

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1324

By: Humphrey

7 AS INTRODUCED

8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 982, which relates to presentence
10 investigations; modifying requirements of presentence
11 investigations for certain felony offenders;
12 increasing range of presentence investigation fee;
13 authorizing presentence investigations by private
14 provider or court designee; setting fee amount;
15 providing fee payment schedules in hardship cases;
16 updating language; and providing an effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982, is
17 amended to read as follows:

18 Section 982. A. Whenever a person is convicted of a violent
19 felony offense whether the conviction is for a single offense or
20 part of any combination of offenses, except when the death sentence
21 is available as punishment for the offense, the court ~~shall~~ may,
22 before imposing the sentence, require a presentence investigation be
23 made of the offender by the Department of Corrections. ~~The court~~
24 ~~may order a presentence investigation to be conducted by the~~

1 ~~Department on any convicted felony offender prior to the court~~
2 ~~imposing a term of incarceration in the custody of the Department.~~

3 The court shall order the defendant to pay a fee to the Department
4 of Corrections of not less than Five Dollars (\$5.00), nor more than
5 ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00)
6 for the presentence investigation. In hardship cases, the court
7 shall set the amount of the fee and establish a payment schedule.

8 B. ~~The Department shall, when~~ Whenever a person has a prior
9 felony conviction and is convicted of a nonviolent offense the court
10 may, before imposing a sentence, order a presentence investigation
11 be made of the offender by a private provider or someone designated
12 by the court. The court shall order the defendant to pay to the
13 private provider or court designee assigned to complete the
14 presentence investigation a fee of not less than Five Dollars
15 (\$5.00) nor more than Five Hundred Dollars (\$500.00). In hardship
16 cases, the court shall set the amount of the fee and establish a
17 payment schedule.

18 C. When conducting a presentence investigation, the Department
19 shall inquire into the circumstances of the offense and the
20 characteristics of the offender. The information obtained from the
21 investigation shall include, but ~~shall~~ not be limited to, a
22 voluntary statement from each victim of the offense concerning the
23 nature of the offense and the impact of the offense on the victim
24 and the ~~victim's~~ immediate family of the victim, the amount of the

1 loss suffered or incurred by the victim as a result of the criminal
2 conduct of the offender, and the ~~offender's~~ age, marital status,
3 living arrangements, financial obligations, income, family history,
4 and education of the offender, prior juvenile and criminal records,
5 associations with other persons convicted of a felony offense,
6 social history, indications of a predisposition to violence or
7 substance abuse, remorse or guilt about the offense or the ~~victim's~~
8 harm, job skills, and employment history of the victim. The
9 Department shall make a report of information from such
10 investigation to the court, including a recommendation detailing the
11 punishment which is deemed appropriate for both the offense and the
12 offender, and specifically a recommendation for or against probation
13 or suspended sentence. The report of the investigation shall be
14 presented to the judge within a reasonable time, and upon failure to
15 present the report, the judge may proceed with sentencing.
16 Whenever, in the opinion of the court or the Department, it is
17 desirable, the investigation shall include a physical and mental
18 examination or either a physical or mental examination of the
19 offender.

20 ~~C.~~ D. The district attorney shall have a presentence
21 investigation made by the Department on each person charged with a
22 violent felony offense and entering a plea of guilty or a plea of
23 nolo contendere as part of or in exchange for a plea agreement for a
24 felony offense. The presentence investigation shall be completed

1 before the terms of the plea agreement are finalized. The court
2 shall not approve the terms of any plea agreement without reviewing
3 the presentence investigation report to determine whether or not the
4 terms of the sentence are appropriate for both the offender and the
5 offense. The fee provided in subsection A of this section shall
6 apply to persons subject to this subsection and shall be a condition
7 of the plea agreement and sentence.

8 ~~D.~~ E. The presentence investigation reports specified in this
9 section shall not be referred to, or be considered, in any appeal
10 proceedings. Before imposing a sentence, the court shall advise the
11 defendant, ~~the defendant's~~ counsel for the defendant, and the
12 district attorney of the factual contents and conclusions of the
13 presentence investigation report. The court shall afford the
14 offender a fair opportunity to controvert the findings and
15 conclusions of the reports at the time of sentencing. If either the
16 defendant or the district attorney desires, a hearing shall be set
17 by the court to allow both parties an opportunity to offer evidence
18 proving or disproving any finding contained in a report, which shall
19 be a hearing in mitigation or aggravation of punishment.

20 ~~E.~~ F. The required presentence investigation and report may be
21 waived upon written waiver by the district attorney and the
22 defendant and upon approval by the Court.

23 ~~F.~~ G. As used in this section, "violent felony offense" means:

24 1. Arson in the first degree;

2. Assault with a dangerous weapon, battery with a dangerous weapon or assault and battery with a dangerous weapon;
3. Aggravated assault and battery on a police officer, sheriff, highway patrol officer, or any other officer of the law;
4. Assault with intent to kill, or shooting with intent to kill;
5. Assault with intent to commit a felony, or use of a firearm to commit a felony;
6. Assault while masked or disguised;
7. Burglary in the first degree or burglary with explosives;
8. Child beating or maiming;
9. Forcible sodomy;
10. Kidnapping, or kidnapping for extortion;
11. Lewd or indecent proposition or lewd or indecent acts with a child;
12. Manslaughter in the first or second degrees;
13. Murder in the first or second degrees;
14. Rape in the first or second degrees, or rape by instrumentation;
15. Robbery in the first or second degrees, or robbery by two or more persons, or robbery with a dangerous weapon; or
16. Any attempt, solicitation or conspiracy to commit any of the above enumerated offenses.

SECTION 2. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
CORRECTIONS, dated 03/01/2017 - DO PASS.