

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 499

By: Paxton of the Senate

and

Caldwell (Trey) of the
House

11 COMMITTEE SUBSTITUTE

12 An Act relating to the Attorney General; amending 74
13 O.S. 2021, Section 18c, which relates to defense of
14 actions by the Attorney General; granting certain
15 authority to the Attorney General; amending 74 O.S.
16 2021, Section 18d, which relates to district
17 attorneys and their requiring of aid; modifying
18 request procedures; amending 74 O.S. 2021, Section
19 18e, which relates to criminal actions, quo warranto,
20 and appearance before grand juries; modifying
21 procedures; amending 22 O.S. 2021, Section 19a, which
22 relates to arrest or charge as result of identity
23 theft, expungement on motion of court; permitting
24 motion by Attorney General; amending 22 O.S. 2021,
Section 258, as amended by Section 2, Chapter 269,
O.S.L. 2022 (22 O.S. Supp. 2022, Section 258, which
relates to preliminary examinations and proceedings
thereon; expanding authority of the Attorney General;
amending 22 O.S. 2021, Section 303, which relates to
subscription, endorsement, and verification of
information; expanding authority of Attorney General
and requirements; amending 22 O.S. 2021, Section 409,
which relates to the sufficiency of indictment or
information; expanding certain criteria; amending 22
O.S. 2021, Section 751.1, which relates to DNA
profile, use as evidence and notification of

1 defendant; expanding certain requirements to be
2 applicable to the Attorney General's office;
3 modifying certain timing provisions; amending 22 O.S.
4 2021, Section 982, which relates to presentence
5 investigations; expanding certain requirements to be
6 applicable to the Attorney General's office; amending
7 22 O.S. 2021, Section 982a, which relates to judicial
8 review; requiring certain approvals by the Attorney
9 General; modifying applicability; amending 22 O.S.
10 2021, Section 991a, which relates to sentencing
11 powers of court, restitution, fines, or
12 incarceration; allowing waiver of certain
13 prohibitions upon written application of the Attorney
14 General; repealing 22 O.S. 2021, Section 524, which
15 relates to preliminary hearing on felony indictment,
16 time for request, witnesses, and dismissal; and
17 declaring an emergency.

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

19 SECTION 1. AMENDATORY 74 O.S. 2021, Section 18c, is
20 amended to read as follows:

21 Section 18c. A. 1. Except as otherwise provided by this
22 subsection, no state officer, board or commission shall have
23 authority to employ or appoint attorneys to advise or represent said
24 officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the
25 Corporation Commission, the Council on Law Enforcement Education and
26 Training, the Consumer Credit Commission, the Board of Managers of
27 the State Insurance Fund, the Oklahoma Tax Commission, the
28 Commissioners of the Land Office, the Oklahoma Public Welfare

1 Commission also known as the Commission for Human Services, the
2 State Board of Corrections, the Oklahoma Health Care Authority, the
3 Department of Public Safety, the Oklahoma State Bureau of Narcotics
4 and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement
5 Commission, the Transportation Commission, the Oklahoma Energy
6 Resources Board, the Oklahoma Merit Protection Commission, the
7 Office of Management and Enterprise Services, the Oklahoma Water
8 Resources Board, the Department of Labor, the Department of
9 Agriculture, Food, and Forestry, the Northeast Oklahoma Public
10 Facilities Authority, the Oklahoma Firefighters Pension and
11 Retirement System, the Oklahoma Public Employees Retirement System,
12 the Uniform Retirement System for Justices and Judges, the Oklahoma
13 Conservation Commission, the Office of Juvenile Affairs, the State
14 Board of Pharmacy and the Oklahoma Department of Veterans Affairs.

15 3. The provisions of paragraph 2 of this subsection shall not
16 be construed to authorize the Office of Juvenile Affairs to employ
17 any attorneys that are not specifically authorized by law.

18 4. All the legal duties of such officer, board or commission
19 shall devolve upon and are hereby vested in the Attorney General;
20 provided that:

21 a. the Governor shall have authority to employ special
22 counsel to protect the rights or interest of the state
23 as provided in Section 6 of this title, and

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1 b. liquidation agents of banks shall have the authority
2 to employ local counsel, with the consent of the Bank
3 Commissioner and the Attorney General and the approval
4 of the district court.

5 B. At the request of any state officer, board or commission,
6 except the Corporation Commission, the Board of Managers of the
7 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners
8 of the Land Office, the Grand River Dam Authority, the Oklahoma
9 State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
10 Beverage Laws Enforcement Commission, the Oklahoma Firefighters
11 Pension and Retirement System, the Oklahoma Public Employees
12 Retirement System, the Uniform Retirement System for Justices and
13 Judges and the Interstate Oil and Gas Compact Commission, the
14 Attorney General shall defend any action in which they may be sued
15 in their official capacity. At the request of any such state
16 officer, board or commission, the Attorney General shall have
17 authority to institute suits in the name of the State of Oklahoma on
18 their relation, if after investigation the Attorney General is
19 convinced there is sufficient legal merit to justify the action.

