SHORT TITLE: Criminal justice; creating the Oklahoma Community Corrections Act; codification; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 721 By: Rozell

AS INTRODUCED

An Act relating to criminal justice; creating the Oklahoma Community Corrections Act; providing short title; authorizing any county to participate; requiring certain notification of intent to participate; requiring certain notification of advisory council; authorizing interlocal agreements and multicounty advisory councils; stating membership and terms of office; requiring residency or duties in the jurisdiction for membership; providing a listing of types of persons to be appointed; authorizing consultants; providing for reappointment, voting and vacancies; requiring certain convening of first meeting within certain time; providing for election of certain officers and specifying duties; requiring advisory council to promulgate written rules; stating requirements for filing and modifying rules; requiring advisory council to comply with the Oklahoma Open Meeting Act and Oklahoma Open Records Act; stating powers and duties of advisory council; authorizing hiring of staff; stating certain duties of staff; directing certain benefits for certain employees; construing certain provision; requiring submission of certain plan annually; stating certain contents of plan; authorizing modification of certain plan; requiring certain action by the Department of

Corrections on plans within certain time; providing for failure of the Department of Corrections to take certain action; limiting certain program from certain provision; providing for certain state funding; requiring certain resources to be eligible for certain state funding; requiring certain performance and compliance to continue state funding; prohibiting reduction in certain local resources; providing certain exception to reducing resources; directing the Department of Corrections to review plans; limiting authority to approve plans based upon certain funding; limiting state funding to appropriations; providing priority for funding; authorizing certain distributions of funding; prohibiting certain construction or renovation with state funds or replacement of other funds; providing for nondistributed state funds; limiting use of state funds; providing for termination from participation; requiring certain notice, resolution and action upon termination; providing for payment of debts and distribution of assets upon certain withdrawal of system; authorizing certain temporary contracts for services; providing for certain court resentencing; construing action of withdrawal; providing priority offender groups for services; prohibiting certain offenses for consideration; prohibiting certain prior offenses; restricting availability of services based upon resources; construing rights of defendant to services; construing authority to fund certain programs; requiring funding to stay within budgeted amounts; providing for special assistance

funding; providing for transfer of certain offender to the Department of Corrections for medical treatment; requiring systems to provide certain range of services and sentencing options; stating intermediate sanctions to be available; stating authority of the court in imposing community punishments; providing for supervision fee; stating maximum amount of certain fee; providing for waiver of fee; prohibiting denial of services when offender is indigent; authorizing certain user fee for certain purpose; requiring certain fees be utilized for system support and expansion; providing certain exception; authorizing payment of certain program costs; stating procedure for modification of alternative sentence; providing certain limitation; providing certain exclusions; requiring consideration of certain reports; providing for certain hearing and notification; authorizing modification of punishment following certain hearing; providing for disciplinary sanctions and incentives; providing for payment of certain incarceration costs; prohibiting the Department of Corrections from contracting for certain payments for disciplinary sanctions; prohibiting certain earned credits; requiring offenders to be advised of certain conditions of the program; restricting distance an offender may travel to receive services; providing certain exception; authorizing reciprocal agreements; requiring certain court order; requiring certain statement be filed upon completion of condition; granting immunity from liability; defining certain

powers and duties of the Department of Corrections; requiring rules comply with the Administrative Procedures Act; requiring certain report; authorizing acceptance and solicitation of certain funds; creating the Oklahoma Community Corrections Revolving Fund; stating purpose of fund; providing for expenditures from fund; construing authority to transfer other funds under the control of the Department; creating the Accelerated Prosecution Program; providing short title; defining term; authorizing district courts to participate; stating eligible offenses; authorizing certain further restriction of offenses; construing authority of court; requiring separate judicial processing; providing for administration by judge; requiring court clerk to cross-reference certain criminal case to AP case; requiring certain confidentiality; authorizing certain assistance and cooperation from state agencies; providing certain components of program; requiring data be kept; stating initial considerations; directing the sheriff or designee to make initial eligibility determination; directing certain action and form be presented; providing procedure to request consideration; removing limitations of court for certain consideration; providing for hearing and notice; directing the district attorney to make certain determinations; providing for certain objections; providing for certain investigation and testing; stating certain contents of investigation; authorizing other evaluations; providing for certain treatment plan; requiring certification of

all providers; requiring certain report following investigation; requiring certain review and agreements; providing for mediation; stating time for certain hearings; defining term; prohibiting use of certain information; authorizing admissibility of certain information; directing certain photographic records be kept; stating certain prohibitions to admission; providing for denial of acceptance; granting time to withdraw the plea; requiring certain exoneration of bail; stating program duration; authorizing certain fees; providing for collection of costs and fees; construing validity of certain order for purposes of collection; directing certain progress reports; providing procedure to review the offender; directing notice and hearing; excepting the district attorney from routine progress hearings; granting certain access to court information; directing progressively increasing disciplinary and incentive sanctions; providing for certain revocation notice and hearing; authorizing modification of the treatment plan; requiring certain consultation for certain modification; prohibiting modification of written punishment agreement; authorizing AP program as intermediate sanction for parolee or probationer under certain condition; providing for certain action upon completion or failure to complete the program; directing certain case files be sealed and destroyed; granting certain access to sealed files; construing use of certain records for administrative agency or employee benefits;

directing certain state agencies to promulgate rules and joint instruments; directing the Administrative Office of the Court to promulgate certain rules and forms; directing the Department of Mental Health and Substance Abuse Services to provide certain technical assistance for AP programs; amending 20 O.S. 1991, Section 91.2, which relates to court dockets; providing for court clerk to establish certain docket; requiring certain docket and information be confidential; amending 21 O.S. 1991, Section 3, which relates to punishment for criminal offenses; requiring certain judicial considerations; authorizing certain alternative sentences; providing certain limitations; providing procedures for alternative sentence; stating term of sentence; authorizing certain extension of sentence; requiring certain assessment and evaluation; directing development of joint instrument; providing for failure to be evaluated; requiring consideration of victim impact statements; authorizing suspended sentence; providing certain procedure; authorizing delayed sentence; stating certain requirements; defining terms; limiting term of supervision; requiring payment of certain fee; providing for certain waiver of fee; prohibiting certain denial of services; authorizing modification of conditions; stating procedure; authorizing disciplinary sanctions; listing conditional requirements; amending 22 O.S. 1991, Section 991a, as last amended by Section 4, Chapter 153, O.S.L. 1996 (22 O.S. Supp. 1996, Section 991a), which relates to

the sentencing powers of the court; modifying language; clarifying powers of the court; deleting provisions relating to suspended sentence and conditions of suspension; deleting certain other provisions; providing for certain deleted provisions; amending 22 O.S. 1991, Section 991a-2, which relates to night and weekend incarceration; authorizing certain jail term as alternative sentence; defining term; providing for county custody; construing power of the court to modify sentence; providing for costs of incarceration; amending 22 O.S. 1991, Section 991a-4, as last amended by Section 1, Chapter 187, O.S.L. 1993 (22 O.S. Supp. 1996, Section 991a-4), which relates to the Community Service Sentencing Program; providing for county operated programs; directing the Department of Corrections to provide technical assistance; providing for certain contracts; deleting certain exception for administration; authorizing certain fee; modifying jail confinement provision; prohibiting certain action by judge in relation to service hours; directing the Department of Corrections to promulgate rules; amending 22 O.S. 1991, Section 976, which relates to concurrent sentences; requiring concurrent sentences for certain alternative to incarceration; amending 21 O.S. 1991, Section 51, which relates to enhanced sentences; providing certain exception; providing for DNA testing; directing a joint legislative committee to provide oversight; repealing 22 O.S. 1991, Section 991a, as last amended by Section 2, Chapter 188, O.S.L. 1994 and 991a, as last amended

by Section 1, Chapter 40, O.S.L. 1994 (22 O.S. Supp. 1996, Section 991a), which are duplicate sections and which relate to the sentencing powers of the court; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 615 of Title 57, unless there is created a duplication in numbering, reads as follows:

This section through Section 26 of this act shall be known and may be cited as the "Oklahoma Community Corrections Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 616 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. There is hereby authorized to be established in each county or group of counties in this state a community corrections system established pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, for offenders charged with or convicted of eligible criminal offenses. Each county desiring to participate in a community corrections system pursuant to the provisions of the Oklahoma Community Corrections Act shall notify the Department of Corrections of its intent to participate and shall thereafter create an advisory council to coordinate the system and administer the correctional resources within its jurisdiction when the system is established. The notification of intent to participate shall be made by delivering a letter from either a sheriff, district attorney, judge, or a county commissioner to the Director of the Department of Corrections stating that the county intends to begin the process of forming the

required advisory council. Once an advisory council is established, it shall notify the Department of its members and shall then be eligible for technical assistance. The advisory council may enter into interlocal governmental agreements with one or more adjoining counties to provide services pursuant to the provisions of the Oklahoma Community Corrections Act, and counties may establish multicounty advisory councils to coordinate a multicounty system.

B. An advisory council for a single county shall consist of nine (9) members as follows:

1. A district attorney of the jurisdiction whose term shall be concurrent with the office;

2. A county commissioner of the county wherein the local community corrections system is to be initially established to be appointed by the board of county commissioners of that county who shall serve an initial term of one (1) year;

3. A county sheriff whose term shall be concurrent with the office;

4. A judge of the jurisdiction appointed by the district judge who shall serve an initial term of three (3) years and who shall be a nonvoting member;

5. A criminal defense attorney who shall be appointed by the district judge who shall serve an initial term of two (2) years; and

6. Four local citizens: one citizen, who shall be appointed by the sheriff, shall serve an initial term of one (1) year; one citizen, who shall be appointed by the county commissioner, shall serve an initial term of two (2) years; one citizen, who shall be appointed by the district judge, shall serve an initial term of three (3) years; and one citizen, who shall be appointed by a majority vote of the other eight members, shall serve an initial term of two (2) years.

C. Each person appointed to an advisory council shall, to the extent possible, be selected from one of the categories listed below and shall reside or have employment duties in the jurisdiction:

1. An administrator of a victim services program or victim's advocate;

2. A representative of the Department of Mental Health and Substances Abuse Services;

3. A representative of the State Department of Education;

4. A representative of the Oklahoma Department of Vocational and Technical Education;

5. A representative of the State Department of Health;

6. A representative of the Oklahoma Employment Security Commission;

7. A business owner or member of the local chamber of commerce;

8. A medical doctor, social worker or psychologist;

9. A probation officer, Department of Corrections employee or local corrections employee;

10. An administrator of a community corrections program;

11. A person who is recovering from chemical dependency and considered to be rehabilitated and a productive citizen;

12. A community religious leader; or

13. A local citizen.

D. An advisory council may also select other members who shall serve as consultants but shall have no voting privileges. Multicounty advisory councils may be composed of any number of voting members and shall have of those voting members at least one sheriff, one district attorney, one judge, one county commissioner, and one citizen from each participating county.

E. Following the initial term of office, members with terms not designated to run concurrent with an elected position shall serve terms of three (3) years. Members may be reappointed without limitation. Each appointing authority shall have the right to

remove and replace its appointed member at any time. Each member shall have one vote, and a majority of voting members shall constitute a quorum to transact business. No vacancy shall impair the right of the remaining voting members to exercise all the powers of the advisory council. Any vacancy occurring in the office of an appointed member shall be filled for the unexpired term of office in the same manner as the original appointment. The judge shall convene the initial meeting of the advisory council within thirty (30) days of the first citizen appointment.

F. At its initial meeting, each advisory council shall elect a chair from its voting members who shall preside at all meetings of the council and perform such other duties as may be required. The advisory council shall elect another member to serve as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act. The advisory council shall also elect a secretary who shall keep minutes of all meetings and who shall certify the actions of the council, and a treasurer who shall monitor and keep records of all financial transactions. Other officers may be elected from the membership as necessary.

