

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2837

By: Sears

4
5
6 AS INTRODUCED

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

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

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

Section 2510.1 A. As used in this section:

1. "Crime stoppers organization" means a private, nonprofit
organization that is certified by the Oklahoma Crime Stoppers

1 Association, accepts and expends donations for rewards to persons
2 who report to the organization information concerning criminal
3 activity and that forwards the information to the appropriate law
4 enforcement agency; and

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

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

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

20 C. Records of a certified crime stoppers organization
21 concerning a privileged communication of criminal activity may not
22 be compelled to be produced before a court or other tribunal except
23 upon the motion of a criminal defendant to the court in which the
24

1 offense is being tried that the records or report contains evidence
2 that is exculpatory to the defendant in the trial of that offense.

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

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

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

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

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

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

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

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

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

- 1 c. to engage in a term of community service without
2 compensation, according to a schedule consistent with
3 the employment and family responsibilities of the
4 person convicted,
- 5 d. to pay a reasonable sum into any trust fund,
6 established pursuant to the provisions of Sections 176
7 through 180.4 of Title 60 of the Oklahoma Statutes,
8 and which provides restitution payments by convicted
9 defendants to victims of crimes committed within this
10 state wherein such victim has incurred a financial
11 loss,
- 12 e. to confinement in the county jail for a period not to
13 exceed six (6) months,
- 14 f. to confinement as provided by law together with a term
15 of post-imprisonment community supervision for not
16 less than three (3) years of the total term allowed by
17 law for imprisonment, with or without restitution;
18 provided, however, the authority of this provision is
19 limited to Section 843.5 of Title 21 of the Oklahoma
20 Statutes when the offense involved sexual abuse or
21 sexual exploitation; Sections 681, 741 and 843.1 of
22 Title 21 of the Oklahoma Statutes when the offense
23 involved sexual abuse or sexual exploitation; and
24 Sections 865 et seq., 885, 886, 888, 891, 1021,

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

3 g. to repay the reward or part of the reward paid by a
4 ~~certified local crimestoppers~~ certified crime stoppers
5 program and the Oklahoma Reward System. In
6 determining whether the defendant shall repay the
7 reward or part of the reward, the court shall consider
8 the ability of the defendant to make the payment, the
9 financial hardship on the defendant to make the
10 required payment, and the importance of the
11 information to the prosecution of the defendant as
12 provided by the arresting officer or the district
13 attorney with due regard for the confidentiality of
14 the records of the ~~certified local crimestoppers~~
15 certified crime stoppers program and the Oklahoma
16 Reward System. The court shall assess this repayment
17 against the defendant as a cost of prosecution.

18 ~~"Certified local crimestoppers program" means a~~
19 ~~crimestoppers program certified by the Office of the~~
20 ~~Attorney General pursuant to Section 991g of this~~
21 ~~title~~ The term "certified" means crime stoppers
22 organizations that annually meet the certification
23 standards for crime stoppers programs established by
24 the Oklahoma Crime Stoppers Association to the extent

1 those standards do not conflict with state statutes.

2 The term "court" refers to all municipal and district

3 courts within this state. The "Oklahoma Reward

4 System" means the reward program established by

5 Section 150.18 of Title 74 of the Oklahoma Statutes,

6 h. to reimburse the Oklahoma State Bureau of

7 Investigation for costs incurred by that agency during

8 its investigation of the crime for which the defendant

9 pleaded guilty, nolo contendere or was convicted,

10 including compensation for laboratory, technical, or

11 investigation services performed by the Bureau if, in

12 the opinion of the court, the defendant is able to pay

13 without imposing manifest hardship on the defendant,

14 and if the costs incurred by the Bureau during the

15 investigation of the defendant's case may be

16 determined with reasonable certainty,

17 i. to reimburse the Oklahoma State Bureau of

18 Investigation and any authorized law enforcement

19 agency for all costs incurred by that agency for

20 cleaning up an illegal drug laboratory site for which

21 the defendant pleaded guilty, nolo contendere or was

22 convicted. The court clerk shall collect the amount

23 and may retain five percent (5%) of such monies to be

24 deposited in the Court Clerk Revolving Fund to cover

1 administrative costs and shall remit the remainder to
2 the Oklahoma State Bureau of Investigation to be
3 deposited in the OSBI Revolving Fund established by
4 Section 150.19a of Title 74 of the Oklahoma Statutes
5 or to the general fund wherein the other law
6 enforcement agency is located,

