

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2490 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Brian Hill

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2490

By: Hill

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to criminal procedure; amending 22
9 O.S. 2021, Section 982a, which relates to the
10 modification of sentences; removing certain time
11 limitations; deleting approval and consent
12 requirements of district attorneys; amending 22 O.S.
13 2021, Section 991a, which relates to sentencing
14 powers of the court; modifying manner by which
15 supervision may be extended; providing limitations on
16 said extensions; amending 22 O.S. 2021, Section 991c,
17 which relates to deferred sentencing; authorizing the
18 defendant to petition the court at any time for the
19 dismissal of charges; and providing an effective
20 date.

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

22 SECTION 1. AMENDATORY 22 O.S. 2021, Section 982a, is
23 amended to read as follows:

24 Section 982a. A. 1. Any time ~~within sixty (60) months~~ after
the initial sentence is imposed or ~~within sixty (60) months~~ after
probation has been revoked, the court imposing sentence or
revocation of probation may modify such sentence or revocation by
directing that another sentence be imposed, if the court is

1 satisfied that the best interests of the public will not be
2 jeopardized; provided, however, the court shall not impose a
3 deferred sentence. ~~Any application for sentence modification that~~
4 ~~is filed and ruled upon beyond twelve (12) months of the initial~~
5 ~~sentence being imposed must be approved by the district attorney who~~
6 ~~shall provide written notice to any victims in the case which is~~
7 ~~being considered for modification.~~

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

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

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

15 C. For purposes of judicial review, upon court order or written
16 request from the sentencing judge, the Department of Corrections
17 shall provide the court imposing sentence or revocation of probation
18 with a report to include a summary of the assessed needs of the
19 offender, any progress made by the offender in addressing his or her
20 assessed needs, and any other information the Department can supply
21 on the offender. The court shall consider such reports when
22 modifying the sentence or revocation of probation. The court shall
23 allow the Department of Corrections at least twenty (20) days after
24

1 receipt of a request or order from the court to prepare the required
2 reports.

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

14 E. If an appeal is taken from the original sentence or from a
15 revocation of probation which results in a modification of the
16 sentence or modification to the revocation of probation of the
17 offender, such sentence may be further modified in the manner
18 described in paragraph 1 of subsection A of this section ~~within~~
19 ~~sixty (60) months~~ after the receipt by the clerk of the district
20 court of the mandate from the Supreme Court or the Court of Criminal
21 Appeals.

22 SECTION 2. AMENDATORY 22 O.S. 2021, Section 991a, is
23 amended to read as follows:

24

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

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

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

20 b. to reimburse any state agency for amounts paid by the
21 state agency for hospital and medical expenses
22 incurred by the victim or victims, as a result of the
23 criminal act for which such person was convicted,
24 which reimbursement shall be made directly to the

1 state agency, with interest accruing thereon at the
2 rate of twelve percent (12%) per annum,

3 c. to engage in a term of community service without
4 compensation, according to a schedule consistent with
5 the employment and family responsibilities of the
6 person convicted,

7 d. to pay a reasonable sum into any trust fund
8 established pursuant to the provisions of Sections 176
9 through 180.4 of Title 60 of the Oklahoma Statutes and
10 which provides restitution payments by convicted
11 defendants to victims of crimes committed within this
12 state wherein such victim has incurred a financial
13 loss,

14 e. to confinement in the county jail for a period not to
15 exceed six (6) months,

16 f. to confinement as provided by law together with a term
17 of post-imprisonment community supervision for not
18 less than three (3) years of the total term allowed by
19 law for imprisonment, with or without restitution;
20 provided, however, the authority of this provision is
21 limited to Section 843.5 of Title 21 of the Oklahoma
22 Statutes when the offense involved sexual abuse or
23 sexual exploitation; Sections 681, 741 and 843.1 of
24 Title 21 of the Oklahoma Statutes when the offense

1 involved sexual abuse or sexual exploitation; and
2 Sections 865 et seq., 885, 886, 888, 891, 1021,
3 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
4 1123 of Title 21 of the Oklahoma Statutes,

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

1 this state. The "Oklahoma Reward System" means the
2 reward program established by Section 150.18 of Title
3 74 of the Oklahoma Statutes,

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

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

1 deposited in the OSBI Revolving Fund established by
2 Section 150.19a of Title 74 of the Oklahoma Statutes
3 or to the general fund wherein the other law
4 enforcement agency is located,

5 j. to pay a reasonable sum to the Crime Victims
6 Compensation Board, created by Section 142.2 et seq.
7 of Title 21 of the Oklahoma Statutes, for the benefit
8 of crime victims,

9 k. to reimburse the court fund for amounts paid to court-
10 appointed attorneys for representing the defendant in
11 the case in which the person is being sentenced,

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

21 m. to be placed in a victims impact panel program, as
22 defined in subsection H of this section, or
23 victim/offender reconciliation program and payment of
24 a fee to the program of Seventy-five Dollars (\$75.00)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 hh. any other provision specifically ordered by the court.

