

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1458 By: Thompson of the Senate
3 and
4 Hilbert of the House
5
6

7 [fines and fees - certain transfer of funds -
8 certain fees - repealers - noncodification -
effective date]
9

10 AUTHOR: Add the following House Coauthor: Mize

11 AMENDMENT NO. 1. Strike the stricken title, enacting clause, and
12 entire bill and insert:
13

14 "An Act relating to courts; enacting the Fines
15 Assessed and Imposed Reasonably (FAIR) Act;
16 providing for certain transfer of funds; amending 20
17 O.S. 2021, Section 1313.2, which relates to
18 definitions; eliminating certain fees; amending 22
19 O.S. 2021, Section 988.9, which relates to community
20 sentencing; eliminating certain fee; amending 22
21 O.S. 2021, Section 991c, which relates to deferred
22 sentence; eliminating certain fee; amending 22 O.S.
23 2021, Section 991d, which relates to supervision
24 fees; eliminating certain fees; amending 28 O.S.
2021, Section 153, which relates to costs in
criminal cases; eliminating certain fees; amending
29 O.S. 2021, Section 9-114, which relates to
penalties; eliminating certain fee; amending 63 O.S.
2021, Sections 2-401, 2-402, as last amended by
Section 1, Chapter 220, O.S.L. 2016, 2-404, 2-405,
2-406, 2-407, 2-407.1, and 2-415, which relate to
penalties for prohibited acts; eliminating certain
fees; updating statutory references; updating
statutory language; defining terms; creating the

1 Office of Judicial Performance Evaluation; providing
2 purpose of Office; creating Board of Judicial
3 Performance Evaluation; stating purpose of Board;
4 providing for terms of office for members of the
5 Board of Judicial Performance Evaluation; imposing
6 certain conditions with respect to membership;
7 providing for payment to members of the Board of
8 Judicial Performance Evaluation; providing for
9 travel reimbursement; requiring approval for
10 expenses of the Office of Judicial Performance
11 Evaluation; providing certain meetings of the Board
12 of Judicial Performance Evaluation are confidential
13 and exempt from Oklahoma Open Meeting Act; providing
14 for confidentiality of certain information and
15 exempt from Oklahoma Open Records Act; creating
16 Administrator position; prescribing duties of
17 Administrator; prescribing duties and powers of
18 Office of Judicial Performance Evaluation;
19 prescribing criteria for judicial performance
20 evaluations; requiring initial evaluations;
21 requiring interim evaluations; allowing response
22 from Justice or judge; requiring performance
23 evaluations be shared with certain persons;
24 requiring election-year evaluations; prescribing
content of narratives; allowing response from
Justice or judge; requiring performance evaluations
be shared with certain persons; authorizing
improvement plans; prescribing process; prescribing
procedures based upon failure to complete plan;
providing for disclosure of certain conflicts of
interest; providing recusal process for certain
persons; requiring information be kept confidential;
prescribing Board of Judicial Performance Evaluation
duties and powers; authorizing promulgation of
rules; repealing 19 O.S. 2021, Section 339.7, which
relates to community service programs; repealing 20
O.S. 2021, Sections 1313.3 and 1313.4, which relate
to fees and fingerprinting; repealing 63 O.S. 2021,
Section 2-503.2, which relates to the Drug Abuse
Education and Treatment Revolving Fund; providing
for noncodification; providing for codification; and
providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law not to be
3 codified in the Oklahoma Statutes reads as follows:

4 This act shall be known and may be cited as the "Fines Assessed
5 and Imposed Reasonably (FAIR) Act".

6 SECTION 2. AMENDATORY 20 O.S. 2021, Section 1313.2, is
7 amended to read as follows:

8 Section 1313.2. A. As used in this section:

9 1. "Arrested" means taking custody of another for the purpose
10 of holding or detaining him or her to answer a criminal charge;

11 2. "Convicted" means any final adjudication of guilt, whether
12 pursuant to a plea of guilty or nolo contendere or otherwise, and
13 any deferred or suspended sentence or judgment;

14 3. "Court" means any state or municipal court having
15 jurisdiction to impose a criminal fine or penalty; and

16 4. "DNA" means Deoxyribonucleic acid.

17 B. Any person convicted of an offense including traffic
18 offenses but excluding parking and standing violations, punishable
19 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any
20 person forfeiting bond when charged with such an offense, ~~shall~~ by a
21 city or county that conducts satellite CLEET academies, may be
22 ordered by the court to pay ~~Ten Dollars (\$10.00)~~ Two Dollars (\$2.00)
23 as a separate fee, which fee shall be in addition to and not in
24

1 substitution for any and all fines and penalties otherwise provided
2 for by law for such offense.

3 C. 1. Any person convicted of any misdemeanor or felony
4 offense shall pay a Laboratory Analysis Fee in the amount of One
5 Hundred Fifty Dollars (\$150.00) for each offense if forensic science
6 or laboratory services are rendered or administered by the Oklahoma
7 State Bureau of Investigation (OSBI), by the Toxicology Laboratory
8 of the Office of the Chief Medical Examiner or by any municipality
9 or county in connection with the case. This fee shall be in
10 addition to and not a substitution for any and all fines and
11 penalties otherwise provided for by law for this offense.

12 2. The court clerk shall cause to be deposited the amount of
13 One Hundred Fifty Dollars (\$150.00) as collected, for every
14 conviction as described in this subsection. The court clerk shall
15 remit the monies in the fund on a monthly basis directly either to:

16 a. the OSBI who shall deposit the monies into the OSBI
17 Revolving Fund provided for in Section 150.19a of
18 Title 74 of the Oklahoma Statutes for services
19 rendered or administered by the OSBI,

20 b. the Office of the Chief Medical Examiner who shall
21 deposit the monies into the Chief Medical Examiner
22 Revolving Fund provided for in Section 948 of Title 63
23 of the Oklahoma Statutes for services rendered or
24

1 administered by the Office of the Chief Medical
2 Examiner, or

- 3 c. the appropriate municipality or county for services
4 rendered or administered by a municipality or county.

5 3. The monies from the Laboratory Analysis Fee Fund deposited
6 into the OSBI Revolving Fund shall be used for the following:

- 7 a. providing criminalistic laboratory services,
8 b. the purchase and maintenance of equipment for use by
9 the laboratory in performing analysis,
10 c. education, training, and scientific development of
11 OSBI personnel, and
12 d. the destruction of seized property and chemicals as
13 prescribed in Sections 2-505 and 2-508 of Title 63 of
14 the Oklahoma Statutes.

15 ~~D. Upon conviction or bond forfeiture, the court shall collect~~
16 ~~the fee provided for in subsection B of this section and deposit it~~
17 ~~in an account created for that purpose. Except as otherwise~~
18 ~~provided in subsection E of this section, monies shall be forwarded~~
19 ~~monthly by the court clerk to the Council on Law Enforcement~~
20 ~~Education and Training (CLEET). Beginning July 1, 2003, deposits~~
21 ~~shall be due on the fifteenth day of each month for the preceding~~
22 ~~calendar month. There shall be a late fee imposed for failure to~~
23 ~~make timely deposits; provided, CLEET, in its discretion, may waive~~
24 ~~all or part of the late fee. Such late fee shall be one percent~~

1 ~~(1%) of the principal amount due per day beginning from the tenth~~
2 ~~day after payment is due and accumulating until the late fee reaches~~
3 ~~one hundred percent (100%) of the principal amount due. Beginning~~
4 ~~on July 1, 1987, ninety percent (90%) of the monies received by~~
5 ~~CLEET from the court clerks pursuant to this section shall be~~
6 ~~deposited in the CLEET Fund, and ten percent (10%) shall be~~
7 ~~deposited in the General Revenue Fund. Beginning January 1, 2001,~~
8 ~~sixty and fifty-three one-hundredths percent (60.53%) of the monies~~
9 ~~received by CLEET from the court clerks pursuant to this section~~
10 ~~shall be deposited in the CLEET Fund created pursuant to subsection~~
11 ~~G of this section, five and eighty-three one-hundredths percent~~
12 ~~(5.83%) shall be deposited in the General Revenue Fund and thirty-~~
13 ~~three and sixty-four one-hundredths percent (33.64%) shall be~~
14 ~~deposited in the CLEET Training Center Revolving Fund created~~
15 ~~pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.~~
16 ~~Along with the deposits required by this subsection, each court~~
17 ~~shall also submit a report stating the total amount of funds~~
18 ~~collected and the total number of fees imposed during the preceding~~
19 ~~quarter. The report may be made on computerized or manual~~
20 ~~disposition reports.~~

21 ~~E.~~ Any municipality or county having a basic law enforcement
22 academy approved by CLEET pursuant to the criteria developed by
23 CLEET for training law enforcement officers shall retain from monies
24 collected pursuant to subsections A through ~~D~~ C of this section, Two

1 Dollars (\$2.00) from each fee. These monies shall be deposited into
2 an account for the sole use of the municipality or county in
3 implementing its law enforcement training functions. Not more than
4 seven percent (7%) of the monies shall be used for court and
5 prosecution training. The court clerk of any such municipality or
6 county shall furnish to CLEET the report required by subsection D of
7 this section.

8 ~~F. 1. Any person entering a plea of guilty or nolo contendere
9 or is found guilty of the crime of misdemeanor possession of
10 marijuana or drug paraphernalia shall be ordered by the court to pay
11 a five-dollar fee, which shall be in addition to and not in
12 substitution for any and all fines and penalties otherwise provided
13 for by law for such offense.~~

14 ~~2. The court clerk shall cause to be deposited the amount of
15 Five Dollars (\$5.00) as collected, for every adjudicated or
16 otherwise convicted person as described in this subsection. The
17 court clerk shall remit the monies in the fund on a monthly basis
18 directly to the Bureau of Narcotics Drug Education Revolving Fund.~~

19 ~~G.~~ E. There is hereby created in the State Treasury a fund for
20 the Council on Law Enforcement Education and Training to be
21 designated the "CLEET Fund". The fund shall be subject to
22 legislative appropriation and shall consist of any monies received
23 from fees and receipts collected pursuant to the Oklahoma Open
24 Records Act, reimbursements for parts used in the repair of weapons

1 of law enforcement officers attending the basic academies, gifts,
2 bequests, contributions, tuition, fees, devises and the assessments
3 levied pursuant to the fund pursuant to law.

4 ~~H.~~ F. 1. Any person arrested or convicted of a felony offense
5 or convicted of a misdemeanor offense of assault and battery,
6 domestic abuse, stalking, possession of a controlled substance
7 prohibited under Schedule IV of the Uniform Controlled Dangerous
8 Substances Act, outraging public decency, resisting arrest, escaping
9 or attempting to escape, eluding a police officer, Peeping Tom,
10 pointing a firearm, threatening an act of violence, breaking and
11 entering a dwelling place, destruction of property, negligent
12 homicide or causing a personal injury accident while driving under
13 the influence of any intoxicating substance shall pay a DNA fee of
14 One Hundred Fifty Dollars (\$150.00). This fee shall not be
15 collected if the person has a valid DNA sample in the OSBI DNA
16 Offender Database at the time of sentencing.

17 2. The court clerk shall cause to be deposited the amount of
18 One Hundred Fifty Dollars (\$150.00) as collected for every felony
19 arrest, felony conviction or every conviction for a misdemeanor
20 offense of assault and battery, domestic abuse, stalking, possession
21 of a controlled substance prohibited under the Uniform Controlled
22 Dangerous Substances Act, outraging public decency, resisting
23 arrest, escaping or attempting to escape, eluding a police officer,
24 Peeping Tom, pointing a firearm, threatening an act of violence,

1 breaking and entering a dwelling place, destruction of property,
2 negligent homicide or causing a personal injury accident while
3 driving under the influence of any intoxicating substance as
4 described in this subsection. The court clerk shall remit the
5 monies in the fund on a monthly basis directly to the OSBI who shall
6 deposit the monies into the OSBI Revolving Fund provided for in
7 Section 150.19a of Title 74 of the Oklahoma Statutes for services
8 rendered or administered by the OSBI.

9 3. The monies from the DNA sample fee deposited into the OSBI
10 Revolving Fund shall be used for creating, staffing and maintaining
11 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)
12 Database.

13 ~~F.~~ G. It shall be the responsibility of the court clerk to
14 account for and ensure the correctness and accuracy of payments made
15 to the state agencies identified in Sections 1313.2 through 1313.4
16 of this title. Payments made directly to an agency by the court
17 clerk as a result of different types of assessments and fees
18 pursuant to Sections 1313.2 through 1313.4 of this title shall be
19 made monthly to each state agency.

20 SECTION 3. AMENDATORY 22 O.S. 2021, Section 988.9, is
21 amended to read as follows:

22 Section 988.9. A. ~~Any offender sentenced to a community~~
23 ~~sentence pursuant to the Oklahoma Community Sentencing Act which~~
24 ~~requires supervision shall be required to pay a supervision fee.~~

1 ~~The supervising agency shall establish the fee amount, not to exceed~~
2 ~~Forty Dollars (\$40.00) per month, based upon the offender's ability~~
3 ~~to pay. In hardship cases the supervising agency may expressly~~
4 ~~waive all or part of the fee. No supervising agency participating~~
5 ~~in a local community sentencing system shall deny any offender~~
6 ~~supervision services for the sole reason that the offender is~~
7 ~~indigent. Fees collected for supervision services performed by the~~
8 ~~Department of Corrections shall be paid directly to the Department~~
9 ~~to be deposited in the Department of Corrections Revolving Fund.~~
10 ~~Supervision services performed by contracted providers other than~~
11 ~~the Department shall be paid directly to that contracted provider.~~

12 ~~B.~~ In addition to any supervision fee, eligible Eligible
13 offenders participating in a local community sentencing system under
14 a court-ordered community punishment shall be required to pay an
15 administrative fee to support the local system which shall not
16 exceed Twenty Dollars (\$20.00) per month to be set by the court.
17 Administrative fees when collected shall be deposited with the
18 Community Sentencing Division within the Department of Corrections
19 and credited to the local community sentencing system for support
20 and expansion of the local community corrections system. In the
21 event the court fails to order the amount of the administrative fee,
22 the fee shall be Twenty Dollars (\$20.00) per month.

23 ~~C.~~ B. In addition to any ~~supervision fee~~ and administrative fee
24 authorized by this section, the court shall assess court costs, and

1 may assess program reimbursement costs, restitution, and fines to be
2 paid by the offender. With the exception of supervision fees, other
3 fees, costs, fines, restitution, or monetary obligations ordered to
4 be paid by the offender shall not cease with the termination of
5 active supervision and such obligations shall continue until fully
6 paid and may be collected in the same manner as court costs.

7 SECTION 4. AMENDATORY 22 O.S. 2021, Section 991c, is
8 amended to read as follows:

9 Section 991c. A. Upon a verdict or plea of guilty or upon a
10 plea of nolo contendere, but before a judgment of guilt, the court
11 may, without entering a judgment of guilt and with the consent of
12 the defendant, defer further proceedings upon the specific
13 conditions prescribed by the court not to exceed a seven-year
14 period, except as authorized under subsection B of this section.
15 The court shall first consider restitution among the various
16 conditions it may prescribe. The court may also consider ordering
17 the defendant to:

- 18 1. Pay court costs;
- 19 2. Pay an assessment in lieu of any fine authorized by law for
20 the offense;
- 21 3. Pay any other assessment or cost authorized by law;
- 22 4. Engage in a term of community service without compensation,
23 according to a schedule consistent with the employment and family
24 responsibilities of the defendant;

1 5. County jail confinement for a period not to exceed ninety
2 (90) days or the maximum amount of jail time provided for the
3 offense, if it is less than ninety (90) days;

4 6. Pay an amount as reimbursement for reasonable attorney fees,
5 to be paid into the court fund, if a court-appointed attorney has
6 been provided to the defendant;

7 7. Be supervised in the community for a period not to exceed
8 eighteen (18) months, unless a petition alleging violation of any
9 condition of deferred judgment is filed during the period of
10 supervision. ~~As a condition of any supervision, the defendant shall~~
11 ~~be required to pay a supervision fee of Forty Dollars (\$40.00) per~~
12 ~~month. The supervision fee shall be waived in whole or part by the~~
13 ~~supervisory agency when the accused is indigent. Any fees collected~~
14 ~~by the district attorney pursuant to this paragraph shall be~~
15 ~~deposited in the General Revenue Fund of the State Treasury. No~~
16 ~~person shall be denied supervision based solely on the inability of~~
17 ~~the person to pay a fee;~~

18 8. ~~Pay into the court fund a monthly amount not exceeding Forty~~
19 ~~Dollars (\$40.00) per month during any period during which the~~
20 ~~proceedings are deferred when the defendant is not to be supervised~~
21 ~~in the community. The total amount to be paid into the court fund~~
22 ~~shall be established by the court and shall not exceed the amount of~~
23 ~~the maximum fine authorized by law for the offense;~~

1 ~~9.~~ Make other reparations to the community or victim as
2 required and deemed appropriate by the court;

3 ~~10.~~ 9. Order any conditions which can be imposed for a
4 suspended sentence pursuant to paragraph 1 of subsection A of
5 Section 991a of this title; or

6 ~~11.~~ 10. Any combination of the above provisions.

7 ~~However, unless under the supervision of the district attorney,~~
8 ~~the offender shall be required to pay Forty Dollars (\$40.00) per~~
9 ~~month to the district attorney during the first two (2) years of~~
10 ~~probation to compensate the district attorney for the costs incurred~~
11 ~~during the prosecution of the offender and for the additional work~~
12 ~~of verifying the compliance of the offender with the rules and~~
13 ~~conditions of his or her probation. The district attorney may waive~~
14 ~~any part of this requirement in the best interests of justice. The~~
15 ~~court shall not waive, suspend, defer or dismiss the costs of~~
16 ~~prosecution in its entirety. However, if the court determines that~~
17 ~~a reduction in the fine, costs and costs of prosecution is~~
18 ~~warranted, the court shall equally apply the same percentage~~
19 ~~reduction to the fine, costs and costs of prosecution owed by the~~
20 ~~offender. Any fees collected by the district attorney pursuant to~~
21 ~~this paragraph shall be deposited in the General Revenue Fund of the~~
22 ~~State Treasury.~~

23 B. When the court has ordered restitution as a condition of
24 supervision as provided for in subsection A of this section and that

1 condition has not been satisfied, the court may, at any time prior
2 to the termination or expiration of the supervision period, order an
3 extension of supervision for a period not to exceed three (3) years.

4 C. In addition to any conditions of supervision provided for in
5 subsection A of this section, the court shall, in the case of a
6 person before the court for the offense of operating or being in
7 control of a motor vehicle while the person was under the influence
8 of alcohol, other intoxicating substance, or a combination of
9 alcohol and another intoxicating substance, or who is before the
10 court for the offense of operating a motor vehicle while the ability
11 of the person to operate such vehicle was impaired due to the
12 consumption of alcohol, require the person to participate in an
13 alcohol and drug substance abuse evaluation program offered by a
14 facility or qualified practitioner certified by the Department of
15 Mental Health and Substance Abuse Services for the purpose of
16 evaluating the receptivity to treatment and prognosis of the person.
17 The court shall order the person to reimburse the facility or
18 qualified practitioner for the evaluation. The Department of Mental
19 Health and Substance Abuse Services shall establish a fee schedule,
20 based upon the ability of a person to pay, provided the fee for an
21 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
22 evaluation shall be conducted at a certified facility, the office of
23 a qualified practitioner or at another location as ordered by the
24 court. The facility or qualified practitioner shall, within

1 seventy-two (72) hours from the time the person is assessed, submit
2 a written report to the court for the purpose of assisting the court
3 in its determination of conditions for deferred sentence. No
4 person, agency or facility operating an alcohol and drug substance
5 abuse evaluation program certified by the Department of Mental
6 Health and Substance Abuse Services shall solicit or refer any
7 person evaluated pursuant to this subsection for any treatment
8 program or alcohol and drug substance abuse service in which the
9 person, agency or facility has a vested interest; however, this
10 provision shall not be construed to prohibit the court from ordering
11 participation in or any person from voluntarily utilizing a
12 treatment program or alcohol and drug substance abuse service
13 offered by such person, agency or facility. Any evaluation report
14 submitted to the court pursuant to this subsection shall be handled
15 in a manner which will keep the report confidential from review by
16 the general public. Nothing contained in this subsection shall be
17 construed to prohibit the court from ordering judgment and sentence
18 in the event the defendant fails or refuses to comply with an order
19 of the court to obtain the evaluation required by this subsection.
20 As used in this subsection, "qualified practitioner" means a person
21 with at least a bachelor's degree in substance abuse treatment,
22 mental health or a related health care field and at least two (2)
23 years of experience in providing alcohol abuse treatment, other drug
24 abuse treatment, or both alcohol and other drug abuse treatment who

1 is certified each year by the Department of Mental Health and
2 Substance Abuse Services to provide these assessments. However, any
3 person who does not meet the requirements for a qualified
4 practitioner as defined herein, but who has been previously
5 certified by the Department of Mental Health and Substance Abuse
6 Services to provide alcohol or drug treatment or assessments, shall
7 be considered a qualified practitioner provided all education,
8 experience and certification requirements stated herein are met by
9 September 1, 1995. The court may also require the person to
10 participate in one or both of the following:

11 1. An alcohol and drug substance abuse course, pursuant to
12 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

13 2. A victims impact panel program, as defined in subsection H
14 of Section 991a of this title, if such a program is offered in the
15 county where the judgment is rendered. The defendant shall be
16 required to pay a fee of Seventy-five Dollars (\$75.00) as set by the
17 governing authority of the program and approved by the court to the
18 victims impact panel program to offset the cost of participation by
19 the defendant, if in the opinion of the court the defendant has the
20 ability to pay such fee.

21 D. Upon completion of the conditions of the deferred judgment,
22 and upon a finding by the court that the conditions have been met
23 and all fines, fees, and monetary assessments have been paid as
24 ordered, the defendant shall be discharged without a court judgment

1 of guilt, and the court shall order the verdict or plea of guilty or
2 plea of nolo contendere to be expunged from the record and the
3 charge shall be dismissed with prejudice to any further action. The
4 procedure to expunge the record of the defendant shall be as
5 follows:

6 1. All references to the name of the defendant shall be deleted
7 from the docket sheet;

8 2. The public index of the filing of the charge shall be
9 expunged by deletion, mark-out or obliteration;

10 3. Upon expungement, the court clerk shall keep a separate
11 confidential index of case numbers and names of defendants which
12 have been obliterated pursuant to the provisions of this section;

13 4. No information concerning the confidential file shall be
14 revealed or released, except upon written order of a judge of the
15 district court or upon written request by the named defendant to the
16 court clerk for the purpose of updating the criminal history record
17 of the defendant with the Oklahoma State Bureau of Investigation;
18 and

19 5. Defendants qualifying under Section 18 of this title may
20 petition the court to have the filing of the indictment and the
21 dismissal expunged from the public index and docket sheet. This
22 section shall not be mutually exclusive of Section 18 of this title.

