

1 ENGROSSED SENATE
2 BILL NO. 1425

By: Daniels and Standridge of
the Senate

3 and

4 Kannady of the House

5
6 An Act relating to court fines and costs; amending 22
7 O.S. 2011, Section 983, as amended by Section 2,
8 Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2019, Section
9 983), which relates to failure to pay fines, costs,
10 fees or assessments; modifying requirements for
11 payment of fines, costs, fees or assessments;
12 requiring certain hearing; authorizing court to order
13 installment payments; authorizing request for payment
14 plan, modification or reduction in payments;
15 authorizing collection of certain costs as judgment
16 in civil action; prohibiting incarceration for
17 default; providing exception; requiring consideration
18 of certain factors; requiring notice and hearing
19 before certain sentence conversion; establishing
20 procedures for certain hearing; authorizing court to
21 take certain actions for defendant unable to pay
22 amount owed; prohibiting imposition of costs and fees
23 under certain circumstances; authorizing
24 incarceration for willful nonpayment; establishing
requirements for certain incarceration; authorizing
court clerk to take certain collection actions;
establishing certain allocation formula; and
providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 983, as
amended by Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2019,
Section 983), is amended to read as follows:

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 shall conduct a hearing at time of sentencing or
4 other final order to determine the immediate ability of the
5 defendant to pay restitution, fines, costs, fees and assessments.
6 The court may order these to be paid in installments and shall set
7 the amount and date for each installment. The court shall instruct
8 the defendant that, if at any time the defendant is unable to pay
9 any financial obligations ordered by the court, the defendant has
10 the right to appear before the court to present evidence regarding
11 ability to pay the amount due and to request the imposition of a
12 payment plan, a modification of a payment plan or a reduction in the
13 amount owed or waiver of payment.

14 B. Notwithstanding any other provision of the Oklahoma
15 Statutes, costs, fees and assessments shall not be considered a
16 penalty for the underlying offense. Any costs, fees and assessments
17 due may be collected in the same manner as a judgment in a civil
18 action. No person shall be incarcerated for being in default of
19 payment of court-imposed costs, fees or assessments, unless held in
20 contempt of court for willful refusal or neglect of payment. In
21 determining willful refusal or neglect to pay or inability to pay
22 restitution, fines, costs, fees or assessments, the court shall
23 consider:

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- 1 1. Undue hardship to the defendant or to the legal dependents
- 2 of the defendant;
- 3 2. The defendant has not made a good faith effort to comply
- 4 with the order;
- 5 3. The present employment of the defendant;
- 6 4. The earning capacity of the defendant;
- 7 5. The availability and convertibility of any existing assets
- 8 owned by the defendant;
- 9 6. Whether and to what extent the defendant has outstanding
- 10 debts and liabilities;
- 11 7. The health of the defendant, including mental and behavioral
- 12 health issues that diminish the ability of the defendant to pay;
- 13 8. Access to transportation;
- 14 9. Public assistance including, but not limited to, state
- 15 administered general assistance, temporary family assistance, aid to
- 16 the elderly, blind or disabled, SNAP benefits and supplemental
- 17 social security; and
- 18 10. Any other relevant issues as determined by the court.
- 19 C. 1. Any defendant sentenced, or upon final disposition,
- 20 ordered to pay restitution or fines may be incarcerated for
- 21 nonpayment when the trial court finds after notice and hearing that
- 22 the defendant is financially able but refuses or neglects to pay the
- 23 restitution or fines. A sentence to pay restitution or fines may be
- 24 converted into a jail sentence only after a hearing and a judicial

1 determination, memorialized of record, that the defendant is able to
2 pay restitution or fines by payment but refuses or neglects to do
3 so.

4 2. The court shall send a notice to the defendant by U.S. mail
5 to his or her last known mailing address, and by electronic mail or
6 text message to the defendant's electronic mail address or cellular
7 phone number, stating that:

8 a. the court will conduct a hearing at a specified time,
9 place and date to determine if the defendant has
10 willfully refused or neglected to pay restitution or
11 fines, or is unable to pay the amount owed,

12 b. the defendant may present evidence at the hearing to
13 show his or her inability to pay the restitution or
14 fines, and

15 c. if the defendant fails to appear at the hearing for
16 failure to pay restitution or fines, a warrant for
17 failure to appear may be issued for the arrest of the
18 defendant. The court shall conduct the hearing within
19 three (3) business days after the arrest of the
20 defendant.

21 3. After a judicial determination that the defendant is able to
22 pay the restitution or fines in installments, the court may order
23 the restitution or fines to be paid in installments and shall set
24 the amount and date for each installment.

1 D. If the court finds that the failure to pay restitution or
2 finances was not willful and that defendant is unable to pay the amount
3 owed, the court may:

4 1. Adjust the terms of payment of restitution or fines;

5 2. Lower the amount of the restitution or fines;

6 3. Waive the restitution or fines upon a finding by the court
7 that the defendant is unable to pay and that such status is unlikely
8 to change in the foreseeable future, or that the fines are
9 preventing the defendant from obtaining basic necessities;

10 4. Order the defendant to perform community service in lieu of
11 a payment of the restitution or fine; or

12 5. Enter a civil judgment for all or a portion of the unpaid
13 restitution or fines to be paid either in whole or in installments.

14 E. Upon the finding of the court that failure to pay
15 restitution, fines, costs, fees or assessments was not willful, no
16 costs, fees or assessments attributable to the notice or hearing
17 held under this subsection or subsection D of this section shall be
18 ordered by the court.

19 F. If the court finds that nonpayment of restitution or fines
20 was willful, a defendant may be incarcerated in the county jail for
21 a term not to exceed thirty (30) days. The defendant shall be
22 credited with an amount as specified by the court, not less than
23 Fifty Dollars (\$50.00) per day for time served for nonpayment of
24 finances. The court may release the defendant upon satisfactory

1 arrangements to bring the defendant into compliance. If the
2 defendant remains in noncompliance after ninety (90) days from
3 release, the defendant may again be served with notice as provided
4 in subsection C of this section and the court may again determine if
5 the noncompliance is willful and order the defendant incarcerated as
6 provided in this subsection.

7 G. If the defendant fails to pay court-imposed restitution,
8 finances, costs, fees or assessments, after a civil judgment for
9 nonwillful failure to pay for at least six (6) months, the court
10 clerk may retain an agent to collect, or institute proceedings to
11 collect, or establish an in-house collection procedure to collect
12 all monies owed. If an agent is used, the court clerk shall request
13 the county purchasing agent to utilize normal competitive bidding
14 procedures applicable to the county to select and retain the agent.

15 H. The following allocation formula shall be used for monies
16 paid into the court: payments shall first be credited toward
17 satisfying restitution, then fines. Once restitution and fines have
18 been paid, payments shall be credited towards the court-imposed
19 costs, fees and assessments.

20 I. The Court of Criminal Appeals shall implement procedures and
21 rules consistent with the provisions of this section for methods of
22 establishing payment plans of fines, costs, fees, and assessments by
23 indigents, which procedures and rules shall be distributed to all
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1 district courts and municipal courts by the Administrative Office of
2 the Courts.

3 SECTION 2. This act shall become effective November 1, 2020.

4 Passed the Senate the 11th day of March, 2020.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,

9 2020.

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Presiding Officer of the House
of Representatives

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