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April 2, 2024

ENGROSSED HOUSE
BILL NO. 3546

By: Sterling of the House

and

Howard of the Senate

An Act relating to criminal procedure; amending 19 O.S. 2021, Section 514.4, as amended by Section 1, Chapter 247, O.S.L. 2023 (19 O.S. Supp. 2023, Section 514.4), which relates to court costs; modifying provisions related to court orders; amending 22 O.S. 2021, Section 983, as amended by Section 3, Chapter 247, O.S.L. 2023 (22 O.S. Supp. 2023, Section 983), which relates to certain court-related financial obligations; modifying procedure related to certain warrants; prescribing notice requirement; modifying provisions related to hearings for cost arrest warrant; specifying certain time period after arrest; prescribing procedures related to release; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2021, Section 514.4, as amended by Section 1, Chapter 247, O.S.L. 2023 (19 O.S. Supp. 2023, Section 514.4), is amended to read as follows:

Section 514.4 A. 1. Effective November 1, 2023, there is hereby established a court cost compliance program. The purpose of the program shall be to assist county sheriffs and the courts of this state with the collection of fines, costs, fees, and

1 assessments associated with any case in which a warrant has been
2 issued and the case has been referred to the court cost compliance
3 program pursuant to Section 983 of Title 22 of the Oklahoma
4 Statutes.

5 2. County sheriffs of any county in this state may contract
6 with a statewide association of county sheriffs to administer
7 contracts with third parties who shall be known as court cost
8 compliance liaisons. The court cost compliance liaison may assist
9 with attempting to locate and notify persons of their outstanding
10 misdemeanor or cost-related warrants and recover and maintain
11 accounts relating to past due fines, fees, costs, and assessments.
12 County sheriffs contracting with a statewide association of county
13 sheriffs for the administration of third-party contracts may assign
14 their rights and duties regarding these contracts to the
15 association.

16 B. A person may make payment directly to the court, as allowed
17 by law, or the court cost compliance liaison, as allowed, shall be
18 authorized to accept payment on misdemeanor or cost-related warrants
19 on all cases referred pursuant to Section 983 of Title 22 of the
20 Oklahoma Statutes by various means including but not limited to
21 payment by phone, mail, or Internet, and in any payment form
22 including but not limited to personal, cashier's, traveler's,
23 certified, or guaranteed bank check, postal or commercial money
24 order, nationally recognized credit or a debit card, or other

1 generally accepted payment form. Any payment collected and received
2 by the court cost compliance liaison shall be paid to the court
3 clerk of the court that issued the warrant within fifteen (15) days
4 after receipt of the payment and proof of funds. Any payment
5 collected and received by the court, where the court has referred
6 the case to a court cost compliance liaison, shall be reported to
7 the court cost compliance liaison within four (4) days of receipt of
8 the payment. Any payment returned due to insufficient funds shall
9 have all insufficient fund charges incurred added to the outstanding
10 balance of the defendant. If a credit card payment taken by a court
11 cost compliance liaison is determined to be a fraudulent use of the
12 credit card by the payor and the payment is reversed by the credit
13 card company or payor's bank, the court clerk shall reverse the
14 transaction upon notification, return the payment to the court cost
15 compliance liaison, and the court cost compliance liaison shall
16 continue the collection process until paid. The court clerk shall
17 add any additional fees for the reversal of the transaction plus the
18 administration fees to the outstanding balance of the defendant.
19 Court cost compliance liaisons shall inform individuals of their
20 right to a cost hearing as provided in Section 983 of Title 22 of
21 the Oklahoma Statutes.

22 C. As provided for by this section, a person may pay in lieu of
23 appearance before the court and such payment accepted by the court
24 shall constitute a finding of guilt as though a plea of nolo

1 | contendere had been entered by the defendant as allowed by law and
2 | shall function as a written, dated, and signed plea form acceptable
3 | to the court. Such payment shall serve as a written waiver of a
4 | jury trial.

5 | D. The court shall release or recall the outstanding
6 | misdemeanor or cost-related warrant upon receipt of all sums due
7 | pursuant to the warrant including the misdemeanor or cost-related
8 | warrant, scheduled fine or sum due, all associated fees, costs and
9 | statutory penalty assessments, and the administrative cost pursuant
10 | to Section 514.5 of this title, or with a mutually agreeable monthly
11 | payment plan and a down payment set at the discretion of the court
12 | at an amount no less than One Hundred Dollars (\$100.00) or by order
13 | of the court. A single down payment shall be sufficient to recall
14 | all cost-related warrants against a defendant pending in a single
15 | jurisdiction.

