

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 2289

By: O'Donnell

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 982a, as last amended by Section
9 1, Chapter 160, O.S.L. 2016 and 983, and Sections 1
10 and 2, Chapter 392, O.S.L. 2016 (22 O.S. Supp. 2016,
11 Sections 982a, 983a and 983b), which relate to
12 judgments and execution of sentences; making certain
13 offenders eligible for sentence modification;
14 providing statutory references; modifying court
15 procedures related to financial obligations owed by
16 defendants; directing the Supreme Court to implement
17 procedures and rules for payment plans; authorizing
18 courts to waive outstanding fines, costs and fees
19 under certain circumstances; directing the Supreme
20 Court to promulgate rules related to reporting and
21 payment requirements and collection and distribution
22 methods; providing for the establishment of pilot
23 financial obligation payment program; stating purpose
24 of program; providing pilot program guidelines for
the Supreme Court; amending Section 2, Chapter 243,
O.S.L. 2015 (22 O.S. Supp. 2016, Section 985.1),
which relates to the Justice Safety Valve Act;
modifying qualifiers when departing from mandatory
minimum sentences under Justice Safety Valve Act;
amending 22 O.S. 2011, Sections 988.2, as last
amended by Section 3, Chapter 222, O.S.L. 2016,
988.8, 988.9, 988.10, 988.17, 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; defining term; providing for
use of risk and needs assessments; 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;

1 clarifying disciplinary sanctions or incentives
2 procedures; decreasing time limitation for active
3 supervision, programs and services; amending 22 O.S.
4 2011, Section 991a, as last amended by Section 1,
5 Chapter 157, O.S.L. 2014 (22 O.S. Supp. 2016, Section
6 991a), which relates to sentencing powers of the
7 court; providing payment plan option based on
8 discretionary income; requiring certain convicted
9 defendants to receive batterer assessment;
10 authorizing courts to order certain counseling
11 services; modifying exceptions to certain sentencing
12 option; directing supervision providers to use
13 sanctions and incentives process; allowing certain
14 offenders to earn discharge credits; providing
15 procedures and guidelines for requesting payment
16 plan; defining term; prohibiting consideration of
17 deferred sentences as a prior conviction; amending 22
18 O.S. 2011, Sections 991b, as last amended by Section
19 1, Chapter 33, O.S.L. 2016, 991c, as last amended by
20 Section 1, Chapter 209, O.S.L. 2015 and 991d, as
21 amended by Section 1, Chapter 414, O.S.L. 2014 (22
22 O.S. Supp. 2016, Sections 991b, 991c and 991d), which
23 relate to suspended and deferred sentences and
24 supervision fees; decreasing time limitation for
revocation hearing; establishing time limitation for
filing certain petition; modifying guidelines and
procedures for developing sanctions and incentives
matrix; providing exception for revocation option;
directing courts to sentence offender under certain
statutory provision; decreasing time limitation for
deferred 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; providing time limitation for district
attorney supervision and collection of supervision
fees; amending 22 O.S. 2011, Sections 996.1, as last
amended by Section 1, Chapter 98, O.S.L. 2014, 996.2
and 996.3 (22 O.S. Supp. 2016, Section 996.1), which
relate to the Delayed Sentencing Program for Young
Adults; removing certain crimes from defined term;
modifying certain time limitations; deleting
mandatory minimum sentencing requirement; deleting
probation or confinement option; directing courts to

1 sentence offenders to probation; providing
2 exceptions; removing procedures used by the court
3 following program completion; providing for the
4 discharge of offender upon successful completion of
5 program; providing expungement procedures;
6 authorizing courts to waive all or parts of fines,
7 court costs and fees; authorizing Department of
8 Corrections to use violation responses and
9 intermediate sanction process; establishing
10 procedures to address program violations; requiring
11 notice for revocation hearings; providing for
12 revocation under certain circumstances; providing for
13 codification; and providing an effective date.

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

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

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

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

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

18 B. An offender sentenced to life without parole for an offense
19 other than a violent crime, as provided in Section 571 of Title 57
20 of the Oklahoma Statutes, who has served at least ten (10) years of
21 the sentence in the custody of the Department of Corrections, shall
22 be eligible for a modification of the sentence by the judge who
23 originally imposed the sentence or revocation of probation or, if
24 the sentencing judge is unavailable, another judge in the judicial

1 district in which the sentence was rendered. The court may modify
2 the sentence upon a finding that the best interests of the public
3 will not be jeopardized.

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

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

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

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

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

23 B. ~~After~~ Pursuant to the provisions of subsection L of Section
24 991a of this title, after a judicial determination that the

1 defendant is able to pay the fine, cost, fee, or assessment in
2 installments, the court ~~may~~ shall order the fine, cost, fee, or
3 assessment to be paid in installments and shall set the amount and
4 date for each installment.

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

17 D. ~~The Court of Criminal Appeals~~ Supreme Court shall implement
18 procedures and rules for methods of establishing payment plans of
19 fines, costs, fees, and assessments by indigents according to
20 discretionary income, as defined in subsection L of Section 991a of
21 this title, which procedures and rules shall be distributed to all
22 district courts and municipal courts by the Administrative Office of
23 the Courts.

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1 SECTION 3. AMENDATORY Section 1, Chapter 392, O.S.L.
2 2016 (22 O.S. Supp. 2016, Section 983a), is amended to read as
3 follows:

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

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

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

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

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

18 B. The court shall waive outstanding fines, court costs and
19 fees if the offender has secured admission to and is enrolled in an
20 institution which is a member of The Oklahoma State System of Higher
21 Education or technology center school or a workforce training
22 program intended to expand further employment opportunities. Upon
23 the completion of each forty-hour workweek, the court shall waive
24 the fines, court costs and fees based on the equivalent value of the

1 potential gross income of the offender as established by the minimum
2 wage rate of the state as set forth in Section 197.2 of Title 40 of
3 the Oklahoma Statutes.

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

7 SECTION 4. AMENDATORY Section 2, Chapter 392, O.S.L.
8 2016 (22 O.S. Supp. 2016, Section 983b), is amended to read as
9 follows:

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

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

17 2. All other district courts or municipal courts where the
18 person owes fines, fees, costs and assessments,
19 for the purpose of scheduling a hearing to determine the ability of
20 the person to pay fines, fees, costs or assessments owed by the
21 person in every felony or misdemeanor criminal case filed in a
22 district court or criminal case filed in a municipal court of this
23 state. Such hearing shall be held in accordance with the provisions
24 of Section VIII of the Rules of the Court of Criminal Appeals, 22

1 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its
2 discretion continue such hearing for up to one hundred eighty (180)
3 days.

