

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 689

By: Treat, Pittman and Sharp of
the Senate

and

O'Donnell, Young and
Cleveland of the House

11 COMMITTEE SUBSTITUTE

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

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

22 SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as
23 last amended by Section 1, Chapter 160, O.S.L. 2016 (22 O.S. Supp.
24 2016, Section 982a), is amended to read as follows:

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3 probation has been revoked, the court imposing sentence or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

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

23 3. This section shall not apply to convicted felons who have
24 been in confinement in any state or federal prison system for any

1 previous felony conviction during the ten-year period preceding the
2 date that the sentence this section applies to was imposed.
3 Further, without the consent of the district attorney, this section
4 shall not apply to sentences imposed pursuant to a plea agreement or
5 jury verdict.

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

20 C. For purposes of judicial review, upon court order or written
21 request from the sentencing judge, the Department of Corrections
22 shall provide the court imposing sentence or revocation of probation
23 with a report to include a summary of the assessed needs of the
24 offender, any progress made by the offender in addressing his or her

1 assessed needs, and any other information the Department can supply
2 on the offender. The court shall consider such reports when
3 modifying the sentence or revocation of probation. The court shall
4 allow the Department of Corrections at least twenty (20) days after
5 receipt of a request or order from the court to prepare the required
6 reports.

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

18 ~~D.~~ E. If an appeal is taken from the original sentence or from
19 a revocation of probation which results in a modification of the
20 sentence or modification to the revocation of probation of the
21 offender, such sentence may be further modified in the manner
22 described in paragraph 1 of subsection A of this section within
23 sixty (60) months after the receipt by the clerk of the district
24

1 court of the mandate from the Supreme Court or the Court of Criminal
2 Appeals.

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

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

15 B. ~~After~~ Pursuant to the provisions of subsection L of Section
16 991a of this title, after a judicial determination that the
17 defendant is able to pay the fine, cost, fee, or assessment in
18 installments, the court ~~may~~ shall order the fine, cost, fee, or
19 assessment to be paid in installments and shall set the amount and
20 date for each installment.

21 C. In addition, the district court or municipal court, within
22 one hundred twenty (120) days from the date upon which the person
23 was originally ordered to make payment, may send notice of
24 nonpayment of any court ordered fine and costs for a moving traffic

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

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

14 SECTION 3. AMENDATORY Section 2, Chapter 243, O.S.L.
15 2015 (22 O.S. Supp. 2016, Section 985.1), is amended to read as
16 follows:

17 Section 985.1 A. When sentencing a person convicted of a
18 criminal offense for which there is a mandatory minimum sentence of
19 imprisonment, the court may depart from the applicable sentence if
20 the court finds substantial and compelling reasons on the record,
21 after giving due regard to the nature of the crime, history, and
22 character of the defendant and his or her chances of successful
23 rehabilitation, that:

24

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

3 ~~2. and imposition~~ Imposition of the mandatory minimum sentence
4 of imprisonment would result in substantial injustice to the
5 defendant; or

6 ~~2.~~ 3. The mandatory minimum sentence of imprisonment is not
7 necessary for the protection of the public and the defendant, based
8 on a risk and needs assessment, is eligible for an alternative
9 court, a diversion program or community sentencing, without regard
10 to exclusions because of previous convictions, and has been accepted
11 to the same, pending sentencing.

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

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

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

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

23 4. The offense for which the defendant was convicted is a crime
24 listed in Section 13.1 of Title 21 of the Oklahoma Statutes

1 requiring the defendant to serve not less than eighty-five percent
2 (85%) of any sentence of imprisonment imposed by the judicial system
3 prior to becoming eligible for consideration for parole;

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

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

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

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

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

18 Section 988.2 A. For purposes of the Oklahoma Community
19 Sentencing Act:

20 1. "Local community sentencing system" means the use of public
21 and private entities to deliver services to the sentencing court for
22 punishment of eligible felony offenders under the authority of a
23 community sentence;