16 | E. The provisions of any contract entered into by a county
17 | sheriff shall be administered by a statewide association of county
18 | sheriffs in Oklahoma.

19 | F. The provisions of this section and Section 514.5 of this
20 | title shall be applicable to:

21 | 1. Any misdemeanor or cost-related warrant issued pursuant to
22 | Section 983 of Title 22 of the Oklahoma Statutes or relating to any
23 | proceeding pursuant to the State and Municipal Traffic, Water
24 | Safety, and Wildlife Bail Bond Procedure Act;

1 2. Any misdemeanor or cost-related warrant issued that allows a
2 defendant to resolve the matter by payment in lieu of a personal
3 appearance in court; and

4 3. Any cost-related warrant issued in a criminal case.

5 SECTION 2. AMENDATORY 22 O.S. 2021, Section 983, as
6 amended by Section 3, Chapter 247, O.S.L. 2023 (22 O.S. Supp. 2023,
7 Section 983), is amended to read as follows:

8 Section 983. A. As used in this section, unless the context
9 otherwise requires:

10 1. "Cost arrest warrant" means a warrant authorizing arrest
11 that is issued by a court under the following circumstances:

12 a. failure to comply with the terms of a court financial
13 obligations payment plan,

14 b. failure to appear at a cost hearing or willfulness
15 hearing, or

16 c. failure to appear at the office of the court clerk of
17 the county in which the court financial obligation is
18 owed within ten (10) days of being cited by a law
19 enforcement officer to appear;

20 2. "Cost cite and release warrant" means a warrant issued by a
21 court authorizing citation and release under the following
22 circumstances:

23 a. failure to comply with terms of a court financial
24 obligations payment plan, or

b. failure to appear at a cost hearing or willfulness hearing;

3. "Cost hearing" means a hearing in which the court determines the ability of a defendant to pay court financial obligations. Once a cost hearing date has been set, all court financial obligations shall be suspended until the cost hearing has been held;

4. "Court financial obligation" means all financial obligations including fines, costs, fees, and assessments, imposed by the court or required by law to be paid, excluding restitution or payments to be made other than to the court clerk;

5. "Payment-in-full" means a court financial payment term that requires the defendant to pay the full amount of court financial obligations owed within ninety (90) days of a plea or sentence in the district court or within thirty (30) days of a plea or sentence in the municipal court;

6. "Payment-in-installments" means payment terms for court financial obligations that require the defendant to make monthly payments in any amount until the amount owed is fully paid; and

7. "Willfulness hearing" means a hearing in which the court determines whether a defendant who has previously been found to have the ability to pay court financial obligations has willfully failed to pay the debt.

B. 1. Except in cases provided for in Section 983b of this title, when the judgment and sentence of a court, either in whole or

1 in part, imposes court financial obligations upon a defendant, the
2 court at the time of sentencing may immediately, or at any point
3 thereafter until the debt is either paid or waived, determine the
4 ability of a defendant to pay the court financial obligations. The
5 court may make such determinations at a cost hearing or upon written
6 motion or affidavit by the defendant. The ability of a defendant to
7 pay court financial obligations may not impact the sentence imposed.

8 2. Defendants with court financial obligations who are found by
9 the court to be unable to pay, in whole or in part, shall be
10 relieved of the debt by the court through a hardship waiver of the
11 court financial obligations, either in whole or in part.

12 3. In determining the ability of a defendant to pay, the court
13 shall consider the following factors:

- 14 a. individual and household income,
- 15 b. household living expenses,
- 16 c. number of dependents,
- 17 d. assets,
- 18 e. child support obligations,
- 19 f. physical or mental health conditions that diminish the
20 ability to generate income or manage resources,
- 21 g. additional case-related expenses to be paid by the
22 defendant, and
- 23 h. any other factors relevant to the ability of the
24 defendant to pay.

1 4. In determining the ability of a defendant to pay, the
2 following shall not be considered as income or assets:

- 3 a. child support income,
- 4 b. any monies received from a federal, state, or tribal
5 government need-based or disability assistance
6 program, or
- 7 c. assets exempt from bankruptcy.

