HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3925 By: Kannady of the House

and

Howard of the Senate

COMMITTEE SUBSTITUTE

An Act relating to court costs; amending 19 O.S. 2021, Sections 514.4 and 514.5, which relate to warrants and administrative costs on warrants; establishing a court cost compliance program; stating purpose of program; providing for court cost compliance liaisons; stating duties of court cost compliance liaisons; allowing court cost compliance liaisons to accept payments; requiring courts to report the collection and receipt of payments to court cost compliance liaisons under certain circumstances; adding insufficient fund charges to outstanding balances; providing for the recall of outstanding warrants; replacing third-party contractor designation with court cost compliance liaison; amending 22 O.S. 2021, Section 209, which relates to citations to appear in court; expanding circumstances that authorize the issuance of citations; providing gender-neutral language; amending 22 O.S. 2021, Section 983, which relates to the payment of fines, costs, fees, and assessments; directing courts to inform defendants of amounts due for fines, costs, fees, and assessments; requiring courts to make certain considerations when determining if defendants can pay; directing courts to rely on verified information submitted by defendants; authorizing courts to make inquiries and consider other evidence or testimony; providing list

of information included on certain form; allowing defendants to pay in installments; authorizing the use of incentives for early payments; directing courts to provide certain instructions to defendants; prohibiting the arrest or incarceration of defendants for nonpayment of fines, costs, fees, and assessments; providing an exception; deleting hearing and judicial determination requirement when converting certain sentences to a jail sentence; deleting notice requirement to the Department of Public Safety; providing hearing and notice procedures when defendants are delinquent in paying fines, costs, fees, and assessments; providing for the issuance of warrants under certain circumstances; directing law enforcement officers to release and issue citations to defendants under certain circumstances; requiring courts to consider certain information when determining ability to pay; authorizing courts to modify, reduce, or waive payments or payment plans; allowing defendants to receive credit for community service hours; authorizing courts to order remedies upon certain findings; directing all counties to utilize and participate in the court cost compliance program; requiring the referral of cases to the program after defendants fail to appear at cost hearings; requiring updated contact information to be forwarded to court cost compliance liaisons; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 2021, Section 514.4, is amended to read as follows:

Section 514.4 A. ~~Notwithstanding any other section of law, the county~~ 1. Effective November 1, 2022, there is hereby established a court cost compliance program. The purpose of the program shall be

to assist county sheriffs and the courts of this state with the collection of fines, costs, fees, and assessments associated with cases in which a warrant has been issued and the case has been referred to the court cost compliance program pursuant to Section 983 of Title 22 of the Oklahoma Statutes.

2. County sheriffs of any Oklahoma county may contract with a statewide association of county sheriffs to administer contracts 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~~ warrants. County sheriffs contracting with a statewide association of county sheriffs for the administration of third-party contracts may assign their rights and duties regarding these third-party contracts to the association.

B. A ~~person~~ defendant may make payment directly to the court, as allowed by law, or the ~~contractor~~ court cost compliance liaison shall be authorized to accept payment on ~~misdemeanor or failure-to-pay warrants~~ all cases referred, pursuant to Section 983 of Title 22 of the Oklahoma Statutes, by various means including, but not limited to, payment by phone, mail, or Internet, and in any payment form including, but not limited to, personal, cashier's, traveler's, certified, or guaranteed bank check, postal or commercial money order, nationally recognized credit or a debit card, or other generally accepted payment form. Any payment collected and received

by the ~~contractor~~ court cost compliance liaison shall be paid to the court clerk of the county that issued the warrant within fifteen (15) days ~~to the court clerk of the entity that issued the outstanding misdemeanor or failure-to-pay warrant~~ after receipt of the payment and proof of funds. Any payment collected and received by the court, where the court has referred the case to a court cost compliance liaison, shall be reported to the court cost compliance liaison within four (4) days of receipt of the payment. Any payment returned due to insufficient funds shall have all insufficient fund charges incurred added to the outstanding balance of the defendant.

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

D. The court shall release or recall the outstanding ~~misdemeanor or failure-to-pay~~ warrant only upon receipt of all sums due pursuant to said warrant ~~including the misdemeanor or failure-to-pay warrant~~, scheduled fine or sum due, all associated fees, costs and statutory penalty assessments, and the administrative cost pursuant to Section 514.5 of this title, or with a down payment of

One Hundred Dollars ($100.00) and a mutually agreeable monthly payment plan.