24

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

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

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

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

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

22 7. "Division" means the Community Sentencing Division within
23 the Department of Corrections which is the state administration
24 agency for the Oklahoma Community Sentencing Act, the statewide

1 community sentencing system, and all local community sentencing
2 systems;

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

1 law. Any consent by a district attorney shall be made a part of the
2 record of the case; and

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

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

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

16 Section 988.8 A. A community sentencing system established
17 pursuant to the provisions of the Oklahoma Community Sentencing Act
18 shall include those community punishments and programs and services
19 enumerated and funded in the annual plan submitted to the Community
20 Sentencing Division within the Department of Corrections and any
21 other services or punishments subsequently added and funded during a
22 plan year. The options may not be utilized for offenders not
23 meeting the eligibility criteria of programs and score requirements
24 for the ~~Level of Services Inventory (LSI) or other approved~~ risk and

1 needs assessment. Each local system shall strive to have available
2 to the court all of the following services for eligible offenders:

3 1. Community service with or without compensation to the
4 offender;

5 2. Substance abuse treatment and availability for periodic drug
6 testing of offenders following treatment;

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

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

16 5. Employment opportunities and job skills training provided by
17 the Oklahoma Department of Career and Technology Education or
18 another qualified source;

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

22 7. Enforced collections provided by the local court clerk, or
23 another state agency; and
24

1 ~~7.~~ 8. The availability of county jail or another restrictive
2 housing facility for limited disciplinary sanctions.

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

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

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

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

21 B. ~~The Level of Services Inventory (LSI), or another~~ risk and
22 needs assessment and evaluation instrument designed to predict risk
23 to recidivate approved by the Department of Corrections, shall be
24 required to determine eligibility for any offender sentenced

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

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

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

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

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

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

22 Section 988.19 A. When ordering a community sentence or
23 community punishment, the court shall first impose a deferred or
24 suspended sentence for the offense as prescribed by law, and shall

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

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

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

22 D. Upon consideration of a properly filed motion to modify a
23 community sentence pursuant to the provisions of this section, the
24 staff of the community sentencing system in which the offender is

1 ordered to participate, the sheriff, the district attorney, the
2 service provider, or any agency or person providing supervision of
3 the offender shall provide the court with any reports and other
4 information available and relating to the offender, and to the
5 reason for the motion to modify the sentence. The court shall
6 consider any reports and information submitted prior to modifying
7 the sentence.

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

15 F. Following the hearing, the court shall enter the appropriate
16 order authorized by law. The court may modify any community
17 sentence by imposing any other punishment allowed by law for the
18 offense and appropriate for the circumstances as determined by the
19 discretion of the judge; provided, however, no punishment shall be
20 imposed which is greater than the maximum punishment allowed by law
21 for the original offense. The court shall give the offender day-
22 for-day credit on any modified sentence for any term of
23 incarceration imposed. The court may impose either a disciplinary
24 sanction or an incentive as provided in ~~Section 20 of this act~~

1 Section 988.20 of this title in lieu of or together with any
2 modification authorized by this section.

3 G. The court shall not be limited on the number of
4 modifications a sentence may have within the term of the community
5 sentence.

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

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

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

16 Section 988.20 A. Upon proper motion to the court to modify a
17 community sentence as provided in Section 988.19 of this title, the
18 judge shall have authority to impose disciplinary sanctions or
19 incentives. An order for a disciplinary sanction shall not modify
20 the terms of the original sentence and shall be imposed only to gain
21 compliance with the terms of the court-ordered community punishment.
22 The court may order any community punishment available and funded in
23 the jurisdiction that is deemed appropriate by the judge for the
24 circumstance including, but not limited to, a term of imprisonment

1 ~~not to exceed thirty (30) days~~ specified in Section 991b of this
2 title per disciplinary order motion for modification in either:

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

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

16 B. The court may, through a standing court order, provide for
17 specific ~~disciplinary~~ sanctions and incentives specified in Section
18 517 of Title 57 of the Oklahoma Statutes which may be utilized by
19 the local administrator upon notification to the court.

