

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 689

By: Treat, Pittman and Sharp of
the Senate

3

and

4

O'Donnell and Young of the
House

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[criminal procedure - judgments and execution of
sentences - pilot financial obligation payment
program - Oklahoma Community Sentencing Act -
sentencing powers of the court - suspended and
deferred sentences and supervision fees - Delayed
Sentencing Program for Young Adults - codification -
effective date]

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AUTHOR: Add the following House Coauthor: Cleveland

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AMENDMENT NO. 1. Replace the stricken title, enacting clause and
entire bill and insert

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"[criminal procedure - judgments and execution of
sentences - pilot financial obligation payment
program - Oklahoma Community Sentencing Act -
sentencing powers of the court - suspended and
deferred sentences and supervision fees -
effective date]

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

2 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
3 last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
4 2016, Section 982a), is amended to read as follows:

5 Section 982a. A. 1. Any time within sixty (60) months after
6 the initial sentence is imposed or within sixty (60) months after
7 probation has been revoked, the court imposing sentence or
8 revocation of probation may modify such sentence or revocation by
9 directing that another sentence be imposed, if the court is
10 satisfied that the best interests of the public will not be
11 jeopardized; provided, however, the court shall not impose a
12 deferred sentence. Any application for sentence modification that
13 is filed and ruled upon beyond twelve (12) months of the initial
14 sentence being imposed must be approved by the district attorney who
15 shall provide written notice to any victims in the case which is
16 being considered for modification.

17 2. The court imposing sentence may modify the sentence of any
18 offender who was originally sentenced for a drug charge and ordered
19 to complete the Drug Offender Work Camp at the Bill Johnson
20 Correctional Facility and direct that another sentence be imposed,
21 if the court is satisfied that the best interests of the public will
22 not be jeopardized; provided, however, the court shall not impose a
23 deferred sentence. An application for sentence modification
24 pursuant to this paragraph may be filed and ruled upon beyond the

1 initial sixty-month time period provided for in paragraph 1 of this
2 subsection.

3 3. This section shall not apply to convicted felons who have
4 been in confinement in any state or federal prison system for any
5 previous felony conviction during the ten-year period preceding the
6 date that the sentence this section applies to was imposed.
7 Further, without the consent of the district attorney, this section
8 shall not apply to sentences imposed pursuant to a plea agreement or
9 jury verdict.

10 B. The court imposing the sentence may modify the sentence of
11 any offender sentenced to life without parole for an offense other
12 than a violent crime, as enumerated in Section 571 of Title 57 of
13 the Oklahoma Statutes, who has served at least ten (10) years of the
14 sentence in the custody of the Department of Corrections upon a
15 finding that the best interests of the public will not be
16 jeopardized. Provided, however, prior to granting a sentence
17 modification under the provisions of this subsection, the court
18 shall provide notice of the hearing to determine sentence
19 modification to the victim or representative of the victim and shall
20 allow the victim or representative of the victim the opportunity to
21 provide testimony at the hearing. The court shall consider the
22 testimony of the victim or representative of the victim when
23 rendering a decision to modify the sentence of an offender.

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1 C. For purposes of judicial review, upon court order or written
2 request from the sentencing judge, the Department of Corrections
3 shall provide the court imposing sentence or revocation of probation
4 with a report to include a summary of the assessed needs of the
5 offender, any progress made by the offender in addressing his or her
6 assessed needs, and any other information the Department can supply
7 on the offender. The court shall consider such reports when
8 modifying the sentence or revocation of probation. The court shall
9 allow the Department of Corrections at least twenty (20) days after
10 receipt of a request or order from the court to prepare the required
11 reports.

12 ~~C.~~ D. If the court considers modification of the sentence or
13 revocation of probation, a hearing shall be made in open court after
14 receipt of the reports required in subsection ~~B~~ C of this section.
15 The clerk of the court imposing sentence or revocation of probation
16 shall give notice of the judicial review hearing to the Department
17 of Corrections, the offender, the legal counsel of the offender, and
18 the district attorney of the county in which the offender was
19 convicted upon receipt of the reports. Such notice shall be mailed
20 at least twenty-one (21) days prior to the hearing date and shall
21 include a copy of the report and any other written information to be
22 considered at the judicial review hearing.

23 ~~D.~~ E. If an appeal is taken from the original sentence or from
24 a revocation of probation which results in a modification of the

1 sentence or modification to the revocation of probation of the
2 offender, such sentence may be further modified in the manner
3 described in paragraph 1 of subsection A of this section within
4 sixty (60) months after the receipt by the clerk of the district
5 court of the mandate from the Supreme Court or the Court of Criminal
6 Appeals.

7 SECTION 2. AMENDATORY 22 O.S. 2011, Section 983, is
8 amended to read as follows:

9 Section 983. A. Any defendant found guilty of an offense in
10 any court of this state may be imprisoned for nonpayment of the
11 fine, cost, fee, or assessment when the trial court finds after
12 notice and hearing that the defendant is financially able but
13 refuses or neglects to pay the fine, cost, fee, or assessment. A
14 sentence to pay a fine, cost, fee, or assessment may be converted
15 into a jail sentence only after a hearing and a judicial
16 determination, memorialized of record, that the defendant is able to
17 satisfy the fine, cost, fee, or assessment by payment, but refuses
18 or neglects so to do.

19 B. ~~After~~ Pursuant to the provisions of subsection L of Section
20 991a of this title, after a judicial determination that the
21 defendant is able to pay the fine, cost, fee, or assessment in
22 installments, the court ~~may~~ shall order the fine, cost, fee, or
23 assessment to be paid in installments and shall set the amount and
24 date for each installment.

1 C. 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, may send notice of
4 nonpayment of any court ordered fine and costs for a moving traffic
5 violation to the Department of Public Safety with a recommendation
6 of suspension of driving privileges of the defendant until the total
7 amount of any fine and costs has been paid. Upon receipt of payment
8 of the total amount of the fine and costs for the moving traffic
9 violation, the court shall send notice thereof to the Department, if
10 a nonpayment notice was sent as provided for in this subsection.
11 Notices sent to the Department shall be on forms or by a method
12 approved by the Department.

13 D. The Court of Criminal Appeals shall implement procedures and
14 rules for methods of payment of fines, costs, fees, and assessments
15 by indigents, which procedures and rules shall be distributed to all
16 district courts and municipal courts by the Administrative Office of
17 the Courts.

18 SECTION 3. AMENDATORY Section 2, Chapter 243, O.S.L.
19 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
20 follows:

21 Section 985.1 A. When sentencing a person convicted of a
22 criminal offense for which there is a mandatory minimum sentence of
23 imprisonment, the court may depart from the applicable sentence if
24 the court finds substantial and compelling reasons on the record,

1 after giving due regard to the nature of the crime, history, and
2 character of the defendant and his or her chances of successful
3 rehabilitation, that:

4 1. The mandatory minimum sentence of imprisonment is not
5 necessary for the protection of the public ~~and imposition;~~ or

6 2. Imposition of the mandatory minimum sentence of imprisonment
7 would result in substantial injustice to the defendant; or

8 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
9 necessary for the protection of the public and the defendant, based
10 on a risk and needs assessment, is eligible for an alternative
11 court, a diversion program or community sentencing, without regard
12 to exclusions because of previous convictions, and has been accepted
13 to the same, pending sentencing.

14 B. The court shall not have the discretion to depart from the
15 applicable mandatory minimum sentence of imprisonment on convictions
16 for criminal offenses under the following circumstances:

17 1. The offense for which the defendant was convicted is among
18 those crimes listed in Section 571 of Title 57 of the Oklahoma
19 Statutes as excepted from the definition of "nonviolent offense";

20 2. The offense for which the defendant was convicted was a sex
21 offense and will require the defendant to register as a sex offender
22 pursuant to the provisions of the Sex Offenders Registration Act;

23 3. The offense for which the defendant was convicted involved
24 the use of a firearm;

1 4. The offense for which the defendant was convicted is a crime
2 listed in Section 13.1 of Title 21 of the Oklahoma Statutes
3 requiring the defendant to serve not less than eighty-five percent
4 (85%) of any sentence of imprisonment imposed by the judicial system
5 prior to becoming eligible for consideration for parole;

6 5. The offense for which the defendant was convicted is a
7 violation of the Trafficking in Illegal Drugs Act as provided in
8 Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

9 6. The defendant was the leader, manager or supervisor of
10 others in a continuing criminal enterprise; or

11 7. The offense for which the defendant was convicted is a
12 violation of the Oklahoma Antiterrorism Act as provided in Sections
13 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

14 C. Any departure from the mandatory minimum sentence as
15 authorized in this section shall not reduce the sentence to less
16 than twenty-five percent (25%) of the mandatory term.

17 SECTION 4. AMENDATORY 22 O.S. 2011, Section 988.2, as
18 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
19 2016, Section 988.2), is amended to read as follows:

20 Section 988.2 A. For purposes of the Oklahoma Community
21 Sentencing Act:

22 1. "Local community sentencing system" means the use of public
23 and private entities to deliver services to the sentencing court for
24

1 punishment of eligible felony offenders under the authority of a
2 community sentence;

3 2. "Community sentence" or "community punishment" means a
4 punishment imposed by the court as a condition of a deferred or
5 suspended sentence for an eligible offender;

6 3. "Continuum of sanctions" means a variety of coercive
7 measures ~~and treatment options~~ ranked by degrees of public safety,
8 punitive effect, and cost benefit which are available to the
9 sentencing judge as punishment for criminal conduct;

10 4. "Community sentencing system planning council" or "planning
11 council" means a group of citizens and elected officials specified
12 by law or appointed by the Chief Judge of the Judicial District
13 which plans the local community sentencing system and with the
14 assistance of the Community Sentencing Division of the Department of
15 Corrections locates treatment providers and resources to support the
16 local community sentencing system;

17 5. "Incentive" means a court-ordered reduction in the terms or
18 conditions of a community sentence which is given for exceptional
19 performance or progress by the offender;

20 6. "Disciplinary sanction" means a court-ordered punishment in
21 response to a technical or noncompliance violation of a community
22 sentence which increases in intensity or duration with each
23 successive violation;

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1 7. "Division" means the Community Sentencing Division within
2 the Department of Corrections which is the state administration
3 agency for the Oklahoma Community Sentencing Act, the statewide
4 community sentencing system, and all local community sentencing
5 systems;

6 8. "Eligible offender" means a felony offender who has been
7 convicted of or who has entered a plea other than not guilty to a
8 felony offense and who upon completion of a ~~Level of Services~~
9 ~~Inventory or another~~ risk and needs assessment instrument has been
10 found to be in a range other than the low range, who has been
11 convicted of at least one prior felony, and who is not otherwise
12 prohibited by law, or is a person who has had an assessment
13 authorized by Section 3-704 of Title 43A of the Oklahoma Statutes
14 and the assessment recommends community sentencing. Provided,
15 however, that no person who has been convicted of or who has entered
16 a plea other than not guilty to an offense enumerated in paragraph 2
17 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception
18 to the definition of "nonviolent offense" shall be eligible for a
19 community sentence or community punishment unless the district
20 attorney or an assistant district attorney for the district in which
21 the offender's conviction was obtained consents thereto. The
22 district attorney may consent to eligibility for an offender who has
23 a mental illness or a developmental disability or a co-occurring
24 mental illness and substance abuse disorder and who scores in the

1 low range on the ~~LSI~~ or has an risk and needs assessment authorized
2 by Section 3-704 of Title 43A of the Oklahoma Statutes or another
3 assessment instrument if the offender is not otherwise prohibited by
4 law. Any consent by a district attorney shall be made a part of the
5 record of the case; and

6 9. "Statewide community sentencing system" means a network of
7 all counties through their respective local community sentencing
8 systems serving the state judicial system and offering support
9 services to each other through reciprocal and interlocal agreements
10 and interagency cooperation.

11 B. For the purposes of the Oklahoma Community Sentencing Act,
12 if a judicial district does not have a Chief Judge or if a judicial
13 district has more than one Chief Judge, the duties of the Chief
14 Judge provided for in the Oklahoma Community Sentencing Act shall be
15 performed by the Presiding Judge of the Judicial Administrative
16 District.

17 SECTION 5. AMENDATORY 22 O.S. 2011, Section 988.8, is
18 amended to read as follows:

19 Section 988.8 A. A community sentencing system established
20 pursuant to the provisions of the Oklahoma Community Sentencing Act
21 shall include those community punishments and programs and services
22 enumerated and funded in the annual plan submitted to the Community
23 Sentencing Division within the Department of Corrections and any
24 other services or punishments subsequently added and funded during a

1 plan year. The options may not be utilized for offenders not
2 meeting the eligibility criteria of programs and score requirements
3 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and
4 needs assessment. Each local system shall strive to have available
5 to the court all of the following services for eligible offenders:

6 1. Community service with or without compensation to the
7 offender;

8 2. Substance abuse treatment and availability for periodic drug
9 testing of offenders following treatment;

10 3. Varying levels of supervision by the Department of
11 Corrections probation officers or another qualified supervision
12 source, including specialized supervision for repeat offenders,
13 offenders with convictions for sex crimes, offenders with
14 convictions for domestic violence offenses and offenders with
15 diagnosed mental health needs;

16 4. Education and literacy provided by the State Department of
17 Education, the county library system, the local school board, or
18 another qualified source;

19 5. Employment opportunities and job skills training provided by
20 the Oklahoma Department of Career and Technology Education or
21 another qualified source;

22 6. Cognitive behavioral treatment and any other programming or
23 treatment needs as identified based on the results of the risk and
24 needs assessment administered under this section;

1 7. Enforced collections provided by the local court clerk, or
2 another state agency; and

3 ~~7.~~ 8. The availability of county jail or another restrictive
4 housing facility for limited disciplinary sanctions.

5 B. The court may order as a community punishment for an
6 eligible offender any condition listed as a condition available for
7 a suspended sentence.

8 C. In all cases in which an offender is sentenced to a
9 community punishment, the offender shall be ordered as part of the
10 terms and conditions of the sentence to pay for the court ordered
11 sanction, based upon ability to pay. Payments may be as provided by
12 court order or pursuant to periodic payment schedules established by
13 the service provider. If the offender does not have the financial
14 ability to pay for the court ordered sanction, payment shall be made
15 from funds budgeted for the local community sentencing system.

16 SECTION 6. AMENDATORY 22 O.S. 2011, Section 988.18, is
17 amended to read as follows:

18 Section 988.18 A. On and after March 1, 2000, for each felony
19 offender considered for any community punishment pursuant to the
20 Oklahoma Community Sentencing Act, the judge shall, prior to
21 sentencing, order an assessment and evaluation of the defendant as
22 required by law.

23 B. The ~~Level of Services Inventory (LSI), or another~~ risk and
24 needs assessment and evaluation instrument designed to predict risk

1 to recidivate approved by the Department of Corrections, shall be
2 required to determine eligibility for any offender sentenced
3 pursuant to the Oklahoma Community Sentencing Act. The completed
4 assessment accompanied by a written supervision plan shall be
5 presented to and reviewed by the court prior to determining any
6 punishment for the offense. The purpose of the assessment shall be
7 to identify the extent of the deficiencies and pro-social needs of
8 the defendant, the potential risk to commit additional offenses that
9 threaten public safety, and the appropriateness of various community
10 punishments.

11 C. Upon order of the court, the defendant shall be required to
12 submit to the ~~LSI or other approved~~ risk and needs assessment which
13 shall be administered and scored by an appropriately trained person
14 pursuant to a service agreement with the local community sentencing
15 system. Any defendant lacking sufficient skills to comprehend or
16 otherwise participate in the assessment and evaluation shall have
17 appropriate assistance. If it is determined that the offender
18 cannot be adequately evaluated using the ~~LSI or another approved~~
19 risk and needs assessment, the offender shall be deemed ineligible
20 for any community services pursuant to the Oklahoma Community
21 Sentencing Act, and shall be sentenced as prescribed by law for the
22 offense.

23 D. The willful failure or refusal of the defendant to be
24 assessed and evaluated by using the ~~LSI or another approved~~ risk and

1 needs assessment shall preclude the defendant from eligibility for
2 any community punishment.

3 E. The completed ~~LSI, or other approved~~ risk and needs
4 ~~assessment,~~ shall include a written supervision plan and identify an
5 appropriate community punishment, if any, when the offender is
6 considered eligible for community punishments based upon the
7 completed risk/need score from the ~~LSI~~ risk and needs assessment of
8 the offender. Unless otherwise prohibited by law, only offenders
9 scoring in a range other than the low range on the ~~LSI~~ risk and
10 needs assessment ~~and having at least one prior felony conviction~~
11 shall be eligible for any state-funded community punishments.

12 F. The court is not required to sentence any offender to a
13 community punishment regardless of an eligible score on the ~~LSI~~ risk
14 and needs assessment. Any felony offender scoring in the low
15 risk/need levels on the ~~LSI~~ risk and needs assessment may be
16 sentenced to a suspended sentence with minimal, if any, conditions
17 of the sentence to be paid by the offender. If the ~~LSI or another~~
18 risk and needs assessment has been conducted, the evaluation report
19 shall accompany the judgment and sentence, provided the risk and
20 needs assessment indicates the offender is in need of this level of
21 supervision and treatment.

22 SECTION 7. AMENDATORY 22 O.S. 2011, Section 988.19, is
23 amended to read as follows:

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1 Section 988.19 A. When ordering a community sentence or
2 community punishment, the court shall first impose a deferred or
3 suspended sentence for the offense as prescribed by law, and shall
4 then order the appropriate community punishment as a condition of
5 that deferred or suspended sentence. The design of the community
6 punishment shall be based upon the supervision and intervention
7 report from the ~~Level of Services Inventory (LSI), or other approved~~
8 risk and needs assessment. The local community sentencing system
9 administrator shall have authority for all offender placements
10 within the local community sentencing system pursuant to the court-
11 ordered community sentence. The local community sentencing system
12 administrator shall ensure that the supervision provider complies
13 with the provisions of Section 517 of Title 57 of the Oklahoma
14 Statutes and Section 991b of this title.

15 B. Persons convicted of or pleading guilty or nolo contendere
16 to a combination of misdemeanor and felony offenses may receive
17 services from a local community sentencing system when the county
18 agrees in writing to pay the Community Sentencing Division within
19 the Department of Corrections for the actual costs of services used
20 for misdemeanor cases. No state funds shall be used to pay for
21 misdemeanor offenses.

22 C. Any time during the term of a community sentence, the court
23 imposing the sentence may modify any previous provision as provided
24 in this section.

1 D. Upon consideration of a properly filed motion to modify a
2 community sentence pursuant to the provisions of this section, the
3 staff of the community sentencing system in which the offender is
4 ordered to participate, the sheriff, the district attorney, the
5 service provider, or any agency or person providing supervision of
6 the offender shall provide the court with any reports and other
7 information available and relating to the offender, and to the
8 reason for the motion to modify the sentence. The court shall
9 consider any reports and information submitted prior to modifying
10 the sentence.

11 E. If the court considers a motion to modify a community
12 sentence, a hearing shall be held in open court. The notice of the
13 hearing shall be given to the offender, the offender's legal
14 counsel, and the district attorney of the county in which the
15 offender was convicted not less than ten (10) days prior to the
16 hearing. A copy of any reports to be presented to the court shall
17 accompany the notice of hearing.

18 F. Following the hearing, the court shall enter the appropriate
19 order authorized by law. The court may modify any community
20 sentence by imposing any other punishment allowed by law for the
21 offense and appropriate for the circumstances as determined by the
22 discretion of the judge; provided, however, no punishment shall be
23 imposed which is greater than the maximum punishment allowed by law
24 for the original offense. The court shall give the offender day-

1 for-day credit on any modified sentence for any term of
2 incarceration imposed. The court may impose either a disciplinary
3 sanction or an incentive as provided in ~~Section 20 of this act~~
4 Section 988.20 of this title in lieu of or together with any
5 modification authorized by this section.

