

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 25, 2017

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 689

By: Treat et al of the Senate and O'Donnell, Young and Cleveland of the House

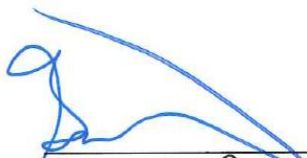
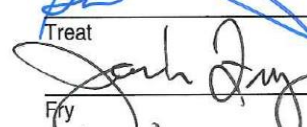
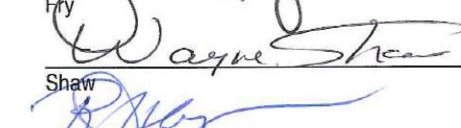
Title: Criminal procedure; judgments and execution of sentences; pilot program; sentencing powers of the court. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

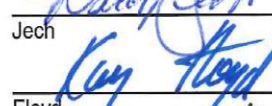
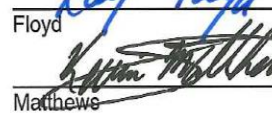
1. advise that the conferees have been unable to agree.

Respectfully submitted,

SENATE CONFEREES:


Treat

Fry

Shaw

Thompson


Jech

Floyd

Matthews

HOUSE CONFEREES:

Conference Committee on Judiciary - Criminal Justice and Corrections

Senate Action _____ Date _____ House Action _____ Date _____

epc

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 689

By: Treat, Pittman and Sharp of
the Senate

and

O'Donnell, Young and
Cleveland of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 982a, as last amended by Section 1, Chapter 160, O.S.L. 2016, 983 and Sections 1 and 2, Chapter 392, O.S.L. 2016 (22 O.S. Supp. 2016, Sections 982a, 983a and 983b), which relate to judgments and execution of sentences; making certain offenders eligible for sentence modification; providing statutory references; modifying court procedures related to financial obligations owed by defendants; amending 22 O.S. 2011, Sections 988.2, as last amended by Section 3, Chapter 222, O.S.L. 2016, 988.8, 988.18, 988.19, 988.20 and 988.22 (22 O.S. Supp. 2016, Section 988.2), which relate to the Oklahoma Community Sentencing Act; modifying definitions; providing for use of specialized caseloads when supervising certain offenders; expanding available treatment options; providing for use of assessment results under limited circumstances; directing supervision providers to comply with certain statutory requirements; clarifying disciplinary sanctions or incentives procedures; decreasing time limitation for active supervision, programs and services; amending 22 O.S. 2011, Section 991a, as last amended by Section 1,

Chapter 157, O.S.L. 2014 (22 O.S. Supp. 2016, Section 991a), which relates to sentencing powers of the court; requiring certain convicted defendants to receive batterer assessment; authorizing courts to order certain counseling services; modifying exceptions to certain sentencing option; directing supervision providers to use sanctions and incentives process; amending 22 O.S. 2011, Sections 991b, as last amended by Section 1, Chapter 33, O.S.L. 2016, and 991c, as last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp. 2016, Sections 991b and 991c), which relate to suspended and deferred sentences and supervision fees; decreasing time limitation for revocation hearing; establishing time limitation for filing certain petition; providing exception for revocation option; directing court to sentence offender pursuant to certain statutory provision; amending 22 O.S. 2011, Sections 996.2 and 996.3, which relate to the Delayed Sentencing Program for Young Adults; modifying certain time limitations; providing exceptions; authorizing courts to extend period of restitution payment consideration; establishing procedures to address violations; providing for codification; and providing an effective date.

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

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

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

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

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

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

1 B. The court imposing the sentence may modify the sentence of
2 any offender sentenced to life without parole for an offense other
3 than a violent crime, as enumerated in Section 571 of Title 57 of
4 the Oklahoma Statutes, who has served at least ten (10) years of the
5 sentence in the custody of the Department of Corrections upon a
6 finding that the best interests of the public will not be
7 jeopardized. Provided; however, prior to granting a sentence
8 modification under the provisions of this subsection, the court
9 shall provide notice of the hearing to determine sentence
10 modification to the victim or representative of the victim and shall
11 allow the victim or representative of the victim the opportunity to
12 provide testimony at the hearing. The court shall consider the
13 testimony of the victim or representative of the victim when
14 rendering a decision to modify the sentence of an offender.