7 j. to pay a reasonable sum to the Crime Victims
8 Compensation Board, created by Section 142.2 et seq.
9 of Title 21 of the Oklahoma Statutes, for the benefit
10 of crime victims,

11 k. to reimburse the court fund for amounts paid to court-
12 appointed attorneys for representing the defendant in
13 the case in which the person is being sentenced,

14 l. to participate in an assessment and evaluation by an
15 assessment agency or assessment personnel certified by
16 the Department of Mental Health and Substance Abuse
17 Services pursuant to Section 3-460 of Title 43A of the
18 Oklahoma Statutes and, as determined by the
19 assessment, participate in an alcohol and drug
20 substance abuse course or treatment program or both,
21 pursuant to Sections 3-452 and 3-453 of Title 43A of
22 the Oklahoma Statutes, or as ordered by the court,

23 m. to be placed in a victims impact panel program or
24 victim/offender reconciliation program and payment of

1 a fee to the program of not less than Fifteen Dollars
2 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
3 by the governing authority of the program to offset
4 the cost of participation by the defendant. Provided,
5 each victim/offender reconciliation program shall be
6 required to obtain a written consent form voluntarily
7 signed by the victim and defendant that specifies the
8 methods to be used to resolve the issues, the
9 obligations and rights of each person, and the
10 confidentiality of the proceedings. Volunteer
11 mediators and employees of a victim/offender
12 reconciliation program shall be immune from liability
13 and have rights of confidentiality as provided in
14 Section 1805 of Title 12 of the Oklahoma Statutes,
15 n. to install, at the expense of the defendant, an
16 ignition interlock device approved by the Board of
17 Tests for Alcohol and Drug Influence. The device
18 shall be installed upon every motor vehicle operated
19 by the defendant, and the court shall require that a
20 notation of this restriction be affixed to the
21 defendant's driver license. The restriction shall
22 remain on the driver license not exceeding two (2)
23 years to be determined by the court. The restriction
24 may be modified or removed only by order of the court

1 and notice of any modification order shall be given to
2 the Department of Public Safety. Upon the expiration
3 of the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without a device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court. As used in this paragraph, "ignition interlock
11 device" means a device that, without tampering or
12 intervention by another person, would prevent the
13 defendant from operating a motor vehicle if the
14 defendant has a blood or breath alcohol concentration
15 of two-hundredths (0.02) or greater,

- 16 o. to be confined by electronic monitoring administered
17 and supervised by the Department of Corrections or a
18 community sentence provider, and payment of a
19 monitoring fee to the supervising authority, not to
20 exceed Three Hundred Dollars (\$300.00) per month. Any
21 fees collected pursuant to this paragraph shall be
22 deposited with the appropriate supervising authority.
23 Any willful violation of an order of the court for the
24 payment of the monitoring fee shall be a violation of

1 the sentence and may be punished as deemed proper by
2 the sentencing court. As used in this paragraph,
3 "electronic monitoring" means confinement of the
4 defendant within a specified location or locations
5 with supervision by means of an electronic device
6 approved by the Department of Corrections which is
7 designed to detect if the defendant is in the court-
8 ordered location at the required times and which
9 records violations for investigation by a qualified
10 supervisory agency or person,

11 p. to perform one or more courses of treatment, education
12 or rehabilitation for any conditions, behaviors,
13 deficiencies or disorders which may contribute to
14 criminal conduct, including but not limited to alcohol
15 and substance abuse, mental health, emotional health,
16 physical health, propensity for violence, antisocial
17 behavior, personality or attitudes, deviant sexual
18 behavior, child development, parenting assistance, job
19 skills, vocational-technical skills, domestic
20 relations, literacy, education, or any other
21 identifiable deficiency which may be treated
22 appropriately in the community and for which a
23 certified provider or a program recognized by the
24 court as having significant positive impact exists in

