

THE HOUSE OF REPRESENTATIVES  
Monday, February 8, 2010

House Bill No. 2837

HOUSE BILL NO. 2837 - By: SEARS of the House and FORD of the Senate.

An Act relating to crime stoppers; amending Section 1, Chapter 323, O.S.L. 2002 (12 O.S. Supp. 2009, Section 2510.1), which relates to privileged communications; clarifying definitions; adding definitions; amending 22 O.S. 2001, Section 991a, as last amended by Section 132, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 991a), which relates to sentencing powers of the court; clarifying certain power of the court; adding definitions; amending 22 O.S. 2001, Section 1517, as last amended by Section 6, Chapter 178, O.S.L. 2009 (22 O.S. Supp. 2009, Section 1517), which relates to duties of the Oklahoma State Bureau of Investigation; clarifying certain duty; amending 74 O.S. 2001, Section 18b, which relates to duties of the Attorney General; deleting certification duty of the Attorney General; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 323, O.S.L. 2002 (12 O.S.

2 Supp. 2009, Section 2510.1), is amended to read as follows:

3 Section 2510.1 A. As used in this section:

4 1. "Crime stoppers organization" means a private, nonprofit organization that is  
5 certified by the Oklahoma Crime Stoppers Association, accepts and expends donations  
6 for rewards to persons who report to the organization information concerning criminal  
7 activity and that forwards the information to the appropriate law enforcement agency;  
8 ~~and~~

1           2. “Privileged communication” means a statement by any person who wishes to  
2 remain anonymous to a certified crime stoppers organization for the purpose of reporting  
3 alleged criminal activity; and

4           3. “Certified” means crime stopper organizations that annually meet the  
5 certification standards for crime stoppers programs established by the Oklahoma Crime  
6 Stoppers Association to the extent those standards do not conflict with state statutes.  
7 The term "court" refers to all municipal and district courts within this state.

8           B. Evidence of a privileged communication between a person submitting a report of  
9 a criminal act to a certified crime stoppers organization and the person who accepts the  
10 report on behalf of the organization is not admissible in a court or an administrative  
11 proceeding.

12           C. Records of a certified crime stoppers organization concerning a privileged  
13 communication of criminal activity may not be compelled to be produced before a court or  
14 other tribunal except upon the motion of a criminal defendant to the court in which the  
15 offense is being tried that the records or report contains evidence that is exculpatory to  
16 the defendant in the trial of that offense.

17           D. Upon the motion of a defendant under subsection C of this section, the court  
18 may issue an order for production of the records or report. The court shall conduct an in  
19 camera inspection of materials produced under the order to determine whether the  
20 records or report contain evidence that is exculpatory to the defendant.

21           E. If the court determines that the records or report produced contain evidence that  
22 is exculpatory to the defendant, the court shall present the evidence to the defendant in a

1 form that does not disclose the identity of the person who was the source of the evidence,  
2 unless the state or federal constitution requires the disclosure of the identity of that  
3 person.

4 F. The court shall return to the certified crime stoppers organization the records or  
5 report that are produced under this section but not disclosed to the defendant. The  
6 certified crime stoppers organization shall store the records or report until the conclusion  
7 of the criminal trial and the expiration of the time for all direct appeals in the case.

8 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by  
9 Section 132, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 991a), is amended to  
10 read as follows:

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

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

17 a. to provide restitution to the victim as provided by Section 991f et seq.  
18 of this title or according to a schedule of payments established by the  
19 sentencing court, together with interest upon any pecuniary sum at the  
20 rate of twelve percent (12%) per annum, if the defendant agrees to pay  
21 such restitution or, in the opinion of the court, if the defendant is able  
22 to pay such restitution without imposing manifest hardship on the