20 C. The Attorney General shall have the authority to enter into
21 memoranda of understanding, commensurate with the Attorney General's
22 duties and responsibilities, with any law enforcement entity or
23 district attorney.

1 D. Any officer, board or commission which has the authority to
2 employ or appoint attorneys may request that the Attorney General
3 defend any action arising pursuant to the provisions of The
4 Governmental Tort Claims Act.

5 ~~D.~~ E. Nothing in this section shall be construed to repeal or
6 affect the provisions of the statutes of this state pertaining to
7 attorneys and legal advisors of the several commissions and
8 departments of state specified in subsection B of this section, and
9 all acts and parts of acts pertaining thereto shall be and remain in
10 full force and effect.

11 SECTION 2. AMENDATORY 74 O.S. 2021, Section 18d, is
12 amended to read as follows:

13 Section 18d. The Attorney General shall have authority to
14 require the aid and assistance of district attorneys in their
15 respective counties in the matters hereinbefore enumerated and may
16 in any case brought to the Supreme Court or Criminal Court of
17 Appeals from their respective counties demand and receive the
18 assistance of the district attorney from whose county such case is
19 brought. ~~Any district attorney desiring the assistance of the~~
20 ~~Attorney General in any matter shall request the Governor for such~~
21 ~~assistance, and upon receiving the direction of the Governor to~~
22 ~~render such assistance, the Attorney General shall proceed~~
23 ~~immediately, compatible with the performance of his own duties to~~
24 ~~render the assistance.~~ A district attorney may request the Attorney

1 General provide assistance in any matter. Upon receiving such
2 request, the Attorney General may render such assistance, compatible
3 with the performance of the Attorney General's other duties.

4 SECTION 3. AMENDATORY 74 O.S. 2021, Section 18e, is
5 amended to read as follows:

6 Section 18e. ~~In addition to the above powers and duties, the~~
7 ~~Attorney General shall, when requested by the Governor, have power~~
8 ~~and authority to institute and prosecute criminal actions and~~
9 ~~actions in the nature of quo warranto; and shall, when requested by~~
10 ~~the Governor, compatible with the performance of his other duties,~~
11 ~~appear before and assist grand juries in their investigations. The~~
12 Attorney General shall have the power and authority to institute and
13 prosecute criminal actions by complaints, informations, indictments
14 returned by a county or multicounty grand jury, and actions in the
15 nature of quo warranto; any may, compatible with the performance of
16 the Attorney General's other duties, appear before and assist grand
17 juries in their investigations.

18 SECTION 4. AMENDATORY 22 O.S. 2021, Section 19a, is
19 amended to read as follows:

20 Section 19a. Notwithstanding any provision of Section 18 or 19
21 of Title 22 of the Oklahoma Statutes, when a charge is dismissed
22 because the court finds that the defendant has been arrested or
23 charged as a result of the defendant's name or other identification
24 having been appropriated or used without the defendant's consent or

1 authorization by another person, the court dismissing the charge
2 may, upon motion of the district attorney or the Attorney General or
3 the defendant or upon the court's own motion, enter an order for
4 expungement of law enforcement and court records relating to the
5 charge. The order shall contain a statement that the dismissal and
6 expungement are ordered pursuant to this section. An order entered
7 pursuant to this section shall be subject to the provisions of
8 subsections D through M of Section 19 of Title 22 of the Oklahoma
9 Statutes.

10 SECTION 5. AMENDATORY 22 O.S. 2021, Section 258, as
11 amended by Section 2, Chapter 269, O.S.L. 2022 (22 O.S. Supp. 2022,
12 Section 258), is amended to read as follows:

13 Section 258. First: The witnesses must be examined in the
14 presence of the defendant, and may be cross-examined by the
15 defendant. On the request of the district attorney, the Attorney
16 General, or the defendant, all the testimony must be reduced to
17 writing in the form of questions and answers and signed by the
18 witnesses, or the same may be taken in shorthand and transcribed
19 without signing, and in both cases filed with the clerk of the
20 district court, by the examining magistrate, and may be used as
21 provided in Section 333 of this title. In no case shall the county
22 be liable for the expense in reducing such testimony to writing,
23 unless ordered by the judge of a court of record.

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1 Second: The district attorney or the Attorney General may, on
2 approval of the county judge or the district judge, issue subpoenas
3 in felony cases and call witnesses before the district attorney or
4 the Attorney General and have them sworn and their testimony reduced
5 to writing and signed by the witnesses at the cost of the county.
6 Such examination must be confined to some felony committed against
7 the statutes of the state and triable in that county, and the
8 evidence so taken shall not be receivable in any civil proceeding.
9 A refusal to obey such subpoena or to be sworn or to testify may be
10 punished as a contempt on complaint and showing to the county court,
11 or district court, or the judges thereof that proper cause exists
12 therefor.