15 C. For purposes of judicial review, upon court order or written
16 request from the sentencing judge, the Department of Corrections
17 shall provide the court imposing sentence or revocation of probation
18 with a report to include a summary of the assessed needs of the
19 offender, any progress made by the offender in addressing his or her
20 assessed needs, and any other information the Department can supply
21 on the offender. The court shall consider such reports when
22 modifying the sentence or revocation of probation. The court shall
23 allow the Department of Corrections at least twenty (20) days after
24

1 receipt of a request or order from the court to prepare the required
2 reports.

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

14 ~~D.~~ E. If an appeal is taken from the original sentence or from
15 a revocation of probation which results in a modification of the
16 sentence or modification to the revocation of probation of the
17 offender, such sentence may be further modified in the manner
18 described in paragraph 1 of subsection A of this section within
19 sixty (60) months after the receipt by the clerk of the district
20 court of the mandate from the Supreme Court or the Court of Criminal
21 Appeals.

22 SECTION 2. AMENDATORY 22 O.S. 2011, Section 983, is
23 amended to read as follows:
24

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

11 B. After a judicial determination that the defendant is able to
12 pay the fine, cost, fee, or assessment in installments, the court
13 may order the fine, cost, fee, or assessment to be paid in
14 installments and shall set the amount and date for each installment.

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

1 Notices sent to the Department shall be on forms or by a method
2 approved by the Department.

3 D. The Court of Criminal Appeals shall implement procedures and
4 rules for methods of establishing payment plans of fines, costs,
5 fees, and assessments by indigents, which procedures and rules shall
6 be distributed to all district courts and municipal courts by the
7 Administrative Office of the Courts.

8 SECTION 3. AMENDATORY Section 2, Chapter 243, O.S.L.
9 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
10 follows:

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

18 1. The mandatory minimum sentence of imprisonment is not
19 necessary for the protection of the public ~~and imposition; or~~

20 2. Imposition of the mandatory minimum sentence of imprisonment
21 would result in substantial injustice to the defendant; or

22 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
23 necessary for the protection of the public and the defendant, based
24 on a risk and needs assessment, is eligible for an alternative

1 court, a diversion program or community sentencing, without regard
2 to exclusions because of previous convictions, and has been accepted
3 to the same, pending sentencing.

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

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

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

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

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

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

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

1 7. The offense for which the defendant was convicted is a
2 violation of the Oklahoma Antiterrorism Act as provided in Sections
3 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

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

7 SECTION 4. AMENDATORY 22 O.S. 2011, Section 988.2, as
8 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
9 2016, Section 988.2), is amended to read as follows:

10 Section 988.2 A. For purposes of the Oklahoma Community
11 Sentencing Act:

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

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

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

23 4. "Community sentencing system planning council" or "planning
24 council" means a group of citizens and elected officials specified

1 by law or appointed by the Chief Judge of the Judicial District
2 which plans the local community sentencing system and with the
3 assistance of the Community Sentencing Division of the Department of
4 Corrections locates treatment providers and resources to support the
5 local community sentencing system;

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

9 6. "Disciplinary sanction" means a court-ordered punishment in
10 response to a technical or noncompliance violation of a community
11 sentence which increases in intensity or duration with each
12 successive violation;

13 7. "Division" means the Community Sentencing Division within
14 the Department of Corrections which is the state administration
15 agency for the Oklahoma Community Sentencing Act, the statewide
16 community sentencing system, and all local community sentencing
17 systems;

18 8. "Eligible offender" means a felony offender who has been
19 convicted of or who has entered a plea other than not guilty to a
20 felony offense and who upon completion of a ~~Level of Services~~
21 ~~Inventory or another~~ risk and needs assessment instrument has been
22 found to be in a range other than the low range, ~~who has been~~
23 ~~convicted of at least one prior felony,~~ and who is not otherwise
24 prohibited by law, or is a person who has had an assessment

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

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

23 B. For the purposes of the Oklahoma Community Sentencing Act,
24 if a judicial district does not have a Chief Judge or if a judicial

1 district has more than one Chief Judge, the duties of the Chief
2 Judge provided for in the Oklahoma Community Sentencing Act shall be
3 performed by the Presiding Judge of the Judicial Administrative
4 District.