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

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

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

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

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

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

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

17 B. The Supreme Court shall:

18 1. Develop rules that establish a payment plan consistent with
19 the provisions of subsection L of Section 991a of Title 22 of the
20 Oklahoma Statutes to guide the payment plan program;

21 2. Coordinate with the Department of Corrections to ensure the
22 proper collection of financial obligations according to the payment
23 plan and that the information is communicated to the appropriate
24 court;

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

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

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

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

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

16 SECTION 6. AMENDATORY Section 2, Chapter 243, O.S.L.
17 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
18 follows:

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

3 ~~1. The the mandatory minimum sentence of imprisonment is not~~
4 ~~necessary for the protection of the public and imposition of the~~
5 ~~mandatory minimum sentence of imprisonment would result in~~
6 ~~substantial injustice to the defendant; or~~

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

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

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

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

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

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

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

10 ~~6. The defendant was the leader, manager or supervisor of~~
11 ~~others in a continuing criminal enterprise; or~~

12 ~~7.~~ The offense for which the defendant was convicted is a
13 violation of the Oklahoma Antiterrorism Act as provided in Sections
14 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

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

18 SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.2, as
19 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
20 2016, Section 988.2), is amended to read as follows:

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

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

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

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

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

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

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

21 6. "Disciplinary sanction" means a ~~court-ordered~~ punishment by
22 the court or the Department of Corrections in response to a
23 technical or noncompliance violation of a community sentence or
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1 condition of supervision which increases in intensity or duration
2 with each successive violation;

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

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

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

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

12 10. "Risk and needs assessment" means an actuarial tool
13 validated on the correctional population of the state that
14 determines the risk of an individual for reoffending and the
15 criminal risk factors that, when addressed, reduce the risk of an
16 individual for reoffending.

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

23 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.8, is
24 amended to read as follows:

1 Section 988.8 A. A community sentencing system established
2 pursuant to the provisions of the Oklahoma Community Sentencing Act
3 shall include those community punishments and programs and services
4 enumerated and funded in the annual plan submitted to the Community
5 Sentencing Division within the Department of Corrections and any
6 other services or punishments subsequently added and funded during a
7 plan year. The options may not be utilized for offenders not
8 meeting the eligibility criteria of programs and score requirements
9 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and
10 needs assessment. Each local system shall strive to have available
11 to the court all of the following services for eligible offenders:

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

14 2. Substance abuse treatment and availability for periodic drug
15 testing of offenders following treatment;

16 3. Varying levels of supervision by the Department of
17 Corrections probation officers or another qualified supervision
18 source, including specialized caseloads for repeat offenders,
19 offenders with convictions for sex crimes, offenders with
20 convictions for domestic violence offenses and offenders with
21 diagnosed mental health needs;

22 4. Education and literacy provided by the State Department of
23 Education, the county library system, the local school board, or
24 another qualified source;

1 5. Employment opportunities and job skills training provided by
2 the Oklahoma Department of Career and Technology Education or
3 another qualified source;

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

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

9 ~~7.~~ 8. The availability of county jail or another restrictive
10 housing facility for limited disciplinary sanctions.

11 B. The court may order as a community punishment for an
12 eligible offender any condition listed as a condition available for
13 a suspended sentence.

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

22 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.9, is
23 amended to read as follows:
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1 Section 988.9 A. Any offender sentenced to a community
2 sentence pursuant to the Oklahoma Community Sentencing Act which
3 requires supervision shall be required to pay a supervision fee.
4 The supervising agency shall establish the fee amount, not to exceed
5 Forty Dollars (\$40.00) per month, based upon the offender's ability
6 to pay. In hardship cases the supervising agency may expressly
7 waive all or part of the fee. No supervising agency participating
8 in a local community sentencing system shall deny any offender
9 supervision services for the sole reason that the offender is
10 indigent. Fees collected for supervision services performed by the
11 Department of Corrections shall be paid directly to the Department
12 to be deposited in the Department of Corrections Revolving Fund.
13 Supervision services performed by agencies other than the Department
14 shall be paid directly to that agency.

15 B. In addition to any supervision fee, offenders scoring in a
16 range other than the low range ~~of the Level of Services Inventory~~
17 ~~(LSI)~~ on the risk and needs assessment and participating in a local
18 community sentencing system under a court-ordered community
19 punishment shall be required to pay an administrative fee to support
20 the local system which shall not exceed Twenty Dollars (\$20.00) per
21 month to be set by the court. Administrative fees when collected
22 shall be deposited with the Community Sentencing Division within the
23 Department of Corrections and credited to the local community
24 sentencing system for support and expansion of the local community

1 corrections system. In the event the court fails to order the
2 amount of the administrative fee, the fee shall be Twenty Dollars
3 (\$20.00) per month.

4 C. In addition to any supervision fee and administrative fee
5 authorized by this section, the court shall assess court costs, and
6 may assess program reimbursement costs, restitution, and fines to be
7 paid by the offender. With the exception of supervision fees, other
8 fees, costs, fines, restitution, or monetary obligations ordered to
9 be paid by the offender shall not cease with the termination of
10 active supervision and such obligations shall continue until fully
11 paid and may be collected in the same manner as court costs.

12 SECTION 10. AMENDATORY 22 O.S. 2011, Section 988.10, is
13 amended to read as follows:

14 Section 988.10 A. It is the responsibility of the planning
15 council, the sentencing judge, and the local administrator to ensure
16 that the expenditure of funds within the local community sentencing
17 system is appropriately made only for eligible offenders within the
18 range of services offered to the court. It is further the
19 responsibility of the local system, the prosecutor, the defense
20 attorney, and sentencing court to keep an awareness of the local
21 correctional resources and to utilize those resources in the most
22 efficient manner when punishing eligible offenders with community
23 punishments.

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1 B. The sentencing judge when imposing any punishment pursuant
2 to the provisions of the Oklahoma Community Sentencing Act shall
3 consider the most cost-effective treatment specifically targeted for
4 the offender's needs as determined by the ~~Level of Services~~
5 ~~Inventory (LSI) report~~ risk and needs assessment.

6 C. The statewide system and each local system is required to
7 monitor sentencing practices and eligibility requirements,
8 prioritize expenditures, and operate within available resources for
9 eligible offenders.

10 D. The Community Sentencing Division within the Department of
11 Corrections shall not fund any community sentencing system beyond
12 the accepted budget amounts in any fiscal year.