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

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

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

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

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

1 to be deposited in the Court Clerk's Revolving Fund to cover
2 administrative costs and shall remit the remainder to the Oklahoma
3 State Bureau of Investigation to be deposited in the OSBI Revolving
4 Fund established by Section 150.19a of Title 74 of the Oklahoma
5 Statutes;

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

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

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

- 1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, and to pay a fee of
3 Seventy-five Dollars (\$75.00) as set by the governing
4 authority of the program and approved by the court, to
5 the program to offset the cost of participation by the
6 defendant, if in the opinion of the court the
7 defendant has the ability to pay such fee,
- 8 c. to both participate in the alcohol and drug substance
9 abuse course or treatment program, pursuant to
10 subparagraph a of this paragraph and attend a victims
11 impact panel program, pursuant to subparagraph b of
12 this paragraph,
- 13 d. to install, at the expense of the person, an ignition
14 interlock device approved by the Board of Tests for
15 Alcohol and Drug Influence, upon every motor vehicle
16 operated by such person and to require that a notation
17 of this restriction be affixed to the person's driver
18 license at the time of reinstatement of the license.
19 The restriction shall remain on the driver license for
20 such period as the court shall determine. The
21 restriction may be modified or removed by order of the
22 court and notice of the order shall be given to the
23 Department of Public Safety. Upon the expiration of
24 the period for the restriction, the Department of

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

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

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

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

4 9. In addition to the other sentencing powers of the court, in
5 the case of a person convicted of any crime related to domestic
6 abuse, as defined in Section 60.1 of this title, the court may
7 require the defendant to undergo the treatment or participate in the
8 counseling services necessary to bring about the cessation of
9 domestic abuse against the victim. The defendant may be required to
10 pay all or part of the cost of the treatment or counseling services;

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

24

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

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

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

22 14. In addition to the other sentencing powers of the court, in
23 the case of a sex offender who is required by law to register
24 pursuant to the Sex Offenders Registration Act, the court may

1 prohibit the person from accessing or using any Internet social
2 networking website that has the potential or likelihood of allowing
3 the sex offender to have contact with any child who is under the age
4 of eighteen (18) years;

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

13 16. In addition to the other sentencing powers of the court,
14 and pursuant to the terms and conditions of a written plea
15 agreement, the court may prohibit the defendant from entering,
16 visiting or residing within the judicial district in which the
17 defendant was convicted until after completion of his or her
18 sentence; provided, however, the court shall ensure that the
19 defendant has access to those services or programs for which the
20 defendant is required to participate as a condition of probation.
21 When seeking to enter the prohibited judicial district for personal
22 business not related to his or her criminal case, the defendant
23 shall be required to obtain approval by the court.

24

1 B. Notwithstanding any other provision of law, any person who
2 is found guilty of a violation of any provision of Section 761 or
3 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
4 guilty or nolo contendere for a violation of any provision of such
5 sections shall be ordered to participate in, prior to sentencing, an
6 alcohol and drug assessment and evaluation by an assessment agency
7 or assessment personnel certified by the Department of Mental Health
8 and Substance Abuse Services for the purpose of evaluating the
9 receptivity to treatment and prognosis of the person. The court
10 shall order the person to reimburse the agency or assessor for the
11 evaluation. The fee shall be the amount provided in subsection C of
12 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
13 shall be conducted at a certified assessment agency, the office of a
14 certified assessor or at another location as ordered by the court.
15 The agency or assessor shall, within seventy-two (72) hours from the
16 time the person is assessed, submit a written report to the court
17 for the purpose of assisting the court in its final sentencing
18 determination. No person, agency or facility operating an alcohol
19 and drug substance abuse evaluation program certified by the
20 Department of Mental Health and Substance Abuse Services shall
21 solicit or refer any person evaluated pursuant to this subsection
22 for any treatment program or alcohol and drug substance abuse
23 service in which such person, agency or facility has a vested
24 interest; however, this provision shall not be construed to prohibit

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

15 C. When sentencing a person convicted of a crime, the court
16 shall first consider a program of restitution for the victim, as
17 well as imposition of a fine or incarceration of the offender. The
18 provisions of paragraph 1 of subsection A of this section shall not
19 apply to defendants being sentenced upon their third or subsequent
20 to their third conviction of a felony or, beginning January 1, 1993,
21 to defendants being sentenced for their second or subsequent felony
22 conviction for violation of Section 11-902 of Title 47 of the
23 Oklahoma Statutes, except as otherwise provided in this subsection.
24 In the case of a person being sentenced for his or her second or

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

11 D. When sentencing a person convicted of a crime, the judge
12 shall consider any victim impact statements if submitted to the
13 jury, or the judge in the event a jury is waived.