- 1 defendant or the immediate family and if the extent of the damage to  
2 the victim is determinable with reasonable certainty,
- 3 b. to reimburse any state agency for amounts paid by the state agency for  
4 hospital and medical expenses incurred by the victim or victims, as a  
5 result of the criminal act for which such person was convicted, which  
6 reimbursement shall be made directly to the state agency, with  
7 interest accruing thereon at the rate of twelve percent (12%) per  
8 annum,
- 9 c. to engage in a term of community service without compensation,  
10 according to a schedule consistent with the employment and family  
11 responsibilities of the person convicted,
- 12 d. to pay a reasonable sum into any trust fund, established pursuant to  
13 the provisions of Sections 176 through 180.4 of Title 60 of the  
14 Oklahoma Statutes, and which provides restitution payments by  
15 convicted defendants to victims of crimes committed within this state  
16 wherein such victim has incurred a financial loss,
- 17 e. to confinement in the county jail for a period not to exceed six (6)  
18 months,
- 19 f. to confinement as provided by law together with a term of post-  
20 imprisonment community supervision for not less than three (3) years  
21 of the total term allowed by law for imprisonment, with or without  
22 restitution; provided, however, the authority of this provision is limited

1 to Section 843.5 of Title 21 of the Oklahoma Statutes when the offense  
2 involved sexual abuse or sexual exploitation; Sections 681, 741 and  
3 843.1 of Title 21 of the Oklahoma Statutes when the offense involved  
4 sexual abuse or sexual exploitation; and Sections 865 et seq., 885, 886,  
5 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
6 1123 of Title 21 of the Oklahoma Statutes,  
7 g. to repay the reward or part of the reward paid by a ~~certified~~ local  
8 ~~crimestoppers~~ certified crime stoppers program and the Oklahoma  
9 Reward System. In determining whether the defendant shall repay  
10 the reward or part of the reward, the court shall consider the ability of  
11 the defendant to make the payment, the financial hardship on the  
12 defendant to make the required payment, and the importance of the  
13 information to the prosecution of the defendant as provided by the  
14 arresting officer or the district attorney with due regard for the  
15 confidentiality of the records of the ~~certified~~ local ~~crimestoppers~~  
16 certified crime stoppers program and the Oklahoma Reward System.  
17 The court shall assess this repayment against the defendant as a cost  
18 of prosecution. ~~"Certified local crimestoppers program" means a~~  
19 ~~crimestoppers program certified by the Office of the Attorney General~~  
20 ~~pursuant to Section 991g of this title~~ The term "certified" means crime  
21 stoppers organizations that annually meet the certification standards  
22 for crime stoppers programs established by the Oklahoma Crime

1 Stoppers Association to the extent those standards do not conflict with  
2 state statutes. The term "court" refers to all municipal and district  
3 courts within this state. The "Oklahoma Reward System" means the  
4 reward program established by Section 150.18 of Title 74 of the  
5 Oklahoma Statutes,

- 6 h. to reimburse the Oklahoma State Bureau of Investigation for costs  
7 incurred by that agency during its investigation of the crime for which  
8 the defendant pleaded guilty, nolo contendere or was convicted,  
9 including compensation for laboratory, technical, or investigation  
10 services performed by the Bureau if, in the opinion of the court, the  
11 defendant is able to pay without imposing manifest hardship on the  
12 defendant, and if the costs incurred by the Bureau during the  
13 investigation of the defendant's case may be determined with  
14 reasonable certainty,
- 15 i. to reimburse the Oklahoma State Bureau of Investigation and any  
16 authorized law enforcement agency for all costs incurred by that  
17 agency for cleaning up an illegal drug laboratory site for which the  
18 defendant pleaded guilty, nolo contendere or was convicted. The court  
19 clerk shall collect the amount and may retain five percent (5%) of such  
20 monies to be deposited in the Court Clerk Revolving Fund to cover  
21 administrative costs and shall remit the remainder to the Oklahoma  
22 State Bureau of Investigation to be deposited in the OSBI Revolving

