

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 856

By: Bullard of the Senate

and

Bergstrom of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to child sexual exploitation;
11 amending 21 O.S. 2021, Section 51.1a, which relates
12 to second offense of first degree rape, sodomy, lewd
13 molestation, or sexual abuse of a child; modifying
14 certain life without parole sentencing; amending 21
15 O.S. 2021, Section 843.5, which relates to child
16 abuse and child sexual exploitation; requiring
17 certain punishments; requiring certain advisement;
18 defining term; amending 22 O.S. 2021, Section 991a,
19 as amended by Section 2, Chapter 469, O.S.L. 2021,
20 which relates to powers of the court; modifying
21 certain confinement criteria; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 21 O.S. 2021, Section 51.1a, is
amended to read as follows:

Section 51.1a. Any person convicted of rape in the first
degree, forcible sodomy, grooming, lewd molestation or sexual abuse
of a child after having been convicted of either rape in the first

1 degree, forcible sodomy, grooming, lewd molestation or sexual abuse
2 of a child shall be sentenced to life without parole.

3 SECTION 2. AMENDATORY 21 O.S. 2021, Section 843.5, is
4 amended to read as follows:

5 Section 843.5. A. Any person who shall willfully or
6 maliciously engage in child abuse, as defined in this section,
7 shall, upon conviction, be guilty of a felony punishable by
8 imprisonment in the custody of the Department of Corrections not
9 exceeding life imprisonment, or by imprisonment in a county jail not
10 exceeding one (1) year, or by a fine of not less than Five Hundred
11 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),
12 or both such fine and imprisonment.

13 B. Any person responsible for the health, safety or welfare of
14 a child who shall willfully or maliciously engage in enabling child
15 abuse, as defined in this section, shall, upon conviction, be
16 punished by imprisonment in the custody of the Department of
17 Corrections not exceeding life imprisonment, or by imprisonment in a
18 county jail not exceeding one (1) year, or by a fine of not less
19 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
20 Dollars (\$5,000.00), or both such fine and imprisonment.

21 C. Any person responsible for the health, safety or welfare of
22 a child who shall willfully or maliciously engage in child neglect,
23 as defined in this section, shall, upon conviction, be punished by
24 imprisonment in the custody of the Department of Corrections not

1 exceeding life imprisonment, or by imprisonment in a county jail not
2 exceeding one (1) year, or by a fine of not less than Five Hundred
3 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),
4 or both such fine and imprisonment.

5 D. Any parent or other person who shall willfully or
6 maliciously engage in enabling child neglect shall, upon conviction,
7 be punished by imprisonment in the custody of the Department of
8 Corrections not exceeding life imprisonment, or by imprisonment in a
9 county jail not exceeding one (1) year, or by a fine of not less
10 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
11 Dollars (\$5,000.00), or both such fine and imprisonment.

12 E. Any person responsible for the health, safety or welfare of
13 a child who shall willfully or maliciously engage in child sexual
14 abuse, as defined in this section, shall, upon conviction, be
15 punished by imprisonment in the custody of the Department of
16 Corrections not exceeding life imprisonment, or by imprisonment in a
17 county jail not exceeding one (1) year, or by a fine of not less
18 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
19 Dollars (\$5,000.00), or both such fine and imprisonment, except as
20 provided in Section 51.1a of this title or as otherwise provided in
21 subsection F of this section for a child victim under twelve (12)
22 years of age. Except for persons sentenced to life or life without
23 parole, any person sentenced to imprisonment for two (2) years or
24 more for a violation of this subsection shall be required to serve a

1 term of post-imprisonment supervision pursuant to subparagraph f of
2 paragraph 1 of subsection A of Section 991a of Title 22 of the
3 Oklahoma Statutes under conditions determined by the Department of
4 Corrections. The jury shall be advised that the mandatory post-
5 imprisonment supervision shall be in addition to the actual
6 imprisonment.

7 F. Any person responsible for the health, safety or welfare of
8 a child who shall willfully or maliciously engage in child sexual
9 abuse, as defined in this section, to a child under twelve (12)
10 years of age shall, upon conviction, be punished by imprisonment in
11 the custody of the Department of Corrections for not less than
12 twenty-five (25) years nor more than life imprisonment, and by a
13 fine of not less than Five Hundred Dollars (\$500.00) nor more than
14 Five Thousand Dollars (\$5,000.00).

15 G. Any parent or other person who shall willfully or
16 maliciously engage in enabling child sexual abuse shall, upon
17 conviction, be punished by imprisonment in the custody of the
18 Department of Corrections not exceeding life imprisonment, or by
19 imprisonment in a county jail not exceeding one (1) year, or by a
20 fine of not less than Five Hundred Dollars (\$500.00) nor more than
21 Five Thousand Dollars (\$5,000.00), or both such fine and
22 imprisonment.

23 H. Any person who shall willfully or maliciously engage in
24 child sexual exploitation, as defined in this section, shall, upon

1 conviction, be punished by imprisonment in the custody of the
2 Department of Corrections not exceeding life imprisonment, or by
3 imprisonment in a county jail not exceeding one (1) year, or by a
4 fine of not less than Five Hundred Dollars (\$500.00) nor more than
5 Five Thousand Dollars (\$5,000.00), or both such fine and
6 imprisonment except as provided in subsection I of this section for
7 a child victim under twelve (12) years of age. Except for persons
8 sentenced to life or life without parole, any person sentenced to
9 imprisonment for two (2) years or more for a violation of this
10 subsection shall be required to serve a term of post-imprisonment
11 supervision pursuant to subparagraph f of paragraph 1 of subsection
12 A of Section 991a of Title 22 of the Oklahoma Statutes under
13 conditions determined by the Department of Corrections. The jury
14 shall be advised that the mandatory post-imprisonment supervision
15 shall be in addition to the actual imprisonment.