5 SECTION 5. AMENDATORY 22 O.S. 2011, Section 988.8, is
6 amended to read as follows:

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

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

20 2. Substance abuse treatment and availability for periodic drug
21 testing of offenders following treatment;

22 3. Varying levels of supervision by the Department of
23 Corrections probation officers or another qualified supervision
24 source, including specialized supervision for repeat offenders,

1 offenders with convictions for sex crimes, offenders with conviction
2 for domestic violence offenses and offenders with diagnosed mental
3 health needs;

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

7 5. Employment opportunities and job skills training provided by
8 the Oklahoma Department of Career and Technology Education or
9 another qualified source;

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

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

15 ~~7.~~ 8. The availability of county jail or another restrictive
16 housing facility for limited disciplinary sanctions.

17 B. The court may order as a community punishment for an
18 eligible offender any condition listed as a condition available for
19 a suspended sentence.

20 C. In all cases in which an offender is sentenced to a
21 community punishment, the offender shall be ordered as part of the
22 terms and conditions of the sentence to pay for the court ordered
23 sanction, based upon ability to pay. Payments may be as provided by
24 court order or pursuant to periodic payment schedules established by

1 the service provider. If the offender does not have the financial
2 ability to pay for the court ordered sanction, payment shall be made
3 from funds budgeted for the local community sentencing system.

4 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.18, is
5 amended to read as follows:

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

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

23 C. Upon order of the court, the defendant shall be required to
24 submit to the ~~LSI or other approved~~ risk and needs assessment which

1 shall be administered and scored by an appropriately trained person
2 pursuant to a service agreement with the local community sentencing
3 system. Any defendant lacking sufficient skills to comprehend or
4 otherwise participate in the assessment and evaluation shall have
5 appropriate assistance. If it is determined that the offender
6 cannot be adequately evaluated using the ~~LSI or another approved~~
7 risk and needs assessment, the offender shall be deemed ineligible
8 for any community services pursuant to the Oklahoma Community
9 Sentencing Act, and shall be sentenced as prescribed by law for the
10 offense.

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

15 E. The completed ~~LSI, or other approved~~ risk and needs
16 assessment, shall include a written supervision plan and identify an
17 appropriate community punishment, if any, when the offender is
18 considered eligible for community punishments based upon the
19 completed risk/need score from the ~~LSI~~ risk and needs assessment of
20 the offender. Unless otherwise prohibited by law, only eligible
21 ~~offenders scoring in a range other than the low range on the LSI~~
22 ~~assessment and having at least one prior felony conviction~~ shall be
23 eligible for any state-funded community punishments.

24

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

11 SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.19, is
12 amended to read as follows:

13 Section 988.19 A. When ordering a community sentence or
14 community punishment, the court shall first impose a deferred or
15 suspended sentence for the offense as prescribed by law, and shall
16 then order the appropriate community punishment as a condition of
17 that deferred or suspended sentence. The design of the community
18 punishment shall be based upon the supervision and intervention
19 report from the ~~Level of Services Inventory (LSI), or other approved~~
20 risk and needs assessment. The local community sentencing system
21 administrator shall have authority for all offender placements
22 within the local community sentencing system pursuant to the court-
23 ordered community sentence. The local community sentencing system
24 administrator shall ensure that the supervision provider complies

1 with the provisions of Section 517 of Title 57 of the Oklahoma
2 Statutes and Section 991b of this title.

3 B. Persons convicted of or pleading guilty or nolo contendere
4 to a combination of misdemeanor and felony offenses may receive
5 services from a local community sentencing system when the county
6 agrees in writing to pay the Community Sentencing Division within
7 the Department of Corrections for the actual costs of services used
8 for misdemeanor cases. No state funds shall be used to pay for
9 misdemeanor offenses.

