

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 689

By: Treat

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 982a, as last amended by Section 1, Chapter 160, O.S.L. 2016, 983 and Sections 1 and 2, Chapter 392, O.S.L. 2016 (22 O.S. Supp. 2016, Sections 982a, 983a and 983b), which relate to judgments and execution of sentences; making certain offenders eligible for sentence modification; providing statutory references; modifying court procedures related to financial obligations owed by defendants; directing the Supreme Court to implement procedures and rules for payment plans; authorizing courts to waive outstanding fines, costs and fees under certain circumstances; directing the Supreme Court to promulgate rules related to reporting and payment requirements and collection and distribution methods; providing for the establishment of pilot financial obligation payment program; stating purpose of program; providing pilot program guidelines for the Supreme Court; amending 22 O.S. 2011, Sections 988.2, as last amended by Section 3, Chapter 222, O.S.L. 2016, 988.8, 988.18, 988.19, 988.20 and 988.22 (22 O.S. Supp. 2016, Section 988.2), which relate to the Oklahoma Community Sentencing Act; modifying definitions; providing for use of specialized caseloads when supervising certain offenders; expanding available treatment options; providing for use of assessment results under limited circumstances; directing supervision providers to comply with certain statutory requirements; clarifying disciplinary sanctions or incentives procedures; decreasing time limitation for active supervision, programs and services; amending 22 O.S. 2011, Section 991a, as last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp. 2016, Section 991a), which relates to sentencing powers of the

1 court; providing payment plan option based on
2 discretionary income; requiring certain convicted
3 defendants to receive batterer assessment;
4 authorizing courts to order certain counseling
5 services; modifying exceptions to certain sentencing
6 option; directing supervision providers to use
7 sanctions and incentives process; allowing certain
8 offenders to earn discharge credits; providing
9 procedures and guidelines for requesting payment
10 plan; defining term; prohibiting consideration of
11 deferred sentences as a prior conviction; amending 22
12 O.S. 2011, Sections 991b, as last amended by Section
13 1, Chapter 33, O.S.L. 2016, and 991c, as last amended
14 by Section 1, Chapter 209, O.S.L. 2015 and (22 O.S.
15 Supp. 2016, Sections 991b and 991c), which relate to
16 suspended and deferred sentences and supervision
17 fees; decreasing time limitation for revocation
18 hearing; establishing time limitation for filing
19 certain petition; modifying guidelines and procedures
20 for developing sanctions and incentives matrix;
21 providing exception for revocation option; directing
22 courts to sentence offender under certain statutory
23 provision; decreasing time limitation for deferred
24 sentences; decreasing time limitation for community
supervision; providing for extension of supervision
period under certain circumstances; prohibiting
acceleration of deferred judgments; providing an
exception; providing procedures for filing
application for revocation; directing court to
sentence offender pursuant to certain statutory
provision; amending 22 O.S. 2011, Sections 996.2 and
996.3, which relate to the Delayed Sentencing Program
for Young Adults; modifying certain time limitations;
deleting mandatory minimum sentencing requirement;
deleting probation or confinement option; authorizing
courts to sentence offenders to probation; providing
exceptions; providing for the discharge of offender
upon successful completion of program; providing
expungement procedures; authorizing courts to waive
all or parts of fines, court costs and fees;
authorizing Department of Corrections to use
violation responses and intermediate sanction
process; establishing procedures to address program
violations; requiring notice for revocation hearings;
providing for revocation under certain circumstances;
providing for codification; and providing an
effective date.

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

4 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
5 last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
6 2016, Section 982a), is amended to read as follows:

7 Section 982a. A. 1. Any time within sixty (60) months after
8 the initial sentence is imposed or within sixty (60) months after
9 probation has been revoked, the court imposing sentence or
10 revocation of probation may modify such sentence or revocation by
11 directing that another sentence be imposed, if the court is
12 satisfied that the best interests of the public will not be
13 jeopardized; provided, however, the court shall not impose a
14 deferred sentence. Any application for sentence modification that
15 is filed and ruled upon beyond twelve (12) months of the initial
16 sentence being imposed must be approved by the district attorney who
17 shall provide written notice to any victims in the case which is
18 being considered for modification.

19 2. The court imposing sentence may modify the sentence of any
20 offender who was originally sentenced for a drug charge and ordered
21 to complete the Drug Offender Work Camp at the Bill Johnson
22 Correctional Facility and direct that another sentence be imposed,
23 if the court is satisfied that the best interests of the public will
24 not be jeopardized; provided, however, the court shall not impose a

1 deferred sentence. An application for sentence modification
2 pursuant to this paragraph may be filed and ruled upon beyond the
3 initial sixty-month time period provided for in paragraph 1 of this
4 subsection.

5 3. This section shall not apply to convicted felons who have
6 been in confinement in any state or federal prison system for any
7 previous felony conviction during the ten-year period preceding the
8 date that the sentence this section applies to was imposed.

9 Further, without the consent of the district attorney, this section
10 shall not apply to sentences imposed pursuant to a plea agreement or
11 jury verdict.

12 B. An offender sentenced to life without parole for an offense
13 other than a violent crime, as provided in Section 571 of Title 57
14 of the Oklahoma Statutes, who has served at least ten (10) years of
15 the sentence in the custody of the Department of Corrections, shall
16 be eligible for a modification of the sentence by the judge who
17 originally imposed the sentence or revocation of probation or, if
18 the sentencing judge is unavailable, another judge in the judicial
19 district in which the sentence was rendered. The court may modify
20 the sentence upon a finding that the best interests of the public
21 will not be jeopardized.

22 C. For purposes of judicial review, upon court order or written
23 request from the sentencing judge, the Department of Corrections
24 shall provide the court imposing sentence or revocation of probation

1 with a report to include a summary of the assessed needs of the
2 offender, any progress made by the offender in addressing his or her
3 assessed needs, and any other information the Department can supply
4 on the offender. The court shall consider such reports when
5 modifying the sentence or revocation of probation. The court shall
6 allow the Department of Corrections at least twenty (20) days after
7 receipt of a request or order from the court to prepare the required
8 reports.