13 SECTION 11. AMENDATORY 22 O.S. 2011, Section 988.17, is
14 amended to read as follows:

15 Section 988.17 A. The Department of Corrections shall utilize
16 the ~~Level of Services Inventory (LSI) assessment instrument, or~~
17 ~~another~~ risk and needs assessment that evaluates criminal risk to
18 recidivate, to evaluate all eligible offenders sentenced to
19 community punishments under the Oklahoma Community Sentencing Act.
20 This assessment shall not be waived and is required for eligibility
21 determination.

22 B. The Administrative Office of the Courts shall assist in
23 promulgating instructions and forms necessary for the courts' use of
24 the required assessment. In collaboration with the Department of

1 Corrections, all state agencies shall provide technical assistance
2 necessary to implement and monitor the Oklahoma Community Sentencing
3 Act in the areas of their expertise and experience, and shall offer
4 services to local community sentencing systems.

5 C. All participating state agencies and local planning councils
6 are directed to promulgate rules necessary to implement the
7 provisions of the Oklahoma Community Sentencing Act. When
8 promulgating the rules, participating state agencies and local
9 planning councils shall collaborate with the Division so their rules
10 enhance the effectiveness of the statewide community sentencing
11 system and statewide goals established for the criminal justice
12 system.

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

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

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

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

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

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

24

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

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

18 G. The results of the risk and needs assessment may only be
19 used to determine the appropriate sentence to be imposed that does
20 not include incarceration. The results of the risk and needs
21 assessment may not be used by the court to impose a period of
22 incarceration.

23 SECTION 13. AMENDATORY 22 O.S. 2011, Section 988.19, is
24 amended to read as follows:

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

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

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

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

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

18 F. Following the hearing, the court shall enter the appropriate
19 order authorized by law. The court may modify any community
20 sentence by imposing any other punishment allowed by law for the
21 offense and appropriate for the circumstances as determined by the
22 discretion of the judge; provided, however, no punishment shall be
23 imposed which is greater than the maximum punishment allowed by law
24 for the original offense. The court shall give the offender day-

1 for-day credit on any modified sentence for any term of
2 incarceration imposed. The court may impose either a disciplinary
3 sanction or an incentive as provided in Section ~~20~~ 988.20 of this
4 ~~act~~ title in lieu of or together with any modification authorized by
5 this section.

6 G. The court shall not be limited on the number of
7 modifications a sentence may have within the term of the community
8 sentence.

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

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

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

19 Section 988.20 A. Upon proper motion to the court to modify a
20 community sentence as provided in Section 988.19 of this title, the
21 judge shall have authority to impose disciplinary sanctions or
22 incentives. An order for a disciplinary sanction shall not modify
23 the terms of the original sentence and shall be imposed only to gain
24 compliance with the terms of the court-ordered community punishment.

1 The court may order any community punishment available and funded in
2 the jurisdiction that is deemed appropriate by the judge for the
3 circumstance including, but not limited to, a term of imprisonment
4 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
5 title per ~~disciplinary order~~ motion for modification in either:

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

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

19 B. The court may, through a standing court order, provide for
20 specific ~~disciplinary~~ sanctions and incentives specified in Section
21 517 of Title 57 of the Oklahoma Statutes which may be utilized by
22 the local administrator upon notification to the court.

23 C. When a motion for modification has been filed pursuant to
24 Section 988.19 of this title, the court shall have authority to

1 offer incentives to offenders to encourage proper conduct in the
2 community and for compliance with the community punishments pursuant
3 to Section 517 of Title 57 of the Oklahoma Statutes or any other
4 incentive the court deems appropriate. The court shall use its
5 discretion in ordering appropriate incentives. Incentives shall be
6 considered a reduction and modification to the community punishment
7 and may be ordered after the motion to modify has been heard.

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

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

21 SECTION 15. AMENDATORY 22 O.S. 2011, Section 988.22, is
22 amended to read as follows:

23
24

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

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

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

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

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

23 Section 991a. A. Except as otherwise provided in the Elderly
24 and Incapacitated Victim's Protection Program, when a defendant is

1 convicted of a crime and no death sentence is imposed, the court
2 shall either:

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

7 a. to provide restitution to the victim as provided by
8 Section 991f et seq. of this title or according to a
9 schedule of payments established by the sentencing
10 court, together with interest upon any pecuniary sum
11 at the rate of twelve percent (12%) per annum, if the
12 defendant agrees to pay such restitution or, in the
13 opinion of the court, if the defendant is able to pay
14 such restitution without imposing manifest hardship on
15 the defendant or the immediate family and if the
16 extent of the damage to the victim is determinable
17 with reasonable certainty,

18 b. to reimburse any state agency for amounts paid by the
19 state agency for hospital and medical expenses
20 incurred by the victim or victims, as a result of the
21 criminal act for which such person was convicted,
22 which reimbursement shall be made directly to the
23 state agency, with interest accruing thereon at the
24 rate of twelve percent (12%) per annum,

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

1 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
2 1123 of Title 21 of the Oklahoma Statutes,

3 g. to repay the reward or part of the reward paid by a
4 local certified crime stoppers program and the
5 Oklahoma Reward System. In determining whether the
6 defendant shall repay the reward or part of the
7 reward, the court shall consider the ability of the
8 defendant to make the payment, the financial hardship
9 on the defendant to make the required payment, and the
10 importance of the information to the prosecution of
11 the defendant as provided by the arresting officer or
12 the district attorney with due regard for the
13 confidentiality of the records of the local certified
14 crime stoppers program and the Oklahoma Reward System.
15 The court shall assess this repayment against the
16 defendant as a cost of prosecution. The term
17 "certified" means crime stoppers organizations that
18 annually meet the certification standards for crime
19 stoppers programs established by the Oklahoma Crime
20 Stoppers Association to the extent those standards do
21 not conflict with state statutes. The term "court"
22 refers to all municipal and district courts within
23 this state. The "Oklahoma Reward System" means the
24

1 reward program established by Section 150.18 of Title
2 74 of the Oklahoma Statutes,

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

14 i. to reimburse the Oklahoma State Bureau of
15 Investigation and any authorized law enforcement
16 agency for all costs incurred by that agency for
17 cleaning up an illegal drug laboratory site for which
18 the defendant pleaded guilty, nolo contendere or was
19 convicted. The court clerk shall collect the amount
20 and may retain five percent (5%) of such monies to be
21 deposited in the Court Clerk Revolving Fund to cover
22 administrative costs and shall remit the remainder to
23 the Oklahoma State Bureau of Investigation to be
24 deposited in the OSBI Revolving Fund established by