6 G. The court shall not be limited on the number of
7 modifications a sentence may have within the term of the community
8 sentence.

9 H. Any offender who files a meritless or frivolous motion to
10 modify a community sentence shall pay the costs of the proceeding
11 and may be sanctioned as deemed appropriate by the court.

12 I. The court may revoke or accelerate a community punishment to
13 the original sentence imposed during the term of the sentence. When
14 a community sentence is revoked to state imprisonment, the court
15 shall give a day-for-day credit for any term of incarceration
16 actually served as community punishment.

17 SECTION 8. AMENDATORY 22 O.S. 2011, Section 988.20, is
18 amended to read as follows:

19 Section 988.20 A. Upon proper motion to the court to modify a
20 community sentence as provided in Section 988.19 of this title, the
21 judge shall have authority to impose disciplinary sanctions or
22 incentives. An order for a disciplinary sanction shall not modify
23 the terms of the original sentence and shall be imposed only to gain
24 compliance with the terms of the court-ordered community punishment.

1 The court may order any community punishment available and funded in
2 the jurisdiction that is deemed appropriate by the judge for the
3 circumstance including, but not limited to, a term of imprisonment
4 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
5 title per ~~disciplinary order~~ motion for modification in either:

- 6 1. The county jail;
- 7 2. A residential treatment facility;
- 8 3. A restrictive housing facility; or
- 9 4. A halfway house.

10 When the offender is to be confined, the sheriff shall, upon order
11 of the court, deliver the offender to the designated place of
12 confinement, provided the place of confinement has an agreement for
13 confinement services with the local community sentencing system or
14 is the county jail. The sheriff shall be reimbursed by the local
15 community sentencing system for transporting offenders pursuant to
16 this subsection. The offender shall be given day-for-day credit for
17 any terms of incarceration served in the county jail or other
18 restrictive facility when the sentence is modified.

19 B. The court may, through a standing court order, provide for
20 specific ~~disciplinary~~ sanctions and incentives specified in Section
21 517 of Title 57 of the Oklahoma Statutes which may be utilized by
22 the local administrator upon notification to the court.

23 C. When a motion for modification has been filed pursuant to
24 Section 988.19 of this title, the court shall have authority to

1 offer incentives to offenders to encourage proper conduct in the
2 community and for compliance with the community punishments pursuant
3 to Section 517 of Title 57 of the Oklahoma Statutes or any other
4 incentive the court deems appropriate. The court shall use its
5 discretion in ordering appropriate incentives. Incentives shall be
6 considered a reduction and modification to the community punishment
7 and may be ordered after the motion to modify has been heard.

8 D. When any offender is disciplined by the court as authorized
9 by this section and is to be imprisoned in the county jail or other
10 restrictive facility, the sheriff or facility administrator shall
11 receive compensation as provided by their agreement with the local
12 community sentencing system, or the sheriff or facility
13 administrator shall be paid directly for the services by the
14 offender when ordered to pay for the confinement as part of the
15 disciplinary sanction. In no event shall any compensation for
16 disciplinary confinement exceed the maximum amount provided for
17 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
18 Statutes.

19 E. The Department of Corrections is prohibited from accepting
20 offenders into any state penitentiary for disciplinary sanctions.

21 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.22, is
22 amended to read as follows:
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1 Section 988.22 A. Any offender ordered to participate in the
2 local community sentencing system shall be advised of the conditions
3 of the specific program or service to which he or she is assigned.

4 B. Upon completion of any court-ordered provision, pursuant to
5 the Oklahoma Community Sentencing Act, the administrator of the
6 local system shall file a statement with the court defining the
7 provision which has been successfully completed. When all court-
8 ordered provisions have been successfully completed the defendant
9 shall be deemed to have completed the community punishment.

10 C. The provisions of the Oklahoma Community Sentencing Act
11 shall not confer any rights upon the defendant to avoid a term of
12 imprisonment prescribed by law for the offense, nor grant any
13 additional rights to appeal for failure to be offered any specific
14 punishment or treatment option available to the court.

15 D. A community sentence pursuant to the Oklahoma Community
16 Sentencing Act shall not require active supervision, programs or
17 services for more than ~~three (3)~~ two (2) years, but may continue
18 beyond the ~~three-year~~ two-year limitation for purpose of completing
19 court-ordered ~~monetary obligations~~ restitution payments.

20 SECTION 10. AMENDATORY 22 O.S. 2011, Section 991a, as
21 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
22 2016, Section 991a), is amended to read as follows:

23 Section 991a. A. Except as otherwise provided in the Elderly
24 and Incapacitated Victim's Protection Program, when a defendant is

1 convicted of a crime and no death sentence is imposed, the court
2 shall either:

3 1. Suspend the execution of sentence in whole or in part, with
4 or without probation. The court, in addition, may order the
5 convicted defendant at the time of sentencing or at any time during
6 the suspended sentence to do one or more of the following:

7 a. to provide restitution to the victim as provided by
8 Section 991f et seq. of this title or according to a
9 schedule of payments established by the sentencing
10 court, together with interest upon any pecuniary sum
11 at the rate of twelve percent (12%) per annum, if the
12 defendant agrees to pay such restitution or, in the
13 opinion of the court, if the defendant is able to pay
14 such restitution without imposing manifest hardship on
15 the defendant or the immediate family and if the
16 extent of the damage to the victim is determinable
17 with reasonable certainty,

18 b. to reimburse any state agency for amounts paid by the
19 state agency for hospital and medical expenses
20 incurred by the victim or victims, as a result of the
21 criminal act for which such person was convicted,
22 which reimbursement shall be made directly to the
23 state agency, with interest accruing thereon at the
24 rate of twelve percent (12%) per annum,

- 1 c. to engage in a term of community service without
2 compensation, according to a schedule consistent with
3 the employment and family responsibilities of the
4 person convicted,
- 5 d. to pay a reasonable sum into any trust fund,
6 established pursuant to the provisions of Sections 176
7 through 180.4 of Title 60 of the Oklahoma Statutes,
8 and which provides restitution payments by convicted
9 defendants to victims of crimes committed within this
10 state wherein such victim has incurred a financial
11 loss,
- 12 e. to confinement in the county jail for a period not to
13 exceed six (6) months,
- 14 f. to confinement as provided by law together with a term
15 of post-imprisonment community supervision for not
16 less than three (3) years of the total term allowed by
17 law for imprisonment, with or without restitution;
18 provided, however, the authority of this provision is
19 limited to Section 843.5 of Title 21 of the Oklahoma
20 Statutes when the offense involved sexual abuse or
21 sexual exploitation; Sections 681, 741 and 843.1 of
22 Title 21 of the Oklahoma Statutes when the offense
23 involved sexual abuse or sexual exploitation; and
24 Sections 865 et seq., 885, 886, 888, 891, 1021,

1 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
2 1123 of Title 21 of the Oklahoma Statutes,

3 g. to repay the reward or part of the reward paid by a
4 local certified crime stoppers program and the
5 Oklahoma Reward System. In determining whether the
6 defendant shall repay the reward or part of the
7 reward, the court shall consider the ability of the
8 defendant to make the payment, the financial hardship
9 on the defendant to make the required payment, and the
10 importance of the information to the prosecution of
11 the defendant as provided by the arresting officer or
12 the district attorney with due regard for the
13 confidentiality of the records of the local certified
14 crime stoppers program and the Oklahoma Reward System.
15 The court shall assess this repayment against the
16 defendant as a cost of prosecution. The term
17 "certified" means crime stoppers organizations that
18 annually meet the certification standards for crime
19 stoppers programs established by the Oklahoma Crime
20 Stoppers Association to the extent those standards do
21 not conflict with state statutes. The term "court"
22 refers to all municipal and district courts within
23 this state. The "Oklahoma Reward System" means the
24

1 reward program established by Section 150.18 of Title
2 74 of the Oklahoma Statutes,

3 h. to reimburse the Oklahoma State Bureau of
4 Investigation for costs incurred by that agency during
5 its investigation of the crime for which the defendant
6 pleaded guilty, nolo contendere or was convicted,
7 including compensation for laboratory, technical, or
8 investigation services performed by the Bureau if, in
9 the opinion of the court, the defendant is able to pay
10 without imposing manifest hardship on the defendant,
11 and if the costs incurred by the Bureau during the
12 investigation of the defendant's case may be
13 determined with reasonable certainty,

14 i. to reimburse the Oklahoma State Bureau of
15 Investigation and any authorized law enforcement
16 agency for all costs incurred by that agency for
17 cleaning up an illegal drug laboratory site for which
18 the defendant pleaded guilty, nolo contendere or was
19 convicted. The court clerk shall collect the amount
20 and may retain five percent (5%) of such monies to be
21 deposited in the Court Clerk Revolving Fund to cover
22 administrative costs and shall remit the remainder to
23 the Oklahoma State Bureau of Investigation to be
24 deposited in the OSBI Revolving Fund established by

1 Section 150.19a of Title 74 of the Oklahoma Statutes
2 or to the general fund wherein the other law
3 enforcement agency is located,

- 4 j. to pay a reasonable sum to the Crime Victims
5 Compensation Board, created by Section 142.2 et seq.
6 of Title 21 of the Oklahoma Statutes, for the benefit
7 of crime victims,
- 8 k. to reimburse the court fund for amounts paid to court-
9 appointed attorneys for representing the defendant in
10 the case in which the person is being sentenced,
- 11 l. to participate in an assessment and evaluation by an
12 assessment agency or assessment personnel certified by
13 the Department of Mental Health and Substance Abuse
14 Services pursuant to Section 3-460 of Title 43A of the
15 Oklahoma Statutes and, as determined by the
16 assessment, participate in an alcohol and drug
17 substance abuse course or treatment program or both,
18 pursuant to Sections 3-452 and 3-453 of Title 43A of
19 the Oklahoma Statutes, or as ordered by the court,
- 20 m. to be placed in a victims impact panel program, as
21 defined in subsection H of this section, or
22 victim/offender reconciliation program and payment of
23 a fee to the program of not less than Fifteen Dollars
24 (\$15.00) nor more than Sixty Dollars (\$60.00) as set

1 by the governing authority of the program to offset
2 the cost of participation by the defendant. Provided,
3 each victim/offender reconciliation program shall be
4 required to obtain a written consent form voluntarily
5 signed by the victim and defendant that specifies the
6 methods to be used to resolve the issues, the
7 obligations and rights of each person, and the
8 confidentiality of the proceedings. Volunteer
9 mediators and employees of a victim/offender
10 reconciliation program shall be immune from liability
11 and have rights of confidentiality as provided in
12 Section 1805 of Title 12 of the Oklahoma Statutes,
13 n. to install, at the expense of the defendant, an
14 ignition interlock device approved by the Board of
15 Tests for Alcohol and Drug Influence. The device
16 shall be installed upon every motor vehicle operated
17 by the defendant, and the court shall require that a
18 notation of this restriction be affixed to the
19 defendant's driver license. The restriction shall
20 remain on the driver license not exceeding two (2)
21 years to be determined by the court. The restriction
22 may be modified or removed only by order of the court
23 and notice of any modification order shall be given to
24 the Department of Public Safety. Upon the expiration

1 of the period for the restriction, the Department of
2 Public Safety shall remove the restriction without
3 further court order. Failure to comply with the order
4 to install an ignition interlock device or operating
5 any vehicle without a device during the period of
6 restriction shall be a violation of the sentence and
7 may be punished as deemed proper by the sentencing
8 court. As used in this paragraph, "ignition interlock
9 device" means a device that, without tampering or
10 intervention by another person, would prevent the
11 defendant from operating a motor vehicle if the
12 defendant has a blood or breath alcohol concentration
13 of two-hundredths (0.02) or greater,

14 o. to be confined by electronic monitoring administered
15 and supervised by the Department of Corrections or a
16 community sentence provider, and payment of a
17 monitoring fee to the supervising authority, not to
18 exceed Three Hundred Dollars (\$300.00) per month. Any
19 fees collected pursuant to this paragraph shall be
20 deposited with the appropriate supervising authority.
21 Any willful violation of an order of the court for the
22 payment of the monitoring fee shall be a violation of
23 the sentence and may be punished as deemed proper by
24 the sentencing court. As used in this paragraph,

1 "electronic monitoring" means confinement of the
2 defendant within a specified location or locations
3 with supervision by means of an electronic device
4 approved by the Department of Corrections which is
5 designed to detect if the defendant is in the court-
6 ordered location at the required times and which
7 records violations for investigation by a qualified
8 supervisory agency or person,

9 p. to perform one or more courses of treatment, education
10 or rehabilitation for any conditions, behaviors,
11 deficiencies or disorders which may contribute to
12 criminal conduct, including but not limited to alcohol
13 and substance abuse, mental health, emotional health,
14 physical health, propensity for violence, antisocial
15 behavior, personality or attitudes, deviant sexual
16 behavior, child development, parenting assistance, job
17 skills, vocational-technical skills, domestic
18 relations, literacy, education, or any other
19 identifiable deficiency which may be treated
20 appropriately in the community and for which a
21 certified provider or a program recognized by the
22 court as having significant positive impact exists in
23 the community. Any treatment, education or
24 rehabilitation provider required to be certified

- 1 pursuant to law or rule shall be certified by the
2 appropriate state agency or a national organization,
- 3 q. to submit to periodic testing for alcohol,
4 intoxicating substance, or controlled dangerous
5 substances by a qualified laboratory,
- 6 r. to pay a fee, costs for treatment, education,
7 supervision, participation in a program, or any
8 combination thereof as determined by the court, based
9 upon the defendant's ability to pay the fees or costs,
- 10 s. to be supervised by a Department of Corrections
11 employee, a private supervision provider, or other
12 person designated by the court,
- 13 t. to obtain positive behavior modeling by a trained
14 mentor,
- 15 u. to serve a term of confinement in a restrictive
16 housing facility available in the community,
- 17 v. to serve a term of confinement in the county jail at
18 night or during weekends pursuant to Section 991a-2 of
19 this title or for work release,
- 20 w. to obtain employment or participate in employment-
21 related activities,
- 22 x. to participate in mandatory day reporting to
23 facilities or persons for services, payments, duties
- 24

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned. For purposes of this paragraph,
5 "day fine" means the offender is ordered to pay an
6 amount calculated as a percentage of net daily wages
7 earned. The day fine shall be paid to the local
8 community sentencing system as reparation to the
9 community. Day fines shall be used to support the
10 local system,

11 z. to submit to blood or saliva testing as required by
12 subsection I of this section,

13 aa. to repair or restore property damaged by the
14 defendant's conduct, if the court determines the
15 defendant possesses sufficient skill to repair or
16 restore the property and the victim consents to the
17 repairing or restoring of the property,

18 bb. to restore damaged property in kind or payment of out-
19 of-pocket expenses to the victim, if the court is able
20 to determine the actual out-of-pocket expenses
21 suffered by the victim,

22 cc. to attend a victim-offender reconciliation program if
23 the victim agrees to participate and the offender is
24 deemed appropriate for participation,

1 dd. in the case of a person convicted of prostitution
2 pursuant to Section 1029 of Title 21 of the Oklahoma
3 Statutes, require such person to receive counseling
4 for the behavior which may have caused such person to
5 engage in prostitution activities. Such person may be
6 required to receive counseling in areas including but
7 not limited to alcohol and substance abuse, sexual
8 behavior problems, or domestic abuse or child abuse
9 problems,

10 ee. in the case of a sex offender sentenced after November
11 1, 1989, and required by law to register pursuant to
12 the Sex Offender Registration Act, the court shall
13 require the person to comply with sex offender
14 specific rules and conditions of supervision
15 established by the Department of Corrections and
16 require the person to participate in a treatment
17 program designed for the treatment of sex offenders
18 during the period of time while the offender is
19 subject to supervision by the Department of
20 Corrections. The treatment program shall include
21 polygraph examinations specifically designed for use
22 with sex offenders for purposes of supervision and
23 treatment compliance, and shall be administered not
24 less than each six (6) months during the period of

1 supervision. The examination shall be administered by
2 a certified licensed polygraph examiner. The
3 treatment program must be approved by the Department
4 of Corrections or the Department of Mental Health and
5 Substance Abuse Services. Such treatment shall be at
6 the expense of the defendant based on the defendant's
7 ability to pay,

8 ff. in addition to other sentencing powers of the court,
9 the court in the case of a defendant being sentenced
10 for a felony conviction for a violation of Section 2-
11 402 of Title 63 of the Oklahoma Statutes which
12 involves marijuana may require the person to
13 participate in a drug court program, if available. If
14 a drug court program is not available, the defendant
15 may be required to participate in a community
16 sanctions program, if available,

17 gg. in the case of a person convicted of any false or
18 bogus check violation, as defined in Section 1541.4 of
19 Title 21 of the Oklahoma Statutes, impose a fee of
20 Twenty-five Dollars (\$25.00) to the victim for each
21 check, and impose a bogus check fee to be paid to the
22 district attorney. The bogus check fee paid to the
23 district attorney shall be equal to the amount
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in
2 district court. This money shall be deposited in the
3 Bogus Check Restitution Program Fund as established in
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to
6 pay restitution and bogus check fees on any other
7 bogus check or checks that have been submitted to the
8 District Attorney Bogus Check Restitution Program, ~~and~~

9 hh. in the case of a person being sentenced for a
10 conviction for a violation of Section 644 of Title 21
11 of the Oklahoma Statutes, require the person to
12 receive an assessment for batterers, which shall be
13 conducted through a certified treatment program for
14 batterers, and

15 ii. any other provision specifically ordered by the court.

16 However, any such order for restitution, community service,
17 payment to a local certified crime stoppers program, payment to the
18 Oklahoma Reward System, or confinement in the county jail, or a
19 combination thereof, shall be made in conjunction with probation and
20 shall be made a condition of the suspended sentence.