13 Third: No preliminary information shall be filed without the
14 consent or endorsement of the district attorney or the Attorney
15 General, unless the defendant be taken in the commission of a
16 felony, or the offense be of such character that the accused is
17 liable to escape before the district attorney or the Attorney
18 General can be consulted. If the defendant is discharged and the
19 information is filed without authority from or endorsement of the
20 district attorney or the Attorney General, the costs must be taxed
21 to the prosecuting witness, and the county shall not be liable
22 therefor.

23 Fourth: The convening and session of a grand jury does not
24 dispense with the right of the district attorney or the Attorney

1 General to file complaints and informations, conduct preliminary
2 hearings and other routine matters, unless otherwise specifically
3 ordered, by a written order of the court convening the grand jury;
4 made on the court's own motion, or at the request of the grand jury.

5 Fifth: There shall be no preliminary examinations in
6 misdemeanor cases.

7 Sixth: A preliminary magistrate shall have the authority to
8 limit the evidence presented at the preliminary hearing to that
9 which is relevant to the issues of: (1) whether the crime was
10 committed, and (2) whether there is probable cause to believe the
11 defendant committed the crime. Once a showing of probable cause is
12 made the magistrate shall terminate the preliminary hearing and
13 enter a bindover order; provided, however, that the preliminary
14 hearing shall be terminated only if the state made available for
15 inspection law enforcement reports within the prosecuting attorney's
16 knowledge or possession at the time to the defendant five (5)
17 working days prior to the date of the preliminary hearing. The
18 district attorney or the Attorney General shall determine whether or
19 not to make law enforcement reports available prior to the
20 preliminary hearing. ~~If reports are made available, the district~~
21 ~~attorney shall be required to provide those law enforcement reports~~
22 ~~that the district attorney knows to exist at the time of providing~~
23 ~~the reports, but this does~~ Law enforcement reports do not include
24 any physical evidence which may exist in the case. This provision

1 does not require the district attorney or the Attorney General to
2 provide copies for the defendant, but only to make them available
3 for inspection by defense counsel. In the alternative, upon
4 agreement of the state and the defendant, the court may terminate
5 the preliminary hearing once a showing of probable cause is made.

6 Seventh: A preliminary magistrate shall accept into evidence as
7 proof of prior convictions a noncertified copy of a Judgment and
8 Sentence when the copy appears to the preliminary magistrate to be
9 patently accurate. The district attorney or the Attorney General
10 shall make a noncertified copy of the Judgment and Sentence
11 available to the defendant no fewer than five (5) days prior to the
12 hearing. If such copy is not made available five (5) days prior to
13 the hearing, the court shall continue the portion of the hearing to
14 which the copy is relevant for such time as the defendant requests,
15 not to exceed five (5) days subsequent to the receipt of the copy.

16 Eighth: The purpose of the preliminary hearing is to establish
17 probable cause that a crime was committed and probable cause that
18 the defendant committed the crime.

19 Ninth: The preliminary hearing must be set within nine (9)
20 months from the initial appearance of the defendant. If
21 commencement of the preliminary hearing is delayed past the nine-
22 month time limit, a show cause hearing shall be scheduled by the
23 court to show reason for the delay. If the court fails to find good
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1 cause for the delay, the court shall schedule a preliminary hearing
2 as soon as practicable.

3 SECTION 6. AMENDATORY 22 O.S. 2021, Section 303, is
4 amended to read as follows:

5 Section 303. A. The district attorney or the Attorney General
6 shall subscribe the district attorney's or the Attorney General's
7 name to informations filed in the district court and endorse thereon
8 the names and last-known addresses of all the witnesses known to the
9 district attorney or the Attorney General at the time of filing the
10 same, if intended to be called by the district attorney or the
11 Attorney General at a preliminary examination or at trial.

12 Thereafter, the district attorney or the Attorney General shall also
13 endorse thereon the names and last-known addresses of such other
14 witnesses as may afterwards become known to the district attorney or
15 the Attorney General, if they are intended to be called as witnesses
16 at a preliminary examination or at trial, at such time as the court
17 may by rule prescribe.

18 Upon filing of an application by the district attorney or the
19 Attorney General, notice to defense counsel, and hearing
20 establishing need for witness protection or preservation of the
21 integrity of evidence, the district court may excuse witness
22 endorsement, or some part thereof. Such proceedings shall be
23 conducted in camera, and the record shall be sealed and filed in the

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1 office of the district court clerk, and shall not be opened except
2 by order of the district court.