23 Records expunged pursuant to this subsection shall be sealed to
24 the public but not to law enforcement agencies for law enforcement

1 purposes. Records expunged pursuant to this subsection shall be
2 admissible in any subsequent criminal prosecution to prove the
3 existence of a prior conviction or prior deferred judgment without
4 the necessity of a court order requesting the unsealing of such
5 records.

6 E. The provisions of subsection D of this section shall be
7 retroactive.

8 F. Whenever a judgment has been deferred by the court according
9 to the provisions of this section, deferred judgment may not be
10 accelerated for any technical violation unless a petition setting
11 forth the grounds for such acceleration is filed by the district
12 attorney with the clerk of the sentencing court and competent
13 evidence justifying the acceleration of the judgment is presented to
14 the court at a hearing to be held for that purpose. The hearing
15 shall be held not more than twenty (20) days after the entry of the
16 plea of not guilty to the petition, unless waived by both the state
17 and the defendant. Any acceleration of a deferred sentence based on
18 a technical violation shall not exceed ninety (90) days for a first
19 acceleration or five (5) years for a second or subsequent
20 acceleration.

21 G. Upon any violation of the deferred judgment, other than a
22 technical violation, the court may enter a judgment of guilt and
23 proceed as provided in Section 991a of this title or may modify any
24 condition imposed. Provided, however, if the deferred judgment is

1 for a felony offense, and the defendant commits another felony
2 offense, the defendant shall not be allowed bail pending appeal.

3 H. The deferred judgment procedure described in this section
4 shall apply only to defendants who have not been previously
5 convicted of a felony offense and have not received more than one
6 deferred judgment for a felony offense within the ten (10) years
7 previous to the commission of the pending offense.

8 Provided, the court may waive this prohibition upon written
9 application of the district attorney. Both the application and the
10 waiver shall be made a part of the record of the case.

11 I. The deferred judgment procedure described in this section
12 shall not apply to defendants found guilty or who plead guilty or
13 nolo contendere to a sex offense required by law to register
14 pursuant to the Sex Offenders Registration Act.

15 J. All defendants who are supervised pursuant to this section
16 shall be subject to the sanction process as established in
17 subsection D of Section 991b of this title.

18 K. Notwithstanding the provisions of subsections F and G of
19 this section, a person who is being considered for an acceleration
20 of a deferred judgment for an offense where the penalty has
21 subsequently been lowered to a misdemeanor shall only be subject to
22 a judgment and sentence that would have been applicable had he or
23 she committed the offense after July 1, 2017.

24

1 SECTION 5. AMENDATORY 22 O.S. 2021, Section 991d, is
2 amended to read as follows:

3 Section 991d. A. ~~1. When the court orders supervision by the~~
4 ~~Department of Corrections, or the district attorney requires the~~
5 ~~Department to supervise any person pursuant to a deferred~~
6 ~~prosecution agreement, the person shall be required to pay a~~
7 ~~supervision fee of Forty Dollars (\$40.00) per month during the~~
8 ~~supervision period, unless the fee would impose an unnecessary~~
9 ~~hardship on the person. In hardship cases, the Department shall~~
10 ~~expressly waive all or part of the fee. The court shall make~~
11 ~~payment of the fee a condition of the sentence which shall be~~
12 ~~imposed whether the supervision is incident to the suspending of~~
13 ~~execution of a sentence, incident to the suspending of imposition of~~
14 ~~a sentence, or incident to the deferral of proceedings after a~~
15 ~~verdict or plea of guilty. The Department shall determine methods~~
16 ~~for payment of supervision fee, and may charge a reasonable user fee~~
17 ~~for collection of supervision fees electronically. The Department~~
18 ~~is required to report to the sentencing court any failure of the~~
19 ~~person to pay supervision fees and to report immediately if the~~
20 ~~person violates any condition of the sentence.~~

21 ~~2. When the court imposes a suspended or deferred sentence for~~
22 ~~any offense and does not order supervision by the Department of~~
23 ~~Corrections, the offender shall be required to pay to the district~~
24 ~~attorney a supervision fee of Forty Dollars (\$40.00) per month as a~~

1 ~~fee to compensate the district attorney for the actual act of~~
2 ~~supervising the offender during the applicable period of~~
3 ~~supervision. In hardship cases, the district attorney shall~~
4 ~~expressly waive all or part of the fee. Any fees collected by the~~
5 ~~district attorney pursuant to this paragraph shall be deposited in~~
6 ~~the General Revenue Fund of the State Treasury.~~

7 3. ~~If restitution is ordered by the court in conjunction with~~
8 ~~supervision, the supervision fee will be paid in addition to the~~
9 ~~restitution ordered. In addition to the restitution payment and~~
10 ~~supervision fee, a reasonable user fee may be charged by the~~
11 ~~Department of Corrections to cover the expenses of administration of~~
12 ~~the restitution, except no user fee shall be collected by the~~
13 ~~Department when restitution payment is collected and disbursed to~~
14 ~~the victim by the office of the district attorney as provided in~~
15 ~~Section 991f of this title or Section 991f-1.1 of this title.~~

16 B. ~~The Pardon and Parole Board shall require a supervision fee~~
17 ~~to be paid by the parolee as a condition of parole which shall be~~
18 ~~paid to the Department of Corrections. The Department shall~~
19 ~~determine the amount of the fee as provided for other persons under~~
20 ~~supervision by the Department.~~

21 C. ~~Upon acceptance of an offender by the Department of~~
22 ~~Corrections whose probation or parole supervision was transferred to~~
23 ~~Oklahoma through the Interstate Compact Agreement, or upon the~~
24 ~~assignment of an inmate to any community placement, a fee shall be~~

1 ~~required to be paid by the offender to the Department of Corrections~~
2 ~~as provided for other persons under supervision of the Department.~~

3 ~~D.~~ Except as provided in subsection A and this subsection, all
4 fees collected pursuant to this section shall be deposited in the
5 Department of Corrections Revolving Fund created pursuant to Section
6 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
7 ending June 30, 1996, fifty percent (50%) of all collections
8 received from offenders placed on supervision after July 1, 1995,
9 shall be transferred to the credit of the General Revenue Fund of
10 the State Treasury until such time as total transfers equal Three
11 Million Three Hundred Thousand Dollars (\$3,300,000.00).

12 SECTION 6. AMENDATORY 28 O.S. 2021, Section 153, is
13 amended to read as follows:

14 Section 153. A. The clerks of the courts shall collect as
15 costs in every criminal case for each offense of which the defendant
16 is convicted, irrespective of whether or not the sentence is
17 deferred, the following flat charges and no more, except for
18 standing and parking violations and for charges otherwise provided
19 for by law, which fee shall cover docketing of the case, filing of
20 all papers, issuance of process, warrants, orders, and other
21 services to the date of judgment:

- 22 1. For each defendant convicted of
23 exceeding the speed limit by at least
24 one (1) mile per hour but not more than

1 ten (10) miles per hour, whether charged
2 individually or conjointly with others\$77.00

3 2. For each defendant convicted of a
4 misdemeanor traffic violation other than
5 an offense provided for in paragraph 1
6 or 5 of this subsection, whether charged
7 individually or conjointly with others\$98.00

8 3. For each defendant convicted of a
9 misdemeanor, other than for driving
10 under the influence of alcohol or other
11 intoxicating substance or an offense
12 provided for in paragraph 1 or 2 of this
13 subsection, whether charged individually
14 or conjointly with others\$93.00

15 4. For each defendant convicted of a
16 felony, other than for driving under the
17 influence of alcohol or other
18 intoxicating substance, whether charged
19 individually or conjointly with others\$103.00

20 5. For each defendant convicted of the
21 misdemeanor of driving under the influence
22 of alcohol or other intoxicating substance,
23 whether charged individually or conjointly
24 with others \$433.00

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- 6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others\$433.00
- 7. For the services of a court reporter at each preliminary hearing and trial held in the case\$20.00
- 8. For each time a jury is requested.....\$30.00
- 9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order, process, command, or notice or pursuing any fugitive from justice
 - a. within the county..... \$50.00, or
mileage as
established by the
Oklahoma Statutes,
whichever is
greater, or
 - b. outside of the county..... \$50.00, or
actual, necessary
expenses, whichever
is greater

1 10. For the services of a language interpreter, other than an
2 interpreter appointed pursuant to the provisions of the Oklahoma
3 Legal Interpreter for the Deaf and Hard-of-Hearing Act, at each
4 hearing held in the case, the actual cost of the interpreter.

5 B. In addition to the amount collected pursuant to paragraphs 2
6 through 6 of subsection A of this section, the sum of Six Dollars
7 (\$6.00) shall be assessed and credited to the Law Library Fund
8 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
9 Statutes.

10 C. In addition to the amount collected pursuant to subsection A
11 of this section, the sum of Twenty Dollars (\$20.00) shall be
12 assessed and collected in every traffic case for each offense other
13 than for driving under the influence of alcohol or other
14 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
15 assessed and collected in every misdemeanor case for each offense;
16 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
17 in every misdemeanor case for each offense for driving under the
18 influence of alcohol or other intoxicating substance; the sum of
19 Fifty Dollars (\$50.00) shall be assessed and collected in every
20 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
21 shall be assessed and collected in every felony case for each
22 offense for driving under the influence of alcohol or other
23 intoxicating substance.

24

1 D. In addition to the amounts collected pursuant to subsections
2 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
3 shall be assessed and credited to the Oklahoma Court Information
4 System Revolving Fund created pursuant to Section 1315 of Title 20
5 of the Oklahoma Statutes.

6 E. In addition to the amount collected pursuant to paragraphs 1
7 through 6 of subsection A of this section, the sum of Ten Dollars
8 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
9 Account in the county in which the conviction occurred for the
10 purpose of enhancing existing or providing additional courthouse
11 security.

12 ~~F. In addition to the amounts collected pursuant to paragraphs~~
13 ~~1 through 6 of subsection A of this section, the sum of Three~~
14 ~~Dollars (\$3.00) shall be assessed and credited to the Office of the~~
15 ~~Attorney General Victim Services Unit.~~

16 ~~G. In addition to the amounts collected pursuant to paragraphs~~
17 ~~1 through 6 of subsection A of this section, the sum of Three~~
18 ~~Dollars (\$3.00) shall be assessed and credited to the Child Abuse~~
19 ~~Multidisciplinary Account. This fee shall not be used for purposes~~
20 ~~of hiring or employing any law enforcement officers.~~

21 ~~H. In addition to the amount collected pursuant to paragraphs 5~~
22 ~~and 6 of subsection A of this section, the sum of Fifteen Dollars~~
23 ~~(\$15.00) shall be assessed in every misdemeanor or felony case for~~
24 ~~each offense of driving under the influence of alcohol or other~~

1 ~~intoxicating substance and credited to the Oklahoma Impaired Driver~~
2 ~~Database Revolving Fund created pursuant to Section 8 of Enrolled~~
3 ~~House Bill No. 3146 of the 2nd Session of the 55th Oklahoma~~
4 ~~Legislature.~~

5 ~~I.~~ Prior to conviction, parties in criminal cases shall not be
6 required to pay, advance, or post security for the services of a
7 language interpreter or for the issuance or service of process to
8 obtain compulsory attendance of witnesses.

9 ~~J.~~ G. The amounts to be assessed as court costs upon filing of
10 a case shall be those amounts above-stated in paragraph 3 or 4 of
11 subsection A and subsections B, C, D and E of this section.

12 ~~K.~~ H. The fees collected pursuant to this section shall be
13 deposited into the court fund, except the following:

14 1. A court clerk issuing a misdemeanor warrant is entitled to
15 ten percent (10%) of the sheriff's service fee, provided for in
16 paragraph 9 of subsection A of this section, collected on a warrant
17 referred to the contractor for the misdemeanor warrant notification
18 program governed by Sections 514.4 and 514.5 of Title 19 of the
19 Oklahoma Statutes. This ten-percent sum shall be deposited into the
20 issuing Court Clerk's Revolving Fund, created pursuant to Section
21 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
22 the warrant with the balance of the sheriff's service fee to be
23 deposited into the Sheriff's Service Fee Account, created pursuant
24 to the provisions of Section 514.1 of Title 19 of the Oklahoma

1 Statutes, of the sheriff in the county in which service is made or
2 attempted. Otherwise, the sheriff's service fee, when collected,
3 shall be deposited in its entirety into the Sheriff's Service Fee
4 Account of the sheriff in the county in which service is made or
5 attempted;

6 2. The sheriff's fee provided for in Section 153.2 of this
7 title;

8 3. The witness fees paid by the district attorney pursuant to
9 the provisions of Section 82 of this title which, if collected by
10 the court clerk, shall be transferred to the district attorney's
11 office in the county where witness attendance was required. Fees
12 transferred pursuant to this paragraph shall be deposited in the
13 district attorney's maintenance and operating expense account;

14 4. The fees provided for in subsection C of this section shall
15 be forwarded to the District Attorneys Council Revolving Fund to
16 defray the costs of prosecution; and

17 5. The following amounts of the fees provided for in paragraphs
18 2, 3, 5 and 6 of subsection A of this section, when collected, shall
19 be deposited in the Trauma Care Assistance Revolving Fund, created
20 pursuant to the provisions of Section 1-2530.9 of Title 63 of the
21 Oklahoma Statutes:

22 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee
23 provided for in paragraph 2 of subsection A of this
24 section,

1 b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee
2 provided for in paragraph 3 of subsection A of this
3 section,

4 c. One Hundred Dollars (\$100.00) of the Four-Hundred-
5 Thirty-three-Dollar fee provided for in paragraph 5 of
6 subsection A of this section, and

7 d. One Hundred Dollars (\$100.00) of the Four-Hundred-
8 Thirty-three-Dollar fee provided for in paragraph 6 of
9 subsection A of this section.

10 ~~I.~~ I. Costs required to be collected pursuant to this section
11 shall not be dismissed or waived; provided, if the court determines
12 that a person needing the services of a language interpreter is
13 indigent, the court may waive all or part of the costs or require
14 the payment of costs in installments.

15 ~~M.~~ J. As used in this section, "convicted" means any final
16 adjudication of guilt, whether pursuant to a plea of guilty or nolo
17 contendere or otherwise, and any deferred judgment or suspended
18 sentence.

19 ~~N.~~ K. A court clerk may accept in payment for any fee, fine,
20 forfeiture payment, cost, penalty assessment or other charge or
21 collection to be assessed or collected by a court clerk pursuant to
22 this section a nationally recognized credit card or debit card or
23 other electronic payment method as provided in paragraph 1 of
24 subsection B of Section 151 of this title.

1 ~~Θ.~~ L. Upon receipt of payment of fines and costs for offenses
2 charged prior to July 1, 1992, the court clerk shall apportion and
3 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

4 SECTION 7. AMENDATORY 29 O.S. 2021, Section 9-114, is
5 amended to read as follows:

6 Section 9-114. A. 1. In addition to any other penalties
7 provided for in the Wildlife Bail Procedure Act or any other
8 applicable law, when a person fails to comply with a wildlife
9 citation or a sentence for a violation of wildlife laws or rules,
10 the district court which has jurisdiction of the citation or which
11 issued the sentence shall mail a notice to the person informing them
12 that if they do not appear in the district court or pay all fines,
13 court costs, assessments or fees, and any penalties imposed within
14 thirty (30) days from the date of mailing, the ~~Oklahoma~~ Department
15 of Wildlife Conservation shall be notified to begin procedures to
16 forfeit or suspend any license, permit, stamp or other issue of the
17 Department held by the person.

18 2. Upon receipt of a report from a district court of a failure
19 to comply with a wildlife citation or sentence as set forth in
20 paragraph 1 of this subsection the Department shall suspend or
21 forfeit the license, permit, stamp or other issue of the Department
22 held by the person until satisfactory evidence of compliance with
23 the wildlife citation or sentence of the district court is furnished
24 to the Department by the district court. Upon receipt of

1 notification of compliance from the district court, the Department
2 shall terminate the suspension action, unless the suspension is
3 otherwise required.

4 ~~B. Except as provided for in subsection C of this section, when~~
5 ~~the district court notifies the Department of Wildlife Conservation~~
6 ~~of a failure to comply with a wildlife citation or failure to comply~~
7 ~~with a sentence of the district, the court shall assess a~~
8 ~~reinstatement fee of Fifty Dollars (\$50.00) for each charge or~~
9 ~~sentence on which the person failed to make satisfaction, regardless~~
10 ~~of the disposition of the charge for which the citation was~~
11 ~~originally issued. The reinstatement fee shall be in addition to~~
12 ~~any fine, court costs and other assessments, fees or penalties. The~~
13 ~~district court shall remit all reinstatement fees to the Department~~
14 ~~in accordance with the provisions of state law. The Department~~
15 ~~shall deposit the entire amount of each reinstatement fee in the~~
16 ~~Wildlife General Fund.~~

17 ~~C. The district court shall waive the reinstatement fee~~
18 ~~provided for in subsection B of this section if the failure to~~
19 ~~comply with a wildlife citation was the result of the person~~
20 ~~enlisting in or being drafted into the armed services of the United~~
21 ~~States of America, being called into service as a member of a~~
22 ~~reserve component of the military service of the United States of~~
23 ~~America, volunteering for active duty or being called into service~~
24 ~~as a member of the Oklahoma National Guard or volunteering for~~

1 ~~active duty and being absent from Oklahoma because of military~~
2 ~~service.~~

3 ~~D.~~ A person whose privileges have been suspended as provided
4 for in this section and who hunts, traps or fishes in this state,
5 who applies for or purchases any license or permit to hunt, trap, or
6 fish in this state, or who refuses to surrender any current hunting,
7 trapping or fishing licenses as required pursuant to this section
8 shall be deemed guilty of a misdemeanor and shall be fined not less
9 than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars
10 (\$500.00).

11 SECTION 8. AMENDATORY 63 O.S. 2021, Section 2-401, is
12 amended to read as follows:

13 Section 2-401. A. Except as authorized by the Uniform
14 Controlled Dangerous Substances Act, it shall be unlawful for any
15 person:

16 1. To distribute, dispense, transport with intent to distribute
17 or dispense, possess with intent to manufacture, distribute, or
18 dispense, a controlled dangerous substance or to solicit the use of
19 or use the services of a person less than eighteen (18) years of age
20 to cultivate, distribute or dispense a controlled dangerous
21 substance;

22 2. To create, distribute, transport with intent to distribute
23 or dispense, or possess with intent to distribute, a counterfeit
24 controlled dangerous substance; or

1 3. To distribute any imitation controlled substance as defined
2 by Section 2-101 of this title, except when authorized by the Food
3 and Drug Administration of the United States Department of Health
4 and Human Services.

5 B. Any person who violates the provisions of this section with
6 respect to:

7 1. A substance classified in Schedule I or II, except for
8 marijuana, upon conviction, shall be guilty of transporting or
9 possessing with an intent to distribute a controlled dangerous
10 substance, a felony, and shall be sentenced to a term of
11 imprisonment in the custody of the Department of Corrections for not
12 more than seven (7) years and a fine ~~of~~ not more than One Hundred
13 Thousand Dollars (\$100,000.00), which shall be in addition to other
14 punishment provided by law and shall not be imposed in lieu of other
15 punishment. A second conviction for the violation of provisions of
16 this paragraph is a felony punishable by a term of imprisonment in
17 the custody of the Department of Corrections for not more than
18 fourteen (14) years. A third or subsequent conviction for the
19 violation of the provisions of this paragraph is a felony punishable
20 by a term of imprisonment in the custody of the Department of
21 Corrections for not more than twenty (20) years;

22 2. Any other controlled dangerous substance classified in
23 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
24 of a felony and shall be sentenced to a term of imprisonment in the

1 custody of the Department of Corrections for not more than five (5)
2 years and a fine ~~of~~ not more than Twenty Thousand Dollars
3 (\$20,000.00), which shall be in addition to other punishment
4 provided by law and shall not be imposed in lieu of other
5 punishment. A second conviction for the violation of the provisions
6 of this paragraph is a felony punishable by a term of imprisonment
7 in the custody of the Department of Corrections for not more than
8 ten (10) years. A third or subsequent conviction for the violation
9 of the provisions of this paragraph is a felony punishable by a term
10 of imprisonment in the custody of the Department of Corrections for
11 not more than fifteen (15) years; or

12 3. An imitation controlled substance as defined by Section 2-
13 101 of this title, upon conviction, shall be guilty of a misdemeanor
14 and shall be sentenced to a term of imprisonment in the county jail
15 for a period ~~of~~ not more than one (1) year and a fine ~~of~~ not more
16 than One Thousand Dollars (\$1,000.00). A person convicted of a
17 second violation of the provisions of this paragraph shall be guilty
18 of a felony and shall be sentenced to a term of imprisonment in the
19 custody of the Department of Corrections for not more than two (2)
20 years and a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00),
21 which shall be in addition to other punishment provided by law and
22 shall not be imposed in lieu of other punishment.

23 C. 1. Except when authorized by the Food and Drug
24 Administration of the United States Department of Health and Human

1 Services, it shall be unlawful for any person to manufacture or
2 distribute a controlled substance or synthetic controlled substance.

3 2. Any person convicted of violating the provisions of
4 paragraph 1 of this subsection with respect to distributing a
5 controlled substance is guilty of a felony and shall be punished by
6 imprisonment in the custody of the Department of Corrections for a
7 term not to exceed ten (10) years and a fine ~~of~~ not more than
8 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
9 addition to other punishment provided by law and shall not be
10 imposed in lieu of other punishment.

11 3. A second conviction for the violation of the provisions of
12 paragraph 1 of this subsection with respect to distributing a
13 controlled substance is a felony punishable by imprisonment in the
14 custody of the Department of Corrections for a term not less than
15 two (2) years nor more than twenty (20) years. A third or
16 subsequent conviction for the violation of the provisions of this
17 paragraph is a felony punishable by imprisonment in the custody of
18 the Department of Corrections for a term not less than ten (10)
19 years nor more than life.

20 4. Any person convicted of violating the provisions of
21 paragraph 1 of this subsection with respect to manufacturing a
22 controlled substance is guilty of a felony and shall be punished by
23 imprisonment in the custody of the Department of Corrections for a
24 term not to exceed ten (10) years and a fine ~~of~~ not more than

1 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
2 addition to other punishment provided by law and shall not be
3 imposed in lieu of other punishment.

4 5. A second conviction for the violation of the provisions of
5 paragraph 1 of this subsection with respect to manufacturing a
6 controlled substance is a felony punishable by imprisonment in the
7 custody of the Department of Corrections for a term not less than
8 two (2) years nor more than twenty (20) years. A third or
9 subsequent conviction for the violation of the provisions of this
10 paragraph is a felony punishable by imprisonment in the custody of
11 the Department of Corrections for a term not less than ten (10)
12 years nor more than life.

13 D. Convictions for violations of the provisions of this section
14 shall be subject to the statutory provisions for suspended or
15 deferred sentences, or probation as provided in Section 991a of
16 Title 22 of the Oklahoma Statutes.