20 C. When a motion for modification has been filed pursuant to
21 Section 988.19 of this title, the court shall have authority to
22 offer incentives to offenders to encourage proper conduct in the
23 community and for compliance with the community punishments pursuant
24 to Section 517 of Title 57 of the Oklahoma Statutes or any other

1 incentive the court deems appropriate. The court shall use its
2 discretion in ordering appropriate incentives. Incentives shall be
3 considered a reduction and modification to the community punishment
4 and may be ordered after the motion to modify has been heard.

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

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

18 SECTION 9. AMENDATORY 22 O.S. 2011, Section 988.22, is
19 amended to read as follows:

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

23 B. Upon completion of any court-ordered provision, pursuant to
24 the Oklahoma Community Sentencing Act, the administrator of the

1 local system shall file a statement with the court defining the
2 provision which has been successfully completed. When all court-
3 ordered provisions have been successfully completed the defendant
4 shall be deemed to have completed the community punishment.

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

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

15 SECTION 10. AMENDATORY 22 O.S. 2011, Section 991a, as
16 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
17 2016, Section 991a), is amended to read as follows:

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

22 1. Suspend the execution of sentence in whole or in part, with
23 or without probation. The court, in addition, may order the
24

1 convicted defendant at the time of sentencing or at any time during
2 the suspended sentence to do one or more of the following:

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

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

21 c. to engage in a term of community service without
22 compensation, according to a schedule consistent with
23 the employment and family responsibilities of the
24 person convicted,

- 1 d. to pay a reasonable sum into any trust fund,
2 established pursuant to the provisions of Sections 176
3 through 180.4 of Title 60 of the Oklahoma Statutes,
4 and which provides restitution payments by convicted
5 defendants to victims of crimes committed within this
6 state wherein such victim has incurred a financial
7 loss,
- 8 e. to confinement in the county jail for a period not to
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term
11 of post-imprisonment community supervision for not
12 less than three (3) years of the total term allowed by
13 law for imprisonment, with or without restitution;
14 provided, however, the authority of this provision is
15 limited to Section 843.5 of Title 21 of the Oklahoma
16 Statutes when the offense involved sexual abuse or
17 sexual exploitation; Sections 681, 741 and 843.1 of
18 Title 21 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; and
20 Sections 865 et seq., 885, 886, 888, 891, 1021,
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a
24 local certified crime stoppers program and the

1 Oklahoma Reward System. In determining whether the
2 defendant shall repay the reward or part of the
3 reward, the court shall consider the ability of the
4 defendant to make the payment, the financial hardship
5 on the defendant to make the required payment, and the
6 importance of the information to the prosecution of
7 the defendant as provided by the arresting officer or
8 the district attorney with due regard for the
9 confidentiality of the records of the local certified
10 crime stoppers program and the Oklahoma Reward System.
11 The court shall assess this repayment against the
12 defendant as a cost of prosecution. The term
13 "certified" means crime stoppers organizations that
14 annually meet the certification standards for crime
15 stoppers programs established by the Oklahoma Crime
16 Stoppers Association to the extent those standards do
17 not conflict with state statutes. The term "court"
18 refers to all municipal and district courts within
19 this state. The "Oklahoma Reward System" means the
20 reward program established by Section 150.18 of Title
21 74 of the Oklahoma Statutes,

22 h. to reimburse the Oklahoma State Bureau of
23 Investigation for costs incurred by that agency during
24 its investigation of the crime for which the defendant

1 pleaded guilty, nolo contendere or was convicted,
2 including compensation for laboratory, technical, or
3 investigation services performed by the Bureau if, in
4 the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant,
6 and if the costs incurred by the Bureau during the
7 investigation of the defendant's case may be
8 determined with reasonable certainty,