8 5. Defendants in the following circumstances are presumed
9 unable to pay and eligible for relief under paragraph 2 of this
10 subsection:

- 11 a. designated as totally disabled by any federal, state,
12 or tribal disability services program including but
13 not limited to military disability, Social Security
14 Disability Insurance, Supplemental Security Income, or
15 tribal disability benefits,
- 16 b. receives support from the Temporary Assistance for
17 Needy Families program, Supplemental Nutrition
18 Assistance Program, the Special Supplemental Nutrition
19 Program for Women, Infants, and Children nutrition
20 education and supplemental food program, or any other
21 federal need-based financial support,
- 22 c. receives subsidized housing support through the
23 Housing Choice Voucher program, the United States
24 Department of Housing and Urban Development, or other

1 state, local, or federal government housing subsidy
2 program, or

3 d. total income is below one hundred fifty percent (150%)
4 of the federal poverty level.

5 C. 1. At the time of a plea or sentencing, the court shall
6 inform the defendant of the total court financial obligations owed,
7 the consequences of failing to pay the court financial obligations,
8 and that the defendant may request a cost hearing if at any time he
9 or she is unable to pay the court financial obligations, at which
10 point the court may waive all or part of the debt owed. If the
11 total amount of court financial obligations owed is not available at
12 the time of the plea or sentencing, the court shall inform the
13 defendant that court financial obligations have been incurred and
14 the time and location where the defendant may learn of the total
15 amount owed.

16 2. The court shall order the defendant to appear immediately
17 after sentencing at the office of the court clerk to provide current
18 contact information and to either select payment terms or request a
19 cost hearing. Failure to immediately report to the court clerk
20 shall result in the full amount of court financial obligations to be
21 due thirty (30) days from the date of the plea or sentencing in
22 district courts or thirty (30) days from the date of the plea or
23 sentencing in municipal courts.

1 3. Payment of court financial obligations may be made under the
2 following terms:

- 3 a. payment in full, or
- 4 b. payment in installments.

5 Upon any change in circumstances affecting the ability of a
6 defendant to pay, a defendant may request a cost hearing before the
7 court by contacting the court clerk.

8 4. The district court for each county and all municipal courts
9 shall provide a cost hearing for any defendant upon request, either
10 by establishing a dedicated docket or on an as-requested basis. A
11 defendant who requests a cost hearing will receive a summons by
12 personal service or by United States mail to appear in court as
13 required by subsection G of this section. If a defendant fails to
14 appear for a requested cost hearing, the court may issue either a
15 cost cite and release warrant or a cost arrest warrant. No fees
16 shall be assessed or collected from the defendant as a consequence
17 of either requesting a cost hearing or the issuing of a cost cite
18 and release warrant.

19 D. In determining the ability of the defendant to pay court
20 financial obligations, the court may rely on testimony, relevant
21 documents, and any information provided by the defendant using a
22 cost hearing affidavit promulgated by the Court of Criminal Appeals.
23 In addition, the court may make inquiry of the defendant and
24

1 consider any other evidence or testimony concerning the ability of
2 the defendant to pay.

3 E. 1. If at the initial cost hearing or any subsequent cost
4 hearing, the court determines that the defendant is able to pay some
5 or all of the court financial obligations, the court may order any
6 of the following conditions for payment:

7 a. payment in full,

8 b. payment in installments,

9 c. financial incentive under a set of conditions
10 determined by the court, or

11 d. community service in lieu of payment; provided, the
12 defendant shall receive credit for no less than two
13 times the amount of the minimum wage specified
14 pursuant to state law for each hour of community
15 service.

16 2. Any defendant who fails to comply with the terms of the
17 payment plan ordered by the court shall be considered delinquent and
18 the court may issue either a cost cite and release warrant or a cost
19 arrest warrant.

20 F. If the court determines that a waiver of any of the court
21 financial obligations is warranted, the court shall apply the same
22 percentage reduction equally to all fines, costs, fees, and
23 assessments, excluding restitution.

1 G. 1. A defendant is considered delinquent in the payment of
2 court financial obligations under the following circumstances:

- 3 a. when the total amount due has not been paid by the due
4 date, or
5 b. when no installment payments have been received in the
6 most recent ninety-day period.

7 2. The court clerk shall periodically review cases for
8 delinquency at least once every six (6) months and, upon identifying
9 a delinquent defendant, notify the court which shall, within ten
10 (10) days thereafter, set a cost hearing for the court to determine
11 if the defendant is able to pay. The cost hearing shall be set
12 within forty-five (45) days of the issuance of the summons. The
13 hearing shall be set on a date that shall allow the court clerk to
14 issue a summons fourteen (14) days prior to the cost hearing.
15 Defendants shall incur no additional fees associated with the
16 issuance of the summons.