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

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

23 E. If the court considers a motion to modify a community
24 sentence, a hearing shall be held in open court. The notice of the

1 hearing shall be given to the offender, the offender's legal
2 counsel, and the district attorney of the county in which the
3 offender was convicted not less than ten (10) days prior to the
4 hearing. A copy of any reports to be presented to the court shall
5 accompany the notice of hearing.

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

18 G. The court shall not be limited on the number of
19 modifications a sentence may have within the term of the community
20 sentence.

21 H. Any offender who files a meritless or frivolous motion to
22 modify a community sentence shall pay the costs of the proceeding
23 and may be sanctioned as deemed appropriate by the court.
24

1 I. The court may revoke or accelerate a community punishment to
2 the original sentence imposed during the term of the sentence. When
3 a community sentence is revoked to state imprisonment, the court
4 shall give a day-for-day credit for any term of incarceration
5 actually served as community punishment.

6 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.20, is
7 amended to read as follows:

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

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

23 When the offender is to be confined, the sheriff shall, upon order
24 of the court, deliver the offender to the designated place of

1 confinement, provided the place of confinement has an agreement for
2 confinement services with the local community sentencing system or
3 is the county jail. The sheriff shall be reimbursed by the local
4 community sentencing system for transporting offenders pursuant to
5 this subsection. The offender shall be given day-for-day credit for
6 any terms of incarceration served in the county jail or other
7 restrictive facility when the sentence is modified.

8 B. The court may, through a standing court order, provide for
9 specific ~~disciplinary~~ sanctions and incentives specified in Section
10 517 of Title 57 of the Oklahoma Statutes which may be utilized by
11 the local administrator upon notification to the court.

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

21 D. When any offender is disciplined by the court as authorized
22 by this section and is to be imprisoned in the county jail or other
23 restrictive facility, the sheriff or facility administrator shall
24 receive compensation as provided by their agreement with the local

1 community sentencing system, or the sheriff or facility
2 administrator shall be paid directly for the services by the
3 offender when ordered to pay for the confinement as part of the
4 disciplinary sanction. In no event shall any compensation for
5 disciplinary confinement exceed the maximum amount provided for
6 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
7 Statutes.

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

10 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.22, is
11 amended to read as follows:

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

15 B. Upon completion of any court-ordered provision, pursuant to
16 the Oklahoma Community Sentencing Act, the administrator of the
17 local system shall file a statement with the court defining the
18 provision which has been successfully completed. When all court-
19 ordered provisions have been successfully completed the defendant
20 shall be deemed to have completed the community punishment.

21 C. The provisions of the Oklahoma Community Sentencing Act
22 shall not confer any rights upon the defendant to avoid a term of
23 imprisonment prescribed by law for the offense, nor grant any
24

1 additional rights to appeal for failure to be offered any specific
2 punishment or treatment option available to the court.

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

8 SECTION 10. AMENDATORY 22 O.S. 2011, Section 991a, as
9 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
10 2016, Section 991a), is amended to read as follows:

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

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

19 a. to provide restitution to the victim as provided by
20 Section 991f et seq. of this title or according to a
21 schedule of payments established by the sentencing
22 court, together with interest upon any pecuniary sum
23 at the rate of twelve percent (12%) per annum, if the
24 defendant agrees to pay such restitution or, in the

1 opinion of the court, if the defendant is able to pay
2 such restitution without imposing manifest hardship on
3 the defendant or the immediate family and if the
4 extent of the damage to the victim is determinable
5 with reasonable certainty,

6 b. to reimburse any state agency for amounts paid by the
7 state agency for hospital and medical expenses
8 incurred by the victim or victims, as a result of the
9 criminal act for which such person was convicted,
10 which reimbursement shall be made directly to the
11 state agency, with interest accruing thereon at the
12 rate of twelve percent (12%) per annum,

13 c. to engage in a term of community service without
14 compensation, according to a schedule consistent with
15 the employment and family responsibilities of the
16 person convicted,

17 d. to pay a reasonable sum into any trust fund,
18 established pursuant to the provisions of Sections 176
19 through 180.4 of Title 60 of the Oklahoma Statutes,
20 and which provides restitution payments by convicted
21 defendants to victims of crimes committed within this
22 state wherein such victim has incurred a financial
23 loss,