- 9 i. to reimburse the Oklahoma State Bureau of
10 Investigation and any authorized law enforcement
11 agency for all costs incurred by that agency for
12 cleaning up an illegal drug laboratory site for which
13 the defendant pleaded guilty, nolo contendere or was
14 convicted. The court clerk shall collect the amount
15 and may retain five percent (5%) of such monies to be
16 deposited in the Court Clerk Revolving Fund to cover
17 administrative costs and shall remit the remainder to
18 the Oklahoma State Bureau of Investigation to be
19 deposited in the OSBI Revolving Fund established by
20 Section 150.19a of Title 74 of the Oklahoma Statutes
21 or to the general fund wherein the other law
22 enforcement agency is located,
- 23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

6 l. to participate in an assessment and evaluation by an
7 assessment agency or assessment personnel certified by
8 the Department of Mental Health and Substance Abuse
9 Services pursuant to Section 3-460 of Title 43A of the
10 Oklahoma Statutes and, as determined by the
11 assessment, participate in an alcohol and drug
12 substance abuse course or treatment program or both,
13 pursuant to Sections 3-452 and 3-453 of Title 43A of
14 the Oklahoma Statutes, or as ordered by the court,

15 m. to be placed in a victims impact panel program, as
16 defined in subsection H of this section, or
17 victim/offender reconciliation program and payment of
18 a fee to the program of not less than Fifteen Dollars
19 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
20 by the governing authority of the program to offset
21 the cost of participation by the defendant. Provided,
22 each victim/offender reconciliation program shall be
23 required to obtain a written consent form voluntarily
24 signed by the victim and defendant that specifies the

1 methods to be used to resolve the issues, the
2 obligations and rights of each person, and the
3 confidentiality of the proceedings. Volunteer
4 mediators and employees of a victim/offender
5 reconciliation program shall be immune from liability
6 and have rights of confidentiality as provided in
7 Section 1805 of Title 12 of the Oklahoma Statutes,
8 n. to install, at the expense of the defendant, an
9 ignition interlock device approved by the Board of
10 Tests for Alcohol and Drug Influence. The device
11 shall be installed upon every motor vehicle operated
12 by the defendant, and the court shall require that a
13 notation of this restriction be affixed to the
14 defendant's driver license. The restriction shall
15 remain on the driver license not exceeding two (2)
16 years to be determined by the court. The restriction
17 may be modified or removed only by order of the court
18 and notice of any modification order shall be given to
19 the Department of Public Safety. Upon the expiration
20 of the period for the restriction, the Department of
21 Public Safety shall remove the restriction without
22 further court order. Failure to comply with the order
23 to install an ignition interlock device or operating
24 any vehicle without a device during the period of

1 restriction shall be a violation of the sentence and
2 may be punished as deemed proper by the sentencing
3 court. As used in this paragraph, "ignition interlock
4 device" means a device that, without tampering or
5 intervention by another person, would prevent the
6 defendant from operating a motor vehicle if the
7 defendant has a blood or breath alcohol concentration
8 of two-hundredths (0.02) or greater,

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

1 ordered location at the required times and which
2 records violations for investigation by a qualified
3 supervisory agency or person,

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

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

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

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

7 aa. to repair or restore property damaged by the
8 defendant's conduct, if the court determines the
9 defendant possesses sufficient skill to repair or
10 restore the property and the victim consents to the
11 repairing or restoring of the property,

12 bb. to restore damaged property in kind or payment of out-
13 of-pocket expenses to the victim, if the court is able
14 to determine the actual out-of-pocket expenses
15 suffered by the victim,

16 cc. to attend a victim-offender reconciliation program if
17 the victim agrees to participate and the offender is
18 deemed appropriate for participation,