G. An advisory council shall adopt written rules concerning meeting times, places, dates, conduct for disclosing and handling conflicts of interest, removal of member for failure to attend a certain number of meetings, financial reports, recordkeeping, and any other provision necessary to implement the provisions of the Oklahoma Community Corrections Act. The written rules promulgated by the local advisory council shall not be subject to the Administrative Procedures Act but shall be filed with the clerk of the district court or courts of the jurisdiction to be served by the community corrections system. The rules may be amended at any time, provided a thirty-day written notice detailing the change or addition is filed with the court clerk where the original rules are

filed before the provision may be considered for vote by the council. Each advisory council shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 617 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. An advisory council established pursuant to the provisions of Section 2 of this act shall administer and coordinate the jurisdiction's community corrections system and resources subject to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, and the rules promulgated by the Department of Corrections for the Oklahoma Community Corrections Act. An advisory council shall have the following powers and duties within its jurisdiction:

1. The authority to promulgate rules, procedures and forms necessary to implement the provisions of the Oklahoma Community Corrections Act;

2. The duty to prepare specifications and plans for the local community corrections system, including allocation of resources in a cost-effective manner;

3. The duty to operate the local community corrections system within the approved budget and plan;

4. The authority and duty to request bids for contracts for qualified services as may be necessary for the system;

5. The duty to determine methods of calculating resource allocation to meet the needs of the system;

6. The authority to contract for goods and services necessary for the administration and implementation of the system;

7. The authority to enter into interlocal governmental agreements for qualified services;

8. The authority to form multicounty community corrections systems as may be necessary to conserve resources or implement appropriate programs or services within the jurisdiction;

9. The duty to expend and budget money and assets of the local community corrections system in a prudent and fiscally responsible manner;

10. The authority to hire, train and terminate personnel and to set and pay their salaries;

11. The duty to review, audit and evaluate the local services and programs offered to the court;

12. The duty to keep records including, but not limited to, records concerning offender's participation, recidivism rates, commitment rates, services offered, and court orders;

13. The authority to rent, lease or purchase personal property and equipment necessary for providing services and administration of the local corrections system;

14. The duty to apply for grants and solicit other sources of funding and resources for the system;

15. The duty to identify and specify services and programs for the local jurisdiction and to modify or delete those services and programs where the needs of the local corrections system are not being met;

16. The authority and duty to develop performance-based criteria for evaluation of the local programs and services in the community corrections system, including the impact of specific programs and services on offender recidivism, rehabilitation, community and state resource allocation, and community involvement;

17. The authority to perform any other function necessary to administer, examine, modify, implement, and coordinate the community corrections system of the jurisdiction within available resources and according to law;

18. The duty to provide appropriate community corrections programs or services to be available to the judge at sentencing;

19. The duty to implement services which require offender accountability and promote prevention and rehabilitation;

20. The duty to inform local officials of available programs and services; the number of offenders to be served in each program; the costs to be allocated to the offender for participation, if any; the appropriateness of programs for certain offenders; and any other information encouraging local responsibility for resources and offender accountability within the local community corrections system; and

21. The authority to contract with public agencies or private nonprofit organizations or for-profit organizations to administer programs within the local community corrections system. The advisory council shall establish criteria and specifications for any contracts entered pursuant to this provision.

B. An advisory council shall hire a director for the local community corrections system. The director shall hire other staff as necessary to provide support to the advisory council and administer the local system. All staff shall be deemed unclassified state employees, except county employees may retain their employment position and status with the approval of the board of county commissioners when the county transfers an existing community service program to a local community corrections system pursuant to the provisions of this act or otherwise agrees to fund any personnel for the local system. Community corrections staff shall ensure that restitution, reimbursements, fines, costs and other payments are forwarded to the designated person or entity, and that court orders are properly performed by the offender and service providers. The community corrections staff shall have such other duties and responsibilities as may be delegated or assigned by the advisory council to administer the local community corrections system.

Employees of selected programs which are under contract with the local community corrections system shall not be deemed employees of the community corrections system or the state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 618 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. A local community corrections system established pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, shall submit a complete system plan for the jurisdiction to the Department of Corrections annually, which may include, but not be limited to the following information pertaining to its jurisdiction:

1. For the previous two (2) years: the number and rates of arrests, number of felony convictions, admissions to probation, number of offenders sentenced to post-imprisonment supervision, number of offenders sentenced to county jail, average length of sentence served in county jail, number of offenders sentenced to the custody of the Department of Corrections, average length of sentence served in the custody of the Department of Corrections;

2. Current jail conditions, staff, capacity, and jail population data by offender-type including, but not limited to, misdemeanor, felony, trusty, post-trial detainee, pre-trial detainee, disciplinary sanction or juvenile;

3. A list of services and programs available in the community, including costs, space availability, the number of offenders participating, the average length of participation and performance-based data;

4. Range of punishment sanctions available for offenders within the jurisdiction, including disciplinary sanctions for noncriminal behavior of offenders participating in the program;

5. A list of educational, vocational-technical, health, mental health, substance abuse treatment, and social services available to offenders or to be made available within a twelve-month period;

6. Restrictive residential facilities or other restrictive housing options available or to be made available within a twelve-month period; and

7. Details of the local community corrections system plan with a supporting budget, including:

a. identification of existing resources, including cash, professional services, in-kind resources, property, or other sources of resources,

b. additional resources needed, identified by type and amount,

c. projected number of offenders to be served in each sanction option and projected total of offenders to be served by the system,

d. types and priority groups of offenders to be served,

e. established disciplinary sanctions for non-criminal conduct against participating offenders,

f. local policy statements,

g. methods for allocating resources to support the programs and services included in the plan,

h. methods for reciprocal program services,

i. performance-based program evaluation methods and criteria,

j. recordkeeping and provisions for audits or reviews,

k. administrative structure of the system and list of specific service providers participating in the system, including detailed qualifications of staff and program administrators, and

l. extent of community participation.

B. A plan may be modified or expanded within the plan year by submitting the written modification for approval to the Department of Corrections. When a community corrections system plan is approved by the Department, the community corrections system in that jurisdiction shall be an approved corrections system within the state. Failure of the Department of Corrections to disapprove a plan or recommend modification to the plan within ninety (90) days after the plan has been submitted for approval or disapproval shall constitute an approval of the local community corrections system plan. Any county offering only a Community Service Sentencing Program pursuant to Section 991a-4 of Title 22 of the Oklahoma Statutes shall not be eligible for approval as a community corrections system.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 619 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. An advisory council established pursuant to the provisions of Section 2 of this act may apply for state assistance funding at the time the local community corrections system plan is submitted for approval as required in Section 4 of this act, or at any time when the advisory council requires modification or expansion to programs or services, or for emergency assistance. Each county shall be required to have local resources, or have commitments for allocations of local resources in support of the annual plan for the local community corrections system. To remain eligible for continued state funding, a community corrections system must ensure performance-based evaluations of all programs and services within two (2) years of their implementation and every two (2) years thereafter, demonstrate substantial compliance with delivery of an adequate range of services to the priority offender groups as set forth in Section 6 of this act, and comply with the rules promulgated by the Department of Corrections. Once local resources

have been committed to an approved community corrections system pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, a county's commitment to allocate resources shall not be reduced unless there is a documented significant reduction of total county revenue.

B. The Department of Corrections shall review, analyze, and evaluate all community corrections system plans and budgets together with any applications submitted for state assistance funding. The Department is directed to automatically approve all plans complying with the laws and rules when the plan requires no state funding.

C. When state funding is required to implement a local community corrections system, the Department shall approve the plan only to the extent that the jurisdiction's proportionate share of the state funding will support the implementation of the system. All state assistance funding shall be subject to appropriations by the Legislature. The Department shall disburse funds to the participating advisory councils of approved community corrections systems requesting funding in the priority manner as follows:

1. To all participating systems to provide base funding for minimal operation and hiring of a director;

2. To all participating systems operating effective performance-based or innovative programs for priority offenders in paragraphs 1, 2 and 3 of Section 6 of this act. For purposes of this paragraph, all programs shall have two (2) years from their implementation date to demonstrate performance-based effectiveness;

3. To all systems able to demonstrate cost-effectiveness in budgeting and allocation of state funds in relation to the numbers of offenders served;

4. To systems with innovative programs serving priority offender groups or for innovative prevention programs;

5. To systems for emergency assistance or where it can be demonstrated that the jurisdiction needs special assistance; and

6. To provide temporary services when an approved system has been withdrawn or for program expansion during a plan year.

D. State assistance funds may be distributed quarterly or in the manner determined most efficient as provided by the rules promulgated for the Oklahoma Community Corrections Act. State funds disbursed for approved community corrections systems shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure. State funding disbursed for approved community corrections systems shall not be used to supplant or replace existing funding or other resources from the federal, state, county or city government for any existing community-based programs or services. State funds for approved community corrections systems shall not be disbursed to any jurisdiction where there is a lack of demonstrated innovation or performance-based effectiveness of the system. Any state funds not budgeted or disbursed by the Department in any funding period may be subsequently budgeted and disbursed to approved community corrections systems as necessary. Funds accruing for the benefit of approved community corrections systems shall not be expended for any other purpose.

E. An approved community corrections system receiving funding pursuant to the provisions of this section may terminate its participation after sixty (60) days from the delivery of a notice of termination from the local advisory council signed by a majority of the voting members to the Director of the Department of Corrections. Such notice of termination may be delivered at the beginning of any calendar quarter. Upon a notice of intent to withdraw an approved community corrections system, the advisory council shall adopt a resolution stating that it is in the best interests of the jurisdiction that the current advisory council be dissolved and the reason for the dissolution. Another advisory council may be formed as provided by the rules promulgated by the Department of

Corrections, or the board of county commissioners shall pay and discharge any debts and liabilities of the withdrawn community corrections system, collect and distribute assets, and pay over any remaining proceeds or property to the Department of Corrections for deposit in the Oklahoma Community Corrections Revolving Fund created by Section 17 of this act. Upon dissolution of an approved community corrections system, the Department may temporarily continue the contracts with any appropriate providers in the jurisdiction for services to persons serving sentences or participating in court-ordered services, or the Department may notify the court of the need to resentence the offenders as may be necessary to punish the offenders according to law and to protect the public. The cost of temporary contracting for services shall be paid from the Oklahoma Community Corrections Revolving Fund. The jurisdiction withdrawing an approved community corrections system shall not be deemed to have an approved community corrections system pursuant to the provisions of this act until such time as a new system is formed and is in compliance with the provisions of the Oklahoma Community Corrections Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 620 of Title 57, unless there is created a duplication in numbering, reads as follows:

A local community corrections system established pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, and its programs and services shall target offender groups and prioritize spending for services as follows:

1. Defendants with an eligible second or subsequent felony conviction sentenced to an alternative to incarceration as authorized in Section 30 of this act;

2. Defendants with an eligible second or subsequent felony conviction sentenced to a suspended sentence with supervision and

conditions, a term of imprisonment in the county jail or a delayed sentence as authorized by Section 32 of this act;

3. Defendants eligible for the Accelerated Prosecution Program, as authorized by Sections 18 through 25 of this act;

4. Persons released on conditions of parole or otherwise assigned to the community from a correctional facility to serve the remainder of a sentence for a felony offense;

5. Defendants with an eligible felony conviction sentenced to a suspended sentence with one or more conditional requirements or requiring supervision as authorized by Section 32 of this act;

6. Defendants with an eligible felony offense sentenced to a deferred judgment pursuant to Section 991c of Title 22 of the Oklahoma Statutes;

7. Defendants with an eligible felony offense on a deferred prosecution agreement pursuant to Section 305.1 of Title 22 of the Oklahoma Statutes;

8. Defendants convicted of two or more misdemeanor offenses; and

9. Persons arrested for or convicted of a misdemeanor offense.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 621 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The following types of offenses shall not be eligible for any consideration pursuant to any community corrections system authorized by the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, Section 30 of this act or pursuant to Sections 991a-2 or 991a-4 of Title 22 of the Oklahoma Statutes:

1. Any assault and battery with a dangerous weapon;

2. Any aggravated assault and battery;

3. Poisoning with intent to kill;

4. Shooting with intent to kill;

5. Assault with intent to kill;

6. Drive-by shootings;

7. Assault with intent to commit a felony;

8. Murder in the first degree;

9. Murder in the second degree;

10. Manslaughter in the first degree;

11. Manslaughter in the second degree;

12. Kidnapping;

13. Kidnapping for extortion;

14. Maiming;

15. Robbery;

16. Child beating;

17. Wiring any equipment, vehicle or structure with explosives;

18. Sodomy;

19. Forcible sodomy;

20. Rape in the first degree;

21. Rape in the second degree;

22. Rape by instrumentation;

23. Any lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age;

24. Use of a firearm or offensive weapon to commit or attempt to commit a felony;

25. Any felony offense relating to use of a firearm;

26. Rioting;

27. Arson in the first degree.

28. Arson in the second degree; and

29. Any offense pursuant to the provisions of the Trafficking In Illegal Drugs Act.

B. When the person has any prior conviction for a prohibited offense the court shall take into consideration at the time of sentencing whether or not there is a substantial risk to public safety, and the court may refuse a community corrections consideration.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 622 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Local community corrections systems, established and approved pursuant to the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, are limited in the number of offenders which each may serve and the duration of services which may be delivered based upon program design, funding, and availability of services within the jurisdiction. Once the state and local resources are exhausted or a program or service has reached capacity, no person, whether or not statutorily eligible, may be sentenced to the system, program or service. Nothing in the Oklahoma Community Corrections Act confers any rights upon any defendant to avoid any term of imprisonment or to receive any services established pursuant to the provisions of the Oklahoma Community Corrections Act. The State of Oklahoma shall not be obligated to fund any community corrections system beyond the budget approved pursuant to Section 4 of this act and may refuse to award state funds for any plan submitted for any system which does not:

1. Demonstrate performance-based effectiveness after two (2) years of the implementation of a program;

2. Budget and expend state funds efficiently; and

3. Target offender populations for services and priority funding.

B. Community corrections services are a privilege, and the local advisory council, judges, prosecutors, defense attorneys, and citizens shall carefully monitor and allocate available resources to best meet the safety needs of the local community while providing appropriate punishments and treatment for eligible offenders within budgeted amounts.

C. Any person sentenced to a community corrections punishment as an alternative to incarceration as authorized by Section 30 of

this act, or as provided in Section 991a-2 of Title 22 of the Oklahoma Statutes, shall not be deemed to be an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment Center. Except as provided in Section 991a-2 of Title 22 of the Oklahoma Statutes, the Department of Corrections shall not automatically reimburse any medical expenses for persons participating in any community corrections system or confined in any restrictive facility as part of a community corrections punishment. A local system must budget annually for minor medical expenses and may petition the Department for emergency medical assistance in excess of budgeted amounts for persons not incarcerated pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes. The Department shall provide emergency medical assistance and may consider other medical requests on a case-by-case basis. Any felony offender requiring extensive medical treatment or services relating to confinement may be transferred to the Department for appropriate treatment upon order of the court.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 623 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Community corrections systems, established pursuant to the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, shall include those services and punishment sanctions established, included, and funded pursuant to the annual plan submitted and approved by the Department of Corrections pursuant to Sections 4 and 5 of this act and any services subsequently added and approved by the Department during a plan year. Each community corrections system shall be required to provide an appropriate range of punishment sanctions and treatment services to the court for offenders sentenced to the local community corrections system as an alternative to incarceration as authorized by Section 30 of this

act, and shall provide as many services to the court as possible to assist offenders in meeting any other requirements of a sentence.

B. The following intermediate sanctions may be available to the court through an approved community corrections system:

1. Restitution to the victim according to a schedule of payments established by the sentencing court, with or without interest which shall not exceed the rate of twelve percent (12%) per annum;

2. Reimbursement to any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims as a result of the criminal act for which the defendant is convicted, with or without interest accruing thereon at the rate of twelve percent (12%) per annum;

3. A term of community work or service without compensation, with a specified date for completion and according to a schedule consistent with the employment and family responsibilities of the person convicted;

4. Payment of a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss;

5. Payment of a reasonable sum to the Crime Victims Compensation Board, Section 142.2 et seq. of Title 21 of the Oklahoma Statutes for the benefit of crime victims;

6. Confinement in the county jail for a period not to exceed one (1) year as authorized in Section 991a-2 of Title 22 of the Oklahoma Statutes;

7. Reimbursement to the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced;

8. Repayment of the reward or part of the reward paid by a certified local crime stoppers program, the State Crime Stoppers Program, or the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crime stoppers program" means a crime stoppers program certified by the Office of the Attorney General pursuant to Section 991g of Title 22 of the Oklahoma Statutes. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;

9. Reimbursement to the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleads guilty, nolo contendere or is convicted, including compensation for laboratory, technical, or investigative services performed by the Bureau if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

10. Payment of court costs incurred in the case for which the defendant is convicted;

11. Substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes or as ordered by the court;

12. Placement in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars ($15.00) nor more than Twenty-five Dollars ($25.00) as set by the governing authority of the program to offset the cost of participation by the defendant;

13. Installation of an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater;

14. Confinement by electronic monitoring administered and supervised by the Department of Corrections or a community corrections provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars ($75.00) a month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of

Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person;

15. One or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, anti-social behavior, personality, attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization;

16. Periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory;

17. Payment of a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs;

18. Supervision by a Department of Corrections employee, community corrections provider, or other person designated by the court;

19. Positive behavior modeling by a trained mentor;

20. Confinement in a restrictive housing facility available in the community;

21. Confinement in the county jail at night or during weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes or for work release;

22. Employment or employment-related activities;

23. Mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court;

24. Day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community correction system as reparation to the community. Day fines shall be used to support the local system;

25. Blood testing as required by Section 38 of this act;

26. Repair or restoration of property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property;

27. Restoration of damaged property in-kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim;

28. Attendance to a victim-offender mediation program if the victim agrees to participate and the offender is deemed appropriate for participation; and

29. Any other restorative provision specifically ordered by the court and able to be provided or supervised by the local community corrections system.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 624 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. In addition to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, which includes

the provisions of the Accelerated Prosecution Program (AP), Sections 18 through 25 of this act, the court shall exercise the authority and duties prescribed in Sections 29, 30, 31 and 32 of this act and the authority otherwise provided by the Oklahoma Statutes when considering and imposing community corrections punishments, services and alternatives to incarceration.

B. Any offender sentenced to any community corrections sanction pursuant to the provisions of the Oklahoma Community Corrections Act which requires supervision shall be required to pay a supervision fee. The supervising agency shall establish the fee amount not to exceed Forty Dollars ($40.00) per month based upon the offender's ability to pay. In hardship cases the supervising agency may expressly waive all or part of the fee. No supervising agency participating in the Oklahoma Community Corrections Act shall deny any offender services for the sole reason that the offender is indigent. In addition to any supervision fee, offenders participating in the Oklahoma Community Corrections Act shall be required to pay a user fee for administrative services provided by the system. The user fee shall not exceed Twenty Dollars ($20.00) per month. Supervision and user fees when collected shall be retained by the local community corrections system and utilized for support and expansion of the local community corrections system, except that fees collected for supervision services provided by the Department of Corrections shall be paid directly to the Department to be deposited in the Department of Corrections Revolving Fund.

C. In addition to any supervision fee or user fee authorized by this section, the court may assess program costs, restitution, and fines to be paid by the offender based upon the person's ability to pay.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 625 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any time within two (2) years after the court has sentenced an offender to incarceration as provided in Section 991a-2 of Title 22 of the Oklahoma Statutes, or to any community corrections punishment as an alternative to incarceration as authorized by Section 30 of this act, the court imposing the sentence may modify the sentence as provided in subsection D of this section upon motion of the district attorney, the defense attorney or the offender. The provisions of this section shall not apply to any person who:

1. Has been incarcerated in any state correctional facility;

2. Is subject to a suspended sentence or portion thereof;

3. Is subject to a suspended date for execution of the sentence; or

4. Is subject to the provisions of Section 996 et seq. of Title 22 of the Oklahoma Statutes.

B. Upon consideration of a motion to modify a sentence pursuant to the provisions of this section, the staff of the approved community corrections system in which the offender is ordered to participate, the sheriff, the district attorney, the service provider, or any agency or person providing supervision of the offender shall provide the court with any reports and other information available relating to the offender and the motion to modify the sentence. The court shall consider any reports and information submitted prior to modifying the sentence.

C. If the court considers a motion to modify the sentence, a hearing shall be made in open court. The clerk of the court having jurisdiction shall give notice of the hearing and provide a copy of any reports and information to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was convicted. The notice shall be given not less than ten (10) days prior to the hearing.

D. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any community

corrections punishment or impose any other punishment allowed by law for the offense at the discretion of the court and appropriate for the circumstances; provided, no punishment shall be imposed which is greater than the prescribed punishment allowed by law. The court may impose a term of imprisonment not to exceed five (5) days in the county jail or five (5) days in any residential facility, or halfway house contracting for services with an approved community corrections system as a disciplinary sanction for offenders violating conditions of their sentence or program requirements without the court modifying the original terms and conditions of the sentence. The offender shall be given credit for any period of incarceration served in the county jail when the sentence must be modified. The court may order any appropriate disciplinary sanction to gain compliance with the original terms and conditions of the sentence or may order any incentive deemed appropriate for the circumstances to reward the defendant for successful behavior or accomplishments.

E. The court shall not be limited on the number of modifications a sentence may have within the two-year period; provided, no punishment shall be imposed which is greater than the maximum prescribed punishment allowed by law.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 626 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. When any offender is disciplined by the court as authorized by Section 11 of this act and is to be imprisoned in the county jail or other residential facility, the sheriff or facility administrator shall receive compensation as provided by their contract with the local community corrections system, or the sheriff or facility administrator shall be paid directly for the services by the offender when ordered by the court. In no event shall any

compensation for disciplinary confinement exceed the maximum amount provided in Section 38 of Title 57 of the Oklahoma Statutes.

B. The Department of Corrections is prohibited from accepting offenders into state correctional facilities for community corrections sanctions and is prohibited from contracting to pay for any offender imprisoned in the county jail for disciplinary sanctions or when sentenced to other restrictive confinement as a community corrections sanction, provided however, the Department shall pay for any parolee or inmate serving a community assignment pursuant to law when that person must be imprisoned in the county jail for a disciplinary sanction.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 627 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any law directing earned credits during periods of imprisonment or otherwise, including Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes, shall not be applicable to persons sentenced pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 628 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any offender ordered to participate in an approved community corrections system shall be advised of the conditions of the specific program or service.

B. Offenders shall not be ordered to participate in any service or program within any community corrections system established pursuant to the Oklahoma Community Corrections Act which requires the offender to use private transportation to reach the service location when the one-way trip driving distance is more than sixty

(60) miles from the residence of the offender, except by written consent of the offender.

C. Prior to completing a community corrections sanction pursuant to the Oklahoma Community Corrections Act, the offender may, in special circumstances, request a reciprocal assignment in another jurisdiction to complete the terms and conditions of the sentence. Each approved community corrections system must have entered into a reciprocal agreement for services with the other jurisdiction and must have the approval of the receiving jurisdiction and a court order from the court having jurisdiction of the offender before any transfer of the person, case, and services shall be made.

