

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2259 _____
 _____ 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

Adopted: _____

Amendment submitted by: Danny Sterling

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. 2259

By: Sterling

7
8
9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to court financial obligations;
11 amending 19 O.S. 2021, Sections 514.4 and 514.5, as
12 amended by Sections 2 and 3, Chapter 350, O.S.L. 2022
13 (19 O.S. Supp. 2022, Sections 514.4 and 514.5), which
14 relate to the court cost compliance program and
15 warrants; updating effective and references to
16 warrants; directing court cost compliance liaisons to
17 inform individuals of cost hearings; modifying down
18 payment requirement; providing for the recall of
19 cost-related warrants under certain circumstances;
20 amending 22 O.S. 2021, Section 209, as amended by
21 Section 4, Chapter 350, O.S.L. 2022 (22 O.S. Supp.
22 2022, Section 209), which relates to citations to
23 appear; deleting circumstance that authorizes the
24 issuance of a certain citation; amending 22 O.S.
2021, Section 983, as amended by Section 5, Chapter
350, O.S.L. 2022 (22 O.S. Supp. 2022, Section 983),
which relates to the imposition of fines, costs,
fees, and assessments; authorizing courts to
determine whether a defendant has the ability to pay
court financial obligations; deleting requirement to
complete certain form; defining terms; removing list
of information required on certain form; providing
for hardship waivers under certain circumstances;
establishing list of factors to be considered by the
court when determining the ability to pay;
prohibiting the consideration of certain income or
assets; providing list of circumstances that makes
defendants eligible for relief; directing courts to

1 inform defendants of total court financial
2 obligations owed at time of sentencing; deleting
3 certain reporting procedures; requiring defendants to
4 appear after sentencing to provide certain
5 information to the court; providing consequences for
6 failure to report; establishing terms for payment of
7 court financial obligations; allowing defendants to
8 request cost hearings; requiring district and
9 municipal courts to provide cost hearings upon
10 request; providing procedures for requesting cost
11 hearings; providing for the issuance of certain
12 warrants for failing to appear at requested cost
13 hearing; authorizing courts to rely on testimony,
14 documents and other information when determining
15 ability to pay; allowing courts to order conditions
16 for payment; providing for the issuance of warrants
17 when defendant fails to comply with payment plan
18 terms; establishing guidelines to determine
19 delinquency; directing court clerks to periodically
20 review cases for delinquency; providing procedures to
21 address delinquent cases; providing clarification in
22 summons form; stating procedures for referrals to the
23 court cost compliance program; allowing municipal
24 courts to deliver summons in person; directing law
enforcement officers to issue Warning/Notices;
prohibiting law enforcement officers to take
defendants into custody on cost warrants; providing
procedures for informing department staff members
about issuing Warning/Notices; allowing for the
issuance of warrants electronically; establishing
procedures for court clerks to follow after
defendants report to their office; providing for the
issuance of certain warrant when defendants fail to
report; stating procedures for cost hearings or
willfulness hearings; making procedures concerning
the issuance of separate summonses inapplicable to
municipal courts not of record under certain
circumstances; providing guidelines for municipal
courts not of record; requiring previously issued
failure to appear warrants be treated as cost cite
and release warrants; making warrant fees previously
assessed to remain in effect unless waived;
prohibiting supporting documents from being publicly
viewable; deleting requirement that nonpayment of
fines be converted into jail sentence; authorizing
courts to conduct willfulness hearings; providing
procedures; allowing courts to evaluate certain

1 information; providing for jail sentences under
2 certain circumstances; requiring certain notices be
3 sent to Service Oklahoma; providing internal
4 statutory reference; making certain procedures, rules
5 and forms be available by the Administrative Office
6 of the Courts; amending 28 O.S. 2021, Section 101,
7 which relates to fees and costs in criminal cases;
8 increasing certain jail rates related to fees and
9 costs; modifying scope of certain definition; and
10 providing an effective date.

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

12 SECTION 1. AMENDATORY 19 O.S. 2021, Section 514.4, as
13 amended by Section 2, Chapter 350, O.S.L. 2022 (19 O.S. Supp. 2022,
14 Section 514.4), is amended to read as follows:

15 Section 514.4 A. 1. Effective ~~July~~ November 1, 2023, there is
16 hereby established a court cost compliance program. The purpose of
17 the program shall be to assist county sheriffs and the courts of
18 this state with the collection of fines, costs, fees, and
19 assessments associated with cases in which a warrant has been issued
20 and the case has been referred to the court cost compliance program
21 pursuant to Section 983 of Title 22 of the Oklahoma Statutes.

