

An Act

ENROLLED HOUSE
BILL NO. 3925

By: Sterling and Strom of the
House

and

Howard and Floyd of the
Senate

An Act relating to court costs; creating the Cost Administration Implementation Committee; providing for membership; providing for the selection of a chair and vice-chair; stating quorum requirement; subjecting committee to the provisions of the Oklahoma Open Meeting Act and Oklahoma Open Records Act; providing for travel reimbursement; providing staffing for the Committee; stating duties of the Committee; 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; providing for reversal of credit card transactions under certain circumstances; allowing for the assessment of additional fees; 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 require completion of certain form by defendants;

providing list of information to be included on certain form; defining term; directing courts to provide certain instructions to defendants; allowing defendants to pay in installments; directing court clerks to advise defendants of certain obligations; requiring orders to be filed when approving or disapproving payment plans; providing for notification to the defendant; directing district courts to establish set times and courtrooms for cost hearings; establishing cost hearing procedures; authorizing the reduction of financial obligations or extension of payment plans; allowing defendants to receive credit for community service hours; allowing for additional cost hearings and waiver of financial obligations; providing for the issuance of summonses; establishing procedures for issuing summons; providing summons form; 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; 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; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Court costs

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3007 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a Cost Administration Implementation Committee within the Administrative Office of the Courts. Members of the Committee shall be appointed no later than July 1, 2022. The Committee shall be composed of thirteen (13) members as follows:

1. The Administrative Director of the Courts or designee;
2. The District Court Clerk of Oklahoma County or designee;
3. The District Court Clerk of Tulsa County or designee;
4. Two District Court Judges or their designees to be selected by the Chief Justice of the Oklahoma Supreme Court;
5. Two District Court Clerks or their designees to be selected by the Executive Board of the Court Clerk's Association;
6. Two County Sheriffs or their designees to be selected by the Board of Directors of the Oklahoma Sheriffs' Association;
7. Two Municipal Court Judges or their designees to be selected by the Oklahoma Municipal Judges Association; and
8. Two lay persons who work regularly to assist or who advocate for persons who owe fines, fees, costs, and assessments to the court system to be selected by the Chief Justice of the Oklahoma Supreme Court.

B. The Chief Justice of the Oklahoma Supreme Court shall designate a chair and vice-chair from among the members of the Committee. A majority of the members present at a meeting shall constitute a quorum to conduct business.

C. Meetings of the Committee shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

D. Members shall not receive any compensation for their services but shall be reimbursed pursuant to the provisions of the State Travel Reimbursement Act.

E. The Committee shall be staffed by employees of the Administrative Office of the Courts.

F. The Committee shall oversee the implementation of the provisions of Sections 2 through 5 of this act by July 1, 2023, and shall be authorized to make recommendations to the Oklahoma Legislature for any changes it deems necessary and appropriate for the administration of court fines, fees, costs, and assessments.

SECTION 2. 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 July 1, 2023, 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, and recover and maintain accounts relating to past due fines, fees, costs, and assessments. 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 may make payment directly to the court, or court cost compliance liaison as allowed by law, or the ~~contractor~~ court cost compliance liaison, as allowed, shall be authorized to accept payment on misdemeanor or failure-to-pay warrants on 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 court 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. If a credit card

payment taken by a court cost compliance liaison is determined to be a fraudulent use of the credit card by the payor and the payment is reversed by the credit card company or payor's bank, the court clerk shall reverse the transaction upon notification, return the payment to the court cost compliance liaison, and the court cost compliance liaison shall continue the collection process until paid. The court clerk shall add any additional fees for the reversal of the transaction plus the administration fees to the outstanding balance of the defendant.

C. As provided for by this section, a person 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 a minimum 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 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 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;

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 3. 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 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 4. 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 5. AMENDATORY 22 O.S. 2021, Section 983, is amended to read as follows:

Section 983. A. 1. Except in cases provided for in Section 983b of this title, when the judgment and sentence of a court, either in whole or in part, imposes fines, costs, fees, or assessments upon a defendant, the court at the time of sentencing shall require the defendant to complete under oath a form promulgated by the Court of Criminal Appeals that provides current information regarding the financial ability of the defendant to pay.

2. The information to be required on the form shall include, but not be limited to, the individual and household income and living expenses of the defendant, excluding child support and any monies received from a federal or state government need-based or disability assistance program, the number of dependents, a listing of assets, excluding assets exempt from bankruptcy, child support obligations, health, mental or behavioral health conditions that diminish the ability of the defendant to pay restitution, and additional court-related expenses to be paid by the defendant.

3. 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, excluding restitution or payments to be made other than to the court clerk, and shall be referred to as financial obligations.

