

EHB 2837

1 THE STATE SENATE
2 Wednesday, March 17, 2010

3 ENGROSSED

4 House Bill No. 2837

5 ENGROSSED HOUSE BILL NO. 2837 - By: Sears and Martin (Steve) of the
6 House and Ford of the Senate.

7 An Act relating to crime stoppers; amending Section 1,
8 Chapter 323, O.S.L. 2002 (12 O.S. Supp. 2009, Section
9 2510.1), which relates to privileged communications;
10 clarifying definitions; adding definitions; amending 22 O.S.
11 2001, Section 991a, as last amended by Section 132, Chapter
12 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 991a), which
13 relates to sentencing powers of the court; clarifying
14 certain power of the court; adding definitions; amending 22
15 O.S. 2001, Section 1517, as last amended by Section 6,
16 Chapter 178, O.S.L. 2009 (22 O.S. Supp. 2009, Section 1517),
17 which relates to duties of the Oklahoma State Bureau of
18 Investigation; clarifying certain duty; amending 74 O.S.
19 2001, Section 18b, which relates to duties of the Attorney
20 General; deleting certification duty of the Attorney
21 General; and providing an effective date.

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

23 SECTION 1. AMENDATORY Section 1, Chapter 323, O.S.L.
24 2002 (12 O.S. Supp. 2009, Section 2510.1), is amended to read as
25 follows:

26 Section 2510.1 A. As used in this section:

27 1. "Crime stoppers organization" means a private, nonprofit
28 organization that is certified by the Oklahoma Crime Stoppers
29 Association, accepts and expends donations for rewards to persons
30 who report to the organization information concerning criminal

1 activity and that forwards the information to the appropriate law
2 enforcement agency; ~~and~~

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

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

13 B. Evidence of a privileged communication between a person
14 submitting a report of a criminal act to a certified crime stoppers
15 organization and the person who accepts the report on behalf of the
16 organization is not admissible in a court or an administrative
17 proceeding.

18 C. Records of a certified crime stoppers organization
19 concerning a privileged communication of criminal activity may not
20 be compelled to be produced before a court or other tribunal except
21 upon the motion of a criminal defendant to the court in which the
22 offense is being tried that the records or report contains evidence
23 that is exculpatory to the defendant in the trial of that offense.

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

6 E. If the court determines that the records or report produced
7 contain evidence that is exculpatory to the defendant, the court
8 shall present the evidence to the defendant in a form that does not
9 disclose the identity of the person who was the source of the
10 evidence, unless the state or federal constitution requires the
11 disclosure of the identity of that person.

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

18 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991a, as
19 last amended by Section 132, Chapter 234, O.S.L. 2009 (22 O.S. Supp.
20 2009, Section 991a), is amended to read as follows:

21 Section 991a. A. Except as otherwise provided in the Elderly
22 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

1 state agency, with interest accruing thereon at the
2 rate of twelve percent (12%) per annum,
3 c. to engage in a term of community service without
4 compensation, according to a schedule consistent with
5 the employment and family responsibilities of the
6 person convicted,
7 d. to pay a reasonable sum into any trust fund,
8 established pursuant to the provisions of Sections 176
9 through 180.4 of Title 60 of the Oklahoma Statutes,
10 and which provides restitution payments by convicted
11 defendants to victims of crimes committed within this
12 state wherein such victim has incurred a financial
13 loss,
14 e. to confinement in the county jail for a period not to
15 exceed six (6) months,
16 f. to confinement as provided by law together with a term
17 of post-imprisonment community supervision for not
18 less than three (3) years of the total term allowed by
19 law for imprisonment, with or without restitution;
20 provided, however, the authority of this provision is
21 limited to Section 843.5 of Title 21 of the Oklahoma
22 Statutes when the offense involved sexual abuse or
23 sexual exploitation; Sections 681, 741 and 843.1 of

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

1 ~~title~~ The term "certified" means crime stoppers
2 organizations that annually meet the certification
3 standards for crime stoppers programs established by
4 the Oklahoma Crime Stoppers Association to the extent
5 those standards do not conflict with state statutes.