22 2. County sheriffs of any Oklahoma county may contract with a
23 statewide association of county sheriffs to administer contracts
24 with third parties who shall be known as court cost compliance
liaisons. The court cost compliance liaison may assist with
attempting to locate and notify persons of their outstanding
misdemeanor or ~~failure to pay~~ cost-related warrants, and recover and

1 maintain accounts relating to past due fines, fees, costs, and
2 assessments. County sheriffs contracting with a statewide
3 association of county sheriffs for the administration of third-party
4 contracts may assign their rights and duties regarding these third-
5 party contracts to the association.

6 B. A person may make payment directly to the court or court
7 cost compliance liaison as allowed by law, or the court cost
8 compliance liaison, as allowed, shall be authorized to accept
9 payment on misdemeanor or ~~failure-to-pay~~ cost-related warrants on
10 all cases referred, pursuant to Section 983 of Title 22 of the
11 Oklahoma Statutes, by various means including, but not limited to,
12 payment by phone, mail, or Internet, and in any payment form
13 including, but not limited to, personal, cashier's, traveler's,
14 certified, or guaranteed bank check, postal or commercial money
15 order, nationally recognized credit or a debit card, or other
16 generally accepted payment form. Any payment collected and received
17 by the court cost compliance liaison shall be paid to the court
18 clerk of the court that issued the warrant within fifteen (15) days
19 after receipt of the payment and proof of funds. Any payment
20 collected and received by the court, where the court has referred
21 the case to a court cost compliance liaison, shall be reported to
22 the court cost compliance liaison within four (4) days of receipt of
23 the payment. Any payment returned due to insufficient funds shall
24 have all insufficient fund charges incurred added to the outstanding

1 balance of the defendant. If a credit card payment taken by a court
2 cost compliance liaison is determined to be a fraudulent use of the
3 credit card by the payor and the payment is reversed by the credit
4 card company or payor's bank, the court clerk shall reverse the
5 transaction upon notification, return the payment to the court cost
6 compliance liaison, and the court cost compliance liaison shall
7 continue the collection process until paid. The court clerk shall
8 add any additional fees for the reversal of the transaction plus the
9 administration fees to the outstanding balance of the defendant.
10 Court cost compliance liaisons shall inform individuals of their
11 right to a cost hearing, as provided in Section 983 of Title 22 of
12 the Oklahoma Statutes.

13 C. As provided for by this section, a person may pay in lieu of
14 appearance before the court and such payment accepted by the court
15 shall constitute a finding of ~~guilty~~ guilt as though a plea of nolo
16 contendere had been entered by the defendant as allowed by law and
17 shall function as a written, dated, and signed plea form acceptable
18 to the court. Such payment shall serve as a written waiver of a
19 jury trial.

20 D. The court shall release or recall the outstanding
21 misdemeanor or ~~failure-to-pay~~ cost-related warrant only upon receipt
22 of all sums due pursuant to said warrant including the misdemeanor
23 or ~~failure-to-pay~~ cost-related warrant, scheduled fine or sum due,
24 all associated fees, costs and statutory penalty assessments, and

1 the administrative cost pursuant to Section 514.5 of this title, or
2 with a down payment of a minimum of One Hundred Dollars (\$100.00)
3 and a mutually agreeable monthly payment plan. A single down
4 payment shall be sufficient to recall all cost-related warrants
5 against a defendant pending in a single jurisdiction.

6 E. The provisions of any contract entered into by a county
7 sheriff shall be administered by a statewide association of county
8 sheriffs in Oklahoma.

9 F. The provisions of this section and Section 514.5 of this
10 title shall be applicable to:

11 1. Any misdemeanor or ~~failure-to-pay~~ cost-related warrant
12 issued pursuant to Section 983 of Title 22 of the Oklahoma Statutes
13 or relating to any proceeding pursuant to the State and Municipal
14 Traffic Bail Bond Procedure Act;

15 2. Any misdemeanor or ~~failure-to-pay~~ cost-related warrant
16 issued that allows a defendant to resolve the matter by payment in
17 lieu of a personal appearance in court; and

18 3. Any ~~failure-to-pay~~ cost-related warrant issued in a criminal
19 case.

20 SECTION 2. AMENDATORY 19 O.S. 2021, Section 514.5, as
21 amended by Section 3, Chapter 350, O.S.L. 2022 (19 O.S. Supp. 2022,
22 Section 514.5), is amended to read as follows:

23 Section 514.5 A. Misdemeanor or ~~failure-to-pay~~ cost-related
24 warrants or cases referred to the court cost compliance liaison

1 pursuant to Section 514.4 of this title shall include the addition
2 of an administrative cost of thirty percent (30%) of the outstanding
3 misdemeanor or ~~failure to pay~~ cost-related warrant, scheduled fine
4 or sum due, and all associated fees, costs and statutory penalty
5 assessments. This administrative cost shall not be waived or
6 reduced unless the amount owed is waived or reduced by the court.

