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February 23, 2017

AS AMENDED

SENATE BILL NO. 689

By: Treat of the Senate

and

ODonnell and Young of the House

[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Any time within sixty (60) months after the initial sentence is imposed or within sixty (60) months after probation has been revoked, the court imposing sentence or revocation of probation may modify such sentence or revocation by directing that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence. Any application for sentence modification that

1 is filed and ruled upon beyond twelve (12) months of the initial
2 sentence being imposed must be approved by the district attorney who
3 shall provide written notice to any victims in the case which is
4 being considered for modification.

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

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

22 B. An offender sentenced to life without parole for an offense
23 other than a violent crime, as provided in Section 571 of Title 57
24 of the Oklahoma Statutes, who has served at least ten (10) years of

1 the sentence in the custody of the Department of Corrections, shall
2 be eligible for a modification of the sentence by the judge who
3 originally imposed the sentence or revocation of probation or, if
4 the sentencing judge is unavailable, another judge in the judicial
5 district in which the sentence was rendered. The court may modify
6 the sentence upon a finding that the best interests of the public
7 will not be 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 392, O.S.L.
11 2016 (22 O.S. Supp. 2016, Section 983b), is amended to read as
12 follows:

13 Section 983b. A. Any person released on parole or released
14 without parole from a term of imprisonment with the Department of
15 Corrections shall be required to report at a time not less than one
16 hundred eighty (180) days after his or her release from the
17 Department of Corrections to:

18 1. The district court of the county from which the judgment and
19 sentence resulting in incarceration arose; and

20 2. All other district courts or municipal courts where the
21 person owes fines, fees, costs and assessments,
22 for the purpose of scheduling a hearing to determine the ability of
23 the person to pay fines, fees, costs or assessments owed by the
24 person in every felony or misdemeanor criminal case filed in a

1 district court or criminal case filed in a municipal court of this
2 state. Such hearing shall be held in accordance with the provisions
3 of Section VIII of the Rules of the Court of Criminal Appeals, 22
4 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its
5 discretion continue such hearing for up to one hundred eighty (180)
6 days.

7 B. In determining the ability of the person to satisfy fines,
8 fees, costs or assessments owed to a district or municipal court,
9 the court shall inquire of the person at the time of the hearing
10 which counties and municipalities the person owes fines, fees, costs
11 or assessments in every felony or misdemeanor criminal case filed
12 against the person and shall consider all court-ordered debt,
13 including restitution and child support, in determining the ability
14 of the person to pay. The ~~person court~~ shall ~~not be required to pay~~
15 waive payment of any outstanding fines, fees, costs or assessments
16 prior to the expiration of the one-hundred-eighty-day period;
17 provided, however, the person shall not be precluded from
18 voluntarily making payment toward the satisfaction of any fines,
19 fees, costs or assessments due and owing to a district or municipal
20 court of this state.

21 C. ~~The Court of Criminal Appeals~~ Supreme Court shall promulgate
22 rules governing the provisions of this section including, but not
23 limited to:
24

1 1. Reporting, hearing and payment requirements as provided for
2 in subsections A and B of this section;

3 2. Consolidating district and municipal court fines, fees,
4 costs or assessments owed by a person into one order for payment;
5 and

6 3. Accepting and distributing payments received for fines,
7 fees, costs or assessments to various district and municipal courts
8 when consolidated by the court into one order for payment.

9 SECTION 5. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 983c of Title 22, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Upon the availability of funds, the Supreme Court shall
13 establish a pilot financial obligation payment program, to last for
14 a minimum of three (3) years, with programs in at least one rural
15 district and one urban district. The purpose of the pilot program
16 shall be to determine whether offenders can make consistent payments
17 of their court-ordered financial obligations for two (2) years in
18 exchange for a waiver of the remaining fines, fees and court costs.

19 B. The Supreme Court shall:

20 1. Develop rules that establish a payment plan consistent with
21 the provisions of subsection L of Section 991a of this title to
22 guide the payment plan program;

23 2. Coordinate with the Department of Corrections to ensure the
24 proper collection of financial obligations according to the payment

1 plan and that the information is communicated to the appropriate
2 court;

3 3. Authorize the judicial court districts in which the pilot
4 program is established to collect and allocate payment according to
5 the court order;

6 4. Authorize the district courts to waive financial obligations
7 once the offender has satisfied the payment requirements of the
8 pilot program;

9 5. Collect data on the amount of financial obligations ordered
10 by the court and the amount currently collected; and

11 6. Collect and compare data on an annual basis from the courts
12 that implement the pilot program and comparison courts that did not
13 implement the pilot program.

14 C. A participating court that collected less, at the end of the
15 three (3) year period, than the amount it would be expected to
16 collect based on the collection rates of the previous three (3)
17 years, shall be compensated for the loss.

18 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.2, as
19 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
20 2016, Section 988.2), is amended to read as follows:

21 Section 988.2. A. For purposes of the Oklahoma Community
22 Sentencing Act:

23 1. "Local community sentencing system" means the use of public
24 and private entities to deliver services to the sentencing court for

1 punishment of eligible felony offenders under the authority of a
2 community sentence;

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

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

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

17 5. "Incentive" means a ~~court-ordered~~ reduction or adjustment by
18 the court or the Department of Corrections in the terms or
19 conditions of a community sentence which is given for exceptional
20 performance or progress by the offender;

21 6. "Disciplinary sanction" means a ~~court-ordered~~ punishment by
22 the court or the Department of Corrections in response to a
23 technical or noncompliance violation of a community sentence or
24

1 condition of supervision which increases in intensity or duration
2 with each successive violation;

3 7. "Division" means the Community Sentencing Division within
4 the Department of Corrections which is the state administration
5 agency for the Oklahoma Community Sentencing Act, the statewide
6 community sentencing system, and all local community sentencing
7 systems;

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

~~developmental disability or a co-occurring mental illness and substance abuse disorder and who scores in the low range on the LSI or has an assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes or another assessment instrument if the offender is not otherwise prohibited by law.~~ Any consent by a district attorney shall be made a part of the record of the case; and

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

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

SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.8, is amended to read as follows:

Section 988.8. A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act shall include those community punishments and programs and services enumerated and funded in the annual plan submitted to the Community Sentencing Division within the Department of Corrections and any

1 other services or punishments subsequently added and funded during a
2 plan year. The options may not be utilized for offenders not
3 meeting the eligibility criteria of programs and score requirements
4 for the Level of Services Inventory (LSI) or other approved
5 assessment. Each local system shall strive to have available to the
6 court all of the following services for eligible offenders:

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

9 2. Substance abuse treatment and availability for periodic drug
10 testing of offenders following treatment;

11 3. Varying levels of supervision by the Department of
12 Corrections probation officers or another qualified supervision
13 source, including specialized caseloads for repeat offenders,
14 offenders with convictions for sex crimes, offenders with conviction
15 for domestic violence offenses and offenders with diagnosed mental
16 health needs;

17 4. Education and literacy provided by the State Department of
18 Education, the county library system, the local school board, or
19 another qualified source;

20 5. Employment opportunities and job skills training provided by
21 the Oklahoma Department of Career and Technology Education or
22 another qualified source;

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

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

6 ~~7.~~ 8. The availability of county jail or another restrictive
7 housing facility for limited disciplinary sanctions.