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

4 ee. in the case of a sex offender sentenced after November
5 1, 1989, and required by law to register pursuant to
6 the Sex Offender Registration Act, the court shall
7 require the person to comply with sex offender
8 specific rules and conditions of supervision
9 established by the Department of Corrections and
10 require the person to participate in a treatment
11 program designed for the treatment of sex offenders
12 during the period of time while the offender is
13 subject to supervision by the Department of
14 Corrections. The treatment program shall include
15 polygraph examinations specifically designed for use
16 with sex offenders for purposes of supervision and
17 treatment compliance, and shall be administered not
18 less than each six (6) months during the period of
19 supervision. The examination shall be administered by
20 a certified licensed polygraph examiner. The
21 treatment program must be approved by the Department
22 of Corrections or the Department of Mental Health and
23 Substance Abuse Services. Such treatment shall be at
24

1 the expense of the defendant based on the defendant's
2 ability to pay,

3 ff. in addition to other sentencing powers of the court,
4 the court in the case of a defendant being sentenced
5 for a felony conviction for a violation of Section 2-
6 402 of Title 63 of the Oklahoma Statutes which
7 involves marijuana may require the person to
8 participate in a drug court program, if available. If
9 a drug court program is not available, the defendant
10 may be required to participate in a community
11 sanctions program, if available,

12 gg. in the case of a person convicted of any false or
13 bogus check violation, as defined in Section 1541.4 of
14 Title 21 of the Oklahoma Statutes, impose a fee of
15 Twenty-five Dollars (\$25.00) to the victim for each
16 check, and impose a bogus check fee to be paid to the
17 district attorney. The bogus check fee paid to the
18 district attorney shall be equal to the amount
19 assessed as court costs plus Twenty-five Dollars
20 (\$25.00) for each check upon filing of the case in
21 district court. This money shall be deposited in the
22 Bogus Check Restitution Program Fund as established in
23 subsection B of Section 114 of this title.

24 Additionally, the court may require the offender to

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program, ~~and~~
4 hh. in the case of a person being sentenced for a
5 conviction for a violation of Section 644 of Title 21
6 of the Oklahoma Statutes, require the person to
7 receive an assessment for batterers, which shall be
8 conducted through a certified treatment program for
9 batterers, and
10 ii. any other provision specifically ordered by the court.

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

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

1 prosecution in its entirety. However, if the court determines that
2 a reduction in the fine, costs and costs of prosecution is
3 warranted, the court shall equally apply the same percentage
4 reduction to the fine, costs and costs of prosecution owed by the
5 offender;

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

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

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

21 5. Order the defendant to reimburse the Oklahoma State Bureau
22 of Investigation for all costs incurred by that agency for cleaning
23 up an illegal drug laboratory site for which the defendant pleaded
24 guilty, nolo contendere or was convicted. The court clerk shall

1 collect the amount and may retain five percent (5%) of such monies
2 to be deposited in the Court Clerk Revolving Fund to cover
3 administrative costs and shall remit the remainder to the Oklahoma
4 State Bureau of Investigation to be deposited in the OSBI Revolving
5 Fund established by Section 150.19a of Title 74 of the Oklahoma
6 Statutes;

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

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

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

- 1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, if such a program is
3 offered in the county where the judgment is rendered,
4 and to pay a fee of not less than Fifteen Dollars
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
6 by the governing authority of the program and approved
7 by the court, to the program to offset the cost of
8 participation by the defendant, if in the opinion of
9 the court the defendant has the ability to pay such
10 fee,
- 11 c. to both participate in the alcohol and drug substance
12 abuse course or treatment program, pursuant to
13 subparagraph a of this paragraph and attend a victims
14 impact panel program, pursuant to subparagraph b of
15 this paragraph,
- 16 d. to install, at the expense of the person, an ignition
17 interlock device approved by the Board of Tests for
18 Alcohol and Drug Influence, upon every motor vehicle
19 operated by such person and to require that a notation
20 of this restriction be affixed to the person's driver
21 license at the time of reinstatement of the license.
22 The restriction shall remain on the driver license for
23 such period as the court shall determine. The
24 restriction may be modified or removed by order of the