14 E. Probation, for purposes of subsection A of this section, is
15 a procedure by which a defendant found guilty of a crime, whether
16 upon a verdict or plea of guilty or upon a plea of nolo contendere,
17 is released by the court subject to conditions imposed by the court
18 and subject to supervision by the Department of Corrections, a
19 private supervision provider or other person designated by the
20 court. Such supervision shall be initiated upon an order of
21 probation from the court, and shall not exceed two (2) years, unless
22 a petition alleging a violation of any condition of deferred
23 judgment or seeking revocation of the suspended sentence is filed
24 during the supervision, or as otherwise provided by law. In the

1 case of a person convicted of a sex offense, supervision shall begin
2 immediately upon release from incarceration or if parole is granted
3 and shall not be limited to two (2) years. Provided further, any
4 supervision provided for in this section may be extended for a
5 period not to exceed ~~the expiration of the maximum term or terms of~~
6 ~~the sentence~~ three (3) years upon a determination by the court or
7 the Division of Probation and Parole of the Department of
8 Corrections that the ~~best interests of the public and the release~~
9 ~~will be served by an extended period of~~ defendant has committed a
10 new crime while on supervision or willfully failed to pay
11 restitution owed.

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

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

22 2. Any offender eligible to participate in the Program pursuant
23 to this section shall be eligible to participate in a county
24 Program; provided, participation in county-funded Programs shall not

1 be limited to offenders who would otherwise be sentenced to
2 confinement with the Department of Corrections.

3 3. The Department shall establish criteria and specifications
4 for contracts with counties for such Programs. A county may apply
5 to the Department for a contract for a county-funded Program for a
6 specific period of time. The Department shall be responsible for
7 ensuring that any contracting county complies in full with
8 specifications and requirements of the contract. The contract shall
9 set appropriate compensation to the county for services to the
10 Department.

11 4. The Department is hereby authorized to provide technical
12 assistance to any county in establishing a Program, regardless of
13 whether the county enters into a contract pursuant to this
14 subsection. Technical assistance shall include appropriate
15 staffing, development of community resources, sponsorship,
16 supervision and any other requirements.

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

22 H. As used in this section:

23 1. "Ignition interlock device" means a device that, without
24 tampering or intervention by another person, would prevent the

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

4 2. "Electronically monitored home detention" means
5 incarceration of the defendant within a specified location or
6 locations with monitoring by means of a device approved by the
7 Department of Corrections that detects if the person leaves the
8 confines of any specified location; and

9 3. "Victims impact panel program" means a program conducted by
10 a corporation registered with the Secretary of State in Oklahoma for
11 the sole purpose of operating a victims impact panel program. The
12 program shall include live presentations from presenters who will
13 share personal stories with participants about how alcohol, drug
14 abuse, the operation of a motor vehicle while using an electronic
15 communication device or the illegal conduct of others has personally
16 impacted the lives of the presenters. A victims impact panel
17 program shall be attended by persons who have committed the offense
18 of driving, operating or being in actual physical control of a motor
19 vehicle while under the influence of alcohol or other intoxicating
20 substance, operating a motor vehicle while the ability of the person
21 to operate such vehicle was impaired due to the consumption of
22 alcohol or any other substance or operating a motor vehicle while
23 using an electronic device or by persons who have been convicted of
24 furnishing alcoholic beverage to persons under twenty-one (21) years

1 of age, as provided in Sections 6-101 and 6-120 of Title 37A of the
2 Oklahoma Statutes. Persons attending a victims impact panel program
3 shall be required to pay a fee of Seventy-five Dollars (\$75.00) to
4 the provider of the program. A certificate of completion shall be
5 issued to the person upon satisfying the attendance and fee
6 requirements of the victims impact panel program. The certificate
7 of completion shall contain the business identification number of
8 the program provider. A certified assessment agency, certified
9 assessor or provider of an alcohol and drug substance abuse course
10 shall be prohibited from providing a victims impact panel program
11 and shall further be prohibited from having any proprietary or
12 pecuniary interest in a victims impact panel program. The provider
13 of the victims impact panel program shall carry general liability
14 insurance and maintain an accurate accounting of all business
15 transactions and funds received in relation to the victims impact
16 panel program. Beginning October 1, 2020, and each October 1
17 thereafter, the provider of the victims impact panel program shall
18 provide to the District Attorneys Council the following:

- 19 a. proof of registration with the Oklahoma Secretary of
20 State,
- 21 b. proof of general liability insurance,
- 22 c. end-of-year financial statements prepared by a
23 certified public accountant,

24

- 1 d. a copy of federal income tax returns filed with the
2 Internal Revenue Service,
- 3 e. a registration fee of One Thousand Dollars
4 (\$1,000.00). The registration fee shall be deposited
5 in the District Attorneys Council Revolving Fund
6 created in Section 215.28 of Title 19 of the Oklahoma
7 Statutes, and
- 8 f. a statement certifying that the provider of the
9 victims impact panel program has complied with all of
10 the requirements set forth in this paragraph.

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
15 identification purposes in accordance with Section 150.27 of Title
16 74 of the Oklahoma Statutes and the rules promulgated by the
17 Oklahoma State Bureau of Investigation for the OSBI Combined DNA
18 Index System (CODIS) Database. Subject to the availability of
19 funds, any person convicted of a misdemeanor offense of assault and
20 battery, domestic abuse, stalking, possession of a controlled
21 substance prohibited under the Uniform Controlled Dangerous
22 Substances Act, outraging public decency, resisting arrest, escape
23 or attempting to escape, eluding a police officer, Peeping Tom,
24 pointing a firearm, threatening an act of violence, breaking and

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

24

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

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

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

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

13 SECTION 3. AMENDATORY 22 O.S. 2021, Section 991c, is
14 amended to read as follows:

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

24 1. Pay court costs;

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

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

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

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

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

13 7. Be supervised in the community for a period not to exceed
14 eighteen (18) months, unless a petition alleging violation of any
15 condition of deferred judgment is filed during the period of
16 supervision. As a condition of any supervision, the defendant shall
17 be required to pay a supervision fee of Forty Dollars (\$40.00) per
18 month. The supervision fee shall be waived in whole or part by the
19 supervisory agency when the accused is indigent. Any fees collected
20 by the district attorney pursuant to this paragraph shall be
21 deposited in the General Revenue Fund of the State Treasury. No
22 person shall be denied supervision based solely on the inability of
23 the person to pay a fee;

24

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

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

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

12 11. Any combination of the above provisions.

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

1 reduction to the fine, costs and costs of prosecution owed by the
2 offender. Any fees collected by the district attorney pursuant to
3 this paragraph shall be deposited in the General Revenue Fund of the
4 State Treasury.

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 of supervision 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 Seventy-five Dollars (\$75.00) as set by the
23 governing authority of the program and approved by the court to the
24 victims impact panel program to offset the cost of participation by

1 the defendant, if in the opinion of the court the defendant has the
2 ability to pay such fee.

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

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

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

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

22 4. No information concerning the confidential file shall be
23 revealed or released, except upon written order of a judge of the
24 district court or upon written request by the named defendant to the

1 court clerk for the purpose of updating the criminal history record
2 of the defendant with the Oklahoma State Bureau of Investigation;
3 and

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

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

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

17 F. Whenever a judgment has been deferred by the court according
18 to the provisions of this section, deferred judgment may not be
19 accelerated for any technical violation unless a petition setting
20 forth the grounds for such acceleration is filed by the district
21 attorney with the clerk of the sentencing court and competent
22 evidence justifying the acceleration of the judgment is presented to
23 the court at a hearing to be held for that purpose. The hearing
24 shall be held not more than twenty (20) days after the entry of the

1 plea of not guilty to the petition, unless waived by both the state
2 and the defendant. Any acceleration of a deferred sentence based on
3 a technical violation shall not exceed ninety (90) days for a first
4 acceleration or five (5) years for a second or subsequent
5 acceleration.

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

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

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

20 I. The deferred judgment procedure described in this section
21 shall not apply to defendants found guilty or who plead guilty or
22 nolo contendere to a sex offense required by law to register
23 pursuant to the Sex Offenders Registration Act.

24

1 J. All defendants who are supervised pursuant to this section
2 shall be subject to the sanction process as established in
3 subsection D of Section 991b of this title.

4 K. Notwithstanding the provisions of subsections F and G of
5 this section, a person who is being considered for an acceleration
6 of a deferred judgment for an offense where the penalty has
7 subsequently been lowered to a misdemeanor shall only be subject to
8 a judgment and sentence that would have been applicable had he or
9 she committed the offense after July 1, 2017.

10 SECTION 4. This act shall become effective November 1, 2023.

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