- 1 e. to confinement in the county jail for a period not to
2 exceed six (6) months,
- 3 f. to confinement as provided by law together with a term
4 of post-imprisonment community supervision for not
5 less than three (3) years of the total term allowed by
6 law for imprisonment, with or without restitution;
7 provided, however, the authority of this provision is
8 limited to Section 843.5 of Title 21 of the Oklahoma
9 Statutes when the offense involved sexual abuse or
10 sexual exploitation; Sections 681, 741 and 843.1 of
11 Title 21 of the Oklahoma Statutes when the offense
12 involved sexual abuse or sexual exploitation; and
13 Sections 865 et seq., 885, 886, 888, 891, 1021,
14 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
15 1123 of Title 21 of the Oklahoma Statutes,
- 16 g. to repay the reward or part of the reward paid by a
17 local certified crime stoppers program and the
18 Oklahoma Reward System. In determining whether the
19 defendant shall repay the reward or part of the
20 reward, the court shall consider the ability of the
21 defendant to make the payment, the financial hardship
22 on the defendant to make the required payment, and the
23 importance of the information to the prosecution of
24 the defendant as provided by the arresting officer or

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

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

1 investigation of the defendant's case may be
2 determined with reasonable certainty,

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

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

21 k. to reimburse the court fund for amounts paid to court-
22 appointed attorneys for representing the defendant in
23 the case in which the person is being sentenced,
24

1. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- m. to be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability

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

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

o. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Three Hundred Dollars (\$300.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

p. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors,

deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,

q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,

r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,

- s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- t. to obtain positive behavior modeling by a trained mentor,
- u. to serve a term of confinement in a restrictive housing facility available in the community,
- v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- w. to obtain employment or participate in employment-related activities,
- x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,

- 1 z. to submit to blood or saliva testing as required by
2 subsection I of this section,
- 3 aa. to repair or restore property damaged by the
4 defendant's conduct, if the court determines the
5 defendant possesses sufficient skill to repair or
6 restore the property and the victim consents to the
7 repairing or restoring of the property,
- 8 bb. to restore damaged property in kind or payment of out-
9 of-pocket expenses to the victim, if the court is able
10 to determine the actual out-of-pocket expenses
11 suffered by the victim,
- 12 cc. to attend a victim-offender reconciliation program if
13 the victim agrees to participate and the offender is
14 deemed appropriate for participation,
- 15 dd. in the case of a person convicted of prostitution
16 pursuant to Section 1029 of Title 21 of the Oklahoma
17 Statutes, require such person to receive counseling
18 for the behavior which may have caused such person to
19 engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but
21 not limited to alcohol and substance abuse, sexual
22 behavior problems, or domestic abuse or child abuse
23 problems,
- 24

1 ee. in the case of a sex offender sentenced after November
2 1, 1989, and required by law to register pursuant to
3 the Sex Offender Registration Act, the court shall
4 require the person to comply with sex offender
5 specific rules and conditions of supervision
6 established by the Department of Corrections and
7 require the person to participate in a treatment
8 program designed for the treatment of sex offenders
9 during the period of time while the offender is
10 subject to supervision by the Department of
11 Corrections. The treatment program shall include
12 polygraph examinations specifically designed for use
13 with sex offenders for purposes of supervision and
14 treatment compliance, and shall be administered not
15 less than each six (6) months during the period of
16 supervision. The examination shall be administered by
17 a certified licensed polygraph examiner. The
18 treatment program must be approved by the Department
19 of Corrections or the Department of Mental Health and
20 Substance Abuse Services. Such treatment shall be at
21 the expense of the defendant based on the defendant's
22 ability to pay,

23 ff. in addition to other sentencing powers of the court,
24 the court in the case of a defendant being sentenced

1 for a felony conviction for a violation of Section 2-
2 402 of Title 63 of the Oklahoma Statutes which
3 involves marijuana may require the person to
4 participate in a drug court program, if available. If
5 a drug court program is not available, the defendant
6 may be required to participate in a community
7 sanctions program, if available,