8 B. The court may order as a community punishment for an
9 eligible offender any condition listed as a condition available for
10 a suspended sentence.

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

19 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.18, is
20 amended to read as follows:

21 Section 988.18. A. On and after March 1, 2000, for each felony
22 offender considered for any community punishment pursuant to the
23 Oklahoma Community Sentencing Act, the judge shall, prior to
24

1 sentencing, order an assessment and evaluation of the defendant as
2 required by law.

3 B. The Level of Services Inventory (LSI), or another assessment
4 and evaluation instrument designed to predict risk to recidivate
5 approved by the Department of Corrections, shall be required to
6 determine eligibility for any offender sentenced pursuant to the
7 Oklahoma Community Sentencing Act. The completed assessment
8 accompanied by a written supervision plan shall be presented to and
9 reviewed by the court prior to determining any punishment for the
10 offense. The purpose of the assessment shall be to identify the
11 extent of the deficiencies and pro-social needs of the defendant,
12 the potential risk to commit additional offenses that threaten
13 public safety, and the appropriateness of various community
14 punishments.

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

3 D. The willful failure or refusal of the defendant to be
4 assessed and evaluated by using the LSI or another approved
5 assessment shall preclude the defendant from eligibility for any
6 community punishment.

7 E. The completed LSI, or other approved assessment, shall
8 include a written supervision plan and identify an appropriate
9 community punishment, if any, when the offender is considered
10 eligible for community punishments based upon the completed
11 risk/need score from the LSI assessment of the offender. Unless
12 otherwise prohibited by law, only offenders scoring in a range other
13 than the low range on the LSI assessment and having at least one
14 prior felony conviction shall be eligible for any state-funded
15 community punishments.

16 F. The court is not required to sentence any offender to a
17 community punishment regardless of an eligible score on the LSI.
18 Any felony offender scoring in the low risk/need levels on the LSI
19 may be sentenced to a suspended sentence with minimal, if any,
20 conditions of the sentence to be paid by the offender. If the LSI
21 or another assessment has been conducted, the evaluation report
22 shall accompany the judgment and sentence.

23 G. The results of the LSI or another assessment may only be
24 used to determine the appropriate sentence to be imposed that does

1 not include incarceration. The results of the LSI or another
2 assessment may not be used by the court to impose a period of
3 incarceration.

4 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.19, is
5 amended to read as follows:

6 Section 988.19. A. When ordering a community sentence or
7 community punishment, the court shall first impose a deferred or
8 suspended sentence for the offense as prescribed by law, and shall
9 then order the appropriate community punishment as a condition of
10 that deferred or suspended sentence. The design of the community
11 punishment shall be based upon the supervision and intervention
12 report from the Level of Services Inventory (LSI), or other approved
13 assessment. The local community sentencing system administrator
14 shall have authority for all offender placements within the local
15 community sentencing system pursuant to the court-ordered community
16 sentence. The local community sentencing system administrator shall
17 ensure that the supervision provider complies with the provisions of
18 Section 517 of Title 57 of the Oklahoma Statutes and Section 991b of
19 this title.

20 B. Persons convicted of or pleading guilty or nolo contendere
21 to a combination of misdemeanor and felony offenses may receive
22 services from a local community sentencing system when the county
23 agrees in writing to pay the Community Sentencing Division within
24 the Department of Corrections for the actual costs of services used

1 for misdemeanor cases. No state funds shall be used to pay for
2 misdemeanor offenses.

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

6 D. Upon consideration of a properly filed motion to modify a
7 community sentence pursuant to the provisions of this section, the
8 staff of the community sentencing system in which the offender is
9 ordered to participate, the sheriff, the district attorney, the
10 service provider, or any agency or person providing supervision of
11 the offender shall provide the court with any reports and other
12 information available and relating to the offender, and to the
13 reason for the motion to modify the sentence. The court shall
14 consider any reports and information submitted prior to modifying
15 the sentence.

16 E. If the court considers a motion to modify a community
17 sentence, a hearing shall be held in open court. The notice of the
18 hearing shall be given to the offender, the offender's legal
19 counsel, and the district attorney of the county in which the
20 offender was convicted not less than ten (10) days prior to the
21 hearing. A copy of any reports to be presented to the court shall
22 accompany the notice of hearing.

23 F. Following the hearing, the court shall enter the appropriate
24 order authorized by law. The court may modify any community

1 sentence by imposing any other punishment allowed by law for the
2 offense and appropriate for the circumstances as determined by the
3 discretion of the judge; provided, however, no punishment shall be
4 imposed which is greater than the maximum punishment allowed by law
5 for the original offense. The court shall give the offender day-
6 for-day credit on any modified sentence for any term of
7 incarceration imposed. The court may impose either a disciplinary
8 sanction or an incentive as provided in ~~Section 20 of this act~~
9 Section 988.20 of this title in lieu of or together with any
10 modification authorized by this section.

11 G. The court shall not be limited on the number of
12 modifications a sentence may have within the term of the community
13 sentence.

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

17 I. The court may revoke or accelerate a community punishment to
18 the original sentence imposed during the term of the sentence. When
19 a community sentence is revoked to state imprisonment, the court
20 shall give a day-for-day credit for any term of incarceration
21 actually served as community punishment.

22 SECTION 10. AMENDATORY 22 O.S. 2011, Section 988.20, is
23 amended to read as follows:
24

1 Section 988.20. A. Upon proper motion to the court to modify a
2 community sentence as provided in Section 988.19 of this title, the
3 judge shall have authority to impose disciplinary sanctions or
4 incentives. An order for a disciplinary sanction shall not modify
5 the terms of the original sentence and shall be imposed only to gain
6 compliance with the terms of the court-ordered community punishment.
7 The court may order any community punishment available and funded in
8 the jurisdiction that is deemed appropriate by the judge for the
9 circumstance including, but not limited to, a term of imprisonment
10 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
11 title per ~~disciplinary order~~ motion for modification in either:

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

16 When the offender is to be confined, the sheriff shall, upon order
17 of the court, deliver the offender to the designated place of
18 confinement, provided the place of confinement has an agreement for
19 confinement services with the local community sentencing system or
20 is the county jail. The sheriff shall be reimbursed by the local
21 community sentencing system for transporting offenders pursuant to
22 this subsection. The offender shall be given day-for-day credit for
23 any terms of incarceration served in the county jail or other
24 restrictive facility when the sentence is modified.

1 B. The court may, through a standing court order, provide for
2 specific ~~disciplinary~~ sanctions and incentives specified in Section
3 517 of Title 57 of the Oklahoma Statutes which may be utilized by
4 the local administrator upon notification to the court.

5 C. When a motion for modification has been filed pursuant to
6 Section 988.19 of this title, the court shall have authority to
7 offer incentives to offenders to encourage proper conduct in the
8 community and for compliance with the community punishments pursuant
9 to Section 517 of Title 57 of the Oklahoma Statutes or any other
10 incentive the court deems appropriate. The court shall use its
11 discretion in ordering appropriate incentives. Incentives shall be
12 considered a reduction and modification to the community punishment
13 and may be ordered after the motion to modify has been heard.