7 B. The administrative cost reflected in subsection A of this
8 section shall be distributed to the court cost compliance liaison, a
9 portion of which may be used to compensate the statewide association
10 administering the contract.

11 C. The monies collected and disbursed shall be audited at least
12 once per year by a firm approved by the State Auditor and Inspector.

13 SECTION 3. AMENDATORY 22 O.S. 2021, Section 209, as
14 amended by Section 4, Chapter 350, O.S.L. 2022 (22 O.S. Supp. 2022,
15 Section 209), is amended to read as follows:

16 Section 209. A. A law enforcement officer who has arrested a
17 person on a misdemeanor charge or violation of an ordinance, without
18 a warrant, ~~or who has found a person to have an outstanding warrant~~
19 ~~for failure to appear for a cost hearing as provided in subsection C~~
20 ~~of Section 983 of this title,~~ may issue a citation to such person to
21 appear in court.

22 B. In issuing a citation hereunder the officer shall proceed as
23 follows:

24

1 1. The officer shall prepare a written citation to appear in
2 court, containing the name and address of the cited person and the
3 offense charged, and stating when the person shall appear in court.
4 The time specified in the citation to appear shall be at least five
5 (5) days after the issuance of the citation;

6 2. One copy of the citation to appear shall be delivered to the
7 person cited, and such person shall sign a duplicate written
8 citation which shall be retained by the officer;

9 3. The officer shall thereupon release the cited person from
10 any custody; and

11 4. As soon as practicable, the officer shall file one copy of
12 the citation with the court specified therein and shall deliver one
13 copy to the prosecuting attorney.

14 C. In any case in which the judicial officer finds sufficient
15 grounds for issuing a warrant, the judicial officer may issue a
16 summons commanding the defendant to appear in lieu of a warrant.

17 D. If a person summoned fails to appear in response to the
18 summons, a warrant for his or her arrest shall issue, and any person
19 who willfully fails to appear in response to a summons is guilty of
20 a misdemeanor; provided, however, any charges or warrant for failure
21 to appear shall be dismissed if the person can show the court that
22 the person was incarcerated or otherwise detained by law enforcement
23 at the time of the failure to appear.

24

1 SECTION 4. AMENDATORY 22 O.S. 2021, Section 983, as
2 amended by Section 5, Chapter 350, O.S.L. 2022 (22 O.S. Supp. 2022,
3 Section 983), is amended to read as follows:

4 Section 983. A. 1. Except in cases provided for in Section
5 983b of this title, when the judgment and sentence of a court,
6 either in whole or in part, imposes ~~finest, costs, fees, or~~
7 ~~assessments~~ court financial obligations upon a defendant, the court
8 at the time of sentencing ~~shall require the defendant to complete~~
9 ~~under oath a form promulgated by the Court of Criminal Appeals that~~
10 ~~provides current information regarding the financial ability of the~~
11 ~~defendant to pay~~ may immediately, or at any point thereafter until
12 the debt is either paid or waived, determine the ability of a
13 defendant to pay the court financial obligations. Courts may make
14 such evaluations and decisions at a cost hearing or upon written
15 motion or affidavit by the defendant. The ability of a defendant to
16 pay court financial obligations may not impact the sentence imposed.

17 2. ~~The information to be required on the form shall include,~~
18 ~~but not be limited to, the~~ When used in this section, unless the
19 context otherwise requires:

20 a. "court financial obligations" means all financial
21 obligations including fines, costs, fees, and
22 assessments, imposed by the court or required by law
23 to be paid, excluding restitution or payments to be
24 made other than to the court clerk,

1 b. "cost hearing" means a hearing wherein the court
2 determines ability of a defendant to pay court
3 financial obligations. Once a cost hearing date has
4 been set, all court financial obligations must be
5 suspended until the cost hearing has been held,

6 c. "willfulness hearing" means a hearing wherein the
7 court determines whether a defendant who has
8 previously been found to have the ability to pay court
9 financial obligations has willfully failed to pay the
10 debt,

11 d. "payment-in-full" means a court financial payment term
12 that requires the defendant to pay the full amount of
13 court financial obligations owed within ninety (90)
14 days of a plea or sentence in the district court or
15 within thirty (30) days of a plea or sentence in the
16 municipal court,

17 e. "payment-in-installments" means payment terms for
18 court financial obligations that require the defendant
19 to make monthly payments in any amount until the
20 amount owed is fully paid,

21 f. "cost arrest warrant" means a warrant authorizing
22 arrest that is issued by a court under the following
23 circumstances:

1 (1) failure to comply with the terms of a court
2 financial obligations payment plan,

3 (2) failure to appear at a cost hearing or
4 willfulness hearing; or

5 (3) failure to appear at the office of the court
6 clerk of the county in which the court financial
7 obligation is owed within ten (10) days of being
8 cited by a law enforcement officer to appear,

9 g. "cost cite and release warrant" means a warrant issued
10 by a court authorizing citation and release under the
11 following circumstances:

12 (1) failure to comply with terms of a court financial
13 obligations payment plan, or

14 (2) failure to appear at a cost hearing or
15 willfulness hearing.