- 1 Fund established by Section 150.19a of Title 74 of the Oklahoma  
2 Statutes or to the general fund wherein the other law enforcement  
3 agency is located,
- 4 j. to pay a reasonable sum to the Crime Victims Compensation Board,  
5 created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes,  
6 for the benefit of crime victims,
- 7 k. to reimburse the court fund for amounts paid to court-appointed  
8 attorneys for representing the defendant in the case in which the  
9 person is being sentenced,
- 10 l. to participate in an assessment and evaluation by an assessment  
11 agency or assessment personnel certified by the Department of Mental  
12 Health and Substance Abuse Services pursuant to Section 3-460 of  
13 Title 43A of the Oklahoma Statutes and, as determined by the  
14 assessment, participate in an alcohol and drug substance abuse course  
15 or treatment program or both, pursuant to Sections 3-452 and 3-453 of  
16 Title 43A of the Oklahoma Statutes, or as ordered by the court,
- 17 m. to be placed in a victims impact panel program or victim/offender  
18 reconciliation program and payment of a fee to the program of not less  
19 than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) as  
20 set by the governing authority of the program to offset the cost of  
21 participation by the defendant. Provided, each victim/offender  
22 reconciliation program shall be required to obtain a written consent

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



1 would prevent the defendant from operating a motor vehicle if the  
2 defendant has a blood or breath alcohol concentration of two-  
3 hundredths (0.02) or greater,  
4 o. to be confined by electronic monitoring administered and supervised by  
5 the Department of Corrections or a community sentence provider, and  
6 payment of a monitoring fee to the supervising authority, not to exceed  
7 Three Hundred Dollars (\$300.00) per month. Any fees collected  
8 pursuant to this paragraph shall be deposited with the appropriate  
9 supervising authority. Any willful violation of an order of the court for  
10 the payment of the monitoring fee shall be a violation of the sentence  
11 and may be punished as deemed proper by the sentencing court. As  
12 used in this paragraph, "electronic monitoring" means confinement of  
13 the defendant within a specified location or locations with supervision  
14 by means of an electronic device approved by the Department of  
15 Corrections which is designed to detect if the defendant is in the court-  
16 ordered location at the required times and which records violations for  
17 investigation by a qualified supervisory agency or person,  
18 p. to perform one or more courses of treatment, education or  
19 rehabilitation for any conditions, behaviors, deficiencies or disorders  
20 which may contribute to criminal conduct, including but not limited to  
21 alcohol and substance abuse, mental health, emotional health, physical  
22 health, propensity for violence, antisocial behavior, personality or

- 1 attitudes, deviant sexual behavior, child development, parenting  
2 assistance, job skills, vocational-technical skills, domestic relations,  
3 literacy, education, or any other identifiable deficiency which may be  
4 treated appropriately in the community and for which a certified  
5 provider or a program recognized by the court as having significant  
6 positive impact exists in the community. Any treatment, education or  
7 rehabilitation provider required to be certified pursuant to law or rule  
8 shall be certified by the appropriate state agency or a national  
9 organization,
- 10 q. to submit to periodic testing for alcohol, intoxicating substance, or  
11 controlled dangerous substances by a qualified laboratory,
- 12 r. to pay a fee, costs for treatment, education, supervision, participation  
13 in a program, or any combination thereof as determined by the court,  
14 based upon the defendant's ability to pay the fees or costs,
- 15 s. to be supervised by a Department of Corrections employee, a private  
16 supervision provider, or other person designated by the court,
- 17 t. to obtain positive behavior modeling by a trained mentor,
- 18 u. to serve a term of confinement in a restrictive housing facility available  
19 in the community,
- 20 v. to serve a term of confinement in the county jail at night or during  
21 weekends pursuant to Section 991a-2 of this title or for work release,
- 22 w. to obtain employment or participate in employment-related activities,

- 1 x. to participate in mandatory day reporting to facilities or persons for  
2 services, payments, duties or person-to-person contacts as specified by  
3 the court,
- 4 y. to pay day fines not to exceed fifty percent (50%) of the net wages  
5 earned. For purposes of this paragraph, "day fine" means the offender  
6 is ordered to pay an amount calculated as a percentage of net daily  
7 wages earned. The day fine shall be paid to the local community  
8 sentencing system as reparation to the community. Day fines shall be  
9 used to support the local system,
- 10 z. to submit to blood or saliva testing as required by subsection I of this  
11 section,
- 12 aa. to repair or restore property damaged by the defendant's conduct, if  
13 the court determines the defendant possesses sufficient skill to repair  
14 or restore the property and the victim consents to the repairing or  
15 restoring of the property,
- 16 bb. to restore damaged property in kind or payment of out-of-pocket  
17 expenses to the victim, if the court is able to determine the actual out-  
18 of-pocket expenses suffered by the victim,
- 19 cc. to attend a victim-offender reconciliation program if the victim agrees  
20 to participate and the offender is deemed appropriate for participation,
- 21 dd. in the case of a person convicted of prostitution pursuant to Section  
22 1029 of Title 21 of the Oklahoma Statutes, require such person to