14 D. When any offender is disciplined by the court as authorized
15 by this section and is to be imprisoned in the county jail or other
16 restrictive facility, the sheriff or facility administrator shall
17 receive compensation as provided by their agreement with the local
18 community sentencing system, or the sheriff or facility
19 administrator shall be paid directly for the services by the
20 offender when ordered to pay for the confinement as part of the
21 disciplinary sanction. In no event shall any compensation for
22 disciplinary confinement exceed the maximum amount provided for
23 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
24 Statutes.

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

3 SECTION 11. AMENDATORY 22 O.S. 2011, Section 988.22, is
4 amended to read as follows:

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

8 B. Upon completion of any court-ordered provision, pursuant to
9 the Oklahoma Community Sentencing Act, the administrator of the
10 local system shall file a statement with the court defining the
11 provision which has been successfully completed. When all court-
12 ordered provisions have been successfully completed the defendant
13 shall be deemed to have completed the community punishment.

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

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

1 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991a, as
2 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
3 2016, Section 991a), is amended to read as follows:

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

8 1. Suspend the execution of sentence in whole or in part, with
9 or without probation. The court, in addition, may order the
10 convicted defendant at the time of sentencing or at any time during
11 the suspended sentence to do one or more of the following:

- 12 a. to provide restitution to the victim as provided by
13 Section 991f et seq. of this title or according to a
14 schedule of payments established by the sentencing
15 court, together with interest upon any pecuniary sum
16 at the rate of twelve percent (12%) per annum, if the
17 defendant agrees to pay such restitution or, in the
18 opinion of the court, if the defendant is able to pay
19 such restitution without imposing manifest hardship on
20 the defendant or the immediate family and if the
21 extent of the damage to the victim is determinable
22 with reasonable certainty,
- 23 b. to reimburse any state agency for amounts paid by the
24 state agency for hospital and medical expenses

1 incurred by the victim or victims, as a result of the
2 criminal act for which such person was convicted,
3 which reimbursement shall be made directly to the
4 state agency, with interest accruing thereon at the
5 rate of twelve percent (12%) per annum,

6 c. to engage in a term of community service without
7 compensation, according to a schedule consistent with
8 the employment and family responsibilities of the
9 person convicted,

10 d. to pay a reasonable sum into any trust fund,
11 established pursuant to the provisions of Sections 176
12 through 180.4 of Title 60 of the Oklahoma Statutes,
13 and which provides restitution payments by convicted
14 defendants to victims of crimes committed within this
15 state wherein such victim has incurred a financial
16 loss,

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

19 f. to confinement as provided by law together with a term
20 of post-imprisonment community supervision for not
21 less than three (3) years of the total term allowed by
22 law for imprisonment, with or without restitution;
23 provided, however, the authority of this provision is
24 limited to Section 843.5 of Title 21 of the Oklahoma

1 Statutes when the offense involved sexual abuse or
2 sexual exploitation; Sections 681, 741 and 843.1 of
3 Title 21 of the Oklahoma Statutes when the offense
4 involved sexual abuse or sexual exploitation; and
5 Sections 865 et seq., 885, 886, 888, 891, 1021,
6 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
7 1123 of Title 21 of the Oklahoma Statutes,
8 g. to repay the reward or part of the reward paid by a
9 local certified crime stoppers program and the
10 Oklahoma Reward System. In determining whether the
11 defendant shall repay the reward or part of the
12 reward, the court shall consider the ability of the
13 defendant to make the payment, the financial hardship
14 on the defendant to make the required payment, and the
15 importance of the information to the prosecution of
16 the defendant as provided by the arresting officer or
17 the district attorney with due regard for the
18 confidentiality of the records of the local certified
19 crime stoppers program and the Oklahoma Reward System.
20 The court shall assess this repayment against the
21 defendant as a cost of prosecution. The term
22 "certified" means crime stoppers organizations that
23 annually meet the certification standards for crime
24 stoppers programs established by the Oklahoma Crime

1 Stoppers Association to the extent those standards do
2 not conflict with state statutes. The term "court"
3 refers to all municipal and district courts within
4 this state. The "Oklahoma Reward System" means the
5 reward program established by Section 150.18 of Title
6 74 of the Oklahoma Statutes,

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

18 i. to reimburse the Oklahoma State Bureau of
19 Investigation and any authorized law enforcement
20 agency for all costs incurred by that agency for
21 cleaning up an illegal drug laboratory site for which
22 the defendant pleaded guilty, nolo contendere or was
23 convicted. The court clerk shall collect the amount
24 and may retain five percent (5%) of such monies to be

1 deposited in the Court Clerk Revolving Fund to cover
2 administrative costs and shall remit the remainder to
3 the Oklahoma State Bureau of Investigation to be
4 deposited in the OSBI Revolving Fund established by
5 Section 150.19a of Title 74 of the Oklahoma Statutes
6 or to the general fund wherein the other law
7 enforcement agency is located,

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

12 k. to reimburse the court fund for amounts paid to court-
13 appointed attorneys for representing the defendant in
14 the case in which the person is being sentenced,

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

- 1 m. to be placed in a victims impact panel program, as
2 defined in subsection H of this section, or
3 victim/offender reconciliation program and payment of
4 a fee to the program of not less than Fifteen Dollars
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
6 by the governing authority of the program to offset
7 the cost of participation by the defendant. Provided,
8 each victim/offender reconciliation program shall be
9 required to obtain a written consent form voluntarily
10 signed by the victim and defendant that specifies the
11 methods to be used to resolve the issues, the
12 obligations and rights of each person, and the
13 confidentiality of the proceedings. Volunteer
14 mediators and employees of a victim/offender
15 reconciliation program shall be immune from liability
16 and have rights of confidentiality as provided in
17 Section 1805 of Title 12 of the Oklahoma Statutes,
- 18 n. to install, at the expense of the defendant, an
19 ignition interlock device approved by the Board of
20 Tests for Alcohol and Drug Influence. The device
21 shall be installed upon every motor vehicle operated
22 by the defendant, and the court shall require that a
23 notation of this restriction be affixed to the
24 defendant's driver license. The restriction shall

1 remain on the driver license not exceeding two (2)
2 years to be determined by the court. The restriction
3 may be modified or removed only by order of the court
4 and notice of any modification order shall be given to
5 the Department of Public Safety. Upon the expiration
6 of the period for the restriction, the Department of
7 Public Safety shall remove the restriction without
8 further court order. Failure to comply with the order
9 to install an ignition interlock device or operating
10 any vehicle without a device during the period of
11 restriction shall be a violation of the sentence and
12 may be punished as deemed proper by the sentencing
13 court. As used in this paragraph, "ignition interlock
14 device" means a device that, without tampering or
15 intervention by another person, would prevent the
16 defendant from operating a motor vehicle if the
17 defendant has a blood or breath alcohol concentration
18 of two-hundredths (0.02) or greater,

- 19 o. to be confined by electronic monitoring administered
20 and supervised by the Department of Corrections or a
21 community sentence provider, and payment of a
22 monitoring fee to the supervising authority, not to
23 exceed Three Hundred Dollars (\$300.00) per month. Any
24 fees collected pursuant to this paragraph shall be