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

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

23 8. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section

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

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

1 10. In addition to the other sentencing powers of the court,
2 the court, in the case of a sex offender sentenced after November 1,
3 1989, and required by law to register pursuant to the Sex Offenders
4 Registration Act, shall require the person to participate in a
5 treatment program designed specifically for the treatment of sex
6 offenders, if available. The treatment program will include
7 polygraph examinations specifically designed for use with sex
8 offenders for the purpose of supervision and treatment compliance,
9 provided the examination is administered by a certified licensed
10 polygraph examiner. The treatment program must be approved by the
11 Department of Corrections or the Department of Mental Health and
12 Substance Abuse Services. Such treatment shall be at the expense of
13 the defendant based on the defendant's ability to pay;

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

21 12. In addition to the other sentencing powers of the court,
22 the court, in the case of a person convicted of cruelty to animals
23 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
24

1 require the person to pay restitution to animal facilities for
2 medical care and any boarding costs of victimized animals;

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

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

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

1 while accessing the Internet or used for other purposes of social
2 networking or other similar Internet communication.

3 B. Notwithstanding any other provision of law, any person who
4 is found guilty of a violation of any provision of Section 761 or
5 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
6 guilty or nolo contendere for a violation of any provision of such
7 sections shall be ordered to participate in, prior to sentencing, an
8 alcohol and drug assessment and evaluation by an assessment agency
9 or assessment personnel certified by the Department of Mental Health
10 and Substance Abuse Services for the purpose of evaluating the
11 receptivity to treatment and prognosis of the person. The court
12 shall order the person to reimburse the agency or assessor for the
13 evaluation. The fee shall be the amount provided in subsection C of
14 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
15 shall be conducted at a certified assessment agency, the office of a
16 certified assessor or at another location as ordered by the court.
17 The agency or assessor shall, within seventy-two (72) hours from the
18 time the person is assessed, submit a written report to the court
19 for the purpose of assisting the court in its final sentencing
20 determination. No person, agency or facility operating an alcohol
21 and drug substance abuse evaluation program certified by the
22 Department of Mental Health and Substance Abuse Services shall
23 solicit or refer any person evaluated pursuant to this subsection
24 for any treatment program or alcohol and drug substance abuse

1 service in which such person, agency or facility has a vested
2 interest; however, this provision shall not be construed to prohibit
3 the court from ordering participation in or any person from
4 voluntarily utilizing a treatment program or alcohol and drug
5 substance abuse service offered by such person, agency or facility.
6 If a person is sentenced to the custody of the Department of
7 Corrections and the court has received a written evaluation report
8 pursuant to this subsection, the report shall be furnished to the
9 Department of Corrections with the judgment and sentence. Any
10 evaluation report submitted to the court pursuant to this subsection
11 shall be handled in a manner which will keep such report
12 confidential from the general public's review. Nothing contained in
13 this subsection shall be construed to prohibit the court from
14 ordering judgment and sentence in the event the defendant fails or
15 refuses to comply with an order of the court to obtain the
16 evaluation required by this subsection.

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

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

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

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

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

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

21 E. Probation, for purposes of subsection A of this section, is
22 a procedure by which a defendant found guilty of a crime, whether
23 upon a verdict or plea of guilty or upon a plea of nolo contendere,
24 is released by the court subject to conditions imposed by the court

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

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

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 SECTION 11. AMENDATORY 22 O.S. 2011, Section 991b, as
16 last amended by Section 1, Chapter 33, O.S.L. 2016 (22 O.S. Supp.
17 2016, Section 991b), is amended to read as follows:

18 Section 991b. A. Whenever a sentence has been suspended by the
19 court after conviction of a person for any crime, the suspended
20 sentence of the person may not be revoked, in whole or part, for any
21 cause unless a petition setting forth the grounds for such
22 revocation is filed by the district attorney with the clerk of the
23 sentencing court and competent evidence justifying the revocation of
24 the suspended sentence is presented to the court at a hearing to be

1 held for that purpose within 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. The State of Oklahoma may dismiss the petition
4 without prejudice one time upon good cause shown to the court,
5 provided that any successor petition must be filed within forty-five
6 (45) days of the date of the dismissal of the petition.