16 I. Any person who shall willfully or maliciously engage in
17 child sexual exploitation, as defined in this section, of a child
18 under twelve (12) years of age shall, upon conviction, be punished
19 by imprisonment in the custody of the Department of Corrections for
20 not less than twenty-five (25) years nor more than life
21 imprisonment, and by a fine ~~of~~ not less than Five Hundred Dollars
22 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

23 J. Any person responsible for the health, safety or welfare of
24 a child who shall willfully or maliciously engage in enabling child

1 sexual exploitation, as defined in this section, shall, upon
2 conviction, be punished by imprisonment in the custody of the
3 Department of Corrections not exceeding life imprisonment, or by
4 imprisonment in a county jail not exceeding one (1) year, or by a
5 fine of not less than Five Hundred Dollars (\$500.00) nor more than
6 Five Thousand Dollars (\$5,000.00), or both such fine and
7 imprisonment.

8 K. Notwithstanding any other provision of law, any person
9 convicted of forcible anal or oral sodomy, rape, rape by
10 instrumentation, or lewd molestation of a child under fourteen (14)
11 years of age subsequent to a previous conviction for any offense of
12 forcible anal or oral sodomy, rape, rape by instrumentation, or lewd
13 molestation of a child under fourteen (14) years of age shall be
14 punished by death or by imprisonment for life without parole.

15 L. Any person who shall willfully or maliciously engage in
16 grooming, as defined in this section, shall, upon conviction, be
17 punished by imprisonment in the custody of the Department of
18 Corrections not exceeding life imprisonment, or by imprisonment in a
19 county jail not exceeding one (1) year, or by a fine not less than
20 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
21 (\$5,000.00), or both such fine and imprisonment, except as provided
22 in Section 51.1a of this title. Except for persons sentenced to
23 life or life without parole, any person sentenced to imprisonment
24 for two (2) years or more for a violation of this subsection shall

1 be required to serve a term of post-imprisonment supervision
2 pursuant to subparagraph f of paragraph 1 of subsection A of Section
3 991a of Title 22 of the Oklahoma Statutes under conditions
4 determined by the Department of Corrections. The jury shall be
5 advised that the mandatory post-imprisonment supervision shall be in
6 addition to the actual imprisonment.

7 M. Provided, however, that nothing contained in this section
8 shall prohibit any parent or guardian from using reasonable and
9 ordinary force pursuant to Section 844 of this title.

10 ~~M.~~ N. Consent shall not be a defense for any violation provided
11 for in this section.

12 ~~N.~~ O. Notwithstanding the age requirements of other statutes
13 referenced within this section, this section shall apply to any
14 child under eighteen (18) years of age.

15 ~~O.~~ P. As used in this section:

16 1. "Child abuse" means:

17 a. the willful or malicious harm or threatened harm or
18 failure to protect from harm or threatened harm to the
19 health, safety or welfare of a child under eighteen
20 (18) years of age by a person responsible for a
21 child's health, safety or welfare, or

22 b. the act of willfully or maliciously injuring,
23 torturing or maiming a child under eighteen (18) years
24 of age by any person;

1 2. "Child neglect" means the willful or malicious neglect, as
2 defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, of
3 a child under eighteen (18) years of age by a person responsible for
4 a child's health, safety or welfare;

5 3. "Child sexual abuse" means the willful or malicious sexual
6 abuse of a child under eighteen (18) years of age by a person
7 responsible for a child's health, safety or welfare and includes,
8 but is not limited to:

- 9 a. sexual intercourse,
- 10 b. penetration of the vagina or anus, however slight, by
11 an inanimate object or any part of the human body not
12 amounting to sexual intercourse,
- 13 c. sodomy,
- 14 d. incest, or
- 15 e. a lewd act or proposal, as defined in this section;

16 4. "Child sexual exploitation" means the willful or malicious
17 sexual exploitation of a child under eighteen (18) years of age by
18 another and includes, but is not limited to:

- 19 a. human trafficking, as provided for in Section 748 of
20 this title, if the offense involved child trafficking
21 for commercial sex,
- 22 b. trafficking in children, as provided for in Section
23 866 of this title, if the offense was committed for
24 the sexual gratification of any person,

- 1 c. procuring or causing the participation of a minor in
2 child pornography, as provided for in Section 1021.2
3 of this title,
- 4 d. purchase, procurement or possession of child
5 pornography, as provided for in Section 1024.2 of this
6 title,
- 7 e. engaging in or soliciting prostitution, as provided
8 for in Section 1029 of this title, if the offense
9 involved child prostitution,
- 10 f. publication, distribution or participation in the
11 preparation of obscene material, as provided for in
12 Section 1040.8 of this title, if the offense involved
13 child pornography,
- 14 g. aggravated possession of child pornography, as
15 provided for in Section 1040.12a of this title,
- 16 h. sale or distribution of obscene material, as provided
17 for in Section 1040.13 of this title,
- 18 i. soliciting sexual conduct or communication with a
19 minor by use of technology, as provided for in Section
20 ~~1043.13a~~ 1040.13a of this title,
- 21 j. offering or transporting a child for purposes of
22 prostitution, as provided for in Section 1087 of this
23 title, and
24

1 k. child prostitution, as provided for in Section 1088 of
2 this title;

