

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1095

By: Strom

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to criminal procedure; amending 22  
10 O.S. 2011, Section 991a, as last amended by Section  
11 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp. 2020,  
12 Section 991a), which relates to sentencing powers of  
the court; adding sentencing option for the court;  
establishing requirements; and providing an effective  
date.

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14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16                   SECTION 1.           AMENDATORY           22 O.S. 2011, Section 991a, as  
17 last amended by Section 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp.  
18 2020, Section 991a), is amended to read as follows:

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

23                   1. Suspend the execution of sentence in whole or in part, with  
24 or without probation. The court, in addition, may order the

1 convicted defendant at the time of sentencing or at any time during  
2 the suspended sentence to do one or more of the following:

- 3 a. to provide restitution to the victim as provided by  
4 Section 991f et seq. of this title or according to a  
5 schedule of payments established by the sentencing  
6 court, together with interest upon any pecuniary sum  
7 at the rate of twelve percent (12%) per annum, if the  
8 defendant agrees to pay such restitution or, in the  
9 opinion of the court, if the defendant is able to pay  
10 such restitution without imposing manifest hardship on  
11 the defendant or the immediate family and if the  
12 extent of the damage to the victim is determinable  
13 with reasonable certainty,
- 14 b. to reimburse any state agency for amounts paid by the  
15 state agency for hospital and medical expenses  
16 incurred by the victim or victims, as a result of the  
17 criminal act for which such person was convicted,  
18 which reimbursement shall be made directly to the  
19 state agency, with interest accruing thereon at the  
20 rate of twelve percent (12%) per annum,
- 21 c. to engage in a term of community service without  
22 compensation, according to a schedule consistent with  
23 the employment and family responsibilities of the  
24 person convicted,

- 1 d. to pay a reasonable sum into any trust fund~~7~~  
2 established pursuant to the provisions of Sections 176  
3 through 180.4 of Title 60 of the Oklahoma Statutes~~7~~  
4 and which provides restitution payments by convicted  
5 defendants to victims of crimes committed within this  
6 state wherein such victim has incurred a financial  
7 loss,
- 8 e. to confinement in the county jail for a period not to  
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term  
11 of post-imprisonment community supervision for not  
12 less than three (3) years of the total term allowed by  
13 law for imprisonment, with or without restitution;  
14 provided, however, the authority of this provision is  
15 limited to Section 843.5 of Title 21 of the Oklahoma  
16 Statutes when the offense involved sexual abuse or  
17 sexual exploitation; Sections 681, 741 and 843.1 of  
18 Title 21 of the Oklahoma Statutes when the offense  
19 involved sexual abuse or sexual exploitation; and  
20 Sections 865 et seq., 885, 886, 888, 891, 1021,  
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a  
24 local certified crime stoppers program and the

1 Oklahoma Reward System. In determining whether the  
2 defendant shall repay the reward or part of the  
3 reward, the court shall consider the ability of the  
4 defendant to make the payment, the financial hardship  
5 on the defendant to make the required payment, and the  
6 importance of the information to the prosecution of  
7 the defendant as provided by the arresting officer or  
8 the district attorney with due regard for the  
9 confidentiality of the records of the local certified  
10 crime stoppers program and the Oklahoma Reward System.  
11 The court shall assess this repayment against the  
12 defendant as a cost of prosecution. The term  
13 "certified" means crime stoppers organizations that  
14 annually meet the certification standards for crime  
15 stoppers programs established by the Oklahoma Crime  
16 Stoppers Association to the extent those standards do  
17 not conflict with state statutes. The term "court"  
18 refers to all municipal and district courts within  
19 this state. The "Oklahoma Reward System" means the  
20 reward program established by Section 150.18 of Title  
21 74 of the Oklahoma Statutes,

22 h. to reimburse the Oklahoma State Bureau of  
23 Investigation for costs incurred by that agency during  
24 its investigation of the crime for which the defendant

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

- 9           i.   to reimburse the Oklahoma State Bureau of  
10           Investigation and any authorized law enforcement  
11           agency for all costs incurred by that agency for  
12           cleaning up an illegal drug laboratory site for which  
13           the defendant pleaded guilty, nolo contendere or was  
14           convicted. The court clerk shall collect the amount  
15           and may retain five percent (5%) of such monies to be  
16           deposited in the Court ~~Clerk~~ Clerk's Revolving Fund to  
17           cover administrative costs and shall remit the  
18           remainder to the Oklahoma State Bureau of  
19           Investigation to be deposited in the OSBI Revolving  
20           Fund established by Section 150.19a of Title 74 of the  
21           Oklahoma Statutes or to the general fund wherein the  
22           other law enforcement agency is located,
- 23           j.   to pay a reasonable sum to the Crime Victims  
24           Compensation Board, created by Section 142.2 et seq.

