

1 ENGROSSED SENATE
2 BILL NO. 1068

By: Thompson and Rader of the
Senate

3 and

4 Wallace and Hilbert of the
5 House

6
7 An Act relating to fees; amending 22 O.S. 2011,
8 Section 991a, as last amended by Section 10, Chapter
9 128, O.S.L. 2018 (22 O.S. Supp. 2018, Section 991a),
10 which relates to sentencing powers of the court;
11 directing certain deposit of fees; amending 22 O.S.
12 2011, Section 991c, as last amended by Section 12,
13 Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018, Section
14 991c), which relates to deferred sentences; directing
15 certain deposit of fees; amending 22 O.S. 2011,
16 Section 991d, as amended by Section 1, Chapter 414,
17 O.S.L. 2014 (22 O.S. Supp. 2018, Section 991d), which
18 relates to supervision fees; directing certain
19 deposit of fees; providing an effective date; and
20 declaring an emergency.

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

22 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
23 last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
24 2018, Section 991a), is amended to read as follows:

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

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

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

16 b. to reimburse any state agency for amounts paid by the
17 state agency for hospital and medical expenses
18 incurred by the victim or victims, as a result of the
19 criminal act for which such person was convicted,
20 which reimbursement shall be made directly to the
21 state agency, with interest accruing thereon at the
22 rate of twelve percent (12%) per annum,

23 c. to engage in a term of community service without
24 compensation, according to a schedule consistent with

1 the employment and family responsibilities of the
2 person convicted,

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

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

12 f. to confinement as provided by law together with a term
13 of post-imprisonment community supervision for not
14 less than three (3) years of the total term allowed by
15 law for imprisonment, with or without restitution;
16 provided, however, the authority of this provision is
17 limited to Section 843.5 of Title 21 of the Oklahoma
18 Statutes when the offense involved sexual abuse or
19 sexual exploitation; Sections 681, 741 and 843.1 of
20 Title 21 of the Oklahoma Statutes when the offense
21 involved sexual abuse or sexual exploitation; and
22 Sections 865 et seq., 885, 886, 888, 891, 1021,
23 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
24 1123 of Title 21 of the Oklahoma Statutes,

1 g. to repay the reward or part of the reward paid by a
2 local certified crime stoppers program and the
3 Oklahoma Reward System. In determining whether the
4 defendant shall repay the reward or part of the
5 reward, the court shall consider the ability of the
6 defendant to make the payment, the financial hardship
7 on the defendant to make the required payment, and the
8 importance of the information to the prosecution of
9 the defendant as provided by the arresting officer or
10 the district attorney with due regard for the
11 confidentiality of the records of the local certified
12 crime stoppers program and the Oklahoma Reward System.
13 The court shall assess this repayment against the
14 defendant as a cost of prosecution. The term
15 "certified" means crime stoppers organizations that
16 annually meet the certification standards for crime
17 stoppers programs established by the Oklahoma Crime
18 Stoppers Association to the extent those standards do
19 not conflict with state statutes. The term "court"
20 refers to all municipal and district courts within
21 this state. The "Oklahoma Reward System" means the
22 reward program established by Section 150.18 of Title
23 74 of the Oklahoma Statutes,
24

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

12 i. to reimburse the Oklahoma State Bureau of
13 Investigation and any authorized law enforcement
14 agency for all costs incurred by that agency for
15 cleaning up an illegal drug laboratory site for which
16 the defendant pleaded guilty, nolo contendere or was
17 convicted. The court clerk shall collect the amount
18 and may retain five percent (5%) of such monies to be
19 deposited in the Court Clerk Revolving Fund to cover
20 administrative costs and shall remit the remainder to
21 the Oklahoma State Bureau of Investigation to be
22 deposited in the OSBI Revolving Fund established by
23 Section 150.19a of Title 74 of the Oklahoma Statutes
24

1 or to the general fund wherein the other law
2 enforcement agency is located,

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

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

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

19 m. to be placed in a victims impact panel program, as
20 defined in subsection H of this section, or
21 victim/offender reconciliation program and payment of
22 a fee to the program of not less than Fifteen Dollars
23 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
24 by the governing authority of the program to offset

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 hh. in the case of a person being sentenced for a
10 conviction for a violation of Section 644 of Title 21
11 of the Oklahoma Statutes, require the person to
12 receive an assessment for batterers, which shall be
13 conducted through a certified treatment program for
14 batterers, and

15 ii. any other provision specifically ordered by the court.