17 E. Any person who is at least eighteen (18) years of age and
18 who violates the provisions of this section by using or soliciting
19 the use of services of a person less than eighteen (18) years of age
20 to distribute, dispense, transport with intent to distribute or
21 dispense or cultivate a controlled dangerous substance or by
22 distributing a controlled dangerous substance to a person under
23 eighteen (18) years of age, or in the presence of a person under
24 twelve (12) years of age, is punishable by:

1 1. For a first violation of this section, a term of
2 imprisonment in the custody of the Department of Corrections not
3 less than two (2) years nor more than ten (10) years;

4 2. For a second violation of this section, a term of
5 imprisonment in the custody of the Department of Corrections for not
6 less than four (4) years nor more than twenty (20) years; or

7 3. For a third or subsequent violation of this section, a term
8 of imprisonment in the custody of the Department of Corrections for
9 not less than ten (10) years nor more than life.

10 F. Any person who violates any provision of this section by
11 transporting with intent to distribute or dispense, distributing or
12 possessing with intent to distribute a controlled dangerous
13 substance to a person, or violation of subsection G of this section,
14 in or on, or within two thousand (2,000) feet of the real property
15 comprising a public or private elementary or secondary school,
16 public vocational school, public or private college or university,
17 or other institution of higher education, recreation center or
18 public park, including state parks and recreation areas, public
19 housing project, or child care facility as defined by Section 402 of
20 Title 10 of the Oklahoma Statutes, shall be punished by:

21 1. For a first offense, a term of imprisonment in the custody
22 of the Department of Corrections, or by the imposition of a fine or
23 by both, not exceeding twice that authorized by the appropriate
24 provision of this section; or

1 2. For a second or subsequent violation of this section, a term
2 of imprisonment in the custody of the Department of Corrections, or
3 by the imposition of a fine or by both, not exceeding thrice that
4 authorized by the appropriate provision of this section.

5 Convictions for second and subsequent violations of the provisions
6 of this section shall not be subject to statutory provisions of
7 suspended sentences, deferred sentences or probation.

8 G. 1. Except as authorized by the Uniform Controlled Dangerous
9 Substances Act, it shall be unlawful for any person to manufacture
10 or attempt to manufacture any controlled dangerous substance or
11 possess any substance listed in Section 2-322 of this title or any
12 substance containing any detectable amount of pseudoephedrine or its
13 salts, optical isomers or salts of optical isomers, iodine or its
14 salts, optical isomers or salts of optical isomers, hydriodic acid,
15 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or
16 organic solvents with the intent to use that substance to
17 manufacture a controlled dangerous substance.

18 2. Any person violating the provisions of this subsection with
19 respect to the unlawful manufacturing or attempting to unlawfully
20 manufacture any controlled dangerous substance, or possessing any
21 substance listed in this subsection or Section 2-322 of this title,
22 upon conviction, is guilty of a felony and shall be punished by
23 imprisonment for not less than seven (7) years nor more than life
24 and by a fine ~~of~~ not less than Fifty Thousand Dollars (\$50,000.00),

1 which shall be in addition to other punishment provided by law and
2 shall not be imposed in lieu of other punishment. The possession of
3 any amount of anhydrous ammonia in an unauthorized container shall
4 be prima facie evidence of intent to use such substance to
5 manufacture a controlled dangerous substance.

6 3. Any person violating the provisions of this subsection with
7 respect to the unlawful manufacturing or attempting to unlawfully
8 manufacture any controlled dangerous substance in the following
9 amounts:

10 a. one (1) kilogram or more of a mixture or substance
11 containing a detectable amount of heroin,

12 b. five (5) kilograms or more of a mixture or substance
13 containing a detectable amount of:

14 (1) coca leaves, except coca leaves and extracts of
15 coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed,

18 (2) cocaine, its salts, optical and geometric
19 isomers, and salts of isomers,

20 (3) ecgonine, its derivatives, their salts, isomers,
21 and salts of isomers, or

22 (4) any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24

1 referred to in divisions (1) through (3) of this
2 subparagraph,

3 c. fifty (50) grams or more of a mixture or substance
4 described in division (2) of subparagraph b of this
5 paragraph which contains cocaine base,

6 d. one hundred (100) grams or more of phencyclidine (PCP)
7 or 1 kilogram or more of a mixture or substance
8 containing a detectable amount of phencyclidine (PCP),

9 e. ten (10) grams or more of a mixture or substance
10 containing a detectable amount of lysergic acid
11 diethylamide (LSD),

12 f. four hundred (400) grams or more of a mixture or
13 substance containing a detectable amount of N-phenyl-
14 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100
15 grams or more of a mixture or substance containing a
16 detectable amount of any analogue of N-phenyl-N-[1-(2-
17 phenylethyl)-4-piperidinyl] propanamide,

18 g. one thousand (1,000) kilograms or more of a mixture or
19 substance containing a detectable amount of ~~marihuana~~
20 marijuana or one thousand (1,000) or more ~~marihuana~~
21 marijuana plants regardless of weight, or

22 h. fifty (50) grams or more of methamphetamine, its
23 salts, isomers, and salts of its isomers or 500 grams
24 or more of a mixture or substance containing a

1 detectable amount of methamphetamine, its salts,
2 isomers, or salts of its isomers,
3 upon conviction, is guilty of aggravated manufacturing a controlled
4 dangerous substance punishable by imprisonment for not less than
5 twenty (20) years nor more than life and by a fine ~~of~~ not less than
6 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
7 other punishment provided by law and shall not be imposed in lieu of
8 other punishment. Any person convicted of a violation of the
9 provisions of this paragraph shall be required to serve a minimum of
10 eighty-five percent (85%) of the sentence received prior to becoming
11 eligible for state correctional earned credits towards the
12 completion of the sentence or eligible for parole.

13 4. Any sentence to the custody of the Department of Corrections
14 for any violation of paragraph 3 of this subsection shall not be
15 subject to statutory provisions for suspended sentences, deferred
16 sentences, or probation. A person convicted of a second or
17 subsequent violation of the provisions of paragraph 3 of this
18 subsection shall be punished as a habitual offender pursuant to
19 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be
20 required to serve a minimum of eighty-five percent (85%) of the
21 sentence received prior to becoming eligible for state correctional
22 earned credits or eligibility for parole.

23 5. Any person who has been convicted of manufacturing or
24 attempting to manufacture methamphetamine pursuant to the provisions

1 of this subsection and who, after such conviction, purchases or
2 attempts to purchase, receive or otherwise acquire any product,
3 mixture, or preparation containing any detectable quantity of base
4 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
5 felony punishable by imprisonment in the custody of the Department
6 of Corrections for a term in the range of twice the minimum term
7 provided for in paragraph 2 of this subsection.

8 H. Any person convicted of any offense described in the Uniform
9 Controlled Dangerous Substances Act may, in addition to the fine
10 imposed, be assessed an amount not to exceed ten percent (10%) of
11 the fine imposed. Such assessment shall be paid into a revolving
12 fund for enforcement of controlled dangerous substances created
13 pursuant to Section 2-506 of this title.

14 ~~I. Any person convicted of any offense described in this~~
15 ~~section shall, in addition to any fine imposed, pay a special~~
16 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
17 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
18 ~~Section 1-2522 of this title.~~

19 ~~J.~~ For purposes of this section, "public housing project" means
20 any dwelling or accommodations operated as a state or federally
21 subsidized multifamily housing project by any housing authority,
22 nonprofit corporation or municipal developer or housing projects
23 created pursuant to the Oklahoma Housing Authorities Act.

24

1 ~~K. When a person is found guilty of a violation of the~~
2 ~~provisions of this section, the court shall order, in addition to~~
3 ~~any other penalty, the defendant to pay a one hundred dollar~~
4 ~~assessment to be deposited in the Drug Abuse Education and Treatment~~
5 ~~Revolving Fund created in Section 2-503.2 of this title, upon~~
6 ~~collection.~~

7 H. J. Any person convicted of a second or subsequent felony
8 violation of the provisions of this section, except for paragraphs 1
9 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of
10 subsection C of this section, paragraphs 1, 2, and 3 of subsection E
11 of this section and paragraphs 1 and 2 of subsection F of this
12 section, shall be punished as a habitual offender pursuant to
13 Section 51.1 of Title 21 of the Oklahoma Statutes.

14 SECTION 9. AMENDATORY 63 O.S. 2021, Section 2-402, as
15 last amended by Section 1, Chapter 220, O.S.L. 2016, is amended to
16 read as follows:

17 Section 2-402. A. 1. It shall be unlawful for any person
18 knowingly or intentionally to possess a controlled dangerous
19 substance unless such substance was obtained directly, or pursuant
20 to a valid prescription or order from a practitioner, while acting
21 in the course of his or her professional practice, or except as
22 otherwise authorized by this act.

23 2. It shall be unlawful for any person to purchase any
24 preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

4 3. It shall be unlawful for any person or business to sell,
5 market, advertise or label any product containing ephedrine, its
6 salts, optical isomers, or salts of optical isomers, for the
7 indication of stimulation, mental alertness, weight loss, appetite
8 control, muscle development, energy or other indication which is not
9 approved by the pertinent federal OTC Final Monograph, Tentative
10 Final Monograph, or FDA-approved new drug application or its legal
11 equivalent. In determining compliance with this requirement, the
12 following factors shall be considered:

- 13 a. the packaging of the product,
- 14 b. the name of the product, and
- 15 c. the distribution and promotion of the product,
16 including verbal representations made at the point of
17 sale.

18 B. Any person who violates this section with respect to:

- 19 1. Any Schedule I or II substance, except marijuana or a
20 substance included in subsection D of Section 2-206 of this title,
21 is guilty of a felony punishable by imprisonment for not more than
22 five (5) years and by a fine not exceeding Five Thousand Dollars
23 (\$5,000.00). A second violation of this section with respect to a
24 Schedule I or II substance, except marijuana or a substance included

1 in subsection D of Section 2-206 of this title, is a felony
2 punishable by imprisonment for not more than ten (10) years and by a
3 fine not exceeding Ten Thousand Dollars (\$10,000.00). A third or
4 subsequent violation of this section with respect to a Schedule I or
5 II substance, except marijuana or a substance included in subsection
6 D of Section 2-206 of this title, is a felony punishable by
7 imprisonment for not less than four (4) years nor more than fifteen
8 (15) years and by a fine not exceeding Ten Thousand Dollars
9 (\$10,000.00);

10 2. Any Schedule III, IV or V substance, marijuana, a substance
11 included in subsection D of Section 2-206 of this title, or any
12 preparation excepted from the provisions of the Uniform Controlled
13 Dangerous Substances Act is guilty of a misdemeanor punishable by
14 confinement for not more than one (1) year and by a fine not
15 exceeding One Thousand Dollars (\$1,000.00);

16 3. Any Schedule III, IV or V substance, marijuana, a substance
17 included in subsection D of Section 2-206 of this title, or any
18 preparation excepted from the provisions of the Uniform Controlled
19 Dangerous Substances Act and who, during the period of any court-
20 imposed probationary term or within ten (10) years of the date
21 following the completion of the execution of any sentence or
22 deferred judgment for a violation of this section, commits a second
23 or subsequent violation of this section shall, upon conviction, be
24 guilty of a felony punishable by imprisonment in the custody of the

1 Department of Corrections for not less than one (1) year nor more
2 than five (5) years and by a fine not exceeding Five Thousand
3 Dollars (\$5,000.00); or

4 4. Any Schedule III, IV or V substance, marijuana, a substance
5 included in subsection D of Section 2-206 of this title, or any
6 preparation excepted from the provisions of the Uniform Controlled
7 Dangerous Substances Act and who, ten (10) or more years following
8 the date of completion of the execution of any sentence or deferred
9 judgment for a violation of this section, commits a second or
10 subsequent violation of this section shall, upon conviction, be
11 guilty of a felony punishable by imprisonment in the custody of the
12 Department of Corrections for not less than one (1) year nor more
13 than five (5) years and by a fine not exceeding Five Thousand
14 Dollars (\$5,000.00).

15 C. Any person who violates any provision of this section by
16 possessing or purchasing a controlled dangerous substance from any
17 person, in or on, or within one thousand (1,000) feet of the real
18 property comprising a public or private elementary or secondary
19 school, public vocational school, public or private college or
20 university, or other institution of higher education, recreation
21 center or public park, including state parks and recreation areas,
22 or in the presence of any child under twelve (12) years of age,
23 shall be guilty of a felony and punished by:

24

1 1. For a first offense, a term of imprisonment, or by the
2 imposition of a fine, or by both, not exceeding twice that
3 authorized by the appropriate provision of this section. In
4 addition, the person shall serve a minimum of fifty percent (50%) of
5 the sentence received prior to becoming eligible for state
6 correctional institution earned credits toward the completion of
7 ~~said~~ the sentence; or

8 2. For a second or subsequent offense, a term of imprisonment
9 not exceeding three times that authorized by the appropriate
10 provision of this section and the person shall serve a minimum of
11 ninety percent (90%) of the sentence received prior to becoming
12 eligible for state correctional institution earned credits toward
13 the completion of ~~said~~ the sentence, and imposition of a fine not
14 exceeding Ten Thousand Dollars (\$10,000.00).

15 ~~D. Any person convicted of any offense described in this~~
16 ~~section shall, in addition to any fine imposed, pay a special~~
17 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
18 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
19 ~~Section 1-2530.9 of this title.~~

20 SECTION 10. AMENDATORY 63 O.S. 2021, Section 2-404, is
21 amended to read as follows:

22 Section 2-404. A. It shall be unlawful for any person:

23 1. Who is subject to the requirements of ~~Article III of this~~
24 ~~act~~ Section 2-301 et seq. of this title to distribute or dispense a

1 controlled dangerous substance in violation of Section 2-308 of this
2 title;

3 2. Who is a registrant to manufacture, distribute, or dispense
4 a controlled dangerous substance not authorized by his registration
5 to another registrant or other authorized person;

6 3. To omit, remove, alter, or obliterate a symbol required by
7 the Federal Controlled Substances Act or ~~this act~~ Section 2-101 et
8 seq. of this title;

9 4. To refuse or fail to make, keep, or furnish any record,
10 notification, order form, statement, invoice, or information
11 required under ~~this act~~ Section 2-101 et seq. of this title;

12 5. To refuse any entry into any premises or inspection
13 authorized by ~~this act~~ Section 2-101 et seq. of this title; or

14 6. To keep or maintain any store, shop, warehouse, dwelling
15 house, building, vehicle, boat, aircraft, or any place whatever,
16 which is resorted to by persons using controlled dangerous
17 substances in violation of ~~this act~~ Section 2-101 et seq. of this
18 title for the purpose of using such substances, or which is used for
19 the keeping or selling of the same in violation of ~~this act~~ Section
20 2-101 et seq. of this title.

21 B. Any person who violates this section is punishable by a
22 civil fine ~~of~~ not more than One Thousand Dollars (\$1,000.00);
23 provided, that, if the violation is prosecuted by an information or
24 indictment which alleges that the violation was committed knowingly

1 or intentionally, and the trier of fact specifically finds that the
2 violation was committed knowingly or intentionally, such person is
3 guilty of a felony punishable by imprisonment for not more than five
4 (5) years, and a fine of not more than Ten Thousand Dollars
5 (\$10,000.00), except that if such person is a corporation it shall
6 be subject to a civil penalty of not more than One Hundred Thousand
7 Dollars (\$100,000.00). The fine provided for in this subsection
8 shall be in addition to other punishments provided by law and shall
9 not be in lieu of other punishment.

10 C. Any person convicted of a second or subsequent violation of
11 this section is punishable by a term of imprisonment twice that
12 otherwise authorized and by twice the fine otherwise authorized.
13 The fine provided for in this subsection shall be in addition to
14 other punishments provided by law and shall not be in lieu of other
15 punishment.

16 ~~D. Any person convicted of any offense described in this~~
17 ~~section shall, in addition to any fine imposed, pay a special~~
18 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
19 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
20 ~~Section 1-2522 of this title.~~

21 SECTION 11. AMENDATORY 63 O.S. 2021, Section 2-405, is
22 amended to read as follows:

23 Section 2-405. A. No person shall use tincture of opium,
24 tincture of opium camphorated, or any derivative thereof, by the

1 hypodermic method, either with or without a medical prescription
2 therefor.

3 B. No person shall use drug paraphernalia to plant, propagate,
4 cultivate, grow, harvest, manufacture, compound, convert, produce,
5 process, prepare, test, analyze, pack, repack, store, contain,
6 conceal, inject, ingest, inhale or otherwise introduce into the
7 human body a controlled dangerous substance in violation of the
8 Uniform Controlled Dangerous Substances Act, except those persons
9 holding an unrevoked license in the professions of podiatry,
10 dentistry, medicine, nursing, optometry, osteopathy, veterinary
11 medicine or pharmacy.

12 C. No person shall deliver, sell, possess or manufacture drug
13 paraphernalia knowing, or under circumstances where one reasonably
14 should know, that it will be used to plant, propagate, cultivate,
15 grow, harvest, manufacture, compound, convert, produce, process,
16 prepare, test, analyze, pack, repack, store, contain, conceal,
17 inject, ingest, inhale or otherwise introduce into the human body a
18 controlled dangerous substance in violation of the Uniform
19 Controlled Dangerous Substances Act.

20 D. Any person eighteen (18) years of age or over who violates
21 subsection C of this section by delivering or selling drug
22 paraphernalia to a person under eighteen (18) years of age shall,
23 upon conviction, be guilty of a felony.

24

1 E. Any person who violates subsections A, B or C of this
2 section shall, upon conviction, be guilty of a misdemeanor
3 punishable as follows:

4 1. For a first offense the person shall be punished by
5 imprisonment in the county jail for not more than one (1) year or by
6 a fine ~~of~~ not more than One Thousand Dollars (\$1,000.00), or both
7 such fine and imprisonment;

8 2. For a second offense the person shall be punished by
9 imprisonment in the county jail for not more than one (1) year or by
10 a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00), or both
11 such fine and imprisonment; and

12 3. For a third or subsequent offense the person shall be
13 punished by imprisonment in the county jail for not more than one
14 (1) year or by a fine ~~of~~ not more than Ten Thousand Dollars
15 (\$10,000.00), or both such fine and imprisonment.

16 ~~F. Any person convicted of any offense described in this~~
17 ~~section shall, in addition to any fine imposed, pay a special~~
18 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
19 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
20 ~~Section 1-2522 of this title.~~

21 SECTION 12. AMENDATORY 63 O.S. 2021, Section 2-406, is
22 amended to read as follows:

23 Section 2-406. A. It shall be unlawful for any registrant
24 knowingly or intentionally:

1 1. To distribute, other than by dispensing or as otherwise
2 authorized by ~~this act~~ Section 2-101 et seq. of this title, a
3 controlled dangerous substance classified in Schedules I or II, in
4 the course of his legitimate business, except pursuant to an order
5 form as required by Section 2-308 of this title;

6 2. To use in the course of the manufacture or distribution of a
7 controlled dangerous substance a registration number which is
8 fictitious, revoked, suspended or issued to another person;

9 3. To acquire or obtain possession of a controlled dangerous
10 substance by misrepresentation, fraud, forgery, deception or
11 subterfuge;

12 4. To furnish false or fraudulent material information in, or
13 omit any material information from, any application, report, or
14 other document required to be kept or filed under ~~this act~~ Section
15 2-101 et seq. of this title, or any record required to be kept by
16 ~~this act~~ Section 2-101 et seq. of this title; and

17 5. To make, distribute, or possess any punch, die, plate,
18 stone, or other thing designed to print, imprint, or reproduce the
19 trademark, trade name, or other identifying mark, imprint, or device
20 of another or any likeness of any of the foregoing upon any drug or
21 container or labeling thereof so as to render such drug a
22 counterfeit controlled dangerous substance.

23 B. Any person who violates this section is guilty of a felony
24 punishable by imprisonment for not more than twenty (20) years or a

1 fine of not more than Two Hundred Fifty Thousand Dollars
2 (\$250,000.00), or both.

3 C. Any person convicted of a second or subsequent violation of
4 this section is punishable by a term of imprisonment twice that
5 otherwise authorized and by twice the fine otherwise authorized.
6 Convictions for second or subsequent violations of this section
7 shall not be subject to statutory provisions for suspended
8 sentences, deferred sentences, or probation.

9 ~~D. Any person convicted of any offense described in this~~
10 ~~section shall, in addition to any fine imposed, pay a special~~
11 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
12 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
13 ~~Section 1-2522 of this title.~~

14 SECTION 13. AMENDATORY 63 O.S. 2021, Section 2-407, is
15 amended to read as follows:

16 Section 2-407. A. No person shall obtain or attempt to obtain
17 any preparation excepted from the provisions of the Uniform
18 Controlled Dangerous Substances Act pursuant to Section 2-313 of
19 this title in a manner inconsistent with the provisions of paragraph
20 1 of subsection B of Section 2-313 of this title, or a controlled
21 dangerous substance or procure or attempt to procure the
22 administration of a controlled dangerous substance:

23 1. By fraud, deceit, misrepresentation, or subterfuge;

24

1 2. By the forgery of, alteration of, adding any information to
2 or changing any information on a prescription or of any written
3 order;

4 3. By the concealment of a material fact;

5 4. By the use of a false name or the giving of a false address;
6 or

7 5. By knowingly failing to disclose the receipt of a controlled
8 dangerous substance or a prescription for a controlled dangerous
9 substance of the same or similar therapeutic use from another
10 practitioner within the previous thirty (30) days.

11 B. Except as authorized by ~~this act~~ Section 2-101 et seq. of
12 this title, a person shall not manufacture, create, deliver, or
13 possess with intent to manufacture, create, or deliver or possess a
14 prescription form, an original prescription form, or a counterfeit
15 prescription form. This shall not apply to the legitimate
16 manufacture or delivery of prescription forms, or a person acting as
17 an authorized agent of the practitioner.

18 C. Information communicated to a physician in an effort
19 unlawfully to procure a controlled dangerous substance, or
20 unlawfully to procure the administration of any such drug, shall not
21 be deemed a privileged communication.

22 D. Any person who violates this section is guilty of a felony
23 punishable by imprisonment for not more than ten (10) years, by a
24 fine ~~of~~ not more than Ten Thousand Dollars (\$10,000.00), or by both

1 such fine and imprisonment. A second or subsequent offense under
2 this section is a felony punishable by imprisonment for not less
3 than four (4) years nor more than twenty (20) years, by a fine of
4 not more than Twenty Thousand Dollars (\$20,000.00), or by both such
5 fine and imprisonment.

6 E. Convictions for second or subsequent violations of this
7 section shall not be subject to statutory provisions for suspended
8 sentences, deferred sentences, or probation.

9 ~~F. Any person convicted of any offense described in this~~
10 ~~section shall, in addition to any fine imposed, pay a special~~
11 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
12 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
13 ~~Section 1-2530.9 of this title.~~

14 SECTION 14. AMENDATORY 63 O.S. 2021, Section 2-407.1, is
15 amended to read as follows:

16 Section 2-407.1. A. For the purpose of inducing intoxication
17 or distortion or disturbance of the auditory, visual, muscular, or
18 mental process, no person shall ingest, use, or possess any
19 compound, liquid, or chemical which contains ethylchloride, butyl
20 nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl
21 nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or
22 mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl
23 nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite,
24

1 isopentyl nitrite, or any of their esters, isomers, or analogues, or
2 any other similar compound.