6 The term "court" refers to all municipal and district
7 courts within this state. The "Oklahoma Reward

8 System" means the reward program established by
9 Section 150.18 of Title 74 of the Oklahoma Statutes,

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

21 i. to reimburse the Oklahoma State Bureau of
22 Investigation and any authorized law enforcement
23 agency for all costs incurred by that agency for

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

12 j. to pay a reasonable sum to the Crime Victims
13 Compensation Board, created by Section 142.2 et seq.
14 of Title 21 of the Oklahoma Statutes, for the benefit
15 of crime victims,

16 k. to reimburse the court fund for amounts paid to court-
17 appointed attorneys for representing the defendant in
18 the case in which the person is being sentenced,

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

1 assessment, participate in an alcohol and drug
2 substance abuse course or treatment program or both,
3 pursuant to Sections 3-452 and 3-453 of Title 43A of
4 the Oklahoma Statutes, or as ordered by the court,
5 m. to be placed in a victims impact panel program or
6 victim/offender reconciliation program and payment of
7 a fee to the program of not less than Fifteen Dollars
8 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
9 by the governing authority of the program to offset
10 the cost of participation by the defendant. Provided,
11 each victim/offender reconciliation program shall be
12 required to obtain a written consent form voluntarily
13 signed by the victim and defendant that specifies the
14 methods to be used to resolve the issues, the
15 obligations and rights of each person, and the
16 confidentiality of the proceedings. Volunteer
17 mediators and employees of a victim/offender
18 reconciliation program shall be immune from liability
19 and have rights of confidentiality as provided in
20 Section 1805 of Title 12 of the Oklahoma Statutes,
21 n. to install, at the expense of the defendant, an
22 ignition interlock device approved by the Board of
23 Tests for Alcohol and Drug Influence. The device

1 shall be installed upon every motor vehicle operated
2 by the defendant, and the court shall require that a
3 notation of this restriction be affixed to the
4 defendant's driver license. The restriction shall
5 remain on the driver license not exceeding two (2)
6 years to be determined by the court. The restriction
7 may be modified or removed only by order of the court
8 and notice of any modification order shall be given to
9 the Department of Public Safety. Upon the expiration
10 of the period for the restriction, the Department of
11 Public Safety shall remove the restriction without
12 further court order. Failure to comply with the order
13 to install an ignition interlock device or operating
14 any vehicle without a device during the period of
15 restriction shall be a violation of the sentence and
16 may be punished as deemed proper by the sentencing
17 court. As used in this paragraph, "ignition interlock
18 device" means a device that, without tampering or
19 intervention by another person, would prevent the
20 defendant from operating a motor vehicle if the
21 defendant has a blood or breath alcohol concentration
22 of two-hundredths (0.02) or greater,

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

1 and substance abuse, mental health, emotional health,
2 physical health, propensity for violence, antisocial
3 behavior, personality or attitudes, deviant sexual
4 behavior, child development, parenting assistance, job
5 skills, vocational-technical skills, domestic
6 relations, literacy, education, or any other
7 identifiable deficiency which may be treated
8 appropriately in the community and for which a
9 certified provider or a program recognized by the
10 court as having significant positive impact exists in
11 the community. Any treatment, education or
12 rehabilitation provider required to be certified
13 pursuant to law or rule shall be certified by the
14 appropriate state agency or a national organization,
15 q. to submit to periodic testing for alcohol,
16 intoxicating substance, or controlled dangerous
17 substances by a qualified laboratory,
18 r. to pay a fee, costs for treatment, education,
19 supervision, participation in a program, or any
20 combination thereof as determined by the court, based
21 upon the defendant's ability to pay the fees or costs,

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

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

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

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.

1 Additionally, the court may require the offender to
2 pay restitution and bogus check fees on any other
3 bogus check or checks that have been submitted to the
4 District Attorney Bogus Check Restitution Program, and
5 hh. any other provision specifically ordered by the court.

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

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

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

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

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

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

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

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

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

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

20 e. beginning January 1, 1993, to submit to electronically
21 monitored home detention administered and supervised
22 by the Department of Corrections, and to pay to the
23 Department a monitoring fee, not to exceed Seventy-

1 five Dollars (\$75.00) a month, to the Department of
2 Corrections, if in the opinion of the court the
3 defendant has the ability to pay such fee. Any fees
4 collected pursuant to this subparagraph shall be
5 deposited in the Department of Corrections Revolving
6 Fund. Any order by the court for the payment of the
7 monitoring fee, if willfully disobeyed, may be
8 enforced as an indirect contempt of court;

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

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

1 10. In addition to the other sentencing powers of the court,
2 the court, in the case of a sex offender sentenced after November 1,
3 1989, and required by law to register pursuant to the Sex Offenders
4 Registration Act, shall require the person to participate in a
5 treatment program designed specifically for the treatment of sex
6 offenders, if available. The treatment program will include
7 polygraph examinations specifically designed for use with sex
8 offenders for the purpose of supervision and treatment compliance,
9 provided the examination is administered by a certified licensed
10 polygraph examiner. The treatment program must be approved by the
11 Department of Corrections or the Department of Mental Health and
12 Substance Abuse Services. Such treatment shall be at the expense of
13 the defendant based on the defendant's ability to pay;

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

21 12. In addition to the other sentencing powers of the court,
22 the court, in the case of a person convicted of cruelty to animals
23 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may

1 require the person to pay restitution to animal facilities for
2 medical care and any boarding costs of victimized animals;

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

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

19 15. In addition to the other sentencing powers of the court, in
20 the case of a sex offender who is required by law to register
21 pursuant to the Sex Offenders Registration Act, the court may
22 require the person to register any electronic mail address
23 information, instant message, chat or other Internet communication

1 name or identity information that the person uses or intends to use
2 while accessing the Internet.

