or facility. Any evaluation report
21 submitted to the court pursuant to this subsection shall be handled
22 in a manner which will keep the report confidential from review by
23 the general public. Nothing contained in this subsection shall be
24 construed to prohibit the court from ordering judgment and sentence

1 in the event the defendant fails or refuses to comply with an order
2 of the court to obtain the evaluation required by this subsection.
3 As used in this subsection, "qualified practitioner" means a person
4 with at least a bachelor's degree in substance abuse treatment,
5 mental health or a related health care field and at least two (2)
6 years of experience in providing alcohol abuse treatment, other drug
7 abuse treatment, or both alcohol and other drug abuse treatment who
8 is certified each year by the Department of Mental Health and
9 Substance Abuse Services to provide these assessments. However, any
10 person who does not meet the requirements for a qualified
11 practitioner as defined herein, but who has been previously
12 certified by the Department of Mental Health and Substance Abuse
13 Services to provide alcohol or drug treatment or assessments, shall
14 be considered a qualified practitioner provided all education,
15 experience and certification requirements stated herein are met by
16 September 1, 1995. The court may also require the person to
17 participate in one or both of the following:

18 1. An alcohol and drug substance abuse course, pursuant to
19 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

20 2. A victims impact panel program, as defined in subsection H
21 of Section 991a of this title, if such a program is offered in the
22 county where the judgment is rendered. The defendant shall be
23 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
24 more than Sixty Dollars (\$60.00) as set by the governing authority

1 of the program and approved by the court to the victims impact panel
2 program to offset the cost of participation by the defendant, if in
3 the opinion of the court the defendant has the ability to pay such
4 fee.

5 ~~C.~~ D. Upon completion of the conditions of the deferred
6 judgment, and upon a finding by the court that the conditions have
7 been met and all fines, fees, and monetary assessments have been
8 paid as ordered, the defendant shall be discharged without a court
9 judgment of guilt, and the court shall order the verdict or plea of
10 guilty or plea of nolo contendere to be expunged from the record and
11 the charge shall be dismissed with prejudice to any further action.
12 The procedure to expunge the record of the defendant shall be as
13 follows:

14 1. All references to the name of the defendant shall be deleted
15 from the docket sheet;

16 2. The public index of the filing of the charge shall be
17 expunged by deletion, mark-out or obliteration;

18 3. Upon expungement, the court clerk shall keep a separate
19 confidential index of case numbers and names of defendants which
20 have been obliterated pursuant to the provisions of this section;

21 4. No information concerning the confidential file shall be
22 revealed or released, except upon written order of a judge of the
23 district court or upon written request by the named defendant to the
24 court clerk for the purpose of updating the criminal history record

1 of the defendant with the Oklahoma State Bureau of Investigation;
2 and

3 5. Defendants qualifying under Section 18 of this title may
4 petition the court to have the filing of the indictment and the
5 dismissal expunged from the public index and docket sheet. This
6 section shall not be mutually exclusive of Section 18 of this title.

7 Records expunged pursuant to this subsection shall be sealed to
8 the public but not to law enforcement agencies for law enforcement
9 purposes. Records expunged pursuant to this subsection shall be
10 admissible in any subsequent criminal prosecution to prove the
11 existence of a prior conviction or prior deferred judgment without
12 the necessity of a court order requesting the unsealing of such
13 records.

14 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
15 retroactive.

16 ~~E.~~ F. Whenever a judgment has been deferred by the court
17 according to the provisions of this section, deferred judgment may
18 not be accelerated, in whole or part, for any cause unless a
19 petition setting forth the grounds for such revocation is filed by
20 the district attorney with the clerk of the sentencing court and
21 competent evidence justifying the acceleration of the judgment is
22 presented to the court at a hearing to be held for that purpose.
23 The hearing shall be held twenty (20) days after the entry of the
24 plea of not guilty to the petition, unless waived by both the state

1 and the defendant. If the alleged violation is for a technical
2 violation of the terms and conditions of probation, the petition
3 shall be limited to a technical violation that has occurred within
4 sixty (60) days, provided the district attorney has received
5 adequate notice.