17 3. At least fourteen (14) days prior to the cost hearing, the
18 court clerk shall issue one summons to the defendant to be served by
19 United States mail to the mailing address of the defendant on file
20 in the case, substantially as follows:

21 SUMMONS

22 You are ORDERED to appear for a COST HEARING at a specified
23 time, place, and date to determine if you are financially able to
24

1 pay the fines, costs, fees, or assessments or an installment due in
2 Case No._____.

3 YOU MUST BE PRESENT AT THE HEARING.

4 At any time before the date of the cost hearing, you may contact
5 the court clerk and pay the amount due or request in writing or in
6 person prior to the court date, that the hearing be rescheduled for
7 no later than thirty (30) days after the scheduled time.

8 THIS IS NOT AN ARREST WARRANT. However, if you fail to appear
9 for the cost hearing or pay the amount due, the court ~~will~~ may issue
10 a WARRANT and may refer the case to a court cost compliance liaison
11 which will cause an additional administrative fee of up to thirty-
12 five percent (35%) to be added to the amount owed and may include
13 additional costs imposed by the court.

14 4. Referrals to the court cost compliance program as provided
15 in subsection L of this section shall be made as follows:

- 16 a. courts shall refer a case to the court cost compliance
17 program upon the issuance of a cost arrest warrant,
18 b. courts may refer a case to the court cost compliance
19 program upon the issuance of a cost cite and release
20 warrant, or
21 c. courts may refer a case to the court cost compliance
22 program without the issuance of a warrant; provided,
23 the defendant is delinquent and has had sufficient
24 notice and opportunity to have a cost hearing.

1 5. A municipal court, in lieu of mailing the summons provided
2 for in this subsection, may give the summons to the defendant in
3 person at the time of sentencing or subsequent appearance of a
4 specific date, time, and place, not fewer than thirty (30) days nor
5 more than one hundred twenty (120) days from the date of sentencing
6 to appear for a cost hearing if the court financial obligations
7 remain unpaid.

8 H. 1. If a defendant is found by a law enforcement officer to
9 have an outstanding cost cite and release warrant, the law
10 enforcement officer shall issue a Warning/Notice to appear within
11 ten (10) days of release from detention on the warrant to the court
12 clerk of the court in which the court financial obligations are
13 owed. If the officer has the necessary equipment, the officer shall
14 immediately transmit the Warning/Notice electronically to the court
15 clerk of the court in which the court financial obligations are
16 owed. The law enforcement officer shall not take the defendant into
17 custody on the cite and release warrant, ~~and no other law~~
18 ~~enforcement officer who encounters the defendant during this ten-day~~
19 ~~period may take the defendant into custody on the warrant.~~ If the
20 law enforcement officer is unable to transmit the Warning/Notice
21 electronically to the court clerk, the officer shall inform the
22 appropriate department staff member within the agency of the law
23 enforcement officer of the Warning/Notice within five (5) days. The
24 department staff member shall then promptly notify the law

1 enforcement agency in the jurisdiction that issued the warrant
2 electronically who shall promptly notify the court clerk. The
3 electronic communication shall be treated as a duplicate original
4 for all purposes in any subsequent hearings before the appropriate
5 court.

6 2. If the defendant reports to the office of the court clerk
7 within the ten (10) days, the court clerk shall:

8 a. inform the court of the Warning/Notice to the
9 defendant and contact,

10 b. schedule a cost hearing pursuant to applicable local
11 court rule, and

12 c. submit the warrant to the court for recall pending the
13 cost hearing.

14 3. If the defendant fails to report to the office of the court
15 clerk within the ten (10) days, the court may issue a cost arrest
16 warrant for the arrest of the defendant.

17 ~~4. At the hearing following the arrest for failure to appear,~~
18 ~~the court shall conduct a cost hearing or willfulness hearing, as~~
19 ~~the court deems appropriate, within seventy-two (72) hours unless~~
20 Following an arrest on a cost arrest warrant, the defendant must be
21 released after seventy-two (72) hours in custody. The defendant may
22 be released prior to seventy-two (72) hours if:

23 a. the ~~defendant pays~~ custodian is presented with proof
24 of payment in the amount of One Hundred Dollars

1 (\$100.00) ~~toward~~ to each jurisdiction where the court
2 financial obligation, is released from custody,
3 obligations are owed and the new cost hearing date is
4 provided, ~~or~~

5 b. the court releases the defendant on the defendant's
6 own recognizance and a new cost hearing date is
7 provided, or

8 c. the court conducts a cost or willfulness hearing as
9 appropriate pursuant to the provisions of this section
10 and determines the defendant should be released.