1 deposited with the appropriate supervising authority.
2 Any willful ~~violation~~ nonpayment of an order of the
3 court for the payment of the monitoring fee shall be a
4 violation of the sentence and may be punished as
5 deemed proper by the sentencing court. As used in
6 this paragraph, "electronic monitoring" means
7 confinement of the defendant within a specified
8 location or locations with supervision by means of an
9 electronic device approved by the Department of
10 Corrections which is designed to detect if the
11 defendant is in the court-ordered location at the
12 required times and which records violations for
13 investigation by a qualified supervisory agency or
14 person,

- 15 p. to perform one or more courses of treatment, education
16 or rehabilitation for any conditions, behaviors,
17 deficiencies or disorders which may contribute to
18 criminal conduct, including but not limited to alcohol
19 and substance abuse, mental health, emotional health,
20 physical health, propensity for violence, antisocial
21 behavior, personality or attitudes, deviant sexual
22 behavior, child development, parenting assistance, job
23 skills, vocational-technical skills, domestic
24 relations, literacy, education, or any other

1 identifiable deficiency which may be treated
2 appropriately in the community and for which a
3 certified provider or a program recognized by the
4 court as having significant positive impact exists in
5 the community. Any treatment, education or
6 rehabilitation provider required to be certified
7 pursuant to law or rule shall be certified by the
8 appropriate state agency or a national organization,
9 q. to submit to periodic testing for alcohol,
10 intoxicating substance, or controlled dangerous
11 substances by a qualified laboratory,
12 r. to pay a fee, costs for treatment, education,
13 supervision, participation in a program, or any
14 combination thereof as determined by the court, based
15 upon the defendant's ability to pay the fees or costs,
16 s. to be supervised by a Department of Corrections
17 employee, a private supervision provider, or other
18 person designated by the court,
19 t. to obtain positive behavior modeling by a trained
20 mentor,
21 u. to serve a term of confinement in a restrictive
22 housing facility available in the community,
23
24

- 1 v. to serve a term of confinement in the county jail at
2 night or during weekends pursuant to Section 991a-2 of
3 this title or for work release,
- 4 w. to obtain employment or participate in employment-
5 related activities,
- 6 x. to participate in mandatory day reporting to
7 facilities or persons for services, payments, duties
8 or person-to-person contacts as specified by the
9 court,
- 10 y. to pay day fines not to exceed fifty percent (50%) of
11 the net wages earned if the court determines that the
12 offender requires a payment plan based on
13 discretionary income as defined in subsection L of
14 this section. For purposes of this paragraph, "day
15 fine" means the offender is ordered to pay an amount
16 calculated as a percentage of net daily wages earned.
17 The day fine shall be paid to the local community
18 sentencing system as reparation to the community. Day
19 fines shall be used to support the local system,
- 20 z. to submit to blood or saliva testing as required by
21 subsection I of this section,
- 22 aa. to repair or restore property damaged by the
23 defendant's conduct, if the court determines the
24 defendant possesses sufficient skill to repair or

1 restore the property and the victim consents to the
2 repairing or restoring of the property,
3 bb. to restore damaged property in kind or payment of out-
4 of-pocket expenses to the victim, if the court is able
5 to determine the actual out-of-pocket expenses
6 suffered by the victim,
7 cc. to attend a victim-offender reconciliation program if
8 the victim agrees to participate and the offender is
9 deemed appropriate for participation,
10 dd. in the case of a person convicted of prostitution
11 pursuant to Section 1029 of Title 21 of the Oklahoma
12 Statutes, require such person to receive counseling
13 for the behavior which may have caused such person to
14 engage in prostitution activities. Such person may be
15 required to receive counseling in areas including but
16 not limited to alcohol and substance abuse, sexual
17 behavior problems, or domestic abuse or child abuse
18 problems,
19 ee. in the case of a sex offender sentenced after November
20 1, 1989, and required by law to register pursuant to
21 the Sex Offender Registration Act, the court shall
22 require the person to comply with sex offender
23 specific rules and conditions of supervision
24 established by the Department of Corrections and

1 require the person to participate in a treatment
2 program designed for the treatment of sex offenders
3 during the period of time while the offender is
4 subject to supervision by the Department of
5 Corrections. The treatment program shall include
6 polygraph examinations specifically designed for use
7 with sex offenders for purposes of supervision and
8 treatment compliance, and shall be administered not
9 less than each six (6) months during the period of
10 supervision. The examination shall be administered by
11 a certified licensed polygraph examiner. The
12 treatment program must be approved by the Department
13 of Corrections or the Department of Mental Health and
14 Substance Abuse Services. Such treatment shall be at
15 the expense of the defendant based on the defendant's
16 ability to pay,

17 ff. in addition to other sentencing powers of the court,
18 the court in the case of a defendant being sentenced
19 for a felony conviction for a violation of Section 2-
20 402 of Title 63 of the Oklahoma Statutes which
21 involves marijuana may require the person to
22 participate in a drug court program, if available. If
23 a drug court program is not available, the defendant
24

1 may be required to participate in a community
2 sanctions program, if available,
3 gg. in the case of a person convicted of any false or
4 bogus check violation, as defined in Section 1541.4 of
5 Title 21 of the Oklahoma Statutes, impose a fee of
6 Twenty-five Dollars (\$25.00) to the victim for each
7 check, and impose a bogus check fee to be paid to the
8 district attorney. The bogus check fee paid to the
9 district attorney shall be equal to the amount
10 assessed as court costs plus Twenty-five Dollars
11 (\$25.00) for each check upon filing of the case in
12 district court. This money shall be deposited in the
13 Bogus Check Restitution Program Fund as established in
14 subsection B of Section 114 of this title.
15 Additionally, the court may require the offender to
16 pay restitution and bogus check fees on any other
17 bogus check or checks that have been submitted to the
18 District Attorney Bogus Check Restitution Program, ~~and~~
19 hh. in the case of a person being sentenced for a
20 conviction for a violation of Section 644 of Title 21
21 of the Oklahoma Statutes, require the person to
22 receive an assessment for batterers, which shall be
23 conducted through a certified treatment program for
24 batterers, and

1 ii. any other provision specifically ordered by the court.

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

7 However, unless under the supervision of the district attorney,
8 the offender shall be required to pay Forty Dollars (\$40.00) per
9 month to the district attorney during the first two (2) years of
10 probation to compensate the district attorney for the costs incurred
11 during the prosecution of the offender and for the additional work
12 of verifying the compliance of the offender with the rules and
13 conditions of his or her probation. The district attorney may waive
14 any part of this requirement in the best interests of justice. The
15 court shall not waive, suspend, defer or dismiss the costs of
16 prosecution in its entirety. However, if the court determines
17 pursuant to subsection L of this section that a reduction in the
18 fine, costs and costs of prosecution is warranted, the court shall
19 equally apply the same percentage reduction to the fine, costs and
20 costs of prosecution owed by the offender;

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

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

3 4. Order the defendant to reimburse the Oklahoma State Bureau
4 of Investigation for costs incurred by that agency during its
5 investigation of the crime for which the defendant pleaded guilty,
6 nolo contendere or was convicted, including compensation for
7 laboratory, technical, or investigation services performed by the
8 Bureau if, in the opinion of the court, the defendant is able to pay
9 without imposing manifest hardship on the defendant, and if the
10 costs incurred by the Bureau during the investigation of the
11 defendant's case may be determined with reasonable certainty;