3 5. "Enabling child abuse" means the causing, procuring or
4 permitting of child abuse by a person responsible for a child's
5 health, safety or welfare;

6 6. "Enabling child neglect" means the causing, procuring or
7 permitting of child neglect by a person responsible for a child's
8 health, safety or welfare;

9 7. "Enabling child sexual abuse" means the causing, procuring
10 or permitting of child sexual abuse by a person responsible for a
11 child's health, safety or welfare;

12 8. "Enabling child sexual exploitation" means the causing,
13 procuring or permitting of child sexual exploitation by a person
14 responsible for a child's health, safety or welfare;

15 9. "Grooming" shall be defined as befriending and establishing
16 an emotional connection with a minor or a person responsible for a
17 minor's health, safety, or welfare to lower the minor's inhibitions
18 with the intent to engage the minor in:

19 a. sexual intercourse,

20 b. a lewd act or proposal,

21 c. the showing of lewd material,

22 d. penetration of the vagina or anus, however slight, by
23 an inanimate object or any part of the human body not
24 amounting to sexual intercourse,

1 e. sodomy, or

2 f. incest;

3 10. “Incest” means marrying, committing adultery or fornicating
4 with a child by a person responsible for the health, safety or
5 welfare of a child;

6 ~~10.~~ 11. “Lewd act or proposal” means:

7 a. making any oral, written or electronic or computer-
8 generated lewd or indecent proposal to a child for the
9 child to have unlawful sexual relations or sexual
10 intercourse with any person,

11 b. looking upon, touching, mauling or feeling the body or
12 private parts of a child in a lewd or lascivious
13 manner or for the purpose of sexual gratification,

14 c. asking, inviting, enticing or persuading any child to
15 go alone with any person to a secluded, remote or
16 secret place for a lewd or lascivious purpose,

17 d. urinating or defecating upon a child or causing,
18 forcing or requiring a child to defecate or urinate
19 upon the body or private parts of another person for
20 the purpose of sexual gratification,

21 e. ejaculating upon or in the presence of a child,

22 f. causing, exposing, forcing or requiring a child to
23 look upon the body or private parts of another person
24 for the purpose of sexual gratification,

- 1 g. causing, forcing or requiring any child to view any
2 obscene materials, child pornography or materials
3 deemed harmful to minors as such terms are defined in
4 Sections 1024.1 and 1040.75 of this title,
- 5 h. causing, exposing, forcing or requiring a child to
6 look upon sexual acts performed in the presence of the
7 child for the purpose of sexual gratification, or
- 8 i. causing, forcing or requiring a child to touch or feel
9 the body or private parts of the child or another
10 person for the purpose of sexual gratification;

11 ~~11.~~ 12. "Permit" means to authorize or allow for the care of a
12 child by an individual when the person authorizing or allowing such
13 care knows or reasonably should know that the child will be placed
14 at risk of the conduct or harm proscribed by this section;

15 ~~12.~~ 13. "Person responsible for a child's health, safety or
16 welfare" for purposes of this section shall include, but not be
17 limited to:

- 18 a. the parent of the child,
19 b. the legal guardian of the child,
20 c. the custodian of the child,
21 d. the foster parent of the child,
22 e. a person eighteen (18) years of age or older with whom
23 the parent of the child cohabitates, who is at least
24 three (3) years older than the child,

1 f. any other person eighteen (18) years of age or older
2 residing in the home of the child, who is at least
3 three (3) years older than the child,

4 g. an owner, operator, agent, employee or volunteer of a
5 public or private residential home, institution,
6 facility or day treatment program, as defined in
7 Section 175.20 of Title 10 of the Oklahoma Statutes,
8 that the child attended,

9 h. an owner, operator, agent, employee or volunteer of a
10 child care facility, as defined in Section 402 of
11 Title 10 of the Oklahoma Statutes, that the child
12 attended,

13 i. an intimate partner of the parent of the child, as
14 defined in Section 60.1 of Title 22 of the Oklahoma
15 Statutes, or

16 j. a person who has voluntarily accepted responsibility
17 for the care or supervision of a child;

18 ~~13.~~ 14. "Sexual intercourse" means the actual penetration,
19 however slight, of the vagina or anus by the penis; and

20 ~~14.~~ 15. "Sodomy" means:

21 a. penetration, however slight, of the mouth of the child
22 by a penis,
23
24

- 1 b. penetration, however slight, of the vagina of a person
2 responsible for a child's health, safety or welfare,
3 by the mouth of a child,
4 c. penetration, however slight, of the mouth of the
5 person responsible for a child's health, safety or
6 welfare by the penis of the child, or
7 d. penetration, however slight, of the vagina of the
8 child by the mouth of the person responsible for a
9 child's health, safety or welfare.