9 ~~C.~~ D. If the court considers modification of the sentence or
10 revocation of probation, a hearing shall be made in open court after
11 receipt of the reports required in subsection ~~B~~ C of this section.
12 The clerk of the court imposing sentence or revocation of probation
13 shall give notice of the judicial review hearing to the Department
14 of Corrections, the offender, the legal counsel of the offender, and
15 the district attorney of the county in which the offender was
16 convicted upon receipt of the reports. Such notice shall be mailed
17 at least twenty-one (21) days prior to the hearing date and shall
18 include a copy of the report and any other written information to be
19 considered at the judicial review hearing.

20 ~~D.~~ E. If an appeal is taken from the original sentence or from
21 a revocation of probation which results in a modification of the
22 sentence or modification to the revocation of probation of the
23 offender, such sentence may be further modified in the manner
24 described in paragraph 1 of subsection A of this section within

1 sixty (60) months after the receipt by the clerk of the district
2 court of the mandate from the Supreme Court or the Court of Criminal
3 Appeals.

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

6 Section 983. A. Any defendant found guilty of an offense in
7 any court of this state may be imprisoned for nonpayment of the
8 fine, cost, fee, or assessment when the trial court finds after
9 notice and hearing that the defendant is financially able but
10 refuses or neglects to pay the fine, cost, fee, or assessment. A
11 sentence to pay a fine, cost, fee, or assessment may be converted
12 into a jail sentence only after a hearing and a judicial
13 determination, memorialized of record, that the defendant is able to
14 satisfy the fine, cost, fee, or assessment by payment, but refuses
15 or neglects so to do.

16 B. ~~After~~ Pursuant to the provisions of subsection L of Section
17 991a of this title, after a judicial determination that the
18 defendant is able to pay the fine, cost, fee, or assessment in
19 installments, the court ~~may~~ shall order the fine, cost, fee, or
20 assessment to be paid in installments and shall set the amount and
21 date for each installment.

22 C. In addition, the district court or municipal court, within
23 one hundred twenty (120) days from the date upon which the person
24 was originally ordered to make payment, may send notice of

1 nonpayment of any court ordered fine and costs for a moving traffic
2 violation to the Department of Public Safety with a recommendation
3 of suspension of driving privileges of the defendant until the total
4 amount of any fine and costs has been paid. Upon receipt of payment
5 of the total amount of the fine and costs for the moving traffic
6 violation, the court shall send notice thereof to the Department, if
7 a nonpayment notice was sent as provided for in this subsection.
8 Notices sent to the Department shall be on forms or by a method
9 approved by the Department.

10 D. ~~The Court of Criminal Appeals~~ Supreme Court shall implement
11 procedures and rules for methods of establishing payment plans of
12 fines, costs, fees, and assessments by indigents according to
13 discretionary income, as defined in subsection L of Section 991a of
14 this title, which procedures and rules shall be distributed to all
15 district courts and municipal courts by the Administrative Office of
16 the Courts.

17 SECTION 3. AMENDATORY Section 1, Chapter 392, O.S.L.
18 2016 (22 O.S. Supp. 2016, Section 983a), is amended to read as
19 follows:

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

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

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

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

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

10 B. The court shall waive outstanding fines, court costs and
11 fees if the offender has secured admission to and is enrolled in an
12 institution which is a member of The Oklahoma State System of Higher
13 Education or technology center school or a workforce training
14 program intended to expand further employment opportunities. Upon
15 the offender's completion of each forty (40) hour work week, the
16 court shall waive the fines, court costs and fees based on the
17 equivalent value of the potential gross income of the offender as
18 established by the minimum wage rate of the state as set forth in
19 Section 197.2 of Title 40 of the Oklahoma Statutes.

20 C. The provisions of this section shall not apply to amounts
21 owed by the person for restitution to a victim pursuant to a court
22 order or child support obligations pursuant to a court order.
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1 SECTION 4. AMENDATORY Section 2, Chapter 392, O.S.L.

2 2016 (22 O.S. Supp. 2016, Section 983b), is amended to read as
3 follows:

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

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

11 2. All other district courts or municipal courts where the
12 person owes fines, fees, costs and assessments,
13 for the purpose of scheduling a hearing to determine the ability of
14 the person to pay fines, fees, costs or assessments owed by the
15 person in every felony or misdemeanor criminal case filed in a
16 district court or criminal case filed in a municipal court of this
17 state. Such hearing shall be held in accordance with the provisions
18 of Section VIII of the Rules of the Court of Criminal Appeals, 22
19 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its
20 discretion continue such hearing for up to one hundred eighty (180)
21 days.

22 B. In determining the ability of the person to satisfy fines,
23 fees, costs or assessments owed to a district or municipal court,
24 the court shall inquire of the person at the time of the hearing

1 which counties and municipalities the person owes fines, fees, costs
2 or assessments in every felony or misdemeanor criminal case filed
3 against the person and shall consider all court-ordered debt,
4 including restitution and child support, in determining the ability
5 of the person to pay. The ~~person court~~ shall ~~not be required to pay~~
6 waive payment of any outstanding fines, fees, costs or assessments
7 prior to the expiration of the one-hundred-eighty-day period;
8 provided, however, the person shall not be precluded from
9 voluntarily making payment toward the satisfaction of any fines,
10 fees, costs or assessments due and owing to a district or municipal
11 court of this state.

12 C. The ~~Court of Criminal Appeals~~ Supreme Court shall promulgate
13 rules governing the provisions of this section including, but not
14 limited to:

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

17 2. Consolidating district and municipal court fines, fees,
18 costs or assessments owed by a person into one order for payment;
19 and

20 3. Accepting and distributing payments received for fines,
21 fees, costs or assessments to various district and municipal courts
22 when consolidated by the court into one order for payment.
23
24

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

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

11 B. The Supreme Court shall:

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

15 2. Coordinate with the Department of Corrections to ensure the
16 proper collection of financial obligations according to the payment
17 plan and that the information is communicated to the appropriate
18 court;

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

22 4. Authorize the district courts to waive financial obligations
23 once the offender has satisfied the payment requirements of the
24 pilot program;

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

3 6. Collect and compare data on an annual basis from the courts
4 that implement the pilot program and comparison courts that did not
5 implement the pilot program.