D. Upon completion of any court-ordered condition, program, or service pursuant to the authority of the Oklahoma Community Corrections Act, the administrator of the local system shall file a statement with the court defining the provision which has been successfully completed. When all court-ordered provisions have been successfully completed the defendant shall be deemed to have completed the sentence and shall be released.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 629 of Title 57, unless there is created a duplication in numbering, reads as follows:

All state and local government agencies, community service agencies, nonprofit organizations, education or vocational-technical entities, and other providers participating in an approved community corrections system or contracting to provide services to the system pursuant to the provisions of the Oklahoma Community Corrections Act are hereby granted immunity from liability for any offender participating in the program pursuant to the provisions of the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in an approved community corrections system

to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. In addition to other powers and duties, the Department of Corrections shall have authority and responsibility pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, as follows:

1. The authority and duty to promulgate rules, procedures and forms necessary to implement the provisions of the Oklahoma Community Corrections Act;

2. The duty to apply for and accept money and other assets to be utilized for support of community corrections systems;

3. The duty to review and analyze each local community corrections system's plan and budget as submitted annually or during a plan year;

4. The authority and duty to establish statewide correctional system goals, standards, and priorities;

5. The duty to evaluate, monitor and coordinate approved community corrections systems in the state;

6. The duty to provide technical assistance to approved community corrections systems established pursuant to the provisions of the Oklahoma Community Corrections Act. The technical assistance shall include, but not be limited to, information on:

a. corrections system design,

b. administration,

c. development, monitoring, and evaluating of programs and services,

d. program identification and specifications,

e. offender risk management,

f. supervision of offenders,

g. planning and budgeting,

h. grant applications, and

i. preparation and submission of documents, data, budgets, and system plans;

7. The duty to provide assistance and oversight of offenders subject to supervisions;

8. The authority to establish temporary services where the local community has dissolved an approved community corrections system;

9. The duty to provide an application process for state assistance funding and to distribute state funds as required by law;

10. The authority to conduct or request the State Auditor and Inspector to conduct an audit of any approved community corrections system or a contracted program or service provider receiving state funds;

11. The authority to negotiate and enter into contracts for temporary services, to renegotiate or cancel any temporary contract according to the terms of the agreement or for noncompliance with any rule or law;

12. The duty to educate and disseminate information to local officials and approved community corrections systems concerning corrections issues including, but not limited to:

a. punishment options,

b. disciplinary sanctions,

c. resource allocation,

d. administration,

e. legal issues,

f. supervision and risk management,

g. treatment methodology and services,

h. education and vocational services,

i. service and program monitoring and evaluation methods,

j. grants and funding assistance,

k. data and recordkeeping, and

l. offender characteristics;

13. The authority to develop minimal standards for programs, services, safety of the public, staff and offenders, and for the qualification of staff for administration of the local community corrections system; and

14. The duty to develop appropriate cost-effective and performance-based sentencing options and rehabilitation program models.

B. All rules promulgated by the Department of Corrections pursuant to the provisions of the Oklahoma Community Corrections Act shall be in accordance with the provisions of the Administrative Procedures Act.

C. The Department shall make a report to the Legislature annually by January 15, concerning all approved community corrections systems. The report shall provide an evaluation of the effectiveness of the Oklahoma Community Corrections Act in terms of safety of the public, appropriate range of community sanctions, cost-effectiveness, performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource allocation, and reduced state and local institutional receptions, if any.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 631 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections is authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens. Any money received by the Department pursuant to the provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, shall be deposited in the Oklahoma Community Corrections Revolving Fund.

B. There is hereby created in the State Treasury a revolving fund for the Department of Corrections to be designated the "Oklahoma Community Corrections Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all funds appropriated to it by the Legislature, grants, gifts, bequests and any other lawful money received for the benefit of the Oklahoma Community Corrections Act. All funds received shall be deposited to the fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Corrections for state assistance funding to approved community corrections systems established pursuant to the provisions of the Oklahoma Community Corrections Act and for temporary contract services in jurisdictions withdrawing an approved community corrections system. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

C. Nothing in this section shall be construed to prohibit the Department of Corrections from transferring funds from other accounts or funds controlled by the Department to the Oklahoma Community Corrections Revolving Fund; provided, however, any funds transferred shall not thereafter be returned to the originating fund or account.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 471 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. This section through Section 25 of this act shall be known and may be cited as the "Accelerated Prosecution Program" and is part of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act.

For purposes of this act, "Accelerated Prosecution Program" or "AP program" means an immediate and highly structured judicial

intervention process for treatment of eligible offenders which expedites the criminal case and requires successful completion of the plea agreement in lieu of incarceration.

B. The district courts of this state are hereby authorized to establish an Accelerated Prosecution Program (AP) pursuant to the provisions of this act, subject to availability of funds.

C. Accelerated Prosecution Programs shall not apply to any criminal offenses prohibited by Section 7 of this act. Eligible offenses may be restricted further by the rules of the specific program. Nothing in this act shall be construed to require the court to consider every offender with a treatable condition or addiction, regardless of whether the offense is eligible for consideration in an AP program.

D. An AP program shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems. Whenever possible, the court shall designate one or more judges to administer the program who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions. The assignment of a judge to administer an AP program shall not preclude the assigned judge or any assigned staff from performing other judicial functions or work of the district court, nor shall the assignment of a judge to an AP program mandate the assignment of all substance abuse cases to the AP docket; however nothing in this act shall be construed to preclude the court from assigning all cases relating to substance abuse or drug possession. For purposes of this act the district attorney is required to file an information within four (4) days of the arrest and before any plea bargaining begins. Any criminal case which has been filed and processed in the traditional manner shall be cross-referenced by the court clerk, if the case is subsequently assigned to the AP docket. All AP cases and dockets shall be confidential and not open to the

public for inspection due to the treatment components of the program and the confidential nature of the medical reports.

E. The court may request assistance from any state or local agency in developing and implementing AP programs and services which will assure maximum opportunity for successful treatment, education, and rehabilitation for offenders admitted to the program. All state and local agencies are directed to coordinate with each other and cooperate in assisting the court in establishing an Accelerated Prosecution program.

F. Each AP program shall ensure, but not be limited to:

1. Strong linkage between participating agencies;

2. Access by all participating parties to all information on the offender's progress;

3. Vigilant supervision and monitoring procedures;

4. Random substance abuse testing;

5. Provisions for noncompliance, modification of the treatment plan, and revocation proceedings;

6. Availability of residential treatment facilities and outpatient services;

7. Payment of court costs, court monitoring fees, and program user fees;

8. Methods for measuring application of disciplinary sanctions, including provisions for:

a. increased supervision,

b. urinalysis testing,

c. intensive treatment,

d. short-term confinement not to exceed five (5) days,

e. recycling the offender into a program after a disciplinary action for a minimum violation of the treatment plan,

f. reinstating the offender into a program after disciplinary action for a major violation of the treatment plan,

g. revocation from the program; and

9. Methods for measuring performance-based effectiveness of each individual treatment provider's services.

G. All AP programs shall be required to keep reliable data on recidivism, relapse, restarts, sanctions imposed, and incentives given.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 472 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The initial opportunity for consideration of an offender in an Accelerated Prosecution Program (AP) shall occur within four (4) days after the arrest and incarceration of the offender in the county jail, or if an immediate bond release program is available through the jail, the initial opportunity for consideration shall occur in conjunction with that bond release program. The following information shall be initially reviewed by the sheriff or a designee:

1. The offender's arrest or charge does not involve a crime of violence against any person, unless there is a specific AP program in the jurisdiction designed to address domestic violence, and the offense is related to domestic violence;

2. The offender has no prior felony conviction in this state for a violent offense, except as may be allowed in a domestic violence AP program;

3. The offender's arrest or charge does not involve trafficking or manufacture of a controlled dangerous substance;

4. The arrest or charge is not based upon any one of the prohibited offenses stated in Section 7 of this act;

5. The offender has committed a felony offense; and

6. The offender:

a. admits to having a substance abuse addiction,

b. appears to have a substance abuse addiction, or

c. the arrest or charge is based upon an offense for which there exists a local AP program to treat the offender.

B. If it appears to the sheriff that the offender is not eligible for any AP program in the jurisdiction, after review of the information in subsection A of this section, the sheriff shall take no further action. If it appears to the sheriff that the offender may be eligible for an AP program after review of the information in subsection A of this section, the sheriff shall present the offender with an eligibility form to be voluntarily completed by the offender which describes the AP program for which he or she may be eligible, including the following:

1. A full description of the AP program investigation;

2. A general explanation of the roles and authority of the supervising staff, the district attorney, the defense attorney, the treatment provider, the offender, and the court in an AP program;

3. A clear statement that the court may decide after a hearing not to consider the offender for the program and that the offender may have to stand trial for the alleged offense;

4. A clear statement that the offender is required to enter a guilty plea as part of a written plea agreement;

5. A clear statement that the plea agreement will specify the charge to be entered in exchange for a guilty plea or a plea of nolo contendere and will state any penalty to be imposed for the offense both in the event of a successful completion of the AP program, and in the event of a failure to complete the AP program;

6. A clear statement that the offender must voluntarily agree to:

a. waive the right to a speedy trial,

b. waive the right to a preliminary hearing,

c. the terms and conditions of a treatment plan, and

d. sign a performance contract with the court;

7. A clear statement that the offender if accepted into the AP program may not be incarcerated for the offense in a state correctional institution upon successful completion of the treatment program;

8. A clear statement that during participation in the AP program should the offender:

a. fail to comply with the terms of the agreements,

b. be convicted of a misdemeanor which reflects a propensity for violence, or

c. be convicted of any felony offense,

the offender may be required, after a court hearing, to be revoked from the AP program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

9. An explanation of the criminal record retention and disposition resulting from participation in an AP program following successful completion of the program.

C. 1. The defendant may request consideration for an AP program by:

a. signing the completed form and returning it to the sheriff or designee to be filed with the court while incarcerated, or

b. after release, signing the completed form and filing it with the court prior to or at the time of either initial appearance or arraignment.

2. Any offender desiring legal consultation prior to signing or completing the form for an accelerated prosecution consideration shall be provided legal counsel by the public defender of the county, if the offender is indigent, or allowed to consult with private legal counsel.

3. Nothing contained in the provisions of this subsection shall prohibit a court from considering any offender for an AP program at any time prior to sentencing, or upon a violation of parole or probation conditions.

D. When an offender has made a voluntary request to be considered for an AP program on an appropriate form, an initial hearing shall be set before the court. The hearing shall be not less than three (3) business days nor more than five (5) business days after the date of the filing of the request form. Notice shall be given to the district attorney and to the public defender by the court, and the offender shall be required to notify any private legal counsel of the date and time of the hearing.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 473 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. At the initial hearing for consideration of an offender for the Accelerated Prosecution Program (AP), the district attorney shall determine whether or not the offender has been admitted to an AP program within the preceding five (5) years, and whether or not there is any statutory preclusion, other prohibition, or program limitations applicable to considering the offender for the program. The district attorney may object to the consideration of the offender for an AP program based upon these findings, either in writing or in open court, but shall not be allowed to object to consideration of the offender for other reasons at the initial hearing.

B. 1. If the offender voluntarily consents to be considered for an AP program, has signed and filed the required form requesting consideration, and no objection has been made by the district attorney as provided in subsection A of this section, the court may:

a. refer the offender for an AP investigation,

b. set a date for a hearing to determine final eligibility for admittance into an AP program, or

c. refer the offender for an AP investigation and set a date for a hearing to determine final eligibility for admittance into the program.

2. If the court sustains any objection of the district attorney for consideration of an offender for the program, or determines the offender to be initially not eligible for any reason, in the discretion of the court, the court shall deny consideration of the offender's request for participation in the AP program.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 474 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When directed by the court, the supervising staff for an Accelerated Prosecution (AP) program shall make an investigation of the offender under consideration to determine whether or not the offender is a person who:

1. Would benefit from an AP program; and

2. Is appropriate for an AP program offered in the jurisdiction.

B. The investigation shall be conducted through a standardized screening test and personal interview. A more comprehensive assessment may take place at the time the offender enters a treatment program and may take place at any time after placement in an AP program. The AP investigation shall determine the original treatment plan which the offender will be required to follow and any subsequent assessments or evaluations by a treatment provider shall be used to determine modifications needed to the original treatment plan. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse

Services and the local community corrections system. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention components. The investigation shall include, but not be limited to, the following information:

1. The person's age and physical condition;

2. Employment and military service records;

3. Educational background and literacy level;

4. Community and family relations;

5. Prior and current drug and alcohol use;

6. Mental health and medical treatment history, including substance abuse treatment history;

7. Demonstrable motivation; and

8. Other mitigating factors.

C. The investigation shall be conducted after the initial hearing for consideration and before the hearing for final determination of eligibility for an AP program. When an offender is appropriate for admittance to an AP program, the supervising staff shall make a recommendation of the community treatment program or programs that are available in the jurisdiction and which would benefit the offender and accept the offender. The investigation findings and recommendations for program placement shall be reported to the court, the district attorney, the offender, and the defense attorney prior to the next scheduled hearing.