3 B. No person shall possess, buy, sell, or otherwise transfer
4 any substance specified in subsection A of this section for the
5 purpose of inducing or aiding any other person to inhale or ingest
6 such substance or otherwise violate the provisions of this section.

7 C. The provisions of subsections A and B of this section shall
8 not apply to:

9 1. The possession and use of a substance specified in
10 subsection A of this section which is used as part of the care or
11 treatment by a licensed physician of a disease, condition or injury
12 or pursuant to a prescription of a licensed physician; and

13 2. The possession of a substance specified in subsection A of
14 this section which is used as part of a known manufacturing process
15 or industrial operation when the possessor has obtained a permit
16 from the State Department of Health.

17 D. The State Board of Health shall promulgate rules and
18 regulations establishing procedures for the application, form and
19 issuance of a permit to legitimate manufacturing and industrial
20 applicants as provided for in subsection C of this section.

21 E. Any person convicted of violating any provision of
22 subsection A or B of this section shall be guilty of a misdemeanor
23 punishable by imprisonment in the county jail not to exceed ninety
24 (90) days or by the imposition of a fine not to exceed Five Hundred

1 Dollars (\$500.00), or by both such imprisonment and fine. Each
2 violation shall be considered a separate offense.

3 ~~F. Any person convicted of any offense described in this~~
4 ~~section shall, in addition to any fine imposed, pay a special~~
5 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
6 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
7 ~~Section 1-2522 of this title.~~

8 SECTION 15. AMENDATORY 63 O.S. 2021, Section 2-415, is
9 amended to read as follows:

10 Section 2-415. A. The provisions of the Trafficking in Illegal
11 Drugs Act shall apply to persons convicted of violations with
12 respect to the following substances:

- 13 1. Marijuana;
- 14 2. Cocaine or coca leaves;
- 15 3. Heroin;
- 16 4. Amphetamine or methamphetamine;
- 17 5. Lysergic acid diethylamide (LSD);
- 18 6. Phencyclidine (PCP);
- 19 7. Cocaine base, commonly known as "crack" or "rock";
- 20 8. 3,4-Methylenedioxy methamphetamine, commonly known as
21 "ecstasy" or MDMA;
- 22 9. Morphine;
- 23 10. Oxycodone;
- 24 11. Hydrocodone;

1 12. Benzodiazepine; or

2 13. Fentanyl and its analogs and derivatives.

3 B. Except as otherwise authorized by the Uniform Controlled
4 Dangerous Substances Act, it shall be unlawful for any person to:

5 1. Knowingly distribute, manufacture, bring into this state or
6 possess a controlled substance specified in subsection A of this
7 section in the quantities specified in subsection C of this section;

8 2. Possess any controlled substance with the intent to
9 manufacture a controlled substance specified in subsection A of this
10 section in quantities specified in subsection C of this section; or

11 3. Use or solicit the use of services of a person less than
12 eighteen (18) years of age to distribute or manufacture a controlled
13 dangerous substance specified in subsection A of this section in
14 quantities specified in subsection C of this section.

15 Violation of this section shall be known as "trafficking in
16 illegal drugs". Separate types of controlled substances described
17 in subsection A of this section when possessed at the same time in
18 violation of any provision of this section shall constitute a
19 separate offense for each substance.

20 Any person who commits the conduct described in paragraph 1, 2
21 or 3 of this subsection and represents the quantity of the
22 controlled substance to be an amount described in subsection C of
23 this section shall be punished under the provisions appropriate for
24

1 the amount of controlled substance represented, regardless of the
2 actual amount.

3 C. In the case of a violation of the provisions of subsection B
4 of this section, involving:

5 1. Marijuana:

6 a. twenty-five (25) pounds or more of a mixture or
7 substance containing a detectable amount of marijuana
8 shall be punishable by a fine ~~of~~ not less than Twenty-
9 five Thousand Dollars (\$25,000.00) and not more than
10 One Hundred Thousand Dollars (\$100,000.00), or

11 b. one thousand (1,000) pounds or more of a mixture or
12 substance containing a detectable amount of marijuana
13 shall be deemed aggravated trafficking punishable by a
14 fine ~~of~~ not less than One Hundred Thousand Dollars
15 (\$100,000.00) and not more than Five Hundred Thousand
16 Dollars (\$500,000.00);

17 2. Cocaine, coca leaves or cocaine base:

18 a. twenty-eight (28) grams or more of a mixture or
19 substance containing a detectable amount of cocaine,
20 coca leaves or cocaine base shall be punishable by a
21 fine ~~of~~ not less than Twenty-five Thousand Dollars
22 (\$25,000.00) and not more than One Hundred Thousand
23 Dollars (\$100,000.00),

24

1 b. three hundred (300) grams or more of a mixture or
2 substance containing a detectable amount of cocaine,
3 coca leaves or cocaine base shall be punishable by a
4 fine ~~of~~ not less than One Hundred Thousand Dollars
5 (\$100,000.00) and not more than Five Hundred Thousand
6 Dollars (\$500,000.00), or

7 c. four hundred fifty (450) grams or more of a mixture or
8 substance containing a detectable amount of cocaine,
9 coca leaves or cocaine base shall be deemed aggravated
10 trafficking punishable by a fine ~~of~~ not less than One
11 Hundred Thousand Dollars (\$100,000.00) and not more
12 than Five Hundred Thousand Dollars (\$500,000.00);

13 3. Heroin:

14 a. ten (10) grams or more of a mixture or substance
15 containing a detectable amount of heroin shall be
16 punishable by a fine ~~of~~ not less than Twenty-five
17 Thousand Dollars (\$25,000.00) and not more than Fifty
18 Thousand Dollars (\$50,000.00), or

19 b. twenty-eight (28) grams or more of a mixture or
20 substance containing a detectable amount of heroin
21 shall be deemed aggravated trafficking punishable by a
22 fine ~~of~~ not less than Fifty Thousand Dollars
23 (\$50,000.00) and not more than Five Hundred Thousand
24 Dollars (\$500,000.00);

1 4. Amphetamine or methamphetamine:

2 a. twenty (20) grams or more of a mixture or substance
3 containing a detectable amount of amphetamine or
4 methamphetamine shall be punishable by a fine ~~of~~ not
5 less than Twenty-five Thousand Dollars (\$25,000.00)
6 and not more than Two Hundred Thousand Dollars
7 (\$200,000.00),

8 b. two hundred (200) grams or more of a mixture or
9 substance containing a detectable amount of
10 amphetamine or methamphetamine shall be punishable by
11 a fine ~~of~~ not less than Fifty Thousand Dollars
12 (\$50,000.00) and not more than Five Hundred Thousand
13 Dollars (\$500,000.00), or

14 c. four hundred fifty (450) grams or more of a mixture or
15 substance containing a detectable amount of
16 amphetamine or methamphetamine shall be deemed
17 aggravated trafficking punishable by a fine ~~of~~ not
18 less than Fifty Thousand Dollars (\$50,000.00) and not
19 more than Five Hundred Thousand Dollars (\$500,000.00);

20 5. Lysergic acid diethylamide (LSD):

21 a. one (1) gram or more of a mixture or substance
22 containing a detectable amount of lysergic acid
23 diethylamide (LSD) shall be trafficking punishable by
24 a term of imprisonment in the custody of the

1 Department of Corrections not to exceed twenty (20)
2 years and by a fine ~~of~~ not less than Fifty Thousand
3 Dollars (\$50,000.00) and not more than One Hundred
4 Thousand Dollars (\$100,000.00), or

- 5 b. ten (10) grams or more of a mixture or substance
6 containing a detectable amount of lysergic acid
7 diethylamide (LSD) shall be aggravated trafficking
8 punishable by a term of imprisonment in the custody of
9 the Department of Corrections ~~of~~ not less than two (2)
10 years nor more than life and by a fine ~~of~~ not less
11 than One Hundred Thousand Dollars (\$100,000.00) and
12 not more than Two Hundred Fifty Thousand Dollars
13 (\$250,000.00);

14 6. Phencyclidine (PCP):

- 15 a. twenty (20) grams or more of a substance containing a
16 mixture or substance containing a detectable amount of
17 phencyclidine (PCP) shall be trafficking punishable by
18 a term of imprisonment in the custody of the
19 Department of Corrections not to exceed twenty (20)
20 years and by a fine ~~of~~ not less than Twenty Thousand
21 Dollars (\$20,000.00) and not more than Fifty Thousand
22 Dollars (\$50,000.00), or
23 b. one hundred fifty (150) grams or more of a substance
24 containing a mixture or substance containing a

1 detectable amount of phencyclidine (PCP) shall be
2 aggravated trafficking punishable by a term of
3 imprisonment in the custody of the Department of
4 Corrections ~~of~~ not less than two (2) years nor more
5 than life and by a fine ~~of~~ not less than Fifty
6 Thousand Dollars (\$50,000.00) and not more than Two
7 Hundred Fifty Thousand Dollars (\$250,000.00);

8 7. Methylenedioxy methamphetamine:

- 9 a. thirty (30) tablets or ten (10) grams of a mixture or
10 substance containing a detectable amount of 3,4-
11 Methylenedioxy methamphetamine shall be trafficking
12 punishable by a term of imprisonment in the custody of
13 the Department of Corrections not to exceed twenty
14 (20) years and by a fine ~~of~~ not less than Twenty-five
15 Thousand Dollars (\$25,000.00) and not more than One
16 Hundred Thousand Dollars (\$100,000.00), or
17 b. one hundred (100) tablets or thirty (30) grams of a
18 mixture or substance containing a detectable amount of
19 3,4-Methylenedioxy methamphetamine shall be deemed
20 aggravated trafficking punishable by a term of
21 imprisonment in the custody of the Department of
22 Corrections ~~of~~ not less than two (2) years nor more
23 than life by a fine ~~of~~ not less than One Hundred
24

1 Thousand Dollars (\$100,000.00) and not more than Five
2 Hundred Thousand Dollars (\$500,000.00);

3 8. Morphine: One thousand (1,000) grams or more of a mixture
4 containing a detectable amount of morphine shall be trafficking
5 punishable by a term of imprisonment in the custody of the
6 Department of Corrections not to exceed twenty (20) years and by a
7 fine ~~of~~ not less than One Hundred Thousand Dollars (\$100,000.00) and
8 not more than Five Hundred Thousand Dollars (\$500,000.00);

9 9. Oxycodone: Four hundred (400) grams or more of a mixture
10 containing a detectable amount of oxycodone shall be trafficking
11 punishable by a term of imprisonment in the custody of the
12 Department of Corrections not to exceed twenty (20) years and by a
13 fine ~~of~~ not less than One Hundred Thousand Dollars (\$100,000.00) and
14 not more than Five Hundred Thousand Dollars (\$500,000.00);

15 10. Hydrocodone: Three thousand seven hundred fifty (3,750)
16 grams or more of a mixture containing a detectable amount of
17 hydrocodone shall be trafficking punishable by a term of
18 imprisonment in the custody of the Department of Corrections not to
19 exceed twenty (20) years and by a fine ~~of~~ not less than One Hundred
20 Thousand Dollars (\$100,000.00) and not more than Five Hundred
21 Thousand Dollars (\$500,000.00);

22 11. Benzodiazepine: Five hundred (500) grams or more of a
23 mixture containing a detectable amount of benzodiazepine shall be
24 trafficking punishable by a term of imprisonment not to exceed

1 twenty (20) years and by a fine ~~of~~ not less than One Hundred
2 Thousand Dollars (\$100,000.00) and not more than Five Hundred
3 Thousand Dollars (\$500,000.00); and

4 12. Fentanyl and its analogs and derivatives:

- 5 a. one (1) gram or more of a mixture containing fentanyl
6 or carfentanil, or any fentanyl analogs or derivatives
7 shall be trafficking punishable by a term of
8 imprisonment in the custody of the Department of
9 Corrections not to exceed twenty (20) years and by a
10 fine ~~of~~ not less than One Hundred Thousand Dollars
11 (\$100,000.00) and not more than Two Hundred Fifty
12 Thousand Dollars (\$250,000.00), or
- 13 b. five (5) grams or more of a mixture containing
14 fentanyl or carfentanil, or any fentanyl analogs or
15 derivatives shall be aggravated trafficking punishable
16 by a term of imprisonment in the custody of the
17 Department of Corrections ~~of~~ not less than two (2)
18 years nor more than life and by a fine ~~of~~ not less
19 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
20 and not more than Five Hundred Thousand Dollars
21 (\$500,000.00).

22 D. Any person who violates the provisions of this section with
23 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,
24 amphetamine or methamphetamine in a quantity specified in paragraphs

1 1, 2, 3 and 4 of subsection C of this section shall, in addition to
2 any fines specified by this section, be punishable by a term of
3 imprisonment as follows:

4 1. For trafficking, a first violation of this section, a term
5 of imprisonment in the custody of the Department of Corrections not
6 to exceed twenty (20) years;

7 2. For trafficking, a second violation of this section, a term
8 of imprisonment in the custody of the Department of Corrections ~~of~~
9 not less than four (4) years nor more than life, for which the
10 person shall serve fifty percent (50%) of the sentence before being
11 eligible for parole consideration;

12 3. For trafficking, a third or subsequent violation of this
13 section, a term of imprisonment in the custody of the Department of
14 Corrections ~~of~~ not less than twenty (20) years nor more than life,
15 of which the person shall serve fifty percent (50%) of the sentence
16 before being eligible for parole consideration.

17 Persons convicted of trafficking shall not be eligible for
18 earned credits or any other type of credits which have the effect of
19 reducing the length of sentence to less than fifty percent (50%) of
20 the sentence imposed; and

21 If the person is convicted of aggravated trafficking, the person
22 shall serve eighty-five percent (85%) of such sentence before being
23 eligible for parole consideration.

1 E. The penalties specified in subsections C and D of this
2 section are subject to the enhancements enumerated in subsections E
3 and F of Section 2-401 of this title.

4 ~~F. Any person convicted of any offense described in this~~
5 ~~section shall, in addition to any fine imposed, pay a special~~
6 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
7 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
8 ~~Section 1-2530.9 of this title and the assessment pursuant to~~
9 ~~Section 2-503.2 of this title.~~

10 SECTION 16. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1671 of Title 20, unless there
12 is created a duplication in numbering, reads as follows:

13 As used in this act:

14 1. "Attorney" means a person admitted to practice law before
15 the courts of this state;

16 2. "Election-year evaluation" means a judicial performance
17 evaluation conducted by the Office of Judicial Performance
18 Evaluation pursuant to Section 21 of this act of a Justice or judge
19 whose term is to expire and who must stand for reelection or
20 retention election;

21 3. "Improvement plan" means an individual judicial improvement
22 plan developed and implemented pursuant to Section 22 of this act;

23
24

1 4. "Initial evaluation" and "interim evaluation" mean
2 evaluations conducted by the Office of Judicial Performance
3 Evaluation pursuant to Section 20 of this act of a Justice or judge;

4 5. "Judge" means all active district judges, associate district
5 judges, special judges, Judges of the Oklahoma Court of Criminal
6 Appeals, and Judges of the Oklahoma Court of Civil Appeals; and

7 6. "Justice" means a Justice of the Oklahoma Supreme Court.

8 SECTION 17. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1672 of Title 20, unless there
10 is created a duplication in numbering, reads as follows:

11 A. There is hereby created within the Council on Judicial
12 Complaints the Office of Judicial Performance Evaluation and the
13 Board of Judicial Performance Evaluation. The purpose of the Office
14 and the Board shall be to:

15 1. Provide Justices and judges with useful information
16 concerning their own performances; and

17 2. Conduct statewide judicial performance evaluations using
18 uniform criteria and procedures pursuant to the provisions of this
19 act.

20 B. 1. The Office of Judicial Performance Evaluation shall
21 present completed performance evaluations and recommendations to the
22 Board of Judicial Performance Evaluation which shall consist of nine
23 (9) members, only five of whom shall be members of the Bar of the
24 State of Oklahoma and only five of whom shall constitute a quorum.

1 Three members shall be appointed by the Speaker of the Oklahoma
2 House of Representatives; three members shall be appointed by the
3 President Pro Tempore of the Oklahoma State Senate; and three
4 members shall be appointed by the Governor. No more than five
5 members of the Board shall be, or shall have been in the previous
6 six (6) months, members of the same political party. Appointments
7 may include retired judicial officers, but shall not include members
8 of the Council on Judicial Complaints or Judicial Nominating
9 Commission.

10 2. Of the members first appointed to the Board of Judicial
11 Performance Evaluation, three shall serve for three (3) years and
12 until a successor is appointed and qualified; three shall serve for
13 four (4) years and until a successor is appointed and qualified; and
14 three shall serve for five (5) years and until a successor is
15 appointed and qualified. The respective terms of the first members
16 shall be determined by lot at the first meeting of the Board, and
17 the results thereof shall be certified to the Secretary of State and
18 to the appointing authority for each individual member. Thereafter,
19 each appointee shall serve for a term of five (5) years and until a
20 successor is appointed and qualified. No person shall be eligible
21 to serve more than two terms on the Board.

22 3. The members of the Board of Judicial Performance Evaluation
23 shall receive for their services the sum of One Hundred Dollars
24 (\$100.00) for each day, or fraction thereof, of attendance at its

1 meetings or other official business of the Board, and reimbursement
2 for travel expenses pursuant to the State Travel Reimbursement Act.

3 C. All expenses of the Office of Judicial Performance
4 Evaluation shall be approved by the Chair of the Council on Judicial
5 Complaints, by the Council on Judicial Complaints upon a majority
6 vote of its members, or by the Administrative Director to the
7 Council on Judicial Complaints as directed by the Chair of the
8 Council on Judicial Complaints.

9 D. Meetings of the Board of Judicial Performance Evaluation
10 convened for the purpose of conducting, discussing, or deliberating
11 any matter relating to performance evaluations or improvement plans
12 are confidential and are not subject to the Oklahoma Open Meeting
13 Act.

14 E. Records of the Office of Judicial Performance Evaluation
15 created for the purpose of or in furtherance of summarizing,
16 drafting, conducting, discussing, or deliberating any matter
17 relating to an election-year evaluation, improvement plan, or
18 interim evaluation are confidential and are not subject to
19 disclosure under the Oklahoma Open Records Act.

20 F. There is hereby created the position of Administrator to the
21 Office of Judicial Performance Evaluation who shall be a state
22 employee hired by the Administrative Director to the Council on
23 Judicial Complaints. The Administrator, operations, and staffing of
24

1 the Office shall be overseen by the Administrative Director to the
2 Council on Judicial Complaints.

3 G. The Administrator shall notify the members of the Board of
4 Judicial Performance Evaluation of the number of completed
5 performance evaluations ready for review and consideration by the
6 Board five (5) days before the Board's regular meeting. The
7 Administrator shall attend meetings of the Board concerning
8 performance evaluations and business of the Office, keep records
9 concerning performance evaluations, prepare reports required by
10 statute, and perform other tasks as the Council shall direct.

11 SECTION 18. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1673 of Title 20, unless there
13 is created a duplication in numbering, reads as follows:

14 A. The Office of Judicial Performance Evaluation shall:

15 1. Train members of the Board of Judicial Performance
16 Evaluation as needed and requested to fulfill the duties established
17 pursuant to Section 25 of this act;

18 2. Collect and disseminate data on judicial performance
19 evaluations, including judicial performance surveys developed,
20 collected, and distributed pursuant to paragraph 5 of subsection B
21 of this section; and

22 3. Perform other tasks as the Board of Judicial Performance
23 Evaluation or the Council on Judicial Complaints shall direct.

24

1 B. The Office of Judicial Performance Evaluation shall have the
2 following powers and duties:

3 1. Review any available case management data and statistics
4 related to individual Justices and judges;

5 2. Review written judicial opinions and orders authorized by
6 Justices and judges;

7 3. Interview Justices and judges under the Board of Judicial
8 Performance Evaluation's oversight;

9 4. Accept information and documentation from interested persons
10 as necessary;

11 5. Develop surveys to evaluate the performance of Justices and
12 judges which shall be completed by attorneys, jurors, represented
13 and unrepresented litigants, law enforcement personnel, attorneys
14 within the district attorneys' and public defenders' offices,
15 employees of the court, court interpreters, employees of probation
16 offices, and employees of local departments of social services;

17 6. Determine the validity of completed surveys developed
18 pursuant to paragraph 5 of this subsection, report to the Council on
19 the validity of the surveys, and prepare alternatives to surveys
20 where sample populations are inadequate to produce valid results;

21 7. Prepare narratives for the Board of Judicial Performance
22 Evaluation that reflect the performance of Justices and judges;

23 8. Submit any information concerning or appearing to concern a
24 complaint or violation of the Code of Judicial Conduct, or other

1 law, by a judicial officer to the Administrative Director to the
2 Council on Judicial Complaints;

3 9. Submit performance evaluations of Justices and judges to the
4 Board of Judicial Performance Evaluation for approval or rejection;
5 and

6 10. Recommend, at the Office's discretion after it completes an
7 evaluation of a Justice or judge pursuant to Section 20 of this act,
8 to the Board of Judicial Performance Evaluation that it develop an
9 individual judicial improvement plan pursuant to Section 22 of this
10 act.

11 SECTION 19. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1674 of Title 20, unless there
13 is created a duplication in numbering, reads as follows:

14 The Office of Judicial Performance Evaluation shall evaluate
15 each Justice and judge in Oklahoma utilizing the powers and duties
16 conferred in Section 18 of this act. The evaluations shall only
17 include the following performance evaluation criteria:

18 1. Integrity including, but not limited to, whether the Justice
19 or judge:

- 20 a. avoids impropriety or the appearance of impropriety,
- 21 b. displays fairness and impartiality toward all
22 participants, and
- 23 c. avoids ex parte communications;

24

1 2. Legal knowledge including, but not limited to, whether the
2 Justice or judge:

- 3 a. demonstrates, through well-reasoned opinions and
4 courtroom conduct, an understanding of substantive law
5 and relevant rules of procedure and evidence,
- 6 b. demonstrates, through well-reasoned opinions and
7 courtroom conduct, attentiveness to factual and legal
8 issues before the court, and
- 9 c. adheres to precedent or clearly explains the legal
10 basis for departure from precedent and appropriately
11 applies statutes or other sources of legal authority;

12 3. Communication skills including, but not limited to, whether
13 the Justice or judge:

- 14 a. presents clearly written and understandable opinions,
15 findings of fact, conclusions of law, and orders,
- 16 b. presents clearly stated and understandable questions
17 or statements during oral arguments or presentations,
18 and, for trial judges, clearly explains all oral
19 decisions, and
- 20 c. clearly presents information to the jury, as
21 necessary;

22 4. Judicial temperament including, but not limited to, whether
23 the Justice or judge:

24

- 1 a. demonstrates courtesy toward attorneys, litigants,
- 2 court staff, and others in the courtroom, and
- 3 b. maintains and requires order, punctuality, and
- 4 appropriate decorum in the courtroom;

5 5. Administrative performance including, but not limited to,
6 whether the Justice or judge:

- 7 a. demonstrates preparation for oral arguments, trials,
- 8 and hearings, as well as attentiveness to and
- 9 appropriate control over judicial proceedings,
- 10 b. manages workload and court time effectively and
- 11 efficiently,
- 12 c. issues opinions, findings of fact, conclusions of law,
- 13 and orders in a timely manner and without unnecessary
- 14 delay,
- 15 d. participates in a proportionate share of the court's
- 16 workload, takes responsibility for more than his or
- 17 her own caseload, and is willing to assist other
- 18 Justices or judges, and
- 19 e. understands and complies, as necessary, with
- 20 directives of the Oklahoma Supreme Court, Oklahoma
- 21 Court of Criminal Appeals, Oklahoma Court of Civil
- 22 Appeals, the presiding judge of his or her
- 23 administrative district, or the chief judge of the
- 24 judicial district, as applicable; and

1 6. Service to the legal profession and the public by
2 participating in service-oriented efforts designed to educate the
3 public about the legal system and improve the legal system.

