



[Home](#) [Courts](#) [Court Dockets](#) [Legal Research](#) [Calendar](#) [Help](#)  
[Previous Section](#) [Top Of Index](#) [This Point in Index](#) [Citationize](#) [Next Section](#) [Print Only](#)

Title 22. Criminal Procedure

**Oklahoma Statutes Citationized**

**Title 22. Criminal Procedure**

**Chapter 16 - Judgment and Execution**

**Suspension of Judgment and Sentence (continued)**

**Section 991c - Deferred Sentence**

Cite as: 22 O.S. § 991c (OSCN 2012), Suspension of Judgment and Sentence (continued)

A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a ten-year period. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs;
2. Pay an assessment in lieu of any fine authorized by law for the offense;
3. Pay any other assessment or cost authorized by law;
4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;
5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;
6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;
7. Be supervised in the community for a period not to exceed two (2) years. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars (\$40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the inability of the person to pay a fee;
8. Pay into the court fund a monthly amount not exceeding Forty Dollars (\$40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;
9. Make other reparations to the community or victim as required and deemed appropriate by the court;
10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title; or
11. Any combination of the above provisions.

B. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the

person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon the ability of a person to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars (\$75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from review by the general public. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years of experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

2. A victims impact panel program, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee, not less than Five Dollars (\$5.00) nor more than Fifteen Dollars (\$15.00) as set by the governing authority of the program and approved by the court, to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

C. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of no contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the record of the defendant shall be as follows:

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

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

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

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

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

Section 18 of this title.

D. Upon order of the court, the provisions of subsection C of this section shall be retroactive.

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

F. The deferred judgment procedure described in this section shall apply only to defendants who have not been previously convicted of a felony offense and have not received a deferred judgment for a felony offense within the ten (10) years previous to the commission of the pending offense.

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

G. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act.

H. Defendants who are supervised by the Department of Corrections pursuant to this section shall be subject to the intermediate sanction process as established in subsection B of Section 991b of this title.

### **Historical Data**

Added by Laws 1970, SB 262, § 2; Amended by Laws 1976, SB 571, § 3, eff. October 1, 1976; Amended by Laws 1979, HB 1278, 2, emerg. eff. April 16, 1979; Amended by Laws 1981, HB 1185, 1, eff. October 1, 1981; Amended by Laws 1982, HB 1484, c. 8, § 2, emerg. eff. March 15, 1982; Amended by Laws 1984, SB 337, c. 10, § 1, eff. November 1, 1984; Amended by Laws 1985, HB 1368, c. 112, § 8, eff. November 1, 1985; Amended by Laws 1988, HB 1973, c. 109, § 27, eff. November 1, 1988; Amended by Laws 1990, HB 2217, c. 152, § 2, eff. September 1, 1990; Amended by Laws 1992, SB 843, c. 151, § 2, eff. September 1, 1992; Amended by Laws 1992, SB 764, c. 357, § 5, eff. July 1, 1992; Amended by Laws 1993, HB 1727, c. 166, § 2, eff. September 1, 1993; Amended by Laws 1993, SB 581, c. 360, § 3, eff. September 1, 1993; Amended by Laws 1994, HB 2299, c. 2, § 10, emerg. eff. March 2, 1994; Amended by Laws 1994, SB 758, c. 308, § 2, emerg. eff. June 7, 1994; Amended by Laws 1995, SB 119, c. 193, § 3, emerg. eff. July 1, 1995; Amended by Laws 1995, SB 258, c. 286, § 6, emerg. eff. July 1, 1995; Amended by Laws 1996, SB 1087, c. 304, § 2, emerg. eff. June 10, 1996; Amended by Laws 1997, HB 1213, c. 133, § 70 (effective date amended to July 1, 1999, by Laws 1998, 1st Extr. Sess., HB 1002, c. 2, §§ 23-26, emerg. eff. June 19, 1998) (superseded document available); Amended by Laws 1999, HB 1623, c. 359, § 1, eff. November 1, 1999 (repealed by Laws 2000, HB 2711, c. 6, § 33, emerg. eff. March 20, 2000); Amended by Laws 1999, 1st Extr. Sess., HB 1009, c. 5, § 21, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 1999, 1st Extr. Sess., HB 1009, c. 4, § 27, emerg. eff. July 1, 1999 (superseded document available); Amended by Laws 2000, HB 2711, c. 6, § 5, emerg. eff. March 20, 2000 (superseded document available); Amended by Laws 2000, HB 2552, c. 349, § 6, eff. November 1, 2000 (superseded document available); Amended by Laws 2001, SB 397, c. 437 § 18, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2002, SB 1536, c. 460, § 20, eff. November 1, 2002 (superseded document available); Amended by Laws 2004, SB 1401, c. 145, § 1, emerg. eff. April 20, 2004 (repealed by Laws 2005, HB 2060, c. 1, § 19, emerg. eff. March 15, 2005); Amended by Laws 2004, HB 2445, c. 275, § 12, emerg. eff. July 1, 2004 (superseded document available); Amended by Laws 2005, HB 2060, c. 1, § 18, emerg. eff. March 15, 2005 (superseded document available); Amended by Laws 2005, HB 1267, c. 374, § 2, eff. November 1, 2005 (superseded document available); Amended by Laws 2010, HB 2168, c. 113, § 2 (superseded document available).

### **Citationizer<sup>®</sup> Summary of Documents Citing This Document**

Cite Name	Level
Oklahoma Attorney General's Opinions	

Cite	Name	Level
<u>2004 OK AG 34,</u>	<u>Question Submitted by: The Honorable Mike Johnson, State Senator, District 22; The Honorable Mary Easley, State Senator, District 18</u>	Discussed
<u>2005 OK AG 10,</u>	<u>Question Submitted by: Director Ron J. Ward, Oklahoma Department of Corrections</u>	Discussed at Length

**Oklahoma Court of Criminal Appeals Cases**

Cite	Name	Level
<u>2012 OK CR 14,</u>	<u>STATE v. STICE</u>	Discussed

**Oklahoma Court of Civil Appeals Cases**

Cite	Name	Level
<u>2008 OK CIV APP 1, 175 P.3d 966,</u>	<u>BUECHLER v. STATE</u>	Cited

**Title 57. Prisons and Reformatories**

Cite	Name	Level
<u>57 O.S. 584,</u>	<u>Information Required on Registration - Form - Notice of Address Change - Maintenance of Files - Availability</u>	Discussed

**Citationizer: Table of Authority**

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Cite Name	Level	
<b>Title 22. Criminal Procedure</b>		
Cite	Name	Level
<u>22 O.S. 991c,</u>	<u>Deferred Sentence</u>	Cited
<u>22 O.S. 991c,</u>	<u>Deferred Sentence</u>	Cited
<u>22 O.S. 991c,</u>	<u>Deferred Sentence</u>	Cited