

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 518

6 By: Justice of the Senate

7 and

8 Osborn of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to crime victims; amending 21 O.S.
11 2001, Section 142.13, as last amended by Section 1,
12 Chapter 283, O.S.L. 2008 (21 O.S. Supp. 2008, Section
13 142.13), which relates to the Oklahoma Crime Victims
14 Compensation Act; modifying scope of certain
15 reimbursable cost; amending 22 O.S. 2001, Section
16 984, which relates to definition of victim impact
17 statement; adding grandparent to certain definition;
18 amending 22 O.S. 2001, Section 991a, as last amended
19 by Section 19, Chapter 3, O.S.L. 2008 (22 O.S. Supp.
20 2008, Section 991a), which relates to sentencing
21 powers of the court; directing payment of fee to
22 certain victims; and providing an effective date.

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

24 SECTION 1. AMENDATORY 21 O.S. 2001, Section 142.13, as
last amended by Section 1, Chapter 283, O.S.L. 2008 (21 O.S. Supp.
2008, Section 142.13), is amended to read as follows:

Section 142.13 A. The Crime Victims Compensation Board may
compensate for work loss, replacement services loss, dependent's

1 economic loss and dependent's replacement service loss.
2 Compensation for a caregiver who has out-of-pocket wage loss as a
3 result of caring for the victim who was injured as a result of
4 criminally injurious conduct may not exceed Three Thousand Dollars
5 (\$3,000.00).

6 B. Compensation payable to a victim and to all other claimants
7 sustaining economic loss because of injury to or death of that
8 victim may not exceed Twenty Thousand Dollars (\$20,000.00) in the
9 aggregate. The Board may, after approval of an initial award of
10 Twenty Thousand Dollars (\$20,000.00), grant an additional sum not to
11 exceed Twenty Thousand Dollars (\$20,000.00), specifically for loss
12 of wages for the victim or loss of support for dependents of a
13 deceased victim provided, there is verifiable economic loss after
14 deducting payments from other sources. In no event shall
15 compensation payable to a victim and to all other claimants
16 sustaining economic loss because of injury to or death of that
17 victim exceed Forty Thousand Dollars (\$40,000.00) in the aggregate.

18 C. The Board may provide for the payment to a claimant in a
19 lump sum or in installments. At the request of the claimant, the
20 Board may convert future economic loss, other than allowable
21 expense, to a lump sum.

22 D. An award payable in a lump sum or installments for loss of
23 support for a dependent of the deceased victim may be computed
24 through a formula which calculates the net loss of support for

1 dependents based upon an estimated date of retirement or an
2 estimated date of adulthood for dependent children, beginning with
3 the date of death of the victim and ending with the least of one of
4 the following time periods for each dependent filing loss of
5 support:

6 1. The amount of time from the date of death of the victim to
7 the date the victim would have been expected to reach sixty-two (62)
8 years of age;

9 2. The amount of time from the date of death of the victim to
10 the date the spouse of the victim is expected to reach sixty-two
11 (62) years of age; or

12 3. The amount of time from the date of death of the victim to
13 the date a dependent child is expected to reach eighteen (18) years
14 of age or twenty-three (23) years of age if the dependent child is
15 enrolled as a full-time student. An award payable in installments
16 for future loss of support may be modified by the Board in the event
17 a dependent child receiving loss of support is between the ages of
18 eighteen (18) and twenty-three (23) years of age and is no longer
19 enrolled as a full-time student, the dependent dies before all
20 installments are paid or the dependent receiving installments moves
21 and leaves no forwarding address with the Board office.

22 E. An award shall not be subject to execution, attachment,
23 garnishment or other process, except for child support and except
24 that an award for allowable expense shall not be exempt from a claim

1 of a creditor to the extent that such creditor has provided
2 products, services or accommodations, the costs of which are
3 included in the award.

4 F. An assignment by the claimant to any future award under the
5 provisions of this act is unenforceable, except:

6 1. An assignment of any award for work loss to assure payment
7 of court ordered alimony, maintenance or child support; or

8 2. An assignment of any award for allowable expense to the
9 extent that the benefits are for the cost of products, services or
10 accommodations necessitated by the injury or death on which the
11 claim is based and are provided or to be provided by the assignee.