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

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

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

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

~~3. Any failure-to-pay warrant issued in a criminal case~~.

SECTION 2. AMENDATORY 19 O.S. 2021, Section 514.5, is amended to read as follows:

Section 514.5 A. Misdemeanor ~~or failure-to-pay~~ warrants or cases referred to the ~~third-party contractor~~ court cost compliance liaison pursuant to Section 514.4 of this title shall include the addition of an administrative cost of thirty percent (30%) of the outstanding misdemeanor ~~or failure-to-pay~~ warrant, scheduled fine or sum due, and all associated fees, costs and statutory penalty assessments. This administrative cost shall not be waived or

reduced ~~except by order of~~ unless the amount owed is waived or reduced by the court.

B. The administrative cost reflected in subsection A of this section~~, when collected,~~ shall be distributed to the ~~third-party contractor~~ court cost compliance liaison, a portion of which may be used to compensate the statewide association ~~administrating~~ of county sheriffs for administering the contract.

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

SECTION 3. AMENDATORY 22 O.S. 2021, Section 209, is amended to read as follows:

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

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

1. The officer shall prepare a written citation to appear in court, containing the name and address of the cited person and the offense charged, and stating when the person shall appear in court. ~~Unless the person requests an earlier date, the~~ The time specified

in the citation to appear shall be at least five (5) days after the issuance of the citation~~.~~;

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

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

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

C. In any case in which the judicial officer finds sufficient grounds for issuing a warrant, ~~he or she~~ the judicial officer may issue a summons commanding the defendant to appear in lieu of a warrant.

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

SECTION 4. AMENDATORY 22 O.S. 2021, Section 983, is amended to read as follows:

Section 983. A. At the time of sentencing, the court shall inform the defendant of the total amount of all statutory fines, costs, fees, and assessments, if any, to be paid. For purposes of this section, fines, costs, fees, and assessments shall include all financial obligations imposed by the court or required by law to be paid as provided in the current Uniform Oklahoma Fee Schedule for criminal cases issued by the Administrative Office of the Courts.

B. The court shall consider the ability of the defendant to pay when imposing fines, costs, fees, and assessments. In determining the ability of the defendant to pay, the court shall rely on verified information submitted by the defendant on a form provided by the Court of Criminal Appeals. In addition, the court may make inquiry of the defendant to determine the credibility of the verified information of the defendant, and the court may consider any other evidence or testimony concerning the ability of the defendant to pay.

C. The information required on the form provided by the Court of Criminal Appeals shall include, but not be limited to:

1. The current total monthly income of the defendant including wages and excluding any child support or Supplemental Security Income (SSI) Disability payments;

2. The number of family members of the defendant and whether the family members are dependent on the defendant for support;

3. The monthly housing costs of the defendant and dependent family members;

4. The value and availability of any existing assets owned by the defendant, excluding assets exempt from bankruptcy;

5. Whether and to what extent the defendant has outstanding debts and liabilities, including child support obligations;

6. The health of the defendant including mental and behavioral health issues that diminish the ability of the defendant to pay; and

7. Whether the defendant is receiving public assistance of any kind.

D. After a judicial determination that the defendant is unable to immediately pay the fine, cost, fee, or assessment but is able to pay in installments, the court may order the fine, cost, fee, or assessment to be paid in installments and shall set the amount and date for each installment payment. A payment plan may include an incentive for the defendant to pay the total amount owed prior to the date of the final payment.

E. At the time of sentencing, the court shall advise the defendant that:

1. It is the obligation of the defendant to keep the court clerk informed of the contact information of the defendant until the fine, cost, fee, or assessment has been paid. Such information shall include the current mailing and physical addresses of the defendant, telephone or cellular phone number of the defendant, and

the email address where the defendant may receive notice from the court;

2. If the defendant is unable to pay the fine, cost, fee, or assessment ordered by the court, or any installment, the defendant shall request a hearing to present evidence regarding ability to pay the amount due and to request the imposition or modification of a payment plan, a reduction in the amount owed, or waiver of payment of the amount owed. The defendant may request multiple hearings; and

3. If the defendant voluntarily appears at the courthouse to make a payment or to present evidence regarding ability to pay, the defendant will not be arrested for failure to pay or arrested on a failure-to-appear warrant in the case.