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

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 District Attorney Bogus Check Restitution Program, and
24

1 hh. in the case of a person being sentenced for a
2 conviction for a violation of Section 644 of Title 21
3 of the Oklahoma Statutes, require the person to
4 receive an assessment for batterers, which shall be
5 conducted through a certified treatment program for
6 batterers, and

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

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

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

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

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

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

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

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

1 State Bureau of Investigation to be deposited in the OSBI Revolving
2 Fund established by Section 150.19a of Title 74 of the Oklahoma
3 Statutes;

4 ~~6. In the case of nonviolent felony offenses, sentence such~~
5 ~~person to the Community Service Sentencing Program;~~

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

- 13 a. to participate in an alcohol and drug assessment and
14 evaluation by an assessment agency or assessment
15 personnel certified by the Department of Mental Health
16 and Substance Abuse Services pursuant to Section 3-460
17 of Title 43A of the Oklahoma Statutes and, as
18 determined by the assessment, participate in an
19 alcohol and drug substance abuse course or treatment
20 program or both, pursuant to Sections 3-452 and 3-453
21 of Title 43A of the Oklahoma Statutes,
- 22 b. to attend a victims impact panel program, as defined
23 in subsection H of this section, if such a program is
24 offered in the county where the judgment is rendered,

1 and to pay a fee of not less than Fifteen Dollars
2 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
3 by the governing authority of the program and approved
4 by the court, to the program to offset the cost of
5 participation by the defendant, if in the opinion of
6 the court the defendant has the ability to pay such
7 fee,

8 c. to both participate in the alcohol and drug substance
9 abuse course or treatment program, pursuant to
10 subparagraph a of this paragraph and attend a victims
11 impact panel program, pursuant to subparagraph b of
12 this paragraph,

13 d. to install, at the expense of the person, an ignition
14 interlock device approved by the Board of Tests for
15 Alcohol and Drug Influence, upon every motor vehicle
16 operated by such person and to require that a notation
17 of this restriction be affixed to the person's driver
18 license at the time of reinstatement of the license.
19 The restriction shall remain on the driver license for
20 such period as the court shall determine. The
21 restriction may be modified or removed by order of the
22 court and notice of the order shall be given to the
23 Department of Public Safety. Upon the expiration of
24 the period for the restriction, the Department of

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

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

20 ~~8.~~ 7. In addition to the other sentencing powers of the court,
21 in the case of a person convicted of prostitution pursuant to
22 Section 1029 of Title 21 of the Oklahoma Statutes, require such
23 person to receive counseling for the behavior which may have caused
24 such person to engage in prostitution activities. Such person may

1 be required to receive counseling in areas including but not limited
2 to alcohol and substance abuse, sexual behavior problems, or
3 domestic abuse or child abuse problems;

4 ~~9.~~ 8. In addition to the other sentencing powers of the court,
5 in the case of a person convicted of any crime related to domestic
6 abuse, as defined in Section 60.1 of this title, the court may
7 require the defendant to undergo the treatment or participate in ~~the~~
8 ~~counseling services~~ an intervention program for batterers certified
9 by the Office of the Attorney General, as directed under the
10 provisions of Section 515a of Title 57 of the Oklahoma Statutes,
11 necessary to bring about the cessation of domestic abuse ~~against the~~
12 ~~victim.~~ In the instance where the defendant alleges that he or she
13 is a victim of domestic abuse and the current conviction is a
14 response to that abuse, the court may require the defendant to
15 undergo an assessment by a domestic violence program certified by
16 the Office of the Attorney General, and, if based upon the results
17 of the assessment, the defendant is determined to be a victim of
18 domestic violence, the defendant shall undergo treatment and
19 participate in a certified program for domestic violence victims.
20 The defendant may be required to pay all or part of the cost of the
21 treatment or counseling services;

22 ~~10.~~ 9. In addition to the other sentencing powers of the court,
23 the court, in the case of a sex offender sentenced after November 1,
24 1989, and required by law to register pursuant to the Sex Offenders