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

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

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

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

21 However, any such order for restitution, community service, payment to a ~~certified~~  
22 ~~local crime stoppers~~ certified crime stoppers program, payment to the Oklahoma Reward

1 System, or confinement in the county jail, or a combination thereof, shall be made in  
2 conjunction with probation and shall be made a condition of the suspended sentence;

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

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

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

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

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

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

- 9           a.       to participate in an alcohol and drug assessment and evaluation by an  
10                       assessment agency or assessment personnel certified by the  
11                       Department of Mental Health and Substance Abuse Services pursuant  
12                       to Section 3-460 of Title 43A of the Oklahoma Statutes and, as  
13                       determined by the assessment, participate in an alcohol and drug  
14                       substance abuse course or treatment program or both, pursuant to  
15                       Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- 16           b.       to attend a victims impact panel program, if such a program is offered  
17                       in the county where the judgment is rendered, and to pay a fee, not  
18                       less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)  
19                       as set by the governing authority of the program and approved by the  
20                       court, to the program to offset the cost of participation by the  
21                       defendant, if in the opinion of the court the defendant has the ability to  
22                       pay such fee,

- 1 c. to both participate in the alcohol and drug substance abuse course or  
2 treatment program, pursuant to subparagraph a of this paragraph and  
3 attend a victims impact panel program, pursuant to subparagraph b of  
4 this paragraph,
- 5 d. to install, at the expense of the person, an ignition interlock device  
6 approved by the Board of Tests for Alcohol and Drug Influence, upon  
7 every motor vehicle operated by such person and to require that a  
8 notation of this restriction be affixed to the person's driver license at  
9 the time of reinstatement of the license. The restriction shall remain  
10 on the driver license for such period as the court shall determine. The  
11 restriction may be modified or removed by order of the court and notice  
12 of the order shall be given to the Department of Public Safety. Upon  
13 the expiration of the period for the restriction, the Department of  
14 Public Safety shall remove the restriction without further court order.  
15 Failure to comply with the order to install an ignition interlock device  
16 or operating any vehicle without such device during the period of  
17 restriction shall be a violation of the sentence and may be punished as  
18 deemed proper by the sentencing court, or
- 19 e. beginning January 1, 1993, to submit to electronically monitored home  
20 detention administered and supervised by the Department of  
21 Corrections, and to pay to the Department a monitoring fee, not to  
22 exceed Seventy-five Dollars (\$75.00) a month, to the Department of

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.



1 Corrections, if in the opinion of the court the defendant has the ability  
2 to pay such fee. Any fees collected pursuant to this subparagraph shall  
3 be deposited in the Department of Corrections Revolving Fund. Any  
4 order by the court for the payment of the monitoring fee, if willfully  
5 disobeyed, may be enforced as an indirect contempt of court;

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

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

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

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

6 11. In addition to the other sentencing powers of the court, the court, in the case of  
7 a person convicted of child abuse or neglect, as defined in Section 1-1-105 of Title 10A of  
8 the Oklahoma Statutes, may require the person to undergo treatment or to participate in  
9 counseling services. The defendant may be required to pay all or part of the cost of the  
10 treatment or counseling services;

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

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

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

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

11           B. Notwithstanding any other provision of law, any person who is found guilty of a  
12 violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or  
13 any person pleading guilty or nolo contendere for a violation of any provision of such  
14 sections shall be ordered to participate in, prior to sentencing, an alcohol and drug  
15 assessment and evaluation by an assessment agency or assessment personnel certified by  
16 the Department of Mental Health and Substance Abuse Services for the purpose of  
17 evaluating the receptivity to treatment and prognosis of the person. The court shall  
18 order the person to reimburse the agency or assessor for the evaluation. The fee shall be  
19 the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma  
20 Statutes. The evaluation shall be conducted at a certified assessment agency, the office  
21 of a certified assessor or at another location as ordered by the court. The agency or  
22 assessor shall, within seventy-two (72) hours from the time the person is assessed,