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

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

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

15 m. to be placed in a victims impact panel program, as  
16 defined in subsection H of this section, or  
17 victim/offender reconciliation program and payment of  
18 a fee to the program of Seventy-five Dollars (\$75.00)  
19 as set by the governing authority of the program to  
20 offset the cost of participation by the defendant.  
21 Provided, each victim/offender reconciliation program  
22 shall be required to obtain a written consent form  
23 voluntarily signed by the victim and defendant that  
24 specifies the methods to be used to resolve the

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

1 may be punished as deemed proper by the sentencing  
2 court. As used in this paragraph, "ignition interlock  
3 device" means a device that, without tampering or  
4 intervention by another person, would prevent the  
5 defendant from operating a motor vehicle if the  
6 defendant has a blood or breath alcohol concentration  
7 of two-hundredths (0.02) or greater,

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



1 required times and which records violations for  
2 investigation by a qualified supervisory agency or  
3 person,

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Additionally, the court may require the offender to

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

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

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

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

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

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

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

16           5. Order the defendant to reimburse the Oklahoma State Bureau  
17 of Investigation for all costs incurred by that agency for cleaning  
18 up an illegal drug laboratory site for which the defendant pleaded  
19 guilty, nolo contendere or was convicted. The court clerk shall  
20 collect the amount and may retain five percent (5%) of such monies  
21 to be deposited in the Court ~~Clerk~~ Clerk's Revolving Fund to cover  
22 administrative costs and shall remit the remainder to the Oklahoma  
23 State Bureau of Investigation to be deposited in the OSBI Revolving  
24

1 Fund established by Section 150.19a of Title 74 of the Oklahoma  
2 Statutes;

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

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

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

21 b. to attend a victims impact panel program, as defined  
22 in subsection H of this section, and to pay a fee of  
23 Seventy-five Dollars (\$75.00) as set by the governing  
24 authority of the program and approved by the court, to



1 the program to offset the cost of participation by the  
2 defendant, if in the opinion of the court the  
3 defendant has the ability to pay such fee,

4 c. to both participate in the alcohol and drug substance  
5 abuse course or treatment program, pursuant to  
6 subparagraph a of this paragraph and attend a victims  
7 impact panel program, pursuant to subparagraph b of  
8 this paragraph,

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

1 restriction shall be a violation of the sentence and  
2 may be punished as deemed proper by the sentencing  
3 court, or

4 e. beginning January 1, 1993, to submit to electronically  
5 monitored home detention administered and supervised  
6 by the Department of Corrections, and to pay to the  
7 Department a monitoring fee, not to exceed Seventy-  
8 five Dollars (\$75.00) a month, to the Department of  
9 Corrections, if in the opinion of the court the  
10 defendant has the ability to pay such fee. Any fees  
11 collected pursuant to this subparagraph shall be  
12 deposited in the Department of Corrections Revolving  
13 Fund. Any order by the court for the payment of the  
14 monitoring fee, if willfully disobeyed, may be  
15 enforced as an indirect contempt of court;

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

1 9. In addition to the other sentencing powers of the court, in  
2 the case of a person convicted of any crime related to domestic  
3 abuse, as defined in Section 60.1 of this title, the court may  
4 require the defendant to undergo the treatment or participate in the  
5 counseling services necessary to bring about the cessation of  
6 domestic abuse against the victim. The defendant may be required to  
7 pay all or part of the cost of the treatment or counseling services;

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

22 11. In addition to the other sentencing powers of the court,  
23 the court, in the case of a person convicted of abuse or neglect of  
24 a child, as defined in Section 1-1-105 of Title 10A of the Oklahoma

1 Statutes, may require the person to undergo treatment or to  
2 participate in counseling services. The defendant may be required  
3 to pay all or part of the cost of the treatment or counseling  
4 services;

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

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

19 14. In addition to the other sentencing powers of the court, in  
20 the case of a sex offender who is required by law to register  
21 pursuant to the Sex Offenders Registration Act, the court may  
22 prohibit the person from accessing or using any Internet social  
23 networking website that has the potential or likelihood of allowing  
24