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

23 C. 1. The Department of Corrections shall develop a matrix of
24 ~~technical violations and sanctions~~ and incentives to address

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

1 to the Department of Corrections to be heard by a hearing officer.
2 The Department of Corrections shall develop a sanction matrix,
3 forms, policies and procedures necessary to implement this
4 provision. If the severity of the violation warrants or the
5 graduated use of sanctions has been exhausted and the noncompliant
6 behavior has continued, the probation officer may recommend
7 revocation of the probation of the offender to the hearing officer
8 of the Department or appropriate supervising authority. The
9 Department of Corrections shall establish procedures to hear
10 responses to technical violations and review sanction plans
11 including the following:

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

24

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

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

19 ~~C.~~ D. 1. Where one of the grounds for revocation is the
20 failure of the defendant to make restitution as ordered, the
21 Department of Corrections shall forward to the district attorney all
22 information pertaining to the failure of the defendant to make
23 timely restitution as ordered by the court, and the district
24

1 attorney shall file a petition setting forth the grounds for
2 revocation.

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

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

21 ~~D. E.~~ The Except as provided in Section 517 of Title 57 of the
22 Oklahoma Statutes, the court may revoke a portion of the sentence
23 and leave the remaining part not revoked, but suspended for the
24 remainder of the term of the sentence, and under the provisions

1 applying to it. The person whose suspended sentence is being
2 considered for revocation at the hearing shall have the right to be
3 represented by counsel, to present competent evidence in his or her
4 own behalf and to be confronted by the witnesses against the
5 defendant. Any order of the court revoking the suspended sentence,
6 in whole or in part, shall be subject to review on appeal, as in
7 other appeals of criminal cases. Provided, however, that if the
8 crime for which the suspended sentence is given was a felony, the
9 defendant may be allowed bail pending appeal. If the reason for
10 revocation be that the defendant committed a felony, the defendant
11 shall not be allowed bail pending appeal.

12 F. If the court revokes a suspended sentence for a technical
13 violation of the terms and conditions of probation, the court shall
14 sentence the offender in accordance with Section 517 of Title 57 of
15 the Oklahoma Statutes.

16 SECTION 12. AMENDATORY 22 O.S. 2011, Section 991c, as
17 last amended by Section 1, Chapter 209, O.S.L. 2015 (22 O.S. Supp.
18 2016, Section 991c), is amended to read as follows:

19 Section 991c. A. Upon a verdict or plea of guilty or upon a
20 plea of nolo contendere, but before a judgment of guilt, the court
21 may, without entering a judgment of guilt and with the consent of
22 the defendant, defer further proceedings upon the specific
23 conditions prescribed by the court not to exceed a ~~ten-year~~ four-
24 year period, except as authorized under subsection B of this

1 section. The court shall first consider restitution among the
2 various conditions it may prescribe. The court may also consider
3 ordering the defendant to:

- 4 1. Pay court costs;
- 5 2. Pay an assessment in lieu of any fine authorized by law for
6 the offense;
- 7 3. Pay any other assessment or cost authorized by law;
- 8 4. Engage in a term of community service without compensation,
9 according to a schedule consistent with the employment and family
10 responsibilities of the defendant;
- 11 5. County jail confinement for a period not to exceed ninety
12 (90) days or the maximum amount of jail time provided for the
13 offense, if it is less than ninety (90) days;
- 14 6. Pay an amount as reimbursement for reasonable attorney fees,
15 to be paid into the court fund, if a court-appointed attorney has
16 been provided to defendant;
- 17 7. Be supervised in the community for a period not to exceed
18 ~~two (2) years~~ eighteen (18) months, unless a petition alleging
19 violation of any condition of deferred judgment is filed during the
20 period of supervision. As a condition of any supervision, the
21 defendant shall be required to pay a supervision fee of Forty
22 Dollars (\$40.00) per month. The supervision fee shall be waived in
23 whole or part by the supervisory agency when the accused is

24

1 indigent. No person shall be denied supervision based solely on the
2 inability of the person to pay a fee;

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

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

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

14 11. Any combination of the above provisions.