21 However, unless under the supervision of the district attorney,
22 the offender shall be required to pay Forty Dollars (\$40.00) per
23 month to the district attorney during the first two (2) years of
24 probation to compensate the district attorney for the costs incurred

1 during the prosecution of the offender and for the additional work
2 of verifying the compliance of the offender with the rules and
3 conditions of his or her probation. The district attorney may waive
4 any part of this requirement in the best interests of justice. The
5 court shall not waive, suspend, defer or dismiss the costs of
6 prosecution in its entirety. However, if the court determines that
7 a reduction in the fine, costs and costs of prosecution is
8 warranted, the court shall equally apply the same percentage
9 reduction to the fine, costs and costs of prosecution owed by the
10 offender;

11 2. Impose a fine prescribed by law for the offense, with or
12 without probation or commitment and with or without restitution or
13 service as provided for in this section, Section 991a-4.1 of this
14 title or Section 227 of Title 57 of the Oklahoma Statutes;

15 3. Commit such person for confinement provided for by law with
16 or without restitution as provided for in this section;

17 4. Order the defendant to reimburse the Oklahoma State Bureau
18 of Investigation for costs incurred by that agency during its
19 investigation of the crime for which the defendant pleaded guilty,
20 nolo contendere or was convicted, including compensation for
21 laboratory, technical, or investigation services performed by the
22 Bureau if, in the opinion of the court, the defendant is able to pay
23 without imposing manifest hardship on the defendant, and if the
24

1 costs incurred by the Bureau during the investigation of the
2 defendant's case may be determined with reasonable certainty;

3 5. Order the defendant to reimburse the Oklahoma State Bureau
4 of Investigation for all costs incurred by that agency for cleaning
5 up an illegal drug laboratory site for which the defendant pleaded
6 guilty, nolo contendere or was convicted. The court clerk shall
7 collect the amount and may retain five percent (5%) of such monies
8 to be deposited in the Court Clerk Revolving Fund to cover
9 administrative costs and shall remit the remainder to the Oklahoma
10 State Bureau of Investigation to be deposited in the OSBI Revolving
11 Fund established by Section 150.19a of Title 74 of the Oklahoma
12 Statutes;

13 6. In the case of nonviolent felony offenses, sentence such
14 person to the Community Service Sentencing Program;

15 7. In addition to the other sentencing powers of the court, in
16 the case of a person convicted of operating or being in control of a
17 motor vehicle while the person was under the influence of alcohol,
18 other intoxicating substance, or a combination of alcohol or another
19 intoxicating substance, or convicted of operating a motor vehicle
20 while the ability of the person to operate such vehicle was impaired
21 due to the consumption of alcohol, require such person:

22 a. to participate in an alcohol and drug assessment and
23 evaluation by an assessment agency or assessment
24 personnel certified by the Department of Mental Health

1 and Substance Abuse Services pursuant to Section 3-460
2 of Title 43A of the Oklahoma Statutes and, as
3 determined by the assessment, participate in an
4 alcohol and drug substance abuse course or treatment
5 program or both, pursuant to Sections 3-452 and 3-453
6 of Title 43A of the Oklahoma Statutes,

7 b. to attend a victims impact panel program, as defined
8 in subsection H of this section, if such a program is
9 offered in the county where the judgment is rendered,
10 and to pay a fee of not less than Fifteen Dollars
11 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
12 by the governing authority of the program and approved
13 by the court, to the program to offset the cost of
14 participation by the defendant, if in the opinion of
15 the court the defendant has the ability to pay such
16 fee,

17 c. to both participate in the alcohol and drug substance
18 abuse course or treatment program, pursuant to
19 subparagraph a of this paragraph and attend a victims
20 impact panel program, pursuant to subparagraph b of
21 this paragraph,

22 d. to install, at the expense of the person, an ignition
23 interlock device approved by the Board of Tests for
24 Alcohol and Drug Influence, upon every motor vehicle

1 operated by such person and to require that a notation
2 of this restriction be affixed to the person's driver
3 license at the time of reinstatement of the license.
4 The restriction shall remain on the driver license for
5 such period as the court shall determine. The
6 restriction may be modified or removed by order of the
7 court and notice of the order shall be given to the
8 Department of Public Safety. Upon the expiration of
9 the period for the restriction, the Department of
10 Public Safety shall remove the restriction without
11 further court order. Failure to comply with the order
12 to install an ignition interlock device or operating
13 any vehicle without such device during the period of
14 restriction shall be a violation of the sentence and
15 may be punished as deemed proper by the sentencing
16 court, or

17 e. beginning January 1, 1993, to submit to electronically
18 monitored home detention administered and supervised
19 by the Department of Corrections, and to pay to the
20 Department a monitoring fee, not to exceed Seventy-
21 five Dollars (\$75.00) a month, to the Department of
22 Corrections, if in the opinion of the court the
23 defendant has the ability to pay such fee. Any fees
24 collected pursuant to this subparagraph shall be

1 deposited in the Department of Corrections Revolving
2 Fund. Any order by the court for the payment of the
3 monitoring fee, if willfully disobeyed, may be
4 enforced as an indirect contempt of court;

5 8. In addition to the other sentencing powers of the court, in
6 the case of a person convicted of prostitution pursuant to Section
7 1029 of Title 21 of the Oklahoma Statutes, require such person to
8 receive counseling for the behavior which may have caused such
9 person to engage in prostitution activities. Such person may be
10 required to receive counseling in areas including but not limited to
11 alcohol and substance abuse, sexual behavior problems, or domestic
12 abuse or child abuse problems;

13 9. In addition to the other sentencing powers of the court, in
14 the case of a person convicted of any crime related to domestic
15 abuse, as defined in Section 60.1 of this title, the court may
16 require the defendant to undergo the treatment or participate in ~~the~~
17 counseling services an intervention program for batterers certified
18 by the Office of the Attorney General, as directed under the
19 provisions of Section 515a of Title 57 of the Oklahoma Statutes,
20 necessary to bring about the cessation of domestic abuse ~~against the~~
21 ~~victim.~~ In the instance where the defendant alleges that he or she
22 is a victim of domestic abuse and the current conviction is a
23 response to that abuse, the court may require the defendant to
24 undergo an assessment by a domestic violence program certified by

1 the Office of the Attorney General, and, if based upon the results
2 of the assessment, the defendant is determined to be a victim of
3 domestic violence, the defendant shall undergo treatment and
4 participate in a certified program for domestic violence victims.

5 The defendant may be required to pay all or part of the cost of the
6 treatment or counseling services;

7 10. In addition to the other sentencing powers of the court,
8 the court, in the case of a sex offender sentenced after November 1,
9 1989, and required by law to register pursuant to the Sex Offenders
10 Registration Act, shall require the person to participate in a
11 treatment program designed specifically for the treatment of sex
12 offenders, if available. The treatment program will include
13 polygraph examinations specifically designed for use with sex
14 offenders for the purpose of supervision and treatment compliance,
15 provided the examination is administered by a certified licensed
16 polygraph examiner. The treatment program must be approved by the
17 Department of Corrections or the Department of Mental Health and
18 Substance Abuse Services. Such treatment shall be at the expense of
19 the defendant based on the defendant's ability to pay;

20 11. In addition to the other sentencing powers of the court,
21 the court, in the case of a person convicted of child abuse or
22 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
23 Statutes, may require the person to undergo treatment or to
24 participate in counseling services. The defendant may be required

1 to pay all or part of the cost of the treatment or counseling
2 services;

3 12. In addition to the other sentencing powers of the court,
4 the court, in the case of a person convicted of cruelty to animals
5 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
6 require the person to pay restitution to animal facilities for
7 medical care and any boarding costs of victimized animals;

8 13. In addition to the other sentencing powers of the court, a
9 sex offender who is habitual or aggravated as defined by Section 584
10 of Title 57 of the Oklahoma Statutes and who is required to register
11 as a sex offender pursuant to the Oklahoma Sex Offenders
12 Registration Act shall be supervised by the Department of
13 Corrections for the duration of the registration period and shall be
14 assigned to a global position monitoring device by the Department of
15 Corrections for the duration of the registration period. The cost
16 of such monitoring device shall be reimbursed by the offender;

17 14. In addition to the other sentencing powers of the court, in
18 the case of a sex offender who is required by law to register
19 pursuant to the Sex Offenders Registration Act, the court may
20 prohibit the person from accessing or using any Internet social
21 networking web site that has the potential or likelihood of allowing
22 the sex offender to have contact with any child who is under the age
23 of eighteen (18) years; or

24

1 15. In addition to the other sentencing powers of the court, in
2 the case of a sex offender who is required by law to register
3 pursuant to the Sex Offenders Registration Act, the court shall
4 require the person to register any electronic mail address
5 information, instant message, chat or other Internet communication
6 name or identity information that the person uses or intends to use
7 while accessing the Internet or used for other purposes of social
8 networking or other similar Internet communication.

9 B. Notwithstanding any other provision of law, any person who
10 is found guilty of a violation of any provision of Section 761 or
11 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
12 guilty or nolo contendere for a violation of any provision of such
13 sections shall be ordered to participate in, prior to sentencing, an
14 alcohol and drug assessment and evaluation by an assessment agency
15 or assessment personnel certified by the Department of Mental Health
16 and Substance Abuse Services for the purpose of evaluating the
17 receptivity to treatment and prognosis of the person. The court
18 shall order the person to reimburse the agency or assessor for the
19 evaluation. The fee shall be the amount provided in subsection C of
20 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
21 shall be conducted at a certified assessment agency, the office of a
22 certified assessor or at another location as ordered by the court.
23 The agency or assessor shall, within seventy-two (72) hours from the
24 time the person is assessed, submit a written report to the court

1 for the purpose of assisting the court in its final sentencing
2 determination. No person, agency or facility operating an alcohol
3 and drug substance abuse evaluation program certified by the
4 Department of Mental Health and Substance Abuse Services shall
5 solicit or refer any person evaluated pursuant to this subsection
6 for any treatment program or alcohol and drug substance abuse
7 service in which such person, agency or facility has a vested
8 interest; however, this provision shall not be construed to prohibit
9 the court from ordering participation in or any person from
10 voluntarily utilizing a treatment program or alcohol and drug
11 substance abuse service offered by such person, agency or facility.
12 If a person is sentenced to the custody of the Department of
13 Corrections and the court has received a written evaluation report
14 pursuant to this subsection, the report shall be furnished to the
15 Department of Corrections with the judgment and sentence. Any
16 evaluation report submitted to the court pursuant to this subsection
17 shall be handled in a manner which will keep such report
18 confidential from the general public's review. Nothing contained in
19 this subsection shall be construed to prohibit the court from
20 ordering judgment and sentence in the event the defendant fails or
21 refuses to comply with an order of the court to obtain the
22 evaluation required by this subsection.

23 C. When sentencing a person convicted of a crime, the court
24 shall first consider a program of restitution for the victim, as

1 well as imposition of a fine or incarceration of the offender. The
2 provisions of paragraph 1 of subsection A of this section shall not
3 apply to ~~defendants~~ a defendant being sentenced ~~upon their~~ for:

4 1. A third or subsequent ~~to their third~~ conviction of a felony
5 or, beginning violent crime enumerated in Section 571 of Title 57 of
6 the Oklahoma Statutes;

7 2. A fourth or subsequent conviction for any other felony
8 crime; or

9 3. Beginning January 1, 1993, to ~~defendants~~ a defendant being
10 sentenced for ~~their~~ a second or subsequent felony conviction for
11 violation of Section 11-902 of Title 47 of the Oklahoma Statutes,
12 except as otherwise provided in this subsection.

13 In the case of a person being sentenced for ~~their~~ a second or
14 subsequent felony conviction for violation of Section 11-902 of
15 Title 47 of the Oklahoma Statutes, the court may sentence the person
16 pursuant to the provisions of paragraph 1 of subsection A of this
17 section if the court orders the person to submit to electronically
18 monitored home detention administered and supervised by the
19 Department of Corrections pursuant to subparagraph e of paragraph 7
20 of subsection A of this section. Provided, the court may waive
21 these prohibitions upon written application of the district
22 attorney. Both the application and the waiver shall be made part of
23 the record of the case.

1 D. When sentencing a person convicted of a crime, the judge
2 shall consider any victims impact statements if submitted to the
3 jury, or the judge in the event a jury is waived.

4 E. Probation, for purposes of subsection A of this section, is
5 a procedure by which a defendant found guilty of a crime, whether
6 upon a verdict or plea of guilty or upon a plea of nolo contendere,
7 is released by the court subject to conditions imposed by the court
8 and subject to supervision by the Department of Corrections, a
9 private supervision provider or other person designated by the
10 court. All supervision providers that supervise persons under this
11 section shall use the sanctions and incentives process established
12 under Section 991b of this title. Such supervision shall be
13 initiated upon an order of probation from the court, and shall not
14 exceed two (2) years, unless a petition alleging a violation of any
15 condition of deferred judgment or seeking revocation of the
16 suspended sentence is filed during the supervision, or as otherwise
17 provided by law. In the case of a person convicted of a sex
18 offense, supervision shall begin immediately upon release from
19 incarceration or if parole is granted and shall not be limited to
20 two (2) years. Provided further, any supervision provided for in
21 this section may be extended for a period not to exceed the
22 expiration of the maximum term or terms of the sentence upon a
23 determination by the court or the Division of Probation and Parole
24 of the Department of Corrections that the best interests of the

1 public and the release will be served by an extended period of
2 supervision.

3 F. The Department of Corrections, or such other agency as the
4 court may designate, shall be responsible for the monitoring and
5 administration of the restitution and service programs provided for
6 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
7 section, and shall ensure that restitution payments are forwarded to
8 the victim and that service assignments are properly performed.

9 G. 1. The Department of Corrections is hereby authorized,
10 subject to funds available through appropriation by the Legislature,
11 to contract with counties for the administration of county Community
12 Service Sentencing Programs.

13 2. Any offender eligible to participate in the Program pursuant
14 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
15 participate in a county Program; provided, participation in county-
16 funded Programs shall not be limited to offenders who would
17 otherwise be sentenced to confinement with the Department of
18 Corrections.

19 3. The Department shall establish criteria and specifications
20 for contracts with counties for such Programs. A county may apply
21 to the Department for a contract for a county-funded Program for a
22 specific period of time. The Department shall be responsible for
23 ensuring that any contracting county complies in full with
24 specifications and requirements of the contract. The contract shall

1 set appropriate compensation to the county for services to the
2 Department.

3 4. The Department is hereby authorized to provide technical
4 assistance to any county in establishing a Program, regardless of
5 whether the county enters into a contract pursuant to this
6 subsection. Technical assistance shall include appropriate
7 staffing, development of community resources, sponsorship,
8 supervision and any other requirements.

9 5. The Department shall annually make a report to the Governor,
10 the President Pro Tempore of the Senate and the Speaker of the House
11 on the number of such Programs, the number of participating
12 offenders, the success rates of each Program according to criteria
13 established by the Department and the costs of each Program.

14 H. As used in this section:

15 1. "Ignition interlock device" means a device that, without
16 tampering or intervention by another person, would prevent the
17 defendant from operating a motor vehicle if the defendant has a
18 blood or breath alcohol concentration of two-hundredths (0.02) or
19 greater;

20 2. "Electronically monitored home detention" means
21 incarceration of the defendant within a specified location or
22 locations with monitoring by means of a device approved by the
23 Department of Corrections that detects if the person leaves the
24 confines of any specified location; and

1 3. "Victims impact panel program" means a meeting with at least
2 one live presenter who will share personal stories with participants
3 about how alcohol, drug abuse and the illegal conduct of others has
4 personally impacted the life of the presenter. A victims impact
5 panel program shall be attended by persons who have committed the
6 offense of driving, operating or being in actual physical control of
7 a motor vehicle while under the influence of alcohol or other
8 intoxicating substance. Persons attending a victims impact panel
9 program shall be required to pay a fee of not less than Fifteen
10 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
11 provider of the program. A certificate of completion shall be
12 issued to the person upon satisfying the attendance and fee
13 requirements of the victims impact panel program. A victims impact
14 panel program shall not be provided by any certified assessment
15 agency or certified assessor. The provider of the victims impact
16 panel program shall carry general liability insurance and maintain
17 an accurate accounting of all business transactions and funds
18 received in relation to the victims impact panel program.

19 I. A person convicted of a felony offense or receiving any form
20 of probation for an offense in which registration is required
21 pursuant to the Sex Offenders Registration Act, shall submit to
22 deoxyribonucleic acid DNA testing for law enforcement identification
23 purposes in accordance with Section 150.27 of Title 74 of the
24 Oklahoma Statutes and the rules promulgated by the Oklahoma State

1 Bureau of Investigation for the OSBI Combined DNA Index System
2 (CODIS) Database. Subject to the availability of funds, any person
3 convicted of a misdemeanor offense of assault and battery, domestic
4 abuse, stalking, possession of a controlled substance prohibited
5 under Schedule IV of the Uniform Controlled Dangerous Substances
6 Act, outraging public decency, resisting arrest, escape or
7 attempting to escape, eluding a police officer, peeping tom,
8 pointing a firearm, unlawful carry of a firearm, illegal transport
9 of a firearm, discharging of a firearm, threatening an act of
10 violence, breaking and entering a dwelling place, destruction of
11 property, negligent homicide, or causing a personal injury accident
12 while driving under the influence of any intoxicating substance, or
13 any alien unlawfully present under federal immigration law, upon
14 arrest, shall submit to deoxyribonucleic acid DNA testing for law
15 enforcement identification purposes in accordance with Section
16 150.27 of Title 74 of the Oklahoma Statutes and the rules
17 promulgated by the Oklahoma State Bureau of Investigation for the
18 OSBI Combined DNA Index System (CODIS) Database. Any defendant
19 sentenced to probation shall be required to submit to testing within
20 thirty (30) days of sentencing either to the Department of
21 Corrections or to the county sheriff or other peace officer as
22 directed by the court. Defendants who are sentenced to a term of
23 incarceration shall submit to testing in accordance with Section
24 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who

1 enter the custody of the Department of Corrections or to the county
2 sheriff, for those defendants sentenced to incarceration in a county
3 jail. Convicted individuals who have previously submitted to DNA
4 testing under this section and for whom a valid sample is on file in
5 the OSBI Combined DNA Index System (CODIS) Database at the time of
6 sentencing shall not be required to submit to additional testing.
7 Except as required by the Sex Offenders Registration Act, a deferred
8 judgment does not require submission to deoxyribonucleic acid
9 testing.

10 Any person who is incarcerated in the custody of the Department
11 of Corrections after July 1, 1996, and who has not been released
12 before January 1, 2006, shall provide a blood or saliva sample prior
13 to release. Every person subject to DNA testing after January 1,
14 2006, whose sentence does not include a term of confinement with the
15 Department of Corrections, shall submit a blood or saliva sample.
16 Every person subject to DNA testing who is sentenced to unsupervised
17 probation or otherwise not supervised by the Department of
18 Corrections shall submit for blood or saliva testing to the sheriff
19 of the sentencing county.

20 J. Samples of blood or saliva for DNA testing required by
21 subsection I of this section shall be taken by employees or
22 contractors of the Department of Corrections, peace officers, or the
23 county sheriff or employees or contractors of the sheriff's office.
24 The individuals shall be properly trained to collect blood or saliva

1 samples. Persons collecting blood or saliva for DNA testing
2 pursuant to this section shall be immune from civil liabilities
3 arising from this activity. All collectors of DNA samples shall
4 ensure the collection of samples are mailed to the Oklahoma State
5 Bureau of Investigation within ten (10) days of the time the subject
6 appears for testing or within ten (10) days of the date the subject
7 comes into physical custody to serve a term of incarceration. All
8 collectors of DNA samples shall use sample kits provided by the OSBI
9 and procedures promulgated by the OSBI. Persons subject to DNA
10 testing who are not received at the Lexington Assessment and
11 Reception Center shall be required to pay a fee of Fifteen Dollars
12 (\$15.00) to the agency collecting the sample for submission to the
13 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
14 pursuant to this subsection shall be deposited in the revolving
15 account or the service fee account of the collection agency or
16 department.

17 K. When sentencing a person who has been convicted of a crime
18 that would subject that person to the provisions of the Sex
19 Offenders Registration Act, neither the court nor the district
20 attorney shall be allowed to waive or exempt such person from the
21 registration requirements of the Sex Offenders Registration Act.

22 SECTION 11. AMENDATORY 22 O.S. 2011, Section 991b, as
23 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
24 2016, Section 991b), is amended to read as follows:

1 Section 991b. A. Whenever a sentence has been suspended by the
2 court after conviction of a person for any crime, the suspended
3 sentence of the person may not be revoked, in whole or part, for any
4 cause unless a petition setting forth the grounds for such
5 revocation is filed by the district attorney with the clerk of the
6 sentencing court and competent evidence justifying the revocation of
7 the suspended sentence is presented to the court at a hearing to be
8 held for that purpose within twenty (20) days after the entry of the
9 plea of not guilty to the petition, unless waived by both the state
10 and the defendant. The State of Oklahoma may dismiss the petition
11 without prejudice one time upon good cause shown to the court,
12 provided that any successor petition must be filed within forty-five
13 (45) days of the date of the dismissal of the petition.