4 SECTION 20. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1675 of Title 20, unless there
6 is created a duplication in numbering, reads as follows:

7 A. Within the first two (2) years of a Justice's or judge's
8 first appointment or election to the bench, the Office of Judicial
9 Performance Evaluation shall conduct an initial evaluation of each
10 Justice and judge. The Office shall complete and communicate the
11 initial evaluations, including any recommendations for improvement
12 plans, to the Board of Judicial Performance Evaluation for approval
13 or rejection. Once approved, the Office shall communicate the
14 initial evaluation to the Justice or judge in writing.

15 B. Within two (2) years of the approval of the initial
16 evaluation of a Justice or judge by the Board or within two (2)
17 years of the effective date of this act, the Office shall conduct an
18 interim evaluation of each Justice and judge. The Office shall
19 complete and communicate the interim evaluations, including any
20 recommendations for improvement plans, to the Board of Judicial
21 Performance Evaluation for approval or rejection. Once approved,
22 the Office shall communicate the interim evaluation to the Justice
23 or judge in writing.

1 C. For judges not required to stand for reelection or retention
2 election, the Office shall conduct additional interim evaluations of
3 such judges within two (2) years following a general election. The
4 Office shall complete and communicate the interim evaluations,
5 including any recommendations for improvement plans, to the Board of
6 Judicial Performance Evaluation for approval or rejection. Once
7 approved, the Office shall communicate the interim evaluation to the
8 judge in writing.

9 D. The Board shall grant each Justice or judge who receives
10 initial and interim evaluations the opportunity to meet with the
11 Board at its next meeting or otherwise respond to the initial or
12 interim evaluations no later than ten (10) days following the
13 Justice's or judge's receipt of the initial or interim evaluation.
14 If a meeting is held or a response is made, the Board may revise the
15 initial or interim evaluation as it sees fit.

16 E. Once the initial or interim performance evaluations are
17 finalized, the Office shall share the performance evaluations as
18 follows:

19 1. For special judges, with the Chief Justice of the Supreme
20 Court, the Presiding Administrative Judge of the judicial district
21 in which the special judge serves and any judge by administrative
22 orders in the role of a direct supervisor of the special judge of
23 the judicial district in which the special judge serves, and the
24 Director of the Administrative Office of the Courts; and

1 2. For district and associate judges, with the Chief Justice of
2 the Supreme Court and the Director of the Administrative Office of
3 the Courts.

4 SECTION 21. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1676 of Title 20, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Office of Judicial Performance Evaluation shall conduct
8 an election-year evaluation for each Justice or judge whose term is
9 to expire and who must stand for reelection or retention election.

10 B. 1. The Office shall complete an election-year evaluation
11 and related narrative to be approved by the Board of Judicial
12 Performance Evaluation. Once approved, the election-year evaluation
13 shall be communicated in writing to the Justice or judge no later
14 than forty-five (45) days prior to the last day available for the
15 Justice or judge to declare his or her intent to stand for
16 reelection or retention election.

17 2. The narrative prepared for an election-year evaluation must
18 include an assessment of the Justice's or judge's strengths and
19 weaknesses with respect to the judicial performance criteria
20 provided for in Section 19 of this act, a discussion regarding any
21 deficiency identified in an initial or interim evaluation prepared
22 pursuant to Section 20 of this act, a review of any improvement plan
23 developed pursuant to Section 22 of this act, and a statement of
24 whether the Board concludes that any deficiency identified has been

1 satisfactorily addressed, or a statement from the Board that an
2 improvement plan, if any, was satisfactorily followed by the Justice
3 or judge.

4 3. The Board shall grant each Justice or judge who receives an
5 election-year evaluation the opportunity to meet with the Board at
6 its next meeting or otherwise respond to the evaluation no later
7 than ten (10) days following his or her receipt of the evaluation.
8 If the meeting is held or a response is made, the Board may revise
9 the evaluation as it sees fit.

10 C. After the requirements of subsection B of this section are
11 met, the Council shall make a recommendation regarding the
12 performance of each Justice or judge who declares his or her intent
13 to stand for reelection or retention. The recommendations must be
14 stated as "meets performance standard" or "does not meet performance
15 standard". For a Justice or judge to receive a designation of "does
16 not meet performance standard", there must be a majority vote by the
17 Council members that the particular Justice or judge should receive
18 such a recommendation.

19 D. Once the election-year evaluation is finalized, the Office
20 shall share the performance evaluations for district and associate
21 judges with the Chief Justice of the Supreme Court and the Director
22 of the Administrative Office of the Courts.

23
24

1 SECTION 22. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1677 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. If the Office of Judicial Performance Evaluation
5 recommends, pursuant to Section 20 of this act, that a Justice or
6 judge receive an improvement plan, the Board of Judicial Performance
7 Evaluation shall determine whether an individual judicial
8 improvement plan is appropriate. If the Board determines an
9 improvement plan is appropriate, the Office shall then develop an
10 improvement plan for such Justice or judge. After the Board reviews
11 and approves the improvement plan, the Office shall have the
12 responsibility for implementing and overseeing the improvement plan.

13 2. Once the Justice or judge has completed the improvement
14 plan, the Office shall convey the results of the improvement plan
15 to the Board. The Office shall maintain a copy of the improvement
16 plan and the results in its files.

17 B. If a Justice or judge is required to complete an improvement
18 plan pursuant to this section and he or she fails to satisfactorily
19 complete the requirements of such improvement plan, the Board shall
20 automatically issue a "does not meet performance standard"
21 designation on his or her performance evaluation and shall advise
22 the Council on Judicial Complaints of such designation in the form
23 of a complaint.

24

1 C. Upon the completion of an improvement plan, the Office shall
2 share the results of the improvement plan as follows:

3 1. For special judges, with the Chief Justice of the Supreme
4 Court, the Presiding Administrative Judge of the judicial district
5 in which the special judge serves and any judge by administrative
6 orders in the role of a direct supervisor of the special judge of
7 the judicial district in which the special judge serves, and the
8 Director of the Administrative Office of the Courts; and

9 2. For district and associate judges, with the Chief Justice of
10 the Supreme Court and the Director of the Administrative Office of
11 the Courts.

12 SECTION 23. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1678 of Title 20, unless there
14 is created a duplication in numbering, reads as follows:

15 A member of the Board of Judicial Performance Evaluation or an
16 employee of the Office of Judicial Performance Evaluation shall
17 disclose any professional or personal relationship with a Justice or
18 judge that may affect an unbiased evaluation of the Justice or
19 judge, including involvement with any litigation involving the
20 Justice or judge and the member or employee, the member's or
21 employee's family, or the member's or employee's financial
22 interests. The Board may require, by a vote, the recusal of one of
23 its members or the Office's employee because of a relationship with
24 a Justice or judge.

1 SECTION 24. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1679 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 A. 1. Except as specifically provided by law, all performance
5 evaluations, personal information, oral or written information,
6 content of any improvement plans, narratives, recommendations, and
7 any matter discussed by the Board of Judicial Performance Evaluation
8 concerning a performance evaluation or improvement plan are
9 confidential.

10 2. All surveys must allow for the participant's name to remain
11 confidential. Comments in surveys are confidential but may be
12 summarized in aggregate for use in performance evaluation
13 narratives.

14 B. Members of the Board of Judicial Performance Evaluation and
15 employees of the Office of Judicial Performance Evaluation shall not
16 publicly discuss the performance evaluation of a particular Justice
17 or judge.

18 SECTION 25. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1680 of Title 20, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Board of Judicial Performance Evaluation shall promptly
22 approve or reject judicial performance evaluations submitted by the
23 Office of Judicial Performance Evaluation.

24

1 B. The Board of Judicial Performance Evaluation shall have the
2 following powers and duties:

3 1. Promulgate rules concerning:

4 a. the performance evaluation of Justices and judges by
5 the Office of Judicial Performance Evaluation based on
6 performance evaluation criteria set forth in Section
7 19 of this act, and

8 b. the creation of a standards matrix or scorecard
9 related to the performance evaluation criteria set
10 forth in Section 19 of this act;

11 2. Review data, prepared narratives, and recommendations made
12 by the Office of Judicial Performance Evaluation;

13 3. Approve or reject the performance evaluations of Justices
14 and judges submitted by the Office of Judicial Performance
15 Evaluation;

16 4. Vote as to whether the Justice or judge meets the
17 performance standard based upon the member's review of all the
18 information available to the Council and the Office's performance
19 evaluation; and

20 5. Determine whether information submitted during the
21 performance evaluation process shall be deemed a complaint.

22 SECTION 26. REPEALER 19 O.S. 2021, Section 339.7, is
23 hereby repealed.

1 SECTION 27. REPEALER 20 O.S. 2021, Sections 1313.3 and
2 1313.4, are hereby repealed.

3 SECTION 28. REPEALER 63 O.S. 2021, Section 2-503.2, is
4 hereby repealed.

5 SECTION 29. This act shall become effective January 1, 2023."
6 Passed the House of Representatives the 27th day of April, 2022.

7
8
9 _____
10 Presiding Officer of the House of
Representatives

11 Passed the Senate the ____ day of _____, 2022.

12
13
14 _____
15 Presiding Officer of the Senate
16
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1 ENGROSSED SENATE
2 BILL NO. 1458

By: Thompson of the Senate

3 and

4 Hilbert of the House

5
6 [fines and fees - certain transfer of funds -
7 certain fees - repealers - noncodification -
8 effective date]

9
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 30. NEW LAW A new section of law not to be
12 codified in the Oklahoma Statutes reads as follows:

13 On the effective date of this act, any unencumbered and
14 unexpended funds remaining in the A.F.I.S. Fund, Forensic Science
15 Improvement Revolving Fund, Medical Expense Liability Revolving
16 Fund, Drug Abuse Education and Treatment Revolving Fund, and School
17 Investigative Audit Revolving Fund shall be deposited into the
18 General Revenue Fund of the State Treasury.

19 SECTION 31. AMENDATORY 20 O.S. 2021, Section 1313.2, is
20 amended to read as follows:

21 Section 1313.2. A. As used in this section:

22 1. "Arrested" means taking custody of another for the purpose
23 of holding or detaining him or her to answer a criminal charge;

24

1 2. "Convicted" means any final adjudication of guilt, whether
2 pursuant to a plea of guilty or nolo contendere or otherwise, and
3 any deferred or suspended sentence or judgment;

4 3. "Court" means any state or municipal court having
5 jurisdiction to impose a criminal fine or penalty; and

6 4. "DNA" means Deoxyribonucleic acid.

7 B. ~~Any person convicted of an offense including traffic~~
8 ~~offenses but excluding parking and standing violations, punishable~~
9 ~~by a fine of Ten Dollars (\$10.00) or more or by incarceration or any~~
10 ~~person forfeiting bond when charged with such an offense, shall be~~
11 ~~ordered by the court to pay Ten Dollars (\$10.00) as a separate fee,~~
12 ~~which fee shall be in addition to and not in substitution for any~~
13 ~~and all fines and penalties otherwise provided for by law for such~~
14 ~~offense.~~

15 C. ~~1. Any person convicted of any misdemeanor or felony~~
16 ~~offense shall pay a Laboratory Analysis Fee in the amount of One~~
17 ~~Hundred Fifty Dollars (\$150.00) for each offense if forensic science~~
18 ~~or laboratory services are rendered or administered by the Oklahoma~~
19 ~~State Bureau of Investigation (OSBI), by the Toxicology Laboratory~~
20 ~~of the Office of the Chief Medical Examiner or by any municipality~~
21 ~~or county in connection with the case. This fee shall be in~~
22 ~~addition to and not a substitution for any and all fines and~~
23 ~~penalties otherwise provided for by law for this offense.~~

1 ~~2. The court clerk shall cause to be deposited the amount of~~
2 ~~One Hundred Fifty Dollars (\$150.00) as collected, for every~~
3 ~~conviction as described in this subsection. The court clerk shall~~
4 ~~remit the monies in the fund on a monthly basis directly either to:~~

5 ~~a. the OSBI who shall deposit the monies into the OSBI~~
6 ~~Revolving Fund provided for in Section 150.19a of~~
7 ~~Title 74 of the Oklahoma Statutes for services~~
8 ~~rendered or administered by the OSBI,~~

9 ~~b. the Office of the Chief Medical Examiner who shall~~
10 ~~deposit the monies into the Chief Medical Examiner~~
11 ~~Revolving Fund provided for in Section 948 of Title 63~~
12 ~~of the Oklahoma Statutes for services rendered or~~
13 ~~administered by the Office of the Chief Medical~~
14 ~~Examiner, or~~

15 ~~c. the appropriate municipality or county for services~~
16 ~~rendered or administered by a municipality or county.~~

17 ~~3. The monies from the Laboratory Analysis Fee Fund deposited~~
18 ~~into the OSBI Revolving Fund shall be used for the following:~~

19 ~~a. providing criminalistic laboratory services,~~

20 ~~b. the purchase and maintenance of equipment for use by~~
21 ~~the laboratory in performing analysis,~~

22 ~~c. education, training, and scientific development of~~
23 ~~OSBI personnel, and~~

1 ~~d. the destruction of seized property and chemicals as~~
2 ~~prescribed in Sections 2-505 and 2-508 of Title 63 of~~
3 ~~the Oklahoma Statutes.~~

4 ~~D. Upon conviction or bond forfeiture, the court shall collect~~
5 ~~the fee provided for in subsection B of this section and deposit it~~
6 ~~in an account created for that purpose. Except as otherwise~~
7 ~~provided in subsection E of this section, monies shall be forwarded~~
8 ~~monthly by the court clerk to the Council on Law Enforcement~~
9 ~~Education and Training (CLEET). Beginning July 1, 2003, deposits~~
10 ~~shall be due on the fifteenth day of each month for the preceding~~
11 ~~calendar month. There shall be a late fee imposed for failure to~~
12 ~~make timely deposits; provided, CLEET, in its discretion, may waive~~
13 ~~all or part of the late fee. Such late fee shall be one percent~~
14 ~~(1%) of the principal amount due per day beginning from the tenth~~
15 ~~day after payment is due and accumulating until the late fee reaches~~
16 ~~one hundred percent (100%) of the principal amount due. Beginning~~
17 ~~on July 1, 1987, ninety percent (90%) of the monies received by~~
18 ~~CLEET from the court clerks pursuant to this section shall be~~
19 ~~deposited in the CLEET Fund, and ten percent (10%) shall be~~
20 ~~deposited in the General Revenue Fund. Beginning January 1, 2001,~~
21 ~~sixty and fifty-three one-hundredths percent (60.53%) of the monies~~
22 ~~received by CLEET from the court clerks pursuant to this section~~
23 ~~shall be deposited in the CLEET Fund created pursuant to subsection~~
24 ~~G of this section, five and eighty-three one-hundredths percent~~

1 ~~(5.83%) shall be deposited in the General Revenue Fund and thirty-~~
2 ~~three and sixty-four one-hundredths percent (33.64%) shall be~~
3 ~~deposited in the CLEET Training Center Revolving Fund created~~
4 ~~pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.~~
5 ~~Along with the deposits required by this subsection, each court~~
6 ~~shall also submit a report stating the total amount of funds~~
7 ~~collected and the total number of fees imposed during the preceding~~
8 ~~quarter. The report may be made on computerized or manual~~
9 ~~disposition reports.~~

10 ~~E. Any municipality or county having a basic law enforcement~~
11 ~~academy approved by CLEET pursuant to the criteria developed by~~
12 ~~CLEET for training law enforcement officers shall retain from monies~~
13 ~~collected pursuant to subsections A through D of this section, Two~~
14 ~~Dollars (\$2.00) from each fee. These monies shall be deposited into~~
15 ~~an account for the sole use of the municipality or county in~~
16 ~~implementing its law enforcement training functions. Not more than~~
17 ~~seven percent (7%) of the monies shall be used for court and~~
18 ~~prosecution training. The court clerk of any such municipality or~~
19 ~~county shall furnish to CLEET the report required by subsection D of~~
20 ~~this section.~~

21 ~~F. 1. Any person entering a plea of guilty or nolo contendere~~
22 ~~or is found guilty of the crime of misdemeanor possession of~~
23 ~~marijuana or drug paraphernalia shall be ordered by the court to pay~~
24 ~~a five dollar fee, which shall be in addition to and not in~~

1 ~~substitution for any and all fines and penalties otherwise provided~~
2 ~~for by law for such offense.~~

3 ~~2. The court clerk shall cause to be deposited the amount of~~
4 ~~Five Dollars (\$5.00) as collected, for every adjudicated or~~
5 ~~otherwise convicted person as described in this subsection. The~~
6 ~~court clerk shall remit the monies in the fund on a monthly basis~~
7 ~~directly to the Bureau of Narcotics Drug Education Revolving Fund.~~

8 G. There is hereby created in the State Treasury a fund for the
9 Council on Law Enforcement Education and Training to be designated
10 the "CLEET Fund". The fund shall be subject to legislative
11 appropriation and shall consist of any monies received from fees and
12 receipts collected pursuant to the Oklahoma Open Records Act,
13 reimbursements for parts used in the repair of weapons of law
14 enforcement officers attending the basic academies, gifts, bequests,
15 contributions, tuition, fees, devises and the assessments levied
16 pursuant to the fund pursuant to law.

17 H. C. 1. Any person arrested or convicted of a felony offense
18 or convicted of a misdemeanor offense of assault and battery,
19 domestic abuse, stalking, possession of a controlled substance
20 prohibited under Schedule IV of the Uniform Controlled Dangerous
21 Substances Act, outraging public decency, resisting arrest, escaping
22 or attempting to escape, eluding a police officer, Peeping Tom,
23 pointing a firearm, threatening an act of violence, breaking and
24 entering a dwelling place, destruction of property, negligent

1 homicide or causing a personal injury accident while driving under
2 the influence of any intoxicating substance shall pay a DNA fee of
3 One Hundred Fifty Dollars (\$150.00). This fee shall not be
4 collected if the person has a valid DNA sample in the OSBI DNA
5 Offender Database at the time of sentencing.

6 2. The court clerk shall cause to be deposited the amount of
7 One Hundred Fifty Dollars (\$150.00) as collected for every felony
8 arrest, felony conviction or every conviction for a misdemeanor
9 offense of assault and battery, domestic abuse, stalking, possession
10 of a controlled substance prohibited under the Uniform Controlled
11 Dangerous Substances Act, outraging public decency, resisting
12 arrest, escaping or attempting to escape, eluding a police officer,
13 Peeping Tom, pointing a firearm, threatening an act of violence,
14 breaking and entering a dwelling place, destruction of property,
15 negligent homicide or causing a personal injury accident while
16 driving under the influence of any intoxicating substance as
17 described in this subsection. The court clerk shall remit the
18 monies in the fund on a monthly basis directly to the OSBI who shall
19 deposit the monies into the OSBI Revolving Fund provided for in
20 Section 150.19a of Title 74 of the Oklahoma Statutes for services
21 rendered or administered by the OSBI.

22 3. The monies from the DNA sample fee deposited into the OSBI
23 Revolving Fund shall be used for creating, staffing and maintaining
24

1 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)
2 Database.

3 ~~±~~ D. It shall be the responsibility of the court clerk to
4 account for and ensure the correctness and accuracy of payments made
5 to the state agencies identified in Sections 1313.2 through 1313.4
6 of this title. Payments made directly to an agency by the court
7 clerk as a result of different types of assessments and fees
8 pursuant to Sections 1313.2 through 1313.4 of this title shall be
9 made monthly to each state agency.

10 SECTION 32. AMENDATORY 22 O.S. 2021, Section 988.9, is
11 amended to read as follows:

12 Section 988.9. A. ~~Any offender sentenced to a community~~
13 ~~sentence pursuant to the Oklahoma Community Sentencing Act which~~
14 ~~requires supervision shall be required to pay a supervision fee.~~
15 ~~The supervising agency shall establish the fee amount, not to exceed~~
16 ~~Forty Dollars (\$40.00) per month, based upon the offender's ability~~
17 ~~to pay. In hardship cases the supervising agency may expressly~~
18 ~~waive all or part of the fee. No supervising agency participating~~
19 ~~in a local community sentencing system shall deny any offender~~
20 ~~supervision services for the sole reason that the offender is~~
21 ~~indigent. Fees collected for supervision services performed by the~~
22 ~~Department of Corrections shall be paid directly to the Department~~
23 ~~to be deposited in the Department of Corrections Revolving Fund.~~

24

1 ~~Supervision services performed by contracted providers other than~~
2 ~~the Department shall be paid directly to that contracted provider.~~

3 ~~B. In addition to any supervision fee, eligible~~ Eligible
4 offenders participating in a local community sentencing system under
5 a court-ordered community punishment shall be required to pay an
6 administrative fee to support the local system which shall not
7 exceed Twenty Dollars (\$20.00) per month to be set by the court.
8 Administrative fees when collected shall be deposited with the
9 Community Sentencing Division within the Department of Corrections
10 and credited to the local community sentencing system for support
11 and expansion of the local community corrections system. In the
12 event the court fails to order the amount of the administrative fee,
13 the fee shall be Twenty Dollars (\$20.00) per month.

14 ~~C. B.~~ B. In addition to any ~~supervision fee and~~ administrative fee
15 authorized by this section, the court shall assess court costs, and
16 may assess program reimbursement costs, restitution, and fines to be
17 paid by the offender. With the exception of supervision fees, other
18 fees, costs, fines, restitution, or monetary obligations ordered to
19 be paid by the offender shall not cease with the termination of
20 active supervision and such obligations shall continue until fully
21 paid and may be collected in the same manner as court costs.