3 B. Notwithstanding other provisions of law, when a law
4 enforcement officer issues a citation or ticket as the basis for a
5 complaint or information, for a violation of law declared to be a
6 misdemeanor, the citation or ticket shall be properly verified if:

7 1. The issuing officer subscribes the officer's signature on
8 the citation, ticket or complaint to the following statement:

9 "I, the undersigned issuing officer, hereby certify and
10 swear that I have read the foregoing information and know
11 the facts and contents thereof and that the facts
12 supporting the criminal charge stated therein are true."

13 Such a subscription by an issuing officer, in all respects, shall
14 constitute a sworn statement, as if sworn to upon an oath
15 administered by an official authorized by law to administer oaths;
16 and

17 2. The citation or ticket states the specific facts supporting
18 the criminal charge and the ordinance or statute alleged to be
19 violated; or

20 3. A complainant verifies by oath, subscribed on the citation,
21 ticket or complaint, that the complainant has read the information,
22 knows the facts and contents thereof and that the facts supporting
23 the criminal charge stated therein are true. For purpose of such an
24 oath and subscription, any law enforcement officer of the state or

1 of a county or municipality of the state issuing the citation,
2 ticket or complaint shall be authorized to administer the oath to
3 the complainant.

4 C. As used in this section, the term "signature" shall include
5 a digital or electronic signature, as defined in Section 15-102 of
6 Title 12A of the Oklahoma Statutes.

7 SECTION 7. AMENDATORY 22 O.S. 2021, Section 409, is
8 amended to read as follows:

9 Section 409. The indictment or information is sufficient if it
10 can be understood therefrom:

11 1. That it is entitled in a court having authority to receive
12 it, though the name of the court be not stated.

13 2. That it was found by a grand jury or presented by the
14 district attorney of the county in which the court was held, or
15 presented by the Attorney General.

16 3. That the defendant is named, or if his name cannot be
17 discovered, that he is described by a fictitious name, with the
18 statement that his true name is unknown.

19 4. That the offense was committed at some place within the
20 jurisdiction of the court, except where the act, though done without
21 the local jurisdiction of the county, is triable therein.

22 5. That the offense was committed at some time prior to the
23 time of filing the indictment or information.

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1 6. That the act or omission charged as the offense is clearly
2 and distinctly set forth in ordinary and concise language, without
3 repetition, and in such a manner as to enable a person of common
4 understanding to know what is intended.

5 7. That the act or omission charged as the offense, is stated
6 with such a degree of certainty, as to enable the court to pronounce
7 judgment upon a conviction according to the right of the case.

8 SECTION 8. AMENDATORY 22 O.S. 2021, Section 751.1, is
9 amended to read as follows:

10 Section 751.1 A. As used in this act:

11 1. "Deoxyribonucleic Acid (DNA)" means the molecules in all
12 cellular forms that contain genetic information in a patterned
13 chemical structure of each individual; and

14 2. "DNA Profile" means an analysis of DNA resulting in the
15 identification of an individual's patterned chemical structure of
16 genetic information.

17 B. 1. At any hearing prior to trial or at a forfeiture
18 hearing, a report of the findings of a laboratory report from a
19 forensic laboratory operated by this state or any political
20 subdivision thereof, or from a laboratory performing analysis at the
21 request of a forensic laboratory operated by this state or any
22 political subdivision thereof, regarding DNA Profile, which has been
23 made available to the accused by the office of the district
24 attorney, or the office of the Attorney General, in cases prosecuted

1 by the Attorney General, at least five (5) days prior to the
2 hearing, when certified as correct by the persons making the report,
3 shall be received as evidence of the facts and findings stated, if
4 relevant and otherwise admissible in evidence. If a report is
5 deemed relevant by the state or the accused, the court shall admit
6 the report without the testimony of the person making the report,
7 unless the court, pursuant to this section, orders the person making
8 the report to appear. If the accused is not served with a report,
9 by the district attorney, or the office of the Attorney General, in
10 cases prosecuted by the Attorney General, at least five (5) days
11 prior to a hearing, the accused may be allowed a continuance of the
12 portion of the hearing to which the report is relevant, to allow at
13 least five (5) days' preparation subsequent to the furnishing of the
14 report by the district attorney, or the office of the Attorney
15 General, in cases prosecuted by the Attorney General.

16 2. The court, upon motion of the state or accused, shall order
17 the attendance of any person preparing such a report submitted as
18 evidence in any hearing prior to trial or forfeiture hearing, when
19 it appears there is a substantial likelihood that material evidence
20 not contained in the report may be produced by the testimony of the
21 person having prepared the report. The motion shall be filed and
22 notice given of the hearing on the motion to order the attendance of
23 the person having prepared the report. A hearing shall be held and,
24 if the motion is sustained, an order issued giving not less than

1 five (5) days' prior notice to the time when the testimony shall be
2 required. If, within five (5) days prior to the hearing or during a
3 hearing, a motion is made pursuant to this subsection requiring a
4 person having prepared a report to testify, the court may hear the
5 report or other evidence but shall continue the hearing until such
6 time notice of the motion and hearing is given to the person having
7 prepared the report, the motion is heard, and, if sustained,
8 testimony ordered can be given.