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

21 However, unless under the supervision of the district attorney,
22 the offender shall be required to pay Forty Dollars (\$40.00) per
23 month to the district attorney during the first two (2) years of
24 probation to compensate the district attorney for the costs incurred

1 during the prosecution of the offender and for the additional work
2 of verifying the compliance of the offender with the rules and
3 conditions of his or her probation. The district attorney may waive
4 any part of this requirement in the best interests of justice. Any
5 fees collected by the district attorney pursuant to this paragraph
6 shall be deposited in the General Revenue Fund of the State
7 Treasury. The court shall not waive, suspend, defer or dismiss the
8 costs of prosecution in its entirety. However, if the court
9 determines that a reduction in the fine, costs and costs of
10 prosecution is warranted, the court shall equally apply the same
11 percentage reduction to the fine, costs and costs of prosecution
12 owed by the offender;

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

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

19 4. Order the defendant to reimburse the Oklahoma State Bureau
20 of Investigation for costs incurred by that agency during its
21 investigation of the crime for which the defendant pleaded guilty,
22 nolo contendere or was convicted, including compensation for
23 laboratory, technical, or investigation services performed by the
24 Bureau if, in the opinion of the court, the defendant is able to pay

1 without imposing manifest hardship on the defendant, and if the
2 costs incurred by the Bureau during the investigation of the
3 defendant's case may be determined with reasonable certainty;

4 5. Order the defendant to reimburse the Oklahoma State Bureau
5 of Investigation for all costs incurred by that agency for cleaning
6 up an illegal drug laboratory site for which the defendant pleaded
7 guilty, nolo contendere or was convicted. The court clerk shall
8 collect the amount and may retain five percent (5%) of such monies
9 to be deposited in the Court Clerk Revolving Fund to cover
10 administrative costs and shall remit the remainder to the Oklahoma
11 State Bureau of Investigation to be deposited in the OSBI Revolving
12 Fund established by Section 150.19a of Title 74 of the Oklahoma
13 Statutes;

14 6. In addition to the other sentencing powers of the court, in
15 the case of a person convicted of operating or being in control of a
16 motor vehicle while the person was under the influence of alcohol,
17 other intoxicating substance, or a combination of alcohol or another
18 intoxicating substance, or convicted of operating a motor vehicle
19 while the ability of the person to operate such vehicle was impaired
20 due to the consumption of alcohol, require such person:

21 a. to participate in an alcohol and drug assessment and
22 evaluation by an assessment agency or assessment
23 personnel certified by the Department of Mental Health
24 and Substance Abuse Services pursuant to Section 3-460

1 of Title 43A of the Oklahoma Statutes and, as
2 determined by the assessment, participate in an
3 alcohol and drug substance abuse course or treatment
4 program or both, pursuant to Sections 3-452 and 3-453
5 of Title 43A of the Oklahoma Statutes,

6 b. to attend a victims impact panel program, as defined
7 in subsection H of this section, if such a program is
8 offered in the county where the judgment is rendered,
9 and to pay a fee of not less than Fifteen Dollars
10 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
11 by the governing authority of the program and approved
12 by the court, to the program to offset the cost of
13 participation by the defendant, if in the opinion of
14 the court the defendant has the ability to pay such
15 fee,

16 c. to both participate in the alcohol and drug substance
17 abuse course or treatment program, pursuant to
18 subparagraph a of this paragraph and attend a victims
19 impact panel program, pursuant to subparagraph b of
20 this paragraph,

21 d. to install, at the expense of the person, an ignition
22 interlock device approved by the Board of Tests for
23 Alcohol and Drug Influence, upon every motor vehicle
24 operated by such person and to require that a notation