22 SECTION 33. AMENDATORY 22 O.S. 2021, Section 991c, is
23 amended to read as follows:

24

1 Section 991c. A. Upon a verdict or plea of guilty or upon a
2 plea of nolo contendere, but before a judgment of guilt, the court
3 may, without entering a judgment of guilt and with the consent of
4 the defendant, defer further proceedings upon the specific
5 conditions prescribed by the court not to exceed a seven-year
6 period, except as authorized under subsection B of this section.
7 The court shall first consider restitution among the various
8 conditions it may prescribe. The court may also consider ordering
9 the defendant to:

10 1. Pay court costs;

11 2. Pay an assessment in lieu of any fine authorized by law for
12 the offense;

13 3. Pay any other assessment or cost authorized by law;

14 4. Engage in a term of community service without compensation,
15 according to a schedule consistent with the employment and family
16 responsibilities of the defendant;

17 5. County jail confinement for a period not to exceed ninety
18 (90) days or the maximum amount of jail time provided for the
19 offense, if it is less than ninety (90) days;

20 6. Pay an amount as reimbursement for reasonable attorney fees,
21 to be paid into the court fund, if a court-appointed attorney has
22 been provided to the defendant;

23 7. Be supervised in the community for a period not to exceed
24 eighteen (18) months, unless a petition alleging violation of any

1 condition of deferred judgment is filed during the period of
2 supervision. ~~As a condition of any supervision, the defendant shall~~
3 ~~be required to pay a supervision fee of Forty Dollars (\$40.00) per~~
4 ~~month. The supervision fee shall be waived in whole or part by the~~
5 ~~supervisory agency when the accused is indigent. Any fees collected~~
6 ~~by the district attorney pursuant to this paragraph shall be~~
7 ~~deposited in the General Revenue Fund of the State Treasury. No~~
8 ~~person shall be denied supervision based solely on the inability of~~
9 ~~the person to pay a fee;~~

10 8. ~~Pay into the court fund a monthly amount not exceeding Forty~~
11 ~~Dollars (\$40.00) per month during any period during which the~~
12 ~~proceedings are deferred when the defendant is not to be supervised~~
13 ~~in the community. The total amount to be paid into the court fund~~
14 ~~shall be established by the court and shall not exceed the amount of~~
15 ~~the maximum fine authorized by law for the offense;~~

16 9. ~~Make other reparations to the community or victim as~~
17 ~~required and deemed appropriate by the court;~~

18 ~~10.~~ 9. ~~Order any conditions which can be imposed for a~~
19 ~~suspended sentence pursuant to paragraph 1 of subsection A of~~
20 ~~Section 991a of this title; or~~

21 ~~11.~~ 10. ~~Any combination of the above provisions.~~

22 ~~However, unless under the supervision of the district attorney,~~
23 ~~the offender shall be required to pay Forty Dollars (\$40.00) per~~
24 ~~month to the district attorney during the first two (2) years of~~

1 ~~probation to compensate the district attorney for the costs incurred~~
2 ~~during the prosecution of the offender and for the additional work~~
3 ~~of verifying the compliance of the offender with the rules and~~
4 ~~conditions of his or her probation. The district attorney may waive~~
5 ~~any part of this requirement in the best interests of justice. The~~
6 ~~court shall not waive, suspend, defer or dismiss the costs of~~
7 ~~prosecution in its entirety. However, if the court determines that~~
8 ~~a reduction in the fine, costs and costs of prosecution is~~
9 ~~warranted, the court shall equally apply the same percentage~~
10 ~~reduction to the fine, costs and costs of prosecution owed by the~~
11 ~~offender. Any fees collected by the district attorney pursuant to~~
12 ~~this paragraph shall be deposited in the General Revenue Fund of the~~
13 ~~State Treasury.~~

14 B. When the court has ordered restitution as a condition of
15 supervision as provided for in subsection A of this section and that
16 condition has not been satisfied, the court may, at any time prior
17 to the termination or expiration of the supervision period, order an
18 extension of supervision for a period not to exceed three (3) years.

19 C. In addition to any conditions of supervision provided for in
20 subsection A of this section, the court shall, in the case of a
21 person before the court for the offense of operating or being in
22 control of a motor vehicle while the person was under the influence
23 of alcohol, other intoxicating substance, or a combination of
24 alcohol and another intoxicating substance, or who is before the

1 court for the offense of operating a motor vehicle while the ability
2 of the person to operate such vehicle was impaired due to the
3 consumption of alcohol, require the person to participate in an
4 alcohol and drug substance abuse evaluation program offered by a
5 facility or qualified practitioner certified by the Department of
6 Mental Health and Substance Abuse Services for the purpose of
7 evaluating the receptivity to treatment and prognosis of the person.
8 The court shall order the person to reimburse the facility or
9 qualified practitioner for the evaluation. The Department of Mental
10 Health and Substance Abuse Services shall establish a fee schedule,
11 based upon the ability of a person to pay, provided the fee for an
12 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
13 evaluation shall be conducted at a certified facility, the office of
14 a qualified practitioner or at another location as ordered by the
15 court. The facility or qualified practitioner shall, within
16 seventy-two (72) hours from the time the person is assessed, submit
17 a written report to the court for the purpose of assisting the court
18 in its determination of conditions for deferred sentence. No
19 person, agency or facility operating an alcohol and drug substance
20 abuse evaluation program certified by the Department of Mental
21 Health and Substance Abuse Services shall solicit or refer any
22 person evaluated pursuant to this subsection for any treatment
23 program or alcohol and drug substance abuse service in which the
24 person, agency or facility has a vested interest; however, this

1 provision shall not be construed to prohibit the court from ordering
2 participation in or any person from voluntarily utilizing a
3 treatment program or alcohol and drug substance abuse service
4 offered by such person, agency or facility. Any evaluation report
5 submitted to the court pursuant to this subsection shall be handled
6 in a manner which will keep the report confidential from review by
7 the general public. Nothing contained in this subsection shall be
8 construed to prohibit the court from ordering judgment and sentence
9 in the event the defendant fails or refuses to comply with an order
10 of the court to obtain the evaluation required by this subsection.
11 As used in this subsection, "qualified practitioner" means a person
12 with at least a bachelor's degree in substance abuse treatment,
13 mental health or a related health care field and at least two (2)
14 years of experience in providing alcohol abuse treatment, other drug
15 abuse treatment, or both alcohol and other drug abuse treatment who
16 is certified each year by the Department of Mental Health and
17 Substance Abuse Services to provide these assessments. However, any
18 person who does not meet the requirements for a qualified
19 practitioner as defined herein, but who has been previously
20 certified by the Department of Mental Health and Substance Abuse
21 Services to provide alcohol or drug treatment or assessments, shall
22 be considered a qualified practitioner provided all education,
23 experience and certification requirements stated herein are met by

24

1 September 1, 1995. The court may also require the person to
2 participate in one or both of the following:

3 1. An alcohol and drug substance abuse course, pursuant to
4 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

5 2. A victims impact panel program, as defined in subsection H
6 of Section 991a of this title, if such a program is offered in the
7 county where the judgment is rendered. The defendant shall be
8 required to pay a fee of Seventy-five Dollars (\$75.00) as set by the
9 governing authority of the program and approved by the court to the
10 victims impact panel program to offset the cost of participation by
11 the defendant, if in the opinion of the court the defendant has the
12 ability to pay such fee.

13 D. Upon completion of the conditions of the deferred judgment,
14 and upon a finding by the court that the conditions have been met
15 and all fines, fees, and monetary assessments have been paid as
16 ordered, the defendant shall be discharged without a court judgment
17 of guilt, and the court shall order the verdict or plea of guilty or
18 plea of nolo contendere to be expunged from the record and the
19 charge shall be dismissed with prejudice to any further action. The
20 procedure to expunge the record of the defendant shall be as
21 follows:

22 1. All references to the name of the defendant shall be deleted
23 from the docket sheet;

24

1 2. The public index of the filing of the charge shall be
2 expunged by deletion, mark-out or obliteration;

3 3. Upon expungement, the court clerk shall keep a separate
4 confidential index of case numbers and names of defendants which
5 have been obliterated pursuant to the provisions of this section;

6 4. No information concerning the confidential file shall be
7 revealed or released, except upon written order of a judge of the
8 district court or upon written request by the named defendant to the
9 court clerk for the purpose of updating the criminal history record
10 of the defendant with the Oklahoma State Bureau of Investigation;
11 and

12 5. Defendants qualifying under Section 18 of this title may
13 petition the court to have the filing of the indictment and the
14 dismissal expunged from the public index and docket sheet. This
15 section shall not be mutually exclusive of Section 18 of this title.

16 Records expunged pursuant to this subsection shall be sealed to
17 the public but not to law enforcement agencies for law enforcement
18 purposes. Records expunged pursuant to this subsection shall be
19 admissible in any subsequent criminal prosecution to prove the
20 existence of a prior conviction or prior deferred judgment without
21 the necessity of a court order requesting the unsealing of such
22 records.

23 E. The provisions of subsection D of this section shall be
24 retroactive.

1 F. Whenever a judgment has been deferred by the court according
2 to the provisions of this section, deferred judgment may not be
3 accelerated for any technical violation unless a petition setting
4 forth the grounds for such acceleration is filed by the district
5 attorney with the clerk of the sentencing court and competent
6 evidence justifying the acceleration of the judgment is presented to
7 the court at a hearing to be held for that purpose. The hearing
8 shall be held not more than twenty (20) days after the entry of the
9 plea of not guilty to the petition, unless waived by both the state
10 and the defendant. Any acceleration of a deferred sentence based on
11 a technical violation shall not exceed ninety (90) days for a first
12 acceleration or five (5) years for a second or subsequent
13 acceleration.

14 G. Upon any violation of the deferred judgment, other than a
15 technical violation, the court may enter a judgment of guilt and
16 proceed as provided in Section 991a of this title or may modify any
17 condition imposed. Provided, however, if the deferred judgment is
18 for a felony offense, and the defendant commits another felony
19 offense, the defendant shall not be allowed bail pending appeal.

20 H. The deferred judgment procedure described in this section
21 shall apply only to defendants who have not been previously
22 convicted of a felony offense and have not received more than one
23 deferred judgment for a felony offense within the ten (10) years
24 previous to the commission of the pending offense.

1 Provided, the court may waive this prohibition upon written
2 application of the district attorney. Both the application and the
3 waiver shall be made a part of the record of the case.

4 I. The deferred judgment procedure described in this section
5 shall not apply to defendants found guilty or who plead guilty or
6 nolo contendere to a sex offense required by law to register
7 pursuant to the Sex Offenders Registration Act.

8 J. All defendants who are supervised pursuant to this section
9 shall be subject to the sanction process as established in
10 subsection D of Section 991b of this title.

11 K. Notwithstanding the provisions of subsections F and G of
12 this section, a person who is being considered for an acceleration
13 of a deferred judgment for an offense where the penalty has
14 subsequently been lowered to a misdemeanor shall only be subject to
15 a judgment and sentence that would have been applicable had he or
16 she committed the offense after July 1, 2017.

17 SECTION 34. AMENDATORY 22 O.S. 2021, Section 991d, is
18 amended to read as follows:

19 Section 991d. A. ~~1. When the court orders supervision by the~~
20 ~~Department of Corrections, or the district attorney requires the~~
21 ~~Department to supervise any person pursuant to a deferred~~
22 ~~prosecution agreement, the person shall be required to pay a~~
23 ~~supervision fee of Forty Dollars (\$40.00) per month during the~~
24 ~~supervision period, unless the fee would impose an unnecessary~~

1 ~~hardship on the person. In hardship cases, the Department shall~~
2 ~~expressly waive all or part of the fee. The court shall make~~
3 ~~payment of the fee a condition of the sentence which shall be~~
4 ~~imposed whether the supervision is incident to the suspending of~~
5 ~~execution of a sentence, incident to the suspending of imposition of~~
6 ~~a sentence, or incident to the deferral of proceedings after a~~
7 ~~verdict or plea of guilty. The Department shall determine methods~~
8 ~~for payment of supervision fee, and may charge a reasonable user fee~~
9 ~~for collection of supervision fees electronically. The Department~~
10 ~~is required to report to the sentencing court any failure of the~~
11 ~~person to pay supervision fees and to report immediately if the~~
12 ~~person violates any condition of the sentence.~~

13 ~~2. When the court imposes a suspended or deferred sentence for~~
14 ~~any offense and does not order supervision by the Department of~~
15 ~~Corrections, the offender shall be required to pay to the district~~
16 ~~attorney a supervision fee of Forty Dollars (\$40.00) per month as a~~
17 ~~fee to compensate the district attorney for the actual act of~~
18 ~~supervising the offender during the applicable period of~~
19 ~~supervision. In hardship cases, the district attorney shall~~
20 ~~expressly waive all or part of the fee. Any fees collected by the~~
21 ~~district attorney pursuant to this paragraph shall be deposited in~~
22 ~~the General Revenue Fund of the State Treasury.~~

23 ~~3. If restitution is ordered by the court in conjunction with~~
24 ~~supervision, the supervision fee will be paid in addition to the~~

1 ~~restitution ordered. In addition to the restitution payment and~~
2 ~~supervision fee, a reasonable user fee may be charged by the~~
3 Department of Corrections to cover the expenses of administration of
4 the restitution, except no user fee shall be collected by the
5 Department when restitution payment is collected and disbursed to
6 the victim by the office of the district attorney as provided in
7 Section 991f of this title or Section 991f-1.1 of this title.

8 B. ~~The Pardon and Parole Board shall require a supervision fee~~
9 ~~to be paid by the parolee as a condition of parole which shall be~~
10 ~~paid to the Department of Corrections. The Department shall~~
11 ~~determine the amount of the fee as provided for other persons under~~
12 ~~supervision by the Department.~~

13 C. ~~Upon acceptance of an offender by the Department of~~
14 ~~Corrections whose probation or parole supervision was transferred to~~
15 ~~Oklahoma through the Interstate Compact Agreement, or upon the~~
16 ~~assignment of an inmate to any community placement, a fee shall be~~
17 ~~required to be paid by the offender to the Department of Corrections~~
18 ~~as provided for other persons under supervision of the Department.~~

19 ~~D.~~ Except as provided in subsection A and this subsection, all
20 fees collected pursuant to this section shall be deposited in the
21 Department of Corrections Revolving Fund created pursuant to Section
22 557 of Title 57 of the Oklahoma Statutes. For the fiscal year
23 ending June 30, 1996, fifty percent (50%) of all collections
24 received from offenders placed on supervision after July 1, 1995,

1 shall be transferred to the credit of the General Revenue Fund of
2 the State Treasury until such time as total transfers equal Three
3 Million Three Hundred Thousand Dollars (\$3,300,000.00).

4 SECTION 35. AMENDATORY 28 O.S. 2021, Section 153, is
5 amended to read as follows:

6 Section 153. A. The clerks of the courts shall collect as
7 costs in every criminal case for each offense of which the defendant
8 is convicted, irrespective of whether or not the sentence is
9 deferred, the following flat charges and no more, except for
10 standing and parking violations and for charges otherwise provided
11 for by law, which fee shall cover docketing of the case, filing of
12 all papers, issuance of process, warrants, orders, and other
13 services to the date of judgment:

- 14 1. For each defendant convicted of
15 exceeding the speed limit by at least
16 one (1) mile per hour but not more than
17 ten (10) miles per hour, whether charged
18 individually or conjointly with others\$77.00
- 19 2. For each defendant convicted of a
20 misdemeanor traffic violation other than
21 an offense provided for in paragraph 1
22 or 5 of this subsection, whether charged
23 individually or conjointly with others\$98.00

24

- 1 3. For each defendant convicted of a
2 misdemeanor, other than for driving
3 under the influence of alcohol or other
4 intoxicating substance or an offense
5 provided for in paragraph 1 or 2 of this
6 subsection, whether charged individually
7 or conjointly with others\$93.00
- 8 4. For each defendant convicted of a
9 felony, other than for driving under the
10 influence of alcohol or other
11 intoxicating substance, whether charged
12 individually or conjointly with others\$103.00
- 13 5. For each defendant convicted of the
14 misdemeanor of driving under the influence
15 of alcohol or other intoxicating substance,
16 whether charged individually or conjointly
17 with others \$433.00
- 18 6. For each defendant convicted of the
19 felony of driving under the influence of
20 alcohol or other intoxicating substance,
21 whether charged individually or
22 conjointly with others\$433.00
- 23
24

1 7. For the services of a court reporter at
 2 each preliminary hearing and trial held
 3 in the case\$20.00

4 8. For each time a jury is requested.....\$30.00

5 9. A sheriff's fee for serving or
 6 endeavoring to serve each writ, warrant,
 7 order, process, command, or notice or
 8 pursuing any fugitive from justice
 9 a. within the county..... \$50.00, or

10 mileage as
 11 established by the
 12 Oklahoma Statutes,
 13 whichever is
 14 greater, or

15 b. outside of the county..... \$50.00, or
 16 actual, necessary
 17 expenses, whichever
 18 is greater

19 10. For the services of a language interpreter, other than an
 20 interpreter appointed pursuant to the provisions of the Oklahoma
 21 Legal Interpreter for the Deaf and Hard-of-Hearing Act, at each
 22 hearing held in the case, the actual cost of the interpreter.

23 B. In addition to the amount collected pursuant to paragraphs 2
 24 through 6 of subsection A of this section, the sum of Six Dollars

1 (\$6.00) shall be assessed and credited to the Law Library Fund
2 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
3 Statutes.

4 C. In addition to the amount collected pursuant to subsection A
5 of this section, the sum of Twenty Dollars (\$20.00) shall be
6 assessed and collected in every traffic case for each offense other
7 than for driving under the influence of alcohol or other
8 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
9 assessed and collected in every misdemeanor case for each offense;
10 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
11 in every misdemeanor case for each offense for driving under the
12 influence of alcohol or other intoxicating substance; the sum of
13 Fifty Dollars (\$50.00) shall be assessed and collected in every
14 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
15 shall be assessed and collected in every felony case for each
16 offense for driving under the influence of alcohol or other
17 intoxicating substance.

18 D. In addition to the amounts collected pursuant to subsections
19 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
20 shall be assessed and credited to the Oklahoma Court Information
21 System Revolving Fund created pursuant to Section 1315 of Title 20
22 of the Oklahoma Statutes.

23 E. In addition to the amount collected pursuant to paragraphs 1
24 through 6 of subsection A of this section, the sum of Ten Dollars

1 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
2 Account in the county in which the conviction occurred for the
3 purpose of enhancing existing or providing additional courthouse
4 security.

5 ~~F. In addition to the amounts collected pursuant to paragraphs
6 1 through 6 of subsection A of this section, the sum of Three
7 Dollars (\$3.00) shall be assessed and credited to the Office of the
8 Attorney General Victim Services Unit.~~

9 ~~G. In addition to the amounts collected pursuant to paragraphs
10 1 through 6 of subsection A of this section, the sum of Three
11 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
12 Multidisciplinary Account. This fee shall not be used for purposes
13 of hiring or employing any law enforcement officers.~~

14 ~~H. In addition to the amount collected pursuant to paragraphs 5
15 and 6 of subsection A of this section, the sum of Fifteen Dollars
16 (\$15.00) shall be assessed in every misdemeanor or felony case for
17 each offense of driving under the influence of alcohol or other
18 intoxicating substance and credited to the Oklahoma Impaired Driver
19 Database Revolving Fund created pursuant to Section 8 of Enrolled
20 House Bill No. 3146 of the 2nd Session of the 55th Oklahoma
21 Legislature.~~

22 ~~I. Prior to conviction, parties in criminal cases shall not be
23 required to pay, advance, or post security for the services of a~~
24

1 language interpreter or for the issuance or service of process to
2 obtain compulsory attendance of witnesses.

3 ~~J.~~ G. The amounts to be assessed as court costs upon filing of
4 a case shall be those amounts above-stated in paragraph 3 or 4 of
5 subsection A and subsections B, C, D and E of this section.

6 ~~K.~~ H. The fees collected pursuant to this section shall be
7 deposited into the court fund, except the following:

8 1. A court clerk issuing a misdemeanor warrant is entitled to
9 ten percent (10%) of the sheriff's service fee, provided for in
10 paragraph 9 of subsection A of this section, collected on a warrant
11 referred to the contractor for the misdemeanor warrant notification
12 program governed by Sections 514.4 and 514.5 of Title 19 of the
13 Oklahoma Statutes. This ten-percent sum shall be deposited into the
14 issuing Court Clerk's Revolving Fund, created pursuant to Section
15 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
16 the warrant with the balance of the sheriff's service fee to be
17 deposited into the Sheriff's Service Fee Account, created pursuant
18 to the provisions of Section 514.1 of Title 19 of the Oklahoma
19 Statutes, of the sheriff in the county in which service is made or
20 attempted. Otherwise, the sheriff's service fee, when collected,
21 shall be deposited in its entirety into the Sheriff's Service Fee
22 Account of the sheriff in the county in which service is made or
23 attempted;

24

1 2. The sheriff's fee provided for in Section 153.2 of this
2 title;

3 3. The witness fees paid by the district attorney pursuant to
4 the provisions of Section 82 of this title which, if collected by
5 the court clerk, shall be transferred to the district attorney's
6 office in the county where witness attendance was required. Fees
7 transferred pursuant to this paragraph shall be deposited in the
8 district attorney's maintenance and operating expense account;

9 4. The fees provided for in subsection C of this section shall
10 be forwarded to the District Attorneys Council Revolving Fund to
11 defray the costs of prosecution; and

12 5. The following amounts of the fees provided for in paragraphs
13 2, 3, 5 and 6 of subsection A of this section, when collected, shall
14 be deposited in the Trauma Care Assistance Revolving Fund, created
15 pursuant to the provisions of Section 1-2530.9 of Title 63 of the
16 Oklahoma Statutes:

17 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee
18 provided for in paragraph 2 of subsection A of this
19 section,

20 b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee
21 provided for in paragraph 3 of subsection A of this
22 section,

23

24

1 c. One Hundred Dollars (\$100.00) of the Four-Hundred-
2 Thirty-three-Dollar fee provided for in paragraph 5 of
3 subsection A of this section, and

4 d. One Hundred Dollars (\$100.00) of the Four-Hundred-
5 Thirty-three-Dollar fee provided for in paragraph 6 of
6 subsection A of this section.

7 ~~H.~~ I. Costs required to be collected pursuant to this section
8 shall not be dismissed or waived; provided, if the court determines
9 that a person needing the services of a language interpreter is
10 indigent, the court may waive all or part of the costs or require
11 the payment of costs in installments.

12 ~~M.~~ J. As used in this section, "convicted" means any final
13 adjudication of guilt, whether pursuant to a plea of guilty or nolo
14 contendere or otherwise, and any deferred judgment or suspended
15 sentence.

16 ~~N.~~ K. A court clerk may accept in payment for any fee, fine,
17 forfeiture payment, cost, penalty assessment or other charge or
18 collection to be assessed or collected by a court clerk pursuant to
19 this section a nationally recognized credit card or debit card or
20 other electronic payment method as provided in paragraph 1 of
21 subsection B of Section 151 of this title.

22 ~~O.~~ L. Upon receipt of payment of fines and costs for offenses
23 charged prior to July 1, 1992, the court clerk shall apportion and
24 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

1 SECTION 36. AMENDATORY 29 O.S. 2021, Section 9-114, is
2 amended to read as follows:

3 Section 9-114. A. 1. In addition to any other penalties
4 provided for in the Wildlife Bail Procedure Act or any other
5 applicable law, when a person fails to comply with a wildlife
6 citation or a sentence for a violation of wildlife laws or rules,
7 the district court which has jurisdiction of the citation or which
8 issued the sentence shall mail a notice to the person informing them
9 that if they do not appear in the district court or pay all fines,
10 court costs, assessments or fees, and any penalties imposed within
11 thirty (30) days from the date of mailing, the ~~Oklahoma~~ Department
12 of Wildlife Conservation shall be notified to begin procedures to
13 forfeit or suspend any license, permit, stamp or other issue of the
14 Department held by the person.

