

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3546

By: Sterling

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6 AS INTRODUCED

7 An Act relating to criminal procedures; amending 22
8 O.S. 2021, Section 983, as amended by Section 3,
9 Chapter 247, O.S.L. 2023 (22 O.S. Supp. 2023, Section
10 983), which relates to certain court related
11 financial obligations; modifying procedure related to
12 certain warrants; prescribing notice requirement;
13 modifying provisions related to hearings for cost
14 arrest warrant; specifying certain time period after
15 arrest; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2021, Section 983, as
18 amended by Section 3, Chapter 247, O.S.L. 2023 (22 O.S. Supp. 2023,
19 Section 983), is amended to read as follows:

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

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

- 24 a. failure to comply with the terms of a court financial
obligations payment plan,

1 b. failure to appear at a cost hearing or willfulness
2 hearing, or

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

7 2. "Cost cite and release warrant" means a warrant issued by a
8 court authorizing citation and release under the following
9 circumstances:

10 a. failure to comply with terms of a court financial
11 obligations payment plan, or

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

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

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

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

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

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

10 B. 1. Except in cases provided for in Section 983b of this
11 title, when the judgment and sentence of a court, either in whole or
12 in part, imposes court financial obligations upon a defendant, the
13 court at the time of sentencing may immediately, or at any point
14 thereafter until the debt is either paid or waived, determine the
15 ability of a defendant to pay the court financial obligations. The
16 court may make such determinations at a cost hearing or upon written
17 motion or affidavit by the defendant. The ability of a defendant to
18 pay court financial obligations may not impact the sentence imposed.

19 2. Defendants with court financial obligations who are found by
20 the court to be unable to pay, in whole or in part, shall be
21 relieved of the debt by the court through a hardship waiver of the
22 court financial obligations, either in whole or in part.

23 3. In determining the ability of a defendant to pay, the court
24 shall consider the following factors:
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- a. individual and household income,
- b. household living expenses,
- c. number of dependents,
- d. assets,
- e. child support obligations,
- f. physical or mental health conditions that diminish the ability to generate income or manage resources,
- g. additional case-related expenses to be paid by the defendant, and
- h. any other factors relevant to the ability of the defendant to pay.

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

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

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

- a. designated as totally disabled by any federal, state, or tribal disability services program including but not limited to military disability, Social Security

1 Disability Insurance, Supplemental Security Income, or
2 tribal disability benefits,

3 b. receives support from the Temporary Assistance for
4 Needy Families program, Supplemental Nutrition
5 Assistance Program, the Special Supplemental Nutrition
6 Program for Women, Infants, and Children nutrition
7 education and supplemental food program, or any other
8 federal need-based financial support,

9 c. receives subsidized housing support through the
10 Housing Choice Voucher program, the United States
11 Department of Housing and Urban Development, or other
12 state, local, or federal government housing subsidy
13 program, or

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

16 C. 1. At the time of a plea or sentencing, the court shall
17 inform the defendant of the total court financial obligations owed,
18 the consequences of failing to pay the court financial obligations,
19 and that the defendant may request a cost hearing if at any time he
20 or she is unable to pay the court financial obligations, at which
21 point the court may waive all or part of the debt owed. If the
22 total amount of court financial obligations owed is not available at
23 the time of the plea or sentencing, the court shall inform the
24 defendant that court financial obligations have been incurred and
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1 the time and location where the defendant may learn of the total
2 amount owed.

3 2. The court shall order the defendant to appear immediately
4 after sentencing at the office of the court clerk to provide current
5 contact information and to either select payment terms or request a
6 cost hearing. Failure to immediately report to the court clerk
7 shall result in the full amount of court financial obligations to be
8 due thirty (30) days from the date of the plea or sentencing in
9 district courts or thirty (30) days from the date of the plea or
10 sentencing in municipal courts.

11 3. Payment of court financial obligations may be made under the
12 following terms:

- 13 a. payment in full, or
- 14 b. payment in installments.

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

18 4. The district court for each county and all municipal courts
19 shall provide a cost hearing for any defendant upon request, either
20 by establishing a dedicated docket or on an as-requested basis. A
21 defendant who requests a cost hearing will receive a summons by
22 personal service or by United States mail to appear in court as
23 required by subsection G of this section. If a defendant fails to
24 appear for a requested cost hearing, the court may issue either a
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1 cost cite and release warrant or a cost arrest warrant. No fees
2 shall be assessed or collected from the defendant as a consequence
3 of either requesting a cost hearing or the issuing of a cost cite
4 and release warrant.

5 D. In determining the ability of the defendant to pay court
6 financial obligations, the court may rely on testimony, relevant
7 documents, and any information provided by the defendant using a
8 cost hearing affidavit promulgated by the Court of Criminal Appeals.
9 In addition, the court may make inquiry of the defendant and
10 consider any other evidence or testimony concerning the ability of
11 the defendant to pay.