1 Section 150.19a of Title 74 of the Oklahoma Statutes
2 or to the general fund wherein the other law
3 enforcement agency is located,

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

8 k. to reimburse the court fund for amounts paid to court-
9 appointed attorneys for representing the defendant in
10 the case in which the person is being sentenced,

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

20 m. to be placed in a victims impact panel program, as
21 defined in subsection H of this section, or
22 victim/offender reconciliation program and payment of
23 a fee to the program of not less than Fifteen Dollars
24 (\$15.00) nor more than Sixty Dollars (\$60.00) as set

1 by the governing authority of the program to offset
2 the cost of participation by the defendant. Provided,
3 each victim/offender reconciliation program shall be
4 required to obtain a written consent form voluntarily
5 signed by the victim and defendant that specifies the
6 methods to be used to resolve the issues, the
7 obligations and rights of each person, and the
8 confidentiality of the proceedings. Volunteer
9 mediators and employees of a victim/offender
10 reconciliation program shall be immune from liability
11 and have rights of confidentiality as provided in
12 Section 1805 of Title 12 of the Oklahoma Statutes,
13 n. to install, at the expense of the defendant, an
14 ignition interlock device approved by the Board of
15 Tests for Alcohol and Drug Influence. The device
16 shall be installed upon every motor vehicle operated
17 by the defendant, and the court shall require that a
18 notation of this restriction be affixed to the
19 defendant's driver license. The restriction shall
20 remain on the driver license not exceeding two (2)
21 years to be determined by the court. The restriction
22 may be modified or removed only by order of the court
23 and notice of any modification order shall be given to
24 the Department of Public Safety. Upon the expiration

1 of the period for the restriction, the Department of
2 Public Safety shall remove the restriction without
3 further court order. Failure to comply with the order
4 to install an ignition interlock device or operating
5 any vehicle without a device during the period of
6 restriction shall be a violation of the sentence and
7 may be punished as deemed proper by the sentencing
8 court. As used in this paragraph, "ignition interlock
9 device" means a device that, without tampering or
10 intervention by another person, would prevent the
11 defendant from operating a motor vehicle if the
12 defendant has a blood or breath alcohol concentration
13 of two-hundredths (0.02) or greater,

14 o. to be confined by electronic monitoring administered
15 and supervised by the Department of Corrections or a
16 community sentence provider, and payment of a
17 monitoring fee to the supervising authority, not to
18 exceed Three Hundred Dollars (\$300.00) per month. Any
19 fees collected pursuant to this paragraph shall be
20 deposited with the appropriate supervising authority.
21 Any willful ~~violation~~ nonpayment of an order of the
22 court for the payment of the monitoring fee shall be a
23 violation of the sentence and may be punished as
24 deemed proper by the sentencing court. As used in

1 this paragraph, "electronic monitoring" means
2 confinement of the defendant within a specified
3 location or locations with supervision by means of an
4 electronic device approved by the Department of
5 Corrections which is designed to detect if the
6 defendant is in the court-ordered location at the
7 required times and which records violations for
8 investigation by a qualified supervisory agency or
9 person,

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

- 1 rehabilitation provider required to be certified
2 pursuant to law or rule shall be certified by the
3 appropriate state agency or a national organization,
- 4 q. to submit to periodic testing for alcohol,
5 intoxicating substance, or controlled dangerous
6 substances by a qualified laboratory,
- 7 r. to pay a fee, costs for treatment, education,
8 supervision, participation in a program, or any
9 combination thereof as determined by the court, based
10 upon the defendant's ability to pay the fees or costs,
- 11 s. to be supervised by a Department of Corrections
12 employee, a private supervision provider, or other
13 person designated by the court,
- 14 t. to obtain positive behavior modeling by a trained
15 mentor,
- 16 u. to serve a term of confinement in a restrictive
17 housing facility available in the community,
- 18 v. to serve a term of confinement in the county jail at
19 night or during weekends pursuant to Section 991a-2 of
20 this title or for work release,
- 21 w. to obtain employment or participate in employment-
22 related activities,
- 23 x. to participate in mandatory day reporting to
24 facilities or persons for services, payments, duties

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned if the court determines that the
5 offender requires a payment plan based on
6 discretionary income as defined in subsection L of
7 this section. For purposes of this paragraph, "day
8 fine" means the offender is ordered to pay an amount
9 calculated as a percentage of net daily wages earned.
10 The day fine shall be paid to the local community
11 sentencing system as reparation to the community. Day
12 fines shall be used to support the local system,

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

15 aa. to repair or restore property damaged by the
16 defendant's conduct, if the court determines the
17 defendant possesses sufficient skill to repair or
18 restore the property and the victim consents to the
19 repairing or restoring of the property,

20 bb. to restore damaged property in kind or payment of out-
21 of-pocket expenses to the victim, if the court is able
22 to determine the actual out-of-pocket expenses
23 suffered by the victim,

24

1 cc. to attend a victim-offender reconciliation program if
2 the victim agrees to participate and the offender is
3 deemed appropriate for participation,

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

13 ee. in the case of a sex offender sentenced after November
14 1, 1989, and required by law to register pursuant to
15 the Sex Offender Registration Act, the court shall
16 require the person to comply with sex offender
17 specific rules and conditions of supervision
18 established by the Department of Corrections and
19 require the person to participate in a treatment
20 program designed for the treatment of sex offenders
21 during the period of time while the offender is
22 subject to supervision by the Department of
23 Corrections. The treatment program shall include
24 polygraph examinations specifically designed for use

1 with sex offenders for purposes of supervision and
2 treatment compliance, and shall be administered not
3 less than each six (6) months during the period of
4 supervision. The examination shall be administered by
5 a certified licensed polygraph examiner. The
6 treatment program must be approved by the Department
7 of Corrections or the Department of Mental Health and
8 Substance Abuse Services. Such treatment shall be at
9 the expense of the defendant based on the defendant's
10 ability to pay,

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

20 gg. in the case of a person convicted of any false or
21 bogus check violation, as defined in Section 1541.4 of
22 Title 21 of the Oklahoma Statutes, impose a fee of
23 Twenty-five Dollars (\$25.00) to the victim for each
24 check, and impose a bogus check fee to be paid to the