11 5. The provisions for issuing a separate summons described in
12 subsection G of this section shall not apply to a municipal court if
13 the municipal court has previously provided actual personal notice
14 to the defendant of an opportunity for a cost hearing. If such
15 notice was given and the defendant fails to appear, the municipal
16 court may issue either a cost cite and release warrant or a cost
17 arrest warrant.

18 6. All warrants for failure to appear at a cost hearing or for
19 failure to pay court financial obligations which have been issued
20 prior to the effective date of this act and which remain unserved,
21 shall be treated as cost cite and release warrants. All warrant
22 fees assessed for warrants for failure to appear at a cost hearing
23 or for failure to pay court financial obligations issued prior to
24

1 the effective date of this act shall remain in effect unless waived
2 by the court.

3 I. Supporting documents in a motion or affidavit for relief
4 from court financial obligation debt or any documents taken into
5 evidence during a cost hearing or willfulness hearing shall not be
6 viewable by the public on a court-controlled website.

7 J. 1. After a cost hearing where a defendant is found able to
8 pay a court financial obligation, either in whole or in part, and
9 then becomes delinquent in that payment, a court may conduct a
10 willfulness hearing at any time beginning immediately after a cost
11 hearing has been held and a decision rendered on the court financial
12 obligations. Findings of a defendant's prior ability to pay may be
13 considered as evidence of ability to pay or willfulness at the
14 hearing. The requirements of this paragraph shall not be construed
15 to prohibit the court from holding subsequent cost hearings on the
16 same court financial obligations.

17 2. At a willfulness hearing, the court shall evaluate the
18 following:

- 19 a. whether a cost hearing has been held previously where
20 evidence relating to ability to pay was presented and
21 the court found the defendant was able to pay the
22 court financial obligations, either in whole or in
23 part,
24

- b. whether there is any new evidence of ability to pay not previously considered or a change in circumstances since the cost hearing,
- c. whether the defendant was afforded sufficient time and opportunity to fulfill the obligation to pay the court financial obligations,
- d. whether the defendant made any efforts to satisfy the court financial obligations, and
- e. whether there are any other relevant facts or circumstances.

3. After a finding of willful failure to pay court financial obligations, the court may impose a jail sentence pursuant to Section 101 of Title 28 of the Oklahoma Statutes. A jail sentence may be imposed only under the following circumstances:

- a. the hearing is conducted on the record pursuant to the rules promulgated by the Court of Criminal Appeals, and
- b. the defendant is represented by counsel or expressly waives his or her right to counsel.

4. If a jail sentence is imposed, the court may grant credit for any time already served. At any time after incarceration, the jail sentence may be satisfied upon payment in full of the outstanding balance with credit for any time already served.

1 K. ~~In addition, the~~ The district court or municipal court,
2 within one hundred twenty (120) days from the date upon which the
3 person ~~was originally ordered to make payment, and if the court~~
4 ~~finds and memorializes into the record that the defendant is~~
5 ~~financially able but willfully refuses to pay the court financial~~
6 ~~obligations, or an installment due~~ fails to comply with the
7 financial obligation as ordered by the court or fails to appear for
8 the offered cost or willfulness hearing, may, if the defendant has
9 previously been notified of the possibility of a suspension, send
10 notice of nonpayment of any court-ordered ~~fine and costs~~ financial
11 obligation for a moving traffic violation to Service Oklahoma with a
12 recommendation of suspension of driving privileges of the defendant
13 until the total amount of any court financial obligation has been
14 paid or waived by the court. Upon receipt of payment of the total
15 amount of the court financial obligations for the moving traffic
16 violation, the court shall send notice thereof to Service Oklahoma,
17 if a nonpayment notice was sent as provided for in this subsection.
18 Notices sent to Service Oklahoma shall be on forms or by a method
19 approved by Service Oklahoma.

20 L. Every county and district court of this state shall fully
21 utilize and participate in the court cost compliance program. Cases
22 shall be referred to the court cost compliance program no more than
23 sixty (60) days after the court has ordered the referral pursuant to
24 paragraph 4 of subsection G of this section, unless the defendant

1 pays the amount owed on the court financial obligation or an
2 installment due. When the court refers a case, the updated contact
3 information on file shall be forwarded to a court cost compliance
4 liaison for collection purposes.

5 M. The Court of Criminal Appeals shall implement procedures and
6 rules for implementation of the requirements of this section. Such
7 procedures, rules, and any supplemental forms may be made available
8 by the Administrative Office of the Courts.

9 SECTION 3. This act shall become effective November 1, 2024.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
11 April 2, 2024 - DO PASS
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