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

10 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.2, as
11 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
12 2016, Section 988.2), is amended to read as follows:

13 Section 988.2. A. For purposes of the Oklahoma Community
14 Sentencing Act:

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

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

22 3. "Continuum of sanctions" means a variety of coercive
23 measures ~~and treatment options~~ ranked by degrees of public safety,
24

1 punitive effect, and cost benefit which are available to the
2 sentencing judge as punishment for criminal conduct;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ~~7.~~ 8. The availability of county jail or another restrictive
23 housing facility for limited disciplinary sanctions.
24

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

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

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

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

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

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

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

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

22 E. The completed LSI, or other approved assessment, shall
23 include a written supervision plan and identify an appropriate
24 community punishment, if any, when the offender is considered

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

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

14 G. The results of the LSI or another assessment may only be
15 used to determine the appropriate sentence to be imposed that does
16 not include incarceration. The results of the LSI or another
17 assessment may not be used by the court to impose a period of
18 incarceration.

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

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

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

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

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

21 D. Upon consideration of a properly filed motion to modify a
22 community sentence pursuant to the provisions of this section, the
23 staff of the community sentencing system in which the offender is
24 ordered to participate, the sheriff, the district attorney, the

1 service provider, or any agency or person providing supervision of
2 the offender shall provide the court with any reports and other
3 information available and relating to the offender, and to the
4 reason for the motion to modify the sentence. The court shall
5 consider any reports and information submitted prior to modifying
6 the sentence.

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

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

1 Section 988.20 of this title in lieu of or together with any
2 modification authorized by this section.

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

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

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

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

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

1 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
2 title per disciplinary order motion for modification in either:

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

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

16 B. The court may, through a standing court order, provide for
17 specific ~~disciplinary~~ sanctions and incentives specified in Section
18 517 of Title 57 of the Oklahoma Statutes which may be utilized by
19 the local administrator upon notification to the court.

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

1 incentive the court deems appropriate. The court shall use its
2 discretion in ordering appropriate incentives. Incentives shall be
3 considered a reduction and modification to the community punishment
4 and may be ordered after the motion to modify has been heard.

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

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

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

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

23 B. Upon completion of any court-ordered provision, pursuant to
24 the Oklahoma Community Sentencing Act, the administrator of the

1 local system shall file a statement with the court defining the
2 provision which has been successfully completed. When all court-
3 ordered provisions have been successfully completed the defendant
4 shall be deemed to have completed the community punishment.

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

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

15 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991a, as
16 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
17 2016, Section 991a), is amended to read as follows:

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

22 1. Suspend the execution of sentence in whole or in part, with
23 or without probation. The court, in addition, may order the
24

1 convicted defendant at the time of sentencing or at any time during
2 the suspended sentence to do one or more of the following:

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

- 1 d. to pay a reasonable sum into any trust fund,
2 established pursuant to the provisions of Sections 176
3 through 180.4 of Title 60 of the Oklahoma Statutes,
4 and which provides restitution payments by convicted
5 defendants to victims of crimes committed within this
6 state wherein such victim has incurred a financial
7 loss,
- 8 e. to confinement in the county jail for a period not to
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term
11 of post-imprisonment community supervision for not
12 less than three (3) years of the total term allowed by
13 law for imprisonment, with or without restitution;
14 provided, however, the authority of this provision is
15 limited to Section 843.5 of Title 21 of the Oklahoma
16 Statutes when the offense involved sexual abuse or
17 sexual exploitation; Sections 681, 741 and 843.1 of
18 Title 21 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; and
20 Sections 865 et seq., 885, 886, 888, 891, 1021,
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a
24 local certified crime stoppers program and the

Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the local certified crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. The term "certified" means crime stoppers organizations that annually meet the certification standards for crime stoppers programs established by the Oklahoma Crime Stoppers Association to the extent those standards do not conflict with state statutes. The term "court" refers to all municipal and district courts within this state. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,

h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant

1 pleaded guilty, nolo contendere or was convicted,
2 including compensation for laboratory, technical, or
3 investigation services performed by the Bureau if, in
4 the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant,
6 and if the costs incurred by the Bureau during the
7 investigation of the defendant's case may be
8 determined with reasonable certainty,

- 9 i. to reimburse the Oklahoma State Bureau of
10 Investigation and any authorized law enforcement
11 agency for all costs incurred by that agency for
12 cleaning up an illegal drug laboratory site for which
13 the defendant pleaded guilty, nolo contendere or was
14 convicted. The court clerk shall collect the amount
15 and may retain five percent (5%) of such monies to be
16 deposited in the Court Clerk Revolving Fund to cover
17 administrative costs and shall remit the remainder to
18 the Oklahoma State Bureau of Investigation to be
19 deposited in the OSBI Revolving Fund established by
20 Section 150.19a of Title 74 of the Oklahoma Statutes
21 or to the general fund wherein the other law
22 enforcement agency is located,
- 23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

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

15 m. to be placed in a victims impact panel program, as
16 defined in subsection H of this section, or
17 victim/offender reconciliation program and payment of
18 a fee to the program of not less than Fifteen Dollars
19 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
20 by the governing authority of the program to offset
21 the cost of participation by the defendant. Provided,
22 each victim/offender reconciliation program shall be
23 required to obtain a written consent form voluntarily
24 signed by the victim and defendant that specifies the

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

1 restriction shall be a violation of the sentence and
2 may be punished as deemed proper by the sentencing
3 court. As used in this paragraph, "ignition interlock
4 device" means a device that, without tampering or
5 intervention by another person, would prevent the
6 defendant from operating a motor vehicle if the
7 defendant has a blood or breath alcohol concentration
8 of two-hundredths (0.02) or greater,

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

1 defendant is in the court-ordered location at the
2 required times and which records violations for
3 investigation by a qualified supervisory agency or
4 person,

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

- q. to submit to periodic testing for alcohol,
intoxicating substance, or controlled dangerous
substances by a qualified laboratory,
- r. to pay a fee, costs for treatment, education,
supervision, participation in a program, or any
combination thereof as determined by the court, based
upon the defendant's ability to pay the fees or costs,
- s. to be supervised by a Department of Corrections
employee, a private supervision provider, or other
person designated by the court,
- t. to obtain positive behavior modeling by a trained
mentor,
- u. to serve a term of confinement in a restrictive
housing facility available in the community,
- v. to serve a term of confinement in the county jail at
night or during weekends pursuant to Section 991a-2 of
this title or for work release,
- w. to obtain employment or participate in employment-
related activities,
- x. to participate in mandatory day reporting to
facilities or persons for services, payments, duties
or person-to-person contacts as specified by the
court,