D. The district attorney and the defense attorney for the offender shall independently review the findings and recommendations of the AP investigation staff. Both the district attorney and the defense attorney shall agree to the recommended treatment plan without alterations of the plan and shall negotiate the terms of the written plea with punishment provisions before the scheduled hearing date for determining final eligibility. In the event the district attorney and the defense attorney are unable to agree on the terms of the written plea or punishment provisions, a professional

mediator may be selected to mediate. The resulting agreement, if any, shall be presented to the court for consideration. The punishment provisions must emphasize reparation to the victim, community and state.

E. The hearing to determine final eligibility shall be set not less than three (3) business days nor more than seven (7) business days from the date of the initial hearing for consideration.

F. For purposes of this act, "supervising staff" means a Department of Corrections employee assigned to monitor offenders assigned to the AP program, a community provider assigned to monitor offenders in the AP program, a state or local agency representative or a certified treatment provider participating in the AP program, or a person designated by the judge to perform AP investigations.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 475 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. 1. Any statement, or any information procured therefrom, made by the offender to any supervising staff, which is made during the course of any Accelerated Prosecution Program (AP) investigation conducted by the supervising staff pursuant to Section 21 of this act, and any report of the supervising staff's findings and recommendations to the court, the district attorney, or the defense counsel shall not be admissible in the criminal case pending against the defendant.

2. Any statement, or any information procured therefrom, with respect to the specific offense for which the offender was arrested or is charged, which is made to any supervising staff subsequent to the granting of admission of the offender to an AP program, shall not be admissible in the pending criminal case nor shall such be grounds for the revocation of an offender from the program.

3. In the event that an offender is denied admission to an AP program or is subsequently revoked from the program, any information

gained from the AP investigation, any statements or information divulged during the AP investigation or any treatment session shall not be used in the sentencing of the offender for the original criminal offense.

4. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

B. 1. The offender, as consideration for entering an AP program, must consent to a full and complete photographic record of property which was to be used as evidence in the pending criminal case. The photographic record shall be competent evidence of such property and admissible in any criminal action or proceeding as the best evidence.

2. After the photographic record is made, the property shall be returned as follows:

a. property, except that which is prohibited by law, shall be returned to its owner after proper verification of title,

b. the return to the owner shall be without prejudice to the state or to any person who may have a claim against the property, and

c. when a return is made to the owner, the owner shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the person in charge of the property at the police department or sheriff's office.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 476 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The judge having authority for an Accelerated Prosecution Program (AP) shall conduct a hearing as required by subsection E of

Section 21 of this act to determine final eligibility by considering:

1. Whether or not the offender voluntarily consents to the program requirements;

2. Whether or not to accept the offender based upon the findings and recommendations of the investigation authorized by Section 21 of this act, if an investigation was conducted pursuant to court order;

3. Whether the terms and conditions of the written negotiated plea between the district attorney, the defense attorney, and the offender are appropriate and consistent with the penalty provisions and conditions of other similar cases;

4. Whether or not there is an appropriate program available to the offender; and

5. Any information relevant to determining eligibility; provided, however, an offender shall not be denied admittance to any program based upon an inability to pay court costs or program user fees.

B. 1. At the hearing to determine final eligibility, the court shall not grant any admission of any offender when:

a. the program funding or availability of treatment has been exhausted,

b. the program is unwilling to accept an offender,

c. the offender was ineligible by the provisions of Section 7 of this act at the time of arrest, and the charge was modified to meet the eligibility criteria of a program, or

d. the offender is inappropriate for admission to the program, in the discretion of the judge.

2. The decision of the judge shall be final.

C. At the hearing, if evidence is presented that was not discovered by the investigation, the district attorney or the

defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the matter for traditional criminal prosecution, or to require further negotiations of the plea or punishment provisions.

D. If the court accepts the treatment plan with the written plea agreement, the offender shall be ordered and escorted immediately into the program. The offender must have voluntarily signed the necessary court documents before the offender shall be placed in the program. The court documents shall include:

1. Waiver of the offender's rights to speedy trial;

2. Agreement for entering a plea of guilty or nolo contendere to the original offense or a lesser included offense, and written agreement which sets forth the offense to be charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program; provided, however, incarceration shall be prohibited when the offender completes the treatment program;

3. A written treatment plan which is subject to modification at any time during the program; and

4. A written performance contract requiring the offender to enter the treatment program as directed by the court and participate until completion, withdrawal, or removal by the court.

E. If admission into an AP program is denied, the offender's case shall be returned to the traditional criminal docket and shall proceed as provided for any other criminal case.

F. The offender shall have fifteen (15) days following the court order admitting the offender into the program to withdraw his or her plea and proceed with traditional criminal prosecution and sentencing.

G. At the time an offender is admitted to an AP program, any bail or undertaking on behalf of the offender shall be exonerated.

H. The period of time during which an offender may participate in the active treatment portion of an AP program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following treatment.

I. The court shall order the offender to pay court costs, program costs, a user fee, and supervision fees, unless the offender is indigent. The court shall establish the schedule for the payment of costs and fees and the amount shall be set by the treatment provider and supervision provider for their respective services. User fees shall be set by the court and payable directly to the court for administering the program. Treatment and supervision costs shall be paid to the respective providers. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall the court order for costs and fees be limited by any term of probation, parole, treatment or extension thereof. Court orders for costs and fees shall remain an obligation of the offender with state supervision until fully paid.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 477 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. The judge shall make all judicial decisions concerning each Accelerated Prosecution (AP) case and shall require progress reports and a periodic review of each offender during his or her period of participation in the program. Reports from the treatment providers and the supervising staff shall be presented to the judge.

B. Upon the written or oral motion of the treatment provider, the district attorney, the defense attorney, the defendant, or the

supervising staff, the court shall set a date for a hearing to review the offender, the treatment plan, and the provisions of the performance contract. Notice shall be given to the offender and the other parties participating in the case three (3) days before the hearing may be held.

C. The court may establish a regular schedule for progress hearings for any offender. The district attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party.

D. The treatment provider, the supervising staff, the district attorney, and the defense attorney shall be allowed access to all information in the offender's case file and all information presented to the judge at any periodic review or progress hearing.

E. The judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process. The judge shall accomplish court monitoring and accountability by ordering progressively increasing sanctions or providing incentives, rather than removing the offender from the program when relapse occurs, except when the offender's conduct requires revocation from the program. Any revocation from the program shall require notice to the offender and other participating parties in the case and a revocation hearing. At the hearing if the offender is found to have violated the conditions of the agreement and other sanctions have been insufficient to gain compliance, the offender shall be sentenced for the offense as provided in the plea agreement.

F. Upon application of any party to the case, the judge may modify a treatment plan at any hearing when it is determined that the treatment is not benefiting the offender. The primary objective of the court in monitoring the progress of the offender and the treatment plan shall be to keep offenders in treatment for a sufficient time to change behaviors and attitudes. Modification of

treatment plans requires a consultation with the treatment provider, supervising staff, district attorney, and the defense attorney in open court.

G. The judge shall be prohibited from amending the written plea agreement after an offender has been admitted to the program. Nothing in this provision shall be construed to limit the authority of the judge to remove an offender from the program and impose the required punishment provided in the plea agreement after application, notice, and hearing.

H. An Accelerated Prosecution Program may be utilized as an intermediate sanction for violation of conditions of parole, or in cases for which offenders have been tried for an eligible offense and are given either a deferred or suspended sentence with conditions of supervision and have violated such conditions. The judge shall not order an offender into treatment within the scope of an AP program without prior approval from the designated AP judge, if any. Any judge having a criminal case, where accelerated prosecution processing appears to be more appropriate for the offender, may request a review of the case by the district attorney and the defense attorney for an AP consideration. If both the district attorney and the defense attorney or offender agree, the case may be transferred to the AP program with the approval of a designated AP judge. After a case has been transferred it shall continue with a designated AP judge until otherwise terminated from the program. The offenders whose cases have been transferred from another court docket to the AP docket shall be required to have an AP investigation and complete the AP process prior to placement in any treatment program.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 478 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. If an offender has completed the Accelerated Prosecution Program (AP), the criminal charges pending against the defendant shall be dismissed if the offense was a first felony offense. For any second or subsequent felony offender, the criminal charges shall be disposed of as specified in the written plea agreement; provided, no plea agreement shall include a term of imprisonment upon completion of an AP program.

B. The final disposition order for an AP case shall be filed with the judge assigned to the case, and shall indicate the sentence specified in the written plea agreement. The final disposition order for the AP case shall be cross-referenced to the original criminal case file under the control of the court clerk which is open to the public for inspection. Original criminal case files which are under the control of the court clerk and which are subsequently assigned to the AP program shall be marked with a pending notation until a final disposition order is entered in the AP case. After an offender completes an AP program, the case file shall be sealed by the judge and may be destroyed after ten (10) years. The district attorney shall have access to all sealed AP case files without a court order.

C. A record pertaining to an offense resulting in a successful completion of an AP program shall not, without the offender's consent in writing, be used in any way which could result in the denial of any employee benefit.

D. Successful completion of an AP program shall not prohibit any administrative agency from taking disciplinary action against any licensee or from denying a license or privilege as may be required by law.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 479 of Title 32, unless there is created a duplication in numbering, reads as follows:

A. For purposes of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, the following state agencies shall jointly develop an assessment and evaluation instrument and scoring method for use by a community corrections system and a standardized testing instrument with an appropriate scoring device for use by all the district courts in this state in implementing an Accelerated Prosecution Program, pursuant to Sections 18 through 25 of this act:

1. The Department of Corrections;

2. The Administrative Office of the Courts;

3. The Department of Mental Health and Substance Abuse Services;

4. The State Department of Health;

5. The State Department of Education; and

6. The Oklahoma Department of Vocational and Technical Education.

B. The state agencies enumerated in subsection A of this section shall provide technical assistance necessary to implement and monitor the Oklahoma Community Corrections Act and may offer services to the community corrections system or the district court, subject to funding, when a community corrections system is established pursuant to the provisions of the Oklahoma Community Corrections Act.

C. All participating state agencies and local advisory councils are directed to promulgate rules necessary to implement the provisions of the Oklahoma Community Corrections Act. When promulgating the rules, participating state agencies and local advisory councils shall coordinate their rules to the extent possible to enhance the statewide goals of the criminal justice system.

D. The Administrative Office of the Courts shall promulgate rules, procedures, and forms necessary to implement Accelerated

Prosecution programs pursuant to the provisions of Sections 18 through 25 of this act to ensure statewide uniformity in procedures and forms. The Department of Mental Health and Substance Abuse Services is directed to develop a training and implementation manual for Accelerated Prosecution programs with the assistance of the State Department of Health, the State Department of Education, the Department of Corrections, and the Administrative Office of the Courts. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the courts in implementing Accelerated Prosecution Programs and shall promulgate rules as necessary to comply with the obligations of the Accelerated Prosecution Program.

SECTION 27. AMENDATORY 20 O.S. 1991, Section 91.2, is amended to read as follows:

Section 91.2 A. To facilitate the trial and disposition of cases, actions filed in the district court shall be assigned to various dockets by the clerk of the court ~~under~~ pursuant to the direction and supervision of the presiding judge of the district. Until changed by order of the Supreme Court, only the following dockets are established: a civil docket, a criminal docket, a traffic docket, a probate docket, a juvenile and family relations docket, and a small claims docket.

B. Whenever a district court establishes an Accelerated Prosecution Program (AP) pursuant to the provisions of Sections 18 through 25 of this act, the judge having authority over the program shall direct the court clerk to establish a special docket. The AP docket shall be confidential from public inspection and the court clerk shall maintain the docket according to the provisions of the Accelerated Prosecution Program. Nothing in this section shall prohibit the district attorney or the victim-witness coordinator from advising any victim regarding the progress and disposition of an AP case.