16 3. Defendants with court financial obligations who are found by
17 the court to be unable to pay, in whole or in part, shall be
18 relieved of the debt by the court through a hardship waiver of the
19 court financial obligations, either in whole or in part.

20 4. In determining the ability of a defendant to pay, the court
21 shall consider the following factors:

22 a. individual and household income ~~and,~~

23 b. household living expenses ~~of the defendant, excluding,~~

24 c. number of dependents,

- 1 d. assets,
2 e. child support and obligations,
3 f. physical or mental health conditions that diminish the
4 ability to generate income or manage resources,
5 g. additional case-related expenses to be paid by the
6 defendant,
7 h. any other factors relevant to the ability of the
8 defendant to pay.

9 5. In determining the ability of a defendant to pay, the
10 following shall not be considered as income or assets:

- 11 a. child support income,
12 b. any monies received from a federal ~~or~~, state, or
13 tribal government need-based or disability assistance
14 program, ~~the number of dependents, a listing of~~
15 assets, ~~excluding or~~
16 c. assets exempt from bankruptcy, ~~child support~~
17 obligations, ~~health, mental or behavioral health~~
18 conditions that diminish the ability of the defendant
19 to pay restitution, and ~~additional court-related~~
20 expenses to be paid by the defendant.

21 ~~3. For purposes of this section, fines, costs, fees, and~~
22 ~~assessments shall include all financial obligations imposed by the~~
23 ~~court or required by law to be paid, excluding restitution or~~
24

1 ~~payments to be made other than to the court clerk, and shall be~~
2 ~~referred to as financial obligations.~~

3 6. Defendants in the following circumstances are presumed
4 unable to pay and eligible for relief under paragraph 3 of this
5 subsection:

6 a. designated as totally disabled by any federal, state,
7 or tribal disability services program including, but
8 not limited to, military disability, Social Security
9 Disability income, Supplemental Security income, or
10 tribal disability benefits,

11 b. receives support from the Oklahoma Temporary
12 Assistance for Needy Families program, Supplemental
13 Nutrition Assistance Program, the Women, Infants, and
14 Children nutrition education and supplemental food
15 program, or any other federal need-based financial
16 support,

17 c. receives subsidized housing support through the
18 Housing Choice Voucher program, the Department of
19 Housing and Urban Development, or other state, local,
20 or federal government housing subsidy program,

21 d. has been homeless, as defined in Section 2900.1 of
22 Title 74 of the Oklahoma Statutes, for at least six
23 (6) of the previous twelve (12) months, or

24

1 e. total income is below one hundred fifty percent (150%)
2 of the federal poverty level.

3 B. 1. ~~The~~ At the time of a plea or sentencing, the court shall
4 ~~order~~ inform the defendant ~~to appear immediately after sentencing at~~
5 ~~the office of the court clerk who shall inform the defendant of the~~
6 ~~total amount of all financial obligations that have been ordered by~~
7 ~~the court. If the defendant states to the court clerk that he or~~
8 ~~she is~~ of the total court financial obligations owed, the
9 consequences of failing to pay the court financial obligations, and
10 that the defendant may request a cost hearing if at any time he or
11 she is unable to pay the court financial obligations ~~immediately,~~
12 ~~the court clerk, based on the verified information provided by the~~
13 ~~defendant, shall establish, subject to approval of,~~ at which point
14 ~~the court, a monthly installment plan that will cause the financial~~
15 ~~obligations to be satisfied within no more than seventy-two (72)~~
16 ~~months, unless extended by~~ may waive all or part of the debt owed.
17 If the total court financial obligations owed is not available at
18 the time of the plea or sentencing, the court shall inform the
19 defendant that court financial obligations have been incurred and
20 the time and location where the defendant may learn of the total
21 amount owed.