- 1 y. to pay day fines not to exceed fifty percent (50%) of
2 the net wages earned if the court determines that the
3 offender requires a payment plan based on
4 discretionary income as defined in subsection L of
5 this section. For purposes of this paragraph, "day
6 fine" means the offender is ordered to pay an amount
7 calculated as a percentage of net daily wages earned.
8 The day fine shall be paid to the local community
9 sentencing system as reparation to the community. Day
10 fines shall be used to support the local system,
- 11 z. to submit to blood or saliva testing as required by
12 subsection I of this section,
- 13 aa. to repair or restore property damaged by the
14 defendant's conduct, if the court determines the
15 defendant possesses sufficient skill to repair or
16 restore the property and the victim consents to the
17 repairing or restoring of the property,
- 18 bb. to restore damaged property in kind or payment of out-
19 of-pocket expenses to the victim, if the court is able
20 to determine the actual out-of-pocket expenses
21 suffered by the victim,
- 22 cc. to attend a victim-offender reconciliation program if
23 the victim agrees to participate and the offender is
24 deemed appropriate for participation,

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

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

1 supervision. The examination shall be administered by
2 a certified licensed polygraph examiner. The
3 treatment program must be approved by the Department
4 of Corrections or the Department of Mental Health and
5 Substance Abuse Services. Such treatment shall be at
6 the expense of the defendant based on the defendant's
7 ability to pay,

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

17 gg. in the case of a person convicted of any false or
18 bogus check violation, as defined in Section 1541.4 of
19 Title 21 of the Oklahoma Statutes, impose a fee of
20 Twenty-five Dollars (\$25.00) to the victim for each
21 check, and impose a bogus check fee to be paid to the
22 district attorney. The bogus check fee paid to the
23 district attorney shall be equal to the amount
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in
2 district court. This money shall be deposited in the
3 Bogus Check Restitution Program Fund as established in
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to
6 pay restitution and bogus check fees on any other
7 bogus check or checks that have been submitted to the
8 District Attorney Bogus Check Restitution Program, and

9 hh. in the case of a person being sentenced for a
10 conviction for a violation of Section 644 of Title 21
11 of the Oklahoma Statutes, require the person to
12 receive an assessment for batterers, which shall be
13 conducted through a certified treatment program for
14 batterers, and

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

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

21 However, unless under the supervision of the district attorney,
22 the offender shall be required to pay Forty Dollars (\$40.00) per
23 month to the district attorney during the first two (2) years of
24 probation to compensate the district attorney for the costs incurred

1 during the prosecution of the offender and for the additional work
2 of verifying the compliance of the offender with the rules and
3 conditions of his or her probation. The district attorney may waive
4 any part of this requirement in the best interests of justice. The
5 court shall not waive, suspend, defer or dismiss the costs of
6 prosecution in its entirety. However, if the court determines
7 pursuant to subsection L of this section that a reduction in the
8 fine, costs and costs of prosecution is warranted, the court shall
9 equally apply the same percentage reduction to the fine, costs and
10 costs of prosecution owed by the offender;

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

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

17 4. Order the defendant to reimburse the Oklahoma State Bureau
18 of Investigation for costs incurred by that agency during its
19 investigation of the crime for which the defendant pleaded guilty,
20 nolo contendere or was convicted, including compensation for
21 laboratory, technical, or investigation services performed by the
22 Bureau if, in the opinion of the court, the defendant is able to pay
23 without imposing manifest hardship on the defendant, and if the
24

1 costs incurred by the Bureau during the investigation of the
2 defendant's case may be determined with reasonable certainty;

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

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

15 7. In addition to the other sentencing powers of the court, in
16 the case of a person convicted of operating or being in control of a
17 motor vehicle while the person was under the influence of alcohol,
18 other intoxicating substance, or a combination of alcohol or another
19 intoxicating substance, or convicted of operating a motor vehicle
20 while the ability of the person to operate such vehicle was impaired
21 due to the consumption of alcohol, require such person:

- 22 a. to participate in an alcohol and drug assessment and
23 evaluation by an assessment agency or assessment
24 personnel certified by the Department of Mental Health

1 and Substance Abuse Services pursuant to Section 3-460
2 of Title 43A of the Oklahoma Statutes and, as
3 determined by the assessment, participate in an
4 alcohol and drug substance abuse course or treatment
5 program or both, pursuant to Sections 3-452 and 3-453
6 of Title 43A of the Oklahoma Statutes,

7 b. to attend a victims impact panel program, as defined
8 in subsection H of this section, if such a program is
9 offered in the county where the judgment is rendered,
10 and to pay a fee of not less than Fifteen Dollars
11 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
12 by the governing authority of the program and approved
13 by the court, to the program to offset the cost of
14 participation by the defendant, if in the opinion of
15 the court the defendant has the ability to pay such
16 fee,

17 c. to both participate in the alcohol and drug substance
18 abuse course or treatment program, pursuant to
19 subparagraph a of this paragraph and attend a victims
20 impact panel program, pursuant to subparagraph b of
21 this paragraph,

22 d. to install, at the expense of the person, an ignition
23 interlock device approved by the Board of Tests for
24 Alcohol and Drug Influence, upon every motor vehicle

1 operated by such person and to require that a notation
2 of this restriction be affixed to the person's driver
3 license at the time of reinstatement of the license.
4 The restriction shall remain on the driver license for
5 such period as the court shall determine. The
6 restriction may be modified or removed by order of the
7 court and notice of the order shall be given to the
8 Department of Public Safety. Upon the expiration of
9 the period for the restriction, the Department of
10 Public Safety shall remove the restriction without
11 further court order. Failure to comply with the order
12 to install an ignition interlock device or operating
13 any vehicle without such device during the period of
14 restriction shall be a violation of the sentence and
15 may be punished as deemed proper by the sentencing
16 court, or

17 e. beginning January 1, 1993, to submit to electronically
18 monitored home detention administered and supervised
19 by the Department of Corrections, and to pay to the
20 Department a monitoring fee, not to exceed Seventy-
21 five Dollars (\$75.00) a month, to the Department of
22 Corrections, if in the opinion of the court the
23 defendant has the ability to pay such fee. Any fees
24 collected pursuant to this subparagraph shall be