12 G. The Board may, in its discretion, approve payment of crisis
13 counseling, occurring within three (3) years of the crime, in an
14 amount not to exceed Three Thousand Dollars (\$3,000.00) for each
15 family member of a homicide victim; provided, the counselor is a
16 qualified mental health care provider. Medical and pharmaceutical
17 treatment is not compensable for any family member of a deceased
18 victim.

19 H. Outpatient counseling expenses for a victim of criminally
20 injurious conduct may be considered by the Board provided the
21 counseling is focused on the crime and the counselor is a qualified
22 mental health care provider. A total not to exceed Three Thousand
23 Dollars (\$3,000.00) may be awarded for individual counseling
24 sessions for victims of criminally injurious conduct. Sessions

1 between the mental health care provider and nonoffending parents of
2 a victimized child under eighteen (18) years of age may also be
3 included in the award provided the combined total for the counseling
4 and parental sessions do not exceed Three Thousand Dollars
5 (\$3,000.00) and the parental sessions relate to the victimization.
6 In extreme cases, the Board may, in its discretion, waive the three-
7 thousand-dollar limit. Inpatient mental health treatment will be
8 reviewed on a case-by-case basis and may be compensated, at the
9 discretion of the Board, in an amount not to exceed Twenty Thousand
10 Dollars (\$20,000.00).

11 I. Reasonable funeral, cremation or burial expenses shall not
12 exceed Seven Thousand Five Hundred Dollars (\$7,500.00).

13 J. Reasonable costs associated with ~~homicide~~ crime scene
14 cleanup shall not exceed Two Thousand Dollars (\$2,000.00).

15 K. Loss of income of a caregiver shall not exceed Three
16 Thousand Dollars (\$3,000.00).

17 L. Reasonable costs for vehicle impound fees are limited to
18 violent crimes occurring in a vehicle owned by the victim of the
19 violent crime or an eligible claimant, provided such fee is
20 associated with the collection and security of crime scene evidence.
21 Reimbursement for vehicle impound fees shall not exceed Seven
22 Hundred Fifty Dollars (\$750.00).

23 SECTION 2. AMENDATORY 22 O.S. 2001, Section 984, is
24 amended to read as follows:

1 Section 984. As used in Titles 21, 22 and 57 of the Oklahoma
2 Statutes:

3 1. "Victim impact statements" means information about the
4 financial, emotional, psychological, and physical effects of a
5 violent crime on each victim and members of their immediate family,
6 or person designated by the victim or by family members of the
7 victim and includes information about the victim, circumstances
8 surrounding the crime, the manner in which the crime was
9 perpetrated, and the victim's opinion of a recommended sentence;

10 2. "Members of the immediate family" means the spouse, a child
11 by birth or adoption, a stepchild, a parent, a grandparent, or a
12 sibling of each victim; and

13 3. "Violent crime" means any crime listed in paragraph 5 of
14 Section 571 of Title 57 of the Oklahoma Statutes or any attempt,
15 conspiracy or solicitation to commit any such crime or the crime of
16 negligent homicide pursuant to Section 11-903 of Title 47 of the
17 Oklahoma Statutes or the crime of causing great bodily injury while
18 driving under the influence of intoxicating substance, pursuant to
19 Section 11-904 of Title 47 of the Oklahoma Statutes.

20 SECTION 3. AMENDATORY 22 O.S. 2001, Section 991a, as
21 last amended by Section 19, Chapter 3, O.S.L. 2008 (22 O.S. Supp.
22 2008, Section 991a), is amended to read as follows:

23 Section 991a. A. Except as otherwise provided in the Elderly
24 and Incapacitated Victim's Protection Program, when a defendant is

1 convicted of a crime and no death sentence is imposed, the court
2 shall either:

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

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

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

- 1 c. to engage in a term of community service without
2 compensation, according to a schedule consistent with
3 the employment and family responsibilities of the
4 person convicted,
- 5 d. to pay a reasonable sum into any trust fund,
6 established pursuant to the provisions of Sections 176
7 through 180.4 of Title 60 of the Oklahoma Statutes,
8 and which provides restitution payments by convicted
9 defendants to victims of crimes committed within this
10 state wherein such victim has incurred a financial
11 loss,
- 12 e. to confinement in the county jail for a period not to
13 exceed six (6) months,
- 14 f. to confinement as provided by law together with a term
15 of post-imprisonment community supervision for not
16 less than three (3) years of the total term allowed by
17 law for imprisonment, with or without restitution;
18 provided, however, the authority of this provision is
19 limited to Section 7115 of Title 10 of the Oklahoma
20 Statutes when the offense involved sexual abuse or
21 sexual exploitation; Sections 681, 741 and 843.1 of
22 Title 21 of the Oklahoma Statutes when the offense
23 involved sexual abuse or sexual exploitation; and
24 Sections 865 et seq., 885, 886, 888, 891, 1021,