1 of this restriction be affixed to the person's driver
2 license at the time of reinstatement of the license.
3 The restriction shall remain on the driver license for
4 such period as the court shall determine. The
5 restriction may be modified or removed by order of the
6 court and notice of the order shall be given to the
7 Department of Public Safety. Upon the expiration of
8 the period for the restriction, the Department of
9 Public Safety shall remove the restriction without
10 further court order. Failure to comply with the order
11 to install an ignition interlock device or operating
12 any vehicle without such device during the period of
13 restriction shall be a violation of the sentence and
14 may be punished as deemed proper by the sentencing
15 court, or

16 e. beginning January 1, 1993, to submit to electronically
17 monitored home detention administered and supervised
18 by the Department of Corrections, and to pay to the
19 Department a monitoring fee, not to exceed Seventy-
20 five Dollars (\$75.00) a month, to the Department of
21 Corrections, if in the opinion of the court the
22 defendant has the ability to pay such fee. Any fees
23 collected pursuant to this subparagraph shall be
24 deposited in the Department of Corrections Revolving

1 Fund. Any order by the court for the payment of the
2 monitoring fee, if willfully disobeyed, may be
3 enforced as an indirect contempt of court;

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

12 8. In addition to the other sentencing powers of the court, in
13 the case of a person convicted of any crime related to domestic
14 abuse, as defined in Section 60.1 of this title, the court may
15 require the defendant to undergo the treatment or participate in an
16 intervention program for batterers certified by the Office of the
17 Attorney General, necessary to bring about the cessation of domestic
18 abuse. In the instance where the defendant alleges that he or she
19 is a victim of domestic abuse and the current conviction is a
20 response to that abuse, the court may require the defendant to
21 undergo an assessment by a domestic violence program certified by
22 the Office of the Attorney General, and, if based upon the results
23 of the assessment, the defendant is determined to be a victim of
24 domestic violence, the defendant shall undergo treatment and

1 participate in a certified program for domestic violence victims.
2 The defendant may be required to pay all or part of the cost of the
3 treatment or counseling services;

4 9. In addition to the other sentencing powers of the court, the
5 court, in the case of a sex offender sentenced after November 1,
6 1989, and required by law to register pursuant to the Sex Offenders
7 Registration Act, shall require the person to participate in a
8 treatment program designed specifically for the treatment of sex
9 offenders, if available. The treatment program will include
10 polygraph examinations specifically designed for use with sex
11 offenders for the purpose of supervision and treatment compliance,
12 provided the examination is administered by a certified licensed
13 polygraph examiner. The treatment program must be approved by the
14 Department of Corrections or the Department of Mental Health and
15 Substance Abuse Services. Such treatment shall be at the expense of
16 the defendant based on the defendant's ability to pay;

17 10. In addition to the other sentencing powers of the court,
18 the court, in the case of a person convicted of child abuse or
19 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
20 Statutes, may require the person to undergo treatment or to
21 participate in counseling services. The defendant may be required
22 to pay all or part of the cost of the treatment or counseling
23 services;

24

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

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

15 13. In addition to the other sentencing powers of the court, in
16 the case of a sex offender who is required by law to register
17 pursuant to the Sex Offenders Registration Act, the court may
18 prohibit the person from accessing or using any Internet social
19 networking web site that has the potential or likelihood of allowing
20 the sex offender to have contact with any child who is under the age
21 of eighteen (18) years; or

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

1 require the person to register any electronic mail address
2 information, instant message, chat or other Internet communication
3 name or identity information that the person uses or intends to use
4 while accessing the Internet or used for other purposes of social
5 networking or other similar Internet communication.

6 B. Notwithstanding any other provision of law, any person who
7 is found guilty of a violation of any provision of Section 761 or
8 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
9 guilty or nolo contendere for a violation of any provision of such
10 sections shall be ordered to participate in, prior to sentencing, an
11 alcohol and drug assessment and evaluation by an assessment agency
12 or assessment personnel certified by the Department of Mental Health
13 and Substance Abuse Services for the purpose of evaluating the
14 receptivity to treatment and prognosis of the person. The court
15 shall order the person to reimburse the agency or assessor for the
16 evaluation. The fee shall be the amount provided in subsection C of
17 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
18 shall be conducted at a certified assessment agency, the office of a
19 certified assessor or at another location as ordered by the court.
20 The agency or assessor shall, within seventy-two (72) hours from the
21 time the person is assessed, submit a written report to the court
22 for the purpose of assisting the court in its final sentencing
23 determination. No person, agency or facility operating an alcohol
24 and drug substance abuse evaluation program certified by the