SECTION 28. AMENDATORY 21 O.S. 1991, Section 3, is amended to read as follows:

Section 3. A crime or public offense is an act or omission forbidden by law, and to which is annexed, upon conviction, either of the following punishments:

1. Death;

2. Imprisonment;

3. Fine;

4. Reparation to the community and state through appropriate community corrections sanctions;

5. Removal from office; or~~,~~

~~5.~~ 6. Disqualification to hold and enjoy any office of honor, trust, or profit, under this state.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 987 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When a person is convicted of a criminal offense and the prescribed penalty is not death, the judge shall at the time of sentencing consider the most appropriate punishment allowable by law to hold the person accountable for the offense and provide adequate protection to the public.

1. First shall be considered:

a. restitution for victims or the state,

b. imposition of the prescribed fine, and

c. reparations to the community and state through any combination of reimbursement, repayment, work, or service to local governments and community or state agencies;

2. Next shall be considered one or more treatment, educational or rehabilitation services, with or without supervision, which are designed to:

a. reduce the occurrence of repeat criminal behavior,

b. detect and deter substance abuse,

c. correct or manage psychological or psychiatric behaviors, conditions or disorders, or

d. develop or enhance the ability of the person to be a contributing member of society; and

3. Finally shall be considered the statutorily prescribed term of imprisonment for the offense. When a term of imprisonment is authorized by law for the offense, a determination shall be made whether or not to impose all or part of that imprisonment, subject to any statutory prohibition against a suspended term of imprisonment and subject to any mandatory imprisonment requirement.

B. The court shall not be required to enunciate its considerations for the record, nor shall any consideration be grounds for appeal of the sentence imposed.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 988 of Title 22, unless there is created a duplication in numbering, reads as follows:

ALTERNATIVE TO INCARCERATION

A. For those jurisdictions participating in the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, in addition to the provisions of Section 991a-2 of Title 22 of the Oklahoma Statutes, the court may impose punishment against the defendant as an alternative to serving a term of incarceration in any jail or state prison facility as provided in this section. The court shall not be authorized to impose punishment in a community corrections system as an alternative sentence to incarceration when:

1. The defendant is to be confined in any residential or restrictive facility for more than one (1) year;

2. The alternative punishment, if taken in its entirety, imposes a greater punishment than otherwise prescribed by law for the offense;

3. The defendant is determined to be inappropriate for an alternative punishment, in the discretion of the judge;

4. The offense is ineligible for an alternative sentence as provided by law;

5. A program or service which is to be the alternative sentence, or a part thereof, is not available in the jurisdiction; or

6. A program or service which is to be the alternative sentence, or a part thereof, is not willing to accept the defendant.

B. Any punishment imposed pursuant to the provisions of this section may be subsequently modified as provided in Section 11 of this act.

C. The provisions of the Oklahoma Community Corrections Act, Sections 1 through 26 of this act, shall not confer any rights upon the defendant to avoid a term of imprisonment prescribed by law for the offense nor grant any additional rights to appeal for failure to be offered an alternative sentence or any community corrections sanction in lieu of imprisonment.

D. 1. At the time of sentencing after a determination of guilt by either verdict, guilty plea, or a plea of nolo contendere, when the court determines the offender to be eligible and appropriate for community corrections punishment as an alternative to serving a term of incarceration in a state prison facility or jail, the court shall proceed to impose the appropriate term of incarceration required by law for the offense, and shall then offer to the defendant the opportunity for a community corrections punishment as an alternative sentence to that incarceration term. The court shall have no authority to impose an alternative sentence pursuant to the provisions of this section without the defendant voluntarily entering into a written agreement with the court clearly defining:

a. the stated term of incarceration for the offense, which must be imposed if the defendant fails to complete the alternative sentence,

b. an explanation of the community corrections punishment and all conditions which the court will require to be completed as a condition of the alternative sentence,

c. a clear explanation of the roles of the court, district attorney, defense attorney, supervising staff, sheriff, treatment providers, and the defendant during participation in the alternative sentence,

d. a clear statement of the rules for the specific programs and services which the court will order as the alternative sentence,

e. a clear explanation of the authority of the court to discipline the defendant for noncompliance with the alternative sentence by progressively increasing the punishment sanctions and the authority to grant incentives for outstanding performance in the selected programs,

f. a clear statement that the defendant must not be arrested for another criminal offense during participation in an alternative sentence and the consequences for any such arrest,

g. a clear statement that once the defendant voluntarily agrees to accept the alternative sentence and completes the requirements ordered by the court, the stated term of incarceration shall not be imposed and the sentence shall be considered completed and served in its entirety,

h. a clear statement that the defendant is required to comply with the terms and conditions of the written

agreement and applicable program rules, or disciplinary action may be taken after notice and hearing,

i. a clear statement that the alternative sentence must be completed within two (2) years, and may only be extended for purposes of paying restitution to victims,

j. that the defendant voluntarily agrees to waive his or her right to any other punishment as a condition of voluntarily accepting the opportunity for an alternative sentence to incarceration, and

k. a clear statement that if the alternative sentence is not completed, the defendant may have the term of incarceration imposed after notice and hearing.

2. The court shall determine whether or not the defendant has voluntarily entered into the terms and conditions of the written agreement before ordering any community corrections punishment as an alternative sentence to incarceration. After the defendant signs the written agreement and any other necessary documents and the court having determined that the defendant has voluntarily agreed to participate in the alternative sentence, the court shall impose the sentence and the terms of the alternative sentence for the offense. For purposes of the alternative sentence, if a defendant has been convicted of two or more nonviolent offenses, the court shall require the sentences to run concurrently and without any enhancement authorized by Section 51 of Title 21 of the Oklahoma Statutes. The written agreement shall become part of the court file and the judgment and sentence. The alternative sentence may be subsequently modified only as provided in Section 11 of this act.

3. The district attorney may object to the community corrections punishment offered as the alternative sentence to

incarceration, or any portion thereof; however, the decision of the judge shall be final.

E. An alternative sentence imposed pursuant to the authority of this section shall not be deemed to be in violation of any prohibition to a suspended sentence.

F. An alternative sentence shall be completed within two (2) years; provided, however, the court may consider an extension of the sentence only for purposes of completing court-ordered payments of restitution to victims or the state or for completing payment of fines or other costs. At the conclusion of two (2) years, if the defendant does not have any motion pending to revoke the alternative sentence for cause or to extend the sentence for purposes of completing restitution to victims or the state, the defendant shall be deemed to have completed the entire sentence and may not subsequently be revoked or compelled to serve any term of incarceration or perform or complete any other condition of the original sentence imposed.

G. The terms and conditions of the alternative sentence shall be monitored by the local community corrections system, and periodic reports shall be made to the court concerning the defendant's progress.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 989 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 1997, in lieu of a presentence investigation provided in Section 982 of Title 22 of the Oklahoma Statutes for those jurisdictions participating in the Oklahoma Community Corrections Act the judge shall, prior to making a determination of punishment and imposing any sentence authorized by Section 991a of Title 22 of the Oklahoma Statutes, or imposing any alternative sentence pursuant to Section 30 of this act or Section 991a-2 of Title 22 of the Oklahoma Statutes, order an assessment and

evaluation of the defendant to assist the court in determining whether or not the defendant is more appropriate for:

1. Community corrections punishment, treatment, education or rehabilitation as an alternative to incarceration;

2. A suspended term of imprisonment with or without supervision or conditional requirements to be determined by the court;

3. Imprisonment as prescribed by law for the offense; or

4. An alternative setting for any statutorily prescribed term of incarceration as provided by Section 991a-2 of Title 22 of the Oklahoma Statutes.

B. The assessment and evaluation may be ordered completed at any time following arrest. The assessment and evaluation shall be utilized by the court, the district attorney, and the defense attorney prior to determining any punishment for the offense or negotiating any plea agreement. The purpose of the assessment shall be to identify the extent of the defendant's deficiencies, the potential risk to the safety of local citizens, and the appropriateness of local community corrections options for sentencing. The defendant shall be required to complete a standardized assessment and evaluation test which shall be scored by an appropriately trained person designated by the court or an employee of the local community corrections system. The assessment and evaluation test and scoring method shall be developed jointly by the Department of Mental Health and Substance Abuse Services, the State Department of Education, the State Department of Health, the Oklahoma Department of Vocational and Technical Education, and the Department of Corrections. Any defendant lacking sufficient skills to read, comprehend or otherwise complete the assessment and evaluation test shall have appropriate assistance or may have an oral assessment and evaluation based upon the standardized test form. The failure or refusal of the defendant to be assessed and

evaluated shall not prohibit the court from sentencing the defendant.

C. When sentencing a defendant convicted of a crime, the court shall consider any victim impact statements submitted to the jury, or to the judge in the event a jury is waived.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 990 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. At the time of sentencing, when a defendant is convicted of a crime and no death sentence is imposed, the court shall have authority to suspend any portion of the punishment, except where the Legislature specifically prohibits a suspended sentence or portion thereof.

B. 1. The court may, after imposing a punishment for the offense, suspend that punishment, in whole or part, including imposition of any prescribed provision, fine, term of imprisonment, or a combination of any prescribed provision, fine, and term of imprisonment. The suspension may be with or without supervision. The court, in addition, may order the convicted defendant at the time of sentencing, or at any time during the term of the suspended sentence, to complete any one or more conditional requirements as provided in subsection H of this section or as otherwise provided by law. Provided, however, no corporal punishment shall be allowed.

2. The court shall have the authority, unless the defendant objects, to suspend the date of the execution of the sentence not to exceed twelve (12) months. For purposes of this section, "suspend the execution of the sentence" means a delayed date to begin serving the incarceration term, which may hereinafter be referred to as a delayed sentence. The delayed sentence shall require one or more conditional requirements, and may be with or without supervision.

C. 1. When the court determines the defendant to be eligible and appropriate for a delayed sentence as provided by paragraph 2 of

subsection B of this section, the court shall proceed to state on the record the term of incarceration appropriate for the offense and the date the sentence shall begin to be served. The district attorney shall have the right to state any objections to a delayed sentence on the record. After the term of incarceration has been pronounced and the date to begin serving the incarceration has been ordered, the court shall offer to the defendant the opportunity to complete certain specific conditions before the date to begin serving that sentence in exchange for not having to serve the term of incarceration. The court shall not have authority to commit the defendant to the custody of the Department of Corrections as a condition of the delayed sentence pursuant to the provisions of this section. The court shall have no authority to delay any sentence pursuant to the provisions of this section without the defendant voluntarily agreeing to enter into a written agreement with the court clearly defining:

a. the term of incarceration which will have a delayed date for execution and which must be served beginning on the specified date if the defendant fails to complete the conditions ordered by the court,

b. an explanation of all the terms and conditions which the court will require to be completed as consideration for a delayed sentence,

c. a clear statement that once the defendant voluntarily agrees to accept the delayed date for execution of the sentence and successfully completes the conditions ordered by the court, the stated term of incarceration shall not be served,

d. a clear statement that the defendant is required to comply with the terms and conditions of the written agreement, or the stated term of incarceration for the

offense must begin to be served on the date specified by the court, and

e. that the defendant voluntarily agrees to waive his or her right to immediate incarceration as a condition of voluntarily accepting the opportunity to complete the conditions as consideration for a delayed sentence.

2. The court shall determine whether or not the offender voluntarily agrees to the terms and conditions of the written agreement and, upon the offender signing the written agreement, the court shall order the execution of the sentence suspended to a day certain pursuant to specific conditions ordered by the court. The written agreement shall become part of the court file. On the date set for the execution of the sentence, the court shall either require the term of incarceration to begin to be served if the defendant has failed to complete the conditions required by the court, or the court shall modify the sentence as stated in the written agreement to remove the term of incarceration if the offender has successfully completed the conditions required by the court.

D. 1. "Supervision or probation", for purposes of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to active monitoring by an agency or other person designated by the court or by an electronic device.

2. Supervision shall be initiated upon an order from the court and shall not exceed two (2) years, except as otherwise provided in this section. The order shall specify whether the supervision is to be monitored by:

a. the Department of Corrections,

b. the local community corrections system supervision office or a qualified provider, if any, pursuant to the Oklahoma Community Corrections Act, or

c. a qualified person designated by the court.