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

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

1 7. In addition to the other sentencing powers of the court, in
2 the case of a person convicted of operating or being in control of a
3 motor vehicle while the person was under the influence of alcohol,
4 other intoxicating substance, or a combination of alcohol or another
5 intoxicating substance, or convicted of operating a motor vehicle
6 while the ability of the person to operate such vehicle was impaired
7 due to the consumption of alcohol, require such person:

8 a. to participate in an alcohol and drug assessment and
9 evaluation by an assessment agency or assessment
10 personnel certified by the Department of Mental Health
11 and Substance Abuse Services pursuant to Section 3-460
12 of Title 43A of the Oklahoma Statutes and, as
13 determined by the assessment, participate in an
14 alcohol and drug substance abuse course or treatment
15 program or both, pursuant to Sections 3-452 and 3-453
16 of Title 43A of the Oklahoma Statutes,

17 b. to attend a victims impact panel program, as defined
18 in subsection H of this section, if such a program is
19 offered in the county where the judgment is rendered,
20 and to pay a fee of not less than Fifteen Dollars
21 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
22 by the governing authority of the program and approved
23 by the court, to the program to offset the cost of
24 participation by the defendant, if in the opinion of

1 the court the defendant has the ability to pay such
2 fee,

3 c. to both participate in the alcohol and drug substance
4 abuse course or treatment program, pursuant to
5 subparagraph a of this paragraph and attend a victims
6 impact panel program, pursuant to subparagraph b of
7 this paragraph,

8 d. to install, at the expense of the person, an ignition
9 interlock device approved by the Board of Tests for
10 Alcohol and Drug Influence, upon every motor vehicle
11 operated by such person and to require that a notation
12 of this restriction be affixed to the person's driver
13 license at the time of reinstatement of the license.
14 The restriction shall remain on the driver license for
15 such period as the court shall determine. The
16 restriction may be modified or removed by order of the
17 court and notice of the order shall be given to the
18 Department of Public Safety. Upon the expiration of
19 the period for the restriction, the Department of
20 Public Safety shall remove the restriction without
21 further court order. Failure to comply with the order
22 to install an ignition interlock device or operating
23 any vehicle without such device during the period of
24 restriction shall be a violation of the sentence and

1 may be punished as deemed proper by the sentencing
2 court, or

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

15 8. In addition to the other sentencing powers of the court, in
16 the case of a person convicted of prostitution pursuant to Section
17 1029 of Title 21 of the Oklahoma Statutes, require such person to
18 receive counseling for the behavior which may have caused such
19 person to engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but not limited to
21 alcohol and substance abuse, sexual behavior problems, or domestic
22 abuse or child abuse problems;

23 9. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of any crime related to domestic

1 abuse, as defined in Section 60.1 of this title, the court may
2 require the defendant to undergo the treatment or participate in the
3 counseling services ~~necessary to bring about the cessation of~~
4 ~~domestic abuse against the victim~~ as recommended by the results of
5 the assessment conducted pursuant to the provisions of subparagraph
6 hh of paragraph 1 of subsection A of this section. The defendant
7 may be required to pay all or part of the cost of the treatment or
8 counseling services;

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

22 11. In addition to the other sentencing powers of the court,
23 the court, in the case of a person convicted of child abuse or
24 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma

1 Statutes, may require the person to undergo treatment or to
2 participate in counseling services. The defendant may be required
3 to pay all or part of the cost of the treatment or counseling
4 services;

5 12. In addition to the other sentencing powers of the court,
6 the court, in the case of a person convicted of cruelty to animals
7 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
8 require the person to pay restitution to animal facilities for
9 medical care and any boarding costs of victimized animals;

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

19 14. In addition to the other sentencing powers of the court, in
20 the case of a sex offender who is required by law to register
21 pursuant to the Sex Offenders Registration Act, the court may
22 prohibit the person from accessing or using any Internet social
23 networking web site that has the potential or likelihood of allowing
24

1 the sex offender to have contact with any child who is under the age
2 of eighteen (18) years; or

3 15. In addition to the other sentencing powers of the court, in
4 the case of a sex offender who is required by law to register
5 pursuant to the Sex Offenders Registration Act, the court shall
6 require the person to register any electronic mail address
7 information, instant message, chat or other Internet communication
8 name or identity information that the person uses or intends to use
9 while accessing the Internet or used for other purposes of social
10 networking or other similar Internet communication.

11 B. Notwithstanding any other provision of law, any person who
12 is found guilty of a violation of any provision of Section 761 or
13 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
14 guilty or nolo contendere for a violation of any provision of such
15 sections shall be ordered to participate in, prior to sentencing, an
16 alcohol and drug assessment and evaluation by an assessment agency
17 or assessment personnel certified by the Department of Mental Health
18 and Substance Abuse Services for the purpose of evaluating the
19 receptivity to treatment and prognosis of the person. The court
20 shall order the person to reimburse the agency or assessor for the
21 evaluation. The fee shall be the amount provided in subsection C of
22 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
23 shall be conducted at a certified assessment agency, the office of a
24 certified assessor or at another location as ordered by the court.

1 The agency or assessor shall, within seventy-two (72) hours from the
2 time the person is assessed, submit a written report to the court
3 for the purpose of assisting the court in its final sentencing
4 determination. No person, agency or facility operating an alcohol
5 and drug substance abuse evaluation program certified by the
6 Department of Mental Health and Substance Abuse Services shall
7 solicit or refer any person evaluated pursuant to this subsection
8 for any treatment program or alcohol and drug substance abuse
9 service in which such person, agency or facility has a vested
10 interest; however, this provision shall not be construed to prohibit
11 the court from ordering participation in or any person from
12 voluntarily utilizing a treatment program or alcohol and drug
13 substance abuse service offered by such person, agency or facility.
14 If a person is sentenced to the custody of the Department of
15 Corrections and the court has received a written evaluation report
16 pursuant to this subsection, the report shall be furnished to the
17 Department of Corrections with the judgment and sentence. Any
18 evaluation report submitted to the court pursuant to this subsection
19 shall be handled in a manner which will keep such report
20 confidential from the general public's review. Nothing contained in
21 this subsection shall be construed to prohibit the court from
22 ordering judgment and sentence in the event the defendant fails or
23 refuses to comply with an order of the court to obtain the
24 evaluation required by this subsection.

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

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

9 2. A fourth or subsequent conviction for any other felony
10 crime; or

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

15 In the case of a person being sentenced for ~~their~~ a second or
16 subsequent felony conviction for violation of Section 11-902 of
17 Title 47 of the Oklahoma Statutes, the court may sentence the person
18 pursuant to the provisions of paragraph 1 of subsection A of this
19 section if the court orders the person to submit to electronically
20 monitored home detention administered and supervised by the
21 Department of Corrections pursuant to subparagraph e of paragraph 7
22 of subsection A of this section. Provided, the court may waive
23 these prohibitions upon written application of the district
24

1 attorney. Both the application and the waiver shall be made part of
2 the record of the case.

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

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

1 expiration of the maximum term or terms of the sentence upon a
2 determination by the court or the Division of Probation and Parole
3 of the Department of Corrections that the best interests of the
4 public and the release will be served by an extended period of
5 supervision. Every person on probation supervision, except a person
6 convicted of an offense enumerated in Section 13.1 of Title 21 of
7 the Oklahoma Statutes, shall be eligible to earn discharge credits
8 that reduce the period of supervision and the term of sentence of
9 the person for compliance with the terms and conditions of
10 supervision.

