

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3546

By: Sterling

AS INTRODUCED

An Act relating to criminal procedures; 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; and providing an effective date.

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

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

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

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

- 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  
--

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:  
--

- 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  
- -

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  
--

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.



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  
--

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.

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

5 SECTION 2. This act shall become effective November 1, 2024.  
6

7 59-2-9541 MAH 01/12/24  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
- -