9 C. If the state decides to offer evidence of a DNA profile in
10 any trial on the merits, the state shall, at least ~~fifteen (15)~~ ten
11 (10) days before the criminal proceeding, notify in writing the
12 defendant or the defendant's attorney and mail, deliver, or make
13 available to the defendant or the defendant's attorney a copy of any
14 report or statement to be introduced that has not previously been
15 made available to the defendant or the defendant's attorney pursuant
16 to subsection B of this section.

17 SECTION 9. AMENDATORY 22 O.S. 2021, Section 982, is
18 amended to read as follows:

19 Section 982. A. Whenever a person is convicted of a violent
20 felony offense whether the conviction is for a single offense or
21 part of any combination of offenses, except when the death sentence
22 is available as punishment for the offense, the court may, before
23 imposing the sentence, require a presentence investigation be made
24 of the offender by the Department of Corrections. The court shall

1 order the defendant to pay a fee to the Department of Corrections of
2 not less than Fifty Dollars (\$50.00) nor more than Five Hundred
3 Dollars (\$500.00) for the presentence investigation. In hardship
4 cases, the court may reduce the amount of the fee and establish a
5 payment schedule.

6 B. Whenever a person has a prior felony conviction and enters a
7 plea of guilty or nolo contendere to a felony offense other than a
8 violent felony offense, without an agreement by the district
9 attorney or the Attorney General regarding the sentence to be
10 imposed, the court may order a presentence investigation be made by
11 the Department of Corrections. The fee provided in subsection A of
12 this section shall apply to persons subject to this subsection.

13 C. Whenever a person has entered a plea of not guilty to a
14 nonviolent felony offense and is found guilty by a court following a
15 non-jury trial, the court may require a presentence investigation be
16 made by the Department of Corrections. The fee provided in
17 subsection A of this section shall apply to persons subject to this
18 subsection.

19 D. When conducting a presentence investigation, the Department
20 shall inquire into the circumstances of the offense and the
21 characteristics of the offender. The information obtained from the
22 investigation shall include, but not be limited to, a voluntary
23 statement from each victim of the offense concerning the nature of
24 the offense and the impact of the offense on the victim and the

1 immediate family of the victim, the amount of the loss suffered or
2 incurred by the victim as a result of the criminal conduct of the
3 offender, and the age, marital status, living arrangements,
4 financial obligations, income, family history and education, prior
5 juvenile and criminal records, associations with other persons
6 convicted of a felony offense, social history, indications of a
7 predisposition to violence or substance abuse, remorse or guilt
8 about the offense or the harm to the victim, job skills and
9 employment history of the offender. The Department shall make a
10 report of information from such investigation to the court,
11 including a recommendation detailing the punishment which is deemed
12 appropriate for both the offense and the offender, and specifically
13 a recommendation for or against probation or suspended sentence.
14 The report of the investigation shall be presented to the judge
15 within a reasonable time, and upon failure to present the report,
16 the judge may proceed with sentencing. Whenever, in the opinion of
17 the court or the Department, it is desirable, the investigation
18 shall include a physical and mental examination or either a physical
19 or mental examination of the offender.

20 E. The district attorney may have a presentence investigation
21 made by the Department on each person charged with a violent felony
22 offense and entering a plea of guilty or a plea of nolo contendere
23 as part of or in exchange for a plea agreement for a violent felony
24 offense. The presentence investigation shall be completed before

1 the terms of the plea agreement are finalized. The court shall not
2 approve the terms of any plea agreement without reviewing the
3 presentence investigation report to determine whether or not the
4 terms of the sentence are appropriate for both the offender and the
5 offense. The fee provided in subsection A of this section shall
6 apply to persons subject to this subsection and shall be a condition
7 of the plea agreement and sentence.

8 F. The presentence investigation reports specified in this
9 section shall not be referred to, or be considered, in any appeal
10 proceedings. Before imposing a sentence, the court shall advise the
11 defendant, counsel for the defendant, and the district attorney of
12 the factual contents and conclusions of the presentence
13 investigation report. The court shall afford the offender a fair
14 opportunity to controvert the findings and conclusions of the
15 reports at the time of sentencing. If either the defendant or the
16 district attorney desires, a hearing shall be set by the court to
17 allow both parties an opportunity to offer evidence proving or
18 disproving any finding contained in a report, which shall be a
19 hearing in mitigation or aggravation of punishment.