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

17 G. 1. The Department of Corrections is hereby authorized,
18 subject to funds available through appropriation by the Legislature,
19 to contract with counties for the administration of county Community
20 Service Sentencing Programs.

21 2. Any offender eligible to participate in the Program pursuant
22 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
23 participate in a county Program; provided, participation in county-
24 funded Programs shall not be limited to offenders who would

1 otherwise be sentenced to confinement with the Department of
2 Corrections.

3 3. The Department shall establish criteria and specifications
4 for contracts with counties for such Programs. A county may apply
5 to the Department for a contract for a county-funded Program for a
6 specific period of time. The Department shall be responsible for
7 ensuring that any contracting county complies in full with
8 specifications and requirements of the contract. The contract shall
9 set appropriate compensation to the county for services to the
10 Department.

11 4. The Department is hereby authorized to provide technical
12 assistance to any county in establishing a Program, regardless of
13 whether the county enters into a contract pursuant to this
14 subsection. Technical assistance shall include appropriate
15 staffing, development of community resources, sponsorship,
16 supervision and any other requirements.

17 5. The Department shall annually make a report to the Governor,
18 the President Pro Tempore of the Senate and the Speaker of the House
19 on the number of such Programs, the number of participating
20 offenders, the success rates of each Program according to criteria
21 established by the Department and the costs of each Program.

22 H. As used in this section:

23 1. "Ignition interlock device" means a device that, without
24 tampering or intervention by another person, would prevent the

1 defendant from operating a motor vehicle if the defendant has a
2 blood or breath alcohol concentration of two-hundredths (0.02) or
3 greater;

4 2. "Electronically monitored home detention" means
5 incarceration of the defendant within a specified location or
6 locations with monitoring by means of a device approved by the
7 Department of Corrections that detects if the person leaves the
8 confines of any specified location; and

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

1 an accurate accounting of all business transactions and funds
2 received in relation to the victims impact panel program.

3 I. A person convicted of a felony offense or receiving any form
4 of probation for an offense in which registration is required
5 pursuant to the Sex Offenders Registration Act, shall submit to
6 deoxyribonucleic acid DNA testing for law enforcement identification
7 purposes in accordance with Section 150.27 of Title 74 of the
8 Oklahoma Statutes and the rules promulgated by the Oklahoma State
9 Bureau of Investigation for the OSBI Combined DNA Index System
10 (CODIS) Database. Subject to the availability of funds, any person
11 convicted of a misdemeanor offense of assault and battery, domestic
12 abuse, stalking, possession of a controlled substance prohibited
13 under Schedule IV of the Uniform Controlled Dangerous Substances
14 Act, outraging public decency, resisting arrest, escape or
15 attempting to escape, eluding a police officer, peeping tom,
16 pointing a firearm, unlawful carry of a firearm, illegal transport
17 of a firearm, discharging of a firearm, threatening an act of
18 violence, breaking and entering a dwelling place, destruction of
19 property, negligent homicide, or causing a personal injury accident
20 while driving under the influence of any intoxicating substance, or
21 any alien unlawfully present under federal immigration law, upon
22 arrest, shall submit to deoxyribonucleic acid DNA testing for law
23 enforcement identification purposes in accordance with Section
24 150.27 of Title 74 of the Oklahoma Statutes and the rules

1 promulgated by the Oklahoma State Bureau of Investigation for the
2 OSBI Combined DNA Index System (CODIS) Database. Any defendant
3 sentenced to probation shall be required to submit to testing within
4 thirty (30) days of sentencing either to the Department of
5 Corrections or to the county sheriff or other peace officer as
6 directed by the court. Defendants who are sentenced to a term of
7 incarceration shall submit to testing in accordance with Section
8 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
9 enter the custody of the Department of Corrections or to the county
10 sheriff, for those defendants sentenced to incarceration in a county
11 jail. Convicted individuals who have previously submitted to DNA
12 testing under this section and for whom a valid sample is on file in
13 the OSBI Combined DNA Index System (CODIS) Database at the time of
14 sentencing shall not be required to submit to additional testing.
15 Except as required by the Sex Offenders Registration Act, a deferred
16 judgment does not require submission to deoxyribonucleic acid
17 testing.

18 Any person who is incarcerated in the custody of the Department
19 of Corrections after July 1, 1996, and who has not been released
20 before January 1, 2006, shall provide a blood or saliva sample prior
21 to release. Every person subject to DNA testing after January 1,
22 2006, whose sentence does not include a term of confinement with the
23 Department of Corrections, shall submit a blood or saliva sample.
24 Every person subject to DNA testing who is sentenced to unsupervised

1 probation or otherwise not supervised by the Department of
2 Corrections shall submit for blood or saliva testing to the sheriff
3 of the sentencing county.

4 J. Samples of blood or saliva for DNA testing required by
5 subsection I of this section shall be taken by employees or
6 contractors of the Department of Corrections, peace officers, or the
7 county sheriff or employees or contractors of the sheriff's office.
8 The individuals shall be properly trained to collect blood or saliva
9 samples. Persons collecting blood or saliva for DNA testing
10 pursuant to this section shall be immune from civil liabilities
11 arising from this activity. All collectors of DNA samples shall
12 ensure the collection of samples are mailed to the Oklahoma State
13 Bureau of Investigation within ten (10) days of the time the subject
14 appears for testing or within ten (10) days of the date the subject
15 comes into physical custody to serve a term of incarceration. All
16 collectors of DNA samples shall use sample kits provided by the OSBI
17 and procedures promulgated by the OSBI. Persons subject to DNA
18 testing who are not received at the Lexington Assessment and
19 Reception Center shall be required to pay a fee of Fifteen Dollars
20 (\$15.00) to the agency collecting the sample for submission to the
21 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
22 pursuant to this subsection shall be deposited in the revolving
23 account or the service fee account of the collection agency or
24 department.

1 K. When sentencing a person who has been convicted of a crime
2 that would subject that person to the provisions of the Sex
3 Offenders Registration Act, neither the court nor the district
4 attorney shall be allowed to waive or exempt such person from the
5 registration requirements of the Sex Offenders Registration Act.

6 L. Any person who has been ordered by the court to pay a fine,
7 court cost, fee or assessment or any combination thereof under the
8 provisions of this section may request a hearing to establish a
9 payment plan. The payment plan authorized under this subsection
10 shall be determined by assessing the discretionary income of the
11 person. As used in this subsection, "discretionary income" shall be
12 defined as income in excess of one hundred-fifty percent (150%) of
13 the federal poverty line. After a judicial determination of the
14 discretionary income of a person, the court shall order the total
15 amount of the financial obligation of the person, excluding
16 restitution, be paid in installments equal to no more than ten
17 percent (10%) of the discretionary income of the person. The
18 payment plan shall be established regardless of the results of an
19 indigent request for representation as provided in Section 1355A of
20 this title. The payment plan established under the provisions of
21 this subsection shall apply to all fines, court costs and fees
22 ordered by the court pursuant to this section and all subsections
23 therein.