1 Department of Mental Health and Substance Abuse Services shall
2 solicit or refer any person evaluated pursuant to this subsection
3 for any treatment program or alcohol and drug substance abuse
4 service in which such person, agency or facility has a vested
5 interest; however, this provision shall not be construed to prohibit
6 the court from ordering participation in or any person from
7 voluntarily utilizing a treatment program or alcohol and drug
8 substance abuse service offered by such person, agency or facility.
9 If a person is sentenced to the custody of the Department of
10 Corrections and the court has received a written evaluation report
11 pursuant to this subsection, the report shall be furnished to the
12 Department of Corrections with the judgment and sentence. Any
13 evaluation report submitted to the court pursuant to this subsection
14 shall be handled in a manner which will keep such report
15 confidential from the general public's review. Nothing contained in
16 this subsection shall be construed to prohibit the court from
17 ordering judgment and sentence in the event the defendant fails or
18 refuses to comply with an order of the court to obtain the
19 evaluation required by this subsection.

20 C. When sentencing a person convicted of a crime, the court
21 shall first consider a program of restitution for the victim, as
22 well as imposition of a fine or incarceration of the offender. The
23 provisions of paragraph 1 of subsection A of this section shall not
24 apply to a defendant being sentenced for:

1 1. A third or subsequent conviction of a violent crime
2 enumerated in Section 571 of Title 57 of the Oklahoma Statutes;

3 2. A fourth or subsequent conviction for any other felony
4 crime; or

5 3. Beginning January 1, 1993, a defendant being sentenced for a
6 second or subsequent felony conviction for violation of Section 11-
7 902 of Title 47 of the Oklahoma Statutes, except as otherwise
8 provided in this subsection.

9 In the case of a person being sentenced for a second or
10 subsequent felony conviction for violation of Section 11-902 of
11 Title 47 of the Oklahoma Statutes, the court may sentence the person
12 pursuant to the provisions of paragraph 1 of subsection A of this
13 section if the court orders the person to submit to electronically
14 monitored home detention administered and supervised by the
15 Department of Corrections pursuant to subparagraph e of paragraph 7
16 of subsection A of this section. Provided, the court may waive
17 these prohibitions upon written application of the district
18 attorney. Both the application and the waiver shall be made part of
19 the record of the case.

20 D. When sentencing a person convicted of a crime, the judge
21 shall consider any victims impact statements if submitted to the
22 jury, or the judge in the event a jury is waived.

23 E. Probation, for purposes of subsection A of this section, is
24 a procedure by which a defendant found guilty of a crime, whether

1 upon a verdict or plea of guilty or upon a plea of nolo contendere,
2 is released by the court subject to conditions imposed by the court
3 and subject to supervision by the Department of Corrections, a
4 private supervision provider or other person designated by the
5 court. Such supervision shall be initiated upon an order of
6 probation from the court, and shall not exceed two (2) years, unless
7 a petition alleging a violation of any condition of deferred
8 judgment or seeking revocation of the suspended sentence is filed
9 during the supervision, or as otherwise provided by law. In the
10 case of a person convicted of a sex offense, supervision shall begin
11 immediately upon release from incarceration or if parole is granted
12 and shall not be limited to two (2) years. Provided further, any
13 supervision provided for in this section may be extended for a
14 period not to exceed the expiration of the maximum term or terms of
15 the sentence upon a determination by the court or the Division of
16 Probation and Parole of the Department of Corrections that the best
17 interests of the public and the release will be served by an
18 extended period of supervision. Any supervision provided for under
19 this section may not have the period of supervision extended for a
20 failure to pay fines, fees and other costs, excluding restitution,
21 except upon a finding of willful nonpayment.

22 F. The Department of Corrections, or such other agency as the
23 court may designate, shall be responsible for the monitoring and
24 administration of the restitution and service programs provided for

1 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
2 section, and shall ensure that restitution payments are forwarded to
3 the victim and that service assignments are properly performed.