10 SECTION 3. AMENDATORY 22 O.S. 2021, Section 991a, as
11 amended by Section 2, Chapter 469, O.S.L. 2021, is amended to read
12 as follows:

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

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

- 21 a. to provide restitution to the victim as provided by
22 Section 991f et seq. of this title or according to a
23 schedule of payments established by the sentencing
24 court, together with interest upon any pecuniary sum

1 at the rate of twelve percent (12%) per annum, if the
2 defendant agrees to pay such restitution or, in the
3 opinion of the court, if the defendant is able to pay
4 such restitution without imposing manifest hardship on
5 the defendant or the immediate family and if the
6 extent of the damage to the victim is determinable
7 with reasonable certainty,

8 b. to reimburse any state agency for amounts paid by the
9 state agency for hospital and medical expenses
10 incurred by the victim or victims, as a result of the
11 criminal act for which such person was convicted,
12 which reimbursement shall be made directly to the
13 state agency, with interest accruing thereon at the
14 rate of twelve percent (12%) per annum,

15 c. to engage in a term of community service without
16 compensation, according to a schedule consistent with
17 the employment and family responsibilities of the
18 person convicted,

19 d. to pay a reasonable sum into any trust fund
20 established pursuant to the provisions of Sections 176
21 through 180.4 of Title 60 of the Oklahoma Statutes and
22 which provides restitution payments by convicted
23 defendants to victims of crimes committed within this
24

1 state wherein such victim has incurred a financial
2 loss,

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

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

19 g. to repay the reward or part of the reward paid by a
20 local certified crime stoppers program and the
21 Oklahoma Reward System. In determining whether the
22 defendant shall repay the reward or part of the
23 reward, the court shall consider the ability of the
24 defendant to make the payment, the financial hardship

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

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

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

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

19 j. to pay a reasonable sum to the Crime Victims
20 Compensation Board, created by Section 142.2 et seq.
21 of Title 21 of the Oklahoma Statutes, for the benefit
22 of crime victims,
23
24

- 1 k. to reimburse the court fund for amounts paid to court-
2 appointed attorneys for representing the defendant in
3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
5 assessment agency or assessment personnel certified by
6 the Department of Mental Health and Substance Abuse
7 Services pursuant to Section 3-460 of Title 43A of the
8 Oklahoma Statutes and, as determined by the
9 assessment, participate in an alcohol and drug
10 substance abuse course or treatment program or both,
11 pursuant to Sections 3-452 and 3-453 of Title 43A of
12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
14 defined in subsection H of this section, or
15 victim/offender reconciliation program and payment of
16 a fee to the program of Seventy-five Dollars (\$75.00)
17 as set by the governing authority of the program to
18 offset the cost of participation by the defendant.
19 Provided, each victim/offender reconciliation program
20 shall be required to obtain a written consent form
21 voluntarily signed by the victim and defendant that
22 specifies the methods to be used to resolve the
23 issues, the obligations and rights of each person and
24 the confidentiality of the proceedings. Volunteer

1 mediators and employees of a victim/offender
2 reconciliation program shall be immune from liability
3 and have rights of confidentiality as provided in
4 Section 1805 of Title 12 of the Oklahoma Statutes,
5 n. to install, at the expense of the defendant, an
6 ignition interlock device approved by the Board of
7 Tests for Alcohol and Drug Influence. The device
8 shall be installed upon every motor vehicle operated
9 by the defendant, and the court shall require that a
10 notation of this restriction be affixed to the
11 defendant's driver license. The restriction shall
12 remain on the driver license not exceeding two (2)
13 years to be determined by the court. The restriction
14 may be modified or removed only by order of the court
15 and notice of any modification order shall be given to
16 the Department of Public Safety. Upon the expiration
17 of the period for the restriction, the Department of
18 Public Safety shall remove the restriction without
19 further court order. Failure to comply with the order
20 to install an ignition interlock device or operating
21 any vehicle without a device during the period of
22 restriction shall be a violation of the sentence and
23 may be punished as deemed proper by the sentencing
24 court. As used in this paragraph, "ignition interlock

1 device" means a device that, without tampering or
2 intervention by another person, would prevent the
3 defendant from operating a motor vehicle if the
4 defendant has a blood or breath alcohol concentration
5 of two-hundredths (0.02) or greater,

6 o. to be confined by electronic monitoring administered
7 and supervised by the Department of Corrections or a
8 community sentence provider, and payment of a
9 monitoring fee to the supervising authority, not to
10 exceed Three Hundred Dollars (\$300.00) per month. Any
11 fees collected pursuant to this subparagraph shall be
12 deposited with the appropriate supervising authority.
13 Any willful violation of an order of the court for the
14 payment of the monitoring fee shall be a violation of
15 the sentence and may be punished as deemed proper by
16 the sentencing court. As used in this paragraph,
17 "electronic monitoring" means confinement of the
18 defendant within a specified location or locations
19 with supervision by means of an electronic device
20 approved by the Department of Corrections which is
21 designed to detect if the defendant is in the court-
22 ordered location at the required times and which
23 records violations for investigation by a qualified
24 supervisory agency or person,

- 1 p. to perform one or more courses of treatment, education
2 or rehabilitation for any conditions, behaviors,
3 deficiencies or disorders which may contribute to
4 criminal conduct including but not limited to alcohol
5 and substance abuse, mental health, emotional health,
6 physical health, propensity for violence, antisocial
7 behavior, personality or attitudes, deviant sexual
8 behavior, child development, parenting assistance, job
9 skills, vocational-technical skills, domestic
10 relations, literacy, education or any other
11 identifiable deficiency which may be treated
12 appropriately in the community and for which a
13 certified provider or a program recognized by the
14 court as having significant positive impact exists in
15 the community. Any treatment, education or
16 rehabilitation provider required to be certified
17 pursuant to law or rule shall be certified by the
18 appropriate state agency or a national organization,
- 19 q. to submit to periodic testing for alcohol,
20 intoxicating substance or controlled dangerous
21 substances by a qualified laboratory,
- 22 r. to pay a fee or costs for treatment, education,
23 supervision, participation in a program or any
24