1 district attorney. The bogus check fee paid to the
2 district attorney shall be equal to the amount
3 assessed as court costs plus Twenty-five Dollars
4 (\$25.00) for each check upon filing of the case in
5 district court. This money shall be deposited in the
6 Bogus Check Restitution Program Fund as established in
7 subsection B of Section 114 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 a. to participate in an alcohol and drug assessment and
2 evaluation by an assessment agency or assessment
3 personnel certified by the Department of Mental Health
4 and Substance Abuse Services pursuant to Section 3-460
5 of Title 43A of the Oklahoma Statutes and, as
6 determined by the assessment, participate in an
7 alcohol and drug substance abuse course or treatment
8 program or both, pursuant to Sections 3-452 and 3-453
9 of Title 43A of the Oklahoma Statutes,
- 10 b. to attend a victims impact panel program, as defined
11 in subsection H of this section, if such a program is
12 offered in the county where the judgment is rendered,
13 and to pay a fee of not less than Fifteen Dollars
14 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
15 by the governing authority of the program and approved
16 by the court, to the program to offset the cost of
17 participation by the defendant, if in the opinion of
18 the court the defendant has the ability to pay such
19 fee,
- 20 c. to both participate in the alcohol and drug substance
21 abuse course or treatment program, pursuant to
22 subparagraph a of this paragraph and attend a victims
23 impact panel program, pursuant to subparagraph b of
24 this paragraph,

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

20 e. beginning January 1, 1993, to submit to electronically
21 monitored home detention administered and supervised
22 by the Department of Corrections, and to pay to the
23 Department a monitoring fee, not to exceed Seventy-
24 five Dollars (\$75.00) a month, to the Department of

1 Corrections, if in the opinion of the court the
2 defendant has the ability to pay such fee. Any fees
3 collected pursuant to this subparagraph shall be
4 deposited in the Department of Corrections Revolving
5 Fund. Any order by the court for the payment of the
6 monitoring fee, if willfully disobeyed, may be
7 enforced as an indirect contempt of court;

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

16 9. In addition to the other sentencing powers of the court, in
17 the case of a person convicted of any crime related to domestic
18 abuse, as defined in Section 60.1 of this title, the court may
19 require the defendant to undergo ~~the~~ treatment or participate in ~~the~~
20 ~~counseling services~~ an intervention program for batterers certified
21 by the Office of the Attorney General, as directed under the
22 provisions of Section 515a of Title 57 of the Oklahoma Statutes,
23 necessary to bring about the cessation of domestic abuse against the
24 victim. In the instance where the defendant alleges that he or she

1 is a victim of domestic abuse and the current conviction is a
2 response to that abuse, the court may require the defendant to
3 undergo an assessment by a domestic violence program certified by
4 the Office of the Attorney General and, if based upon the results of
5 the assessment the defendant is determined to be a victim of
6 domestic violence, the defendant shall undergo treatment and
7 participate in a certified program for domestic violence victims.

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

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

23 11. In addition to the other sentencing powers of the court,
24 the court, in the case of a person convicted of child abuse or

1 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
2 Statutes, may require the person to undergo treatment or to
3 participate in counseling services. The defendant may be required
4 to pay all or part of the cost of the treatment or counseling
5 services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 2. Any offender eligible to participate in the Program pursuant
22 to this act shall be eligible to participate in a county Program;
23 provided, participation in county-funded Programs shall not be
24

1 limited to offenders who would otherwise be sentenced to confinement
2 with the Department of Corrections.

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

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

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

22 H. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

1 M. For the purposes of this section, a deferred sentence shall
2 not be considered a prior conviction.

3 SECTION 17. AMENDATORY 22 O.S. 2011, Section 991b, as
4 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
5 2016, Section 991b), is amended to read as follows:

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

23 B. 1. The Department of Corrections shall develop a matrix of
24 ~~technical violations and sanctions~~ and incentives to address

1 ~~violations~~ respond to behavior committed by persons who are being
2 supervised by the Department. The matrix shall guide a probation
3 officer in determining the suitable response to offender behavior
4 and shall include a range of the most common violations, a range of
5 possible noncustodial sanctions to be imposed and a range of
6 incentives for compliance with the conditions of supervision. The
7 matrix shall include violations specific to offenses committed
8 pursuant to the provisions of Section 644 of Title 21 of the
9 Oklahoma Statutes. The Department shall be authorized to use a
10 ~~violation response and intermediate sanction process~~ sanctions when
11 responding to technical violations based on the ~~sanction~~ sanctions
12 and incentives matrix to apply to any technical violations of
13 ~~probationers.~~ Within four (4) working days of the discovery of the
14 violation, the probation officer shall initiate the violation
15 response and intermediate sanction process. ~~The sentencing judge~~
16 ~~may authorize any recommended sanctions, which may include, but are~~
17 ~~not limited to: short term jail or lockup, day treatment, program~~
18 ~~attendance, community service, outpatient or inpatient treatment,~~
19 ~~monetary fines, curfews, ignition interlock devices on vehicles, or~~
20 ~~a one-time referral to a term of confinement of six (6) months in an~~
21 ~~intermediate revocation facility operated by the Department of~~
22 ~~Corrections; provided, upon approval of the district attorney, a~~
23 ~~person may be sanctioned to serve additional terms of confinement in~~
24 ~~an intermediate revocation facility.~~ The probation officer shall

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

- 19 a. hearing officers shall report through a chain of
20 command separate from that of the supervising
21 probation officers,
- 22 b. the Department shall provide the offender written
23 notice of the violation, the evidence relied upon, and
24 the reason the sanction was imposed,

- 1 c. the hearing shall be held unless the offender waives
2 the right to the hearing,
3 d. hearings shall be electronically recorded, and
4 e. the Department shall provide to judges and district
5 attorneys a record of all violations and actions taken
6 pursuant to this subsection.

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

22 3. Absent a finding by the probation officer of willful
23 nonpayment by the offender, the failure of an offender to pay fines,
24 fees or other costs may not serve as a basis for revocation.

1 C. 1. Where one of the grounds for revocation is the failure
2 of the defendant to make restitution as ordered, the Department of
3 Corrections ~~shall~~ may forward to the district attorney all
4 information pertaining to the failure of the defendant to make
5 timely restitution as ordered by the court, and the district
6 attorney shall file a petition setting forth the grounds for
7 revocation.