22 2. The court ~~clerk~~ shall ~~advise the defendant orally and by~~
23 ~~delivery of a form promulgated by the Court of Criminal Appeals,~~
24 ~~that:~~

- 1 a. ~~it is the obligation of the defendant to keep order~~
2 ~~the defendant to appear immediately after sentencing~~
3 ~~at the office of the court clerk informed of the to~~
4 ~~provide current~~ contact information ~~of the defendant~~
5 ~~until the financial obligations have been paid. Such~~
6 ~~information shall include the current mailing and~~
7 ~~physical addresses of the defendant, telephone or~~
8 ~~cellular phone number of the defendant, and the email~~
9 ~~address where the defendant may receive notice from~~
10 ~~the court,~~
- 11 b. ~~if the defendant is unable to pay the financial~~
12 ~~obligations ordered by the court immediately or in the~~
13 ~~installments recommended by the court clerk, the~~
14 ~~defendant may request a cost hearing for the court to~~
15 ~~determine the ability of the defendant to pay the~~
16 ~~amount due and to request modification of the~~
17 ~~installment plan, a reduction in the amount owed, or~~
18 ~~waiver of payment of the amount owed, and~~
- 19 c. ~~upon any subsequent change in circumstances affecting~~
20 ~~the ability of the defendant to pay, the defendant may~~
21 ~~contact the court clerk and request additional cost~~
22 ~~hearings before the court and to either select payment~~
23 ~~terms or request a cost hearing. Failure to~~
24 ~~immediately report to the court clerk shall result in~~

1 the full amount of court financial obligations to be
2 due ninety (90) days from the date of the plea or
3 sentencing in district courts or thirty (30) days from
4 the date of the plea or sentencing in municipal
5 courts.

6 3. ~~An order shall be filed in the case with the approval or~~
7 ~~disapproval by the court of the payment plan. If the court does not~~
8 ~~approve the payment plan recommended by the court clerk, the court~~
9 ~~shall enter its order establishing the payment plan. The Payment of~~
10 court financial obligations may be made under the following terms:

11 a. payment-in-full, or

12 b. payment-in-installments.

13 Upon any change in circumstances affecting the ability of a
14 defendant to pay, a defendant shall be notified by certified mail or
15 personal service of the order entered by the court and shall be
16 given the opportunity for may request a cost hearing before the
17 court by contacting the court clerk.

18 4. The district court for each county and all municipal courts
19 shall ~~set a regular time and courtroom for~~ provide a cost hearings
20 hearing for any defendant who requests one, either by establishing a
21 dedicated docket or on an as-requested basis. Defendants who
22 request a cost hearing will receive a summons by personal service or
23 mail to appear in court as required by subsection F of this section.
24 If a defendant fails to appear for a requested cost hearing, the

1 court may issue either a cost cite and release warrant or a cost
2 arrest warrant. No fees shall be assessed or collected from the
3 defendant as a consequence of either requesting a cost hearing or
4 the issuing of a cost cite and release warrant.

5 C. ~~If the defendant requests a cost hearing, the court clerk~~
6 ~~shall set the hearing no later than sixty (60) days after~~
7 ~~sentencing.~~ In determining the ability of the defendant to pay
8 court-related obligations, the court shall may rely on ~~the verified~~
9 testimony, relevant documents, and any information submitted by the
10 ~~defendant on the form~~ provided by the defendant using a cost
11 hearing affidavit promulgated by the Court of Criminal Appeals ~~and~~
12 ~~any updates to the information.~~ In addition, the court may make
13 inquiry of the defendant and consider any other evidence or
14 testimony concerning the ability of the defendant to pay.

15 D. 1. If at the initial cost hearing or any subsequent cost
16 hearing, the court determines that the defendant is ~~unable~~ able to
17 immediately pay some or all of the court financial obligations ~~or~~
18 ~~the required installments, the court may reduce the amount of the~~
19 ~~installments, extend the payment plan beyond seventy-two (72)~~
20 ~~months, or waive payment of all or part of the amount owed. The,~~
21 the court may include a order any of the following conditions for
22 payment:

- 23 a. payment in full,
24 b. payment in installments,

1 c. temporary suspension of payment for a fixed period of
2 time,

3 d. financial incentive ~~for accelerated payment.~~

4 ~~Additionally, the court may order~~ under a set of
5 conditions determined by the court, or

6 e. community service in lieu of payment. ~~The; provided,~~
7 the defendant shall receive credit for no less than
8 two times the amount of the minimum wage specified
9 pursuant to state law for each hour of community
10 service.

11 2. ~~If at any time due to a change in conditions the~~ Any
12 defendant ~~is unable to pay the financial obligations ordered by the~~
13 ~~court or any installment, the defendant~~ who fails to comply with the
14 terms of the payment plan ordered by the court shall be considered
15 delinquent and the court ~~may request an additional cost hearing~~
16 issue either a cost cite and release warrant or a cost arrest
17 warrant.