In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years and shall not extend beyond the length of the sentence imposed. Provided further, any supervision authorized by this section may be extended for a period not to exceed the expiration of the maximum term of the sentence upon a finding by the court after notice and hearing that the best interests of the public and the defendant will be served by an extended period of supervision.

3. The type of supervision shall be initially specified by the court and may later be modified as the person demonstrates compliance. Types of supervision may include periodic supervision, general supervision, structured supervision, intensive supervision, reintegrative supervision following a term of imprisonment or residential confinement, or electronic monitoring. For purposes of this paragraph:

a. "electronic monitoring" means supervision of the offender by means of an electronic device approved by the Department of Corrections, which is designed to detect if the offender is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

b. "general supervision" means scheduled and unscheduled personal or other contacts by the monitoring persons with the offender,

c. "intensive supervision" means multiple weekly personal contacts by the monitoring persons with the offender

and unscheduled contacts by the monitoring persons with the offender at varying times and places,

d. "periodic supervision" means personal or other contacts by the monitoring persons with the offender at varying times and places, and

e. "reintegrative supervision" means personal contacts with the offender after he or she has been released from a jail or state correctional facility to assure appropriate assistance and adjustment to community and family life.

E. When the court orders supervision, the court shall make payment of the supervision fee a condition of the sentence. The supervising agency shall establish the fee in an amount not to exceed Forty Dollars ($40.00) per month based upon the offender's ability to pay. In hardship cases, the supervising agency shall expressly waive all or part of the fee. No supervisory agency shall deny any offender services for the sole reason that the offender is indigent. When supervision services are not made available to an offender, no fee shall be charged.

F. During any period of supervision, the agency or person designated to monitor a defendant shall be responsible for seeing that the defendant pays the restitution, repayments, reimbursements, fees, fines, and costs ordered by the court and that the defendant performs the conditions and completes the programs required by the terms of the sentence. The designated monitoring agency or person shall ensure that all payments made by the defendant are forwarded to the appropriate person or entity in a timely manner.

G. 1. During any period of supervision, when the defendant is not benefiting from the prescribed conditions as ordered by the court, or when the defendant has violated any condition of the sentence not constituting a criminal offense, or when the defendant has successfully completed any condition of a sentence, the

following persons may file a motion with the court for a modification of the conditions of the sentence:

a. the defendant or defense attorney,

b. the district attorney, or

c. the supervisory agency or person with the consent of the defendant and the district attorney.

2. The person requesting the motion shall provide the court with any reports and other information relating to the defendant available from the sheriff, the supervisory agency or person, or the treatment provider. The court shall consider any reports and information when modifying any conditions of a suspended sentence.

3. If the court considers a modification of any conditions of a suspended sentence, a hearing shall be made in open court. The clerk of the court having jurisdiction shall give notice of the hearing and provide a copy of any reports and information to the defendant, the defense attorney, the district attorney, and to any other parties to the motion. The notice shall be given not less than three (3) days prior to the hearing of the motion.

4. Following the hearing, the court shall enter the appropriate modification to the conditions of the sentence, if any. The court may modify and impose any condition which is appropriate for the circumstances; provided, no corporeal punishment shall be imposed and no conditions shall be imposed which when taken in the entirety are greater than the original prescribed sentence which is subject to the suspension. The defendant may be ordered to serve a temporary period of incarceration in the county jail not to exceed five (5) days as a disciplinary sanction for failure to comply with the conditions of the sentence after proper notice and hearing. The defendant shall be given credit on the sentence for any period of incarceration served in the county jail as a disciplinary sanction. The cost of any county jail incarceration as a disciplinary sanction

shall be not more than the maximum amount provided in Section 38 of Title 57 of the Oklahoma Statutes and shall be paid by:

a. the defendant,

b. the county, if the defendant is unable to pay the cost and the county does not participate in the Oklahoma Community Corrections Act, or

c. the local community corrections system established pursuant to the Oklahoma Community Corrections Act when a contract with the county sheriff has been entered into for disciplinary sanctions and the defendant is unable to pay the cost.

5. The court shall not be limited in the number of modifications a suspended sentence may have; provided, the authority to modify the conditions of a suspended sentence pursuant to the provisions of this subsection shall not be construed to alter the authority of the district attorney to file for revocation of a suspended sentence either in whole or part as provided by Section 991b of Title 22 of the Oklahoma Statutes.

H. The following conditional requirements shall be made available to the court for suspended sentencing:

1. Pay restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum;

2. Reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which the person was convicted, with interest accruing thereon at the rate of twelve percent (12%) per annum;

3. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted; provided however, any

person receiving community service for an offense prohibited by Section 7 of this act shall not have such service hours monitored through the local community corrections system and the supervisory agency or person shall have the responsibility to locate the job and monitor the service hours;

4. Pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes;

5. Reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the defendant is being sentenced;

6. Repay the reward or part of the reward paid by a certified local crimestoppers program, the State Crime Stoppers Program, or the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes;

7. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program created pursuant to Section 991a-4 of Title 22 of the Oklahoma Statutes for special services;

8. In the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of

alcohol and another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol:

a. participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,

b. attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and pay a fee, not less than Fifteen Dollars ($15.00) nor more than Twenty-five Dollars ($25.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant,

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

d. install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for a period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle

without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater, or

e. submit to electronic monitoring as defined by subparagraph f of paragraph 3 of subsection D of this section, administered and monitored by a supervisory agency, and pay a monitoring fee, not to exceed Seventy-five Dollars ($75.00) a month, to the supervisory agency. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

9. In the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require the person to receive counseling for the behavior which may have caused the person to engage in prostitution activities. The person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems;

10. In the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

11. In the case of a sex offender, require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program

must be approved by the court if the court retains supervisory authority over the defendant. The treatment shall be at the expense of the defendant based on the defendant's ability to pay. For the purposes of this paragraph, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes;

12. In the case of a person convicted of an offense as provided in Sections 650, 650.2, 650.5, 651, 652, 701.7, 701.8, 711, 888, 1114 or 1123 of Title 21 of the Oklahoma Statutes, submit to deoxyribonucleic acid testing for law enforcement identification purposes;

13. Participate in a literacy assessment and educational course; 14. Any combination of the preceding conditional options; or

15. Any other condition, service or treatment deemed appropriate for the offense and offender except corporal punishment.

SECTION 33. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 4, Chapter 153, O.S.L. 1996 (22 O.S. Supp. 1996, Section 991a), is amended to read as follows:

Section 991a. A. ~~Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, Section 991a-5 et seq. of this title, when~~ When a defendant is convicted of a crime and no death sentence is imposed, the court shall, following the considerations required by Section 29 of this act and the assessment and evaluation required by Section 31 of this act, either:

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

~~a. to provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum~~

~~at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if he is able to pay such restitution without imposing manifest hardship on the defendant or his immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,~~

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

~~c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,~~

~~d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within the State of Oklahoma wherein such victim has incurred a financial loss,~~

~~e. to confinement in the county jail for a period not to exceed six (6) months,~~

~~f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he is being sentenced, or~~

~~g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma~~

~~Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma General Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes.~~

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

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

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

~~4. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program created pursuant to Section 991a-4 of this title;~~

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

~~a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,~~

~~b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Five Dollars ($5.00) nor more than Fifteen Dollars ($15.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,~~

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

~~d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver's license at the time of reinstatement of the license. Said restriction shall remain on the driver's license for such period as the court shall determine. The~~

~~restriction may be modified or removed by order of the court and notice of said order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or~~

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

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

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

~~8. In addition to the other sentencing powers of the court, the court, in the case of a sex offender, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program must be approved by the probation officer who has supervisory authority over the defendant if the defendant is placed on probation, or the court if the court retains supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay.~~

~~Provided, for the purposes of this section, the term "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes.~~

~~B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule,~~

~~based upon a person's ability to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars ($75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.~~

~~As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug~~

~~abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from the effective date of this act.~~

~~C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph c of paragraph 5 of subsection A of this section.~~

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

~~E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether~~

~~upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall not be limited to two (2) years. Provided further any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division of Probation and Parole of the Department of Corrections that the best interests of the public and the releasee will be served by an extended period of supervision.~~

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

~~G. 1. The Division of Probation and Parole of the Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.~~

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

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

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

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

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

~~H. As used in this section:~~

~~1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater; and~~

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

~~I. A person convicted of an offense as provided in Section 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888 or 1114, subsection B of Section 1021, or Section 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes shall submit to deoxyribonucleic acid testing for law~~

~~enforcement identification purposes in accordance with Section 2 of this act and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for those defendants who do not become subject to the custody of the Department of Corrections, and submission to testing shall be done in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections as a result of sentencing. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of their sentencing shall not be required to submit to additional testing.~~

~~Any person convicted of an offense as provided in this section who is in custody after July 1, 1996, shall provide a blood sample prior to release. Every person who is convicted of an offense as provided in this subsection whose sentence does not include a term of confinement shall provide a blood sample as a condition of the sentence.~~

~~J. Samples of blood for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and~~

~~Reception Center shall be required to pay to the Department of Corrections a fee of Fifteen Dollars ($15.00). Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections revolving account~~

1. Impose the fine prescribed by law for the offense;

2. Commit the person for imprisonment as prescribed by law for the offense; or

3. Impose the fine and commit the person for imprisonment as prescribed by law for the offense; and

4. In addition to paragraph 1, 2 or 3 of subsection A of this section, impose court costs and impose:

a. restitution, reimbursement, repayment, or a combination of restitution, reimbursement, or repayment to be paid to the victims or other entities as reparations to the community and state, and

b. other prescribed provisions for the offense.

B. Nothing in the provisions of this section shall be construed to limit the authority of the court pursuant to another provision of law to impose a suspended sentence, deferred judgment, alternative to incarceration, or delayed sentence or make any other disposition authorized by law.

SECTION 34. AMENDATORY 22 O.S. 1991, Section 991a-2, is amended to read as follows:

Section 991a-2. A. Any person who has been convicted of a nonviolent felony offense in the state as defined in this section may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent ~~under probation, in lieu of any other kind of imprisonment~~ pursuant to specified rules and conditions of supervision. County jail imprisonment for nonviolent felony offenders shall be an alternative sentence to serving a term of incarceration in a state prison facility or being

placed in the custody of the Department of Corrections as prescribed by law for the particular felony offense.

B. For purposes of this section, "nonviolent felony offense" means any felony offense not prohibited by Section 7 of this act.

C. A person who has been convicted of a nonviolent felony offense may be sentenced, at the discretion of the judge, to incarceration in the county jail for a term not to exceed one (1) year as an alternative sentence to serving a term of incarceration in a state prison facility or being placed in the custody of the Department of Corrections as prescribed by law. In addition to incarceration, the court may impose any fine, cost, or other provisions allowed by law, or impose in addition to the term of incarceration any community corrections sanctions deemed appropriate by the court when available within the jurisdiction; provided, however, the community corrections sanctions when taken in their entirety with the jail term shall not impose a greater punishment than otherwise prescribed by law for the offense.

D. Any person incarcerated in the county jail pursuant to the provisions of subsection A or C of this section may be assigned work duties as ~~may be~~ ordered or approved by the judge. The sentencing court may require a person incarcerated pursuant to the provisions of this ~~act~~ section to pay the county~~,~~ for food and maintenance for each day of incarceration~~,~~. The cost of incarceration shall be an amount equal to the maximum amount prescribed by law to be paid by the ~~county~~ Department of Corrections to the sheriff for such expenses. ~~If the judge does not so order, the Department of Corrections shall reimburse the county for the cost of feeding and care of the person during such periods of incarceration.~~

E. The State of Oklahoma, through the Department of Corrections, shall reimburse the county for the actual ~~costs~~ cost paid for any emergency medical care for physical injury or illness of a person incarcerated ~~hereunder~~ for a nonviolent felony offense

pursuant to the provisions of subsection A or C of this section; provided the injury or illness is directly related to the incarceration and the county is required by law to provide such care for county inmates in the jail.