4 G. 1. The Department of Corrections is hereby authorized,
5 subject to funds available through appropriation by the Legislature,
6 to contract with counties for the administration of county Community
7 Service Sentencing Programs.

8 2. Any offender eligible to participate in the Program pursuant
9 to Section 991a et seq. of this title shall be eligible to
10 participate in a county Program; provided, participation in county-
11 funded Programs shall not be limited to offenders who would
12 otherwise be sentenced to confinement with the Department of
13 Corrections.

14 3. The Department shall establish criteria and specifications
15 for contracts with counties for such Programs. A county may apply
16 to the Department for a contract for a county-funded Program for a
17 specific period of time. The Department shall be responsible for
18 ensuring that any contracting county complies in full with
19 specifications and requirements of the contract. The contract shall
20 set appropriate compensation to the county for services to the
21 Department.

22 4. The Department is hereby authorized to provide technical
23 assistance to any county in establishing a Program, regardless of
24 whether the county enters into a contract pursuant to this

1 subsection. Technical assistance shall include appropriate
2 staffing, development of community resources, sponsorship,
3 supervision and any other requirements.

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

9 H. As used in this section:

10 1. "Ignition interlock device" means a device that, without
11 tampering or intervention by another person, would prevent the
12 defendant from operating a motor vehicle if the defendant has a
13 blood or breath alcohol concentration of two-hundredths (0.02) or
14 greater;

15 2. "Electronically monitored home detention" means
16 incarceration of the defendant within a specified location or
17 locations with monitoring by means of a device approved by the
18 Department of Corrections that detects if the person leaves the
19 confines of any specified location; and

20 3. "Victims impact panel program" means a meeting with at least
21 one live presenter who will share personal stories with participants
22 about how alcohol, drug abuse and the illegal conduct of others has
23 personally impacted the life of the presenter. A victims impact
24 panel program shall be attended by persons who have committed the

1 offense of driving, operating or being in actual physical control of
2 a motor vehicle while under the influence of alcohol or other
3 intoxicating substance. Persons attending a victims impact panel
4 program shall be required to pay a fee of not less than Fifteen
5 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
6 provider of the program. A certificate of completion shall be
7 issued to the person upon satisfying the attendance and fee
8 requirements of the victims impact panel program. A victims impact
9 panel program shall not be provided by any certified assessment
10 agency or certified assessor. The provider of the victims impact
11 panel program shall carry general liability insurance and maintain
12 an accurate accounting of all business transactions and funds
13 received in relation to the victims impact panel program.

14 I. A person convicted of a felony offense or receiving any form
15 of probation for an offense in which registration is required
16 pursuant to the Sex Offenders Registration Act, shall submit to
17 deoxyribonucleic acid DNA testing for law enforcement identification
18 purposes in accordance with Section 150.27 of Title 74 of the
19 Oklahoma Statutes and the rules promulgated by the Oklahoma State
20 Bureau of Investigation for the OSBI Combined DNA Index System
21 (CODIS) Database. Subject to the availability of funds, any person
22 convicted of a misdemeanor offense of assault and battery, domestic
23 abuse, stalking, possession of a controlled substance prohibited
24 under Schedule IV of the Uniform Controlled Dangerous Substances

1 Act, outraging public decency, resisting arrest, escape or
2 attempting to escape, eluding a police officer, Peeping Tom,
3 pointing a firearm, unlawful carry of a firearm, illegal transport
4 of a firearm, discharging of a firearm, threatening an act of
5 violence, breaking and entering a dwelling place, destruction of
6 property, negligent homicide, or causing a personal injury accident
7 while driving under the influence of any intoxicating substance, or
8 any alien unlawfully present under federal immigration law, upon
9 arrest, shall submit to deoxyribonucleic acid DNA testing for law
10 enforcement identification purposes in accordance with Section
11 150.27 of Title 74 of the Oklahoma Statutes and the rules
12 promulgated by the Oklahoma State Bureau of Investigation for the
13 OSBI Combined DNA Index System (CODIS) Database. Any defendant
14 sentenced to probation shall be required to submit to testing within
15 thirty (30) days of sentencing either to the Department of
16 Corrections or to the county sheriff or other peace officer as
17 directed by the court. Defendants who are sentenced to a term of
18 incarceration shall submit to testing in accordance with Section
19 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
20 enter the custody of the Department of Corrections or to the county
21 sheriff, for those defendants sentenced to incarceration in a county
22 jail. Convicted individuals who have previously submitted to DNA
23 testing under this section and for whom a valid sample is on file in
24 the OSBI Combined DNA Index System (CODIS) Database at the time of