F. Any defendant found guilty of an offense in any court of this state ~~may~~ shall not be ~~imprisoned~~ arrested or incarcerated for nonpayment of the fine, cost, fee, or assessment ~~when~~ unless the ~~trial~~ court finds after notice and hearing that the defendant is financially able but willfully refuses or neglects to pay the fine, cost, fee, or assessment. ~~A sentence to pay a fine, cost, fee, or assessment may be converted into a jail sentence only after a hearing and a judicial determination, memorialized of record, that the defendant is able to satisfy the fine, cost, fee, or assessment by payment, but refuses or neglects so to do.~~

~~B. After a judicial determination that the defendant is able to pay the fine, cost, fee, or assessment in installments, the court may order the fine, cost, fee, or assessment to be paid in installments and shall set the amount and date for each installment.~~

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

~~D.~~ G. 1. If a defendant is delinquent in the payment of a fine, fee, cost, or assessment, or an installment due, for sixty (60) days, the court shall, within ten (10) days thereafter, set a hearing to determine if the defendant is able to pay. No less than fourteen (14) days prior to the hearing, the court clerk shall issue one summons to the defendant to be served by United States mail to the mailing address of the defendant on file in the case stating that:

a. the court shall conduct a hearing at a specified time, place, and date to determine if the defendant is financially able but willfully refuses or neglects to pay the fine, cost, fee, or assessment or an installment due,

b. the defendant must be present at the hearing to present evidence or testimony of his or her inability to pay the fine, cost, fee, or assessment or an installment due,

c. at any time before the date of the hearing, the defendant may contact the court clerk to pay the fine, cost, fee, or assessment or any installment due. If the defendant fails to appear for the hearing or to make the payment, the court shall refer the case to a court cost compliance liaison, as provided in Section 514.4 of Title 19 of the Oklahoma Statutes, which shall cause an additional thirty percent (30%) administrative fee to be added to the amount owed, and

d. if the defendant fails to appear at the hearing without good cause made known to the court or court clerk, the court shall issue a warrant for failure to appear for a cost hearing.

2. Notice of hearing, either at the request of the defendant or by summons of the court clerk, shall be given to the district attorney.

3. If the defendant fails to appear at the hearing without good cause made known to the court or court clerk, the court shall issue a warrant for failure to appear for a cost hearing.

H. If a defendant is found by a law enforcement officer to have an outstanding warrant for failure to appear for a cost hearing, the officer shall release the defendant and issue a citation to appear pursuant to Section 209 of this title. If the defendant fails to appear at the time and place cited by the officer, the court may issue a summons or warrant as provided in Section 209 of this title.

I. In determining whether the defendant is able to pay the fine, cost, fee, or assessment or any installments, the court shall consider:

1. Undue hardship to the defendant or to the legal dependents of the defendant;

2. Whether the defendant has made a good-faith effort to comply with the order; and

3. The ability to pay according to the criteria provided for in subsection C of this section.

J. Upon satisfactory showing to the court that the defendant is unable to pay the fine, cost, fee, assessment, or an installment due, the court may modify its order by the imposition or

modification of a payment plan, a reduction in the amount owed, or a waiver of payment of the amount owed. Additionally, the court may order community service in lieu of payment. The defendant shall receive credit for no less than two times the amount of the minimum wage specified pursuant to state law for each hour of community service performed. Upon a finding of the court that the defendant is unable to pay the fine, cost, fee, assessment, or an installment due, no additional fine, cost, fee, assessment, or an installment attributable to the notice or hearing shall be ordered by the court.

K. If the court finds and memorializes into the record that the defendant is financially able but willfully refuses or neglects to pay the fine, cost, fee, assessment, or an installment due, the court may order any of the remedies provided in subsection J of this section or in Section 101 of Title 28 of the Oklahoma Statutes.

L. All counties of the state shall fully utilize and participate in the court cost compliance program. Cases shall be referred to the court cost compliance program not less than forty-five (45) nor more than sixty (60) days after the defendant fails to appear for a cost hearing unless the defendant pays the amount owed for any fine, cost, fee, assessment, or an installment due. When the court refers the case, the updated contact information on file shall be forwarded to a court cost compliance liaison for collection purposes.

M. The Court of Criminal Appeals shall implement procedures, forms, and rules consistent with the provisions of this section for methods of establishing payment plans of fines, costs, fees, and assessments by indigents, which procedures, forms, and rules shall be distributed to all district courts and municipal courts by the Administrative Office of the Courts.

SECTION 5. This act shall become effective November 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated 03/02/2022 - DO PASS, As Amended and Coauthored.