1 SECTION 13. AMENDATORY 22 O.S. 2011, Section 991b, as
2 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
3 2016, Section 991b), is amended to read as follows:

4 Section 991b. A. Whenever a sentence has been suspended by the
5 court after conviction of a person for any crime, the suspended
6 sentence of the person may not be revoked, in whole or part, for any
7 cause unless a petition setting forth the grounds for such
8 revocation is filed by the district attorney with the clerk of the
9 sentencing court and competent evidence justifying the revocation of
10 the suspended sentence is presented to the court at a hearing to be
11 held for that purpose within ~~twenty (20)~~ ten (10) days after the
12 entry of the plea of not guilty to the petition, unless waived by
13 both the state and the defendant. If the alleged violation is for a
14 technical violation of the terms and conditions of probation, the
15 district attorney shall have sixty (60) days from the date of the
16 application for revocation to file a petition pursuant to this
17 section. The State of Oklahoma may dismiss the petition without
18 prejudice one time upon good cause shown to the court, provided that
19 any successor petition must be filed within forty-five (45) days of
20 the date of the dismissal of the petition.

21 B. 1. The Department of Corrections shall develop a matrix of
22 ~~technical violations and sanctions~~ and incentives to ~~address~~
23 ~~violations~~ respond to behavior committed by persons who are being
24 supervised by the Department. The Department shall be authorized to

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

1 forms, policies and procedures necessary to implement this
2 provision. If the severity of the violation warrants or the
3 graduated use of sanctions has been exhausted and the noncompliant
4 behavior has continued, the probation officer may recommend
5 revocation of the probation of the offender to the hearing officer
6 of the Department or appropriate supervising authority. The
7 Department of Corrections shall establish procedures to hear
8 responses to technical violations and review sanction plans
9 including the following:

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

22 2. The hearing officer shall determine based on a preponderance
23 of the evidence whether a technical violation occurred. Upon a
24 finding that a technical violation occurred, the hearing officer may

1 order the offender to participate in the recommended sanction plan
2 or may modify the plan. Offenders who accept the sanction plan
3 shall sign a violation response sanction form, and the hearing
4 officer shall then impose the sanction. Failure of the offender to
5 comply with the imposed sanction plan shall constitute a violation
6 of the rules and conditions of supervision that may result in a
7 revocation proceeding. If an offender does not voluntarily accept
8 the recommended sanction plan, the Department shall either impose
9 the sanction and allow the offender to appeal to the district court,
10 or request a revocation proceeding as provided by law. Every
11 administrative hearing and sanction imposed by the Department shall
12 be appealable to the district court.

13 3. Absent a finding by the probation officer of willful
14 nonpayment by the offender, the failure of an offender to pay fines
15 and costs may not serve as a basis for revocation, excluding
16 restitution.

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

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

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

19 D. The Except as provided in Section 517 of Title 57 of the
20 Oklahoma Statutes, the court may revoke a portion of the sentence
21 and leave the remaining part not revoked, but suspended for the
22 remainder of the term of the sentence, and under the provisions
23 applying to it. The person whose suspended sentence is being
24 considered for revocation at the hearing shall have the right to be

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

10 E. If the court revokes a suspended sentence for a technical
11 violation of the terms and conditions of probation, the court shall
12 sentence the offender in accordance with Section 517 of Title 57 of
13 the Oklahoma Statutes.

14 SECTION 14. AMENDATORY 22 O.S. 2011, Section 991c, as
15 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
16 2016, Section 991c), is amended to read as follows:

17 Section 991c. A. Upon a verdict or plea of guilty or upon a
18 plea of nolo contendere, but before a judgment of guilt, the court
19 may, without entering a judgment of guilt and with the consent of
20 the defendant, defer further proceedings upon the specific
21 conditions prescribed by the court not to exceed a ~~ten-year~~ nine-
22 year period, except as authorized under subsection B of this
23 section. The court shall first consider restitution among the
24

1 various conditions it may prescribe. The court may also consider
2 ordering the defendant to:

- 3 1. Pay court costs;
- 4 2. Pay an assessment in lieu of any fine authorized by law for
5 the offense;
- 6 3. Pay any other assessment or cost authorized by law;
- 7 4. Engage in a term of community service without compensation,
8 according to a schedule consistent with the employment and family
9 responsibilities of the defendant;
- 10 5. County jail confinement for a period not to exceed ninety
11 (90) days or the maximum amount of jail time provided for the
12 offense, if it is less than ninety (90) days;
- 13 6. Pay an amount as reimbursement for reasonable attorney fees,
14 to be paid into the court fund, if a court-appointed attorney has
15 been provided to defendant;
- 16 7. Be supervised in the community for a period not to exceed
17 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
18 violation of any condition of deferred judgment is filed during the
19 period of supervision. As a condition of any supervision, the
20 defendant shall be required to pay a supervision fee of Forty
21 Dollars (\$40.00) per month. The supervision fee shall be waived in
22 whole or part by the supervisory agency when the accused is
23 indigent. No person shall be denied supervision based solely on the
24 inability of the person to pay a fee;

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

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

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

12 11. Any combination of the above provisions.

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

1 reduction to the fine, costs and costs of prosecution owed by the
2 offender.

3 B. When the court has ordered restitution as a condition of
4 supervision as provided for in subsection A of this section and that
5 condition has not been satisfied, the court may, at any time prior
6 to the termination or expiration of the supervision period, order an
7 extension for a period not to exceed five (5) years.

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

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

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

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

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

1 the opinion of the court the defendant has the ability to pay such
2 fee.

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

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

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

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

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

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

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

12 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
13 retroactive.

14 ~~E.~~ F. Whenever a judgment has been deferred by the court
15 according to the provisions of this section, deferred judgment may
16 not be accelerated, in whole or part, for any cause unless a
17 petition setting forth the grounds for such revocation is filed by
18 the district attorney with the clerk of the sentencing court and
19 competent evidence justifying the acceleration of the judgment is
20 presented to the court at a hearing to be held for that purpose.
21 The hearing shall be held ten (10) days after the entry of the plea
22 of not guilty to the petition, unless waived by both the state and
23 the defendant. If the alleged violation is for a technical
24 violation of the terms and conditions of probation, the district

1 attorney shall have sixty (60) days from the date of the application
2 for revocation to file a petition pursuant to this subsection.

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

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

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

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

1 H. J. Defendants who are supervised by the Department of
2 Corrections pursuant to this section shall be subject to the
3 ~~intermediate~~ sanction and incentive process as established in
4 subsection B of Section 991b of this title.

5 SECTION 15. AMENDATORY 22 O.S. 2011, Section 996.2, is
6 amended to read as follows:

7 Section 996.2. The Department of Corrections shall establish
8 and carry out the provisions of the Delayed Sentencing Program for
9 Young Adults. The Program shall be ~~not less than one hundred eighty~~
10 ~~(180) days nor more than~~ not more than six (6) months of confinement
11 and not more than six (6) months of supervision post-release or,
12 alternatively, one (1) year and of supervision. The program shall
13 provide a structured ~~environment of intense confinement,~~ period of
14 supervision, treatment, discipline, and vocational or educational
15 components designed specifically for the offender.