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

1 a reduction in the fine, costs and costs of prosecution is
2 warranted, the court shall equally apply the same percentage
3 reduction to the fine, costs and costs of prosecution owed by the
4 offender.

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

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

1 Health and Substance Abuse Services shall establish a fee schedule,
2 based upon the ability of a person to pay, provided the fee for an
3 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
4 evaluation shall be conducted at a certified facility, the office of
5 a qualified practitioner or at another location as ordered by the
6 court. The facility or qualified practitioner shall, within
7 seventy-two (72) hours from the time the person is assessed, submit
8 a written report to the court for the purpose of assisting the court
9 in its determination of conditions for deferred sentence. No
10 person, agency or facility operating an alcohol and drug substance
11 abuse evaluation program certified by the Department of Mental
12 Health and Substance Abuse Services shall solicit or refer any
13 person evaluated pursuant to this subsection for any treatment
14 program or alcohol and drug substance abuse service in which the
15 person, agency or facility has a vested interest; however, this
16 provision shall not be construed to prohibit the court from ordering
17 participation in or any person from voluntarily utilizing a
18 treatment program or alcohol and drug substance abuse service
19 offered by such person, agency or facility. Any evaluation report
20 submitted to the court pursuant to this subsection shall be handled
21 in a manner which will keep the report confidential from review by
22 the general public. Nothing contained in this subsection shall be
23 construed to prohibit the court from ordering judgment and sentence
24 in the event the defendant fails or refuses to comply with an order

1 of the court to obtain the evaluation required by this subsection.
2 As used in this subsection, "qualified practitioner" means a person
3 with at least a bachelor's degree in substance abuse treatment,
4 mental health or a related health care field and at least two (2)
5 years of experience in providing alcohol abuse treatment, other drug
6 abuse treatment, or both alcohol and other drug abuse treatment who
7 is certified each year by the Department of Mental Health and
8 Substance Abuse Services to provide these assessments. However, any
9 person who does not meet the requirements for a qualified
10 practitioner as defined herein, but who has been previously
11 certified by the Department of Mental Health and Substance Abuse
12 Services to provide alcohol or drug treatment or assessments, shall
13 be considered a qualified practitioner provided all education,
14 experience and certification requirements stated herein are met by
15 September 1, 1995. The court may also require the person to
16 participate in one or both of the following:

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

19 2. A victims impact panel program, as defined in subsection H
20 of Section 991a of this title, if such a program is offered in the
21 county where the judgment is rendered. The defendant shall be
22 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
23 more than Sixty Dollars (\$60.00) as set by the governing authority
24 of the program and approved by the court to the victims impact panel

1 program to offset the cost of participation by the defendant, if in
2 the opinion of the court the defendant has the ability to pay such
3 fee.

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

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

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

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

20 4. No information concerning the confidential file shall be
21 revealed or released, except upon written order of a judge of the
22 district court or upon written request by the named defendant to the
23 court clerk for the purpose of updating the criminal history record
24

1 of the defendant with the Oklahoma State Bureau of Investigation;
2 and

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

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

14 ~~D.~~ E. The provisions of subsection ~~E~~ D of this section shall be
15 retroactive.

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

1 and the defendant. If the alleged violation is for a technical
2 violation of the terms and conditions of probation, the petition
3 shall be limited to a technical violation that has occurred within
4 sixty (60) days, provided the district attorney has received
5 adequate notice.

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

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

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

24

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. J. Defendants~~ 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.

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11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/13/2017 -
12 DO PASS, As Amended and Coauthored.

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