1 submit a written report to the court for the purpose of assisting the court in its final  
2 sentencing determination. No person, agency or facility operating an alcohol and drug  
3 substance abuse evaluation program certified by the Department of Mental Health and  
4 Substance Abuse Services shall solicit or refer any person evaluated pursuant to this  
5 subsection for any treatment program or alcohol and drug substance abuse service in  
6 which such person, agency or facility has a vested interest; however, this provision shall  
7 not be construed to prohibit the court from ordering participation in or any person from  
8 voluntarily utilizing a treatment program or alcohol and drug substance abuse service  
9 offered by such person, agency or facility. If a person is sentenced to the custody of the  
10 Department of Corrections and the court has received a written evaluation report  
11 pursuant to this subsection, the report shall be furnished to the Department of  
12 Corrections with the judgment and sentence. Any evaluation report submitted to the  
13 court pursuant to this subsection shall be handled in a manner which will keep such  
14 report confidential from the general public's review. Nothing contained in this  
15 subsection shall be construed to prohibit the court from ordering judgment and sentence  
16 in the event the defendant fails or refuses to comply with an order of the court to obtain  
17 the evaluation required by this subsection.

18 C. When sentencing a person convicted of a crime, the court shall first consider a  
19 program of restitution for the victim, as well as imposition of a fine or incarceration of  
20 the offender. The provisions of paragraph 1 of subsection A of this section shall not apply  
21 to defendants being sentenced upon their third or subsequent to their third conviction of  
22 a felony or, beginning January 1, 1993, to defendants being sentenced for their second or

1 subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma  
2 Statutes, except as otherwise provided in this subsection. In the case of a person being  
3 sentenced for their second or subsequent felony conviction for violation of Section 11-902  
4 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the  
5 provisions of paragraph 1 of subsection A of this section if the court orders the person to  
6 submit to electronically monitored home detention administered and supervised by the  
7 Department of Corrections pursuant to subparagraph e of paragraph 7 of subsection A of  
8 this section. Provided, the court may waive these prohibitions upon written application  
9 of the district attorney. Both the application and the waiver shall be made part of the  
10 record of the case.

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

14 E. Probation, for purposes of subsection A of this section, is a procedure by which a  
15 defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea  
16 of nolo contendere, is released by the court subject to conditions imposed by the court and  
17 subject to the supervision of the Department of Corrections. Such supervision shall be  
18 initiated upon an order of probation from the court, and shall not exceed two (2) years,  
19 except as otherwise provided by law. In the case of a person convicted of a sex offense,  
20 supervision shall begin immediately upon release from incarceration or if parole is  
21 granted and shall not be limited to two (2) years. Provided further, any supervision  
22 provided for in this section may be extended for a period not to exceed the expiration of

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

4 F. The Department of Corrections, or such other agency as the court may designate,  
5 shall be responsible for the monitoring and administration of the restitution and service  
6 programs provided for 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 the victim and that  
8 service assignments are properly performed.

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

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

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

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

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

10          H. As used in this section:

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

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

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

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

14 Any person who is incarcerated in the custody of the Department of Corrections  
15 after July 1, 1996, and who has not been released before the effective date of this act,  
16 shall provide a blood or saliva sample prior to release. Every person convicted of a felony  
17 offense after the effective date of this act whose sentence does not include a term of  
18 confinement with the Department of Corrections shall submit a blood or saliva sample.  
19 Those felons sentenced to unsupervised probation or otherwise not supervised by the  
20 Department of Corrections shall submit for blood or saliva testing to the sheriff of the  
21 sentencing county.



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

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

1 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1517, as last amended by  
2 Section 6, Chapter 178, O.S.L. 2009 (22 O.S. Supp. 2009, Section 1517), is amended to  
3 read as follows:

4 Section 1517. A. The Oklahoma State Bureau of Investigation shall be the entity  
5 recognized by the Bureau of Justice Statistics as the Statistical Analysis Center, and  
6 shall include a program resources unit, a computer information services unit, and an  
7 administrative support unit.