16 SECTION 16. AMENDATORY 22 O.S. 2011, Section 996.3, is
17 amended to read as follows:

18 Section 996.3. A. Upon a verdict of guilty or a plea of guilty
19 or nolo contendere of an offender, the court ~~shall~~ may delay
20 sentencing for ~~a period not less than one hundred eighty (180) days~~
21 ~~nor~~ not more than one (1) year after the plea of guilty or finding
22 of guilt is entered and order the offender to the Delayed Sentencing
23 Program for Young Adults under the custody of the Department of
24 Corrections. For purposes of the Delayed Sentencing Program for

1 Young Adults, the term "custody" shall include probation or
2 confinement during the term of the Program. The court may ~~initially~~
3 ~~commit~~ sentence the offender ~~for either~~ to a term of probation ~~or~~
4 unless it finds substantial and compelling reasons for which the
5 defendant cannot be safely and effectively supervised in the
6 community, is not amenable to community-based treatment, or poses a
7 significant risk to public safety. If the court orders confinement
8 ~~pending the completion of the Delayed Sentencing Program,~~ the court
9 shall state its substantial and compelling reasons for departure
10 from probation on the record and in the dispositional order.

11 After the completion of the Program the court shall:

12 1. Defer judgment pursuant to the provisions of Section 991c of
13 this title;

14 2. Sentence the offender to any sentence provided by law in the
15 custody of the Department of Corrections;

16 3. Suspend the execution of sentence pursuant to Section 991a
17 of this title. In addition to other conditions of probation allowed
18 by statute, the court may include special conditions of probation as
19 set forth in the plan provided to the court if sentencing is
20 deferred or if all or part of the sentence is suspended;

21 4. Sentence the offender to community sentencing; or

22 5. Dismiss the criminal charges and proceedings.

23 B. Within ninety (90) days after the offender is committed to
24 the Delayed Sentencing Program for Young Adults, the Department of

1 Corrections shall prepare and file with the court clerk a
2 specialized offender accountability plan for the offender which
3 shall comply with and be in lieu of the presentence investigation
4 provided for in Section 982 of this title. The plan shall include
5 information, evaluations, and data directed by the sentencing court,
6 and may include, but not be limited to, the investigation report of
7 probation officers, an assessment of security risks and offender
8 needs and a recommended specific course of action, including, where
9 applicable, psychological counseling, psychiatric treatment, medical
10 treatment, education or vocational training, work, restitution, and
11 such other programs, which will offer the best opportunity for
12 rehabilitation of the offender. If the plan recommends confinement,
13 the plan shall state specifically the type of confinement that the
14 Department of Corrections proposes to utilize and the amount of time
15 the offender will spend in that confinement, including but not
16 limited to boot camp, substance abuse treatment, and vocational or
17 educational placement.

18 Upon filing the plan, copies shall be provided by the Department
19 of Corrections to the district attorney, the offender, the
20 offender's attorney, and the court. If the district attorney, the
21 offender or the offender's attorney objects to the plan, the
22 objecting party may file a written objection with the court within
23 ten (10) days of the receipt of the plan. Upon the filing of any
24 objection, the court shall conduct a hearing within ten (10) days of

1 the filing of the objection and decide a plan of action for the
2 offender under the Delayed Sentencing Program for Young Adults or
3 sentence the offender as otherwise provided by law.

4 C. An order by the court placing an offender in the Delayed
5 Sentencing Program for Young Adults shall be accepted by the
6 Department of Corrections as a commitment to the custody of the
7 Department pursuant to the provisions of Section 521 of Title 57 of
8 the Oklahoma Statutes, for the sole purpose of committing an
9 offender for assessment and evaluation and complying with the
10 accountability plan.

11 D. If no objection has been made to the plan, the offender
12 shall remain in the custody of the Department either under probation
13 or confinement to comply with the terms and conditions of the plan.
14 The offender may be housed either in a minimum or medium security
15 facility, halfway house, community corrections facility, or any
16 combination as needed to comply with the plan and meet offender
17 criminogenic needs.

18 E. Any offender previously admitted to the Delayed Sentencing
19 Program for Young Adults shall be ineligible for the Delayed
20 Sentencing Program for Young Adults for subsequent offenses.

21 F. Upon successful completion of the Delayed Sentencing Program
22 for Young Adults, the offender shall be discharged without a court
23 judgment of guilt, and the court shall order the verdict or plea of
24 guilty or plea of nolo contendere to be expunged from the record and

1 the charge shall be dismissed with prejudice to any further action.

2 The procedure to expunge the record of the offender shall be as
3 follows:

4 1. All references to the name of the offender shall be deleted
5 from the docket sheet;

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

8 3. Upon expungement, the court clerk shall keep a separate
9 confidential index of case numbers and names of offenders which have
10 been obliterated pursuant to the provisions of this section;

11 4. No information concerning the confidential file shall be
12 revealed or released, except upon written order of a judge of the
13 district court or upon written request by the named offender to the
14 court clerk for the purpose of updating the criminal history record
15 of the offender with the Oklahoma State Bureau of Investigation; and

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

20 Records expunged pursuant to this subsection shall be sealed to
21 the public but not to law enforcement agencies for law enforcement
22 purposes. Records expunged pursuant to this subsection shall be
23 admissible in any subsequent criminal prosecution to prove the
24 existence of a prior conviction or prior deferred judgment without

1 the necessity of a court order requesting the unsealing of such
2 records.

3 G. When the offender has successfully completed the Delayed
4 Sentencing Program for Young Adults, the judge shall have the
5 discretion to expressly waive all or part of the court costs and
6 fees, driver license reinstatement fees, if applicable, and fines
7 associated with the criminal case if, in the opinion of the judge,
8 continued payment of the court costs, fees and fines by the offender
9 would create a financial hardship for the offender. The judge shall
10 also have the discretion to waive any requirement that fines and
11 costs be satisfied by an offender prior to that offender being
12 eligible for a provisional driver license pursuant to Section 6-212
13 of Title 47 of the Oklahoma Statutes.

14 H. The Department of Corrections shall be authorized to use a
15 violation response and intermediate sanction process based on the
16 sanction matrix to apply to any technical violation pursuant to
17 Section 991b of this title. Within four (4) business days of the
18 discovery of the violation, the probation officer shall initiate the
19 violation response and intermediate sanction process. The probation
20 officer may authorize any recommended sanctions which may include,
21 but not be limited to:

22 1. Day treatment;

23 2. Program attendance;

24 3. Community service;

- 1 4. Outpatient or inpatient treatment;
- 2 5. Monetary fines;
- 3 6. Curfews; or
- 4 7. Ignition interlock device on vehicles.

5 The Department shall accomplish monitoring and offender
6 accountability by ordering progressively increasing sanctions or
7 providing incentives, rather than requesting removal by the court of
8 the offender from the program when a violation occurs, except when
9 the conduct of the offender requires removal from the program. Any
10 revocation from the program shall require notice to the offender and
11 other participating parties in the case and a revocation hearing.
12 At the revocation hearing, if the offender is found to have violated
13 the conditions of the accountability plan and disciplinary sanctions
14 have been insufficient to gain compliance, the offender shall be
15 revoked from the program, and the court may enter a judgment of
16 guilt and proceed as provided in Section 991a of this title or the
17 court may modify any condition imposed.

18 SECTION 17. This act shall become effective November 1, 2017.

19 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
20 February 23, 2017 - DO PASS AS AMENDED