

1 **SENATE FLOOR VERSION**

2 February 23, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 951

6 By: Daniels

7 An Act relating to court fines and costs; amending 22
8 O.S. 2011, Sections 209 and 983, as amended by
9 Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
10 2020, Section 983), which relate to failure to appear
11 and failure to pay fines, costs, fees or assessments;
12 authorizing issuance of citation for certain failure
13 to appear; prohibiting arrest or incarceration for
14 certain nonpayment; requiring certain instructions to
15 defendant at time of sentencing; removing procedures
16 for recommendation for suspension of driving
17 privileges; authorizing request for payment plan,
18 modification, reduction or waiver of payments;
19 requiring consideration of certain factors; requiring
20 notice and hearing before certain sentence
21 conversion; establishing procedures for certain
22 hearing; authorizing court to issue arrest warrant
23 for failure to appear at certain hearing; authorizing
24 issuance of certain citation; prohibiting imposition
of costs and fees under certain circumstances;
authorizing court to order certain modifications;
authorizing incarceration for willful nonpayment;
establishing requirements for certain incarceration;
authorizing rehearing under certain circumstances;
specifying order of distribution of certain received
monies; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 209, is
amended to read as follows:

1 Section 209. (1) A law enforcement officer who has arrested a
2 person on a misdemeanor charge or violation of city ordinance,
3 without a warrant, or on a warrant for failure to appear for a
4 hearing as provided in subsection E of Section 983 of this title,
5 may issue a citation to such person to appear in court.

6 (2) In issuing a citation hereunder the officer shall proceed as
7 follows:

8 (a) He shall prepare a written citation to appear in court,
9 containing the name and address of the cited person and the offense
10 charged, and stating when the person shall appear in court. Unless
11 the person requests an earlier date, the time specified in the
12 citation to appear shall be at least five (5) days after the
13 issuance of the citation.

14 (b) One copy of the citation to appear shall be delivered to the
15 person cited, and such person shall sign a duplicate written
16 citation which shall be retained by the officer.

17 (c) The officer shall thereupon release the cited person from
18 any custody.

19 (d) As soon as practicable, the officer shall file one copy of
20 the citation with the court specified therein and shall deliver one
21 copy to the prosecuting attorney.

22 (3) In any case in which the judicial officer finds sufficient
23 grounds for issuing a warrant, he may issue a summons commanding the
24 defendant to appear in lieu of a warrant.

1 (4) If a person summoned fails to appear in response to the
2 summons, a warrant for his arrest shall issue, and any person who
3 willfully fails to appear in response to a summons is guilty of a
4 misdemeanor.

5 SECTION 2. AMENDATORY 22 O.S. 2011, Section 983, as
6 amended by Section 2, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2020,
7 Section 983), is amended to read as follows:

8 Section 983. A. Any defendant found guilty of an offense in
9 any court of this state ~~may~~ shall not be imprisoned arrested or
10 incarcerated for nonpayment of the fine, cost, fee, or assessment
11 ~~when~~ unless the trial court finds after notice and hearing that the
12 defendant is financially able but refuses or neglects to pay the
13 fine, cost, fee, or assessment. ~~A sentence to pay a fine, cost,~~
14 ~~fee, or assessment may be converted into a jail sentence only after~~
15 ~~a hearing and a judicial determination, memorialized of record, that~~
16 ~~the defendant is able to satisfy the fine, cost, fee, or assessment~~
17 ~~by payment, but refuses or neglects so to do.~~

18 B. After a judicial determination at the time of sentencing
19 that the defendant is able to pay the fine, cost, fee, or assessment
20 in installments, the court may order the fine, cost, fee, or
21 assessment to be paid in installments and shall set the amount and
22 date for each installment. At the time of sentencing, the court
23 shall instruct the defendant that it is the defendant's obligation
24 to keep the court clerk informed of the defendant's contact

1 information until the fine, cost, fee or assessment has been paid.
2 Such information shall include the defendant's current mailing and
3 physical addresses, telephone or cellular phone number and
4 electronic mail address where the defendant may receive notice from
5 the court.