15 2. Upon receipt of a report from a district court of a failure
16 to comply with a wildlife citation or sentence as set forth in
17 paragraph 1 of this subsection the Department shall suspend or
18 forfeit the license, permit, stamp or other issue of the Department
19 held by the person until satisfactory evidence of compliance with
20 the wildlife citation or sentence of the district court is furnished
21 to the Department by the district court. Upon receipt of
22 notification of compliance from the district court, the Department
23 shall terminate the suspension action, unless the suspension is
24 otherwise required.

1 ~~B. Except as provided for in subsection C of this section, when~~
2 ~~the district court notifies the Department of Wildlife Conservation~~
3 ~~of a failure to comply with a wildlife citation or failure to comply~~
4 ~~with a sentence of the district, the court shall assess a~~
5 ~~reinstatement fee of Fifty Dollars (\$50.00) for each charge or~~
6 ~~sentence on which the person failed to make satisfaction, regardless~~
7 ~~of the disposition of the charge for which the citation was~~
8 ~~originally issued. The reinstatement fee shall be in addition to~~
9 ~~any fine, court costs and other assessments, fees or penalties. The~~
10 ~~district court shall remit all reinstatement fees to the Department~~
11 ~~in accordance with the provisions of state law. The Department~~
12 ~~shall deposit the entire amount of each reinstatement fee in the~~
13 ~~Wildlife General Fund.~~

14 ~~C. The district court shall waive the reinstatement fee~~
15 ~~provided for in subsection B of this section if the failure to~~
16 ~~comply with a wildlife citation was the result of the person~~
17 ~~enlisting in or being drafted into the armed services of the United~~
18 ~~States of America, being called into service as a member of a~~
19 ~~reserve component of the military service of the United States of~~
20 ~~America, volunteering for active duty or being called into service~~
21 ~~as a member of the Oklahoma National Guard or volunteering for~~
22 ~~active duty and being absent from Oklahoma because of military~~
23 ~~service.~~

24

1 ~~D.~~ A person whose privileges have been suspended as provided
2 for in this section and who hunts, traps or fishes in this state,
3 who applies for or purchases any license or permit to hunt, trap, or
4 fish in this state, or who refuses to surrender any current hunting,
5 trapping or fishing licenses as required pursuant to this section
6 shall be deemed guilty of a misdemeanor and shall be fined not less
7 than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars
8 (\$500.00).

9 SECTION 37. AMENDATORY 63 O.S. 2021, Section 2-401, is
10 amended to read as follows:

11 Section 2-401. A. Except as authorized by the Uniform
12 Controlled Dangerous Substances Act, it shall be unlawful for any
13 person:

14 1. To distribute, dispense, transport with intent to distribute
15 or dispense, possess with intent to manufacture, distribute, or
16 dispense, a controlled dangerous substance or to solicit the use of
17 or use the services of a person less than eighteen (18) years of age
18 to cultivate, distribute or dispense a controlled dangerous
19 substance;

20 2. To create, distribute, transport with intent to distribute
21 or dispense, or possess with intent to distribute, a counterfeit
22 controlled dangerous substance; or

23 3. To distribute any imitation controlled substance as defined
24 by Section 2-101 of this title, except when authorized by the Food

1 and Drug Administration of the United States Department of Health
2 and Human Services.

3 B. Any person who violates the provisions of this section with
4 respect to:

5 1. A substance classified in Schedule I or II, except for
6 marijuana, upon conviction, shall be guilty of transporting or
7 possessing with an intent to distribute a controlled dangerous
8 substance, a felony, and shall be sentenced to a term of
9 imprisonment in the custody of the Department of Corrections for not
10 more than seven (7) years and a fine ~~of~~ not more than One Hundred
11 Thousand Dollars (\$100,000.00), which shall be in addition to other
12 punishment provided by law and shall not be imposed in lieu of other
13 punishment. A second conviction for the violation of provisions of
14 this paragraph is a felony punishable by a term of imprisonment in
15 the custody of the Department of Corrections for not more than
16 fourteen (14) years. A third or subsequent conviction for the
17 violation of the provisions of this paragraph is a felony punishable
18 by a term of imprisonment in the custody of the Department of
19 Corrections for not more than twenty (20) years;

20 2. Any other controlled dangerous substance classified in
21 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
22 of a felony and shall be sentenced to a term of imprisonment in the
23 custody of the Department of Corrections for not more than five (5)
24 years and a fine ~~of~~ not more than Twenty Thousand Dollars

1 (\$20,000.00), which shall be in addition to other punishment
2 provided by law and shall not be imposed in lieu of other
3 punishment. A second conviction for the violation of the provisions
4 of this paragraph is a felony punishable by a term of imprisonment
5 in the custody of the Department of Corrections for not more than
6 ten (10) years. A third or subsequent conviction for the violation
7 of the provisions of this paragraph is a felony punishable by a term
8 of imprisonment in the custody of the Department of Corrections for
9 not more than fifteen (15) years; or

10 3. An imitation controlled substance as defined by Section 2-
11 101 of this title, upon conviction, shall be guilty of a misdemeanor
12 and shall be sentenced to a term of imprisonment in the county jail
13 for a period ~~of~~ not more than one (1) year and a fine ~~of~~ not more
14 than One Thousand Dollars (\$1,000.00). A person convicted of a
15 second violation of the provisions of this paragraph shall be guilty
16 of a felony and shall be sentenced to a term of imprisonment in the
17 custody of the Department of Corrections for not more than two (2)
18 years and a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00),
19 which shall be in addition to other punishment provided by law and
20 shall not be imposed in lieu of other punishment.

21 C. 1. Except when authorized by the Food and Drug
22 Administration of the United States Department of Health and Human
23 Services, it shall be unlawful for any person to manufacture or
24 distribute a controlled substance or synthetic controlled substance.

1 2. Any person convicted of violating the provisions of
2 paragraph 1 of this subsection with respect to distributing a
3 controlled substance is guilty of a felony and shall be punished by
4 imprisonment in the custody of the Department of Corrections for a
5 term not to exceed ten (10) years and a fine ~~of~~ not more than
6 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
7 addition to other punishment provided by law and shall not be
8 imposed in lieu of other punishment.

9 3. A second conviction for the violation of the provisions of
10 paragraph 1 of this subsection with respect to distributing a
11 controlled substance is a felony punishable by imprisonment in the
12 custody of the Department of Corrections for a term not less than
13 two (2) years nor more than twenty (20) years. A third or
14 subsequent conviction for the violation of the provisions of this
15 paragraph is a felony punishable by imprisonment in the custody of
16 the Department of Corrections for a term not less than ten (10)
17 years nor more than life.

18 4. Any person convicted of violating the provisions of
19 paragraph 1 of this subsection with respect to manufacturing a
20 controlled substance is guilty of a felony and shall be punished by
21 imprisonment in the custody of the Department of Corrections for a
22 term not to exceed ten (10) years and a fine ~~of~~ not more than
23 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
24

1 addition to other punishment provided by law and shall not be
2 imposed in lieu of other punishment.

3 5. A second conviction for the violation of the provisions of
4 paragraph 1 of this subsection with respect to manufacturing a
5 controlled substance is a felony punishable by imprisonment in the
6 custody of the Department of Corrections for a term not less than
7 two (2) years nor more than twenty (20) years. A third or
8 subsequent conviction for the violation of the provisions of this
9 paragraph is a felony punishable by imprisonment in the custody of
10 the Department of Corrections for a term not less than ten (10)
11 years nor more than life.

12 D. Convictions for violations of the provisions of this section
13 shall be subject to the statutory provisions for suspended or
14 deferred sentences, or probation as provided in Section 991a of
15 Title 22 of the Oklahoma Statutes.

16 E. Any person who is at least eighteen (18) years of age and
17 who violates the provisions of this section by using or soliciting
18 the use of services of a person less than eighteen (18) years of age
19 to distribute, dispense, transport with intent to distribute or
20 dispense or cultivate a controlled dangerous substance or by
21 distributing a controlled dangerous substance to a person under
22 eighteen (18) years of age, or in the presence of a person under
23 twelve (12) years of age, is punishable by:

24

1 1. For a first violation of this section, a term of
2 imprisonment in the custody of the Department of Corrections not
3 less than two (2) years nor more than ten (10) years;

4 2. For a second violation of this section, a term of
5 imprisonment in the custody of the Department of Corrections for not
6 less than four (4) years nor more than twenty (20) years; or

7 3. For a third or subsequent violation of this section, a term
8 of imprisonment in the custody of the Department of Corrections for
9 not less than ten (10) years nor more than life.

10 F. Any person who violates any provision of this section by
11 transporting with intent to distribute or dispense, distributing or
12 possessing with intent to distribute a controlled dangerous
13 substance to a person, or violation of subsection G of this section,
14 in or on, or within two thousand (2,000) feet of the real property
15 comprising a public or private elementary or secondary school,
16 public vocational school, public or private college or university,
17 or other institution of higher education, recreation center or
18 public park, including state parks and recreation areas, public
19 housing project, or child care facility as defined by Section 402 of
20 Title 10 of the Oklahoma Statutes, shall be punished by:

21 1. For a first offense, a term of imprisonment in the custody
22 of the Department of Corrections, or by the imposition of a fine or
23 by both, not exceeding twice that authorized by the appropriate
24 provision of this section; or

1 2. For a second or subsequent violation of this section, a term
2 of imprisonment in the custody of the Department of Corrections, or
3 by the imposition of a fine or by both, not exceeding thrice that
4 authorized by the appropriate provision of this section.

5 Convictions for second and subsequent violations of the provisions
6 of this section shall not be subject to statutory provisions of
7 suspended sentences, deferred sentences or probation.

8 G. 1. Except as authorized by the Uniform Controlled Dangerous
9 Substances Act, it shall be unlawful for any person to manufacture
10 or attempt to manufacture any controlled dangerous substance or
11 possess any substance listed in Section 2-322 of this title or any
12 substance containing any detectable amount of pseudoephedrine or its
13 salts, optical isomers or salts of optical isomers, iodine or its
14 salts, optical isomers or salts of optical isomers, hydriodic acid,
15 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or
16 organic solvents with the intent to use that substance to
17 manufacture a controlled dangerous substance.

18 2. Any person violating the provisions of this subsection with
19 respect to the unlawful manufacturing or attempting to unlawfully
20 manufacture any controlled dangerous substance, or possessing any
21 substance listed in this subsection or Section 2-322 of this title,
22 upon conviction, is guilty of a felony and shall be punished by
23 imprisonment for not less than seven (7) years nor more than life
24 and by a fine ~~of~~ not less than Fifty Thousand Dollars (\$50,000.00),

1 which shall be in addition to other punishment provided by law and
2 shall not be imposed in lieu of other punishment. The possession of
3 any amount of anhydrous ammonia in an unauthorized container shall
4 be prima facie evidence of intent to use such substance to
5 manufacture a controlled dangerous substance.

6 3. Any person violating the provisions of this subsection with
7 respect to the unlawful manufacturing or attempting to unlawfully
8 manufacture any controlled dangerous substance in the following
9 amounts:

10 a. one (1) kilogram or more of a mixture or substance
11 containing a detectable amount of heroin,

12 b. five (5) kilograms or more of a mixture or substance
13 containing a detectable amount of:

14 (1) coca leaves, except coca leaves and extracts of
15 coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed,

18 (2) cocaine, its salts, optical and geometric
19 isomers, and salts of isomers,

20 (3) ecgonine, its derivatives, their salts, isomers,
21 and salts of isomers, or

22 (4) any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24

1 referred to in divisions (1) through (3) of this
2 subparagraph,

3 c. fifty (50) grams or more of a mixture or substance
4 described in division (2) of subparagraph b of this
5 paragraph which contains cocaine base,

6 d. one hundred (100) grams or more of phencyclidine (PCP)
7 or 1 kilogram or more of a mixture or substance
8 containing a detectable amount of phencyclidine (PCP),

9 e. ten (10) grams or more of a mixture or substance
10 containing a detectable amount of lysergic acid
11 diethylamide (LSD),

12 f. four hundred (400) grams or more of a mixture or
13 substance containing a detectable amount of N-phenyl-
14 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100
15 grams or more of a mixture or substance containing a
16 detectable amount of any analogue of N-phenyl-N-[1-(2-
17 phenylethyl)-4-piperidinyl] propanamide,

18 g. one thousand (1,000) kilograms or more of a mixture or
19 substance containing a detectable amount of ~~marihuana~~
20 marijuana or one thousand (1000) or more ~~marihuana~~
21 marijuana plants regardless of weight, or

22 h. fifty (50) grams or more of methamphetamine, its
23 salts, isomers, and salts of its isomers or 500 grams
24 or more of a mixture or substance containing a

1 detectable amount of methamphetamine, its salts,
2 isomers, or salts of its isomers,
3 upon conviction, is guilty of aggravated manufacturing a controlled
4 dangerous substance punishable by imprisonment for not less than
5 twenty (20) years nor more than life and by a fine ~~of~~ not less than
6 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
7 other punishment provided by law and shall not be imposed in lieu of
8 other punishment. Any person convicted of a violation of the
9 provisions of this paragraph shall be required to serve a minimum of
10 eighty-five percent (85%) of the sentence received prior to becoming
11 eligible for state correctional earned credits towards the
12 completion of the sentence or eligible for parole.

13 4. Any sentence to the custody of the Department of Corrections
14 for any violation of paragraph 3 of this subsection shall not be
15 subject to statutory provisions for suspended sentences, deferred
16 sentences, or probation. A person convicted of a second or
17 subsequent violation of the provisions of paragraph 3 of this
18 subsection shall be punished as a habitual offender pursuant to
19 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be
20 required to serve a minimum of eighty-five percent (85%) of the
21 sentence received prior to becoming eligible for state correctional
22 earned credits or eligibility for parole.

23 5. Any person who has been convicted of manufacturing or
24 attempting to manufacture methamphetamine pursuant to the provisions

1 of this subsection and who, after such conviction, purchases or
2 attempts to purchase, receive or otherwise acquire any product,
3 mixture, or preparation containing any detectable quantity of base
4 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
5 felony punishable by imprisonment in the custody of the Department
6 of Corrections for a term in the range of twice the minimum term
7 provided for in paragraph 2 of this subsection.

8 H. Any person convicted of any offense described in the Uniform
9 Controlled Dangerous Substances Act may, in addition to the fine
10 imposed, be assessed an amount not to exceed ten percent (10%) of
11 the fine imposed. Such assessment shall be paid into a revolving
12 fund for enforcement of controlled dangerous substances created
13 pursuant to Section 2-506 of this title.

14 ~~I. Any person convicted of any offense described in this~~
15 ~~section shall, in addition to any fine imposed, pay a special~~
16 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
17 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
18 ~~Section 1-2522 of this title.~~

19 ~~J.~~ For purposes of this section, "public housing project" means
20 any dwelling or accommodations operated as a state or federally
21 subsidized multifamily housing project by any housing authority,
22 nonprofit corporation or municipal developer or housing projects
23 created pursuant to the Oklahoma Housing Authorities Act.

24

1 ~~K. J. When a person is found guilty of a violation of the~~
2 ~~provisions of this section, the court shall order, in addition to~~
3 ~~any other penalty, the defendant to pay a one hundred dollar~~
4 ~~assessment to be deposited in the Drug Abuse Education and Treatment~~
5 ~~Revolving Fund created in Section 2-503.2 of this title, upon~~
6 ~~collection.~~

7 ~~H.~~ Any person convicted of a second or subsequent felony
8 violation of the provisions of this section, except for paragraphs 1
9 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of
10 subsection C of this section, paragraphs 1, 2, and 3 of subsection E
11 of this section and paragraphs 1 and 2 of subsection F of this
12 section, shall be punished as a habitual offender pursuant to
13 Section 51.1 of Title 21 of the Oklahoma Statutes.

14 SECTION 38. AMENDATORY 63 O.S. 2021, Section 2-402, as
15 last amended by Section 1, Chapter 220, O.S.L. 2016, is amended to
16 read as follows:

17 Section 2-402. A. 1. It shall be unlawful for any person
18 knowingly or intentionally to possess a controlled dangerous
19 substance unless such substance was obtained directly, or pursuant
20 to a valid prescription or order from a practitioner, while acting
21 in the course of his or her professional practice, or except as
22 otherwise authorized by this act.

23 2. It shall be unlawful for any person to purchase any
24 preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

4 3. It shall be unlawful for any person or business to sell,
5 market, advertise or label any product containing ephedrine, its
6 salts, optical isomers, or salts of optical isomers, for the
7 indication of stimulation, mental alertness, weight loss, appetite
8 control, muscle development, energy or other indication which is not
9 approved by the pertinent federal OTC Final Monograph, Tentative
10 Final Monograph, or FDA-approved new drug application or its legal
11 equivalent. In determining compliance with this requirement, the
12 following factors shall be considered:

- 13 a. the packaging of the product,
- 14 b. the name of the product, and
- 15 c. the distribution and promotion of the product,
16 including verbal representations made at the point of
17 sale.

18 B. Any person who violates this section with respect to:

- 19 1. Any Schedule I or II substance, except marijuana or a
20 substance included in subsection D of Section 2-206 of this title,
21 is guilty of a felony punishable by imprisonment for not more than
22 five (5) years and by a fine not exceeding Five Thousand Dollars
23 (\$5,000.00). A second violation of this section with respect to a
24 Schedule I or II substance, except marijuana or a substance included

1 in subsection D of Section 2-206 of this title, is a felony
2 punishable by imprisonment for not more than ten (10) years and by a
3 fine not exceeding Ten Thousand Dollars (\$10,000.00). A third or
4 subsequent violation of this section with respect to a Schedule I or
5 II substance, except marijuana or a substance included in subsection
6 D of Section 2-206 of this title, is a felony punishable by
7 imprisonment for not less than four (4) years nor more than fifteen
8 (15) years and by a fine not exceeding Ten Thousand Dollars
9 (\$10,000.00);

10 2. Any Schedule III, IV or V substance, marijuana, a substance
11 included in subsection D of Section 2-206 of this title, or any
12 preparation excepted from the provisions of the Uniform Controlled
13 Dangerous Substances Act is guilty of a misdemeanor punishable by
14 confinement for not more than one (1) year and by a fine not
15 exceeding One Thousand Dollars (\$1,000.00);

16 3. Any Schedule III, IV or V substance, marijuana, a substance
17 included in subsection D of Section 2-206 of this title, or any
18 preparation excepted from the provisions of the Uniform Controlled
19 Dangerous Substances Act and who, during the period of any court-
20 imposed probationary term or within ten (10) years of the date
21 following the completion of the execution of any sentence or
22 deferred judgment for a violation of this section, commits a second
23 or subsequent violation of this section shall, upon conviction, be
24 guilty of a felony punishable by imprisonment in the custody of the

1 Department of Corrections for not less than one (1) year nor more
2 than five (5) years and by a fine not exceeding Five Thousand
3 Dollars (\$5,000.00); or

4 4. Any Schedule III, IV or V substance, marijuana, a substance
5 included in subsection D of Section 2-206 of this title, or any
6 preparation excepted from the provisions of the Uniform Controlled
7 Dangerous Substances Act and who, ten (10) or more years following
8 the date of completion of the execution of any sentence or deferred
9 judgment for a violation of this section, commits a second or
10 subsequent violation of this section shall, upon conviction, be
11 guilty of a felony punishable by imprisonment in the custody of the
12 Department of Corrections for not less than one (1) year nor more
13 than five (5) years and by a fine not exceeding Five Thousand
14 Dollars (\$5,000.00).

15 C. Any person who violates any provision of this section by
16 possessing or purchasing a controlled dangerous substance from any
17 person, in or on, or within one thousand (1,000) feet of the real
18 property comprising a public or private elementary or secondary
19 school, public vocational school, public or private college or
20 university, or other institution of higher education, recreation
21 center or public park, including state parks and recreation areas,
22 or in the presence of any child under twelve (12) years of age,
23 shall be guilty of a felony and punished by:

24

1 1. For a first offense, a term of imprisonment, or by the
2 imposition of a fine, or by both, not exceeding twice that
3 authorized by the appropriate provision of this section. In
4 addition, the person shall serve a minimum of fifty percent (50%) of
5 the sentence received prior to becoming eligible for state
6 correctional institution earned credits toward the completion of
7 ~~said~~ the sentence; or

8 2. For a second or subsequent offense, a term of imprisonment
9 not exceeding three times that authorized by the appropriate
10 provision of this section and the person shall serve a minimum of
11 ninety percent (90%) of the sentence received prior to becoming
12 eligible for state correctional institution earned credits toward
13 the completion of ~~said~~ the sentence, and imposition of a fine not
14 exceeding Ten Thousand Dollars (\$10,000.00).

15 ~~D. Any person convicted of any offense described in this~~
16 ~~section shall, in addition to any fine imposed, pay a special~~
17 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
18 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
19 ~~Section 1-2530.9 of this title.~~

20 SECTION 39. AMENDATORY 63 O.S. 2021, Section 2-404, is
21 amended to read as follows:

22 Section 2-404. A. It shall be unlawful for any person:

23 1. Who is subject to the requirements of ~~Article III of this~~
24 ~~act~~ Section 2-301 et seq. of this title to distribute or dispense a

1 controlled dangerous substance in violation of Section 2-308 of this
2 title;

3 2. Who is a registrant to manufacture, distribute, or dispense
4 a controlled dangerous substance not authorized by his registration
5 to another registrant or other authorized person;

6 3. To omit, remove, alter, or obliterate a symbol required by
7 the Federal Controlled Substances Act or ~~this act~~ Section 2-101 et
8 seq. of this title;

9 4. To refuse or fail to make, keep, or furnish any record,
10 notification, order form, statement, invoice, or information
11 required under ~~this act~~ Section 2-101 et seq. of this title;

12 5. To refuse any entry into any premises or inspection
13 authorized by ~~this act~~ Section 2-101 et seq. of this title; or

14 6. To keep or maintain any store, shop, warehouse, dwelling
15 house, building, vehicle, boat, aircraft, or any place whatever,
16 which is resorted to by persons using controlled dangerous
17 substances in violation of ~~this act~~ Section 2-101 et seq. of this
18 title for the purpose of using such substances, or which is used for
19 the keeping or selling of the same in violation of ~~this act~~ Section
20 2-101 et seq. of this title.

21 B. Any person who violates this section is punishable by a
22 civil fine ~~of~~ not more than One Thousand Dollars (\$1,000.00);
23 provided, that, if the violation is prosecuted by an information or
24 indictment which alleges that the violation was committed knowingly

1 or intentionally, and the trier of fact specifically finds that the
2 violation was committed knowingly or intentionally, such person is
3 guilty of a felony punishable by imprisonment for not more than five
4 (5) years, and a fine of not more than Ten Thousand Dollars
5 (\$10,000.00), except that if such person is a corporation it shall
6 be subject to a civil penalty of not more than One Hundred Thousand
7 Dollars (\$100,000.00). The fine provided for in this subsection
8 shall be in addition to other punishments provided by law and shall
9 not be in lieu of other punishment.

