

1 **SENATE FLOOR VERSION**

2 April 12, 2022

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 3925

6 By: Kannady of the House

7 and

8 Howard of the Senate

9 [ court costs - establishing a court cost compliance  
10 program - directing courts to inform defendants of  
11 amounts due for fines, costs, fees, and assessments -  
12 directing all counties to utilize and participate in  
13 the court cost compliance program - effective date ]

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

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

17 Section 514.4 A. ~~Notwithstanding any other section of law, the~~  
18 county 1. Effective November 1, 2022, there is hereby established a  
19 court cost compliance program. The purpose of the program shall be  
20 to assist county sheriffs and the courts of this state with the  
21 collection of fines, costs, fees, and assessments associated with  
22 cases in which a warrant has been issued and the case has been  
23 referred to the court cost compliance program pursuant to Section  
24 983 of Title 22 of the Oklahoma Statutes.

25 2. County sheriffs of any Oklahoma county may contract with a  
26 statewide association of county sheriffs to administer contracts

1 with third parties who shall be known as court cost compliance  
2 liaisons. The court cost compliance liaison may assist with  
3 attempting to locate and notify persons of their outstanding  
4 ~~misdemeanor or failure to pay~~ warrants. County sheriffs contracting  
5 with a statewide association of county sheriffs for the  
6 administration of third-party contracts may assign their rights and  
7 duties regarding these third-party contracts to the association.

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

1 liaison within four (4) days of receipt of the payment. Any payment  
2 returned due to insufficient funds shall have all insufficient fund  
3 charges incurred added to the outstanding balance of the defendant.

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

11 D. The court shall release or recall the outstanding  
12 ~~misdemeanor or failure to pay~~ warrant only upon receipt of all sums  
13 due pursuant to said warrant ~~including the misdemeanor or failure~~  
14 ~~to pay warrant~~, scheduled fine or sum due, all associated fees,  
15 costs and statutory penalty assessments, and the administrative cost  
16 pursuant to Section 514.5 of this title, or with a down payment of  
17 One Hundred Dollars (\$100.00) and a mutually agreeable monthly  
18 payment plan.

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

22 F. The provisions of this section and Section 514.5 of this  
23 title shall be applicable to:  
24

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

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

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

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

11 Section 514.5 A. Misdemeanor ~~or failure to pay~~ warrants or  
12 cases referred to the ~~third party contractor~~ court cost compliance  
13 liaison pursuant to Section 514.4 of this title shall include the  
14 addition of an administrative cost of thirty percent (30%) of the  
15 outstanding misdemeanor ~~or failure to pay~~ warrant, scheduled fine or  
16 sum due, and all associated fees, costs and statutory penalty  
17 assessments. This administrative cost shall not be waived or  
18 reduced ~~except by order of~~ unless the amount owed is waived or  
19 reduced by the court.

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

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

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

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

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

14 1. The officer shall prepare a written citation to appear in  
15 court, containing the name and address of the cited person and the  
16 offense charged, and stating when the person shall appear in court.  
17 ~~Unless the person requests an earlier date, the~~ The time specified  
18 in the citation to appear shall be at least five (5) days after the  
19 issuance of the citation~~;~~;

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

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

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

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

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

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

17 Section 983. A. At the time of sentencing, the court shall  
18 inform the defendant of the total amount of all statutory fines,  
19 costs, fees, and assessments, if any, to be paid. For purposes of  
20 this section, fines, costs, fees, and assessments shall include all  
21 financial obligations imposed by the court or required by law to be  
22 paid as provided in the current Uniform Oklahoma Fee Schedule for  
23 criminal cases issued by the Administrative Office of the Courts.  
24

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

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

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

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

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

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

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

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

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

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

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

12       1. It is the obligation of the defendant to keep the court  
13 clerk informed of the contact information of the defendant until the  
14 fine, cost, fee, or assessment has been paid. Such information  
15 shall include the current mailing and physical addresses of the  
16 defendant, telephone or cellular phone number of the defendant, and  
17 the email address where the defendant may receive notice from the  
18 court;

19       2. If the defendant is unable to pay the fine, cost, fee, or  
20 assessment ordered by the court, or any installment, the defendant  
21 shall request a hearing to present evidence regarding ability to pay  
22 the amount due and to request the imposition or modification of a  
23 payment plan, a reduction in the amount owed, or waiver of payment  
24

1 of the amount owed. The defendant may request multiple hearings;  
2 and

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

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

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

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

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

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

- 17 a. the court shall conduct a hearing at a specified time,  
18 place, and date to determine if the defendant is  
19 financially able but willfully refuses or neglects to  
20 pay the fine, cost, fee, or assessment or an  
21 installment due,
- 22 b. the defendant must be present at the hearing to  
23 present evidence or testimony of his or her inability

24

1 to pay the fine, cost, fee, or assessment or an  
2 installment due,

3 c. at any time before the date of the hearing, the  
4 defendant may contact the court clerk to pay the fine,  
5 cost, fee, or assessment or any installment due. If  
6 the defendant fails to appear for the hearing or to  
7 make the payment, the court shall refer the case to a  
8 court cost compliance liaison, as provided in Section  
9 514.4 of Title 19 of the Oklahoma Statutes, which  
10 shall cause an additional thirty percent (30%)  
11 administrative fee to be added to the amount owed, and

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

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

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

22 H. If a defendant is found by a law enforcement officer to have  
23 an outstanding warrant for failure to appear for a cost hearing, the  
24 officer shall release the defendant and issue a citation to appear

1 pursuant to Section 209 of this title. If the defendant fails to  
2 appear at the time and place cited by the officer, the court may  
3 issue a summons or warrant as provided in Section 209 of this title.

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

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

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

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

13 J. Upon satisfactory showing to the court that the defendant is  
14 unable to pay the fine, cost, fee, assessment, or an installment  
15 due, the court may modify its order by the imposition or  
16 modification of a payment plan, a reduction in the amount owed, or a  
17 waiver of payment of the amount owed. Additionally, the court may  
18 order community service in lieu of payment. The defendant shall  
19 receive credit for no less than two times the amount of the minimum  
20 wage specified pursuant to state law for each hour of community  
21 service performed. Upon a finding of the court that the defendant  
22 is unable to pay the fine, cost, fee, assessment, or an installment  
23 due, no additional fine, cost, fee, assessment, or an installment  
24 attributable to the notice or hearing shall be ordered by the court.

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
22 April 12, 2022 - DO PASS AS AMENDED  
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