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

18 ~~D. The court shall instruct the defendant that if at any time~~
19 ~~the defendant is unable to pay the fine, cost, fee or assessment~~
20 ~~ordered by the court, the defendant may appear before the court to~~
21 ~~present evidence regarding ability to pay the amount due and to~~
22 ~~request the imposition or modification of a payment plan, a~~
23 ~~reduction in the amount owed or waiver of payment of the amount~~
24 ~~owed. Upon a showing that the defendant is unable to pay the fine,~~

1 cost, fee or assessment, the court may modify its order by the
2 imposition or modification of a payment plan, a reduction in the
3 amount owed or a waiver of payment of the amount owed.

4 Additionally, the court may order community service in lieu of
5 payment.

6 D. In determining whether the defendant is able to pay the
7 fine, cost, fee or assessment or any installments, the court shall
8 consider:

9 1. Undue hardship to the defendant or to the legal dependents
10 of the defendant and whether the defendant has made a good faith
11 effort to comply with the order;

12 2. The present employment or earning capacity of the defendant;

13 3. The availability and convertibility of any existing assets
14 owned by the defendant;

15 4. Whether and to what extent the defendant has outstanding
16 debts and liabilities including child support obligations;

17 5. The health of the defendant including mental and behavioral
18 health issues that diminish the defendant's ability to pay;

19 6. Whether the defendant is receiving public assistance of any
20 kind; and

21 7. Any other relevant issues as determined by the court.

22 E. 1. A judicial determination that the defendant is able to
23 pay the fine, cost, fee or assessment or any installment, but
24 refuses or neglects to do so, or that the defendant is unable to pay

1 shall be made at a hearing in compliance with the procedures
2 described in this section. If the defendant fails to appear at the
3 hearing upon notice provided pursuant to paragraph 2 of this
4 subsection, the court may issue an arrest warrant for failure to
5 appear.

6 2. Prior to a hearing as described in paragraph 1 of this
7 subsection, the court shall provide notice to the defendant by
8 United States mail and by electronic mail or text message to the
9 defendant's mailing and electronic mail addresses and phone number
10 on file in the case stating that:

11 a. the court will conduct a hearing at a specified time,
12 place and date to determine if the defendant is
13 financially able but refuses or neglects to pay the
14 fine, cost, fee or assessment,

15 b. the defendant may present evidence at the hearing to
16 show his or her inability to pay the fine, cost, fee
17 or assessment, and

18 c. if the defendant fails to appear at the hearing, the
19 court may issue an arrest warrant for failure to
20 appear.

21 F. If a defendant is arrested on a warrant for failure to
22 appear for a hearing as described by subsection E of this section,
23 the arresting officer shall release the defendant on personal
24

1 recognizance and issue a citation to appear pursuant to Section 209
2 of this title.

3 G. Upon a finding of the court that the defendant is unable to
4 pay the fine, cost, fee or assessment, no fine, cost, fee or
5 assessment attributable to the notice or hearing shall be ordered by
6 the court.

7 H. 1. If the court finds and memorializes into record that the
8 defendant is financially able but refuses or neglects to pay the
9 fine, cost, fee or assessment, the court may order any of the
10 remedies provided in subsection C of this section or a defendant may
11 be incarcerated in the county jail for a term not to exceed thirty
12 (30) days. The defendant shall be credited with an amount as
13 specified by the court not less than Fifty Dollars (\$50.00) per day
14 for time served for nonpayment of the fine, cost, fee or assessment.
15 The court may release the defendant upon satisfactory arrangements
16 to bring the defendant into compliance with court-ordered payment of
17 the fine, cost, fee or assessment.

18 2. If the defendant remains in noncompliance at any time after
19 ninety (90) days from release, the defendant may again be served
20 with notice as provided in subsection E of this section and the
21 court may again determine if the noncompliance is willful and order
22 the defendant incarcerated as provided in paragraph 1 of this
23 subsection.

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1 I. Monies paid into the court as required by this section shall
2 be used to satisfy obligations in the following order:

3 1. The administrative collection fee provided in Section 514.5
4 of Title 19 of the Oklahoma Statutes, if applicable;

5 2. Fines; and

6 3. Costs, fees and assessments.

7 J. The Court of Criminal Appeals shall implement procedures and
8 rules consistent with the provisions of this section for methods of
9 establishing payment plans of fines, costs, fees, and assessments by
10 indigents, which procedures and rules shall be distributed to all
11 district courts and municipal courts by the Administrative Office of
12 the Courts.

13 SECTION 3. This act shall become effective November 1, 2021.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
15 February 23, 2021 - DO PASS AS AMENDED
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