3 B. Notwithstanding any other provision of law, any person who
4 is found guilty of a violation of any provision of Section 761 or
5 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
6 guilty or nolo contendere for a violation of any provision of such
7 sections shall be ordered to participate in, prior to sentencing, an
8 alcohol and drug assessment and evaluation by an assessment agency
9 or assessment personnel certified by the Department of Mental Health
10 and Substance Abuse Services for the purpose of evaluating the
11 receptivity to treatment and prognosis of the person. The court
12 shall order the person to reimburse the agency or assessor for the
13 evaluation. The fee shall be the amount provided in subsection C of
14 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
15 shall be conducted at a certified assessment agency, the office of a
16 certified assessor or at another location as ordered by the court.
17 The agency or assessor shall, within seventy-two (72) hours from the
18 time the person is assessed, submit a written report to the court
19 for the purpose of assisting the court in its final sentencing
20 determination. No person, agency or facility operating an alcohol
21 and drug substance abuse evaluation program certified by the
22 Department of Mental Health and Substance Abuse Services shall
23 solicit or refer any person evaluated pursuant to this subsection

1 for any treatment program or alcohol and drug substance abuse
2 service in which such person, agency or facility has a vested
3 interest; however, this provision shall not be construed to prohibit
4 the court from ordering participation in or any person from
5 voluntarily utilizing a treatment program or alcohol and drug
6 substance abuse service offered by such person, agency or facility.
7 If a person is sentenced to the custody of the Department of
8 Corrections and the court has received a written evaluation report
9 pursuant to this subsection, the report shall be furnished to the
10 Department of Corrections with the judgment and sentence. Any
11 evaluation report submitted to the court pursuant to this subsection
12 shall be handled in a manner which will keep such report
13 confidential from the general public's review. Nothing contained in
14 this subsection shall be construed to prohibit the court from
15 ordering judgment and sentence in the event the defendant fails or
16 refuses to comply with an order of the court to obtain the
17 evaluation required by this subsection.

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

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

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

18 E. Probation, for purposes of subsection A of this section, is
19 a procedure by which a defendant found guilty of a crime, whether
20 upon a verdict or plea of guilty or upon a plea of nolo contendere,
21 is released by the court subject to conditions imposed by the court
22 and subject to the supervision of the Department of Corrections.
23 Such supervision shall be initiated upon an order of probation from

1 the court, and shall not exceed two (2) years, except as otherwise
2 provided by law. In the case of a person convicted of a sex
3 offense, supervision shall begin immediately upon release from
4 incarceration or if parole is granted and shall not be limited to
5 two (2) years. Provided further, any supervision provided for in
6 this section may be extended for a period not to exceed the
7 expiration of the maximum term or terms of the sentence upon a
8 determination by the Division of Probation and Parole of the
9 Department of Corrections that the best interests of the public and
10 the release will be served by an extended period of supervision.

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

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

21 2. Any offender eligible to participate in the Program pursuant
22 to this act shall be eligible to participate in a county Program;
23 provided, participation in county-funded Programs shall not be

1 limited to offenders who would otherwise be sentenced to confinement
2 with the Department of Corrections.

3 3. The Department shall establish criteria and specifications
4 for contracts with counties for such Programs. A county may apply
5 to the Department for a contract for a county-funded Program for a
6 specific period of time. The Department shall be responsible for
7 ensuring that any contracting county complies in full with
8 specifications and requirements of the contract. The contract shall
9 set appropriate compensation to the county for services to the
10 Department.

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

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

22 H. As used in this section:

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

6 2. "Electronically monitored home detention" means
7 incarceration of the defendant within a specified location or
8 locations with monitoring by means of a device approved by the
9 Department of Corrections that detects if the person leaves the
10 confines of any specified location.