1 the sex offender to have contact with any child who is under the age  
2 of eighteen (18) years; ~~or~~

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

11 16. In addition to the other sentencing powers of the court,  
12 and pursuant to the terms and conditions of a written plea  
13 agreement, the court may prohibit the defendant from entering,  
14 visiting or residing within the judicial district in which the  
15 defendant was convicted until after completion of his or her  
16 sentence; provided, however, the court shall ensure that the  
17 defendant has access to those services or programs for which the  
18 defendant is required to participate as a condition of probation.  
19 When seeking to enter the prohibited judicial district for personal  
20 business not related to his or her criminal case, the defendant  
21 shall be required to obtain approval by the court.

22 B. Notwithstanding any other provision of law, any person who  
23 is found guilty of a violation of any provision of Section 761 or  
24 11-902 of Title 47 of the Oklahoma Statutes or any person pleading

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

1 If a person is sentenced to the custody of the Department of  
2 Corrections and the court has received a written evaluation report  
3 pursuant to this subsection, the report shall be furnished to the  
4 Department of Corrections with the judgment and sentence. Any  
5 evaluation report submitted to the court pursuant to this subsection  
6 shall be handled in a manner which will keep such report  
7 confidential from the general public's review. Nothing contained in  
8 this subsection shall be construed to prohibit the court from  
9 ordering judgment and sentence in the event the defendant fails or  
10 refuses to comply with an order of the court to obtain the  
11 evaluation required by this subsection.

12 C. When sentencing a person convicted of a crime, the court  
13 shall first consider a program of restitution for the victim, as  
14 well as imposition of a fine or incarceration of the offender. The  
15 provisions of paragraph 1 of subsection A of this section shall not  
16 apply to defendants being sentenced upon their third or subsequent  
17 to their third conviction of a felony or, beginning January 1, 1993,  
18 to defendants being sentenced for their second or subsequent felony  
19 conviction for violation of Section 11-902 of Title 47 of the  
20 Oklahoma Statutes, except as otherwise provided in this subsection.  
21 In the case of a person being sentenced for his or her second or  
22 subsequent felony conviction for violation of Section 11-902 of  
23 Title 47 of the Oklahoma Statutes, the court may sentence the person  
24 pursuant to the provisions of paragraph 1 of subsection A of this

1 section if the court orders the person to submit to electronically  
2 monitored home detention administered and supervised by the  
3 Department of Corrections pursuant to subparagraph e of paragraph 7  
4 of subsection A of this section. Provided, the court may waive  
5 these prohibitions upon written application of the district  
6 attorney. Both the application and the waiver shall be made part of  
7 the record of the case.

8 D. When sentencing a person convicted of a crime, the judge  
9 shall consider any ~~victims~~ victim impact statements if submitted to  
10 the jury, or the judge in the event a jury is waived.

11 E. Probation, for purposes of subsection A of this section, is  
12 a procedure by which a defendant found guilty of a crime, whether  
13 upon a verdict or plea of guilty or upon a plea of nolo contendere,  
14 is released by the court subject to conditions imposed by the court  
15 and subject to supervision by the Department of Corrections, a  
16 private supervision provider or other person designated by the  
17 court. Such supervision shall be initiated upon an order of  
18 probation from the court, and shall not exceed two (2) years, unless  
19 a petition alleging a violation of any condition of deferred  
20 judgment or seeking revocation of the suspended sentence is filed  
21 during the supervision, or as otherwise provided by law. In the  
22 case of a person convicted of a sex offense, supervision shall begin  
23 immediately upon release from incarceration or if parole is granted  
24 and shall not be limited to two (2) years. Provided further, any



1 supervision provided for in this section may be extended for a  
2 period not to exceed the expiration of the maximum term or terms of  
3 the sentence upon a determination by the court or the Division of  
4 Probation and Parole of the Department of Corrections that the best  
5 interests of the public and the release will be served by an  
6 extended period of supervision.