B. 1. The court shall order the defendant to appear immediately after sentencing at the office of the court clerk who shall inform the defendant of the total amount of all financial obligations that have been ordered by the court. If the defendant states to the court clerk that he or she is unable to pay the financial obligations immediately, the court clerk, based on the verified information provided by the defendant, shall establish, subject to approval of the court, a monthly installment plan that will cause the financial obligations to be satisfied within no more than seventy-two (72) months, unless extended by the court.

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

- a. it is the obligation of the defendant to keep the court clerk informed of the contact information of the defendant until the financial obligations have 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,
- b. if the defendant is unable to pay the financial obligations ordered by the court immediately or in the installments recommended by the court clerk, the defendant may request a cost hearing for the court to determine the ability of the defendant to pay the amount due and to request modification of the installment plan, a reduction in the amount owed, or waiver of payment of the amount owed, and
- c. upon any subsequent change in circumstances affecting the ability of the defendant to pay, the defendant may contact the court clerk and request additional cost hearings before the court.

3. An order shall be filed in the case with the approval or disapproval by the court of the payment plan. If the court does not approve the payment plan recommended by the court clerk, the court shall enter its order establishing the payment plan. The defendant shall be notified by certified mail or personal service of the order entered by the court and shall be given the opportunity for a cost hearing.

4. The district court for each county and all municipal courts shall set a regular time and courtroom for cost hearings.

C. If the defendant requests a cost hearing, the court clerk shall set the hearing no later than sixty (60) days after sentencing. In determining the ability of the defendant to pay, the court shall rely on the verified information submitted by the defendant on the form promulgated by the Court of Criminal Appeals and any updates to the information. In addition, the court may make inquiry of the defendant and consider any other evidence or testimony concerning the ability of the defendant to pay.

D. 1. If at the initial cost hearing or any subsequent cost hearing, the court determines that the defendant is unable to immediately pay the financial obligations or the required installments, the court may reduce the amount of the installments, extend the payment plan beyond seventy-two (72) months, or waive payment of all or part of the amount owed. The court may include a financial incentive for accelerated payment. 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.

2. If at any time due to a change in conditions the defendant is unable to pay the financial obligations ordered by the court or any installment, the defendant may request an additional cost hearing.

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

F. 1. If a defendant is delinquent in the payment of financial obligations or an installment by more than sixty (60) days, the court clerk shall notify the court which shall, within ten

(10) days thereafter, set a cost hearing for the court to determine if the defendant is able to pay. The hearing shall be set on a date that will allow the court clerk to issue a summons fourteen (14) days prior to the cost hearing.

2. No less than fourteen (14) days prior to the cost 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, substantially as follows:

SUMMONS

You are ORDERED to appear for a cost hearing at a specified time, place, and date to determine if you are financially able but willfully refuse or neglect to pay the fines, costs, fees, or assessments or an installment due in Case No. .

You must be present at the hearing.

At any time before the date of the cost hearing, you may contact the court clerk and pay the fines, costs, fees, or assessments or any installment due.

THIS IS NOT AN ARREST WARRANT. However, if you fail to appear for the cost hearing or to make the payment, the court will issue a WARRANT for "FAILURE TO APPEAR-COST HEARING" and refer the case to a court cost compliance liaison which will cause an additional thirty percent (30%) administrative fee to be added to the amount owed.

3. If the defendant fails to appear at the cost hearing or pay the amount due the court shall issue a warrant for FAILURE TO APPEAR-COST HEARING and refer the case to the court cost compliance program as provided in subsection K of this section.

4. Municipal courts, in lieu of mailing the summons provided for in this subsection, may give the defendant personal notice at the time of sentencing of a specific date, time, and place, not less than sixty (60) nor more than one hundred twenty (120) days from the date of sentencing to appear for a cost hearing if the fines, costs, fees, and assessments remain unpaid.

G. If a defendant is found by a law enforcement officer to have an outstanding warrant for FAILURE TO APPEAR-COST HEARING, the law enforcement 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 law enforcement officer, the court may issue a summons or warrant as provided in Section 209 of this title. The provisions of this subsection shall not apply to a municipal court if the municipal court has previously provided personal service to the defendant of an opportunity for a cost hearing.

H. In determining whether the defendant is able to pay delinquent financial obligations or any installments due, the court shall consider the criteria provided in subsection C of this section.

I. Any defendant found guilty of an offense in any court of this state may be imprisoned for nonpayment of the fine, cost, fee, or assessment his or her financial obligations when 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 financial obligations owed. 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.~~ J. 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, and if the court finds and memorializes into the record that the defendant is financially able but willfully refuses to or neglects to pay the fines, costs, fees, or assessments, or an installment due, 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. K. 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 thirty (30) days nor more than sixty (60) days after the defendant fails to appear for a cost hearing unless the defendant pays the amount owed on the financial obligation, 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.

L. 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 6. Sections 2, 3, 4, and 5 of this act shall become effective July 1, 2023.

SECTION 7. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 19th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of May, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____