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

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

18 ~~12.~~ 11. In addition to the other sentencing powers of the
19 court, the court, in the case of a person convicted of cruelty to
20 animals pursuant to Section 1685 of Title 21 of the Oklahoma
21 Statutes, may require the person to pay restitution to animal
22 facilities for medical care and any boarding costs of victimized
23 animals;

24

1 ~~13.~~ 12. In addition to the other sentencing powers of the
2 court, a sex offender who is habitual or aggravated as defined by
3 Section 584 of Title 57 of the Oklahoma Statutes and who is required
4 to register as a sex offender pursuant to the Oklahoma Sex Offenders
5 Registration Act shall be supervised by the Department of
6 Corrections for the duration of the registration period and shall be
7 assigned to a global position monitoring device by the Department of
8 Corrections for the duration of the registration period. The cost
9 of such monitoring device shall be reimbursed by the offender;

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

17 ~~15.~~ 14. In addition to the other sentencing powers of the
18 court, in the case of a sex offender who is required by law to
19 register pursuant to the Sex Offenders Registration Act, the court
20 shall require the person to register any electronic mail address
21 information, instant message, chat or other Internet communication
22 name or identity information that the person uses or intends to use
23 while accessing the Internet or used for other purposes of social
24 networking or other similar Internet communication.

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

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

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

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

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

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

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

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

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

1 court. All supervision providers that supervise persons under this
2 section use the sanctions and incentives process established under
3 Section 991b of this title. Such supervision shall be initiated
4 upon an order of probation from the court, and shall not exceed two
5 (2) years, unless a petition alleging a violation of any condition
6 of deferred judgment or seeking revocation of the suspended sentence
7 is filed during the supervision, or as otherwise provided by law.
8 In the case of a person convicted of a sex offense, supervision
9 shall begin immediately upon release from incarceration or if parole
10 is granted and shall not be limited to two (2) years. Provided
11 further, any supervision provided for in this section may be
12 extended for a period not to exceed the expiration of the maximum
13 term or terms of the sentence upon a determination by the court or
14 the Division of Probation and Parole of the Department of
15 Corrections that the best interests of the public and the release
16 will be served by an extended period of supervision. Any
17 supervision provided for under this section may not have the period
18 of supervision extended for a failure to pay fines, fees and other
19 costs, excluding restitution, except upon a finding of willful
20 nonpayment.

21 F. The Department of Corrections, or such other agency as the
22 court may designate, shall be responsible for the monitoring and
23 administration of the restitution and service programs provided for
24 by subparagraphs a, c, and d of paragraph 1 of subsection A of this

1 section, and shall ensure that restitution payments are forwarded to
2 the victim and that service assignments are properly performed.

3 G. 1. The Department of Corrections is hereby authorized,
4 subject to funds available through appropriation by the Legislature,
5 to contract with counties for the administration of county Community
6 Service Sentencing Programs.

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

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

21 4. The Department is hereby authorized to provide technical
22 assistance to any county in establishing a Program, regardless of
23 whether the county enters into a contract pursuant to this
24 subsection. Technical assistance shall include appropriate

1 staffing, development of community resources, sponsorship,
2 supervision and any other requirements.

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

8 H. As used in this section:

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

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

19 3. "Victims impact panel program" means a meeting with at least
20 one live presenter who will share personal stories with participants
21 about how alcohol, drug abuse and the illegal conduct of others has
22 personally impacted the life of the presenter. A victims impact
23 panel program shall be attended by persons who have committed the
24 offense of driving, operating or being in actual physical control of

1 a motor vehicle while under the influence of alcohol or other
2 intoxicating substance. Persons attending a victims impact panel
3 program shall be required to pay a fee of not less than Fifteen
4 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
5 provider of the program. A certificate of completion shall be
6 issued to the person upon satisfying the attendance and fee
7 requirements of the victims impact panel program. A victims impact
8 panel program shall not be provided by any certified assessment
9 agency or certified assessor. The provider of the victims impact
10 panel program shall carry general liability insurance and maintain
11 an accurate accounting of all business transactions and funds
12 received in relation to the victims impact panel program.