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

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

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

22 3. The Department shall establish criteria and specifications  
23 for contracts with counties for such Programs. A county may apply  
24 to the Department for a contract for a county-funded Program for a

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

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

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

17 H. As used in this section:

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

23 2. "Electronically monitored home detention" means  
24 incarceration of the defendant within a specified location or

1 locations with monitoring by means of a device approved by the  
2 Department of Corrections that detects if the person leaves the  
3 confines of any specified location; and

4 3. "Victims impact panel program" means a program conducted by  
5 a corporation registered with the Secretary of State in Oklahoma for  
6 the sole purpose of operating a victims impact panel program. The  
7 program shall include live presentations from presenters who will  
8 share personal stories with participants about how alcohol, drug  
9 abuse, the operation of a motor vehicle while using an electronic  
10 communication device or the illegal conduct of others has personally  
11 impacted the lives of the presenters. A victims impact panel  
12 program shall be attended by persons who have committed the offense  
13 of driving, operating or being in actual physical control of a motor  
14 vehicle while under the influence of alcohol or other intoxicating  
15 substance, operating a motor vehicle while the ability of the person  
16 to operate such vehicle was impaired due to the consumption of  
17 alcohol or any other substance or operating a motor vehicle while  
18 using an electronic device. Persons attending a victims impact  
19 panel program shall be required to pay a fee of Seventy-five Dollars  
20 (\$75.00) to the provider of the program. A certificate of  
21 completion shall be issued to the person upon satisfying the  
22 attendance and fee requirements of the victims impact panel program.  
23 The certificate of completion shall contain the business  
24 identification number of the program provider. A certified

1 assessment agency, certified assessor or provider of an alcohol and  
2 drug substance abuse course shall be prohibited from providing a  
3 victims impact panel program and shall further be prohibited from  
4 having any proprietary or pecuniary interest in a victims impact  
5 panel program. The provider of the victims impact panel program  
6 shall carry general liability insurance and maintain an accurate  
7 accounting of all business transactions and funds received in  
8 relation to the victims impact panel program. Beginning October 1,  
9 2020, and each October 1 thereafter, the provider of the victims  
10 impact panel program shall provide to the District Attorneys Council  
11 the following:

- 12 a. proof of registration with the Oklahoma Secretary of  
13 State,
- 14 b. proof of general liability insurance,
- 15 c. end-of-year financial statements prepared by a  
16 certified public accountant,
- 17 d. a copy of federal income tax returns filed with the  
18 Internal Revenue Service,
- 19 e. a registration fee of One Thousand Dollars  
20 (\$1,000.00). The registration fee shall be deposited  
21 in the District Attorneys Council Revolving Fund  
22 created in Section 215.28 of Title 19 of the Oklahoma  
23 Statutes, and

24

1 f. a statement certifying that the provider of the  
2 victims impact panel program has complied with all of  
3 the requirements set forth in this paragraph.

4 I. A person convicted of a felony offense or receiving any form  
5 of probation for an offense in which registration is required  
6 pursuant to the Sex Offenders Registration Act, shall submit to  
7 deoxyribonucleic acid (DNA) testing for law enforcement  
8 identification purposes in accordance with Section 150.27 of Title  
9 74 of the Oklahoma Statutes and the rules promulgated by the  
10 Oklahoma State Bureau of Investigation for the OSBI Combined DNA  
11 Index System (CODIS) Database. Subject to the availability of  
12 funds, any person convicted of a misdemeanor offense of assault and  
13 battery, domestic abuse, stalking, possession of a controlled  
14 substance prohibited under Schedule IV of the Uniform Controlled  
15 Dangerous Substances Act, outraging public decency, resisting  
16 arrest, escape or attempting to escape, eluding a police officer,  
17 Peeping Tom, pointing a firearm, threatening an act of violence,  
18 breaking and entering a dwelling place, destruction of property,  
19 negligent homicide, or causing a personal injury accident while  
20 driving under the influence of any intoxicating substance, or any  
21 alien unlawfully present under federal immigration law, upon arrest,  
22 shall submit to DNA testing for law enforcement identification  
23 purposes in accordance with Section 150.27 of Title 74 of the  
24 Oklahoma Statutes and the rules promulgated by the Oklahoma State

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

17 Any person who is incarcerated in the custody of the Department  
18 of Corrections after July 1, 1996, and who has not been released  
19 before January 1, 2006, shall provide a blood or saliva sample prior  
20 to release. Every person subject to DNA testing after January 1,  
21 2006, whose sentence does not include a term of confinement with the  
22 Department of Corrections shall submit a blood or saliva sample.  
23 Every person subject to DNA testing who is sentenced to unsupervised  
24 probation or otherwise not supervised by the Department of

1 Corrections shall submit for blood or saliva testing to the sheriff  
2 of the sentencing county.

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

24

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

6 SECTION 2. This act shall become effective November 1, 2021.

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated  
9 02/25/2021 - DO PASS, As Amended.

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