1 deposited in the Department of Corrections Revolving
2 Fund. Any order by the court for the payment of the
3 monitoring fee, if willfully disobeyed, may be
4 enforced as an indirect contempt of court;

5 8. In addition to the other sentencing powers of the court, in
6 the case of a person convicted of prostitution pursuant to Section
7 1029 of Title 21 of the Oklahoma Statutes, require such person to
8 receive counseling for the behavior which may have caused such
9 person to engage in prostitution activities. Such person may be
10 required to receive counseling in areas including but not limited to
11 alcohol and substance abuse, sexual behavior problems, or domestic
12 abuse or child abuse problems;

13 9. In addition to the other sentencing powers of the court, in
14 the case of a person convicted of any crime related to domestic
15 abuse, as defined in Section 60.1 of this title, the court may
16 require the defendant to undergo the treatment or participate in the
17 counseling services ~~necessary to bring about the cessation of~~
18 ~~domestic abuse against the victim~~ as recommended by the results of
19 the assessment conducted pursuant to the provisions of subparagraph
20 hh of paragraph 1 of subsection A of this section. The defendant
21 may be required to pay all or part of the cost of the treatment or
22 counseling services;

23 10. In addition to the other sentencing powers of the court,
24 the court, in the case of a sex offender sentenced after November 1,

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

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

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

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

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

17 15. In addition to the other sentencing powers of the court, in
18 the case of a sex offender who is required by law to register
19 pursuant to the Sex Offenders Registration Act, the court shall
20 require the person to register any electronic mail address
21 information, instant message, chat or other Internet communication
22 name or identity information that the person uses or intends to use
23 while accessing the Internet or used for other purposes of social
24 networking or other similar Internet communication.

1 B. Notwithstanding any other provision of law, any person who
2 is found guilty of a violation of any provision of Section 761 or
3 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
4 guilty or nolo contendere for a violation of any provision of such
5 sections shall be ordered to participate in, prior to sentencing, an
6 alcohol and drug assessment and evaluation by an assessment agency
7 or assessment personnel certified by the Department of Mental Health
8 and Substance Abuse Services for the purpose of evaluating the
9 receptivity to treatment and prognosis of the person. The court
10 shall order the person to reimburse the agency or assessor for the
11 evaluation. The fee shall be the amount provided in subsection C of
12 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
13 shall be conducted at a certified assessment agency, the office of a
14 certified assessor or at another location as ordered by the court.
15 The agency or assessor shall, within seventy-two (72) hours from the
16 time the person is assessed, submit a written report to the court
17 for the purpose of assisting the court in its final sentencing
18 determination. No person, agency or facility operating an alcohol
19 and drug substance abuse evaluation program certified by the
20 Department of Mental Health and Substance Abuse Services shall
21 solicit or refer any person evaluated pursuant to this subsection
22 for any treatment program or alcohol and drug substance abuse
23 service in which such person, agency or facility has a vested
24 interest; however, this provision shall not be construed to prohibit

1 the court from ordering participation in or any person from
2 voluntarily utilizing a treatment program or alcohol and drug
3 substance abuse service offered by such person, agency or facility.
4 If a person is sentenced to the custody of the Department of
5 Corrections and the court has received a written evaluation report
6 pursuant to this subsection, the report shall be furnished to the
7 Department of Corrections with the judgment and sentence. Any
8 evaluation report submitted to the court pursuant to this subsection
9 shall be handled in a manner which will keep such report
10 confidential from the general public's review. Nothing contained in
11 this subsection shall be construed to prohibit the court from
12 ordering judgment and sentence in the event the defendant fails or
13 refuses to comply with an order of the court to obtain the
14 evaluation required by this subsection.

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

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

23 2. A fourth or subsequent conviction for any other felony
24 crime; or

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

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

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

19 E. Probation, for purposes of subsection A of this section, is
20 a procedure by which a defendant found guilty of a crime, whether
21 upon a verdict or plea of guilty or upon a plea of nolo contendere,
22 is released by the court subject to conditions imposed by the court
23 and subject to supervision by the Department of Corrections, a
24 private supervision provider or other person designated by the

1 court. The court shall ensure that all supervision providers that
2 supervise persons under this section use the sanctions and
3 incentives process established under Section 991b of this title in
4 order to respond to probationer behavior. Such supervision shall be
5 initiated upon an order of probation from the court, and shall not
6 exceed two (2) years, unless a petition alleging a violation of any
7 condition of deferred judgment or seeking revocation of the
8 suspended sentence is filed during the supervision, or as otherwise
9 provided by law. In the case of a person convicted of a sex
10 offense, supervision shall begin immediately upon release from
11 incarceration or if parole is granted and shall not be limited to
12 two (2) years. Provided further, any supervision provided for in
13 this section may be extended for a period not to exceed the
14 expiration of the maximum term or terms of the sentence upon a
15 determination by the court or the Division of Probation and Parole
16 of the Department of Corrections that the best interests of the
17 public and the release will be served by an extended period of
18 supervision. Every person on probation supervision, except a person
19 convicted of an offense enumerated in Section 13.1 of Title 21 of
20 the Oklahoma Statutes, shall be eligible to earn discharge credits
21 that reduce the period of supervision and the term of sentence of
22 the person for compliance with the terms and conditions of
23 supervision.

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

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

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

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

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

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

12 H. As used in this section:

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

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

23 3. "Victims impact panel program" means a meeting with at least
24 one live presenter who will share personal stories with participants

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

17 I. A person convicted of a felony offense or receiving any form
18 of probation for an offense in which registration is required
19 pursuant to the Sex Offenders Registration Act, shall submit to
20 deoxyribonucleic acid DNA testing for law enforcement identification
21 purposes in accordance with Section 150.27 of Title 74 of the
22 Oklahoma Statutes and the rules promulgated by the Oklahoma State
23 Bureau of Investigation for the OSBI Combined DNA Index System
24 (CODIS) Database. Subject to the availability of funds, any person

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

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

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

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

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

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

20 L. Any person who has been ordered by the court to pay a fine,
21 court cost, fee or assessment or any combination thereof under the
22 provisions of this section may request a hearing to establish a
23 payment plan. The payment plan authorized under this subsection
24 shall be determined by assessing the discretionary income of the

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

14 SECTION 13. AMENDATORY 22 O.S. 2011, Section 991b, as
15 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
16 2016, Section 991b), is amended to read as follows:

17 Section 991b. A. Whenever a sentence has been suspended by the
18 court after conviction of a person for any crime, the suspended
19 sentence of the person may not be revoked, in whole or part, for any
20 cause unless a petition setting forth the grounds for such
21 revocation is filed by the district attorney with the clerk of the
22 sentencing court and competent evidence justifying the revocation of
23 the suspended sentence is presented to the court at a hearing to be
24 held for that purpose within ~~twenty (20)~~ ten (10) days after the

1 entry of the plea of not guilty to the petition, unless waived by
2 both the state and the defendant. If the alleged violation is for a
3 technical violation of the terms and conditions of probation, the
4 district attorney shall have sixty (60) days from the date of the
5 application for revocation to file a petition pursuant to this
6 section. The State of Oklahoma may dismiss the petition without
7 prejudice one time upon good cause shown to the court, provided that
8 any successor petition must be filed within forty-five (45) days of
9 the date of the dismissal of the petition.