10 C. Any person convicted of a second or subsequent violation of
11 this section is punishable by a term of imprisonment twice that
12 otherwise authorized and by twice the fine otherwise authorized.
13 The fine provided for in this subsection shall be in addition to
14 other punishments provided by law and shall not be in lieu of other
15 punishment.

16 ~~D. Any person convicted of any offense described in this~~
17 ~~section shall, in addition to any fine imposed, pay a special~~
18 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
19 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
20 ~~Section 1-2522 of this title.~~

21 SECTION 40. AMENDATORY 63 O.S. 2021, Section 2-405, is
22 amended to read as follows:

23 Section 2-405. A. No person shall use tincture of opium,
24 tincture of opium camphorated, or any derivative thereof, by the

1 hypodermic method, either with or without a medical prescription
2 therefor.

3 B. No person shall use drug paraphernalia to plant, propagate,
4 cultivate, grow, harvest, manufacture, compound, convert, produce,
5 process, prepare, test, analyze, pack, repack, store, contain,
6 conceal, inject, ingest, inhale or otherwise introduce into the
7 human body a controlled dangerous substance in violation of the
8 Uniform Controlled Dangerous Substances Act, except those persons
9 holding an unrevoked license in the professions of podiatry,
10 dentistry, medicine, nursing, optometry, osteopathy, veterinary
11 medicine or pharmacy.

12 C. No person shall deliver, sell, possess or manufacture drug
13 paraphernalia knowing, or under circumstances where one reasonably
14 should know, that it will be used to plant, propagate, cultivate,
15 grow, harvest, manufacture, compound, convert, produce, process,
16 prepare, test, analyze, pack, repack, store, contain, conceal,
17 inject, ingest, inhale or otherwise introduce into the human body a
18 controlled dangerous substance in violation of the Uniform
19 Controlled Dangerous Substances Act.

20 D. Any person eighteen (18) years of age or over who violates
21 subsection C of this section by delivering or selling drug
22 paraphernalia to a person under eighteen (18) years of age shall,
23 upon conviction, be guilty of a felony.

24

1 E. Any person who violates subsections A, B or C of this
2 section shall, upon conviction, be guilty of a misdemeanor
3 punishable as follows:

4 1. For a first offense the person shall be punished by
5 imprisonment in the county jail for not more than one (1) year or by
6 a fine ~~of~~ not more than One Thousand Dollars (\$1,000.00), or both
7 such fine and imprisonment;

8 2. For a second offense the person shall be punished by
9 imprisonment in the county jail for not more than one (1) year or by
10 a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00), or both
11 such fine and imprisonment; and

12 3. For a third or subsequent offense the person shall be
13 punished by imprisonment in the county jail for not more than one
14 (1) year or by a fine ~~of~~ not more than Ten Thousand Dollars
15 (\$10,000.00), or both such fine and imprisonment.

16 ~~F. Any person convicted of any offense described in this~~
17 ~~section shall, in addition to any fine imposed, pay a special~~
18 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
19 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
20 ~~Section 1-2522 of this title.~~

21 SECTION 41. AMENDATORY 63 O.S. 2021, Section 2-406, is
22 amended to read as follows:

23 Section 2-406. A. It shall be unlawful for any registrant
24 knowingly or intentionally:

1 1. To distribute, other than by dispensing or as otherwise
2 authorized by ~~this act~~ Section 2-101 et seq. of this title, a
3 controlled dangerous substance classified in Schedules I or II, in
4 the course of his legitimate business, except pursuant to an order
5 form as required by Section 2-308 of this title;

6 2. To use in the course of the manufacture or distribution of a
7 controlled dangerous substance a registration number which is
8 fictitious, revoked, suspended or issued to another person;

9 3. To acquire or obtain possession of a controlled dangerous
10 substance by misrepresentation, fraud, forgery, deception or
11 subterfuge;

12 4. To furnish false or fraudulent material information in, or
13 omit any material information from, any application, report, or
14 other document required to be kept or filed under ~~this act~~ Section
15 2-101 et seq. of this title, or any record required to be kept by
16 ~~this act~~ Section 2-101 et seq. of this title; and

17 5. To make, distribute, or possess any punch, die, plate,
18 stone, or other thing designed to print, imprint, or reproduce the
19 trademark, trade name, or other identifying mark, imprint, or device
20 of another or any likeness of any of the foregoing upon any drug or
21 container or labeling thereof so as to render such drug a
22 counterfeit controlled dangerous substance.

23 B. Any person who violates this section is guilty of a felony
24 punishable by imprisonment for not more than twenty (20) years or a

1 fine of not more than Two Hundred Fifty Thousand Dollars
2 (\$250,000.00), or both.

3 C. Any person convicted of a second or subsequent violation of
4 this section is punishable by a term of imprisonment twice that
5 otherwise authorized and by twice the fine otherwise authorized.
6 Convictions for second or subsequent violations of this section
7 shall not be subject to statutory provisions for suspended
8 sentences, deferred sentences, or probation.

9 ~~D. Any person convicted of any offense described in this~~
10 ~~section shall, in addition to any fine imposed, pay a special~~
11 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
12 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
13 ~~Section 1-2522 of this title.~~

14 SECTION 42. AMENDATORY 63 O.S. 2021, Section 2-407, is
15 amended to read as follows:

16 Section 2-407. A. No person shall obtain or attempt to obtain
17 any preparation excepted from the provisions of the Uniform
18 Controlled Dangerous Substances Act pursuant to Section 2-313 of
19 this title in a manner inconsistent with the provisions of paragraph
20 1 of subsection B of Section 2-313 of this title, or a controlled
21 dangerous substance or procure or attempt to procure the
22 administration of a controlled dangerous substance:

23 1. By fraud, deceit, misrepresentation, or subterfuge;

24

1 2. By the forgery of, alteration of, adding any information to
2 or changing any information on a prescription or of any written
3 order;

4 3. By the concealment of a material fact;

5 4. By the use of a false name or the giving of a false address;
6 or

7 5. By knowingly failing to disclose the receipt of a controlled
8 dangerous substance or a prescription for a controlled dangerous
9 substance of the same or similar therapeutic use from another
10 practitioner within the previous thirty (30) days.

11 B. Except as authorized by ~~this act~~ Section 2-101 et seq. of
12 this title, a person shall not manufacture, create, deliver, or
13 possess with intent to manufacture, create, or deliver or possess a
14 prescription form, an original prescription form, or a counterfeit
15 prescription form. This shall not apply to the legitimate
16 manufacture or delivery of prescription forms, or a person acting as
17 an authorized agent of the practitioner.

18 C. Information communicated to a physician in an effort
19 unlawfully to procure a controlled dangerous substance, or
20 unlawfully to procure the administration of any such drug, shall not
21 be deemed a privileged communication.

22 D. Any person who violates this section is guilty of a felony
23 punishable by imprisonment for not more than ten (10) years, by a
24 fine ~~of~~ not more than Ten Thousand Dollars (\$10,000.00), or by both

1 such fine and imprisonment. A second or subsequent offense under
2 this section is a felony punishable by imprisonment for not less
3 than four (4) years nor more than twenty (20) years, by a fine of
4 not more than Twenty Thousand Dollars (\$20,000.00), or by both such
5 fine and imprisonment.

6 E. Convictions for second or subsequent violations of this
7 section shall not be subject to statutory provisions for suspended
8 sentences, deferred sentences, or probation.

9 ~~F. Any person convicted of any offense described in this~~
10 ~~section shall, in addition to any fine imposed, pay a special~~
11 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
12 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
13 ~~Section 1-2530.9 of this title.~~

14 SECTION 43. AMENDATORY 63 O.S. 2021, Section 2-407.1, is
15 amended to read as follows:

16 Section 2-407.1. A. For the purpose of inducing intoxication
17 or distortion or disturbance of the auditory, visual, muscular, or
18 mental process, no person shall ingest, use, or possess any
19 compound, liquid, or chemical which contains ethylchloride, butyl
20 nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl
21 nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or
22 mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl
23 nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite,

24

1 isopentyl nitrite, or any of their esters, isomers, or analogues, or
2 any other similar compound.

3 B. No person shall possess, buy, sell, or otherwise transfer
4 any substance specified in subsection A of this section for the
5 purpose of inducing or aiding any other person to inhale or ingest
6 such substance or otherwise violate the provisions of this section.

7 C. The provisions of subsections A and B of this section shall
8 not apply to:

9 1. The possession and use of a substance specified in
10 subsection A of this section which is used as part of the care or
11 treatment by a licensed physician of a disease, condition or injury
12 or pursuant to a prescription of a licensed physician; and

13 2. The possession of a substance specified in subsection A of
14 this section which is used as part of a known manufacturing process
15 or industrial operation when the possessor has obtained a permit
16 from the State Department of Health.

17 D. The State Board of Health shall promulgate rules and
18 regulations establishing procedures for the application, form and
19 issuance of a permit to legitimate manufacturing and industrial
20 applicants as provided for in subsection C of this section.

21 E. Any person convicted of violating any provision of
22 subsection A or B of this section shall be guilty of a misdemeanor
23 punishable by imprisonment in the county jail not to exceed ninety
24 (90) days or by the imposition of a fine not to exceed Five Hundred

1 Dollars (\$500.00), or by both such imprisonment and fine. Each
2 violation shall be considered a separate offense.

3 ~~F. Any person convicted of any offense described in this~~
4 ~~section shall, in addition to any fine imposed, pay a special~~
5 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
6 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
7 ~~Section 1-2522 of this title.~~

8 SECTION 44. AMENDATORY 63 O.S. 2021, Section 2-415, is
9 amended to read as follows:

10 Section 2-415. A. The provisions of the Trafficking in Illegal
11 Drugs Act shall apply to persons convicted of violations with
12 respect to the following substances:

- 13 1. Marijuana;
- 14 2. Cocaine or coca leaves;
- 15 3. Heroin;
- 16 4. Amphetamine or methamphetamine;
- 17 5. Lysergic acid diethylamide (LSD);
- 18 6. Phencyclidine (PCP);
- 19 7. Cocaine base, commonly known as "crack" or "rock";
- 20 8. 3,4-Methylenedioxy methamphetamine, commonly known as
21 "ecstasy" or MDMA;
- 22 9. Morphine;
- 23 10. Oxycodone;
- 24 11. Hydrocodone;

1 12. Benzodiazepine; or

2 13. Fentanyl and its analogs and derivatives.

3 B. Except as otherwise authorized by the Uniform Controlled
4 Dangerous Substances Act, it shall be unlawful for any person to:

5 1. Knowingly distribute, manufacture, bring into this state or
6 possess a controlled substance specified in subsection A of this
7 section in the quantities specified in subsection C of this section;

8 2. Possess any controlled substance with the intent to
9 manufacture a controlled substance specified in subsection A of this
10 section in quantities specified in subsection C of this section; or

11 3. Use or solicit the use of services of a person less than
12 eighteen (18) years of age to distribute or manufacture a controlled
13 dangerous substance specified in subsection A of this section in
14 quantities specified in subsection C of this section.

15 Violation of this section shall be known as "trafficking in
16 illegal drugs". Separate types of controlled substances described
17 in subsection A of this section when possessed at the same time in
18 violation of any provision of this section shall constitute a
19 separate offense for each substance.

20 Any person who commits the conduct described in paragraph 1, 2
21 or 3 of this subsection and represents the quantity of the
22 controlled substance to be an amount described in subsection C of
23 this section shall be punished under the provisions appropriate for
24

1 the amount of controlled substance represented, regardless of the
2 actual amount.

3 C. In the case of a violation of the provisions of subsection B
4 of this section, involving:

5 1. Marijuana:

6 a. twenty-five (25) pounds or more of a mixture or
7 substance containing a detectable amount of marijuana
8 shall be punishable by a fine ~~of~~ not less than Twenty-
9 five Thousand Dollars (\$25,000.00) and not more than
10 One Hundred Thousand Dollars (\$100,000.00), or

11 b. one thousand (1,000) pounds or more of a mixture or
12 substance containing a detectable amount of marijuana
13 shall be deemed aggravated trafficking punishable by a
14 fine ~~of~~ not less than One Hundred Thousand Dollars
15 (\$100,000.00) and not more than Five Hundred Thousand
16 Dollars (\$500,000.00);

17 2. Cocaine, coca leaves or cocaine base:

18 a. twenty-eight (28) grams or more of a mixture or
19 substance containing a detectable amount of cocaine,
20 coca leaves or cocaine base shall be punishable by a
21 fine ~~of~~ not less than Twenty-five Thousand Dollars
22 (\$25,000.00) and not more than One Hundred Thousand
23 Dollars (\$100,000.00),

24

1 b. three hundred (300) grams or more of a mixture or
2 substance containing a detectable amount of cocaine,
3 coca leaves or cocaine base shall be punishable by a
4 fine ~~of~~ not less than One Hundred Thousand Dollars
5 (\$100,000.00) and not more than Five Hundred Thousand
6 Dollars (\$500,000.00), or

7 c. four hundred fifty (450) grams or more of a mixture or
8 substance containing a detectable amount of cocaine,
9 coca leaves or cocaine base shall be deemed aggravated
10 trafficking punishable by a fine ~~of~~ not less than One
11 Hundred Thousand Dollars (\$100,000.00) and not more
12 than Five Hundred Thousand Dollars (\$500,000.00);

13 3. Heroin:

14 a. ten (10) grams or more of a mixture or substance
15 containing a detectable amount of heroin shall be
16 punishable by a fine ~~of~~ not less than Twenty-five
17 Thousand Dollars (\$25,000.00) and not more than Fifty
18 Thousand Dollars (\$50,000.00), or

19 b. twenty-eight (28) grams or more of a mixture or
20 substance containing a detectable amount of heroin
21 shall be deemed aggravated trafficking punishable by a
22 fine ~~of~~ not less than Fifty Thousand Dollars
23 (\$50,000.00) and not more than Five Hundred Thousand
24 Dollars (\$500,000.00);

1 4. Amphetamine or methamphetamine:

2 a. twenty (20) grams or more of a mixture or substance
3 containing a detectable amount of amphetamine or
4 methamphetamine shall be punishable by a fine ~~of~~ not
5 less than Twenty-five Thousand Dollars (\$25,000.00)
6 and not more than Two Hundred Thousand Dollars
7 (\$200,000.00),

8 b. two hundred (200) grams or more of a mixture or
9 substance containing a detectable amount of
10 amphetamine or methamphetamine shall be punishable by
11 a fine ~~of~~ not less than Fifty Thousand Dollars
12 (\$50,000.00) and not more than Five Hundred Thousand
13 Dollars (\$500,000.00), or

14 c. four hundred fifty (450) grams or more of a mixture or
15 substance containing a detectable amount of
16 amphetamine or methamphetamine shall be deemed
17 aggravated trafficking punishable by a fine ~~of~~ not
18 less than Fifty Thousand Dollars (\$50,000.00) and not
19 more than Five Hundred Thousand Dollars (\$500,000.00);

20 5. Lysergic acid diethylamide (LSD):

21 a. one (1) gram or more of a mixture or substance
22 containing a detectable amount of lysergic acid
23 diethylamide (LSD) shall be trafficking punishable by
24 a term of imprisonment in the custody of the

1 Department of Corrections not to exceed twenty (20)
2 years and by a fine ~~of~~ not less than Fifty Thousand
3 Dollars (\$50,000.00) and not more than One Hundred
4 Thousand Dollars (\$100,000.00), or

- 5 b. ten (10) grams or more of a mixture or substance
6 containing a detectable amount of lysergic acid
7 diethylamide (LSD) shall be aggravated trafficking
8 punishable by a term of imprisonment in the custody of
9 the Department of Corrections ~~of~~ not less than two (2)
10 years nor more than life and by a fine ~~of~~ not less
11 than One Hundred Thousand Dollars (\$100,000.00) and
12 not more than Two Hundred Fifty Thousand Dollars
13 (\$250,000.00);

14 6. Phencyclidine (PCP):

- 15 a. twenty (20) grams or more of a substance containing a
16 mixture or substance containing a detectable amount of
17 phencyclidine (PCP) shall be trafficking punishable by
18 a term of imprisonment in the custody of the
19 Department of Corrections not to exceed twenty (20)
20 years and by a fine ~~of~~ not less than Twenty Thousand
21 Dollars (\$20,000.00) and not more than Fifty Thousand
22 Dollars (\$50,000.00), or
23 b. one hundred fifty (150) grams or more of a substance
24 containing a mixture or substance containing a

1 detectable amount of phencyclidine (PCP) shall be
2 aggravated trafficking punishable by a term of
3 imprisonment in the custody of the Department of
4 Corrections ~~of~~ not less than two (2) years nor more
5 than life and by a fine ~~of~~ not less than Fifty
6 Thousand Dollars (\$50,000.00) and not more than Two
7 Hundred Fifty Thousand Dollars (\$250,000.00);

8 7. Methylenedioxy methamphetamine:

- 9 a. thirty (30) tablets or ten (10) grams of a mixture or
10 substance containing a detectable amount of 3,4-
11 Methylenedioxy methamphetamine shall be trafficking
12 punishable by a term of imprisonment in the custody of
13 the Department of Corrections not to exceed twenty
14 (20) years and by a fine ~~of~~ not less than Twenty-five
15 Thousand Dollars (\$25,000.00) and not more than One
16 Hundred Thousand Dollars (\$100,000.00), or
17 b. one hundred (100) tablets or thirty (30) grams of a
18 mixture or substance containing a detectable amount of
19 3,4-Methylenedioxy methamphetamine shall be deemed
20 aggravated trafficking punishable by a term of
21 imprisonment in the custody of the Department of
22 Corrections ~~of~~ not less than two (2) years nor more
23 than life by a fine ~~of~~ not less than One Hundred
24

1 Thousand Dollars (\$100,000.00) and not more than Five
2 Hundred Thousand Dollars (\$500,000.00);

3 8. Morphine: One thousand (1,000) grams or more of a mixture
4 containing a detectable amount of morphine shall be trafficking
5 punishable by a term of imprisonment in the custody of the
6 Department of Corrections not to exceed twenty (20) years and by a
7 fine ~~of~~ not less than One Hundred Thousand Dollars (\$100,000.00) and
8 not more than Five Hundred Thousand Dollars (\$500,000.00);

9 9. Oxycodone: Four hundred (400) grams or more of a mixture
10 containing a detectable amount of oxycodone shall be trafficking
11 punishable by a term of imprisonment in the custody of the
12 Department of Corrections not to exceed twenty (20) years and by a
13 fine ~~of~~ not less than One Hundred Thousand Dollars (\$100,000.00) and
14 not more than Five Hundred Thousand Dollars (\$500,000.00);

15 10. Hydrocodone: Three thousand seven hundred fifty (3,750)
16 grams or more of a mixture containing a detectable amount of
17 hydrocodone shall be trafficking punishable by a term of
18 imprisonment in the custody of the Department of Corrections not to
19 exceed twenty (20) years and by a fine ~~of~~ not less than One Hundred
20 Thousand Dollars (\$100,000.00) and not more than Five Hundred
21 Thousand Dollars (\$500,000.00);

22 11. Benzodiazepine: Five hundred (500) grams or more of a
23 mixture containing a detectable amount of benzodiazepine shall be
24 trafficking punishable by a term of imprisonment not to exceed

1 twenty (20) years and by a fine ~~of~~ not less than One Hundred
2 Thousand Dollars (\$100,000.00) and not more than Five Hundred
3 Thousand Dollars (\$500,000.00); and

4 12. Fentanyl and its analogs and derivatives:

5 a. one (1) gram or more of a mixture containing fentanyl
6 or carfentanil, or any fentanyl analogs or derivatives
7 shall be trafficking punishable by a term of
8 imprisonment in the custody of the Department of
9 Corrections not to exceed twenty (20) years and by a
10 fine ~~of~~ not less than One Hundred Thousand Dollars
11 (\$100,000.00) and not more than Two Hundred Fifty
12 Thousand Dollars (\$250,000.00), or

13 b. five (5) grams or more of a mixture containing
14 fentanyl or carfentanil, or any fentanyl analogs or
15 derivatives shall be aggravated trafficking punishable
16 by a term of imprisonment in the custody of the
17 Department of Corrections ~~of~~ not less than two (2)
18 years nor more than life and by a fine ~~of~~ not less
19 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
20 and not more than Five Hundred Thousand Dollars
21 (\$500,000.00).

22 D. Any person who violates the provisions of this section with
23 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,
24 amphetamine or methamphetamine in a quantity specified in paragraphs

1 1, 2, 3 and 4 of subsection C of this section shall, in addition to
2 any fines specified by this section, be punishable by a term of
3 imprisonment as follows:

4 1. For trafficking, a first violation of this section, a term
5 of imprisonment in the custody of the Department of Corrections not
6 to exceed twenty (20) years;

7 2. For trafficking, a second violation of this section, a term
8 of imprisonment in the custody of the Department of Corrections ~~of~~
9 not less than four (4) years nor more than life, for which the
10 person shall serve fifty percent (50%) of the sentence before being
11 eligible for parole consideration;

12 3. For trafficking, a third or subsequent violation of this
13 section, a term of imprisonment in the custody of the Department of
14 Corrections ~~of~~ not less than twenty (20) years nor more than life,
15 of which the person shall serve fifty percent (50%) of the sentence
16 before being eligible for parole consideration.

17 Persons convicted of trafficking shall not be eligible for
18 earned credits or any other type of credits which have the effect of
19 reducing the length of sentence to less than fifty percent (50%) of
20 the sentence imposed; and

21 If the person is convicted of aggravated trafficking, the person
22 shall serve eighty-five percent (85%) of such sentence before being
23 eligible for parole consideration.

1 E. The penalties specified in subsections C and D of this
2 section are subject to the enhancements enumerated in subsections E
3 and F of Section 2-401 of this title.

4 ~~F. Any person convicted of any offense described in this~~
5 ~~section shall, in addition to any fine imposed, pay a special~~
6 ~~assessment trauma care fee of One Hundred Dollars (\$100.00) to be~~
7 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
8 ~~Section 1-2530.9 of this title and the assessment pursuant to~~
9 ~~Section 2-503.2 of this title.~~

10 SECTION 45. REPEALER 19 O.S. 2021, Section 339.7, is
11 hereby repealed.

12 SECTION 46. REPEALER 20 O.S. 2021, Section 1313.3, is
13 hereby repealed.

14 SECTION 47. REPEALER 20 O.S. 2021, Section 1313.4, is
15 here by repealed.

16 SECTION 48. REPEALER 20 O.S. 2021, Section 1313.7, is
17 hereby repealed.

18 SECTION 49. REPEALER 47 O.S. 2021, Section 11-403.1, is
19 hereby repealed.

20 SECTION 50. REPEALER 63 O.S. 2021, Section 2-503.2, is
21 hereby repealed.

22 SECTION 51. REPEALER 70 O.S. 2021, Section 18-118.1, is
23 hereby repealed.

24

1 SECTION 52. This act shall become effective January 1, 2023.

2 Passed the Senate the 14th day of March, 2022.

3

4

Presiding Officer of the Senate

5

6 Passed the House of Representatives the ____ day of _____,

7 2022.

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Presiding Officer of the House
of Representatives

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