18 E. If the court determines that a waiver of any of the
19 financial obligations is warranted, the court shall equally apply
20 the same percentage reduction to all fines, costs, fees, and
21 assessments, excluding restitution.

22 F. 1. ~~If a~~ A defendant is considered delinquent in the payment
23 of court financial obligations ~~or an installment by more than sixty~~
24 ~~(60) days, the~~ under the following circumstances:

- 1 a. when the total amount due has not been paid by the due
2 date, or
3 b. when no installment payments have been received in the
4 most recent ninety (90) day period.

5 2. The court clerk shall ~~notify the court which shall, within~~
6 ~~ten (10) days thereafter, set a cost hearing for~~ periodically review
7 cases for delinquency at least once every six (6) months and, upon
8 identifying a delinquent defendant, notify the court which shall,
9 within ten (10) days thereafter, set a cost hearing for the court to
10 determine if the defendant is able to pay. The cost hearing shall
11 be set on a date that will allow the court clerk to issue a within
12 forty-five (45) days of the issuance of the summons. The hearing
13 shall be set on a date that shall allow the court clerk to issue a
14 summons fourteen (14) days prior to the cost hearing. Defendants
15 shall incur no additional fees associated with the issuance of the
16 summons.

17 ~~2.~~ 3. No less than fourteen (14) days prior to the cost
18 hearing, the court clerk shall issue one summons to the defendant to
19 be served by United States mail to the mailing address of the
20 defendant on file in the case, substantially as follows:

21 SUMMONS

22 You are ORDERED to appear for a ~~cost hearing~~ COST HEARING at a
23 specified time, place, and date to determine if you are financially
24

1 able ~~but willfully refuse or neglect~~ to pay the fines, costs, fees,
2 or assessments or an installment due in Case No. _____.

3 ~~You must be present at the hearing.~~ YOU MUST BE PRESENT AT THE
4 HEARING.

5 At any time before the date of the cost hearing, you may contact the
6 court clerk and pay the ~~finest, costs, fees, or assessments~~ amount
7 due or any installment due request in writing or in person prior to
8 the court date, that the hearing be rescheduled for no later than
9 thirty (30) days after the scheduled time.

10 THIS IS NOT AN ARREST WARRANT. However, if you fail to appear for
11 the cost hearing or ~~to make the payment~~ pay the amount due, the
12 court will issue a WARRANT for ~~"FAILURE TO APPEAR COST HEARING"~~ and
13 may refer the case to a court cost compliance liaison which will
14 cause an additional thirty percent (30%) administrative fee to be
15 added to the amount owed, and may include additional costs imposed
16 by the court.

17 ~~3. If the defendant fails to appear at~~

18 ~~4. Referrals to the court cost hearing or pay the amount due~~
19 ~~the court shall issue a warrant for FAILURE TO APPEAR COST HEARING~~
20 ~~and refer the case to the court cost compliance program as provided~~
21 ~~in subsection K of this section shall be made as follows:~~

22 a. courts shall refer a case to the court cost compliance
23 program upon the issuance of a cost arrest warrant,

24

1 **b.** courts may refer a case to the court cost compliance
2 program upon the issuance of a cost cite and release
3 warrant, or

4 **c.** courts may refer a case to the court cost compliance
5 program without the issuance of a warrant; provided,
6 the defendant is delinquent and has had sufficient
7 notice and opportunity to have a cost hearing.

8 ~~4.~~ 5. Municipal courts, in lieu of mailing the summons provided
9 for in this subsection, may give the ~~defendant personal notice~~
10 summons to the defendant in person at the time of sentencing or
11 subsequent appearance of a specific date, time, and place, not less
12 than sixty (60) days nor more than one hundred twenty (120) days
13 from the date of sentencing to appear for a cost hearing if the
14 ~~finances, costs, fees, and assessments~~ court financial obligations
15 remain unpaid.

16 **G. 1.** If a defendant is found by a law enforcement officer to
17 have an outstanding cost cite and release warrant ~~for FAILURE TO~~
18 ~~APPEAR COST HEARING~~, the law enforcement officer shall ~~release the~~
19 ~~defendant and issue a citation to appear pursuant to Section 209 of~~
20 ~~this title~~ Warning/Notice ordering the defendant to report within
21 ten (10) days of release from detention on the warrant to the court
22 clerk of the court in which the court financial obligations are
23 owed. The law enforcement officer shall not take the defendant into
24 custody at this time, and no other law enforcement officer who

1 encounters the defendant during this ten-day period may take the
2 defendant into custody on the warrant. The law enforcement officer
3 shall inform the appropriate department staff member within the
4 agency of the law enforcement officer of the Warning/Notice within
5 five (5) days. The department staff member shall then promptly
6 notify the law enforcement agency in the jurisdiction that issued
7 the warrant electronically. This electronic communication shall be
8 treated as a duplicate original for all purposes in any subsequent
9 hearings before the appropriate court.