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

~~intermediate revocation facility operated by the Department of~~
~~Corrections; provided, upon approval of the district attorney, a~~
~~person may be sanctioned to serve additional terms of confinement in~~
~~an intermediate revocation facility.~~ The probation officer shall
complete a sanction form, which shall specify the technical
violation, sanction, and the action plan to correct the noncompliant
behavior resulting in the technical violation. The probation
officer shall refer to the sanctioning matrix to determine the
~~supervision, treatment, and~~ sanctions appropriate to address the
noncompliant behavior. The probation officer shall refer the
violation information and recommended response with a sanction plan
to the Department of Corrections to be heard by a hearing officer.
The Department of Corrections shall develop a sanction matrix,
forms, policies and procedures necessary to implement this
provision. If the severity of the violation warrants or the
graduated use of sanctions has been exhausted and the noncompliant
behavior has continued, the probation officer may recommend
revocation of the probation of the offender to the hearing officer
of the Department or appropriate supervising authority. The
Department of Corrections shall establish procedures to hear
responses to technical violations and review sanction plans
including the following:

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

2. The hearing officer shall determine based on a preponderance of the evidence whether a technical violation occurred. Upon a finding that a technical violation occurred, the hearing officer may order the offender to participate in the recommended sanction plan or may modify the plan. Offenders who accept the sanction plan shall sign a violation response sanction form, and the hearing officer shall then impose the sanction. Failure of the offender to comply with the imposed sanction plan shall constitute a violation of the rules and conditions of supervision that may result in a revocation proceeding. If an offender does not voluntarily accept the recommended sanction plan, the Department shall either impose the sanction and allow the offender to appeal to the district court,

1 or request a revocation proceeding as provided by law. Every
2 administrative hearing and sanction imposed by the Department shall
3 be appealable to the district court.

4 3. Absent a finding by the probation officer of willful
5 nonpayment by the offender, the failure of an offender to pay fines
6 and costs may not serve as a basis for revocation, excluding
7 restitution.

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

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

20 3. At the hearing, if one of the grounds for the petition for
21 revocation is the failure of the defendant to make timely
22 restitution as ordered by the court, the court will hear evidence
23 and if it appears to the satisfaction of the court from such
24 evidence that the terms of the order of restitution create a

1 manifest hardship on the defendant or the immediate family of the
2 defendant, the court may cancel all or any part of the amount still
3 due, or modify the terms or method of payment. Provided, if the
4 court determines that a reduction in the restitution still due is
5 warranted, the court shall equally apply the same percentage
6 reduction to any court-ordered monetary obligation owed by the
7 defendant including, but not limited to, fines, court costs and
8 costs of incarceration.

9 D. The Except as provided in Section 517 of Title 57 of the
10 Oklahoma Statutes, the court may revoke a portion of the sentence
11 and leave the remaining part not revoked, but suspended for the
12 remainder of the term of the sentence, and under the provisions
13 applying to it. The person whose suspended sentence is being
14 considered for revocation at the hearing shall have the right to be
15 represented by counsel, to present competent evidence in his or her
16 own behalf and to be confronted by the witnesses against the
17 defendant. Any order of the court revoking the suspended sentence,
18 in whole or in part, shall be subject to review on appeal, as in
19 other appeals of criminal cases. Provided, however, that if the
20 crime for which the suspended sentence is given was a felony, the
21 defendant may be allowed bail pending appeal. If the reason for
22 revocation be that the defendant committed a felony, the defendant
23 shall not be allowed bail pending appeal.

1 E. If the court revokes a suspended sentence for a technical
2 violation of the terms and conditions of probation, the court shall
3 sentence the offender in accordance with Section 517 of Title 57 of
4 the Oklahoma Statutes.

5 SECTION 14. AMENDATORY 22 O.S. 2011, Section 991c, as
6 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
7 2016, Section 991c), is amended to read as follows:

8 Section 991c. A. Upon a verdict or plea of guilty or upon a
9 plea of nolo contendere, but before a judgment of guilt, the court
10 may, without entering a judgment of guilt and with the consent of
11 the defendant, defer further proceedings upon the specific
12 conditions prescribed by the court not to exceed a ~~ten-year~~ nine-
13 year period, except as authorized under subsection B of this
14 section. The court shall first consider restitution among the
15 various conditions it may prescribe. The court may also consider
16 ordering the defendant to:

- 17 1. Pay court costs;
- 18 2. Pay an assessment in lieu of any fine authorized by law for
19 the offense;
- 20 3. Pay any other assessment or cost authorized by law;
- 21 4. Engage in a term of community service without compensation,
22 according to a schedule consistent with the employment and family
23 responsibilities of the defendant;
- 24

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

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

7 7. Be supervised in the community for a period not to exceed
8 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
9 violation of any condition of deferred judgment is filed during the
10 period of supervision. As a condition of any supervision, the
11 defendant shall be required to pay a supervision fee of Forty
12 Dollars (\$40.00) per month. The supervision fee shall be waived in
13 whole or part by the supervisory agency when the accused is
14 indigent. No person shall be denied supervision based solely on the
15 inability of the person to pay a fee;

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

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

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

4 11. Any combination of the above provisions.