14 B. Whenever a sentence has been suspended by the court after
15 conviction of a person for any crime, the suspended sentence of the
16 person may not be revoked, in whole or part, for a technical
17 violation unless a petition setting forth the grounds for such
18 revocation is filed by the district attorney with the clerk of the
19 sentencing court and competent evidence justifying the revocation of
20 the suspended sentence is presented to the court at a hearing to be
21 held for that purpose within ten (10) days after the entry of the
22 plea of not guilty to the petition, unless waived by both the state
23 and the defendant. An application to revoke for a technical
24 violation shall be limited to a technical violation that has

1 occurred within sixty (60) days, provided the district attorney has
2 received adequate notice. The State of Oklahoma may dismiss the
3 petition without prejudice one time upon good cause shown to the
4 court, provided that any successor petition must be filed within
5 forty-five (45) days of the date of the dismissal of the petition.

6 C. 1. The Department of Corrections shall develop a matrix of
7 ~~technical violations and sanctions and incentives to address~~
8 ~~violations respond to behavior~~ committed by persons who are being
9 supervised by the Department. The Department shall be authorized to
10 use ~~a violation response and intermediate sanction process~~ sanctions
11 when responding to technical violations based on the ~~sanction~~
12 sanctions and incentives matrix to apply to any technical violations
13 ~~of probationers.~~ Within four (4) working days of the discovery of
14 the violation, the probation officer shall initiate the violation
15 response and intermediate sanction process. ~~The sentencing judge~~
16 ~~may authorize any recommended sanctions, which may include, but are~~
17 ~~not limited to: short term jail or lockup, day treatment, program~~
18 ~~attendance, community service, outpatient or inpatient treatment,~~
19 ~~monetary fines, curfews, ignition interlock devices on vehicles, or~~
20 ~~a one-time referral to a term of confinement of six (6) months in an~~
21 ~~intermediate revocation facility operated by the Department of~~
22 ~~Corrections; provided, upon approval of the district attorney, a~~
23 ~~person may be sanctioned to serve additional terms of confinement in~~
24 ~~an intermediate revocation facility.~~ The probation officer shall

1 complete a sanction form, which shall specify the technical
2 violation, sanction, and the action plan to correct the noncompliant
3 behavior resulting in the technical violation. The probation
4 officer shall refer to the sanctioning matrix to determine the
5 ~~supervision, treatment, and~~ sanctions appropriate to address the
6 noncompliant behavior. The probation officer shall refer the
7 violation information and recommended response with a sanction plan
8 to the Department of Corrections to be heard by a hearing officer.
9 The Department of Corrections shall develop a sanction matrix,
10 forms, policies and procedures necessary to implement this
11 provision. If the severity of the violation warrants or the
12 graduated use of sanctions has been exhausted and the noncompliant
13 behavior has continued, the probation officer may recommend
14 revocation of the probation of the offender to the hearing officer
15 of the Department or appropriate supervising authority. The
16 Department of Corrections shall establish procedures to hear
17 responses to technical violations and review sanction plans
18 including the following:

- 19 a. hearing officers shall report through a chain of
20 command separate from that of the supervising
21 probation officers,
- 22 b. the Department shall provide the offender written
23 notice of the violation, the evidence relied upon, and
24 the reason the sanction was imposed,

- 1 c. the hearing shall be held unless the offender waives
2 the right to the hearing,
3 d. hearings shall be electronically recorded, and
4 e. the Department shall provide to judges and district
5 attorneys a record of all violations and actions taken
6 pursuant to this subsection.

7 2. The hearing officer shall determine based on a preponderance
8 of the evidence whether a technical violation occurred. Upon a
9 finding that a technical violation occurred, the hearing officer may
10 order the offender to participate in the recommended sanction plan
11 or may modify the plan. Offenders who accept the sanction plan
12 shall sign a violation response sanction form, and the hearing
13 officer shall then impose the sanction. Failure of the offender to
14 comply with the imposed sanction plan shall constitute a violation
15 of the rules and conditions of supervision that may result in a
16 revocation proceeding. If an offender does not voluntarily accept
17 the recommended sanction plan, the Department shall either impose
18 the sanction and allow the offender to appeal to the district court,
19 or request a revocation proceeding as provided by law. Every
20 administrative hearing and sanction imposed by the Department shall
21 be appealable to the district court.

22 3. Absent a finding of willful nonpayment by the offender,
23 the failure of an offender to pay fines and costs may not serve as a
24 basis for revocation, excluding restitution.

1 D. 1. Where one of the grounds for revocation is the failure
2 of the defendant to make restitution as ordered, the Department of
3 Corrections shall forward to the district attorney all information
4 pertaining to the failure of the defendant to make timely
5 restitution as ordered by the court, and the district attorney shall
6 file a petition setting forth the grounds for revocation.

7 2. The defendant ordered to make restitution can petition the
8 court at any time for remission or a change in the terms of the
9 order of restitution if the defendant undergoes a change of
10 condition which materially affects the ability of the defendant to
11 comply with the order of the court.

12 3. At the hearing, if one of the grounds for the petition for
13 revocation is the failure of the defendant to make timely
14 restitution as ordered by the court, the court will hear evidence
15 and if it appears to the satisfaction of the court from such
16 evidence that the terms of the order of restitution create a
17 manifest hardship on the defendant or the immediate family of the
18 defendant, the court may cancel all or any part of the amount still
19 due, or modify the terms or method of payment. Provided, if the
20 court determines that a reduction in the restitution still due is
21 warranted, the court shall equally apply the same percentage
22 reduction to any court-ordered monetary obligation owed by the
23 defendant including, but not limited to, fines, court costs and
24 costs of incarceration.

1 ~~D.~~ E. Except as provided in Section 517 of Title 57 of the
2 Oklahoma Statutes, the court may revoke a portion of the sentence
3 and leave the remaining part not revoked, but suspended for the
4 remainder of the term of the sentence, and under the provisions
5 applying to it. The person whose suspended sentence is being
6 considered for revocation at the hearing shall have the right to be
7 represented by counsel, to present competent evidence in his or her
8 own behalf and to be confronted by the witnesses against the
9 defendant. Any order of the court revoking the suspended sentence,
10 in whole or in part, shall be subject to review on appeal, as in
11 other appeals of criminal cases. Provided, however, that if the
12 crime for which the suspended sentence is given was a felony, the
13 defendant may be allowed bail pending appeal. If the reason for
14 revocation be that the defendant committed a felony, the defendant
15 shall not be allowed bail pending appeal.

16 F. If the court revokes a suspended sentence for a technical
17 violation of the terms and conditions of probation, the court shall
18 sentence the offender in accordance with Section 517 of Title 57 of
19 the Oklahoma Statutes.

20 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991c, as
21 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
22 2016, Section 991c), is amended to read as follows:

23 Section 991c. A. Upon a verdict or plea of guilty or upon a
24 plea of nolo contendere, but before a judgment of guilt, the court

1 may, without entering a judgment of guilt and with the consent of
2 the defendant, defer further proceedings upon the specific
3 conditions prescribed by the court not to exceed a ~~ten-year~~ four-
4 year period, except as authorized under subsection B of this
5 section. The court shall first consider restitution among the
6 various conditions it may prescribe. The court may also consider
7 ordering the defendant to:

8 1. Pay court costs;

9 2. Pay an assessment in lieu of any fine authorized by law for
10 the offense;

11 3. Pay any other assessment or cost authorized by law;

12 4. Engage in a term of community service without compensation,
13 according to a schedule consistent with the employment and family
14 responsibilities of the defendant;

15 5. County jail confinement for a period not to exceed ninety
16 (90) days or the maximum amount of jail time provided for the
17 offense, if it is less than ninety (90) days;

18 6. Pay an amount as reimbursement for reasonable attorney fees,
19 to be paid into the court fund, if a court-appointed attorney has
20 been provided to defendant;

21 7. Be supervised in the community for a period not to exceed
22 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
23 violation of any condition of deferred judgment is filed during the
24 period of supervision. As a condition of any supervision, the

1 defendant shall be required to pay a supervision fee of Forty
2 Dollars (\$40.00) per month. The supervision fee shall be waived in
3 whole or part by the supervisory agency when the accused is
4 indigent. No person shall be denied supervision based solely on the
5 inability of the person to pay a fee;

6 8. Pay into the court fund a monthly amount not exceeding Forty
7 Dollars (\$40.00) per month during any period during which the
8 proceedings are deferred when the defendant is not to be supervised
9 in the community. The total amount to be paid into the court fund
10 shall be established by the court and shall not exceed the amount of
11 the maximum fine authorized by law for the offense;

12 9. Make other reparations to the community or victim as
13 required and deemed appropriate by the court;

14 10. Order any conditions which can be imposed for a suspended
15 sentence pursuant to paragraph 1 of subsection A of Section 991a of
16 this title; or

17 11. Any combination of the above provisions.

18 However, unless under the supervision of the district attorney,
19 the offender shall be required to pay Forty Dollars (\$40.00) per
20 month to the district attorney during the first two (2) years of
21 probation to compensate the district attorney for the costs incurred
22 during the prosecution of the offender and for the additional work
23 of verifying the compliance of the offender with the rules and
24 conditions of his or her probation. The district attorney may waive

1 any part of this requirement in the best interests of justice. The
2 court shall not waive, suspend, defer or dismiss the costs of
3 prosecution in its entirety. However, if the court determines that
4 a reduction in the fine, costs and costs of prosecution is
5 warranted, the court shall equally apply the same percentage
6 reduction to the fine, costs and costs of prosecution owed by the
7 offender.

8 B. When the court has ordered restitution as a condition of
9 supervision as provided for in subsection A of this section and that
10 condition has not been satisfied, the court may, at any time prior
11 to the termination or expiration of the supervision period, order an
12 extension for a period not to exceed three (3) years.

13 C. In addition to any conditions of supervision provided for in
14 subsection A of this section, the court shall, in the case of a
15 person before the court for the offense of operating or being in
16 control of a motor vehicle while the person was under the influence
17 of alcohol, other intoxicating substance, or a combination of
18 alcohol and another intoxicating substance, or who is before the
19 court for the offense of operating a motor vehicle while the ability
20 of the person to operate such vehicle was impaired due to the
21 consumption of alcohol, require the person to participate in an
22 alcohol and drug substance abuse evaluation program offered by a
23 facility or qualified practitioner certified by the Department of
24 Mental Health and Substance Abuse Services for the purpose of

1 evaluating the receptivity to treatment and prognosis of the person.
2 The court shall order the person to reimburse the facility or
3 qualified practitioner for the evaluation. The Department of Mental
4 Health and Substance Abuse Services shall establish a fee schedule,
5 based upon the ability of a person to pay, provided the fee for an
6 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
7 evaluation shall be conducted at a certified facility, the office of
8 a qualified practitioner or at another location as ordered by the
9 court. The facility or qualified practitioner shall, within
10 seventy-two (72) hours from the time the person is assessed, submit
11 a written report to the court for the purpose of assisting the court
12 in its determination of conditions for deferred sentence. No
13 person, agency or facility operating an alcohol and drug substance
14 abuse evaluation program certified by the Department of Mental
15 Health and Substance Abuse Services shall solicit or refer any
16 person evaluated pursuant to this subsection for any treatment
17 program or alcohol and drug substance abuse service in which the
18 person, agency or facility has a vested interest; however, this
19 provision shall not be construed to prohibit the court from ordering
20 participation in or any person from voluntarily utilizing a
21 treatment program or alcohol and drug substance abuse service
22 offered by such person, agency or facility. Any evaluation report
23 submitted to the court pursuant to this subsection shall be handled
24 in a manner which will keep the report confidential from review by

1 the general public. Nothing contained in this subsection shall be
2 construed to prohibit the court from ordering judgment and sentence
3 in the event the defendant fails or refuses to comply with an order
4 of the court to obtain the evaluation required by this subsection.
5 As used in this subsection, "qualified practitioner" means a person
6 with at least a bachelor's degree in substance abuse treatment,
7 mental health or a related health care field and at least two (2)
8 years of experience in providing alcohol abuse treatment, other drug
9 abuse treatment, or both alcohol and other drug abuse treatment who
10 is certified each year by the Department of Mental Health and
11 Substance Abuse Services to provide these assessments. However, any
12 person who does not meet the requirements for a qualified
13 practitioner as defined herein, but who has been previously
14 certified by the Department of Mental Health and Substance Abuse
15 Services to provide alcohol or drug treatment or assessments, shall
16 be considered a qualified practitioner provided all education,
17 experience and certification requirements stated herein are met by
18 September 1, 1995. The court may also require the person to
19 participate in one or both of the following:

20 1. An alcohol and drug substance abuse course, pursuant to
21 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

22 2. A victims impact panel program, as defined in subsection H
23 of Section 991a of this title, if such a program is offered in the
24 county where the judgment is rendered. The defendant shall be

1 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
2 more than Sixty Dollars (\$60.00) as set by the governing authority
3 of the program and approved by the court to the victims impact panel
4 program to offset the cost of participation by the defendant, if in
5 the opinion of the court the defendant has the ability to pay such
6 fee.

7 ~~E.~~ D. Upon completion of the conditions of the deferred
8 judgment, and upon a finding by the court that the conditions have
9 been met and all fines, fees, and monetary assessments have been
10 paid as ordered, the defendant shall be discharged without a court
11 judgment of guilt, and the court shall order the verdict or plea of
12 guilty or plea of nolo contendere to be expunged from the record and
13 the charge shall be dismissed with prejudice to any further action.
14 The procedure to expunge the record of the defendant shall be as
15 follows:

16 1. All references to the name of the defendant shall be deleted
17 from the docket sheet;

18 2. The public index of the filing of the charge shall be
19 expunged by deletion, mark-out or obliteration;

20 3. Upon expungement, the court clerk shall keep a separate
21 confidential index of case numbers and names of defendants which
22 have been obliterated pursuant to the provisions of this section;

23 4. No information concerning the confidential file shall be
24 revealed or released, except upon written order of a judge of the

1 district court or upon written request by the named defendant to the
2 court clerk for the purpose of updating the criminal history record
3 of the defendant with the Oklahoma State Bureau of Investigation;
4 and

5 5. Defendants qualifying under Section 18 of this title may
6 petition the court to have the filing of the indictment and the
7 dismissal expunged from the public index and docket sheet. This
8 section shall not be mutually exclusive of Section 18 of this title.

9 Records expunged pursuant to this subsection shall be sealed to
10 the public but not to law enforcement agencies for law enforcement
11 purposes. Records expunged pursuant to this subsection shall be
12 admissible in any subsequent criminal prosecution to prove the
13 existence of a prior conviction or prior deferred judgment without
14 the necessity of a court order requesting the unsealing of such
15 records.

16 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
17 retroactive.

18 ~~E.~~ F. Whenever a judgment has been deferred by the court
19 according to the provisions of this section, deferred judgment may
20 not be accelerated, in whole or part, for any cause unless a
21 petition setting forth the grounds for such revocation is filed by
22 the district attorney with the clerk of the sentencing court and
23 competent evidence justifying the acceleration of the judgment is
24 presented to the court at a hearing to be held for that purpose.

1 The hearing shall be held twenty (20) days after the entry of the
2 plea of not guilty to the petition, unless waived by both the state
3 and the defendant. If the alleged violation is for a technical
4 violation of the terms and conditions of probation, the petition
5 shall be limited to a technical violation that has occurred within
6 sixty (60) days, provided the district attorney has received
7 adequate notice.

8 G. Upon any violation ~~of any condition~~ of the deferred
9 judgment, other than a technical violation, the court may enter a
10 judgment of guilt and proceed as provided in Section 991a of this
11 title or may modify any condition imposed. Provided, however, if
12 the deferred judgment is for a felony offense, and the defendant
13 commits another felony offense, the defendant shall not be allowed
14 bail pending appeal. Upon a technical violation of the deferred
15 judgment, the court shall sentence the offender in accordance with
16 Section 517 of Title 57 of the Oklahoma Statutes.

17 ~~F.~~ H. The deferred judgment procedure described in this section
18 shall apply only to defendants who have not been previously
19 convicted of a felony offense and have not received a more than one
20 deferred judgment for a felony offense within the ten (10) years
21 previous to the commission of the pending offense.

22 Provided, the court may waive this prohibition upon written
23 application of the district attorney. Both the application and the
24 waiver shall be made a part of the record of the case.

1 ~~G.~~ I. The deferred judgment procedure described in this section
2 shall not apply to defendants found guilty or who plead guilty or
3 nolo contendere to a sex offense required by law to register
4 pursuant to the Sex Offenders Registration Act.

5 ~~H. Defendants~~ J. All defendants who are supervised ~~by the~~
6 ~~Department of Corrections~~ pursuant to this section shall be subject
7 to the ~~intermediate~~ sanction and incentive process as established in
8 subsection B of Section 991b of this title.

9 SECTION 13. This act shall become effective November 1, 2017."

10 Passed the House of Representatives the 20th day of April, 2017.

11

12

13

Presiding Officer of the House of
Representatives

14

15 Passed the Senate the ____ day of _____, 2017.

16

17

18

Presiding Officer of the Senate

19

20

21

22

23

24

1 ENGROSSED SENATE
2 BILL NO. 689

By: Treat, Pittman and Sharp of
the Senate

3 and

4 O'Donnell and Young of the
5 House

6
7 [criminal procedure - judgments and execution of
8 sentences - pilot financial obligation payment
9 program - Oklahoma Community Sentencing Act -
10 sentencing powers of the court - suspended and
deferred sentences and supervision fees - Delayed
Sentencing Program for Young Adults - codification -
effective date]

11
12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 14. AMENDATORY 22 O.S. 2011, Section 982a, as
15 last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
16 2016, Section 982a), is amended to read as follows:

17 Section 982a. A. 1. Any time within sixty (60) months after
18 the initial sentence is imposed or within sixty (60) months after
19 probation has been revoked, the court imposing sentence or
20 revocation of probation may modify such sentence or revocation by
21 directing that another sentence be imposed, if the court is
22 satisfied that the best interests of the public will not be
23 jeopardized; provided, however, the court shall not impose a
24 deferred sentence. Any application for sentence modification that

1 is filed and ruled upon beyond twelve (12) months of the initial
2 sentence being imposed must be approved by the district attorney who
3 shall provide written notice to any victims in the case which is
4 being considered for modification.

5 2. The court imposing sentence may modify the sentence of any
6 offender who was originally sentenced for a drug charge and ordered
7 to complete the Drug Offender Work Camp at the Bill Johnson
8 Correctional Facility and direct that another sentence be imposed,
9 if the court is satisfied that the best interests of the public will
10 not be jeopardized; provided, however, the court shall not impose a
11 deferred sentence. An application for sentence modification
12 pursuant to this paragraph may be filed and ruled upon beyond the
13 initial sixty-month time period provided for in paragraph 1 of this
14 subsection.

15 3. This section shall not apply to convicted felons who have
16 been in confinement in any state or federal prison system for any
17 previous felony conviction during the ten-year period preceding the
18 date that the sentence this section applies to was imposed.
19 Further, without the consent of the district attorney, this section
20 shall not apply to sentences imposed pursuant to a plea agreement or
21 jury verdict.

22 B. The court imposing the sentence may modify the sentence of
23 any offender sentenced to life without parole for an offense other
24 than a violent crime, as enumerated in Section 571 of Title 57 of

1 the Oklahoma Statutes, who has served at least ten (10) years of the
2 sentence in the custody of the Department of Corrections upon a
3 finding that the best interests of the public will not be
4 jeopardized.