8 B. In addition to other duties specified by law, the duties of the Oklahoma State  
9 Bureau of Investigation shall be to:

- 10 1. Provide a clearinghouse for criminal justice information;
- 11 2. Provide a central contact point for federal, state, and local criminal justice  
12 agencies;
- 13 3. Provide technical assistance for all criminal justice agencies of this state;
- 14 4. Provide consultation for criminal justice agencies of this state in preparing  
15 reports, gaining funding, or preparing information;
- 16 5. Obtain information from criminal justice agencies in this state for analyses of  
17 criminal justice issues;
- 18 6. Collect and analyze criminal justice data;
- 19 7. Produce reports for state and local criminal justice agencies;
- 20 8. Facilitate information networking between criminal justice agencies;
- 21 9. Attend meetings concerning criminal justice issues;

- 1           10. Represent this state at national meetings including, but not limited to,  
2 meetings or conferences of criminal justice statistics associations of other states;
- 3           11. Assist in developing resources for the criminal justice system;
- 4           12. Address pertinent issues related to prevention and intervention programs;
- 5           13. Provide assistance to the ~~State~~ Oklahoma Crime Stoppers Association;
- 6           14. Create and publish by December 1 each year a uniform reporting standard for  
7 citing state criminal statutes to be used in reporting information to and from all criminal  
8 justice information systems within this state. The uniform reporting standard shall be  
9 developed in consultation with the Administrative Office of the Courts, the Department  
10 of Corrections, the District Attorneys Council, the Department of Public Safety through  
11 the Oklahoma Law Enforcement Telecommunications System Division, and the Office of  
12 Juvenile Affairs. The uniform reporting standard shall be used by all criminal justice  
13 information systems and shall be the standard for reporting arrests, criminal and  
14 juvenile delinquency charges, charge and case dispositions, custody records, and any  
15 other record purporting to identify a criminal history record or information relating to  
16 arrests, charges, custody, adjudication, conviction, and disposition of criminal or juvenile  
17 matters; and
- 18           15. Monitor all changes to state crime statutes within ninety (90) days of the  
19 Legislature's adjournment sine die for purposes of including any changes in law or new  
20 offenses within the uniform reporting standard.

1 C. The director of the Oklahoma State Bureau of Investigation shall hire employees  
2 as may be necessary to complete the statutory functions of the Bureau as specified in this  
3 section within the budgeting limits set by law.

4 SECTION 4. AMENDATORY 74 O.S. 2001, Section 18b, is amended to read as  
5 follows:

6 Section 18b. A. The duties of the Attorney General as the chief law officer of the  
7 state shall be:

8 1. To appear for the state and prosecute and defend all actions and proceedings,  
9 civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state  
10 is interested as a party;

11 2. To appear for the state and prosecute and defend all actions and proceedings in  
12 any of the federal courts in which the state is interested as a party;

13 3. To initiate or appear in any action in which the interests of the state or the  
14 people of the state are at issue, or to appear at the request of the Governor, the  
15 Legislature, or either branch thereof, and prosecute and defend in any court or before  
16 any commission, board or officers any cause or proceeding, civil or criminal, in which the  
17 state may be a party or interested; and when so appearing in any such cause or  
18 proceeding, the Attorney General may, if the Attorney General deems it advisable and to  
19 the best interest of the state, take and assume control of the prosecution or defense of the  
20 state's interest therein;

21 4. To consult with and advise district attorneys, when requested by them, in all  
22 matters pertaining to the duties of their offices, when said district attorneys shall furnish

1 the Attorney General with a written opinion supported by citation of authorities upon the  
2 matter submitted;

3 5. To give an opinion in writing upon all questions of law submitted to the Attorney  
4 General by the Legislature or either branch thereof, or by any state officer, board,  
5 commission or department, provided, that the Attorney General shall not furnish  
6 opinions to any but district attorneys, the Legislature or either branch thereof, or any  
7 other state official, board, commission or department, and to them only upon matters in  
8 which they are officially interested;