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

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

1 C. In addition to any conditions of supervision provided for in
2 subsection A of this section, the court shall, in the case of a
3 person before the court for the offense of operating or being in
4 control of a motor vehicle while the person was under the influence
5 of alcohol, other intoxicating substance, or a combination of
6 alcohol and another intoxicating substance, or who is before the
7 court for the offense of operating a motor vehicle while the ability
8 of the person to operate such vehicle was impaired due to the
9 consumption of alcohol, require the person to participate in an
10 alcohol and drug substance abuse evaluation program offered by a
11 facility or qualified practitioner certified by the Department of
12 Mental Health and Substance Abuse Services for the purpose of
13 evaluating the receptivity to treatment and prognosis of the person.
14 The court shall order the person to reimburse the facility or
15 qualified practitioner for the evaluation. The Department of Mental
16 Health and Substance Abuse Services shall establish a fee schedule,
17 based upon the ability of a person to pay, provided the fee for an
18 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
19 evaluation shall be conducted at a certified facility, the office of
20 a qualified practitioner or at another location as ordered by the
21 court. The facility or qualified practitioner shall, within
22 seventy-two (72) hours from the time the person is assessed, submit
23 a written report to the court for the purpose of assisting the court
24 in its determination of conditions for deferred sentence. No

1 person, agency or facility operating an alcohol and drug substance
2 abuse evaluation program certified by the Department of Mental
3 Health and Substance Abuse Services shall solicit or refer any
4 person evaluated pursuant to this subsection for any treatment
5 program or alcohol and drug substance abuse service in which the
6 person, agency or facility has a vested interest; however, this
7 provision shall not be construed to prohibit the court from ordering
8 participation in or any person from voluntarily utilizing a
9 treatment program or alcohol and drug substance abuse service
10 offered by such person, agency or facility. Any evaluation report
11 submitted to the court pursuant to this subsection shall be handled
12 in a manner which will keep the report confidential from review by
13 the general public. Nothing contained in this subsection shall be
14 construed to prohibit the court from ordering judgment and sentence
15 in the event the defendant fails or refuses to comply with an order
16 of the court to obtain the evaluation required by this subsection.
17 As used in this subsection, "qualified practitioner" means a person
18 with at least a bachelor's degree in substance abuse treatment,
19 mental health or a related health care field and at least two (2)
20 years of experience in providing alcohol abuse treatment, other drug
21 abuse treatment, or both alcohol and other drug abuse treatment who
22 is certified each year by the Department of Mental Health and
23 Substance Abuse Services to provide these assessments. However, any
24 person who does not meet the requirements for a qualified

1 practitioner as defined herein, but who has been previously
2 certified by the Department of Mental Health and Substance Abuse
3 Services to provide alcohol or drug treatment or assessments, shall
4 be considered a qualified practitioner provided all education,
5 experience and certification requirements stated herein are met by
6 September 1, 1995. The court may also require the person to
7 participate in one or both of the following:

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

10 2. A victims impact panel program, as defined in subsection H
11 of Section 991a of this title, if such a program is offered in the
12 county where the judgment is rendered. The defendant shall be
13 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
14 more than Sixty Dollars (\$60.00) as set by the governing authority
15 of the program and approved by the court to the victims impact panel
16 program to offset the cost of participation by the defendant, if in
17 the opinion of the court the defendant has the ability to pay such
18 fee.

19 ~~C.~~ D. Upon completion of the conditions of the deferred
20 judgment, and upon a finding by the court that the conditions have
21 been met and all fines, fees, and monetary assessments have been
22 paid as ordered, the defendant 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 defendant shall be as
3 follows:

4 1. All references to the name of the defendant 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 defendants which
10 have 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 defendant to the
14 court clerk for the purpose of updating the criminal history record
15 of the defendant with the Oklahoma State Bureau of Investigation;
16 and

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

21 Records expunged pursuant to this subsection shall be sealed to
22 the public but not to law enforcement agencies for law enforcement
23 purposes. Records expunged pursuant to this subsection shall be
24 admissible in any subsequent criminal prosecution to prove the

1 existence of a prior conviction or prior deferred judgment without
2 the necessity of a court order requesting the unsealing of such
3 records.

4 ~~D.~~ E. The provisions of subsection ~~C~~ D of this section shall be
5 retroactive.

6 ~~E.~~ F. Whenever a judgment has been deferred by the court
7 according to the provisions of this section, deferred judgment may
8 not be accelerated, in whole or part, for any cause unless a
9 petition setting forth the grounds for such revocation is filed by
10 the district attorney with the clerk of the sentencing court and
11 competent evidence justifying the acceleration of the judgment is
12 presented to the court at a hearing to be held for that purpose.
13 The hearing shall be held ten (10) days after the entry of the plea
14 of not guilty to the petition, unless waived by both the state and
15 the defendant. If the alleged violation is for a technical
16 violation of the terms and conditions of probation, the district
17 attorney shall have sixty (60) days from the date of the application
18 for revocation to file a petition pursuant to this subsection.

19 G. Upon any violation ~~of any condition~~ of the deferred
20 judgment, other than a technical violation, the court may enter a
21 judgment of guilt and proceed as provided in Section 991a of this
22 title or may modify any condition imposed. Provided, however, if
23 the deferred judgment is for a felony offense, and the defendant
24 commits another felony offense, the defendant shall not be allowed

1 bail pending appeal. Upon a technical violation of the deferred
2 judgment, the court shall sentence the offender in accordance with
3 Section 517 of Title 57 of the Oklahoma Statutes.

4 ~~F.~~ H. The deferred judgment procedure described in this section
5 shall apply only to defendants who have not been previously
6 convicted of a felony offense and have not received ~~a deferred~~
7 ~~judgment~~ more than one deferred judgment for a felony offense within
8 the ten (10) years previous to the commission of the pending
9 offense.

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

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

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

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

23 Section 996.2. The Department of Corrections shall establish
24 and carry out the provisions of the Delayed Sentencing Program for

1 Young Adults. The Program shall be ~~not less than one hundred eighty~~
2 ~~(180) days nor more than~~ not more than six (6) months of confinement
3 and not more than six (6) months of supervision post-release or,
4 alternatively, one (1) year and of supervision. The program shall
5 provide a structured ~~environment of intense confinement,~~ period of
6 supervision, treatment, discipline, and vocational or educational
7 components designed specifically for the offender.