6 G. Upon any violation ~~of any condition~~ of the deferred
7 judgment, other than a technical violation, the court may enter a
8 judgment of guilt and proceed as provided in Section 991a of this
9 title or may modify any condition imposed. Provided, however, if
10 the deferred judgment is for a felony offense, and the defendant
11 commits another felony offense, the defendant shall not be allowed
12 bail pending appeal. Upon a technical violation of the deferred
13 judgment, the court shall sentence the offender in accordance with
14 Section 517 of Title 57 of the Oklahoma Statutes.

15 ~~F.~~ H. The deferred judgment procedure described in this section
16 shall apply only to defendants who have not been previously
17 convicted of a felony offense and have not received ~~a deferred~~
18 ~~judgment~~ more than one deferred judgment for a felony offense within
19 the ten (10) years previous to the commission of the pending
20 offense.

21 Provided, the court may waive this prohibition upon written
22 application of the district attorney. Both the application and the
23 waiver shall be made a part of the record of the case.

1 ~~G. I.~~ The deferred judgment procedure described in this section
2 shall not apply to defendants found guilty or who plead guilty or
3 nolo contendere to a sex offense required by law to register
4 pursuant to the Sex Offenders Registration Act.

5 ~~H. J. Defendants~~ All defendants who are supervised ~~by the~~
6 ~~Department of Corrections~~ pursuant to this section shall be subject
7 to the ~~intermediate~~ sanction and incentive process as established in
8 subsection B of Section 991b of this title.

9 SECTION 14. AMENDATORY 22 O.S. 2011, Section 991d, as
10 amended by Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2016,
11 Section 991d), is amended to read as follows:

12 Section 991d. A. 1. When the court orders supervision by the
13 Department of Corrections, or the district attorney requires the
14 Department to supervise any person pursuant to a deferred
15 prosecution agreement, the person shall be required to pay a
16 supervision fee of Forty Dollars (\$40.00) per month during the
17 supervision period, unless the fee would impose an unnecessary
18 hardship on the person. In hardship cases, the Department shall
19 expressly waive all or part of the fee. The court shall make
20 payment of the fee a condition of the sentence which shall be
21 imposed whether the supervision is incident to the suspending of
22 execution of a sentence, incident to the suspending of imposition of
23 a sentence, or incident to the deferral of proceedings after a
24 verdict or plea of guilty. The Department shall determine methods

1 for payment of supervision fee, and may charge a reasonable user fee
2 for collection of supervision fees electronically. The Department
3 is required to report to the sentencing court any failure of the
4 person to pay supervision fees and to report immediately if the
5 person violates any condition of the sentence.

6 2. When the court imposes a suspended or deferred sentence for
7 any offense and does not order supervision by the Department of
8 Corrections, the offender shall be required to pay to the district
9 attorney a supervision fee of Forty Dollars (\$40.00) per month as a
10 fee to compensate the district attorney for the actual act of
11 supervising the offender during the applicable period of
12 supervision. In hardship cases, the district attorney shall
13 expressly waive all or part of the fee. Any period of supervision
14 by the district attorney may not exceed a period of two (2) years
15 and supervision fees may not be collected after the two-year period
16 of supervision.

17 3. If restitution is ordered by the court in conjunction with
18 supervision, the supervision fee will be paid in addition to the
19 restitution ordered. In addition to the restitution payment and
20 supervision fee, a reasonable user fee may be charged by the
21 Department of Corrections to cover the expenses of administration of
22 the restitution, except no user fee shall be collected by the
23 Department when restitution payment is collected and disbursed to
24

1 the victim by the office of the district attorney as provided in
2 Section 991f of this title or Section 991f-1.1 of this title.

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

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

14 D. Except as provided in subsection A and this subsection, all
15 fees collected pursuant to this section shall be deposited in the
16 Department of Corrections Revolving Fund created pursuant to Section
17 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
18 ending June 30, 1996, fifty percent (50%) of all collections
19 received from offenders placed on supervision after July 1, 1995,
20 shall be transferred to the credit of the General Revenue Fund of
21 the State Treasury until such time as total transfers equal Three
22 Million Three Hundred Thousand Dollars (\$3,300,000.00).

SECTION 15. This act shall become effective November 1, 2017.

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