1 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
2 1123 of Title 21 of the Oklahoma Statutes,

- 3 g. to repay the reward or part of the reward paid by a
4 certified local crimestoppers program and the Oklahoma
5 Reward System. In determining whether the defendant
6 shall repay the reward or part of the reward, the
7 court shall consider the ability of the defendant to
8 make the payment, the financial hardship on the
9 defendant to make the required payment, and the
10 importance of the information to the prosecution of
11 the defendant as provided by the arresting officer or
12 the district attorney with due regard for the
13 confidentiality of the records of the certified local
14 crimestoppers program and the Oklahoma Reward System.
15 The court shall assess this repayment against the
16 defendant as a cost of prosecution. "Certified local
17 crimestoppers program" means a crimestoppers program
18 certified by the Office of the Attorney General
19 pursuant to Section 991g of this title. The "Oklahoma
20 Reward System" means the reward program established by
21 Section 150.18 of Title 74 of the Oklahoma Statutes,
22 h. to reimburse the Oklahoma State Bureau of
23 Investigation for costs incurred by that agency during
24 its investigation of the crime for which the defendant

1 pleaded guilty, nolo contendere or was convicted,
2 including compensation for laboratory, technical, or
3 investigation services performed by the Bureau if, in
4 the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant,
6 and if the costs incurred by the Bureau during the
7 investigation of the defendant's case may be
8 determined with reasonable certainty,

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

23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

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

15 m. to be placed in a victims impact panel program or
16 victim/offender reconciliation program and payment of
17 a fee to the program of not less than Fifteen Dollars
18 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
19 by the governing authority of the program to offset
20 the cost of participation by the defendant. Provided,
21 each victim/offender reconciliation program shall be
22 required to obtain a written consent form voluntarily
23 signed by the victim and defendant that specifies the
24 methods to be used to resolve the issues, the

1 obligations and rights of each person, and the
2 confidentiality of the proceedings. Volunteer
3 mediators and employees of a victim/offender
4 reconciliation program shall be immune from liability
5 and have rights of confidentiality as provided in
6 Section 1805 of Title 12 of the Oklahoma Statutes,
7 n. to install, at the expense of the defendant, an
8 ignition interlock device approved by the Board of
9 Tests for Alcohol and Drug Influence. The device
10 shall be installed upon every motor vehicle operated
11 by the defendant, and the court shall require that a
12 notation of this restriction be affixed to the
13 defendant's driver license. The restriction shall
14 remain on the driver license not exceeding two (2)
15 years to be determined by the court. The restriction
16 may be modified or removed only by order of the court
17 and notice of any modification order shall be given to
18 the Department of Public Safety. Upon the expiration
19 of 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 a 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. As used in this paragraph, "ignition interlock
3 device" means a device that, without tampering or
4 intervention by another person, would prevent the
5 defendant from operating a motor vehicle if the
6 defendant has a blood or breath alcohol concentration
7 of two-hundredths (0.02) or greater,

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

1 records violations for investigation by a qualified
2 supervisory agency or person,

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

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

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

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

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

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

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

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

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

1 the expense of the defendant based on the defendant's
2 ability to pay,

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

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

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program, and

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

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

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

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

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

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

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

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

20 a. to participate in an alcohol and drug assessment and
21 evaluation by an assessment agency or assessment
22 personnel certified by the Department of Mental Health
23 and Substance Abuse Services pursuant to Section 3-460
24 of Title 43A of the Oklahoma Statutes and, as

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

5 b. to attend a victims impact panel program, if such a
6 program is offered in the county where the judgment is
7 rendered, and to pay a fee, not less than Fifteen
8 Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
9 as set by the governing authority of the program and
10 approved by the court, to the program to offset the
11 cost of participation by the defendant, if in the
12 opinion of the court the defendant has the ability to
13 pay such fee,

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

19 d. to install, at the expense of the person, an ignition
20 interlock device approved by the Board of Tests for
21 Alcohol and Drug Influence, upon every motor vehicle
22 operated by such person and to require that a notation
23 of this restriction be affixed to the person's driver
24 license at the time of reinstatement of the license.

