

1 **SENATE FLOOR VERSION**

2 April 12, 2017

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1324

6 By: Humphrey of the House

7 and

8 Shaw of the Senate

9 **[ criminal procedure - presentence investigations -**  
10 **fee payment - effective date ]**

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

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982, is  
13 amended to read as follows:

14 Section 982. A. Whenever a person is convicted of a violent  
15 felony offense whether the conviction is for a single offense or  
16 part of any combination of offenses, except when the death sentence  
17 is available as punishment for the offense, the court ~~shall~~ may,  
18 before imposing the sentence, require a presentence investigation be  
19 made of the offender by the Department of Corrections. ~~The court~~  
20 ~~may order a presentence investigation to be conducted by the~~  
21 ~~Department on any convicted felony offender prior to the court~~  
22 ~~imposing a term of incarceration in the custody of the Department.~~  
23 The court shall order the defendant to pay a fee to the Department  
24 of Corrections of not less than Five Dollars (\$5.00), nor more than

1 ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00)

2 for the presentence investigation. In hardship cases, the court  
3 shall set the amount of the fee and establish a payment schedule.

4 B. ~~The Department shall, when~~ Whenever a person has a prior  
5 felony conviction and is convicted of a nonviolent offense the court  
6 may, before imposing a sentence, order a presentence investigation  
7 be made of the offender by a private provider or someone designated  
8 by the court. The court shall order the defendant to pay to the  
9 private provider or court designee assigned to complete the  
10 presentence investigation a fee of not less than Five Dollars  
11 (\$5.00) nor more than Five Hundred Dollars (\$500.00). In hardship  
12 cases, the court shall set the amount of the fee and establish a  
13 payment schedule.

14 C. When conducting a presentence investigation, the Department  
15 shall inquire into the circumstances of the offense and the  
16 characteristics of the offender. The information obtained from the  
17 investigation shall include, but ~~shall~~ not be limited to, a  
18 voluntary statement from each victim of the offense concerning the  
19 nature of the offense and the impact of the offense on the victim  
20 and the ~~victim's~~ immediate family of the victim, the amount of the  
21 loss suffered or incurred by the victim as a result of the criminal  
22 conduct of the offender, and the ~~offender's~~ age, marital status,  
23 living arrangements, financial obligations, income, family history,  
24 and education, prior juvenile and criminal records, associations

1 with other persons convicted of a felony offense, social history,  
2 indications of a predisposition to violence or substance abuse,  
3 remorse or guilt about the offense or the ~~victim's~~ harm to the  
4 victim, job skills, and employment history of the offender. The  
5 Department shall make a report of information from such  
6 investigation to the court, including a recommendation detailing the  
7 punishment which is deemed appropriate for both the offense and the  
8 offender, and specifically a recommendation for or against probation  
9 or suspended sentence. The report of the investigation shall be  
10 presented to the judge within a reasonable time, and upon failure to  
11 present the report, the judge may proceed with sentencing.

12 Whenever, in the opinion of the court or the Department, it is  
13 desirable, the investigation shall include a physical and mental  
14 examination or either a physical or mental examination of the  
15 offender.

16 ~~C.~~ D. The district attorney shall have a presentence  
17 investigation made by the Department on each person charged with a  
18 violent felony offense and entering a plea of guilty or a plea of  
19 nolo contendere as part of or in exchange for a plea agreement for a  
20 felony offense. The presentence investigation shall be completed  
21 before the terms of the plea agreement are finalized. The court  
22 shall not approve the terms of any plea agreement without reviewing  
23 the presentence investigation report to determine whether or not the  
24 terms of the sentence are appropriate for both the offender and the

1 offense. The fee provided in subsection A of this section shall  
2 apply to persons subject to this subsection and shall be a condition  
3 of the plea agreement and sentence.

4 ~~D.~~ E. The presentence investigation reports specified in this  
5 section shall not be referred to, or be considered, in any appeal  
6 proceedings. Before imposing a sentence, the court shall advise the  
7 defendant, ~~the defendant's~~ counsel for the defendant, and the  
8 district attorney of the factual contents and conclusions of the  
9 presentence investigation report. The court shall afford the  
10 offender a fair opportunity to controvert the findings and  
11 conclusions of the reports at the time of sentencing. If either the  
12 defendant or the district attorney desires, a hearing shall be set  
13 by the court to allow both parties an opportunity to offer evidence  
14 proving or disproving any finding contained in a report, which shall  
15 be a hearing in mitigation or aggravation of punishment.

16 ~~E.~~ F. The required presentence investigation and report may be  
17 waived upon written waiver by the district attorney and the  
18 defendant and upon approval by the Court.

19 ~~F.~~ G. As used in this section, "violent felony offense" means:

- 20 1. Arson in the first degree;
- 21 2. Assault with a dangerous weapon, battery with a dangerous  
22 weapon or assault and battery with a dangerous weapon;
- 23 3. Aggravated assault and battery on a police officer, sheriff,  
24 highway patrol officer, or any other officer of the law;

- 1           4. Assault with intent to kill, or shooting with intent to  
2 kill;
- 3           5. Assault with intent to commit a felony, or use of a firearm  
4 to commit a felony;
- 5           6. Assault while masked or disguised;
- 6           7. Burglary in the first degree or burglary with explosives;
- 7           8. Child beating or maiming;
- 8           9. Forcible sodomy;
- 9           10. Kidnapping, or kidnapping for extortion;
- 10          11. Lewd or indecent proposition or lewd or indecent acts with  
11 a child;
- 12          12. Manslaughter in the first or second degrees;
- 13          13. Murder in the first or second degrees;
- 14          14. Rape in the first or second degrees, or rape by  
15 instrumentation;
- 16          15. Robbery in the first or second degrees, or robbery by two  
17 or more persons, or robbery with a dangerous weapon; or
- 18          16. Any attempt, solicitation or conspiracy to commit any of  
19 the above enumerated offenses.

20           SECTION 2. This act shall become effective November 1, 2017.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
22 April 12, 2017 - DO PASS AS AMENDED

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