10 2. If the defendant fails to appear at the time and place cited
11 by the law enforcement officer, the court may issue a summons or
12 warrant as provided in Section 209 of this title. The provisions of
13 this subsection shall not apply to a municipal court reports to the
14 office of the court clerk within the ten (10) days, the court clerk
15 shall:

- 16 a. inform the court of the Warning/Notice to the
17 defendant and contact,
- 18 b. schedule a cost hearing pursuant to applicable local
19 court rule, and
- 20 c. submit the warrant to the court for recall pending the
21 cost hearing.

22 3. If the defendant fails to report to the office of the court
23 clerk within the ten (10) days, the court may issue a cost arrest
24 warrant for the arrest of the defendant.

1 4. At the hearing following the arrest for failure to appear,
2 the court shall conduct a cost hearing or willfulness hearing, as
3 the court deems appropriate, within seventy-two (72) hours unless:

4 a. the defendant pays One Hundred Dollars (\$100.00)
5 toward the court financial obligation, is released
6 from custody, and the new cost hearing date is
7 provided, or

8 b. the court releases the defendant on the defendant's
9 own recognizance and a new cost hearing date is
10 provided.

11 5. The provisions for issuing a separate summons described in
12 subsection F of this section shall not apply to a municipal court
13 not of record if the municipal court has previously provided actual
14 personal ~~service~~ notice to the defendant of an opportunity for a
15 cost hearing. If such notice was given and the defendant fails to
16 appear, the municipal court not of record may issue either a cost
17 cite and release warrant or a cost arrest warrant.

18 6. All warrants for failure to appear at a cost hearing or for
19 failure to pay court financial obligations which have been issued
20 prior to the effective date of this act and which remain unserved,
21 shall be treated as cost cite and release warrants. All warrant
22 fees assessed for warrants for failure to appear at a cost hearing
23 or for failure to pay court financial obligations issued prior to
24

1 the effective date of this act shall remain in effect unless waived
2 by the court.

3 H. ~~In determining whether the defendant is able to pay~~
4 ~~delinquent~~ Supporting documents in a motion or affidavit for relief
5 from court financial obligations obligation debt or any installments
6 ~~due, the court shall consider the criteria provided in subsection C~~
7 ~~of this section~~ documents taken into evidence during a cost hearing
8 or willfulness hearing shall not be publicly viewable on a court-
9 controlled website.

10 I. ~~Any 1. After a cost hearing where a defendant has been~~
11 ~~found guilty of an offense in any court of this state may be~~
12 ~~imprisoned for nonpayment of his or her~~ able to pay a court
13 ~~financial obligations when the~~ obligation, either in whole or in
14 part, and then becomes delinquent in that payment, a court finds
15 ~~after notice and~~ may conduct a willfulness hearing that the
16 ~~defendant is financially able but willfully refuses or neglects to~~
17 ~~pay~~ at any time beginning immediately after a cost hearing has been
18 held and a decision rendered on the court financial obligations
19 ~~owed. A sentence to pay a fine, cost, fee, or assessment may be~~
20 ~~converted into a jail sentence only after a hearing and a judicial~~
21 ~~determination, memorialized of record, that the defendant is able to~~
22 ~~satisfy the fine, cost, fee, or assessment by payment, but refuses~~
23 ~~or neglects so to do~~ obligation at issue, and after sufficient
24 notice to the defendant of the hearing. Findings of a defendant's

1 prior ability to pay may be considered as evidence of ability to pay
2 or willfulness at the hearing. This provision shall not be
3 interpreted to prohibit the ability of the court to hold subsequent
4 cost hearings on the same court financial obligations.

5 2. At a willfulness hearing, the court shall evaluate the
6 following:

7 a. whether a cost hearing has been held previously where
8 evidence relating to ability to pay was presented and
9 the court found the defendant was able to pay the
10 court financial obligations, either in whole or in
11 part,

12 b. whether there is any new evidence of ability to pay
13 not previously considered or a change in circumstances
14 since the cost hearing,

15 c. whether the defendant was afforded sufficient time and
16 opportunity to fulfill the obligation to pay the court
17 financial obligations,

18 d. whether the defendant made any efforts to satisfy the
19 court financial obligations, and

20 e. whether there are any other relevant facts or
21 circumstances.

22 3. After a finding of willful failure to pay court financial
23 obligations, the court may impose a jail sentence pursuant to
24

1 Section 101 of Title 28 of the Oklahoma Statutes only under the
2 following circumstances:

3 a. the hearing is conducted on the record pursuant to the
4 rules promulgated by the Court of Criminal Appeals,
5 and

6 b. the defendant is represented by counsel or expressly
7 waives his or her right to counsel.