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

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

1 monitoring fee, if willfully disobeyed, may be
2 enforced as an indirect contempt of court;

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

11 9. In addition to the other sentencing powers of the court, in
12 the case of a person convicted of any crime related to domestic
13 abuse, as defined in Section 60.1 of this title, the court may
14 require the defendant to undergo the treatment or participate in the
15 counseling services necessary to bring about the cessation of
16 domestic abuse against the victim. The defendant may be required to
17 pay all or part of the cost of the treatment or counseling services;

18 10. In addition to the other sentencing powers of the court,
19 the court, in the case of a sex offender sentenced after November 1,
20 1989, and required by law to register pursuant to the Sex Offenders
21 Registration Act, shall require the person to participate in a
22 treatment program designed specifically for the treatment of sex
23 offenders, if available. The treatment program will include
24 polygraph examinations specifically designed for use with sex

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

7 11. In addition to the other sentencing powers of the court,
8 the court, in the case of a person convicted of child abuse or
9 neglect, as defined in Section 7102 of Title 10 of the Oklahoma
10 Statutes, may require the person to undergo treatment or to
11 participate in counseling services. The defendant may be required
12 to pay all or part of the cost of the treatment or counseling
13 services;

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

19 13. In addition to the other sentencing powers of the court, a
20 sex offender who is habitual or aggravated as defined by Section 584
21 of Title 57 of the Oklahoma Statutes and who is required to register
22 as a sex offender pursuant to the Oklahoma Sex Offenders
23 Registration Act shall be supervised by the Department of
24 Corrections for the duration of the registration period and shall be

1 assigned to a global position monitoring device by the Department of
2 Corrections for the duration of the registration period. The cost
3 of such monitoring device shall be reimbursed by the offender;

4 14. In addition to the other sentencing powers of the court, in
5 the case of a sex offender who is required by law to register
6 pursuant to the Sex Offenders Registration Act, the court may
7 prohibit the person from accessing or using any Internet social
8 networking web site that has the potential or likelihood of allowing
9 the sex offender to have contact with any child who is under the age
10 of eighteen (18) years; or

11 15. In addition to the other sentencing powers of the court, in
12 the case of a sex offender who is required by law to register
13 pursuant to the Sex Offenders Registration Act, the court may
14 require the person to register any electronic mail address
15 information, instant message, chat or other Internet communication
16 name or identity information that the person uses or intends to use
17 while accessing the Internet.

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

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

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

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

1 these prohibitions upon written application of the district
2 attorney. 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 the supervision of the Department of Corrections.
12 Such supervision shall be initiated upon an order of probation from
13 the court, and shall not exceed two (2) years, except as otherwise
14 provided by law. In the case of a person convicted of a sex
15 offense, supervision shall begin immediately upon release from
16 incarceration or if parole is granted and shall not be limited to
17 two (2) years. Provided further, any supervision provided for in
18 this section may be extended for a period not to exceed the
19 expiration of the maximum term or terms of the sentence upon a
20 determination by the Division of Probation and Parole of the
21 Department of Corrections that the best interests of the public and
22 the release will be served by an extended period of supervision.

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

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

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

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

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

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

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

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

9 H. As used in this section:

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

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

20 I. A person convicted of a felony offense or receiving any form
21 of probation for an offense in which registration is required
22 pursuant to the Sex Offenders Registration Act shall submit to
23 deoxyribonucleic acid DNA testing for law enforcement identification
24 purposes in accordance with Section 150.27 of Title 74 of the

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

18 Any person who is incarcerated in the custody of the Department
19 of Corrections after July 1, 1996, and who has not been released
20 before the effective date of this act, shall provide a blood or
21 saliva sample prior to release. Every person convicted of a felony
22 offense after the effective date of this act whose sentence does not
23 include a term of confinement with the Department of Corrections
24 shall submit a blood or saliva sample. Those felons sentenced to

1 | unsupervised probation or otherwise not supervised by the Department
2 | of Corrections shall submit for blood or saliva testing to the
3 | sheriff of the sentencing county.

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

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

6 SECTION 4. This act shall become effective November 1, 2009.

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