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

- 16 a. payment in full,
- 17 b. payment in installments,
- 18 c. financial incentive under a set of conditions
19 determined by the court, or
- 20 d. community service in lieu of payment; provided, the
21 defendant shall receive credit for no less than two
22 times the amount of the minimum wage specified
23 pursuant to state law for each hour of community
24 service.

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

5 F. If the court determines that a waiver of any of the court
6 financial obligations is warranted, the court shall apply the same
7 percentage reduction equally to all fines, costs, fees, and
8 assessments, excluding restitution.

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

- 11 a. when the total amount due has not been paid by the due
12 date, or
13 b. when no installment payments have been received in the
14 most recent ninety-day period.

15 2. The court clerk shall periodically review cases for
16 delinquency at least once every six (6) months and, upon identifying
17 a delinquent defendant, notify the court which shall, within ten
18 (10) days thereafter, set a cost hearing for the court to determine
19 if the defendant is able to pay. The cost hearing shall be set
20 within forty-five (45) days of the issuance of the summons. The
21 hearing shall be set on a date that shall allow the court clerk to
22 issue a summons fourteen (14) days prior to the cost hearing.
23 Defendants shall incur no additional fees associated with the
24 issuance of the summons.
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1 3. At least fourteen (14) days prior to the cost hearing, the
2 court clerk shall issue one summons to the defendant to be served by
3 United States mail to the mailing address of the defendant on file
4 in the case, substantially as follows:

5 SUMMONS

6 You are ORDERED to appear for a COST HEARING at a specified
7 time, place, and date to determine if you are financially able to
8 pay the fines, costs, fees, or assessments or an installment due in
9 Case No. _____.

10 YOU MUST BE PRESENT AT THE HEARING.

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

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

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

- 23 a. courts shall refer a case to the court cost compliance
24 program upon the issuance of a cost arrest warrant,

1 b. courts may refer a case to the court cost compliance
2 program upon the issuance of a cost cite and release
3 warrant, or

4 c. courts may refer a case to the court cost compliance
5 program without the issuance of a warrant; provided,
6 the defendant is delinquent and has had sufficient
7 notice and opportunity to have a cost hearing.

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

15 H. 1. If a defendant is found by a law enforcement officer to
16 have an outstanding cost cite and release warrant, the law
17 enforcement officer shall issue a Warning/Notice to appear within
18 ten (10) days of release from detention on the warrant to the court
19 clerk of the court in which the court financial obligations are
20 owed. If the officer has the necessary equipment, the officer shall
21 immediately transmit the Warning/Notice electronically to the court
22 clerk of the court in which the court financial obligations are
23 owed. The law enforcement officer shall not take the defendant into
24 custody on the cite and release warrant, ~~and no other law~~

1 ~~enforcement officer who encounters the defendant during this ten-day~~
2 ~~period may take the defendant into custody on the warrant.~~ If the
3 law enforcement officer is unable to transmit the Warning/Notice
4 electronically to the court clerk, the officer shall inform the
5 appropriate department staff member within the agency of the law
6 enforcement officer of the Warning/Notice within five (5) days. The
7 department staff member shall then promptly notify the law
8 enforcement agency in the jurisdiction that issued the warrant
9 electronically who shall promptly notify the court clerk. The
10 electronic communication shall be treated as a duplicate original
11 for all purposes in any subsequent hearings before the appropriate
12 court.

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

- 15 a. inform the court of the Warning/Notice to the
16 defendant and contact,
- 17 b. schedule a cost hearing pursuant to applicable local
18 court rule, and
- 19 c. submit the warrant to the court for recall pending the
20 cost hearing.

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

1 4. At the hearing following the arrest ~~for failure to appear on~~
2 the cost arrest warrant, the court shall conduct a cost hearing or
3 willfulness hearing, as the court deems appropriate, within seventy-
4 two (72) hours of the arrest unless:

5 a. the defendant pays One Hundred Dollars (\$100.00)
6 toward the court financial obligation, is released
7 from custody, and the new cost hearing date is
8 provided, or

9 b. the court releases the defendant on the defendant's
10 own recognizance and a new cost hearing date is
11 provided.

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

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

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

16 L. Every county of this state shall fully utilize and
17 participate in the court cost compliance program. Cases shall be
18 referred to the court cost compliance program no more than sixty
19 (60) days after the court has ordered the referral pursuant to
20 paragraph 4 of subsection G of this section, unless the defendant
21 pays the amount owed on the court financial obligation or an
22 installment due. When the court refers a case, the updated contact
23 information on file shall be forwarded to a court cost compliance
24 liaison for collection purposes.

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

SECTION 2. This act shall become effective November 1, 2024.

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