20 G. The required presentence investigation and report may be
21 waived upon written waiver by the district attorney and the
22 defendant and upon approval by the Court.

23 H. As used in this section, "violent felony offense" means:

24 1. Arson in the first degree;

- 1 2. Assault with a dangerous weapon, battery with a dangerous
2 weapon or assault and battery with a dangerous weapon;
- 3 3. Aggravated assault and battery on a police officer, sheriff,
4 highway patrol officer, or any other officer of the law;
- 5 4. Assault with intent to kill, or shooting with intent to
6 kill;
- 7 5. Assault with intent to commit a felony, or use of a firearm
8 to commit a felony;
- 9 6. Assault while masked or disguised;
- 10 7. Burglary in the first degree or burglary with explosives;
- 11 8. Child beating or maiming;
- 12 9. Forcible sodomy;
- 13 10. Kidnapping, or kidnapping for extortion;
- 14 11. Lewd or indecent proposition or lewd or indecent acts with
15 a child;
- 16 12. Manslaughter in the first or second degrees;
- 17 13. Murder in the first or second degrees;
- 18 14. Rape in the first or second degrees, or rape by
19 instrumentation;
- 20 15. Robbery in the first or second degrees, or robbery by two
21 or more persons, or robbery with a dangerous weapon; or
- 22 16. Any attempt, solicitation or conspiracy to commit any of
23 the above enumerated offenses.
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1 SECTION 10. AMENDATORY 22 O.S. 2021, Section 982a, is
2 amended to read as follows:

3 Section 982a. A. 1. Any time within sixty (60) months after
4 the initial sentence is imposed or within sixty (60) months after
5 probation has been revoked, the court imposing sentence or
6 revocation of probation may modify such sentence or revocation by
7 directing that another sentence be imposed, if the court is
8 satisfied that the best interests of the public will not be
9 jeopardized; provided, however, the court shall not impose a
10 deferred sentence. Any application for sentence modification that
11 is filed and ruled upon beyond twelve (12) months of the initial
12 sentence being imposed must be approved by the district attorney or
13 the Attorney General, in cases prosecuted by the Attorney General,
14 who shall provide written notice to any victims in the case which is
15 being considered for modification.

16 2. The court imposing sentence may modify the sentence of any
17 offender who was originally sentenced for a drug charge and ordered
18 to complete the Drug Offender Work Camp at the Bill Johnson
19 Correctional Facility and direct that another sentence be imposed,
20 if the court is satisfied that the best interests of the public will
21 not be jeopardized; provided, however, the court shall not impose a
22 deferred sentence. An application for sentence modification
23 pursuant to this paragraph may be filed and ruled upon beyond the
24

1 initial sixty-month time period provided for in paragraph 1 of this
2 subsection.

3 3. This section shall not apply to convicted felons who have
4 been in confinement in any state or federal prison system for any
5 previous felony conviction during the ten-year period preceding the
6 date that the sentence this section applies to was imposed.

7 Further, without the consent of the district attorney or the
8 Attorney General, in cases prosecuted by the Attorney General, this
9 section shall not apply to sentences imposed pursuant to a plea
10 agreement or jury verdict.

11 B. The court imposing the sentence may modify the sentence of
12 any offender sentenced to life without parole for an offense other
13 than a violent crime, as enumerated in Section 571 of Title 57 of
14 the Oklahoma Statutes, who has served at least ten (10) years of the
15 sentence in the custody of the Department of Corrections upon a
16 finding that the best interests of the public will not be
17 jeopardized. Provided; however, prior to granting a sentence
18 modification under the provisions of this subsection, the court
19 shall provide notice of the hearing to determine sentence
20 modification to the victim or representative of the victim and shall
21 allow the victim or representative of the victim the opportunity to
22 provide testimony at the hearing. The court shall consider the
23 testimony of the victim or representative of the victim when
24 rendering a decision to modify the sentence of an offender.

1 C. For purposes of judicial review, upon court order or written
2 request from the sentencing judge, the Department of Corrections
3 shall provide the court imposing sentence or revocation of probation
4 with a report to include a summary of the assessed needs of the
5 offender, any progress made by the offender in addressing his or her
6 assessed needs, and any other information the Department can supply
7 on the offender. The court shall consider such reports when
8 modifying the sentence or revocation of probation. The court shall
9 allow the Department of Corrections at least twenty (20) days after
10 receipt of a request or order from the court to prepare the required
11 reports.

12 D. If the court considers modification of the sentence or
13 revocation of probation, a hearing shall be made in open court after
14 receipt of the reports required in subsection C of this section.
15 The clerk of the court imposing sentence or revocation of probation
16 shall give notice of the judicial review hearing to the Department
17 of Corrections, the offender, the legal counsel of the offender, and
18 the district attorney of the county in which the offender was
19 convicted or the Attorney General, in cases prosecuted by the
20 Attorney General, upon receipt of the reports. Such notice shall be
21 mailed at least twenty-one (21) days prior to the hearing date and
22 shall include a copy of the report and any other written information
23 to be considered at the judicial review hearing.