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

13 3. At the hearing, if one of the grounds for the petition for
14 revocation is the failure of the defendant to make timely
15 restitution as ordered by the court, the court will hear evidence
16 and if it appears to the satisfaction of the court from such
17 evidence that the terms of the order of restitution create a
18 manifest hardship on the defendant or the immediate family of the
19 defendant, the court may cancel all or any part of the amount still
20 due, or modify the terms or method of payment. Provided, if the
21 court determines that a reduction in the restitution still due is
22 warranted, the court shall equally apply the same percentage
23 reduction to any court-ordered monetary obligation owed by the
24

1 defendant including, but not limited to, fines, court costs and
2 costs of incarceration.

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

18 E. If the court revokes a suspended sentence for a technical
19 violation of the terms and conditions of probation, the court shall
20 sentence the offender in accordance with Section 517 of Title 57 of
21 the Oklahoma Statutes.

22 SECTION 18. AMENDATORY 22 O.S. 2011, Section 991c, as
23 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
24 2016, Section 991c), is amended to read as follows:

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

10 1. Pay court costs;

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

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

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

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

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

23 7. Be supervised in the community for a period not to exceed
24 ~~two (2) years~~ one (1) year, unless a petition alleging violation of

1 any condition of deferred judgment is filed during the period of
2 supervision. As a condition of any supervision, the defendant shall
3 be required to pay a supervision fee of Forty Dollars (\$40.00) per
4 month. The supervision fee shall be waived in whole or part by the
5 supervisory agency when the accused is indigent. No person shall be
6 denied supervision based solely on the inability of the person to
7 pay a fee;

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

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

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

19 11. Any combination of the above provisions.

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

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

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

15 C. In addition to any conditions of supervision provided for in
16 subsection A of this section, the court shall, in the case of a
17 person before the court for the offense of operating or being in
18 control of a motor vehicle while the person was under the influence
19 of alcohol, other intoxicating substance, or a combination of
20 alcohol and another intoxicating substance, or who is before the
21 court for the offense of operating a motor vehicle while the ability
22 of the person to operate such vehicle was impaired due to the
23 consumption of alcohol, require the person to participate in an
24 alcohol and drug substance abuse evaluation program offered by a

1 facility or qualified practitioner certified by the Department of
2 Mental Health and Substance Abuse Services for the purpose of
3 evaluating the receptivity to treatment and prognosis of the person.
4 The court shall order the person to reimburse the facility or
5 qualified practitioner for the evaluation. The Department of Mental
6 Health and Substance Abuse Services shall establish a fee schedule,
7 based upon the ability of a person to pay, provided the fee for an
8 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
9 evaluation shall be conducted at a certified facility, the office of
10 a qualified practitioner or at another location as ordered by the
11 court. The facility or qualified practitioner shall, within
12 seventy-two (72) hours from the time the person is assessed, submit
13 a written report to the court for the purpose of assisting the court
14 in its determination of conditions for deferred sentence. No
15 person, agency or facility operating an alcohol and drug substance
16 abuse evaluation program certified by the Department of Mental
17 Health and Substance Abuse Services shall solicit or refer any
18 person evaluated pursuant to this subsection for any treatment
19 program or alcohol and drug substance abuse service in which the
20 person, agency or facility has a vested interest; however, this
21 provision shall not be construed to prohibit the court from ordering
22 participation in or any person from voluntarily utilizing a
23 treatment program or alcohol and drug substance abuse service
24 offered by such person, agency or facility. Any evaluation report

1 submitted to the court pursuant to this subsection shall be handled
2 in a manner which will keep the report confidential from review by
3 the general public. Nothing contained in this subsection shall be
4 construed to prohibit the court from ordering judgment and sentence
5 in the event the defendant fails or refuses to comply with an order
6 of the court to obtain the evaluation required by this subsection.
7 As used in this subsection, "qualified practitioner" means a person
8 with at least a bachelor's degree in substance abuse treatment,
9 mental health or a related health care field and at least two (2)
10 years of experience in providing alcohol abuse treatment, other drug
11 abuse treatment, or both alcohol and other drug abuse treatment who
12 is certified each year by the Department of Mental Health and
13 Substance Abuse Services to provide these assessments. However, any
14 person who does not meet the requirements for a qualified
15 practitioner as defined herein, but who has been previously
16 certified by the Department of Mental Health and Substance Abuse
17 Services to provide alcohol or drug treatment or assessments, shall
18 be considered a qualified practitioner provided all education,
19 experience and certification requirements stated herein are met by
20 September 1, 1995. The court may also require the person to
21 participate in one or both of the following:

- 22 1. An alcohol and drug substance abuse course, pursuant to
23 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and
24

1 2. A victims impact panel program, as defined in subsection H
2 of Section 991a of this title, if such a program is offered in the
3 county where the judgment is rendered. The defendant shall be
4 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
5 more than Sixty Dollars (\$60.00) as set by the governing authority
6 of the program and approved by the court to the victims impact panel
7 program to offset the cost of participation by the defendant, if in
8 the opinion of the court the defendant has the ability to pay such
9 fee.

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

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

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

23

24

1 3. Upon expungement, the court clerk shall keep a separate
2 confidential index of case numbers and names of defendants which
3 have 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 defendant to the
7 court clerk for the purpose of updating the criminal history record
8 of the defendant with the Oklahoma State Bureau of Investigation;
9 and

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

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

21 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
22 retroactive.

23 ~~E.~~ F. Whenever a judgment has been deferred by the court
24 according to the provisions of this section, deferred judgment may

1 not be accelerated, in whole or part, for any cause unless a
2 petition setting forth the grounds for such acceleration is filed by
3 the district attorney with the clerk of the sentencing court and
4 competent evidence justifying the acceleration of the judgment is
5 presented to the court at a hearing to be held for that purpose.
6 The hearing shall be held ten (10) days after the entry of the plea
7 of not guilty to the petition, unless waived by both the state and
8 the defendant. If the alleged violation is for a technical
9 violation of the terms and conditions of probation, the application
10 for acceleration shall be limited to a violation that has occurred
11 within the last sixty (60) days, provided the district attorney has
12 received adequate notice.

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

22 F. H. The deferred judgment procedure described in this section
23 shall apply only to defendants who have not been previously
24 convicted of a felony offense and have not received a more than one

1 deferred judgment for a felony offense within the ten (10) years
2 previous to the commission of the pending offense.