8 4. If a jail sentence is imposed, the court may grant credit
9 for any time already served. At any time after incarceration, the
10 jail sentence may be satisfied upon payment in full of the
11 outstanding balance with credit for any time already served.

12 J. In addition, the district court or municipal court, within
13 one hundred twenty (120) days from the date upon which the person
14 was originally ordered to make payment, and if the court finds and
15 memorializes into the record that the defendant is financially able
16 but willfully refuses to ~~or neglects to~~ pay the ~~finest, costs, fees,~~
17 ~~or assessments~~ court financial obligations, or an installment due,
18 may send notice of nonpayment of any court-ordered fine and costs
19 for a moving traffic violation to ~~the Department of Public Safety~~
20 Service Oklahoma with a recommendation of suspension of driving
21 privileges of the defendant until the total amount of any fine and
22 costs has been paid. Upon receipt of payment of the total amount of
23 the ~~fine and costs~~ court financial obligations for the moving
24 traffic violation, the court shall send notice thereof to ~~the~~

1 ~~Department~~ Service Oklahoma, if a nonpayment notice was sent as
2 provided for in this subsection. Notices sent to ~~the Department~~
3 Service Oklahoma shall be on forms or by a method approved by ~~the~~
4 ~~Department~~ Service Oklahoma.

5 K. All counties of the state shall fully utilize and
6 participate in the court cost compliance program. Cases shall be
7 referred to the court cost compliance program ~~not less than thirty~~
8 ~~(30) days nor~~ no more than sixty (60) days after the ~~defendant fails~~
9 ~~to appear for a cost hearing~~ court has ordered the referral pursuant
10 to paragraph 4 of subsection F of this section, unless the defendant
11 pays the amount owed on the court financial obligation, or an
12 installment due. When the court refers the case, the updated
13 contact information on file shall be forwarded to a court cost
14 compliance liaison for collection purposes.

15 L. The Court of Criminal Appeals shall implement procedures,
16 ~~forms,~~ and rules consistent with the provisions of this section ~~for~~
17 ~~methods of establishing payment plans of fines, costs, fees, and~~
18 ~~assessments by indigents, which.~~ Such procedures, ~~forms,~~ and rules
19 ~~shall be distributed to all district courts and municipal courts,~~
20 and any supplemental forms may be made available by the
21 Administrative Office of the Courts.

22 SECTION 5. AMENDATORY 28 O.S. 2021, Section 101, is
23 amended to read as follows:

24

1 Section 101. The fees herein provided for the clerk of the
2 district court and the sheriff, as provided in this act, and all
3 costs in the prosecution of all criminal actions shall, in case of
4 conviction of the defendant, be adjudged a part of the penalty of
5 the offense of which the defendant may be convicted, whether the
6 punishment for such offense be either imprisonment, or fine, or
7 both, and fixed either by the verdict of the jury, or judgment of
8 the court, trying the case, and if the defendant shall refuse to pay
9 the ~~fine, fees or costs~~ court financial obligations, the payment of
10 such fees and costs, in addition to the payment of the fine
11 assessed, shall be enforced by imprisonment until the same shall be
12 satisfied at a rate of ~~Twenty-five Dollars (\$25.00)~~ up to One
13 Hundred Dollars (\$100.00) per day of such fees and costs, or fine,
14 or both, or shall be satisfied at a rate of ~~Fifty Dollars (\$50.00)~~
15 up to Two Hundred Dollars (\$200.00) per day of such fees and costs,
16 or fine, or both, should the defendant perform useful labor. If the
17 defendant is without means to pay the fine, fees or costs, the total
18 amount owed ~~shall~~ may be entered ~~upon the~~ as a judgment ~~docket~~ and
19 thereupon the same remedies shall be available for the enforcement
20 of said judgment as are available to any other judgment creditor.

21 The term "all costs in the prosecution of all criminal actions",
22 as used in this section, shall include ~~only the following taxable~~
23 ~~items:~~

24 1. ~~Court clerk's costs and fees authorized by statute;~~

1 ~~2. Sheriff's fees;~~

2 ~~3. Fees and mileage of witnesses; and~~

3 ~~4. Cost deposits in the appellate court, whether on appeal, in~~
4 ~~an original proceeding or in any postconviction challenge, if waived~~
5 ~~on the basis of a pauper's affidavit~~ all court financial obligations
6 as defined in Section 983 of Title 22 of the Oklahoma Statutes.

7 SECTION 6. This act shall become effective November 1, 2023.

8
9 59-1-7555 GRS 02/22/23