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

10 Section 996.3. A. Upon a verdict of guilty or a plea of guilty
11 or nolo contendere of an offender, the court ~~shall~~ may delay
12 sentencing for ~~a period not less than one hundred eighty (180) days~~
13 ~~nor~~ not more than one (1) year after the plea of guilty or finding
14 of guilt is entered and order the offender to the Delayed Sentencing
15 Program for Young Adults under the custody of the Department of
16 Corrections. For purposes of the Delayed Sentencing Program for
17 Young Adults, the term "custody" shall include probation or
18 confinement during the term of the Program. The court may ~~initially~~
19 ~~commit~~ sentence the offender ~~for either~~ to a term of probation ~~or~~
20 unless it finds substantial and compelling reasons for which the
21 defendant cannot be safely and effectively supervised in the
22 community, is not amenable to community-based treatment, or poses a
23 significant risk to public safety. If the court orders confinement
24 ~~pending the completion of the Delayed Sentencing Program,~~ the court

1 shall state its substantial and compelling reasons for departure
2 from probation on the record and in the dispositional order.

3 After the completion of the Program the court shall:

4 1. Defer judgment pursuant to the provisions of Section 991c of
5 this title;

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

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

13 4. Sentence the offender to community sentencing; or

14 5. Dismiss the criminal charges and proceedings.

15 B. Within ninety (90) days after the offender is committed to
16 the Delayed Sentencing Program for Young Adults, the Department of
17 Corrections shall prepare and file with the court clerk a
18 specialized offender accountability plan for the offender which
19 shall comply with and be in lieu of the presentence investigation
20 provided for in Section 982 of this title. The plan shall include
21 information, evaluations, and data directed by the sentencing court,
22 and may include, but not be limited to, the investigation report of
23 probation officers, an assessment of security risks and offender
24 needs and a recommended specific course of action, including, where

1 applicable, psychological counseling, psychiatric treatment, medical
2 treatment, education or vocational training, work, restitution, and
3 such other programs, which will offer the best opportunity for
4 rehabilitation of the offender. If the plan recommends confinement,
5 the plan shall state specifically the type of confinement that the
6 Department of Corrections proposes to utilize and the amount of time
7 the offender will spend in that confinement, including but not
8 limited to boot camp, substance abuse treatment, and vocational or
9 educational placement.

10 Upon filing the plan, copies shall be provided by the Department
11 of Corrections to the district attorney, the offender, the
12 offender's attorney, and the court. If the district attorney, the
13 offender or the offender's attorney objects to the plan, the
14 objecting party may file a written objection with the court within
15 ten (10) days of the receipt of the plan. Upon the filing of any
16 objection, the court shall conduct a hearing within ten (10) days of
17 the filing of the objection and decide a plan of action for the
18 offender under the Delayed Sentencing Program for Young Adults or
19 sentence the offender as otherwise provided by law.

20 C. An order by the court placing an offender in the Delayed
21 Sentencing Program for Young Adults shall be accepted by the
22 Department of Corrections as a commitment to the custody of the
23 Department pursuant to the provisions of Section 521 of Title 57 of
24 the Oklahoma Statutes, for the sole purpose of committing an

1 offender for assessment and evaluation and complying with the
2 accountability plan.

3 D. If no objection has been made to the plan, the offender
4 shall remain in the custody of the Department either under probation
5 or confinement to comply with the terms and conditions of the plan.
6 The offender may be housed either in a minimum or medium security
7 facility, halfway house, community corrections facility, or any
8 combination as needed to comply with the plan and meet offender
9 criminogenic needs.

10 E. Any offender previously admitted to the Delayed Sentencing
11 Program for Young Adults shall be ineligible for the Delayed
12 Sentencing Program for Young Adults for subsequent offenses.

13 F. Upon successful completion of the Delayed Sentencing Program
14 for Young Adults, the offender shall be discharged without a court
15 judgment of guilt, and the court shall order the verdict or plea of
16 guilty or plea of nolo contendere to be expunged from the record and
17 the charge shall be dismissed with prejudice to any further action.
18 The procedure to expunge the record of the offender shall be as
19 follows:

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

22 2. The public index of the filing of the charge shall be
23 expunged by deletion, mark-out or obliteration;
24

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

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

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

13 Records expunged pursuant to this subsection shall be sealed to
14 the public but not to law enforcement agencies for law enforcement
15 purposes. Records expunged pursuant to this subsection shall be
16 admissible in any subsequent criminal prosecution to prove the
17 existence of a prior conviction or prior deferred judgment without
18 the necessity of a court order requesting the unsealing of such
19 records.

20 G. When the offender has successfully completed the Delayed
21 Sentencing Program for Young Adults, the judge shall have the
22 discretion to expressly waive all or part of the court costs and
23 fees, driver license reinstatement fees, if applicable, and fines
24 associated with the criminal case if, in the opinion of the judge,

1 continued payment of the court costs, fees and fines by the offender
2 would create a financial hardship for the offender. The judge shall
3 also have the discretion to waive any requirement that fines and
4 costs be satisfied by an offender prior to that offender being
5 eligible for a provisional driver license pursuant to Section 6-212
6 of Title 47 of the Oklahoma Statutes.

7 H. The Department of Corrections shall be authorized to use a
8 violation response and intermediate sanction process based on the
9 sanction matrix to apply to any technical violation pursuant to
10 Section 991b of this title. Within four (4) business days of the
11 discovery of the violation, the probation officer shall initiate the
12 violation response and intermediate sanction process. The probation
13 officer may authorize any recommended sanctions which may include,
14 but not be limited to:

- 15 1. Day treatment;
- 16 2. Program attendance;
- 17 3. Community service;
- 18 4. Outpatient or inpatient treatment;
- 19 5. Monetary fines;
- 20 6. Curfews; or
- 21 7. Ignition interlock device on vehicles.

22 The Department shall accomplish monitoring and offender
23 accountability by ordering progressively increasing sanctions or
24 providing incentives, rather than requesting removal by the court of

1 the offender from the program when a violation occurs, except when
2 the conduct of the offender requires removal from the program. Any
3 revocation from the program shall require notice to the offender and
4 other participating parties in the case and a revocation hearing.
5 At the revocation hearing, if the offender is found to have violated
6 the conditions of the accountability plan and disciplinary sanctions
7 have been insufficient to gain compliance, the offender shall be
8 revoked from the program, and the court may enter a judgment of
9 guilt and proceed as provided in Section 991a of this title or the
10 court may modify any condition imposed.

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

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