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

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

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

14 SECTION 19. AMENDATORY 22 O.S. 2011, Section 991d, as
15 amended by Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2016,
16 Section 991d), is amended to read as follows:

17 Section 991d. A. 1. When the court orders supervision by the
18 Department of Corrections, or the district attorney requires the
19 Department to supervise any person pursuant to a deferred
20 prosecution agreement, the person shall be required to pay a
21 supervision fee of Forty Dollars (\$40.00) per month during the
22 supervision period, unless the fee would impose an unnecessary
23 hardship on the person. In hardship cases, the Department shall
24 expressly waive all or part of the fee. The court shall make

1 payment of the fee a condition of the sentence which shall be
2 imposed whether the supervision is incident to the suspending of
3 execution of a sentence, incident to the suspending of imposition of
4 a sentence, or incident to the deferral of proceedings after a
5 verdict or plea of guilty. The Department shall determine methods
6 for payment of supervision fee, and may charge a reasonable user fee
7 for collection of supervision fees electronically. The Department
8 is required to report to the sentencing court any failure of the
9 person to pay supervision fees and to report immediately if the
10 person violates any condition of the sentence.

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

22 3. If restitution is ordered by the court in conjunction with
23 supervision, the supervision fee will be paid in addition to the
24 restitution ordered. In addition to the restitution payment and

1 supervision fee, a reasonable user fee may be charged by the
2 Department of Corrections to cover the expenses of administration of
3 the restitution, except no user fee shall be collected by the
4 Department when restitution payment is collected and disbursed to
5 the victim by the office of the district attorney as provided in
6 Section 991f of this title or Section 991f-1.1 of this title.

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

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

18 D. Except as provided in subsection A and this subsection, all
19 fees collected pursuant to this section shall be deposited in the
20 Department of Corrections Revolving Fund created pursuant to Section
21 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
22 ending June 30, 1996, fifty percent (50%) of all collections
23 received from offenders placed on supervision after July 1, 1995,
24 shall be transferred to the credit of the General Revenue Fund of

1 the State Treasury until such time as total transfers equal Three
2 Million Three Hundred Thousand Dollars (\$3,300,000.00).

3 SECTION 20. AMENDATORY 22 O.S. 2011, Section 996.1, as
4 last amended by Section 1, Chapter 98, O.S.L. 2014 (22 O.S. Supp.
5 2016, Section 996.1), is amended to read as follows:

6 Section 996.1 As used in the Delayed Sentencing Program for
7 Young Adults:

8 "Offender" means any adult eighteen (18) through twenty-one (21)
9 years of age as of the date of a verdict of guilty or a plea of
10 guilty or nolo contendere for a nonviolent felony offense or a
11 juvenile who has been certified to stand trial as an adult for a
12 nonviolent felony offense, who has no charges pending for a violent
13 offense and who has not been convicted of:

14 1. Assault, battery, or assault and battery with a dangerous or
15 deadly weapon as defined by Sections 645 and subsection C of 652 of
16 Title 21 of the Oklahoma Statutes, or Section 2-219 of Title 43A of
17 the Oklahoma Statutes;

18 2. Aggravated assault and battery on a police officer, sheriff,
19 highway patrolman, or any other officer of the law as defined by
20 Sections 650, subsection C of 650.2, 650.5, subsection B of 650.6,
21 or subsection C of 650.7 of Title 21 of the Oklahoma Statutes;

22 3. Poisoning with intent to kill as defined by Section 651 of
23 Title 21 of the Oklahoma Statutes;

24

1 4. Shooting with intent to kill as defined by Section 652 of
2 Title 21 of the Oklahoma Statutes;

3 5. Assault with intent to kill as defined by Section 653 of
4 Title 21 of the Oklahoma Statutes;

5 6. Using a vehicle to facilitate the intentional discharge of
6 any kind of firearm in violation of Section 652 of Title 21 of the
7 Oklahoma Statutes;

8 7. Discharging any firearm or other deadly weapon at or into
9 any dwelling as defined in Section 1289.17A of Title 21 of the
10 Oklahoma Statutes;

11 8. Assault with intent to commit a felony as defined by Section
12 681 of Title 21 of the Oklahoma Statutes;

13 9. Assaults while masked or disguised as defined by Section
14 1303 of Title 21 of the Oklahoma Statutes;

15 10. Murder in the first degree as defined by Section 701.7 of
16 Title 21 of the Oklahoma Statutes;

17 11. Murder in the second degree as defined by Section 701.8 of
18 Title 21 of the Oklahoma Statutes;

19 12. Manslaughter in the first degree as defined by Sections
20 711, 712, 713 or 714 of Title 21 of the Oklahoma Statutes;

21 13. Manslaughter in the second degree as defined by Sections
22 716 or 717 of Title 21 of the Oklahoma Statutes;

23 14. Kidnapping as defined by Section 741 of Title 21 of the
24 Oklahoma Statutes;

1 15. Burglary in the first degree as defined by Section 1431 of
2 Title 21 of the Oklahoma Statutes;

3 16. Kidnapping for extortion as defined by Section 745 of Title
4 21 of the Oklahoma Statutes;

5 17. Maiming as defined by Section 751 of Title 21 of the
6 Oklahoma Statutes;

7 18. Robbery as defined by Section 791 of Title 21 of the
8 Oklahoma Statutes;

9 19. Robbery in the first degree as defined by Section 797 of
10 Title 21 of the Oklahoma Statutes;

11 20. Robbery in the second degree as defined by Section 797 of
12 Title 21 of the Oklahoma Statutes;

13 21. Armed robbery as defined by Section 801 of Title 21 of the
14 Oklahoma Statutes;

15 22. Robbery by two (2) or more persons as defined by Section
16 800 of Title 21 of the Oklahoma Statutes;

17 23. Robbery with dangerous weapon or imitation firearm as
18 defined by Section 801 of Title 21 of the Oklahoma Statutes;

19 24. Any crime against a child provided for in Section 843.5 of
20 Title 21 of the Oklahoma Statutes;

21 25. Wiring equipment, vehicle or structure with explosives as
22 defined by Section 849 of Title 21 of the Oklahoma Statutes;

23 26. Forcible sodomy as defined by Section 888 of Title 21 of
24 the Oklahoma Statutes;

1 27. Rape in the first degree as defined by Sections 1111 and
2 1114 of Title 21 of the Oklahoma Statutes;

3 28. Rape by instrumentation as defined by Section 1111.1 of
4 Title 21 of the Oklahoma Statutes;

5 29. Lewd or indecent proposition or lewd or indecent act with a
6 child as defined by Section 1123 of Title 21 of the Oklahoma
7 Statutes;

8 30. Use of a firearm or offensive weapon to commit or attempt
9 to commit a felony as defined by Section 1287 of Title 21 of the
10 Oklahoma Statutes;

11 31. Pointing firearms as defined by Section 1289.16 of Title 21
12 of the Oklahoma Statutes;