- 1 combination thereof as determined by the court, based
2 upon the defendant's ability to pay the fees or costs,
3 s. to be supervised by a Department of Corrections
4 employee, a private supervision provider or other
5 person designated by the court,
6 t. to obtain positive behavior modeling by a trained
7 mentor,
8 u. to serve a term of confinement in a restrictive
9 housing facility available in the community,
10 v. to serve a term of confinement in the county jail at
11 night or during weekends pursuant to Section 991a-2 of
12 this title or for work release,
13 w. to obtain employment or participate in employment-
14 related activities,
15 x. to participate in mandatory day reporting to
16 facilities or persons for services, payments, duties
17 or person-to-person contacts as specified by the
18 court,
19 y. to pay day fines not to exceed fifty percent (50%) of
20 the net wages earned. For purposes of this paragraph,
21 "day fine" means the offender is ordered to pay an
22 amount calculated as a percentage of net daily wages
23 earned. The day fine shall be paid to the local
24 community sentencing system as reparation to the

1 community. Day fines shall be used to support the
2 local system,

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

5 aa. to repair or restore property damaged by the
6 defendant's conduct, if the court determines the
7 defendant possesses sufficient skill to repair or
8 restore the property and the victim consents to the
9 repairing or restoring of the property,

10 bb. to restore damaged property in kind or payment of out-
11 of-pocket expenses to the victim, if the court is able
12 to determine the actual out-of-pocket expenses
13 suffered by the victim,

14 cc. to attend a victim-offender reconciliation program if
15 the victim agrees to participate and the offender is
16 deemed appropriate for participation,

17 dd. in the case of a person convicted of prostitution
18 pursuant to Section 1029 of Title 21 of the Oklahoma
19 Statutes, require such person to receive counseling
20 for the behavior which may have caused such person to
21 engage in prostitution activities. Such person may be
22 required to receive counseling in areas including but
23 not limited to alcohol and substance abuse, sexual
24

1 behavior problems or domestic abuse or child abuse
2 problems,

3 ee. in the case of a sex offender sentenced after November
4 1, 1989, and required by law to register pursuant to
5 the Sex Offender Registration Act, the court shall
6 require the person to comply with sex offender
7 specific rules and conditions of supervision
8 established by the Department of Corrections and
9 require the person to participate in a treatment
10 program designed for the treatment of sex offenders
11 during the period of time while the offender is
12 subject to supervision by the Department of
13 Corrections. The treatment program shall include
14 polygraph examinations specifically designed for use
15 with sex offenders for purposes of supervision and
16 treatment compliance, and shall be administered not
17 less than each six (6) months during the period of
18 supervision. The examination shall be administered by
19 a certified licensed polygraph examiner. The
20 treatment program must be approved by the Department
21 of Corrections or the Department of Mental Health and
22 Substance Abuse Services. Such treatment shall be at
23 the expense of the defendant based on the defendant's
24 ability to pay,

1 ff. in addition to other sentencing powers of the court,
2 the court in the case of a defendant being sentenced
3 for a felony conviction for a violation of Section 2-
4 402 of Title 63 of the Oklahoma Statutes which
5 involves marijuana may require the person to
6 participate in a drug court program, if available. If
7 a drug court program is not available, the defendant
8 may be required to participate in a community
9 sanctions program, if available,

10 gg. in the case of a person convicted of any false or
11 bogus check violation, as defined in Section 1541.4 of
12 Title 21 of the Oklahoma Statutes, impose a fee of
13 Twenty-five Dollars (\$25.00) to the victim for each
14 check, and impose a bogus check fee to be paid to the
15 district attorney. The bogus check fee paid to the
16 district attorney shall be equal to the amount
17 assessed as court costs plus Twenty-five Dollars
18 (\$25.00) for each check upon filing of the case in
19 district court. This money shall be deposited in the
20 Bogus Check Restitution Program Fund as established in
21 subsection B of Section 114 of this title.

22 Additionally, the court may require the offender to
23 pay restitution and bogus check fees on any other
24

1 bogus check or checks that have been submitted to the
2 Bogus Check Restitution Program, and

3 hh. any other provision specifically ordered by the court.

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

9 However, unless under the supervision of the district attorney,
10 the offender shall be required to pay Forty Dollars (\$40.00) per
11 month to the district attorney during the first two (2) years of
12 probation to compensate the district attorney for the costs incurred
13 during the prosecution of the offender and for the additional work
14 of verifying the compliance of the offender with the rules and
15 conditions of his or her probation. The district attorney may waive
16 any part of this requirement in the best interests of justice. The
17 court shall not waive, suspend, defer or dismiss the costs of
18 prosecution in its entirety. However, if the court determines that
19 a reduction in the fine, costs and costs of prosecution is
20 warranted, the court shall equally apply the same percentage
21 reduction to the fine, costs and costs of prosecution owed by the
22 offender;

23 2. Impose a fine prescribed by law for the offense, with or
24 without probation or commitment and with or without restitution or

1 service as provided for in this section, Section 991a-4.1 of this
2 title or Section 227 of Title 57 of the Oklahoma Statutes;

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

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

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

1 6. In the case of nonviolent felony offenses, sentence such
2 person to the Community Service Sentencing Program;

3 7. In addition to the other sentencing powers of the court, in
4 the case of a person convicted of operating or being in control of a
5 motor vehicle while the person was under the influence of alcohol,
6 other intoxicating substance or a combination of alcohol or another
7 intoxicating substance, or convicted of operating a motor vehicle
8 while the ability of the person to operate such vehicle was impaired
9 due to the consumption of alcohol, require such person:

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

19 b. to attend a victims impact panel program, as defined
20 in subsection H of this section, and to pay a fee of
21 Seventy-five Dollars (\$75.00) as set by the governing
22 authority of the program and approved by the court, to
23 the program to offset the cost of participation by the
24

1 defendant, if in the opinion of the court the
2 defendant has the ability to pay such fee,

3 c. to both participate in the alcohol and drug substance
4 abuse course or treatment program, pursuant to
5 subparagraph a of this paragraph and attend a victims
6 impact panel program, pursuant to subparagraph b of
7 this paragraph,

8 d. to install, at the expense of the person, an ignition
9 interlock device approved by the Board of Tests for
10 Alcohol and Drug Influence, upon every motor vehicle
11 operated by such person and to require that a notation
12 of this restriction be affixed to the person's driver
13 license at the time of reinstatement of the license.
14 The restriction shall remain on the driver license for
15 such period as the court shall determine. The
16 restriction may be modified or removed by order of the
17 court and notice of the order shall be given to the
18 Department of Public Safety. Upon the expiration of
19 the period for the restriction, the Department of
20 Public Safety shall remove the restriction without
21 further court order. Failure to comply with the order
22 to install an ignition interlock device or operating
23 any vehicle without such device during the period of
24 restriction shall be a violation of the sentence and

1 may be punished as deemed proper by the sentencing
2 court, or

3 e. beginning January 1, 1993, to submit to electronically
4 monitored home detention administered and supervised
5 by the Department of Corrections, and to pay to the
6 Department a monitoring fee, not to exceed Seventy-
7 five Dollars (\$75.00) a month, to the Department of
8 Corrections, if in the opinion of the court the
9 defendant has the ability to pay such fee. Any fees
10 collected pursuant to this subparagraph shall be
11 deposited in the Department of Corrections Revolving
12 Fund. Any order by the court for the payment of the
13 monitoring fee, if willfully disobeyed, may be
14 enforced as an indirect contempt of court;

15 8. In addition to the other sentencing powers of the court, in
16 the case of a person convicted of prostitution pursuant to Section
17 1029 of Title 21 of the Oklahoma Statutes, require such person to
18 receive counseling for the behavior which may have caused such
19 person to engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but not limited to
21 alcohol and substance abuse, sexual behavior problems or domestic
22 abuse or child abuse problems;

23 9. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of any crime related to domestic

1 abuse, as defined in Section 60.1 of this title, the court may
2 require the defendant to undergo the treatment or participate in the
3 counseling services necessary to bring about the cessation of
4 domestic abuse against the victim. The defendant may be required to
5 pay all or part of the cost of the treatment or counseling services;

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

19 11. In addition to the other sentencing powers of the court,
20 the court, in the case of a person convicted of abuse or neglect of
21 a child, as defined in Section 1-1-105 of Title 10A of the Oklahoma
22 Statutes, may require the person to undergo treatment or to
23 participate in counseling services. The defendant may be required
24

1 to pay all or part of the cost of the treatment or counseling
2 services;

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

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

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

24

1 15. In addition to the other sentencing powers of the court, in
2 the case of a sex offender who is required by law to register
3 pursuant to the Sex Offenders Registration Act, the court shall
4 require the person to register any electronic mail address
5 information, instant message, chat or other Internet communication
6 name or identity information that the person uses or intends to use
7 while accessing the Internet or used for other purposes of social
8 networking or other similar Internet communication; or

9 16. In addition to the other sentencing powers of the court,
10 and pursuant to the terms and conditions of a written plea
11 agreement, the court may prohibit the defendant from entering,
12 visiting or residing within the judicial district in which the
13 defendant was convicted until after completion of his or her
14 sentence; provided, however, the court shall ensure that the
15 defendant has access to those services or programs for which the
16 defendant is required to participate as a condition of probation.
17 When seeking to enter the prohibited judicial district for personal
18 business not related to his or her criminal case, the defendant
19 shall be required to obtain approval by the court.

20 B. Notwithstanding any other provision of law, any person who
21 is found guilty of a violation of any provision of Section 761 or
22 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
23 guilty or nolo contendere for a violation of any provision of such
24 sections shall be ordered to participate in, prior to sentencing, an

1 alcohol and drug assessment and evaluation by an assessment agency
2 or assessment personnel certified by the Department of Mental Health
3 and Substance Abuse Services for the purpose of evaluating the
4 receptivity to treatment and prognosis of the person. The court
5 shall order the person to reimburse the agency or assessor for the
6 evaluation. The fee shall be the amount provided in subsection C of
7 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
8 shall be conducted at a certified assessment agency, the office of a
9 certified assessor or at another location as ordered by the court.
10 The agency or assessor shall, within seventy-two (72) hours from the
11 time the person is assessed, submit a written report to the court
12 for the purpose of assisting the court in its final sentencing
13 determination. No person, agency or facility operating an alcohol
14 and drug substance abuse evaluation program certified by the
15 Department of Mental Health and Substance Abuse Services shall
16 solicit or refer any person evaluated pursuant to this subsection
17 for any treatment program or alcohol and drug substance abuse
18 service in which such person, agency or facility has a vested
19 interest; however, this provision shall not be construed to prohibit
20 the court from ordering participation in or any person from
21 voluntarily utilizing a treatment program or alcohol and drug
22 substance abuse service offered by such person, agency or facility.
23 If a person is sentenced to the custody of the Department of
24 Corrections and the court has received a written evaluation report

1 pursuant to this subsection, the report shall be furnished to the
2 Department of Corrections with the judgment and sentence. Any
3 evaluation report submitted to the court pursuant to this subsection
4 shall be handled in a manner which will keep such report
5 confidential from the general public's review. Nothing contained in
6 this subsection shall be construed to prohibit the court from
7 ordering judgment and sentence in the event the defendant fails or
8 refuses to comply with an order of the court to obtain the
9 evaluation required by this subsection.