1 sentencing shall not be required to submit to additional testing.
2 Except as required by the Sex Offenders Registration Act, a deferred
3 judgment does not require submission to deoxyribonucleic acid
4 testing.

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

15 J. Samples of blood or saliva for DNA testing required by
16 subsection I of this section shall be taken by employees or
17 contractors of the Department of Corrections, peace officers, or the
18 county sheriff or employees or contractors of the sheriff's office.
19 The individuals shall be properly trained to collect blood or saliva
20 samples. Persons collecting blood or saliva for DNA testing
21 pursuant to this section shall be immune from civil liabilities
22 arising from this activity. All collectors of DNA samples shall
23 ensure the collection of samples are mailed to the Oklahoma State
24 Bureau of Investigation within ten (10) days of the time the subject

1 appears for testing or within ten (10) days of the date the subject
2 comes into physical custody to serve a term of incarceration. All
3 collectors of DNA samples shall use sample kits provided by the OSBI
4 and procedures promulgated by the OSBI. Persons subject to DNA
5 testing who are not received at the Lexington Assessment and
6 Reception Center shall be required to pay a fee of Fifteen Dollars
7 (\$15.00) to the agency collecting the sample for submission to the
8 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
9 pursuant to this subsection shall be deposited in the revolving
10 account or the service fee account of the collection agency or
11 department.

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

17 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991c, as
18 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
19 2018, Section 991c), is amended to read as follows:

20 Section 991c. A. Upon a verdict or plea of guilty or upon a
21 plea of nolo contendere, but before a judgment of guilt, the court
22 may, without entering a judgment of guilt and with the consent of
23 the defendant, defer further proceedings upon the specific
24 conditions prescribed by the court not to exceed a seven-year

1 period, except as authorized under subsection B of this section.

2 The court shall first consider restitution among the various
3 conditions it may prescribe. The court may also consider ordering
4 the defendant to:

5 1. Pay court costs;

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

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

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

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

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

18 7. Be supervised in the community for a period not to exceed
19 eighteen (18) months, unless a petition alleging violation of any
20 condition of deferred judgment is filed during the period of
21 supervision. As a condition of any supervision, the defendant shall
22 be required to pay a supervision fee of Forty Dollars (\$40.00) per
23 month. The supervision fee shall be waived in whole or part by the
24 supervisory agency when the accused is indigent. Any fees collected

1 by the district attorney pursuant to this paragraph shall be
2 deposited in the General Revenue Fund of the State Treasury. No
3 person shall be denied supervision based solely on the inability of
4 the person to pay a fee;

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

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

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

16 11. Any combination of the above provisions.

17 However, unless under the supervision of the district attorney,
18 the offender shall be required to pay Forty Dollars (\$40.00) per
19 month to the district attorney during the first two (2) years of
20 probation to compensate the district attorney for the costs incurred
21 during the prosecution of the offender and for the additional work
22 of verifying the compliance of the offender with the rules and
23 conditions of his or her probation. The district attorney may waive
24 any part of this requirement in the best interests of justice. The

1 court shall not waive, suspend, defer or dismiss the costs of
2 prosecution in its entirety. However, if the court determines that
3 a reduction in the fine, costs and costs of prosecution is
4 warranted, the court shall equally apply the same percentage
5 reduction to the fine, costs and costs of prosecution owed by the
6 offender. Any fees collected by the district attorney pursuant to
7 this paragraph shall be deposited in the General Revenue Fund of the
8 State Treasury.

9 B. When the court has ordered restitution as a condition of
10 supervision as provided for in subsection A of this section and that
11 condition has not been satisfied, the court may, at any time prior
12 to the termination or expiration of the supervision period, order an
13 extension of supervision for a period not to exceed three (3) years.