- 1 the community. Any treatment, education or
2 rehabilitation provider required to be certified
3 pursuant to law or rule shall be certified by the
4 appropriate state agency or a national organization,
- 5 q. to submit to periodic testing for alcohol,
6 intoxicating substance, or controlled dangerous
7 substances by a qualified laboratory,
- 8 r. to pay a fee, costs for treatment, education,
9 supervision, participation in a program, or any
10 combination thereof as determined by the court, based
11 upon the defendant's ability to pay the fees or costs,
- 12 s. to be supervised by a Department of Corrections
13 employee, a private supervision provider, or other
14 person designated by the court,
- 15 t. to obtain positive behavior modeling by a trained
16 mentor,
- 17 u. to serve a term of confinement in a restrictive
18 housing facility available in the community,
- 19 v. to serve a term of confinement in the county jail at
20 night or during weekends pursuant to Section 991a-2 of
21 this title or for work release,
- 22 w. to obtain employment or participate in employment-
23 related activities,
- 24

- 1 x. to participate in mandatory day reporting to
2 facilities or persons for services, payments, duties
3 or person-to-person contacts as specified by the
4 court,
- 5 y. to pay day fines not to exceed fifty percent (50%) of
6 the net wages earned. For purposes of this paragraph,
7 "day fine" means the offender is ordered to pay an
8 amount calculated as a percentage of net daily wages
9 earned. The day fine shall be paid to the local
10 community sentencing system as reparation to the
11 community. Day fines shall be used to support the
12 local system,
- 13 z. to submit to blood or saliva testing as required by
14 subsection I of this section,
- 15 aa. to repair or restore property damaged by the
16 defendant's conduct, if the court determines the
17 defendant possesses sufficient skill to repair or
18 restore the property and the victim consents to the
19 repairing or restoring of the property,
- 20 bb. to restore damaged property in kind or payment of out-
21 of-pocket expenses to the victim, if the court is able
22 to determine the actual out-of-pocket expenses
23 suffered by the victim,
- 24

1 cc. to attend a victim-offender reconciliation program if
2 the victim agrees to participate and the offender is
3 deemed appropriate for participation,

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

13 ee. in the case of a sex offender sentenced after November
14 1, 1989, and required by law to register pursuant to
15 the Sex Offender Registration Act, the court shall
16 require the person to comply with sex offender
17 specific rules and conditions of supervision
18 established by the Department of Corrections and
19 require the person to participate in a treatment
20 program designed for the treatment of sex offenders
21 during the period of time while the offender is
22 subject to supervision by the Department of
23 Corrections. The treatment program shall include
24 polygraph examinations specifically designed for use

1 with sex offenders for purposes of supervision and
2 treatment compliance, and shall be administered not
3 less than each six (6) months during the period of
4 supervision. The examination shall be administered by
5 a certified licensed polygraph examiner. The
6 treatment program must be approved by the Department
7 of Corrections or the Department of Mental Health and
8 Substance Abuse Services. Such treatment shall be at
9 the expense of the defendant based on the defendant's
10 ability to pay,

11 ff. in addition to other sentencing powers of the court,
12 the court in the case of a defendant being sentenced
13 for a felony conviction for a violation of Section 2-
14 402 of Title 63 of the Oklahoma Statutes which
15 involves marijuana may require the person to
16 participate in a drug court program, if available. If
17 a drug court program is not available, the defendant
18 may be required to participate in a community
19 sanctions program, if available,

20 gg. in the case of a person convicted of any false or
21 bogus check violation, as defined in Section 1541.4 of
22 Title 21 of the Oklahoma Statutes, impose a fee of
23 Twenty-five Dollars (\$25.00) to the victim for each
24 check, and impose a bogus check fee to be paid to the

1 district attorney. The bogus check fee paid to the
2 district attorney shall be equal to the amount
3 assessed as court costs plus Twenty-five Dollars
4 (\$25.00) for each check upon filing of the case in
5 district court. This money shall be deposited in the
6 Bogus Check Restitution Program Fund as established in
7 subsection B of Section 114 of this title.

8 Additionally, the court may require the offender to
9 pay restitution and bogus check fees on any other
10 bogus check or checks that have been submitted to the
11 District Attorney Bogus Check Restitution Program, and

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

13 However, any such order for restitution, community service,
14 payment to a ~~certified local crimestoppers~~ certified crime stoppers
15 program, payment to the Oklahoma Reward System, or confinement in
16 the county jail, or a combination thereof, shall be made in
17 conjunction with probation and shall be made a condition of the
18 suspended sentence;

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

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

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

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

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

22 7. In addition to the other sentencing powers of the court, in
23 the case of a person convicted of operating or being in control of a
24 motor vehicle while the person was under the influence of alcohol,