10 C. When sentencing a person convicted of a crime, the court
11 shall first consider a program of restitution for the victim, as
12 well as imposition of a fine or incarceration of the offender. The
13 provisions of paragraph 1 of subsection A of this section shall not
14 apply to defendants being sentenced upon their third or subsequent
15 to their third conviction of a felony or, beginning January 1, 1993,
16 to defendants being sentenced for their second or subsequent felony
17 conviction for violation of Section 11-902 of Title 47 of the
18 Oklahoma Statutes, except as otherwise provided in this subsection.
19 In the case of a person being sentenced for his or her second or
20 subsequent felony conviction for violation of Section 11-902 of
21 Title 47 of the Oklahoma Statutes, the court may sentence the person
22 pursuant to the provisions of paragraph 1 of subsection A of this
23 section if the court orders the person to submit to electronically
24 monitored home detention administered and supervised by the

1 Department of Corrections pursuant to subparagraph e of paragraph 7
2 of subsection A of this section. Provided, the court may waive
3 these prohibitions upon written application of the district
4 attorney. Both the application and the waiver shall be made part of
5 the record of the case.

6 D. When sentencing a person convicted of a crime, the judge
7 shall consider any victim impact statements if submitted to the
8 jury, or the judge in the event a jury is waived.

9 E. Probation, for purposes of subsection A of this section, is
10 a procedure by which a defendant found guilty of a crime, whether
11 upon a verdict or plea of guilty or upon a plea of nolo contendere,
12 is released by the court subject to conditions imposed by the court
13 and subject to supervision by the Department of Corrections, a
14 private supervision provider or other person designated by the
15 court. Such supervision shall be initiated upon an order of
16 probation from the court, and shall not exceed two (2) years, unless
17 a petition alleging a violation of any condition of deferred
18 judgment or seeking revocation of the suspended sentence is filed
19 during the supervision, or as otherwise provided by law. In the
20 case of a person convicted of a sex offense, supervision shall begin
21 immediately upon release from incarceration or if parole is granted
22 and shall not be limited to two (2) years. Provided further, any
23 supervision provided for in this section may be extended for a
24 period not to exceed the expiration of the maximum term or terms of

1 the sentence upon a determination by the court or the Division of
2 Probation and Parole of the Department of Corrections that the best
3 interests of the public and the release will be served by an
4 extended period of supervision.

5 F. The Department of Corrections, or such other agency as the
6 court may designate, shall be responsible for the monitoring and
7 administration of the restitution and service programs provided for
8 by subparagraphs a, c and d of paragraph 1 of subsection A of this
9 section, and shall ensure that restitution payments are forwarded to
10 the victim and that service assignments are properly performed.

11 G. 1. The Department of Corrections is hereby authorized,
12 subject to funds available through appropriation by the Legislature,
13 to contract with counties for the administration of county Community
14 Service Sentencing Programs.

15 2. Any offender eligible to participate in the Program pursuant
16 to this section shall be eligible to participate in a county
17 Program; provided, participation in county-funded Programs shall not
18 be limited to offenders who would otherwise be sentenced to
19 confinement with the Department of Corrections.

20 3. The Department shall establish criteria and specifications
21 for contracts with counties for such Programs. A county may apply
22 to the Department for a contract for a county-funded Program for a
23 specific period of time. The Department shall be responsible for
24 ensuring that any contracting county complies in full with

1 specifications and requirements of the contract. The contract shall
2 set appropriate compensation to the county for services to the
3 Department.

4 4. The Department is hereby authorized to provide technical
5 assistance to any county in establishing a Program, regardless of
6 whether the county enters into a contract pursuant to this
7 subsection. Technical assistance shall include appropriate
8 staffing, development of community resources, sponsorship,
9 supervision and any other requirements.

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

15 H. As used in this section:

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

21 2. "Electronically monitored home detention" means
22 incarceration of the defendant within a specified location or
23 locations with monitoring by means of a device approved by the
24

1 Department of Corrections that detects if the person leaves the
2 confines of any specified location; and

3 3. "Victims impact panel program" means a program conducted by
4 a corporation registered with the Secretary of State in Oklahoma for
5 the sole purpose of operating a victims impact panel program. The
6 program shall include live presentations from presenters who will
7 share personal stories with participants about how alcohol, drug
8 abuse, the operation of a motor vehicle while using an electronic
9 communication device or the illegal conduct of others has personally
10 impacted the lives of the presenters. A victims impact panel
11 program shall be attended by persons who have committed the offense
12 of driving, operating or being in actual physical control of a motor
13 vehicle while under the influence of alcohol or other intoxicating
14 substance, operating a motor vehicle while the ability of the person
15 to operate such vehicle was impaired due to the consumption of
16 alcohol or any other substance or operating a motor vehicle while
17 using an electronic device or by persons who have been convicted of
18 furnishing alcoholic beverage to persons under twenty-one (21) years
19 of age, as provided in Sections 6-101 and 6-120 of Title 37A of the
20 Oklahoma Statutes. Persons attending a victims impact panel program
21 shall be required to pay a fee of Seventy-five Dollars (\$75.00) to
22 the provider of the program. A certificate of completion shall be
23 issued to the person upon satisfying the attendance and fee
24 requirements of the victims impact panel program. The certificate