14 C. In addition to any conditions of supervision provided for in
15 subsection A of this section, the court shall, in the case of a
16 person before the court for the offense of operating or being in
17 control of a motor vehicle while the person was under the influence
18 of alcohol, other intoxicating substance, or a combination of
19 alcohol and another intoxicating substance, or who is before the
20 court for the offense of operating a motor vehicle while the ability
21 of the person to operate such vehicle was impaired due to the
22 consumption of alcohol, require the person to participate in an
23 alcohol and drug substance abuse evaluation program offered by a
24 facility or qualified practitioner certified by the Department of

1 Mental Health and Substance Abuse Services for the purpose of
2 evaluating the receptivity to treatment and prognosis of the person.
3 The court shall order the person to reimburse the facility or
4 qualified practitioner for the evaluation. The Department of Mental
5 Health and Substance Abuse Services shall establish a fee schedule,
6 based upon the ability of a person to pay, provided the fee for an
7 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
8 evaluation shall be conducted at a certified facility, the office of
9 a qualified practitioner or at another location as ordered by the
10 court. The facility or qualified practitioner shall, within
11 seventy-two (72) hours from the time the person is assessed, submit
12 a written report to the court for the purpose of assisting the court
13 in its determination of conditions for deferred sentence. No
14 person, agency or facility operating an alcohol and drug substance
15 abuse evaluation program certified by the Department of Mental
16 Health and Substance Abuse Services shall solicit or refer any
17 person evaluated pursuant to this subsection for any treatment
18 program or alcohol and drug substance abuse service in which the
19 person, agency or facility has a vested interest; however, this
20 provision shall not be construed to prohibit the court from ordering
21 participation in or any person from voluntarily utilizing a
22 treatment program or alcohol and drug substance abuse service
23 offered by such person, agency or facility. Any evaluation report
24 submitted to the court pursuant to this subsection shall be handled

1 in a manner which will keep the report confidential from review by
2 the general public. Nothing contained in this subsection shall be
3 construed to prohibit the court from ordering judgment and sentence
4 in the event the defendant fails or refuses to comply with an order
5 of the court to obtain the evaluation required by this subsection.
6 As used in this subsection, "qualified practitioner" means a person
7 with at least a bachelor's degree in substance abuse treatment,
8 mental health or a related health care field and at least two (2)
9 years of experience in providing alcohol abuse treatment, other drug
10 abuse treatment, or both alcohol and other drug abuse treatment who
11 is certified each year by the Department of Mental Health and
12 Substance Abuse Services to provide these assessments. However, any
13 person who does not meet the requirements for a qualified
14 practitioner as defined herein, but who has been previously
15 certified by the Department of Mental Health and Substance Abuse
16 Services to provide alcohol or drug treatment or assessments, shall
17 be considered a qualified practitioner provided all education,
18 experience and certification requirements stated herein are met by
19 September 1, 1995. The court may also require the person to
20 participate in one or both of the following:

- 21 1. An alcohol and drug substance abuse course, pursuant to
22 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and
- 23 2. A victims impact panel program, as defined in subsection H
24 of Section 991a of this title, if such a program is offered in the

1 county where the judgment is rendered. The defendant shall be
2 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
3 more than Sixty Dollars (\$60.00) as set by the governing authority
4 of the program and approved by the court to the victims impact panel
5 program to offset the cost of participation by the defendant, if in
6 the opinion of the court the defendant has the ability to pay such
7 fee.

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

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

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

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

24

1 4. No information concerning the confidential file shall be
2 revealed or released, except upon written order of a judge of the
3 district court or upon written request by the named defendant to the
4 court clerk for the purpose of updating the criminal history record
5 of the defendant with the Oklahoma State Bureau of Investigation;
6 and

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

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

18 E. The provisions of subsection D of this section shall be
19 retroactive.

20 F. Whenever a judgment has been deferred by the court according
21 to the provisions of this section, deferred judgment may not be
22 accelerated for any technical violation unless a petition setting
23 forth the grounds for such acceleration is filed by the district
24 attorney with the clerk of the sentencing court and competent

1 evidence justifying the acceleration of the judgment is presented to
2 the court at a hearing to be held for that purpose. The hearing
3 shall be held not more than twenty (20) days after the entry of the
4 plea of not guilty to the petition, unless waived by both the state
5 and the defendant. Any acceleration of a deferred sentence based on
6 a technical violation shall not exceed ninety (90) days for a first
7 acceleration or five (5) years for a second or subsequent
8 acceleration.