5 C. For purposes of judicial review, upon court order or written
6 request from the sentencing judge, the Department of Corrections
7 shall provide the court imposing sentence or revocation of probation
8 with a report to include a summary of the assessed needs of the
9 offender, any progress made by the offender in addressing his or her
10 assessed needs, and any other information the Department can supply
11 on the offender. The court shall consider such reports when
12 modifying the sentence or revocation of probation. The court shall
13 allow the Department of Corrections at least twenty (20) days after
14 receipt of a request or order from the court to prepare the required
15 reports.

16 ~~C.~~ D. If the court considers modification of the sentence or
17 revocation of probation, a hearing shall be made in open court after
18 receipt of the reports required in subsection ~~B~~ C of this section.
19 The clerk of the court imposing sentence or revocation of probation
20 shall give notice of the judicial review hearing to the Department
21 of Corrections, the offender, the legal counsel of the offender, and
22 the district attorney of the county in which the offender was
23 convicted upon receipt of the reports. Such notice shall be mailed
24 at least twenty-one (21) days prior to the hearing date and shall

1 include a copy of the report and any other written information to be
2 considered at the judicial review hearing.

3 ~~D.~~ E. If an appeal is taken from the original sentence or from
4 a revocation of probation which results in a modification of the
5 sentence or modification to the revocation of probation of the
6 offender, such sentence may be further modified in the manner
7 described in paragraph 1 of subsection A of this section within
8 sixty (60) months after the receipt by the clerk of the district
9 court of the mandate from the Supreme Court or the Court of Criminal
10 Appeals.

11 SECTION 15. AMENDATORY 22 O.S. 2011, Section 983, is
12 amended to read as follows:

13 Section 983. A. Any defendant found guilty of an offense in
14 any court of this state may be imprisoned for nonpayment of the
15 fine, cost, fee, or assessment when the trial court finds after
16 notice and hearing that the defendant is financially able but
17 refuses or neglects to pay the fine, cost, fee, or assessment. A
18 sentence to pay a fine, cost, fee, or assessment may be converted
19 into a jail sentence only after a hearing and a judicial
20 determination, memorialized of record, that the defendant is able to
21 satisfy the fine, cost, fee, or assessment by payment, but refuses
22 or neglects so to do.

23 B. ~~After~~ Pursuant to the provisions of subsection L of Section
24 991a of this title, after a judicial determination that the

1 defendant is able to pay the fine, cost, fee, or assessment in
2 installments, the court ~~may~~ shall order the fine, cost, fee, or
3 assessment to be paid in installments and shall set the amount and
4 date for each installment.

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

17 D. ~~The Court of Criminal Appeals~~ Supreme Court shall implement
18 procedures and rules for methods of establishing payment plans of
19 fines, costs, fees, and assessments by indigents according to
20 discretionary income, as defined in subsection L of Section 991a of
21 this title, which procedures and rules shall be distributed to all
22 district courts and municipal courts by the Administrative Office of
23 the Courts.

24

1 SECTION 16. AMENDATORY Section 1, Chapter 392, O.S.L.
2 2016 (22 O.S. Supp. 2016, Section 983a), is amended to read as
3 follows:

4 Section 983a. A. On or after November 1, 2016, the court shall
5 have the authority to waive all outstanding fines, court costs and
6 fees in a criminal case for any person who:

7 1. Served a period of imprisonment in the custody of the
8 Department of Corrections after conviction for a crime;

9 2. Has been released from the custody of the Department of
10 Corrections;

11 3. Has complied with all probation or supervision requirements
12 since being released from the custody of the Department of
13 Corrections; and

14 4. Has made installment payments on outstanding fines, court
15 costs, fees and restitution ordered by the court on a timely basis
16 every month for the previous twenty-four (24) months following
17 release from the custody of the Department of Corrections.

18 B. The court shall waive outstanding fines, court costs and
19 fees if the offender has secured admission to and is enrolled in an
20 institution which is a member of The Oklahoma State System of Higher
21 Education or technology center school or a workforce training
22 program intended to expand further employment opportunities. Upon
23 the offender's completion of each forty (40) hour work week, the
24 court shall waive the fines, court costs and fees based on the

1 equivalent value of the potential gross income of the offender as
2 established by the minimum wage rate of the state as set forth in
3 Section 197.2 of Title 40 of the Oklahoma Statutes.

4 C. The provisions of this section shall not apply to amounts
5 owed by the person for restitution to a victim pursuant to a court
6 order or child support obligations pursuant to a court order.

7 SECTION 17. AMENDATORY Section 2, Chapter 243, O.S.L.
8 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
9 follows:

10 Section 985.1. A. When sentencing a person convicted of a
11 criminal offense for which there is a mandatory minimum sentence of
12 imprisonment, the court may depart from the applicable sentence if
13 the court finds substantial and compelling reasons on the record,
14 after giving due regard to the nature of the crime, history, and
15 character of the defendant and his or her chances of successful
16 rehabilitation, that:

17 1. The mandatory minimum sentence of imprisonment is not
18 necessary for the protection of the public; or

19 2. ~~and imposition~~ Imposition of the mandatory minimum sentence
20 of imprisonment would result in substantial injustice to the
21 defendant; or

22 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
23 necessary for the protection of the public and the defendant, based
24 on a risk and needs assessment, is eligible for an alternative

1 court, a diversion program or community sentencing, without regard
2 to exclusions because of previous convictions, and has been accepted
3 to the same, pending sentencing.

4 B. The court shall not have the discretion to depart from the
5 applicable mandatory minimum sentence of imprisonment on convictions
6 for criminal offenses under the following circumstances:

7 1. The offense for which the defendant was convicted is among
8 those crimes listed in Section 571 of Title 57 of the Oklahoma
9 Statutes as excepted from the definition of "nonviolent offense";

10 2. The offense for which the defendant was convicted was a sex
11 offense and will require the defendant to register as a sex offender
12 pursuant to the provisions of the Sex Offenders Registration Act;

13 3. The offense for which the defendant was convicted involved
14 the use of a firearm;

15 4. The offense for which the defendant was convicted is a crime
16 listed in Section 13.1 of Title 21 of the Oklahoma Statutes
17 requiring the defendant to serve not less than eighty-five percent
18 (85%) of any sentence of imprisonment imposed by the judicial system
19 prior to becoming eligible for consideration for parole;

20 5. The offense for which the defendant was convicted is a
21 violation of the Trafficking in Illegal Drugs Act as provided in
22 Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

23 6. The defendant was the leader, manager or supervisor of
24 others in a continuing criminal enterprise; or

1 7. The offense for which the defendant was convicted is a
2 violation of the Oklahoma Antiterrorism Act as provided in Sections
3 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

4 C. Any departure from the mandatory minimum sentence as
5 authorized in this section shall not reduce the sentence to less
6 than twenty-five percent (25%) of the mandatory term.

7 SECTION 18. AMENDATORY 22 O.S. 2011, Section 988.2, as
8 last amended by Section 3, Chapter 222, O.S.L. 2016 (22 O.S. Supp.
9 2016, Section 988.2), is amended to read as follows:

10 Section 988.2. A. For purposes of the Oklahoma Community
11 Sentencing Act:

12 1. "Local community sentencing system" means the use of public
13 and private entities to deliver services to the sentencing court for
14 punishment of eligible felony offenders under the authority of a
15 community sentence;

16 2. "Community sentence" or "community punishment" means a
17 punishment imposed by the court as a condition of a deferred or
18 suspended sentence for an eligible offender;

19 3. "Continuum of sanctions" means a variety of coercive
20 measures ~~and treatment options~~ ranked by degrees of public safety,
21 punitive effect, and cost benefit which are available to the
22 sentencing judge as punishment for criminal conduct;

23 4. "Community sentencing system planning council" or "planning
24 council" means a group of citizens and elected officials specified

1 by law or appointed by the Chief Judge of the Judicial District
2 which plans the local community sentencing system and with the
3 assistance of the Community Sentencing Division of the Department of
4 Corrections locates treatment providers and resources to support the
5 local community sentencing system;

6 5. "Incentive" means a court-ordered reduction in the terms or
7 conditions of a community sentence which is given for exceptional
8 performance or progress by the offender;

9 6. "Disciplinary sanction" means a court-ordered punishment in
10 response to a technical or noncompliance violation of a community
11 sentence which increases in intensity or duration with each
12 successive violation;

13 7. "Division" means the Community Sentencing Division within
14 the Department of Corrections which is the state administration
15 agency for the Oklahoma Community Sentencing Act, the statewide
16 community sentencing system, and all local community sentencing
17 systems;

18 8. "Eligible offender" means a felony offender who has been
19 convicted of or who has entered a plea other than not guilty to a
20 felony offense and who upon completion of a ~~Level of Services~~
21 ~~Inventory or another~~ risk and needs assessment instrument has been
22 found to be in a range other than the low range, who has been
23 convicted of at least one prior felony, and who is not otherwise
24 prohibited by law, or is a person who has had an assessment

1 authorized by Section 3-704 of Title 43A of the Oklahoma Statutes
2 and the assessment recommends community sentencing. Provided,
3 however, that no person who has been convicted of or who has entered
4 a plea other than not guilty to an offense enumerated in paragraph 2
5 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception
6 to the definition of "nonviolent offense" shall be eligible for a
7 community sentence or community punishment unless the district
8 attorney or an assistant district attorney for the district in which
9 the offender's conviction was obtained consents thereto. The
10 district attorney may consent to eligibility for an offender who has
11 a mental illness or a developmental disability or a co-occurring
12 mental illness and substance abuse disorder and who scores in the
13 low range on the ~~LSI~~ or has an risk and needs assessment authorized
14 by Section 3-704 of Title 43A of the Oklahoma Statutes or another
15 assessment instrument if the offender is not otherwise prohibited by
16 law. Any consent by a district attorney shall be made a part of the
17 record of the case; and

18 9. "Statewide community sentencing system" means a network of
19 all counties through their respective local community sentencing
20 systems serving the state judicial system and offering support
21 services to each other through reciprocal and interlocal agreements
22 and interagency cooperation.

23 B. For the purposes of the Oklahoma Community Sentencing Act,
24 if a judicial district does not have a Chief Judge or if a judicial

1 district has more than one Chief Judge, the duties of the Chief
2 Judge provided for in the Oklahoma Community Sentencing Act shall be
3 performed by the Presiding Judge of the Judicial Administrative
4 District.

5 SECTION 19. AMENDATORY 22 O.S. 2011, Section 988.8, is
6 amended to read as follows:

7 Section 988.8. A. A community sentencing system established
8 pursuant to the provisions of the Oklahoma Community Sentencing Act
9 shall include those community punishments and programs and services
10 enumerated and funded in the annual plan submitted to the Community
11 Sentencing Division within the Department of Corrections and any
12 other services or punishments subsequently added and funded during a
13 plan year. The options may not be utilized for offenders not
14 meeting the eligibility criteria of programs and score requirements
15 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and
16 needs assessment. Each local system shall strive to have available
17 to the court all of the following services for eligible offenders:

18 1. Community service with or without compensation to the
19 offender;

20 2. Substance abuse treatment and availability for periodic drug
21 testing of offenders following treatment;

22 3. Varying levels of supervision by the Department of
23 Corrections probation officers or another qualified supervision
24 source, including specialized supervision for repeat offenders,

1 offenders with convictions for sex crimes, offenders with conviction
2 for domestic violence offenses and offenders with diagnosed mental
3 health needs;

4 4. Education and literacy provided by the State Department of
5 Education, the county library system, the local school board, or
6 another qualified source;

7 5. Employment opportunities and job skills training provided by
8 the Oklahoma Department of Career and Technology Education or
9 another qualified source;

10 6. Cognitive behavioral treatment and any other programming or
11 treatment needs as identified based on the results of the risk and
12 needs assessment administered under this section;

13 7. Enforced collections provided by the local court clerk, or
14 another state agency; and

15 ~~7.~~ 8. The availability of county jail or another restrictive
16 housing facility for limited disciplinary sanctions.

17 B. The court may order as a community punishment for an
18 eligible offender any condition listed as a condition available for
19 a suspended sentence.

20 C. In all cases in which an offender is sentenced to a
21 community punishment, the offender shall be ordered as part of the
22 terms and conditions of the sentence to pay for the court ordered
23 sanction, based upon ability to pay. Payments may be as provided by
24 court order or pursuant to periodic payment schedules established by

1 the service provider. If the offender does not have the financial
2 ability to pay for the court ordered sanction, payment shall be made
3 from funds budgeted for the local community sentencing system.

4 SECTION 20. AMENDATORY 22 O.S. 2011, Section 988.18, is
5 amended to read as follows:

6 Section 988.18. A. On and after March 1, 2000, for each felony
7 offender considered for any community punishment pursuant to the
8 Oklahoma Community Sentencing Act, the judge shall, prior to
9 sentencing, order an assessment and evaluation of the defendant as
10 required by law.

11 B. ~~The Level of Services Inventory (LSI), or another~~ risk and
12 needs assessment and evaluation instrument designed to predict risk
13 to recidivate approved by the Department of Corrections, shall be
14 required to determine eligibility for any offender sentenced
15 pursuant to the Oklahoma Community Sentencing Act. The completed
16 assessment accompanied by a written supervision plan shall be
17 presented to and reviewed by the court prior to determining any
18 punishment for the offense. The purpose of the assessment shall be
19 to identify the extent of the deficiencies and pro-social needs of
20 the defendant, the potential risk to commit additional offenses that
21 threaten public safety, and the appropriateness of various community
22 punishments.

23 C. Upon order of the court, the defendant shall be required to
24 submit to the ~~LSI or other approved~~ risk and needs assessment which

1 shall be administered and scored by an appropriately trained person
2 pursuant to a service agreement with the local community sentencing
3 system. Any defendant lacking sufficient skills to comprehend or
4 otherwise participate in the assessment and evaluation shall have
5 appropriate assistance. If it is determined that the offender
6 cannot be adequately evaluated using the ~~LSI or another approved~~
7 risk and needs assessment, the offender shall be deemed ineligible
8 for any community services pursuant to the Oklahoma Community
9 Sentencing Act, and shall be sentenced as prescribed by law for the
10 offense.

11 D. The willful failure or refusal of the defendant to be
12 assessed and evaluated by using the ~~LSI or another approved~~ risk and
13 needs assessment shall preclude the defendant from eligibility for
14 any community punishment.

15 E. The completed ~~LSI, or other approved~~ risk and needs
16 assessment, shall include a written supervision plan and identify an
17 appropriate community punishment, if any, when the offender is
18 considered eligible for community punishments based upon the
19 completed risk/need score from the ~~LSI~~ risk and needs assessment of
20 the offender. Unless otherwise prohibited by law, only offenders
21 scoring in a range other than the low range on the ~~LSI~~ risk and
22 needs assessment ~~and having at least one prior felony conviction~~
23 shall be eligible for any state-funded community punishments.

24

1 F. The court is not required to sentence any offender to a
2 community punishment regardless of an eligible score on the ~~LSI~~ risk
3 and needs assessment. Any felony offender scoring in the low
4 risk/need levels on the ~~LSI~~ risk and needs assessment may be
5 sentenced to a suspended sentence with minimal, if any, conditions
6 of the sentence to be paid by the offender. If the ~~LSI or another~~
7 risk and needs assessment has been conducted, the evaluation report
8 shall accompany the judgment and sentence, provided the risk and
9 needs assessment indicates the offender is in need of this level of
10 supervision and treatment.

11 SECTION 21. AMENDATORY 22 O.S. 2011, Section 988.19, is
12 amended to read as follows:

13 Section 988.19. A. When ordering a community sentence or
14 community punishment, the court shall first impose a deferred or
15 suspended sentence for the offense as prescribed by law, and shall
16 then order the appropriate community punishment as a condition of
17 that deferred or suspended sentence. The design of the community
18 punishment shall be based upon the supervision and intervention
19 report from the ~~Level of Services Inventory (LSI), or other approved~~
20 risk and needs assessment. The local community sentencing system
21 administrator shall have authority for all offender placements
22 within the local community sentencing system pursuant to the court-
23 ordered community sentence. The local community sentencing system
24 administrator shall ensure that the supervision provider complies

1 with the provisions of Section 517 of Title 57 of the Oklahoma
2 Statutes and Section 991b of this title.

3 B. Persons convicted of or pleading guilty or nolo contendere
4 to a combination of misdemeanor and felony offenses may receive
5 services from a local community sentencing system when the county
6 agrees in writing to pay the Community Sentencing Division within
7 the Department of Corrections for the actual costs of services used
8 for misdemeanor cases. No state funds shall be used to pay for
9 misdemeanor offenses.

10 C. Any time during the term of a community sentence, the court
11 imposing the sentence may modify any previous provision as provided
12 in this section.

13 D. Upon consideration of a properly filed motion to modify a
14 community sentence pursuant to the provisions of this section, the
15 staff of the community sentencing system in which the offender is
16 ordered to participate, the sheriff, the district attorney, the
17 service provider, or any agency or person providing supervision of
18 the offender shall provide the court with any reports and other
19 information available and relating to the offender, and to the
20 reason for the motion to modify the sentence. The court shall
21 consider any reports and information submitted prior to modifying
22 the sentence.

23 E. If the court considers a motion to modify a community
24 sentence, a hearing shall be held in open court. The notice of the

1 hearing shall be given to the offender, the offender's legal
2 counsel, and the district attorney of the county in which the
3 offender was convicted not less than ten (10) days prior to the
4 hearing. A copy of any reports to be presented to the court shall
5 accompany the notice of hearing.

6 F. Following the hearing, the court shall enter the appropriate
7 order authorized by law. The court may modify any community
8 sentence by imposing any other punishment allowed by law for the
9 offense and appropriate for the circumstances as determined by the
10 discretion of the judge; provided, however, no punishment shall be
11 imposed which is greater than the maximum punishment allowed by law
12 for the original offense. The court shall give the offender day-
13 for-day credit on any modified sentence for any term of
14 incarceration imposed. The court may impose either a disciplinary
15 sanction or an incentive as provided in ~~Section 20 of this act~~
16 Section 988.20 of this title in lieu of or together with any
17 modification authorized by this section.

18 G. The court shall not be limited on the number of
19 modifications a sentence may have within the term of the community
20 sentence.

21 H. Any offender who files a meritless or frivolous motion to
22 modify a community sentence shall pay the costs of the proceeding
23 and may be sanctioned as deemed appropriate by the court.

24

1 I. The court may revoke or accelerate a community punishment to
2 the original sentence imposed during the term of the sentence. When
3 a community sentence is revoked to state imprisonment, the court
4 shall give a day-for-day credit for any term of incarceration
5 actually served as community punishment.

6 SECTION 22. AMENDATORY 22 O.S. 2011, Section 988.20, is
7 amended to read as follows:

8 Section 988.20. A. Upon proper motion to the court to modify a
9 community sentence as provided in Section 988.19 of this title, the
10 judge shall have authority to impose disciplinary sanctions or
11 incentives. An order for a disciplinary sanction shall not modify
12 the terms of the original sentence and shall be imposed only to gain
13 compliance with the terms of the court-ordered community punishment.
14 The court may order any community punishment available and funded in
15 the jurisdiction that is deemed appropriate by the judge for the
16 circumstance including, but not limited to, a term of imprisonment
17 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
18 title per ~~disciplinary order~~ motion for modification in either:

- 19 1. The county jail;
- 20 2. A residential treatment facility;
- 21 3. A restrictive housing facility; or
- 22 4. A halfway house.

23 When the offender is to be confined, the sheriff shall, upon order
24 of the court, deliver the offender to the designated place of

1 confinement, provided the place of confinement has an agreement for
2 confinement services with the local community sentencing system or
3 is the county jail. The sheriff shall be reimbursed by the local
4 community sentencing system for transporting offenders pursuant to
5 this subsection. The offender shall be given day-for-day credit for
6 any terms of incarceration served in the county jail or other
7 restrictive facility when the sentence is modified.