9 6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or  
10 either branch of the Legislature, to prosecute any official bond or any contract in which  
11 the state is interested, upon a breach thereof, and to prosecute or defend for the state all  
12 actions, civil or criminal, relating to any matter connected with either of their  
13 Departments;

14 7. Whenever requested by any state officer, board or commission, to prepare proper  
15 drafts for contracts, forms and other writing which may be wanted for the use of the  
16 state;

17 8. To prepare drafts of bills and resolutions for individual members of the  
18 Legislature upon their written request stating the gist of the bill or resolution desired;

19 9. To enforce the proper application of monies appropriated by the Legislature and  
20 to prosecute breaches of trust in the administration of such funds;

1 10. To institute actions to recover state monies illegally expended, to recover state  
2 property and to prevent the illegal use of any state property, upon the request of the  
3 Governor or the Legislature;

4 11. To pay into the State Treasury, immediately upon its receipt, all monies  
5 received by the Attorney General belonging to the state;

6 12. To keep and file copies of all opinions, contracts, forms and letters of the office,  
7 and to keep an index of all opinions, contracts and forms according to subject and section  
8 of the law construed or applied;

9 13. To keep a register or docket of all actions, demands and investigations  
10 prosecuted, defended or conducted by the Attorney General in behalf of the state. Said  
11 register or docket shall give the style of the case or investigation, where pending, court  
12 number, office number, the gist of the matter, result and the names of the assistants who  
13 handled the matter;

14 14. To keep a complete office file of all cases and investigations handled by the  
15 Attorney General on behalf of the state;

16 15. To report to the Legislature or either branch thereof whenever requested upon  
17 any business relating to the duties of the Attorney General's office;

18 16. To institute civil actions against members of any state board or commission for  
19 failure of such members to perform their duties as prescribed by the statutes and the  
20 Constitution and to prosecute members of any state board or commission for violation of  
21 the criminal laws of this state where such violations have occurred in connection with the  
22 performance of such members' official duties;

1           17. To respond to any request for an opinion of the Attorney General's office,  
2 submitted by a member of the Legislature, regardless of subject matter, by written  
3 opinion determinative of the law regarding such subject matter;

4           18. To convene multicounty grand juries in such manner and for such purposes as  
5 provided by law; provided, such grand juries are composed of citizens from each of the  
6 counties on a pro rata basis by county;

7           19. To investigate any report by the State Auditor and Inspector filed with the  
8 Attorney General pursuant to Section 223 of this title and prosecute all actions, civil or  
9 criminal, relating to such reports or any irregularities or derelictions in the management  
10 of public funds or property which are violations of the laws of this state;

11           20. To represent and protect the collective interests of all utility consumers of this  
12 state in rate-related proceedings before the Corporation Commission or in any other state  
13 or federal judicial or administrative proceeding;

14           21. To represent and protect the collective interests of insurance consumers of this  
15 state in rate-related proceedings before the Insurance Property and Casualty Rate Board  
16 or in any other state or federal judicial or administrative proceeding; and

17           22. ~~To certify local crimestoppers programs qualified to receive repayments of~~  
18 ~~rewards pursuant to Section 991a of Title 22 of the Oklahoma Statutes; and~~

19           23. To investigate and prosecute any criminal action relating to insurance fraud, if  
20 in the opinion of the Attorney General a criminal prosecution is warranted, or to refer  
21 such matters to the appropriate district attorney.

1 B. Nothing in this section shall be construed as requiring the Attorney General to  
2 appear and defend or prosecute in any court any cause or proceeding for or on behalf of  
3 the Oklahoma Tax Commission, the Board of Managers of the State Insurance Fund, or  
4 the Commissioners of the Land Office.

5 C. In all appeals from the Corporation Commission to the Supreme Court of  
6 Oklahoma in which the state is a party, the Attorney General shall have the right to  
7 designate counsel of the Corporation Commission as the Attorney General's legally  
8 appointed representative in such appeals, and it shall be the duty of the said Corporation  
9 Commission counsel to act when so designated and to consult and advise with the  
10 Attorney General regarding such appeals prior to taking action therein.

11 SECTION 5. This act shall become effective November 1, 2010.

12 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-04-10 - DO  
13 PASS, As Coauthored.