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1 E. If an appeal is taken from the original sentence or from a
2 revocation of probation which results in a modification of the
3 sentence or modification to the revocation of probation of the
4 offender, such sentence may be further modified in the manner
5 described in paragraph 1 of subsection A of this section within
6 sixty (60) months after the receipt by the clerk of the district
7 court of the mandate from the Supreme Court or the Court of Criminal
8 Appeals.

9 SECTION 11. AMENDATORY 22 O.S. 2021, Section 991a, is
10 amended to read as follows:

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

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

19 a. to provide restitution to the victim as provided by
20 Section 991f et seq. of this title or according to a
21 schedule of payments established by the sentencing
22 court, together with interest upon any pecuniary sum
23 at the rate of twelve percent (12%) per annum, if the
24 defendant agrees to pay such restitution or, in the

1 opinion of the court, if the defendant is able to pay
2 such restitution without imposing manifest hardship on
3 the defendant or the immediate family and if the
4 extent of the damage to the victim is determinable
5 with reasonable certainty,

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

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

17 d. to pay a reasonable sum into any trust fund
18 established pursuant to the provisions of Sections 176
19 through 180.4 of Title 60 of the Oklahoma Statutes and
20 which provides restitution payments by convicted
21 defendants to victims of crimes committed within this
22 state wherein such victim has incurred a financial
23 loss,

24

- 1 e. to confinement in the county jail for a period not to
2 exceed six (6) months,
- 3 f. to confinement as provided by law together with a term
4 of post-imprisonment community supervision for not
5 less than three (3) years of the total term allowed by
6 law for imprisonment, with or without restitution;
7 provided, however, the authority of this provision is
8 limited to Section 843.5 of Title 21 of the Oklahoma
9 Statutes when the offense involved sexual abuse or
10 sexual exploitation; Sections 681, 741 and 843.1 of
11 Title 21 of the Oklahoma Statutes when the offense
12 involved sexual abuse or sexual exploitation; and
13 Sections 865 et seq., 885, 886, 888, 891, 1021,
14 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
15 1123 of Title 21 of the Oklahoma Statutes,
- 16 g. to repay the reward or part of the reward paid by a
17 local certified crime stoppers program and the
18 Oklahoma Reward System. In determining whether the
19 defendant shall repay the reward or part of the
20 reward, the court shall consider the ability of the
21 defendant to make the payment, the financial hardship
22 on the defendant to make the required payment and the
23 importance of the information to the prosecution of
24 the defendant as provided by the arresting officer or

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

15 h. to reimburse the Oklahoma State Bureau of
16 Investigation for costs incurred by that agency during
17 its investigation of the crime for which the defendant
18 pleaded guilty, nolo contendere or was convicted
19 including compensation for laboratory, technical or
20 investigation services performed by the Bureau if, in
21 the opinion of the court, the defendant is able to pay
22 without imposing manifest hardship on the defendant,
23 and if the costs incurred by the Bureau during the
24

1 investigation of the defendant's case may be
2 determined with reasonable certainty,

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

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

21 k. to reimburse the court fund for amounts paid to court-
22 appointed attorneys for representing the defendant in
23 the case in which the person is being sentenced,
24

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

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

1 defendant from operating a motor vehicle if the
2 defendant has a blood or breath alcohol concentration
3 of two-hundredths (0.02) or greater,

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

23 p. to perform one or more courses of treatment, education
24 or rehabilitation for any conditions, behaviors,

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

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

- 1 z. to submit to blood or saliva testing as required by
2 subsection I of this section,
- 3 aa. to repair or restore property damaged by the
4 defendant's conduct, if the court determines the
5 defendant possesses sufficient skill to repair or
6 restore the property and the victim consents to the
7 repairing or restoring of the property,
- 8 bb. to restore damaged property in kind or payment of out-
9 of-pocket expenses to the victim, if the court is able
10 to determine the actual out-of-pocket expenses
11 suffered by the victim,
- 12 cc. to attend a victim-offender reconciliation program if
13 the victim agrees to participate and the offender is
14 deemed appropriate for participation,
- 15 dd. in the case of a person convicted of prostitution
16 pursuant to Section 1029 of Title 21 of the Oklahoma
17 Statutes, require such person to receive counseling
18 for the behavior which may have caused such person to
19 engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but
21 not limited to alcohol and substance abuse, sexual
22 behavior problems or domestic abuse or child abuse
23 problems,
- 24