8 B. The court may, through a standing court order, provide for
9 specific ~~disciplinary~~ sanctions and incentives specified in Section
10 517 of Title 57 of the Oklahoma Statutes which may be utilized by
11 the local administrator upon notification to the court.

12 C. When a motion for modification has been filed pursuant to
13 Section 988.19 of this title, the court shall have authority to
14 offer incentives to offenders to encourage proper conduct in the
15 community and for compliance with the community punishments pursuant
16 to Section 517 of Title 57 of the Oklahoma Statutes or any other
17 incentive the court deems appropriate. The court shall use its
18 discretion in ordering appropriate incentives. Incentives shall be
19 considered a reduction and modification to the community punishment
20 and may be ordered after the motion to modify has been heard.

21 D. When any offender is disciplined by the court as authorized
22 by this section and is to be imprisoned in the county jail or other
23 restrictive facility, the sheriff or facility administrator shall
24 receive compensation as provided by their agreement with the local

1 community sentencing system, or the sheriff or facility
2 administrator shall be paid directly for the services by the
3 offender when ordered to pay for the confinement as part of the
4 disciplinary sanction. In no event shall any compensation for
5 disciplinary confinement exceed the maximum amount provided for
6 county jail confinement in Section 38.1 of Title 57 of the Oklahoma
7 Statutes.

8 E. The Department of Corrections is prohibited from accepting
9 offenders into any state penitentiary for disciplinary sanctions.

10 SECTION 23. AMENDATORY 22 O.S. 2011, Section 988.22, is
11 amended to read as follows:

12 Section 988.22. A. Any offender ordered to participate in the
13 local community sentencing system shall be advised of the conditions
14 of the specific program or service to which he or she is assigned.

15 B. Upon completion of any court-ordered provision, pursuant to
16 the Oklahoma Community Sentencing Act, the administrator of the
17 local system shall file a statement with the court defining the
18 provision which has been successfully completed. When all court-
19 ordered provisions have been successfully completed the defendant
20 shall be deemed to have completed the community punishment.

21 C. The provisions of the Oklahoma Community Sentencing Act
22 shall not confer any rights upon the defendant to avoid a term of
23 imprisonment prescribed by law for the offense, nor grant any
24

1 additional rights to appeal for failure to be offered any specific
2 punishment or treatment option available to the court.

3 D. A community sentence pursuant to the Oklahoma Community
4 Sentencing Act shall not require active supervision, programs or
5 services for more than ~~three (3)~~ two (2) years, but may continue
6 beyond the ~~three-year~~ two-year limitation for purpose of completing
7 court-ordered ~~monetary obligations~~ restitution payments.

8 SECTION 24. AMENDATORY 22 O.S. 2011, Section 991a, as
9 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
10 2016, Section 991a), is amended to read as follows:

11 Section 991a. A. Except as otherwise provided in the Elderly
12 and Incapacitated Victim's Protection Program, when a defendant is
13 convicted of a crime and no death sentence is imposed, the court
14 shall either:

15 1. Suspend the execution of sentence in whole or in part, with
16 or without probation. The court, in addition, may order the
17 convicted defendant at the time of sentencing or at any time during
18 the suspended sentence to do one or more of the following:

19 a. to provide restitution to the victim as provided by
20 Section 991f et seq. of this title or according to a
21 schedule of payments established by the sentencing
22 court, together with interest upon any pecuniary sum
23 at the rate of twelve percent (12%) per annum, if the
24 defendant agrees to pay such restitution or, in the

1 opinion of the court, if the defendant is able to pay
2 such restitution without imposing manifest hardship on
3 the defendant or the immediate family and if the
4 extent of the damage to the victim is determinable
5 with reasonable certainty,

6 b. to reimburse any state agency for amounts paid by the
7 state agency for hospital and medical expenses
8 incurred by the victim or victims, as a result of the
9 criminal act for which such person was convicted,
10 which reimbursement shall be made directly to the
11 state agency, with interest accruing thereon at the
12 rate of twelve percent (12%) per annum,

13 c. to engage in a term of community service without
14 compensation, according to a schedule consistent with
15 the employment and family responsibilities of the
16 person convicted,

17 d. to pay a reasonable sum into any trust fund,
18 established pursuant to the provisions of Sections 176
19 through 180.4 of Title 60 of the Oklahoma Statutes,
20 and which provides restitution payments by convicted
21 defendants to victims of crimes committed within this
22 state wherein such victim has incurred a financial
23 loss,

- 1 e. to confinement in the county jail for a period not to
2 exceed six (6) months,
- 3 f. to confinement as provided by law together with a term
4 of post-imprisonment community supervision for not
5 less than three (3) years of the total term allowed by
6 law for imprisonment, with or without restitution;
7 provided, however, the authority of this provision is
8 limited to Section 843.5 of Title 21 of the Oklahoma
9 Statutes when the offense involved sexual abuse or
10 sexual exploitation; Sections 681, 741 and 843.1 of
11 Title 21 of the Oklahoma Statutes when the offense
12 involved sexual abuse or sexual exploitation; and
13 Sections 865 et seq., 885, 886, 888, 891, 1021,
14 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
15 1123 of Title 21 of the Oklahoma Statutes,
- 16 g. to repay the reward or part of the reward paid by a
17 local certified crime stoppers program and the
18 Oklahoma Reward System. In determining whether the
19 defendant shall repay the reward or part of the
20 reward, the court shall consider the ability of the
21 defendant to make the payment, the financial hardship
22 on the defendant to make the required payment, and the
23 importance of the information to the prosecution of
24 the defendant as provided by the arresting officer or

1 the district attorney with due regard for the
2 confidentiality of the records of the local certified
3 crime stoppers program and the Oklahoma Reward System.
4 The court shall assess this repayment against the
5 defendant as a cost of prosecution. The term
6 "certified" means crime stoppers organizations that
7 annually meet the certification standards for crime
8 stoppers programs established by the Oklahoma Crime
9 Stoppers Association to the extent those standards do
10 not conflict with state statutes. The term "court"
11 refers to all municipal and district courts within
12 this state. The "Oklahoma Reward System" means the
13 reward program established by Section 150.18 of Title
14 74 of the Oklahoma Statutes,

15 h. to reimburse the Oklahoma State Bureau of
16 Investigation for costs incurred by that agency during
17 its investigation of the crime for which the defendant
18 pleaded guilty, nolo contendere or was convicted,
19 including compensation for laboratory, technical, or
20 investigation services performed by the Bureau if, in
21 the opinion of the court, the defendant is able to pay
22 without imposing manifest hardship on the defendant,
23 and if the costs incurred by the Bureau during the
24

1 investigation of the defendant's case may be
2 determined with reasonable certainty,

3 i. to reimburse the Oklahoma State Bureau of
4 Investigation and any authorized law enforcement
5 agency for all costs incurred by that agency for
6 cleaning up an illegal drug laboratory site for which
7 the defendant pleaded guilty, nolo contendere or was
8 convicted. The court clerk shall collect the amount
9 and may retain five percent (5%) of such monies to be
10 deposited in the Court Clerk Revolving Fund to cover
11 administrative costs and shall remit the remainder to
12 the Oklahoma State Bureau of Investigation to be
13 deposited in the OSBI Revolving Fund established by
14 Section 150.19a of Title 74 of the Oklahoma Statutes
15 or to the general fund wherein the other law
16 enforcement agency is located,

17 j. to pay a reasonable sum to the Crime Victims
18 Compensation Board, created by Section 142.2 et seq.
19 of Title 21 of the Oklahoma Statutes, for the benefit
20 of crime victims,

21 k. to reimburse the court fund for amounts paid to court-
22 appointed attorneys for representing the defendant in
23 the case in which the person is being sentenced,
24

- 1 1. to participate in an assessment and evaluation by an
2 assessment agency or assessment personnel certified by
3 the Department of Mental Health and Substance Abuse
4 Services pursuant to Section 3-460 of Title 43A of the
5 Oklahoma Statutes and, as determined by the
6 assessment, participate in an alcohol and drug
7 substance abuse course or treatment program or both,
8 pursuant to Sections 3-452 and 3-453 of Title 43A of
9 the Oklahoma Statutes, or as ordered by the court,
- 10 m. to be placed in a victims impact panel program, as
11 defined in subsection H of this section, or
12 victim/offender reconciliation program and payment of
13 a fee to the program of not less than Fifteen Dollars
14 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
15 by the governing authority of the program to offset
16 the cost of participation by the defendant. Provided,
17 each victim/offender reconciliation program shall be
18 required to obtain a written consent form voluntarily
19 signed by the victim and defendant that specifies the
20 methods to be used to resolve the issues, the
21 obligations and rights of each person, and the
22 confidentiality of the proceedings. Volunteer
23 mediators and employees of a victim/offender
24 reconciliation program shall be immune from liability

1 and have rights of confidentiality as provided in
2 Section 1805 of Title 12 of the Oklahoma Statutes,
3 n. to install, at the expense of the defendant, an
4 ignition interlock device approved by the Board of
5 Tests for Alcohol and Drug Influence. The device
6 shall be installed upon every motor vehicle operated
7 by the defendant, and the court shall require that a
8 notation of this restriction be affixed to the
9 defendant's driver license. The restriction shall
10 remain on the driver license not exceeding two (2)
11 years to be determined by the court. The restriction
12 may be modified or removed only by order of the court
13 and notice of any modification order shall be given to
14 the Department of Public Safety. Upon the expiration
15 of the period for the restriction, the Department of
16 Public Safety shall remove the restriction without
17 further court order. Failure to comply with the order
18 to install an ignition interlock device or operating
19 any vehicle without a device during the period of
20 restriction shall be a violation of the sentence and
21 may be punished as deemed proper by the sentencing
22 court. As used in this paragraph, "ignition interlock
23 device" means a device that, without tampering or
24 intervention by another person, would prevent the

1 defendant from operating a motor vehicle if the
2 defendant has a blood or breath alcohol concentration
3 of two-hundredths (0.02) or greater,

4 o. to be confined by electronic monitoring administered
5 and supervised by the Department of Corrections or a
6 community sentence provider, and payment of a
7 monitoring fee to the supervising authority, not to
8 exceed Three Hundred Dollars (\$300.00) per month. Any
9 fees collected pursuant to this paragraph shall be
10 deposited with the appropriate supervising authority.
11 Any willful violation of an order of the court for the
12 payment of the monitoring fee shall be a violation of
13 the sentence and may be punished as deemed proper by
14 the sentencing court. As used in this paragraph,
15 "electronic monitoring" means confinement of the
16 defendant within a specified location or locations
17 with supervision by means of an electronic device
18 approved by the Department of Corrections which is
19 designed to detect if the defendant is in the court-
20 ordered location at the required times and which
21 records violations for investigation by a qualified
22 supervisory agency or person,

23 p. to perform one or more courses of treatment, education
24 or rehabilitation for any conditions, behaviors,

1 deficiencies or disorders which may contribute to
2 criminal conduct, including but not limited to alcohol
3 and substance abuse, mental health, emotional health,
4 physical health, propensity for violence, antisocial
5 behavior, personality or attitudes, deviant sexual
6 behavior, child development, parenting assistance, job
7 skills, vocational-technical skills, domestic
8 relations, literacy, education, or any other
9 identifiable deficiency which may be treated
10 appropriately in the community and for which a
11 certified provider or a program recognized by the
12 court as having significant positive impact exists in
13 the community. Any treatment, education or
14 rehabilitation provider required to be certified
15 pursuant to law or rule shall be certified by the
16 appropriate state agency or a national organization,
17 q. to submit to periodic testing for alcohol,
18 intoxicating substance, or controlled dangerous
19 substances by a qualified laboratory,
20 r. to pay a fee, costs for treatment, education,
21 supervision, participation in a program, or any
22 combination thereof as determined by the court, based
23 upon the defendant's ability to pay the fees or costs,
24

- 1 s. to be supervised by a Department of Corrections
2 employee, a private supervision provider, or other
3 person designated by the court,
- 4 t. to obtain positive behavior modeling by a trained
5 mentor,
- 6 u. to serve a term of confinement in a restrictive
7 housing facility available in the community,
- 8 v. to serve a term of confinement in the county jail at
9 night or during weekends pursuant to Section 991a-2 of
10 this title or for work release,
- 11 w. to obtain employment or participate in employment-
12 related activities,
- 13 x. to participate in mandatory day reporting to
14 facilities or persons for services, payments, duties
15 or person-to-person contacts as specified by the
16 court,
- 17 y. to pay day fines not to exceed fifty percent (50%) of
18 the net wages earned. For purposes of this paragraph,
19 "day fine" means the offender is ordered to pay an
20 amount calculated as a percentage of net daily wages
21 earned. The day fine shall be paid to the local
22 community sentencing system as reparation to the
23 community. Day fines shall be used to support the
24 local system,

- 1 z. to submit to blood or saliva testing as required by
2 subsection I of this section,
- 3 aa. to repair or restore property damaged by the
4 defendant's conduct, if the court determines the
5 defendant possesses sufficient skill to repair or
6 restore the property and the victim consents to the
7 repairing or restoring of the property,
- 8 bb. to restore damaged property in kind or payment of out-
9 of-pocket expenses to the victim, if the court is able
10 to determine the actual out-of-pocket expenses
11 suffered by the victim,
- 12 cc. to attend a victim-offender reconciliation program if
13 the victim agrees to participate and the offender is
14 deemed appropriate for participation,
- 15 dd. in the case of a person convicted of prostitution
16 pursuant to Section 1029 of Title 21 of the Oklahoma
17 Statutes, require such person to receive counseling
18 for the behavior which may have caused such person to
19 engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but
21 not limited to alcohol and substance abuse, sexual
22 behavior problems, or domestic abuse or child abuse
23 problems,
- 24

1 ee. in the case of a sex offender sentenced after November
2 1, 1989, and required by law to register pursuant to
3 the Sex Offender Registration Act, the court shall
4 require the person to comply with sex offender
5 specific rules and conditions of supervision
6 established by the Department of Corrections and
7 require the person to participate in a treatment
8 program designed for the treatment of sex offenders
9 during the period of time while the offender is
10 subject to supervision by the Department of
11 Corrections. The treatment program shall include
12 polygraph examinations specifically designed for use
13 with sex offenders for purposes of supervision and
14 treatment compliance, and shall be administered not
15 less than each six (6) months during the period of
16 supervision. The examination shall be administered by
17 a certified licensed polygraph examiner. The
18 treatment program must be approved by the Department
19 of Corrections or the Department of Mental Health and
20 Substance Abuse Services. Such treatment shall be at
21 the expense of the defendant based on the defendant's
22 ability to pay,

23 ff. in addition to other sentencing powers of the court,
24 the court in the case of a defendant being sentenced

1 for a felony conviction for a violation of Section 2-
2 402 of Title 63 of the Oklahoma Statutes which
3 involves marijuana may require the person to
4 participate in a drug court program, if available. If
5 a drug court program is not available, the defendant
6 may be required to participate in a community
7 sanctions program, if available,

8 gg. in the case of a person convicted of any false or
9 bogus check violation, as defined in Section 1541.4 of
10 Title 21 of the Oklahoma Statutes, impose a fee of
11 Twenty-five Dollars (\$25.00) to the victim for each
12 check, and impose a bogus check fee to be paid to the
13 district attorney. The bogus check fee paid to the
14 district attorney shall be equal to the amount
15 assessed as court costs plus Twenty-five Dollars
16 (\$25.00) for each check upon filing of the case in
17 district court. This money shall be deposited in the
18 Bogus Check Restitution Program Fund as established in
19 subsection B of Section 114 of this title.

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 District Attorney Bogus Check Restitution Program, and
24

1 hh. in the case of a person being sentenced for a
2 conviction for a violation of Section 644 of Title 21
3 of the Oklahoma Statutes, require the person to
4 receive an assessment for batterers, which shall be
5 conducted through a certified treatment program for
6 batterers, and

7 ii. any other provision specifically ordered by the court.

8 However, any such order for restitution, community service,
9 payment to a local certified crime stoppers program, payment to the
10 Oklahoma Reward System, or confinement in the county jail, or a
11 combination thereof, shall be made in conjunction with probation and
12 shall be made a condition of the suspended sentence.

13 However, unless under the supervision of the district attorney,
14 the offender shall be required to pay Forty Dollars (\$40.00) per
15 month to the district attorney during the first two (2) years of
16 probation to compensate the district attorney for the costs incurred
17 during the prosecution of the offender and for the additional work
18 of verifying the compliance of the offender with the rules and
19 conditions of his or her probation. The district attorney may waive
20 any part of this requirement in the best interests of justice. The
21 court shall not waive, suspend, defer or dismiss the costs of
22 prosecution in its entirety. However, if the court determines that
23 a reduction in the fine, costs and costs of prosecution is
24 warranted, the court shall equally apply the same percentage

1 reduction to the fine, costs and costs of prosecution owed by the
2 offender;

3 2. Impose a fine prescribed by law for the offense, with or
4 without probation or commitment and with or without restitution or
5 service as provided for in this section, Section 991a-4.1 of this
6 title or Section 227 of Title 57 of the Oklahoma Statutes;

7 3. Commit such person for confinement provided for by law with
8 or without restitution as provided for in this section;

9 4. Order the defendant to reimburse the Oklahoma State Bureau
10 of Investigation for costs incurred by that agency during its
11 investigation of the crime for which the defendant pleaded guilty,
12 nolo contendere or was convicted, including compensation for
13 laboratory, technical, or investigation services performed by the
14 Bureau if, in the opinion of the court, the defendant is able to pay
15 without imposing manifest hardship on the defendant, and if the
16 costs incurred by the Bureau during the investigation of the
17 defendant's case may be determined with reasonable certainty;

18 5. Order the defendant to reimburse the Oklahoma State Bureau
19 of Investigation for all costs incurred by that agency for cleaning
20 up an illegal drug laboratory site for which the defendant pleaded
21 guilty, nolo contendere or was convicted. The court clerk shall
22 collect the amount and may retain five percent (5%) of such monies
23 to be deposited in the Court Clerk Revolving Fund to cover
24 administrative costs and shall remit the remainder to the Oklahoma

1 State Bureau of Investigation to be deposited in the OSBI Revolving
2 Fund established by Section 150.19a of Title 74 of the Oklahoma
3 Statutes;

4 6. In the case of nonviolent felony offenses, sentence such
5 person to the Community Service Sentencing Program;

6 7. In addition to the other sentencing powers of the court, in
7 the case of a person convicted of operating or being in control of a
8 motor vehicle while the person was under the influence of alcohol,
9 other intoxicating substance, or a combination of alcohol or another
10 intoxicating substance, or convicted of operating a motor vehicle
11 while the ability of the person to operate such vehicle was impaired
12 due to the consumption of alcohol, require such person:

13 a. to participate in an alcohol and drug assessment and
14 evaluation by an assessment agency or assessment
15 personnel certified by the Department of Mental Health
16 and Substance Abuse Services pursuant to Section 3-460
17 of Title 43A of the Oklahoma Statutes and, as
18 determined by the assessment, participate in an
19 alcohol and drug substance abuse course or treatment
20 program or both, pursuant to Sections 3-452 and 3-453
21 of Title 43A of the Oklahoma Statutes,

22 b. to attend a victims impact panel program, as defined
23 in subsection H of this section, if such a program is
24 offered in the county where the judgment is rendered,

1 and to pay a fee of not less than Fifteen Dollars
2 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
3 by the governing authority of the program and approved
4 by the court, to the program to offset the cost of
5 participation by the defendant, if in the opinion of
6 the court the defendant has the ability to pay such
7 fee,