F. Any person incarcerated pursuant to the provisions of this section shall not be considered to be in the custody of the Department of Corrections nor an inmate of the Department, and the person shall not be processed through the Lexington Reception and Assessment Center. The person shall be deemed to be in the custody of the county.

G. When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a suspended sentence, or portion thereof, or in conjunction with a suspended date for the execution of the sentence, the court shall not have the authority to modify the sentence as provided in Section 11 of this act. In all other cases where the jurisdiction participates in the Oklahoma Community Corrections Act and the court sentences a person pursuant to the provisions of subsection A or C of this section, the court shall have the authority, upon proper motion and hearing, to modify the sentence as authorized in Section 11 of this act.

H. For the purposes of subsection A of this section, weekend incarceration shall commence at 6 p.m. on Friday and continue until ~~8~~ 7 a.m. on the following Monday, and incarceration overnight shall commence at 6 p.m. on one day and continue until ~~8~~ 7 a.m. of the next day. Provided, that the sentencing judge may modify ~~said~~ the incarceration times if the circumstances of the particular case require such action. ~~Persons who have been sentenced to incarceration in the county jail under the provisions of this section will not have to be processed through the Lexington Assessment and Reception Center prior to incarceration.~~

I. When a jurisdiction participates in the Oklahoma Community Corrections Act, the daily costs for incarceration of nonviolent

felony offenders pursuant to the provisions of this section shall be paid from the local community corrections budget to the sheriff, except when the court orders costs to be paid by the defendant. In all other jurisdictions, the cost shall be negotiated annually by contract with the Department of Corrections. The Department shall promulgate rules for payment of incarceration costs pursuant to the provisions of this section.

SECTION 35. AMENDATORY 22 O.S. 1991, Section 991a-4, as last amended by Section 1, Chapter 187, O.S.L. 1993 (22 O.S. Supp. 1996, Section 991a-4), is amended to read as follows:

Section 991a-4. A. There is hereby created the "Community Service Sentencing Program". ~~The purpose of the program shall be to provide an alternative to incarceration for nonviolent felony offenders who would normally be sentenced to incarceration in a state institution~~ Counties may operate and administer community programs that are either county funded and county operated, contracted through the Department of Corrections or incorporated into a community corrections system established pursuant to the Oklahoma Community Corrections Act, Sections 1 through 26 of this act.

B. The Department of Corrections shall promulgate rules pursuant to the Administrative Procedures Act for the program, including but not limited to provisions for contracting, filing reports, and conducting audits. The Department is hereby authorized to provide technical assistance to any county in establishing a program. Technical assistance shall include information on appropriate staffing, development of community resources, sponsorship, supervision, and any other requirements provided by this section.

C. Any eligible offender may be sentenced, at the discretion of the judge, to perform community service hours under the supervision of a Community Service Sentencing Program pursuant to the provisions

of this section if the county has established such a program. For purposes of this section, "eligible offender" shall mean any person who:

1. Is not participating in the Delayed Sentencing Program for Young Adults pursuant to the provisions of Section 996 through 996.3 of this title;

2. ~~Has not previously been convicted of two or more felonies;~~

~~3.~~ Has been convicted of a nonviolent felony offense which shall be defined as any ~~felony~~ offense ~~except assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a felony, pointing firearms, rioting or arson in the first degree~~ not prohibited by Section 7 of this act;

~~4.~~ 3. Has properly completed and executed all necessary documents; and

~~5.~~ 4. Is not otherwise ineligible by law or court rule.

~~C. The Department of Corrections shall administer the Program, except in counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program. The Department shall conduct a presentence investigation pursuant to the provisions of Section 982 of this title if the court determines the offender is to be assigned to the Program. As part of such presentence investigation, the Department shall interview the~~

~~offender and advise him of the requirements and conditions of the Program.~~ D. Offenders sentenced to participation in the Program shall be required to pay court costs incurred in the case. In addition, offenders shall be required to pay a user fee to the county program not to exceed Twenty Dollars ($20.00) per month, based upon the offender's ability to pay such fee. In hardship cases, all or part of the fee shall be expressly waived by the program administrator. The user fee shall be applied by the county program to operational costs of the program and program expansion. The ~~Department shall recommend an assignment of~~ court may order the offender to any one or combination of the following ~~areas~~ services:

1. Community service, with or without compensation;

2. Education, vocational-technical education or literacy programs;

3. Substance abuse treatment programs;

4. Periodic testing for the presence of controlled substances;

5. ~~Psychological~~ Behavioral counseling ~~or psychiatric treatment~~;

6. Medical treatment;

7. Restitution, to be paid either to the victim of the offense or to the Crime Victims Compensation Revolving Fund created pursuant to the provisions of Section 142.17 of Title 21 of the Oklahoma Statutes;

8. Confinement in a county jail ~~for a period not to exceed one (1) year, night or weekend incarceration~~ pursuant to the provisions of Section 991a-2 of this title ~~or incarceration by the Department of Corrections; provided, the~~. The Department of Corrections shall ~~reimburse a county which does not receive payments from any other source for the cost of the necessary expenses of such persons during periods of such incarceration in an amount not to exceed Twenty Dollars ($20.00) per day and any county receiving such payments in an amount not to exceed Ten Dollars ($10.00) per day.~~

~~The Department shall reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of such persons if the county is required by law to provide such care for inmates in the jail. The reimbursements provided by this section shall not exceed the cost that would have accrued to the state for the feeding, care or medical care of the persons had they been incarcerated with the Department. Except as otherwise provided by law, all provisions of the Oklahoma Corrections Act of 1967, Section 501 et seq. of Title 57 of the Oklahoma Statutes, shall apply to such persons, including but not limited to any provisions requiring payment by such persons of the costs of incarceration~~ negotiate the reimbursement rate by contract with the county; or

9. ~~Probation or conditional probation.~~

~~D. In counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program, the Department of Corrections is hereby authorized to reimburse the county sheriff, pursuant to paragraph 8 of subsection C of this section, the cost of necessary expenses for confinement in the county jail for any eligible offender as defined in subsection B of this section. Such reimbursement shall be subject to appropriation by the Legislature.~~

~~The Department may promulgate rules and procedures for submitting claims for reimbursements~~ Supervision with or without conditional requirements to be determined by the court; provided, a supervision fee shall be required to be paid to the supervisory agency as a condition of the sentence.

E. The judge shall consider the criminal history of the offender, the nature of the offender's criminal conduct, the employment and family history of the offender and any other factors ~~he deems~~ deemed relevant when sentencing persons to the Program. ~~Following the presentence investigations and recommendation, the judge shall impose sentence. The judge may accept the~~

~~recommendation, with or without modifications thereto, or may reject the recommendation and impose any sentence allowed by law~~ The judge shall, when ordering community service to be performed by the defendant, set the total number of hours to be completed and shall not have authority to designate where those hours shall be served. The staff for the Program shall make all service assignments for defendants and shall keep records of the hours completed and the hours ordered by the court for each defendant.

F. The provisions of Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes and any other provisions of law relating to earned credits for certain acts or service shall not apply to persons participating in the Program. ~~The judge may establish a schedule of earned credits as part of the sentence.~~

G. The ~~Division~~ staff for the Program shall establish a list of federal, state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs willing to participate in the program to which offenders may be referred by the court. The ~~Division~~ staff shall periodically contact agencies, organizations and programs to which offenders are assigned to determine if offenders have reported and performed satisfactorily. Any such agency or program shall immediately notify the ~~Division~~ staff of the Program if an offender fails to fulfill any requirement of the Program. The ~~Division~~ staff or the sentencing judge may require additional documentation of the offender's work performance.

H. The ~~Division~~ staff shall ensure that the sentencing judge and prosecuting attorney are notified in writing when an offender has successfully completed the assigned community service hours or other requirements of the Program or has failed to complete the requirements and provide any other relevant information required by the sentencing judge or prosecuting attorney.

I. All state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs participating in the Program are hereby immune from liability for any offender participating in the Program ~~under~~ pursuant to the provisions of the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in the Program to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes.

J. Any offender participating in the Program shall be advised of the provisions of this section and shall, in writing, acknowledge that he or she has been advised of and understands the provisions of the Program.

SECTION 36. AMENDATORY 22 O.S. 1991, Section 976, is amended to read as follows:

Section 976. If the defendant has been convicted of two or more offenses, before judgment on either, the judgment may be that the imprisonment upon any one may commence at the expiration of the imprisonment upon any other of the offenses. Provided, that the sentencing judge shall, at all times, have the discretion to enter a sentence concurrent with any other sentence.

When imposing an alternative sentence to incarceration as authorized by Section 30 of this act, or when imposing a suspended sentence if the defendant has been convicted of two or more nonviolent offenses, as defined by the Oklahoma Community Corrections Act, the court shall enter a sentence concurrent with any other sentence.

SECTION 37. AMENDATORY 21 O.S. 1991, Section 51, is amended to read as follows:

Section 51. A. Except as otherwise provided in Section 30 of this act or Sections ~~1~~ 991a-5 through ~~7~~ 991a-11 of ~~this act~~ Title 22 of the Oklahoma Statutes, every person who, having been convicted of

any offense punishable by imprisonment in the State Penitentiary, commits any crime after such conviction is punishable therefor as follows:

1. If the offense of which such person is subsequently convicted is such that upon a first conviction an offender would be punishable by imprisonment in the State Penitentiary for any term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term not less than ten (10) years.

2. If such subsequent offense is such that upon a first conviction the offender would be punishable by imprisonment in the State Penitentiary for five (5) years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding ten (10) years.

3. If such subsequent conviction is for petit larceny, the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years.

B. Every person who, having been twice convicted of felony offenses, commits a third, or thereafter, felony ~~offenses~~ offense within ten (10) years of the date following the completion of the execution of the sentence, shall be punished by imprisonment in the State Penitentiary for a term of not less than twenty (20) years. Felony offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 588 of Title 57, unless there is created a duplication in numbering, reads as follows:

On or after July 1, 1996, every person convicted of an offense as provided in Section 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888 or 1114, subsection B of Section 1021, Section 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes shall submit to deoxyribonucleic acid (DNA) testing for law enforcement identification purposes in accordance with Section 150.27a of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for any defendant convicted of an offense specified in this section who is not sentenced to the custody of the Department of Corrections. Submission to testing shall be done in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes for any defendant who is sentenced to the custody of the Department of Corrections. Convicted individuals who have previously submitted to DNA testing pursuant to the provisions of this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of sentencing shall not be required to submit to an additional test.

Every person convicted of an offense specified in this section who is in the custody of the Department of Corrections on or after July 1, 1996, shall provide a blood sample prior to release. Every person who is convicted of an offense specified in this section who is not sentenced to a term of imprisonment in the custody of the Department shall provide a blood sample as a condition of a suspended sentence or when sentenced to a community corrections punishment as an alternative to incarceration.

Samples of blood for DNA testing required by this section shall be taken by employees or contractors of the Department of Corrections designated by the Director of the Department of Corrections. The employees shall be properly trained to collect

blood samples. Persons collecting blood for DNA testing pursuant to the provisions of this section shall be immune from civil liability arising from this activity. The Department of Corrections shall collect the samples and mail them to the Oklahoma State Bureau of Investigation within ten (10) days of the time the person appears for testing or within ten (10) days of the date the person comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the Oklahoma State Bureau of Investigation and procedures promulgated by the Oklahoma State Bureau of Investigation. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars ($15.00) to the Department of Corrections. Any fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 450.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall establish a joint legislative committee or designate an existing joint committee to provide appropriate planning, implementation, and oversight for the Oklahoma Community Corrections Act.

SECTION 40. REPEALER 22 O.S. 1991, Sections 991a, as last amended by Section 2, Chapter 188, O.S.L. 1994 and 991a, as last amended by Section 1, Chapter 40, O.S.L. 1994 (22 O.S. Supp. 1996, Section 991a), are hereby repealed.

SECTION 41. This act shall become effective July 1, 1997.

SECTION 42. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-0151 NP