13 32. Rioting as defined by Sections 1311 or 1321.8 of Title 21
14 of the Oklahoma Statutes;

15 33. Inciting to riot as defined by Section 1320.2 of Title 21
16 of the Oklahoma Statutes;

17 34. Arson in the first degree as defined by Section 1401 of
18 Title 21 of the Oklahoma Statutes;

19 35. Endangering human life during arson as defined by Section
20 1405 of Title 21 of the Oklahoma Statutes;

21 36. Procure, produce, distribute, or possess juvenile
22 pornography as defined by Section 1021.2 of Title 21 of the Oklahoma
23 Statutes;

24

1 37. Parental consent to juvenile pornography as defined by
2 Section 1021.3 of Title 21 of the Oklahoma Statutes; or

3 38. Distributing obscene material or child pornography as
4 defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

5 ~~39. Unlawful manufacturing, attempting to unlawfully~~
6 ~~manufacture or aggravated manufacturing of any controlled dangerous~~
7 ~~substance as defined by subsection G of Section 2-401 and paragraph~~
8 ~~3 of subsection G of Section 2-401 of Title 63 of the Oklahoma~~
9 ~~Statutes;~~

10 ~~40. Any violation of the Trafficking in Illegal Drugs Act as~~
11 ~~defined by Section 2-415 of Title 63 of the Oklahoma Statutes.~~

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

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

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

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

18 ~~After the completion of the Program the court shall:~~

19 ~~1. Defer judgment pursuant to the provisions of Section 991c of~~
20 ~~this title;~~

21 ~~2. Sentence the offender to any sentence provided by law in the~~
22 ~~custody of the Department of Corrections;~~

23 ~~3. Suspend the execution of sentence pursuant to Section 991a~~
24 ~~of this title. In addition to other conditions of probation allowed~~

1 ~~by statute, the court may include special conditions of probation as~~
2 ~~set forth in the plan provided to the court if sentencing is~~
3 ~~deferred or if all or part of the sentence is suspended;~~

4 ~~4. Sentence the offender to community sentencing; or~~

5 ~~5. Dismiss the criminal charges and proceedings.~~

6 B. Within ninety (90) days after the offender is committed to
7 the Delayed Sentencing Program for Young Adults, the Department of
8 Corrections shall prepare and file with the court clerk a
9 specialized offender accountability plan for the offender which
10 shall comply with and be in lieu of the presentence investigation
11 provided for in Section 982 of this title. The plan shall include
12 information, evaluations, and data directed by the sentencing court,
13 and may include, but not be limited to, the investigation report of
14 probation officers, an assessment of security risks and offender
15 needs and a recommended specific course of action, including, where
16 applicable, psychological counseling, psychiatric treatment, medical
17 treatment, education or vocational training, work, restitution, and
18 such other programs, which will offer the best opportunity for
19 rehabilitation of the offender. If the plan recommends confinement,
20 the plan shall state specifically the type of confinement that the
21 Department of Corrections proposes to utilize and the amount of time
22 the offender will spend in that confinement, including but not
23 limited to ~~boot camp,~~ substance abuse treatment, and vocational or
24 educational placement.

1 Upon filing the plan, copies shall be provided by the Department
2 of Corrections to the district attorney, the offender, the
3 offender's attorney, and the court. If the district attorney, the
4 offender or the offender's attorney objects to the plan, the
5 objecting party may file a written objection with the court within
6 ten (10) days of the receipt of the plan. Upon the filing of any
7 objection, the court shall conduct a hearing within ten (10) days of
8 the filing of the objection and decide a plan of action for the
9 offender under the Delayed Sentencing Program for Young Adults or
10 sentence the offender as otherwise provided by law.

11 C. An order by the court placing an offender in the Delayed
12 Sentencing Program for Young Adults shall be accepted by the
13 Department of Corrections as a commitment to the custody of the
14 Department pursuant to the provisions of Section 521 of Title 57 of
15 the Oklahoma Statutes, for the sole purpose of committing an
16 offender for assessment and evaluation and complying with the
17 accountability plan.

18 D. If no objection has been made to the plan, the offender
19 shall remain in the custody of the Department either under probation
20 or confinement to comply with the terms and conditions of the plan.
21 The offender may be housed either in a minimum or medium security
22 facility, halfway house, community corrections facility, or any
23 combination as needed to comply with the plan and meet offender
24 criminogenic needs.

1 E. Any offender previously admitted to the Delayed Sentencing
2 Program for Young Adults shall be ineligible for the Delayed
3 Sentencing Program for Young Adults for subsequent offenses.

4 F. Upon successful completion of the Delayed Sentencing Program
5 for Young Adults, the offender shall be discharged without a court
6 judgment of guilt, and the court shall order the verdict or plea of
7 guilty or plea of nolo contendere to be expunged from the record and
8 the charge shall be dismissed with prejudice to any further action.
9 The procedure to expunge the record of the offender shall be as
10 follows:

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

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

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

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

23 5. Offenders qualifying under Section 18 of this title may
24 petition the court to have the filing of the indictment and the

1 dismissal expunged from the public index and docket sheet. This
2 section shall not be mutually exclusive of Section 18 of this title.

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

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

21 H. The Department of Corrections shall be authorized to use a
22 violation response and intermediate sanction process based on the
23 sanction matrix to apply to any technical violation pursuant to
24 Section 991b of this title. Within four (4) business days of the

1 discovery of the violation, the probation officer shall initiate the
2 violation response and intermediate sanction process. The probation
3 officer may authorize any recommended sanctions which may include,
4 but not be limited to:

5 1. Day treatment;

6 2. Program attendance;

7 3. Community service;

8 4. Outpatient or inpatient treatment;

9 5. Monetary fines;

10 6. Curfews; or

11 7. Ignition interlock device on vehicles.

12 The Department shall accomplish monitoring and offender
13 accountability by ordering progressively increasing sanctions or
14 providing incentives, rather than requesting removal by the court of
15 the offender from the program when a violation occurs, except when
16 the conduct of the offender requires removal from the program. Any
17 revocation from the program shall require notice to the offender and
18 other participating parties in the case and a revocation hearing.

19 At the revocation hearing, if the offender is found to have violated
20 the conditions of the accountability plan and disciplinary sanctions
21 have been insufficient to gain compliance, the offender shall be
22 revoked from the program, and the court may enter a judgment of
23 guilt and proceed as provided in Section 991a of this title, or the
24 court may modify any condition imposed.

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SECTION 23. This act shall become effective November 1, 2017.

56-1-5915 GRS 01/19/17