11 I. A person convicted of a felony offense or receiving any form
12 of probation for an offense in which registration is required
13 pursuant to the Sex Offenders Registration Act shall submit to
14 deoxyribonucleic acid DNA testing for law enforcement identification
15 purposes in accordance with Section 150.27 of Title 74 of the
16 Oklahoma Statutes and the rules promulgated by the Oklahoma State
17 Bureau of Investigation for the OSBI Combined DNA Index System
18 (CODIS) Database. Any defendant sentenced to probation shall be
19 required to submit to testing within thirty (30) days of sentencing
20 either to the Department of Corrections or to the county sheriff or
21 other peace officer as directed by the court. Defendants who are
22 sentenced to a term of incarceration shall submit to testing in
23 accordance with Section 530.1 of Title 57 of the Oklahoma Statutes,

1 for those defendants who enter the custody of the Department of
2 Corrections or to the county sheriff, for those defendants sentenced
3 to incarceration in a county jail. Convicted individuals who have
4 previously submitted to DNA testing under this section and for whom
5 a valid sample is on file in the OSBI Combined DNA Index System
6 (CODIS) Database at the time of sentencing shall not be required to
7 submit to additional testing. Except as required by the Sex
8 Offenders Registration Act, a deferred judgment does not require
9 submission to deoxyribonucleic acid testing.

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

20 J. Samples of blood or saliva for DNA testing required by
21 subsection I of this section shall be taken by employees or
22 contractors of the Department of Corrections, peace officers, or the
23 county sheriff or employees or contractors of the sheriff's office.

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

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

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

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

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

11 1. Provide a clearinghouse for criminal justice information;

12 2. Provide a central contact point for federal, state, and
13 local criminal justice agencies;

14 3. Provide technical assistance for all criminal justice
15 agencies of this state;

16 4. Provide consultation for criminal justice agencies of this
17 state in preparing reports, gaining funding, or preparing
18 information;

19 5. Obtain information from criminal justice agencies in this
20 state for analyses of criminal justice issues;

21 6. Collect and analyze criminal justice data;

22 7. Produce reports for state and local criminal justice
23 agencies;

- 1 8. Facilitate information networking between criminal justice
2 agencies;
- 3 9. Attend meetings concerning criminal justice issues;
- 4 10. Represent this state at national meetings including, but
5 not limited to, meetings or conferences of criminal justice
6 statistics associations of other states;
- 7 11. Assist in developing resources for the criminal justice
8 system;
- 9 12. Address pertinent issues related to prevention and
10 intervention programs;
- 11 13. Provide assistance to the ~~State~~ Oklahoma Crime Stoppers
12 Association;
- 13 14. Create and publish by December 1 each year a uniform
14 reporting standard for citing state criminal statutes to be used in
15 reporting information to and from all criminal justice information
16 systems within this state. The uniform reporting standard shall be
17 developed in consultation with the Administrative Office of the
18 Courts, the Department of Corrections, the District Attorneys
19 Council, the Department of Public Safety through the Oklahoma Law
20 Enforcement Telecommunications System Division, and the Office of
21 Juvenile Affairs. The uniform reporting standard shall be used by
22 all criminal justice information systems and shall be the standard
23 for reporting arrests, criminal and juvenile delinquency charges,

1 charge and case dispositions, custody records, and any other record
2 purporting to identify a criminal history record or information
3 relating to arrests, charges, custody, adjudication, conviction, and
4 disposition of criminal or juvenile matters; and

5 15. Monitor all changes to state crime statutes within ninety
6 (90) days of the Legislature's adjournment sine die for purposes of
7 including any changes in law or new offenses within the uniform
8 reporting standard.

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

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

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

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

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

1 3. To initiate or appear in any action in which the interests
2 of the state or the people of the state are at issue, or to appear
3 at the request of the Governor, the Legislature, or either branch
4 thereof, and prosecute and defend in any court or before any
5 commission, board or officers any cause or proceeding, civil or
6 criminal, in which the state may be a party or interested; and when
7 so appearing in any such cause or proceeding, the Attorney General
8 may, if the Attorney General deems it advisable and to the best
9 interest of the state, take and assume control of the prosecution or
10 defense of the state's interest therein;

11 4. To consult with and advise district attorneys, when
12 requested by them, in all matters pertaining to the duties of their
13 offices, when said district attorneys shall furnish the Attorney
14 General with a written opinion supported by citation of authorities
15 upon the matter submitted;

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

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

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

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

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

16 10. To institute actions to recover state monies illegally
17 expended, to recover state property and to prevent the illegal use
18 of any state property, upon the request of the Governor or the
19 Legislature;

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

1 12. To keep and file copies of all opinions, contracts, forms
2 and letters of the office, and to keep an index of all opinions,
3 contracts and forms according to subject and section of the law
4 construed or applied;

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

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

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

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

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

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

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

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

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

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

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

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

13 C. In all appeals from the Corporation Commission to the
14 Supreme Court of Oklahoma in which the state is a party, the
15 Attorney General shall have the right to designate counsel of the
16 Corporation Commission as the Attorney General's legally appointed
17 representative in such appeals, and it shall be the duty of the said
18 Corporation Commission counsel to act when so designated and to
19 consult and advise with the Attorney General regarding such appeals
20 prior to taking action therein.

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

22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,
23 dated 3-16-10 - DO PASS.