1 other intoxicating substance, or a combination of alcohol or another
2 intoxicating substance, or convicted of operating a motor vehicle
3 while the ability of the person to operate such vehicle was impaired
4 due to the consumption of alcohol, require such person:

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

14 b. to attend a victims impact panel program, if such a
15 program is offered in the county where the judgment is
16 rendered, and to pay a fee, not less than Fifteen
17 Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
18 as set by the governing authority of the program and
19 approved by the court, to the program to offset the
20 cost of participation by the defendant, if in the
21 opinion of the court the defendant has the ability to
22 pay such fee,

23 c. to both participate in the alcohol and drug substance
24 abuse course or treatment program, pursuant to

1 subparagraph a of this paragraph and attend a victims
2 impact panel program, pursuant to subparagraph b of
3 this paragraph,

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

23 e. beginning January 1, 1993, to submit to electronically
24 monitored home detention administered and supervised

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

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

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

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

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

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

23 12. In addition to the other sentencing powers of the court,
24 the court, in the case of a person convicted of cruelty to animals

1 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
2 require the person to pay restitution to animal facilities for
3 medical care and any boarding costs of victimized animals;

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

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

20 15. In addition to the other sentencing powers of the court, in
21 the case of a sex offender who is required by law to register
22 pursuant to the Sex Offenders Registration Act, the court may
23 require the person to register any electronic mail address
24 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
24 for any treatment program or alcohol and drug substance abuse

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

17 C. When sentencing a person convicted of a crime, the court
18 shall first consider a program of restitution for the victim, as
19 well as imposition of a fine or incarceration of the offender. The
20 provisions of paragraph 1 of subsection A of this section shall not
21 apply to defendants being sentenced upon their third or subsequent
22 to their third conviction of a felony or, beginning January 1, 1993,
23 to defendants being sentenced for their second or subsequent felony
24 conviction for violation of Section 11-902 of Title 47 of the

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

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

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

1 incarceration or if parole is granted and shall not be limited to
2 two (2) years. Provided further, any supervision provided for in
3 this section may be extended for a period not to exceed the
4 expiration of the maximum term or terms of the sentence upon a
5 determination by the Division of Probation and Parole of the
6 Department of Corrections that the best interests of the public and
7 the release will be served by an extended period of supervision.

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

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

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

23 3. The Department shall establish criteria and specifications
24 for contracts with counties for such Programs. A county may apply

1 to the Department for a contract for a county-funded Program for a
2 specific period of time. The Department shall be responsible for
3 ensuring that any contracting county complies in full with
4 specifications and requirements of the contract. The contract shall
5 set appropriate compensation to the county for services to the
6 Department.

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

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

18 H. As used in this section:

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

24

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

6 I. A person convicted of a felony offense or receiving any form
7 of probation for an offense in which registration is required
8 pursuant to the Sex Offenders Registration Act shall submit to
9 deoxyribonucleic acid DNA testing for law enforcement identification
10 purposes in accordance with Section 150.27 of Title 74 of the
11 Oklahoma Statutes and the rules promulgated by the Oklahoma State
12 Bureau of Investigation for the OSBI Combined DNA Index System
13 (CODIS) Database. Any defendant sentenced to probation shall be
14 required to submit to testing within thirty (30) days of sentencing
15 either to the Department of Corrections or to the county sheriff or
16 other peace officer as directed by the court. Defendants who are
17 sentenced to a term of incarceration shall submit to testing in
18 accordance with Section 530.1 of Title 57 of the Oklahoma Statutes,
19 for those defendants who enter the custody of the Department of
20 Corrections or to the county sheriff, for those defendants sentenced
21 to incarceration in a county jail. Convicted individuals who have
22 previously submitted to DNA testing under this section and for whom
23 a valid sample is on file in the OSBI Combined DNA Index System
24 (CODIS) Database at the time of sentencing shall not be required to

1 submit to additional testing. Except as required by the Sex
2 Offenders Registration Act, a deferred judgment does not require
3 submission to deoxyribonucleic acid testing.