8 c. to both participate in the alcohol and drug substance
9 abuse course or treatment program, pursuant to
10 subparagraph a of this paragraph and attend a victims
11 impact panel program, pursuant to subparagraph b of
12 this paragraph,

13 d. to install, at the expense of the person, an ignition
14 interlock device approved by the Board of Tests for
15 Alcohol and Drug Influence, upon every motor vehicle
16 operated by such person and to require that a notation
17 of this restriction be affixed to the person's driver
18 license at the time of reinstatement of the license.
19 The restriction shall remain on the driver license for
20 such period as the court shall determine. The
21 restriction may be modified or removed by order of the
22 court and notice of the order shall be given to the
23 Department of Public Safety. Upon the expiration of
24 the period for the restriction, the Department of

1 Public Safety shall remove the restriction without
2 further court order. Failure to comply with the order
3 to install an ignition interlock device or operating
4 any vehicle without such device during the period of
5 restriction shall be a violation of the sentence and
6 may be punished as deemed proper by the sentencing
7 court, or

8 e. beginning January 1, 1993, to submit to electronically
9 monitored home detention administered and supervised
10 by the Department of Corrections, and to pay to the
11 Department a monitoring fee, not to exceed Seventy-
12 five Dollars (\$75.00) a month, to the Department of
13 Corrections, if in the opinion of the court the
14 defendant has the ability to pay such fee. Any fees
15 collected pursuant to this subparagraph shall be
16 deposited in the Department of Corrections Revolving
17 Fund. Any order by the court for the payment of the
18 monitoring fee, if willfully disobeyed, may be
19 enforced as an indirect contempt of court;

20 8. In addition to the other sentencing powers of the court, in
21 the case of a person convicted of prostitution pursuant to Section
22 1029 of Title 21 of the Oklahoma Statutes, require such person to
23 receive counseling for the behavior which may have caused such
24 person to engage in prostitution activities. Such person may be

1 required to receive counseling in areas including but not limited to
2 alcohol and substance abuse, sexual behavior problems, or domestic
3 abuse or child abuse problems;

4 9. In addition to the other sentencing powers of the court, in
5 the case of a person convicted of any crime related to domestic
6 abuse, as defined in Section 60.1 of this title, the court may
7 require the defendant to undergo the treatment or participate in ~~the~~
8 ~~counseling services~~ an intervention program for batterers certified
9 by the Office of the Attorney General, as directed under the
10 provisions of Section 515a of Title 57 of the Oklahoma Statutes,
11 necessary to bring about the cessation of domestic abuse ~~against the~~
12 ~~victim.~~ In the instance where the defendant alleges that he or she
13 is a victim of domestic abuse and the current conviction is a
14 response to that abuse, the court may require the defendant to
15 undergo an assessment by a domestic violence program certified by
16 the Office of the Attorney General, and, if based upon the results
17 of the assessment, the defendant is determined to be a victim of
18 domestic violence, the defendant shall undergo treatment and
19 participate in a certified program for domestic violence victims.
20 The defendant may be required to pay all or part of the cost of the
21 treatment or counseling services;

22 10. In addition to the other sentencing powers of the court,
23 the court, in the case of a sex offender sentenced after November 1,
24 1989, and required by law to register pursuant to the Sex Offenders

1 Registration Act, shall require the person to participate in a
2 treatment program designed specifically for the treatment of sex
3 offenders, if available. The treatment program will include
4 polygraph examinations specifically designed for use with sex
5 offenders for the purpose of supervision and treatment compliance,
6 provided the examination is administered by a certified licensed
7 polygraph examiner. The treatment program must be approved by the
8 Department of Corrections or the Department of Mental Health and
9 Substance Abuse Services. Such treatment shall be at the expense of
10 the defendant based on the defendant's ability to pay;

11 11. In addition to the other sentencing powers of the court,
12 the court, in the case of a person convicted of child abuse or
13 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
14 Statutes, may require the person to undergo treatment or to
15 participate in counseling services. The defendant may be required
16 to pay all or part of the cost of the treatment or counseling
17 services;

18 12. In addition to the other sentencing powers of the court,
19 the court, in the case of a person convicted of cruelty to animals
20 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
21 require the person to pay restitution to animal facilities for
22 medical care and any boarding costs of victimized animals;

23 13. In addition to the other sentencing powers of the court, a
24 sex offender who is habitual or aggravated as defined by Section 584

1 of Title 57 of the Oklahoma Statutes and who is required to register
2 as a sex offender pursuant to the Oklahoma Sex Offenders
3 Registration Act shall be supervised by the Department of
4 Corrections for the duration of the registration period and shall be
5 assigned to a global position monitoring device by the Department of
6 Corrections for the duration of the registration period. The cost
7 of such monitoring device shall be reimbursed by the offender;

8 14. In addition to the other sentencing powers of the court, in
9 the case of a sex offender who is required by law to register
10 pursuant to the Sex Offenders Registration Act, the court may
11 prohibit the person from accessing or using any Internet social
12 networking web site that has the potential or likelihood of allowing
13 the sex offender to have contact with any child who is under the age
14 of eighteen (18) years; or

15 15. In addition to the other sentencing powers of the court, in
16 the case of a sex offender who is required by law to register
17 pursuant to the Sex Offenders Registration Act, the court shall
18 require the person to register any electronic mail address
19 information, instant message, chat or other Internet communication
20 name or identity information that the person uses or intends to use
21 while accessing the Internet or used for other purposes of social
22 networking or other similar Internet communication.

23 B. Notwithstanding any other provision of law, any person who
24 is found guilty of a violation of any provision of Section 761 or

1 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
2 guilty or nolo contendere for a violation of any provision of such
3 sections shall be ordered to participate in, prior to sentencing, an
4 alcohol and drug assessment and evaluation by an assessment agency
5 or assessment personnel certified by the Department of Mental Health
6 and Substance Abuse Services for the purpose of evaluating the
7 receptivity to treatment and prognosis of the person. The court
8 shall order the person to reimburse the agency or assessor for the
9 evaluation. The fee shall be the amount provided in subsection C of
10 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
11 shall be conducted at a certified assessment agency, the office of a
12 certified assessor or at another location as ordered by the court.
13 The agency or assessor shall, within seventy-two (72) hours from the
14 time the person is assessed, submit a written report to the court
15 for the purpose of assisting the court in its final sentencing
16 determination. No person, agency or facility operating an alcohol
17 and drug substance abuse evaluation program certified by the
18 Department of Mental Health and Substance Abuse Services shall
19 solicit or refer any person evaluated pursuant to this subsection
20 for any treatment program or alcohol and drug substance abuse
21 service in which such person, agency or facility has a vested
22 interest; however, this provision shall not be construed to prohibit
23 the court from ordering participation in or any person from
24 voluntarily utilizing a treatment program or alcohol and drug

1 substance abuse service offered by such person, agency or facility.
2 If a person is sentenced to the custody of the Department of
3 Corrections and the court has received a written evaluation report
4 pursuant to this subsection, the report shall be furnished to the
5 Department of Corrections with the judgment and sentence. Any
6 evaluation report submitted to the court pursuant to this subsection
7 shall be handled in a manner which will keep such report
8 confidential from the general public's review. Nothing contained in
9 this subsection shall be construed to prohibit the court from
10 ordering judgment and sentence in the event the defendant fails or
11 refuses to comply with an order of the court to obtain the
12 evaluation required by this subsection.

13 C. When sentencing a person convicted of a crime, the court
14 shall first consider a program of restitution for the victim, as
15 well as imposition of a fine or incarceration of the offender. The
16 provisions of paragraph 1 of subsection A of this section shall not
17 apply to ~~defendants~~ a defendant being sentenced ~~upon their~~ for:

18 1. A third or subsequent ~~to their third~~ conviction of a felony
19 or, beginning violent crime enumerated in Section 571 of Title 57 of
20 the Oklahoma Statutes;

21 2. A fourth or subsequent conviction for any other felony
22 crime; or

23 3. Beginning January 1, 1993, to ~~defendants~~ a defendant being
24 sentenced for ~~their~~ a second or subsequent felony conviction for

1 violation of Section 11-902 of Title 47 of the Oklahoma Statutes,
2 except as otherwise provided in this subsection.

3 In the case of a person being sentenced for ~~their~~ a second or
4 subsequent felony conviction for violation of Section 11-902 of
5 Title 47 of the Oklahoma Statutes, the court may sentence the person
6 pursuant to the provisions of paragraph 1 of subsection A of this
7 section if the court orders the person to submit to electronically
8 monitored home detention administered and supervised by the
9 Department of Corrections pursuant to subparagraph e of paragraph 7
10 of subsection A of this section. Provided, the court may waive
11 these prohibitions upon written application of the district
12 attorney. Both the application and the waiver shall be made part of
13 the record of the case.

14 D. When sentencing a person convicted of a crime, the judge
15 shall consider any victims impact statements if submitted to the
16 jury, or the judge in the event a jury is waived.

17 E. Probation, for purposes of subsection A of this section, is
18 a procedure by which a defendant found guilty of a crime, whether
19 upon a verdict or plea of guilty or upon a plea of nolo contendere,
20 is released by the court subject to conditions imposed by the court
21 and subject to supervision by the Department of Corrections, a
22 private supervision provider or other person designated by the
23 court. All supervision providers that supervise persons under this
24 section use the sanctions and incentives process established under

1 Section 991b of this title. Such supervision shall be initiated
2 upon an order of probation from the court, and shall not exceed two
3 (2) years, unless a petition alleging a violation of any condition
4 of deferred judgment or seeking revocation of the suspended sentence
5 is filed during the supervision, or as otherwise provided by law.
6 In the case of a person convicted of a sex offense, supervision
7 shall begin immediately upon release from incarceration or if parole
8 is granted and shall not be limited to two (2) years. Provided
9 further, any supervision provided for in this section may be
10 extended for a period not to exceed the expiration of the maximum
11 term or terms of the sentence upon a determination by the court or
12 the Division of Probation and Parole of the Department of
13 Corrections that the best interests of the public and the release
14 will be served by an extended period of supervision. Any
15 supervision provided for under this section may not be extended for
16 a failure to pay fines, fees and other costs, excluding restitution,
17 except upon a finding of willful nonpayment.

18 F. The Department of Corrections, or such other agency as the
19 court may designate, shall be responsible for the monitoring and
20 administration of the restitution and service programs provided for
21 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
22 section, and shall ensure that restitution payments are forwarded to
23 the victim and that service assignments are properly performed.

24

1 G. 1. The Department of Corrections is hereby authorized,
2 subject to funds available through appropriation by the Legislature,
3 to contract with counties for the administration of county Community
4 Service Sentencing Programs.

5 2. Any offender eligible to participate in the Program pursuant
6 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
7 participate in a county Program; provided, participation in county-
8 funded Programs shall not be limited to offenders who would
9 otherwise be sentenced to confinement with the Department of
10 Corrections.

11 3. The Department shall establish criteria and specifications
12 for contracts with counties for such Programs. A county may apply
13 to the Department for a contract for a county-funded Program for a
14 specific period of time. The Department shall be responsible for
15 ensuring that any contracting county complies in full with
16 specifications and requirements of the contract. The contract shall
17 set appropriate compensation to the county for services to the
18 Department.

19 4. The Department is hereby authorized to provide technical
20 assistance to any county in establishing a Program, regardless of
21 whether the county enters into a contract pursuant to this
22 subsection. Technical assistance shall include appropriate
23 staffing, development of community resources, sponsorship,
24 supervision and any other requirements.

1 5. The Department shall annually make a report to the Governor,
2 the President Pro Tempore of the Senate and the Speaker of the House
3 on the number of such Programs, the number of participating
4 offenders, the success rates of each Program according to criteria
5 established by the Department and the costs of each Program.

6 H. As used in this section:

7 1. "Ignition interlock device" means a device that, without
8 tampering or intervention by another person, would prevent the
9 defendant from operating a motor vehicle if the defendant has a
10 blood or breath alcohol concentration of two-hundredths (0.02) or
11 greater;

12 2. "Electronically monitored home detention" means
13 incarceration of the defendant within a specified location or
14 locations with monitoring by means of a device approved by the
15 Department of Corrections that detects if the person leaves the
16 confines of any specified location; and

17 3. "Victims impact panel program" means a meeting with at least
18 one live presenter who will share personal stories with participants
19 about how alcohol, drug abuse and the illegal conduct of others has
20 personally impacted the life of the presenter. A victims impact
21 panel program shall be attended by persons who have committed the
22 offense of driving, operating or being in actual physical control of
23 a motor vehicle while under the influence of alcohol or other
24 intoxicating substance. Persons attending a victims impact panel

1 program shall be required to pay a fee of not less than Fifteen
2 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
3 provider of the program. A certificate of completion shall be
4 issued to the person upon satisfying the attendance and fee
5 requirements of the victims impact panel program. A victims impact
6 panel program shall not be provided by any certified assessment
7 agency or certified assessor. The provider of the victims impact
8 panel program shall carry general liability insurance and maintain
9 an accurate accounting of all business transactions and funds
10 received in relation to the victims impact panel program.

11 I. A person convicted of a felony offense or receiving any form
12 of probation for an offense in which registration is required
13 pursuant to the Sex Offenders Registration Act, shall submit to
14 deoxyribonucleic acid DNA testing for law enforcement identification
15 purposes in accordance with Section 150.27 of Title 74 of the
16 Oklahoma Statutes and the rules promulgated by the Oklahoma State
17 Bureau of Investigation for the OSBI Combined DNA Index System
18 (CODIS) Database. Subject to the availability of funds, any person
19 convicted of a misdemeanor offense of assault and battery, domestic
20 abuse, stalking, possession of a controlled substance prohibited
21 under Schedule IV of the Uniform Controlled Dangerous Substances
22 Act, outraging public decency, resisting arrest, escape or
23 attempting to escape, eluding a police officer, peeping tom,
24 pointing a firearm, unlawful carry of a firearm, illegal transport

1 of a firearm, discharging of a firearm, threatening an act of
2 violence, breaking and entering a dwelling place, destruction of
3 property, negligent homicide, or causing a personal injury accident
4 while driving under the influence of any intoxicating substance, or
5 any alien unlawfully present under federal immigration law, upon
6 arrest, shall submit to deoxyribonucleic acid DNA testing for law
7 enforcement identification purposes in accordance with Section
8 150.27 of Title 74 of the Oklahoma Statutes and the rules
9 promulgated by the Oklahoma State Bureau of Investigation for the
10 OSBI Combined DNA Index System (CODIS) Database. Any defendant
11 sentenced to probation shall be required to submit to testing within
12 thirty (30) days of sentencing either to the Department of
13 Corrections or to the county sheriff or other peace officer as
14 directed by the court. Defendants who are sentenced to a term of
15 incarceration shall submit to testing in accordance with Section
16 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
17 enter the custody of the Department of Corrections or to the county
18 sheriff, for those defendants sentenced to incarceration in a county
19 jail. Convicted individuals who have previously submitted to DNA
20 testing under this section and for whom a valid sample is on file in
21 the OSBI Combined DNA Index System (CODIS) Database at the time of
22 sentencing shall not be required to submit to additional testing.
23 Except as required by the Sex Offenders Registration Act, a deferred
24

1 judgment does not require submission to deoxyribonucleic acid
2 testing.

3 Any person who is incarcerated in the custody of the Department
4 of Corrections after July 1, 1996, and who has not been released
5 before January 1, 2006, shall provide a blood or saliva sample prior
6 to release. Every person subject to DNA testing after January 1,
7 2006, whose sentence does not include a term of confinement with the
8 Department of Corrections, shall submit a blood or saliva sample.
9 Every person subject to DNA testing who is sentenced to unsupervised
10 probation or otherwise not supervised by the Department of
11 Corrections shall submit for blood or saliva testing to the sheriff
12 of the sentencing county.

13 J. Samples of blood or saliva for DNA testing required by
14 subsection I of this section shall be taken by employees or
15 contractors of the Department of Corrections, peace officers, or the
16 county sheriff or employees or contractors of the sheriff's office.
17 The individuals shall be properly trained to collect blood or saliva
18 samples. Persons collecting blood or saliva for DNA testing
19 pursuant to this section shall be immune from civil liabilities
20 arising from this activity. All collectors of DNA samples shall
21 ensure the collection of samples are mailed to the Oklahoma State
22 Bureau of Investigation within ten (10) days of the time the subject
23 appears for testing or within ten (10) days of the date the subject
24 comes into physical custody to serve a term of incarceration. All

1 collectors of DNA samples shall use sample kits provided by the OSBI
2 and procedures promulgated by the OSBI. Persons subject to DNA
3 testing who are not received at the Lexington Assessment and
4 Reception Center shall be required to pay a fee of Fifteen Dollars
5 (\$15.00) to the agency collecting the sample for submission to the
6 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
7 pursuant to this subsection shall be deposited in the revolving
8 account or the service fee account of the collection agency or
9 department.

10 K. When sentencing a person who has been convicted of a crime
11 that would subject that person to the provisions of the Sex
12 Offenders Registration Act, neither the court nor the district
13 attorney shall be allowed to waive or exempt such person from the
14 registration requirements of the Sex Offenders Registration Act.

15 L. Any person who has been ordered by the court to pay a fine,
16 court cost, fee or assessment or any combination thereof under the
17 provisions of this section may request a hearing to establish a
18 payment plan. The payment plan authorized under this subsection
19 shall be determined by assessing the discretionary income of the
20 person. As used in this subsection, "discretionary income" shall be
21 defined as income in excess of one hundred-fifty percent (150%) of
22 the federal poverty line. After a judicial determination of the
23 discretionary income of a person, the court shall order the total
24 amount of the financial obligation of the person, excluding

1 restitution, be paid in installments equal to no more than ten
2 percent (10%) of the discretionary income of the person. The
3 payment plan shall be established regardless of the results of an
4 indigent request for representation as provided in Section 1355A of
5 this title. The payment plan established under the provisions of
6 this subsection shall apply to all fines, court costs and fees
7 ordered by the court pursuant to this section and all subsections
8 therein.

9 SECTION 25. AMENDATORY 22 O.S. 2011, Section 991b, as
10 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
11 2016, Section 991b), is amended to read as follows:

12 Section 991b. A. Whenever a sentence has been suspended by the
13 court after conviction of a person for any crime, the suspended
14 sentence of the person may not be revoked, in whole or part, for any
15 cause unless a petition setting forth the grounds for such
16 revocation is filed by the district attorney with the clerk of the
17 sentencing court and competent evidence justifying the revocation of
18 the suspended sentence is presented to the court at a hearing to be
19 held for that purpose within twenty (20) days after the entry of the
20 plea of not guilty to the petition, unless waived by both the state
21 and the defendant. The State of Oklahoma may dismiss the petition
22 without prejudice one time upon good cause shown to the court,
23 provided that any successor petition must be filed within forty-five
24 (45) days of the date of the dismissal of the petition.

1 B. Whenever a sentence has been suspended by the court after
2 conviction of a person for any crime, the suspended sentence of the
3 person may not be revoked, in whole or part, for a technical
4 violation unless a petition setting forth the grounds for such
5 revocation is filed by the district attorney with the clerk of the
6 sentencing court and competent evidence justifying the revocation of
7 the suspended sentence is presented to the court at a hearing to be
8 held for that purpose within ten (10) days after the entry of the
9 plea of not guilty to the petition, unless waived by both the state
10 and the defendant. An application to revoke for a technical
11 violation shall be limited to a technical violation that has
12 occurred within sixty (60) days, provided the district attorney has
13 received adequate notice. The State of Oklahoma may dismiss the
14 petition without prejudice one time upon good cause shown to the
15 court, provided that any successor petition must be filed within
16 forty-five (45) days of the date of the dismissal of the petition.