1 ee. in the case of a sex offender sentenced after November
2 1, 1989, and required by law to register pursuant to
3 the Sex Offender Registration Act, the court shall
4 require the person to comply with sex offender
5 specific rules and conditions of supervision
6 established by the Department of Corrections and
7 require the person to participate in a treatment
8 program designed for the treatment of sex offenders
9 during the period of time while the offender is
10 subject to supervision by the Department of
11 Corrections. The treatment program shall include
12 polygraph examinations specifically designed for use
13 with sex offenders for purposes of supervision and
14 treatment compliance, and shall be administered not
15 less than each six (6) months during the period of
16 supervision. The examination shall be administered by
17 a certified licensed polygraph examiner. The
18 treatment program must be approved by the Department
19 of Corrections or the Department of Mental Health and
20 Substance Abuse Services. Such treatment shall be at
21 the expense of the defendant based on the defendant's
22 ability to pay,

23 ff. in addition to other sentencing powers of the court,
24 the court in the case of a defendant being sentenced

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

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

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 Bogus Check Restitution Program, and

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

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

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

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

24

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

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

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

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

24

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

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

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

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

6 d. to install, at the expense of the person, an ignition
7 interlock device approved by the Board of Tests for
8 Alcohol and Drug Influence, upon every motor vehicle
9 operated by such person and to require that a notation
10 of this restriction be affixed to the person's driver
11 license at the time of reinstatement of the license.
12 The restriction shall remain on the driver license for
13 such period as the court shall determine. The
14 restriction may be modified or removed by order of the
15 court and notice of the order shall be given to the
16 Department of Public Safety. Upon the expiration of
17 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 such 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, or

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

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

21 9. In addition to the other sentencing powers of the court, in
22 the case of a person convicted of any crime related to domestic
23 abuse, as defined in Section 60.1 of this title, the court may
24 require the defendant to undergo the treatment or participate in the

1 counseling services necessary to bring about the cessation of
2 domestic abuse against the victim. The defendant may be required to
3 pay all or part of the cost of the treatment or counseling services;

4 10. In addition to the other sentencing powers of the court,
5 the 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 defendant 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 ability of the defendant to pay;

17 11. In addition to the other sentencing powers of the court,
18 the court, in the case of a person convicted of abuse or neglect of
19 a child, 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 12. 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 13. 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 Sex Offenders Registration Act
10 shall be supervised by the Department of Corrections for the
11 duration of the registration period and shall be assigned to a
12 global position monitoring device by the Department of Corrections
13 for the duration of the registration period. The cost of such
14 monitoring device shall be reimbursed by the offender;

15 14. 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 website 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;

22 15. 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; or

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

17 B. Notwithstanding any other provision of law, any person who
18 is found guilty of a violation of any provision of Section 761 or
19 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
20 guilty or nolo contendere for a violation of any provision of such
21 sections shall be ordered to participate in, prior to sentencing, an
22 alcohol and drug assessment and evaluation by an assessment agency
23 or assessment personnel certified by the Department of Mental Health
24 and Substance Abuse Services for the purpose of evaluating the

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

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

7 C. When sentencing a person convicted of a crime, the court
8 shall first consider a program of restitution for the victim, as
9 well as imposition of a fine or incarceration of the offender. The
10 provisions of paragraph 1 of subsection A of this section shall not
11 apply to defendants being sentenced upon their third or subsequent
12 to their third conviction of a felony or, beginning January 1, 1993,
13 to defendants being sentenced for their second or subsequent felony
14 conviction for violation of Section 11-902 of Title 47 of the
15 Oklahoma Statutes, except as otherwise provided in this subsection.
16 In the case of a person being sentenced for his or her second or
17 subsequent felony conviction for violation of Section 11-902 of
18 Title 47 of the Oklahoma Statutes, the court may sentence the person
19 pursuant to the provisions of paragraph 1 of subsection A of this
20 section if the court orders the person to submit to electronically
21 monitored home detention administered and supervised by the
22 Department of Corrections pursuant to subparagraph e of paragraph 7
23 of subsection A of this section. Provided, the court may waive
24 these prohibitions upon written application of the district attorney

1 or the Attorney General, in cases prosecuted by the Attorney
2 General. Both the application and the waiver shall be made part of
3 the record of the case.

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

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

1 interests of the public and the release will be served by an
2 extended period of supervision.

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

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

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

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

1 set appropriate compensation to the county for services to the
2 Department.

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

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

14 H. As used in this section:

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

20 2. "Electronically monitored home detention" means
21 incarceration of the defendant within a specified location or
22 locations with monitoring by means of a device approved by the
23 Department of Corrections that detects if the person leaves the
24 confines of any specified location; and

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

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

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

23 |
24 |

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 12. REPEALER 22 O.S. 2021, Section 524, is
7 hereby repealed.

8 SECTION 13. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12

13 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND
14 TECHNOLOGY, dated 04/12/2023 - DO PASS, As Amended.

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