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

14 J. Samples of blood or saliva for DNA testing required by
15 subsection I of this section shall be taken by employees or
16 contractors of the Department of Corrections, peace officers, or the
17 county sheriff or employees or contractors of the sheriff's office.
18 The individuals shall be properly trained to collect blood or saliva
19 samples. Persons collecting blood or saliva for DNA testing
20 pursuant to this section shall be immune from civil liabilities
21 arising from this activity. All collectors of DNA samples shall
22 ensure the collection of samples are mailed to the Oklahoma State
23 Bureau of Investigation within ten (10) days of the time the subject
24 appears for testing or within ten (10) days of the date the subject

1 comes into physical custody to serve a term of incarceration. All
2 collectors of DNA samples shall use sample kits provided by the OSBI
3 and procedures promulgated by the OSBI. Persons subject to DNA
4 testing who are not received at the Lexington Assessment and
5 Reception Center shall be required to pay a fee of Fifteen Dollars
6 (\$15.00) to the agency collecting the sample for submission to the
7 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
8 pursuant to this subsection shall be deposited in the revolving
9 account or the service fee account of the collection agency or
10 department.

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

16 SECTION 3. AMENDATORY 22 O.S. 2001, Section 1517, as
17 last amended by Section 6, Chapter 178, O.S.L. 2009 (22 O.S. Supp.
18 2009, Section 1517), is amended to read as follows:

19 Section 1517. A. The Oklahoma State Bureau of Investigation
20 shall be the entity recognized by the Bureau of Justice Statistics
21 as the Statistical Analysis Center, and shall include a program
22 resources unit, a computer information services unit, and an
23 administrative support unit.

24

- 1 B. In addition to other duties specified by law, the duties of
2 the Oklahoma State Bureau of Investigation shall be to:
- 3 1. Provide a clearinghouse for criminal justice information;
 - 4 2. Provide a central contact point for federal, state, and
5 local criminal justice agencies;
 - 6 3. Provide technical assistance for all criminal justice
7 agencies of this state;
 - 8 4. Provide consultation for criminal justice agencies of this
9 state in preparing reports, gaining funding, or preparing
10 information;
 - 11 5. Obtain information from criminal justice agencies in this
12 state for analyses of criminal justice issues;
 - 13 6. Collect and analyze criminal justice data;
 - 14 7. Produce reports for state and local criminal justice
15 agencies;
 - 16 8. Facilitate information networking between criminal justice
17 agencies;
 - 18 9. Attend meetings concerning criminal justice issues;
 - 19 10. Represent this state at national meetings including, but
20 not limited to, meetings or conferences of criminal justice
21 statistics associations of other states;
 - 22 11. Assist in developing resources for the criminal justice
23 system;
 - 24

1 12. Address pertinent issues related to prevention and
2 intervention programs;

3 13. Provide assistance to the ~~State~~ Oklahoma Crime Stoppers
4 Association;

5 14. Create and publish by December 1 each year a uniform
6 reporting standard for citing state criminal statutes to be used in
7 reporting information to and from all criminal justice information
8 systems within this state. The uniform reporting standard shall be
9 developed in consultation with the Administrative Office of the
10 Courts, the Department of Corrections, the District Attorneys
11 Council, the Department of Public Safety through the Oklahoma Law
12 Enforcement Telecommunications System Division, and the Office of
13 Juvenile Affairs. The uniform reporting standard shall be used by
14 all criminal justice information systems and shall be the standard
15 for reporting arrests, criminal and juvenile delinquency charges,
16 charge and case dispositions, custody records, and any other record
17 purporting to identify a criminal history record or information
18 relating to arrests, charges, custody, adjudication, conviction, and
19 disposition of criminal or juvenile matters; and

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

24

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

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

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

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

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

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

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

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

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

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

23

24

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

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

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

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

14 12. To keep and file copies of all opinions, contracts, forms
15 and letters of the office, and to keep an index of all opinions,
16 contracts and forms according to subject and section of the law
17 construed or applied;

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

24

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

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

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

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

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

21 19. To investigate any report by the State Auditor and
22 Inspector filed with the Attorney General pursuant to Section 223 of
23 this title and prosecute all actions, civil or criminal, relating to
24 such reports or any irregularities or derelictions in the management

1 of public funds or property which are violations of the laws of this
2 state;

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

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

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

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

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

23 C. In all appeals from the Corporation Commission to the
24 Supreme Court of Oklahoma in which the state is a party, the

1 Attorney General shall have the right to designate counsel of the
2 Corporation Commission as the Attorney General's legally appointed
3 representative in such appeals, and it shall be the duty of the said
4 Corporation Commission counsel to act when so designated and to
5 consult and advise with the Attorney General regarding such appeals
6 prior to taking action therein.

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

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