13 I. A person convicted of a felony offense or receiving any form
14 of probation for an offense in which registration is required
15 pursuant to the Sex Offenders Registration Act, shall submit to
16 deoxyribonucleic acid DNA testing for law enforcement identification
17 purposes in accordance with Section 150.27 of Title 74 of the
18 Oklahoma Statutes and the rules promulgated by the Oklahoma State
19 Bureau of Investigation for the OSBI Combined DNA Index System
20 (CODIS) Database. Subject to the availability of funds, any person
21 convicted of a misdemeanor offense of assault and battery, domestic
22 abuse, stalking, possession of a controlled substance prohibited
23 under Schedule IV of the Uniform Controlled Dangerous Substances
24 Act, outraging public decency, resisting arrest, escape or

1 attempting to escape, eluding a police officer, peeping tom,
2 pointing a firearm, unlawful carry of a firearm, illegal transport
3 of a firearm, discharging of a firearm, threatening an act of
4 violence, breaking and entering a dwelling place, destruction of
5 property, negligent homicide, or causing a personal injury accident
6 while driving under the influence of any intoxicating substance, or
7 any alien unlawfully present under federal immigration law, upon
8 arrest, shall submit to deoxyribonucleic acid DNA testing for law
9 enforcement identification purposes in accordance with Section
10 150.27 of Title 74 of the Oklahoma Statutes and the rules
11 promulgated by the Oklahoma State Bureau of Investigation for the
12 OSBI Combined DNA Index System (CODIS) Database. Any defendant
13 sentenced to probation shall be required to submit to testing within
14 thirty (30) days of sentencing either to the Department of
15 Corrections or to the county sheriff or other peace officer as
16 directed by the court. Defendants who are sentenced to a term of
17 incarceration shall submit to testing in accordance with Section
18 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
19 enter the custody of the Department of Corrections or to the county
20 sheriff, for those defendants sentenced to incarceration in a county
21 jail. Convicted individuals who have previously submitted to DNA
22 testing under this section and for whom a valid sample is on file in
23 the OSBI Combined DNA Index System (CODIS) Database at the time of
24 sentencing shall not be required to submit to additional testing.

1 Except as required by the Sex Offenders Registration Act, a deferred
2 judgment does not require submission to deoxyribonucleic acid
3 testing.

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

14 J. Samples of blood or saliva for DNA testing required by
15 subsection I of this section shall be taken by employees or
16 contractors of the Department of Corrections, peace officers, or the
17 county sheriff or employees or contractors of the sheriff's office.
18 The individuals shall be properly trained to collect blood or saliva
19 samples. Persons collecting blood or saliva for DNA testing
20 pursuant to this section shall be immune from civil liabilities
21 arising from this activity. All collectors of DNA samples shall
22 ensure the collection of samples are mailed to the Oklahoma State
23 Bureau of Investigation within ten (10) days of the time the subject
24 appears for testing or within ten (10) days of the date the subject

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

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

16 SECTION 11. AMENDATORY 22 O.S. 2011, Section 991b, as
17 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
18 2016, Section 991b), is amended to read as follows:

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

1 the suspended sentence is presented to the court at a hearing to be
2 held for that purpose within twenty (20) days after the entry of the
3 plea of not guilty to the petition, unless waived by both the state
4 and the defendant. The State of Oklahoma may dismiss the petition
5 without prejudice one time upon good cause shown to the court,
6 provided that any successor petition must be filed within forty-five
7 (45) days of the date of the dismissal of the petition.

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

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

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

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

1 e. the Department shall provide to judges and district
2 attorneys a record of all violations and actions taken
3 pursuant to this subsection.

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

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

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

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

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

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

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

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

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

18 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991c, as
19 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
20 2016, Section 991c), is amended to read as follows:

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

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

6 1. Pay court costs;

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

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

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

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

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

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

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

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

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

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

15 11. Any combination of the above provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 SECTION 13. This act shall become effective November 1, 2017.

10
11 56-1-1822 BH 5/26/2017 8:55:41 AM
12
13
14
15
16
17
18
19
20
21
22
23
24