

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2345

By: Turner

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2021, Section 991a, which relates to sentencing  
9 powers of the court; removing polygraph examination  
10 requirement for certain offenders; and providing an  
11 effective date.

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

13 SECTION 1. AMENDATORY 22 O.S. 2021, Section 991a, is  
14 amended to read as follows:

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

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

23 a. to provide restitution to the victim as provided by  
24 Section 991f et seq. of this title or according to a

1 schedule of payments established by the sentencing  
2 court, together with interest upon any pecuniary sum  
3 at the rate of twelve percent (12%) per annum, if the  
4 defendant agrees to pay such restitution or, in the  
5 opinion of the court, if the defendant is able to pay  
6 such restitution without imposing manifest hardship on  
7 the defendant or the immediate family and if the  
8 extent of the damage to the victim is determinable  
9 with reasonable certainty,

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

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

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

1 defendants to victims of crimes committed within this  
2 state wherein such victim has incurred a financial  
3 loss,

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

6 f. to confinement as provided by law together with a term  
7 of post-imprisonment community supervision for not  
8 less than three (3) years of the total term allowed by  
9 law for imprisonment, with or without restitution;  
10 provided, however, the authority of this provision is  
11 limited to Section 843.5 of Title 21 of the Oklahoma  
12 Statutes when the offense involved sexual abuse or  
13 sexual exploitation; Sections 681, 741 and 843.1 of  
14 Title 21 of the Oklahoma Statutes when the offense  
15 involved sexual abuse or sexual exploitation; and  
16 Sections 865 et seq., 885, 886, 888, 891, 1021,  
17 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
18 1123 of Title 21 of the Oklahoma 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  
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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 2. This act shall become effective November 1, 2023.

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