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

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

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

23 I. The deferred judgment procedure described in this section
24 shall not apply to defendants found guilty or who plead guilty or

1 nolo contendere to a sex offense required by law to register
2 pursuant to the Sex Offenders Registration Act.

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

6 SECTION 3. AMENDATORY 22 O.S. 2011, Section 991d, as
7 amended by Section 1, Chapter 414, O.S.L. 2014 (22 O.S. Supp. 2018,
8 Section 991d), is amended to read as follows:

9 Section 991d. A. 1. When the court orders supervision by the
10 Department of Corrections, or the district attorney requires the
11 Department to supervise any person pursuant to a deferred
12 prosecution agreement, the person shall be required to pay a
13 supervision fee of Forty Dollars (\$40.00) per month during the
14 supervision period, unless the fee would impose an unnecessary
15 hardship on the person. In hardship cases, the Department shall
16 expressly waive all or part of the fee. The court shall make
17 payment of the fee a condition of the sentence which shall be
18 imposed whether the supervision is incident to the suspending of
19 execution of a sentence, incident to the suspending of imposition of
20 a sentence, or incident to the deferral of proceedings after a
21 verdict or plea of guilty. The Department shall determine methods
22 for payment of supervision fee, and may charge a reasonable user fee
23 for collection of supervision fees electronically. The Department
24 is required to report to the sentencing court any failure of the

1 person to pay supervision fees and to report immediately if the
2 person violates any condition of the sentence.

3 2. When the court imposes a suspended or deferred sentence for
4 any offense and does not order supervision by the Department of
5 Corrections, the offender shall be required to pay to the district
6 attorney a supervision fee of Forty Dollars (\$40.00) per month as a
7 fee to compensate the district attorney for the actual act of
8 supervising the offender during the applicable period of
9 supervision. In hardship cases, the district attorney shall
10 expressly waive all or part of the fee. Any fees collected by the
11 district attorney pursuant to this paragraph shall be deposited in
12 the General Revenue Fund of the State Treasury.

13 3. If restitution is ordered by the court in conjunction with
14 supervision, the supervision fee will be paid in addition to the
15 restitution ordered. In addition to the restitution payment and
16 supervision fee, a reasonable user fee may be charged by the
17 Department of Corrections to cover the expenses of administration of
18 the restitution, except no user fee shall be collected by the
19 Department when restitution payment is collected and disbursed to
20 the victim by the office of the district attorney as provided in
21 Section 991f of this title or Section 991f-1.1 of this title.

22 B. The Pardon and Parole Board shall require a supervision fee
23 to be paid by the parolee as a condition of parole which shall be
24 paid to the Department of Corrections. The Department shall

1 determine the amount of the fee as provided for other persons under
2 supervision by the Department.

3 C. Upon acceptance of an offender by the Department of
4 Corrections whose probation or parole supervision was transferred to
5 Oklahoma through the Interstate Compact Agreement, or upon the
6 assignment of an inmate to any community placement, a fee shall be
7 required to be paid by the offender to the Department of Corrections
8 as provided for other persons under supervision of the Department.

9 D. Except as provided in subsection A and this subsection, all
10 fees collected pursuant to this section shall be deposited in the
11 Department of Corrections Revolving Fund created pursuant to Section
12 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
13 ending June 30, 1996, fifty percent (50%) of all collections
14 received from offenders placed on supervision after July 1, 1995,
15 shall be transferred to the credit of the General Revenue Fund of
16 the State Treasury until such time as total transfers equal Three
17 Million Three Hundred Thousand Dollars (\$3,300,000.00).

18 SECTION 4. This act shall become effective July 1, 2019.

19 SECTION 5. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23

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