1 of completion shall contain the business identification number of
2 the program provider. A certified assessment agency, certified
3 assessor or provider of an alcohol and drug substance abuse course
4 shall be prohibited from providing a victims impact panel program
5 and shall further be prohibited from having any proprietary or
6 pecuniary interest in a victims impact panel program. The provider
7 of the victims impact panel program shall carry general liability
8 insurance and maintain an accurate accounting of all business
9 transactions and funds received in relation to the victims impact
10 panel program. Beginning October 1, 2020, and each October 1
11 thereafter, the provider of the victims impact panel program shall
12 provide to the District Attorneys Council the following:

- 13 a. proof of registration with the Oklahoma Secretary of
14 State,
- 15 b. proof of general liability insurance,
- 16 c. end-of-year financial statements prepared by a
17 certified public accountant,
- 18 d. a copy of federal income tax returns filed with the
19 Internal Revenue Service,
- 20 e. a registration fee of One Thousand Dollars
21 (\$1,000.00). The registration fee shall be deposited
22 in the District Attorneys Council Revolving Fund
23 created in Section 215.28 of Title 19 of the Oklahoma
24 Statutes, and

1 f. a statement certifying that the provider of the
2 victims impact panel program has complied with all of
3 the requirements set forth in this paragraph.

4 I. A person convicted of a felony offense or receiving any form
5 of probation for an offense in which registration is required
6 pursuant to the Sex Offenders Registration Act, shall submit to
7 deoxyribonucleic acid (DNA) testing for law enforcement
8 identification purposes in accordance with Section 150.27 of Title
9 74 of the Oklahoma Statutes and the rules promulgated by the
10 Oklahoma State Bureau of Investigation for the OSBI Combined DNA
11 Index System (CODIS) Database. Subject to the availability of
12 funds, any person convicted of a misdemeanor offense of assault and
13 battery, domestic abuse, stalking, possession of a controlled
14 substance prohibited under the Uniform Controlled Dangerous
15 Substances Act, outraging public decency, resisting arrest, escape
16 or attempting to escape, eluding a police officer, Peeping Tom,
17 pointing a firearm, threatening an act of violence, breaking and
18 entering a dwelling place, destruction of property, negligent
19 homicide or causing a personal injury accident while driving under
20 the influence of any intoxicating substance, or any alien unlawfully
21 present under federal immigration law, upon arrest, shall submit to
22 DNA testing for law enforcement identification purposes in
23 accordance with Section 150.27 of Title 74 of the Oklahoma Statutes
24 and the rules promulgated by the Oklahoma State Bureau of

1 Investigation for the OSBI Combined DNA Index System (CODIS)
2 Database. Any defendant sentenced to probation shall be required to
3 submit to testing within thirty (30) days of sentencing either to
4 the Department of Corrections or to the county sheriff or other
5 peace officer as directed by the court. Defendants who are
6 sentenced to a term of incarceration shall submit to testing in
7 accordance with Section 530.1 of Title 57 of the Oklahoma Statutes,
8 for those defendants who enter the custody of the Department of
9 Corrections or to the county sheriff, for those defendants sentenced
10 to incarceration in a county jail. Convicted individuals who have
11 previously submitted to DNA testing under this section and for whom
12 a valid sample is on file in the OSBI Combined DNA Index System
13 (CODIS) Database at the time of sentencing shall not be required to
14 submit to additional testing. Except as required by the Sex
15 Offenders Registration Act, a deferred judgment does not require
16 submission to DNA testing.

17 Any person who is incarcerated in the custody of the Department
18 of Corrections after July 1, 1996, and who has not been released
19 before January 1, 2006, shall provide a blood or saliva sample prior
20 to release. Every person subject to DNA testing after January 1,
21 2006, whose sentence does not include a term of confinement with the
22 Department of Corrections shall submit a blood or saliva sample.
23 Every person subject to DNA testing who is sentenced to unsupervised
24 probation or otherwise not supervised by the Department of

1 Corrections shall submit for blood or saliva testing to the sheriff
2 of the sentencing county.

3 J. Samples of blood or saliva for DNA testing required by
4 subsection I of this section shall be taken by employees or
5 contractors of the Department of Corrections, peace officers, or the
6 county sheriff or employees or contractors of the sheriff's office.
7 The individuals shall be properly trained to collect blood or saliva
8 samples. Persons collecting blood or saliva for DNA testing
9 pursuant to this section shall be immune from civil liabilities
10 arising from this activity. All collectors of DNA samples shall
11 ensure the collection of samples are mailed to the Oklahoma State
12 Bureau of Investigation within ten (10) days of the time the subject
13 appears for testing or within ten (10) days of the date the subject
14 comes into physical custody to serve a term of incarceration. All
15 collectors of DNA samples shall use sample kits provided by the OSBI
16 and procedures promulgated by the OSBI. Persons subject to DNA
17 testing who are not received at the Lexington Assessment and
18 Reception Center shall be required to pay a fee of Fifteen Dollars
19 (\$15.00) to the agency collecting the sample for submission to the
20 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
21 pursuant to this subsection shall be deposited in the revolving
22 account or the service fee account of the collection agency or
23 department.

24

1 K. When sentencing a person who has been convicted of a crime
2 that would subject that person to the provisions of the Sex
3 Offenders Registration Act, neither the court nor the district
4 attorney shall be allowed to waive or exempt such person from the
5 registration requirements of the Sex Offenders Registration Act.

6 SECTION 4. This act shall become effective November 1, 2023.

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