17 C. 1. The Department of Corrections shall develop a matrix of
18 ~~technical violations and sanctions and incentives to address~~
19 ~~violations~~ respond to behavior committed by persons who are being
20 supervised by the Department. The Department shall be authorized to
21 use a ~~violation response and intermediate sanction process~~ sanctions
22 when responding to technical violations based on the ~~sanction~~
23 sanctions and incentives matrix ~~to apply to any technical violations~~
24 ~~of probationers~~. Within four (4) working days of the discovery of

1 the violation, the probation officer shall initiate the violation
2 response and intermediate sanction process. ~~The sentencing judge~~
3 ~~may authorize any recommended sanctions, which may include, but are~~
4 ~~not limited to: short-term jail or lockup, day treatment, program~~
5 ~~attendance, community service, outpatient or inpatient treatment,~~
6 ~~monetary fines, curfews, ignition interlock devices on vehicles, or~~
7 ~~a one-time referral to a term of confinement of six (6) months in an~~
8 ~~intermediate revocation facility operated by the Department of~~
9 ~~Corrections; provided, upon approval of the district attorney, a~~
10 ~~person may be sanctioned to serve additional terms of confinement in~~
11 ~~an intermediate revocation facility.~~ The probation officer shall
12 complete a sanction form, which shall specify the technical
13 violation, sanction, and the action plan to correct the noncompliant
14 behavior resulting in the technical violation. The probation
15 officer shall refer to the sanctioning matrix to determine the
16 ~~supervision, treatment, and sanctions appropriate to address the~~
17 noncompliant behavior. The probation officer shall refer the
18 violation information and recommended response with a sanction plan
19 to the Department of Corrections to be heard by a hearing officer.
20 The Department of Corrections shall develop a sanction matrix,
21 forms, policies and procedures necessary to implement this
22 provision. If the severity of the violation warrants or the
23 graduated use of sanctions has been exhausted and the noncompliant
24 behavior has continued, the probation officer may recommend

1 revocation of the probation of the offender to the hearing officer
2 of the Department or appropriate supervising authority. The
3 Department of Corrections shall establish procedures to hear
4 responses to technical violations and review sanction plans
5 including the following:

- 6 a. hearing officers shall report through a chain of
7 command separate from that of the supervising
8 probation officers,
- 9 b. the Department shall provide the offender written
10 notice of the violation, the evidence relied upon, and
11 the reason the sanction was imposed,
- 12 c. the hearing shall be held unless the offender waives
13 the right to the hearing,
- 14 d. hearings shall be electronically recorded, and
- 15 e. the Department shall provide to judges and district
16 attorneys a record of all violations and actions taken
17 pursuant to this subsection.

18 2. The hearing officer shall determine based on a preponderance
19 of the evidence whether a technical violation occurred. Upon a
20 finding that a technical violation occurred, the hearing officer may
21 order the offender to participate in the recommended sanction plan
22 or may modify the plan. Offenders who accept the sanction plan
23 shall sign a violation response sanction form, and the hearing
24 officer shall then impose the sanction. Failure of the offender to

1 comply with the imposed sanction plan shall constitute a violation
2 of the rules and conditions of supervision that may result in a
3 revocation proceeding. If an offender does not voluntarily accept
4 the recommended sanction plan, the Department shall either impose
5 the sanction and allow the offender to appeal to the district court,
6 or request a revocation proceeding as provided by law. Every
7 administrative hearing and sanction imposed by the Department shall
8 be appealable to the district court.

9 3. Absent a finding of willful nonpayment by the offender, the
10 failure of an offender to pay fines and costs may not serve as a
11 basis for revocation, excluding restitution.

12 ~~C.~~ D. 1. Where one of the grounds for revocation is the
13 failure of the defendant to make restitution as ordered, the
14 Department of Corrections shall forward to the district attorney all
15 information pertaining to the failure of the defendant to make
16 timely restitution as ordered by the court, and the district
17 attorney shall file a petition setting forth the grounds for
18 revocation.

19 2. The defendant ordered to make restitution can petition the
20 court at any time for remission or a change in the terms of the
21 order of restitution if the defendant undergoes a change of
22 condition which materially affects the ability of the defendant to
23 comply with the order of the court.

24

1 3. At the hearing, if one of the grounds for the petition for
2 revocation is the failure of the defendant to make timely
3 restitution as ordered by the court, the court will hear evidence
4 and if it appears to the satisfaction of the court from such
5 evidence that the terms of the order of restitution create a
6 manifest hardship on the defendant or the immediate family of the
7 defendant, the court may cancel all or any part of the amount still
8 due, or modify the terms or method of payment. Provided, if the
9 court determines that a reduction in the restitution still due is
10 warranted, the court shall equally apply the same percentage
11 reduction to any court-ordered monetary obligation owed by the
12 defendant including, but not limited to, fines, court costs and
13 costs of incarceration.

14 ~~D. E.~~ The Except as provided in Section 517 of Title 57 of the
15 Oklahoma Statutes, the court may revoke a portion of the sentence
16 and leave the remaining part not revoked, but suspended for the
17 remainder of the term of the sentence, and under the provisions
18 applying to it. The person whose suspended sentence is being
19 considered for revocation at the hearing shall have the right to be
20 represented by counsel, to present competent evidence in his or her
21 own behalf and to be confronted by the witnesses against the
22 defendant. Any order of the court revoking the suspended sentence,
23 in whole or in part, shall be subject to review on appeal, as in
24 other appeals of criminal cases. Provided, however, that if the

1 crime for which the suspended sentence is given was a felony, the
2 defendant may be allowed bail pending appeal. If the reason for
3 revocation be that the defendant committed a felony, the defendant
4 shall not be allowed bail pending appeal.

5 F. If the court revokes a suspended sentence for a technical
6 violation of the terms and conditions of probation, the court shall
7 sentence the offender in accordance with Section 517 of Title 57 of
8 the Oklahoma Statutes.

9 SECTION 26. AMENDATORY 22 O.S. 2011, Section 991c, as
10 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
11 2016, Section 991c), is amended to read as follows:

12 Section 991c. A. Upon a verdict or plea of guilty or upon a
13 plea of nolo contendere, but before a judgment of guilt, the court
14 may, without entering a judgment of guilt and with the consent of
15 the defendant, defer further proceedings upon the specific
16 conditions prescribed by the court not to exceed a ~~ten-year~~ four-
17 year period, except as authorized under subsection B of this
18 section. The court shall first consider restitution among the
19 various conditions it may prescribe. The court may also consider
20 ordering the defendant to:

- 21 1. Pay court costs;
- 22 2. Pay an assessment in lieu of any fine authorized by law for
23 the offense;
- 24 3. Pay any other assessment or cost authorized by law;

1 4. Engage in a term of community service without compensation,
2 according to a schedule consistent with the employment and family
3 responsibilities of the defendant;

4 5. County jail confinement for a period not to exceed ninety
5 (90) days or the maximum amount of jail time provided for the
6 offense, if it is less than ninety (90) days;

7 6. Pay an amount as reimbursement for reasonable attorney fees,
8 to be paid into the court fund, if a court-appointed attorney has
9 been provided to defendant;

10 7. Be supervised in the community for a period not to exceed
11 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
12 violation of any condition of deferred judgment is filed during the
13 period of supervision. As a condition of any supervision, the
14 defendant shall be required to pay a supervision fee of Forty
15 Dollars (\$40.00) per month. The supervision fee shall be waived in
16 whole or part by the supervisory agency when the accused is
17 indigent. No person shall be denied supervision based solely on the
18 inability of the person to pay a fee;

19 8. Pay into the court fund a monthly amount not exceeding Forty
20 Dollars (\$40.00) per month during any period during which the
21 proceedings are deferred when the defendant is not to be supervised
22 in the community. The total amount to be paid into the court fund
23 shall be established by the court and shall not exceed the amount of
24 the maximum fine authorized by law for the offense;

1 9. Make other reparations to the community or victim as
2 required and deemed appropriate by the court;

3 10. Order any conditions which can be imposed for a suspended
4 sentence pursuant to paragraph 1 of subsection A of Section 991a of
5 this title; or

6 11. Any combination of the above provisions.

7 However, unless under the supervision of the district attorney,
8 the offender shall be required to pay Forty Dollars (\$40.00) per
9 month to the district attorney during the first two (2) years of
10 probation to compensate the district attorney for the costs incurred
11 during the prosecution of the offender and for the additional work
12 of verifying the compliance of the offender with the rules and
13 conditions of his or her probation. The district attorney may waive
14 any part of this requirement in the best interests of justice. The
15 court shall not waive, suspend, defer or dismiss the costs of
16 prosecution in its entirety. However, if the court determines that
17 a reduction in the fine, costs and costs of prosecution is
18 warranted, the court shall equally apply the same percentage
19 reduction to the fine, costs and costs of prosecution owed by the
20 offender.

21 B. When the court has ordered restitution as a condition of
22 supervision as provided for in subsection A of this section and that
23 condition has not been satisfied, the court may, at any time prior
24

1 to the termination or expiration of the supervision period, order an
2 extension for a period not to exceed three (3) years.

3 C. In addition to any conditions of supervision provided for in
4 subsection A of this section, the court shall, in the case of a
5 person before the court for the offense of operating or being in
6 control of a motor vehicle while the person was under the influence
7 of alcohol, other intoxicating substance, or a combination of
8 alcohol and another intoxicating substance, or who is before the
9 court for the offense of operating a motor vehicle while the ability
10 of the person to operate such vehicle was impaired due to the
11 consumption of alcohol, require the person to participate in an
12 alcohol and drug substance abuse evaluation program offered by a
13 facility or qualified practitioner certified by the Department of
14 Mental Health and Substance Abuse Services for the purpose of
15 evaluating the receptivity to treatment and prognosis of the person.
16 The court shall order the person to reimburse the facility or
17 qualified practitioner for the evaluation. The Department of Mental
18 Health and Substance Abuse Services shall establish a fee schedule,
19 based upon the ability of a person to pay, provided the fee for an
20 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
21 evaluation shall be conducted at a certified facility, the office of
22 a qualified practitioner or at another location as ordered by the
23 court. The facility or qualified practitioner shall, within
24 seventy-two (72) hours from the time the person is assessed, submit

1 a written report to the court for the purpose of assisting the court
2 in its determination of conditions for deferred sentence. No
3 person, agency or facility operating an alcohol and drug substance
4 abuse evaluation program certified by the Department of Mental
5 Health and Substance Abuse Services shall solicit or refer any
6 person evaluated pursuant to this subsection for any treatment
7 program or alcohol and drug substance abuse service in which the
8 person, agency or facility has a vested interest; however, this
9 provision shall not be construed to prohibit the court from ordering
10 participation in or any person from voluntarily utilizing a
11 treatment program or alcohol and drug substance abuse service
12 offered by such person, agency or facility. Any evaluation report
13 submitted to the court pursuant to this subsection shall be handled
14 in a manner which will keep the report confidential from review by
15 the general public. Nothing contained in this subsection shall be
16 construed to prohibit the court from ordering judgment and sentence
17 in the event the defendant fails or refuses to comply with an order
18 of the court to obtain the evaluation required by this subsection.
19 As used in this subsection, "qualified practitioner" means a person
20 with at least a bachelor's degree in substance abuse treatment,
21 mental health or a related health care field and at least two (2)
22 years of experience in providing alcohol abuse treatment, other drug
23 abuse treatment, or both alcohol and other drug abuse treatment who
24 is certified each year by the Department of Mental Health and

1 Substance Abuse Services to provide these assessments. However, any
2 person who does not meet the requirements for a qualified
3 practitioner as defined herein, but who has been previously
4 certified by the Department of Mental Health and Substance Abuse
5 Services to provide alcohol or drug treatment or assessments, shall
6 be considered a qualified practitioner provided all education,
7 experience and certification requirements stated herein are met by
8 September 1, 1995. The court may also require the person to
9 participate in one or both of the following:

10 1. An alcohol and drug substance abuse course, pursuant to
11 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

12 2. A victims impact panel program, as defined in subsection H
13 of Section 991a of this title, if such a program is offered in the
14 county where the judgment is rendered. The defendant shall be
15 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
16 more than Sixty Dollars (\$60.00) as set by the governing authority
17 of the program and approved by the court to the victims impact panel
18 program to offset the cost of participation by the defendant, if in
19 the opinion of the court the defendant has the ability to pay such
20 fee.

21 ~~E.~~ D. Upon completion of the conditions of the deferred
22 judgment, and upon a finding by the court that the conditions have
23 been met and all fines, fees, and monetary assessments have been
24 paid as ordered, the defendant shall be discharged without a court

1 judgment of guilt, and the court shall order the verdict or plea of
2 guilty or plea of nolo contendere to be expunged from the record and
3 the charge shall be dismissed with prejudice to any further action.
4 The procedure to expunge the record of the defendant shall be as
5 follows:

6 1. All references to the name of the defendant shall be deleted
7 from the docket sheet;

8 2. The public index of the filing of the charge shall be
9 expunged by deletion, mark-out or obliteration;

10 3. Upon expungement, the court clerk shall keep a separate
11 confidential index of case numbers and names of defendants which
12 have been obliterated pursuant to the provisions of this section;

13 4. No information concerning the confidential file shall be
14 revealed or released, except upon written order of a judge of the
15 district court or upon written request by the named defendant to the
16 court clerk for the purpose of updating the criminal history record
17 of the defendant with the Oklahoma State Bureau of Investigation;
18 and

19 5. Defendants qualifying under Section 18 of this title may
20 petition the court to have the filing of the indictment and the
21 dismissal expunged from the public index and docket sheet. This
22 section shall not be mutually exclusive of Section 18 of this title.

23 Records expunged pursuant to this subsection shall be sealed to
24 the public but not to law enforcement agencies for law enforcement

1 purposes. Records expunged pursuant to this subsection shall be
2 admissible in any subsequent criminal prosecution to prove the
3 existence of a prior conviction or prior deferred judgment without
4 the necessity of a court order requesting the unsealing of such
5 records.

6 ~~D.~~ E. The provisions of subsection ~~C~~ D of this section shall be
7 retroactive.

8 ~~E.~~ F. Whenever a judgment has been deferred by the court
9 according to the provisions of this section, deferred judgment may
10 not be accelerated, in whole or part, for any cause unless a
11 petition setting forth the grounds for such revocation is filed by
12 the district attorney with the clerk of the sentencing court and
13 competent evidence justifying the acceleration of the judgment is
14 presented to the court at a hearing to be held for that purpose.
15 The hearing shall be held twenty (20) days after the entry of the
16 plea of not guilty to the petition, unless waived by both the state
17 and the defendant. If the alleged violation is for a technical
18 violation of the terms and conditions of probation, the petition
19 shall be limited to a technical violation that has occurred within
20 sixty (60) days, provided the district attorney has received
21 adequate notice.

22 G. Upon any violation ~~of any condition~~ of the deferred
23 judgment, other than a technical violation, the court may enter a
24 judgment of guilt and proceed as provided in Section 991a of this

1 title or may modify any condition imposed. Provided, however, if
2 the deferred judgment is for a felony offense, and the defendant
3 commits another felony offense, the defendant shall not be allowed
4 bail pending appeal. Upon a technical violation of the deferred
5 judgment, the court shall sentence the offender in accordance with
6 Section 517 of Title 57 of the Oklahoma Statutes.

7 ~~F.~~ H. The deferred judgment procedure described in this section
8 shall apply only to defendants who have not been previously
9 convicted of a felony offense and have not received ~~a deferred~~
10 ~~judgment~~ more than one deferred judgment for a felony offense within
11 the ten (10) years previous to the commission of the pending
12 offense.

13 Provided, the court may waive this prohibition upon written
14 application of the district attorney. Both the application and the
15 waiver shall be made a part of the record of the case.

16 ~~G.~~ I. The deferred judgment procedure described in this section
17 shall not apply to defendants found guilty or who plead guilty or
18 nolo contendere to a sex offense required by law to register
19 pursuant to the Sex Offenders Registration Act.

20 ~~H.~~ J. ~~Defendants~~ All defendants who are supervised ~~by the~~
21 ~~Department of Corrections~~ pursuant to this section shall be subject
22 to the ~~intermediate~~ sanction and incentive process as established in
23 subsection B of Section 991b of this title.

1 SECTION 27. AMENDATORY 22 O.S. 2011, Section 991d, as
2 amended by Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2016,
3 Section 991d), is amended to read as follows:

4 Section 991d. A. 1. When the court orders supervision by the
5 Department of Corrections, or the district attorney requires the
6 Department to supervise any person pursuant to a deferred
7 prosecution agreement, the person shall be required to pay a
8 supervision fee of Forty Dollars (\$40.00) per month during the
9 supervision period, unless the fee would impose an unnecessary
10 hardship on the person. In hardship cases, the Department shall
11 expressly waive all or part of the fee. The court shall make
12 payment of the fee a condition of the sentence which shall be
13 imposed whether the supervision is incident to the suspending of
14 execution of a sentence, incident to the suspending of imposition of
15 a sentence, or incident to the deferral of proceedings after a
16 verdict or plea of guilty. The Department shall determine methods
17 for payment of supervision fee, and may charge a reasonable user fee
18 for collection of supervision fees electronically. The Department
19 is required to report to the sentencing court any failure of the
20 person to pay supervision fees and to report immediately if the
21 person violates any condition of the sentence.

22 2. When the court imposes a suspended or deferred sentence for
23 any offense and does not order supervision by the Department of
24 Corrections, the offender shall be required to pay to the district

1 attorney a supervision fee of Forty Dollars (\$40.00) per month as a
2 fee to compensate the district attorney for the actual act of
3 supervising the offender during the applicable period of
4 supervision. In hardship cases, the district attorney shall
5 expressly waive all or part of the fee. Any period of supervision
6 by the district attorney may not exceed a period of two (2) years
7 and supervision fees may not be collected after the two-year period
8 of supervision.

9 3. If restitution is ordered by the court in conjunction with
10 supervision, the supervision fee will be paid in addition to the
11 restitution ordered. In addition to the restitution payment and
12 supervision fee, a reasonable user fee may be charged by the
13 Department of Corrections to cover the expenses of administration of
14 the restitution, except no user fee shall be collected by the
15 Department when restitution payment is collected and disbursed to
16 the victim by the office of the district attorney as provided in
17 Section 991f of this title or Section 991f-1.1 of this title.

18 B. The Pardon and Parole Board shall require a supervision fee
19 to be paid by the parolee as a condition of parole which shall be
20 paid to the Department of Corrections. The Department shall
21 determine the amount of the fee as provided for other persons under
22 supervision by the Department.

23 C. Upon acceptance of an offender by the Department of
24 Corrections whose probation or parole supervision was transferred to

1 Oklahoma through the Interstate Compact Agreement, or upon the
2 assignment of an inmate to any community placement, a fee shall be
3 required to be paid by the offender to the Department of Corrections
4 as provided for other persons under supervision of the Department.

5 D. Except as provided in subsection A and this subsection, all
6 fees collected pursuant to this section shall be deposited in the
7 Department of Corrections Revolving Fund created pursuant to Section
8 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
9 ending June 30, 1996, fifty percent (50%) of all collections
10 received from offenders placed on supervision after July 1, 1995,
11 shall be transferred to the credit of the General Revenue Fund of
12 the State Treasury until such time as total transfers equal Three
13 Million Three Hundred Thousand Dollars (\$3,300,000.00).

14 SECTION 28. This act shall become effective November 1, 2017.

15 Passed the Senate the 21st day of March, 2017.

16

17

Presiding Officer of the Senate

18

19 Passed the House of Representatives the ____ day of _____,

20 2017.

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Presiding Officer of the House
of Representatives

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